

1A-400 TREE PRESERVATION

In all zoning districts, the preservation and protection of trees shall be required. Removal of protected trees shall be prohibited except in accordance with the procedures outlined herein.

1A-401 PURPOSE

Ord. 3129/12-16-96

Trees provide a valuable amenity to the urban environment in the maintenance of the public health and welfare, in the conservation of vital energy resources, and in the preservation of the City's historical heritage. Because trees which have survived generations of inhabitants can be replaced only after future generations, the preservation and protection of trees is essential to the health and general welfare of the City's residents. These rules and regulations, therefore, govern the protection of trees within the City of Mesquite, encouraging the preservation and protection of significant trees, while providing for replacement and replanting of trees that are necessarily removed during construction, development, or redevelopment.

1A-402 GENERAL PROVISIONS

Ord. 3129/12-16-96

A. APPLICABILITY

These regulations shall apply to property as follows:

1. All vacant and undeveloped property
2. All property being redeveloped, including additions and major renovations, except single family residential property as noted in 1A-401B.3..
3. The required yard and/or landscape areas of all developed property, except single family residential property as noted in 1A-401B.3..

B. EXCEPTIONS

1. **City Property** City property shall not be subject to this section. City property, including rights-of-way, streets, easements for public purpose, parks, and any other property under the jurisdiction of the City of Mesquite, shall be regulated by the requirements of Article 15.5 of the City Code.
2. **Utilities** Governmental agencies providing operation & maintenance for streets, drainage, and/or utilities, and utilities operating under a franchise agreement with the City which are extending and maintaining services to customers, shall not be subject to this section when in the process of providing, extending, and maintaining such services.
3. **Single Family Residential Property** Developed property which is zoned in a single family residential classification and where an existing residence is located shall not be subject to this section.

C. DEFINITIONS

1. **Protected Trees** Protected tree means any tree named in 1A-500 Tree Schedule which is at least of the size indicated as protected size for the category in which the tree is listed.
2. **Replacement Trees** Replacement trees are those species acceptable for use in fulfilling the tree replacement requirements of 1A-403E. Replacement trees are marked with an asterisk (*) in 1A-500 Tree Schedule.

3. 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.

a. Transplanting a tree to a location on the same property shall not be deemed removal, provided that the tree survives for a period of at least 12 months.

b. The removal of broken limbs or the removal of a protected tree that has been uprooted or has a broken trunk shall be allowed without application for a removal permit, provided that the removal is effected before the beginning of the 10th business day following the occurrence of the damage and provided further, that the period may be extended in the case of widespread and extensive storm damage.

D. PROTECTION DURING CONSTRUCTION

During any construction or land development, the developer or builder shall clearly mark all protected trees or groups of protected trees to be preserved. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the drip line of any such tree. The developer shall not allow cleaning of equipment or material under the canopy of any such tree or group of trees, nor shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc. under the canopy of any such tree or groups of trees to be preserved. No attachments or wires of any kind, other than those of a protective nature, shall be attached to any such tree.

1A-403 APPLICATION TO REMOVE PROTECTED TREES

Ord. 3129/12-16-96

Except as otherwise provided herein, no person, corporation, or governmental agency shall remove or cause the removal of any protected tree without first submitting appropriate application and securing approval in accordance with the following procedures and criteria.

A. SUBMISSION, REVIEW AND APPROVAL

1. *Tree Removal in Conjunction with Development or Building Projects*

Whenever a construction project requires review and approval of a site plan, plat, or building permit, the application for tree removal shall be processed in conjunction with the site plan, plat, or building plan review, and the Development Review Committee, Planning & Zoning Commission, and/or City Council shall have authority to approve tree removal in accordance with their respective authority to approve the site plan, plat, and/or building plan under consideration. Decisions of the Development Review Committee may be appealed to the Planning & Zoning Commission; Decisions of the Commission may be appealed to the City Council whose decision shall be final.

2. *Tree Removal without Construction/ Tree Removal Permit Required*

When removal of a protected tree is proposed and the removal is not in conjunction with a construction project requiring review of a site plan, plat, and/or building permit, a Tree Removal Permit is required. Tree Removal Permit applications shall be reviewed by the Municipal Arborist, who shall approve or deny said application within 21 days. The application for removal shall be deemed automatically granted if not denied on or before the close of business on the 21st day following the date the application was accepted. Unless otherwise stated on the permit, the tree(s) for which the Tree Removal Permit has been issued must be removed within 180 days of the issuance of the permit. The Municipal Arborist may waive submission requirements if less information is required to evaluate the situation and make a determination. Decisions of the Municipal Arborist may be appealed to the Tree Board; Decisions of the Tree Board may be appealed to the City Council whose decision shall be final.

