

ARTICLE II. TREES

Sec. 60-26. Removal of protected trees.

No person or corporation shall remove or cause to be removed any protected tree without first securing approval from the inspection department.

(Ord. No. 86-3, pt. 1, 1-28-86; Code 1982, § 18.25-1)

Sec. 60-27. Exceptions.

- (a) No approval for removing a protected tree shall be necessary when a protected tree sustains damage in the form of a broken trunk, broken limbs or uprooting, which creates a hazard to life or property.
- (b) No approval for removing a protected tree shall be necessary when the actual or schematic locations of existing protected trees are shown on site plans submitted for approval by the city council, and the site plan clearly indicates which protected trees are proposed to be removed. Under these circumstances, final approval of the site plan by the city council shall constitute approval for tree removal as to any protected tree indicated on the final approved site plan as being removed by the approved development.

(Ord. No. 86-3, pt. 1, 1-28-86; Code 1982, § 18.25-2)

Sec. 60-28. Definitions.

For the purposes of this article, the following terms shall have the special meaning respectively ascribed to them below, which special meanings shall govern in case of any conflict with other definitions set forth in this Code:

Approval: "Approval" means written approval from the inspection department pursuant to a duly executed application for approval made on a form promulgated by the inspection department.

Owner: "Owner" shall mean the person who has legal title to the property or a lessee, agent, employee or other person acting on behalf of the titleholder with authorization to do so.

Protected tree: A "protected tree" means any tree having a trunk circumference of 72 inches or more, measured 4 1/2 feet above natural grade level.

Removal: "Removal" as applied to protected trees means uprooting, severing the main trunk of the tree or any act which causes, or may reasonably be expected to cause, the tree to die, including but not limited to damage inflicted upon the root system by machinery, storage of materials, or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; or paving with concrete, asphalt, or other impervious materials in a manner which may reasonably be expected to kill the tree.

Tree: A "tree" shall be defined and will qualify as such if it is a tree listed in class I in an article entitled "Evaluation of Texas Shade Trees" by Robert S. Dewers and Alan D. Dreesen, which will be on file in the City of Lockhart Inspection Department.

(Ord. No. 86-3, pt. 1, 1-28-86; Code 1982, § 18.25-3)

Cross references: Definitions generally, § 1-2.

Sec. 60-29. Application for removal.

- (a) Application for the removal of a protected tree located on public property or in any public street, alley, right-of-way or easement shall be made by any City of Lockhart municipal department or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.
- (b) Application for the removal of a protected tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that any appropriate city official may make application to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased, if the owner thereof cannot be located or if he fails to remove the protected tree within a reasonable time after notice to do so.
- (c) An application for the removal of a protected tree shall specify:
 - (1) The location of the tree.
 - (2) The circumference of the trunk of the tree, as measured 4 1/2 feet above natural grade level.
 - (3) The approximate crown size of the tree.
 - (4) The species and/or common name of the tree.
 - (5) The approximate size of the lot, tract, or parcel on which it is located.

- (6) The reason for the proposed removal.
- (7) Such other information as may be reasonably required by the inspection department.

(Ord. No. 86-3, pt. 1, 1-28-86; Code 1982, § 18.25-4)

Sec. 60-30. Action on application.

- (a) Upon receipt of any application to remove a protected tree the inspection department shall promptly inspect the subject tree and shall approve or deny the application in accordance with the provisions of this article. Approval is automatically granted ten working days after application therefore if not denied during such interval; provided, that if a variance or special exception from the board of adjustment is required for approval of the application as provided by subsection (b) of this section, then the inspection department shall have an additional 45 days to process the application; provided further, that the applicant must be notified of the 45-day extension prior to the expiration of ten days from the date of application.
- (b) The inspection department shall approve an application for the removal of a protected tree located on privately owned property when a valid application therefore is received and a showing is made that the tree is so located as to prevent reasonable access to the property or as to preclude reasonable and lawful use of the property. Where removal of the tree would become unnecessary if a variance or special exception were granted by the board of adjustment in the application of the zoning ordinance, no application shall be approved except where such application for a variance or special exception is denied.
- (c) The inspection department shall approve an application for the removal of a protected tree in connection with construction, maintenance, or repair of public facilities in or above a public street, alley, right-of-way or easement, or other public land under one or more of the following conditions:
 - (1) The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes in a street or alley;
 - (2) The location of the tree prevents the construction of utility lines or drainage facilities which may not feasibly be rerouted;
 - (3) The location of the tree prevents all reasonable access to the property; or
 - (4) The denial of approval of such application would deny a political subdivision of the state the reasonable use of public property for the achievement of its public purpose.

- (d) Notwithstanding any of the foregoing provisions of this section, the inspection department shall approve an application for the removal of a protected tree under the following circumstances:
- (1) The City of Lockhart inspector determines that the tree constitutes a hazard to life or property which cannot reasonably be mitigated without removing the tree; or
 - (2) The City of Lockhart inspector determines that the tree is dying/dead or is diseased to the point that its restoration to sound condition is not practicable, or that its disease can be expected to be transmitted to other trees and to endanger their health.
- (e) No approval, except an approval to remove a dead, badly diseased or hazardous tree, shall become effective until the third working day after it is granted. Every approval for removal shall automatically expire one year from its effective date.
- (f) The inspection department, board of adjustment or city council, as the case may be according to this article, may require as a condition for approval that a replacement tree be planted. Any such condition must be met within 12 months after the removal of the protected tree.

(Ord. No. 86-3, pt. 1, 1-28-86; Code 1982, § 18.25-5)

Sec. 60-31. Appeals.

- (a) If a protected tree removal application is denied, the applicant therefore may appeal such action to the board of adjustment by filing written notice of such appeal with the city secretary within ten days of notice to such applicant of the denial of the application. The board shall have 30 days from the date of appeal to review the denial. The board may affirm or reverse the determination of the inspection department. If the board fails to act within 30 days, the appeal shall be automatically granted per the original application. The board shall adopt written findings of fact for every appeal authorized hereunder.
- (b) An applicant for a protected tree removal who is aggrieved at any determination or ruling of the board of adjustment on a matter before it under this article may appeal such action to the city council by filing written notice of such appeal with the city secretary within ten days of the action of the board. The city council shall act on the appeal within 30 days from the date of the filing of the appeal. If the city council fails to act within 30 days, the appeal shall be automatically granted and the approval shall be granted per the original application. The city council may affirm or reverse the determination of the board and shall either adopt or modify the findings of fact of the board, which findings may be reduced to writing or may be entered in the minutes.

(Ord. No. 86-3, pt. 1, 1-28-86; Code 1982, § 18.25-6)

Sec. 14-19. Right of city to remove and plant trees and shrubs and mow grass.

If any trees or shrubs situated on any cemetery lot shall, by means of their roots or branches, become detrimental to the adjacent lots or avenues, or become unsightly or inconvenient for visitors, it shall be the duty of the city authorities and they shall have the right to enter the lot for such purpose, to remove the trees or shrubbery or such part thereof as they shall determine to be detrimental, unsightly or inconvenient. The city shall have the right to remove any tree or shrub that may be infected by scales or other diseases and to plant and mow the grass on all lots and graves.

(Code 1966, § 6-24; Code 1982, § 7-19)

Sec. 36-10. Thrashing pecans from trees.

It shall be unlawful for any person to thrash or knock pecans from any pecan trees growing or being upon any park or other public property within the city.

(Code 1966, § 18-30; Code 1982, § 18-10)