

DIVISION 4. PROTECTED TREES

Sec. 70-71. Removal for construction of public improvements in plat process.

In all cases where removal of a protected tree is required in order to make way for the construction of public improvements to be constructed as part of a land subdivision platting process, an application for a tree removal permit shall be made to the planning and zoning commission and the city council as part of the plat review and approval process. The application for a tree removal permit must be part of the application initiating the plat review process. The building official will make a determination and make his/her recommendation to the planning and zoning commission regarding the tree removal permit prior to the public hearing at the planning and zoning commission meeting. Approval of the plat shall constitute approval for removal of all trees shown on the application for tree removal permit as are required to be removed in order to construct the streets, highways, sewer and water lines, and other public improvements shown on the plat.

(Code 1979, ch. 1, § 22 D.(1); Ord. No. 608, § 1(22 A.3.(a)), 8-9-94; Ord. No. 865, § 1, 5-13-03)

Sec. 70-72. Removal of outside plat process.

In cases involving proposed removal of protected trees not in conjunction with a land subdivision plat review process, an application shall be made to the building official of the city by filing the application with him. The building official, within ten days after the application is filed with him, or such greater time as may be agreed upon by and between the building official and the applicant, shall grant or deny the application and notify the applicant in writing of his decision. Failure to notify the applicant within such time shall constitute a grant of the permit application. The applicant may appeal the decision of the building official to the board of adjustment by giving written notice of appeal to the board of adjustment within ten days after the date when the applicant is notified of the building official's decision. Within 20 days after notice of an appeal is given, or such greater time as may be agreed upon by and between the building official and the applicant, the board of adjustment shall grant or deny the application and notify the applicant in writing of its decision. In cases where the board of adjustment is hearing an appeal of a building official's decision, the board of adjustment is subject to the Open Meetings Act and, in addition to complying with the notice of meeting requirements imposed by that Act, shall provide no less than 72 hours' written notice of its meeting to the applicant. The decision of the board of adjustment shall be final.

(Code 1979, ch. 1, § 22 D.(1); Ord. No. 608, § 1(22 A.3.(b)), 8-9-94; Ord. No. 865, § 1, 5-13-03)

Sec. 70-73. Reserved.

Editor's note: Section 1 of Ord. No. 865, adopted May 13, 2003, deleted § 70-73, which pertained to removal of five or fewer trees, and derived from ch. 1 of the 1979 Code and Ord. No. 608, adopted Aug. 9, 1994.

Sec. 70-74. Notices.

All notices required under sections 70-72 shall conform to the requirements of this section. Notices to the city or the building official shall be given personally to the building official or shall be mailed to the building official at City Hall, P.O. Drawer 400, Ingleside, Texas 78362. Mailed notices to the applicant shall be given at the applicant's mailing address, as stated in the application for tree removal permit. Notices are deemed given, in the event of personal delivery, on the date of actual delivery to the intended recipient and, in the event of mailing, on the date of deposit in an official depository of the United States Postal Service, first class postage prepaid, properly addressed to the address required in this section.

(Code 1979, ch. 1, § 22 D.; Ord. No. 608, § 1(22 A.3.(d)), 8-9-94; Ord. No. 865, § 1, 5-13-03)

Secs. 70-75--70-85. Reserved.

ARTICLE II. TREES

DIVISION 1. GENERALLY

Sec. 70-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

D.B.H. means diameter at breast height, which is the standard forestry practice of measuring a tree's diameter, circumference or caliper at an average height for 4 1/2 feet above natural grade level.

Private property means real property owned by some person or entity other than the city.

Property line means the outer edge of a street, highway or right-of-way and where private property begins.

Property owner means the person owning private property, as shown by the real property records which are kept on file in the county clerk's office.

Protected tree means any oak, cedar, elm, hackberry, or mesquite tree with a trunk diameter greater than six inches, measured at D.B.H.

Public places means all public parks and other real property owned by the city.

Public trees means trees now or hereafter growing on any street, highway or public place.

Street or highway means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

Tree means a living woody plant having one well-defined stem or trunk and more or less definitely formed crown, and usually attaining a mature height of at least eight feet.

(Code 1979, ch. 1, § 22 B.; Ord. No. 608, § 1(22 A.1), 8-9-94)

Cross references: Definitions generally, § 1-2.

Sec. 70-27. Removal of protected trees; permit required; exception.

No person shall remove a protected tree from any street, highway, public place or private property without a permit authorizing such removal, except when an emergency situation exists necessitating immediate removal of a protected tree because the tree constitutes an immediate threat to life, health, property or safety, if not immediately removed, and there is insufficient time to seek and secure a permit for removal.

(Ord. No. 608, § 1(22 A.2), 8-9-94)

Sec. 70-28. Penalty for violation of article.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined in accordance with section 1-14.

(Code 1979, ch. 1, § 22 G.; Ord. No. 608, § 1(22 H.), 8-9-94)

Secs. 70-29--70-40. Reserved.

Sec. 70-86. Obstruction; trees pruned.

It shall be the duty of any person owning real property bordering on any street or public way upon which property there are trees, to prune and maintain such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians or vehicles on sidewalks or street, obstruct vision of traffic signs, obstruct the view of any street or alley intersection or constitute a danger to the safety of property or persons.

(Code 1979, ch. 1, § 22 E.(1); Ord. No. 608, § 1(22 B.1), 8-9-94)