

ARTICLE 3.700. TREE PRESERVATION

Sec. 3.701. Definitions.

As used in the article the following terms shall have the meaning given below:

Tree. A long-lived, branching, woody plant, usually with one main stem, and, for purposes of this article, with a diameter of at least eight (8) inches.

Circumference or Diameter of a tree. Circumference or diameter measured at a point on the tree four and one-half (4- 1/2) feet above the surrounding ground level. The equivalent tree circumference or diameter may be used for measurement purposes. Tree diameter in inches X 3.14 = tree circumference in inches (for example: 8" diameter X 3.14 = 25.12" circumference).

To measure a tree which forks or has two boles or stems at or below four and one-half (4- 1/2) feet, only the circumference or diameter of the larger bole or stem will be measured.

Critical Root Zone of a tree. The area within a circle centered on the trunk location, the diameter of said circle being one-half the sum of the longest and shortest drip line diameters.

Damage of a tree. To take any action which will result in a tree's death, either immediately or within a period of three (3) years, without limiting this definition, some examples of damages are: Severing the main trunk or large branches or large roots, poisoning, carving, mutilating, touching with live wires, piercing with nails or spikes, crushing or exposing the roots, digging or drilling any hole or trench larger than three (3) cubic feet within the Critical Root Zone, covering with over three (3) inches of soil or compacting the soil in the Critical Root Zone.

Subject Site. Includes any lot, tract or parcel of land.

Permit. Any permit issued for the demolition or construction of any building or structure.

Located. Within a Subject Site if any part of the subject tree is within the Subject Site at ground level.

Person. Any individual, entity, corporation, organization, unincorporated organization, partnership, or any other form of entity.

Structure. That which is built or constructed, an edifice or building of any kind, or any place of work artificially build up or composed of parts joined together in some definite manner.

(Ordinance 431, adopted 10/18/94, Section 2)

Sec. 3.702. Enforcement.

This article shall be administered as a part of the building permit process. It is incumbent upon all building permit applicants in the City of Hillshire Village to obtain and complete the proper forms, available in the city office, to show compliance with this article. No certificate of occupancy shall be issued unless and until certification of such compliance has been properly executed and submitted by the applicant.

(Ordinance 431, adopted 10/18/94, Section 3)

Sec. 3.703. Tree Survey Components.

- (a) The tree survey shall be accurate and shall be prepared by a person with expertise to prepare such a document. For example, but not limited to: An architect, engineer, landscape or tree professional, surveyor, or urban forester.
- (b) The tree survey shall include and contain as a minimum the following information:
 - (1) The actual location (i.e. trunk location), diameter, type and Critical Root Zone of each tree on the Subject Site or tract which is eight (8) inches in diameter (25.12" in circumference) or larger.
 - (2) Building or structure outlines, including driveways, parking areas or other paved surfaces, fences, utilities and other improvements and structural features to be constructed. Also show the location of the tree protection fence.
 - (3) A scale, north arrow, name address, phone number an profession or occupation of the person who prepared it, and the name of the site owner and phone number and of the applicant for the building permit.
 - (4) Shall also identify the development and provide a description of the subject property and its location.

(Ordinance 431, adopted 10/18/94, Section 4)

Sec. 3.704. Approval of Tree Survey.

Upon approval and acceptance of the tree survey as part of the building application and other permit applications, and before construction begins, the proper methods of protecting the trees during demolition or any construction must be in place. Proper

protection shall be described as required at the minimum, a fence four (4) feet in height and composed of a material which is strong enough to prevent vehicles, materials, debris, dirt or other demolition or construction refuse from piling up within the Critical Root Zone. The fence shall be a minimum of six (6) feet away from the base of the tree at all points in order to prevent damage to the tree(s).

(Ordinance 431, adopted 10/18/94, Section 5)

Sec. 3.705. Tree Replacement.

- (a) The building permit holder will make every effort to maintain the distribution of existing trees. However, if the design, layout, plans, or construction of this proposed structure cannot avoid the removal of any tree eight (8) inches in diameter (25.12" in circumference) or larger, according to the tree survey which is a part of a permit application, then the building permit holder shall be required to replace each such tree(s) removed with a viable tree planted on the lot or tract which is no less than three (3) inches in diameter measured at six (6) inches above grade or 9.42" in circumference measured after planting. Such planted trees shall be any of the trees listed on the "Approved Trees" list attached herein and made a part hereof as Exhibit A.
- (b) If there are at least fifteen (15) trees eight (8) inches in diameter remaining on the Subject Site after the necessary removal of any tree eight (8) inches in diameter for construction purposes, then the replacement of trees removed will not be necessary.

(Ordinance 431, adopted 10/18/94, Section 6)

Sec. 3.706. Timing.

Each tree planting required by this article shall be completed within thirty (30) days after the completion of the construction as reflected in the building permit application, but in any event, before a certificate of occupancy will be issued.

(Ordinance 431, adopted 10/18/94, Section 7)

Sec. 3.707. Destruction or Damage to Trees on Public Property.

In addition, to the violation of any criminal law dealing with destruction of public property, it shall be unlawful to put down, destroy, kill, or damage any tree located on any public property in the city, except when necessary in furtherance of the public health, safety and welfare. This section shall not prevent the City of Hillshire Village or

any public utility from performing necessary maintenance and repair activities which may affect trees located on public property.

(Ordinance 431, adopted 10/18/94, Section 8)

Sec. 3.708. Penalty.

Any person, firm, partnership, association, corporation, company, or organization of any kind who or which intentionally, knowingly, recklessly, or with criminal negligence violates any of the provisions of the article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount as provided for in the general penalty provision found in Section 1.106 of this code. Each day during which such violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this article shall occur, and any agent, contractor, builder, architect, person, association, organization, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense, and, upon conviction thereof, shall be punished as above provided. A certificate of occupancy will not be issued until any violation has been corrected.

(Ordinance 431, adopted 10/18/94, Section 9)

Sec. 3.709. Appeal.

Any building permit holder has the right to appeal any question or action under this article by written notice to the city secretary thereof, not less than twenty (20) days following the date of the decision appealed. The request shall be placed on the next scheduled regular council meeting, and the action or decision appealed from will be held in abeyance on the subject to city council review. If the city council determines that an error has been made, or the appeal is justified, it shall reverse or modify the decision and issue such orders as it deems necessary and appropriate.

(Ordinance 431, adopted 10/18/94, Section 10)

Sec. 4.611. Tree Trimming.

Users shall comply with all applicable rules and regulations of the city governing the trimming, grooming, or removal of trees or other similar vegetative matter.

(Ordinance 523, § 12, adopted 12/19/00)