B. SUBMISSION REQUIREMENTS

An application for tree removal shall include a property survey indicating the following:

1. The location, trunk diameter, and species of existing protected trees on the property, and the approximate location of protected trees with branches overhanging the property.
2. The trees to be preserved.
3. An itemized list of trees, per species, to be removed indicating the total aggregate value in diameter inches.
4. The proposed grading of the property, showing existing and proposed elevations, including existing and proposed grades at the base of trees to be preserved.
5. The protective measures and barriers to be used during construction to preserve those protected trees which are to remain.
6. The proposed species, number, size, and location of required replacement trees.

C. MUNICIPAL ARBORIST REVIEW

An application meeting the requirements set out in 1A-403B must be submitted to the Municipal Arborist for evaluation and recommendation at least 21 days prior to submission of any planned development site plan, any short form or preliminary plat, or any building permit application to be submitted to the Development Review Committee, Planning & Zoning Commission or City Council. Such site plan, plat or application shall not be accepted for processing without a report from the Municipal Arborist, unless more than 21 days has passed and there is no report from the Arborist. The report from the Municipal Arborist shall make a recommendation regarding the protection and/ or removal of the protected trees. If the applicant represents that there are no protected trees on a property, the Municipal Arborist shall confirm that fact.

D. CRITERIA FOR REVIEW OF APPLICATIONS

An application for removal of a protected tree shall be approved when a showing is made that the location of the tree would prevent reasonable access to the property or would preclude reasonable and lawful use of the property. Prior to determining that a protected tree precludes reasonable access or use, design alternatives shall be explored and determined to be inappropriate, impractical and/or cost prohibitive. An applicant shall be responsible for submitting design alternatives and evidence of their impracticality and/or cost prohibitive factors. In all instances, removal of a protected tree shall be approved if it is determined that the tree constitutes a hazard to life or property that cannot reasonably be mitigated without removal, or that the tree is dead, dying or diseased to the point that restoration to sound conditions is not practicable, or that its disease can be expected to be transmitted to other trees and to endanger their health.

E. MITIGATION

When it is deemed necessary to approve an application for protected tree removal, a replacement tree or trees shall be required to be planted on the property where the trees are removed in accordance with the following guidelines. The authority approving removal may stipulate other or lesser replacement requirements after considering the following: the size, value, and other features of trees to be removed; related on-site landscaping, trees, and vegetation; property use, visibility and relationships; and other similar factors.

1. ***Approved Replacement Trees*** Trees installed to meet the requirements of this section shall be of a species indicated as replacement trees in 1A-105 Tree Schedule, and shall be installed at the minimum size indicated or larger.
2. ***Planting Requirements*** Tree replacement must occur within 12 months of removal of a protected tree or trees. Replacement trees which do not survive for a period of at least 12 months shall be replaced until they survive a 12 month period.

3. ***Calculation of
Required
Replacements***

The replacement requirement shall be calculated as follows:

- a. When protected size is expressed in trunk diameter, the trunk diameter shall be recorded for each protected tree to be removed, with all the respective trunk diameters being added together to produce a total aggregate value expressed in diameter inches. Where only one protected tree is to be removed, its trunk diameter shall represent the total aggregate value.
- b. When protected size is expressed in height, the height shall be recorded for each protected tree to be removed, with all the respective heights being added together to produce a total aggregate value expressed in total feet of height. Where only one protected tree is to be removed, its height shall represent the total aggregate value.
- c. Replacement trees of sufficient number and trunk diameter and/or total height shall be provided to produce a total aggregate value equal to or exceeding the total aggregate value of the tree or trees to be removed. Provided however, that in no case shall the number of replacement trees be required to exceed more than one tree for each 500 square feet of unpaved site area.

F. SPECIAL EXCEPTION FOR TREE PRESERVATION (Ord. 3147/4-7-97)

Where removal of a protected tree would become unnecessary if the development standards required by zoning were modified, the application for removal shall be denied and an application to the Board of Adjustment shall be initiated at no fee. The Board shall be authorized to approve a Special Exception for Tree Preservation which may modify the development standards required. the Board shall consider the value and benefit of tree preservation and may approve such modifications to development standards where it determines that such modification can be accommodated without creating adverse impacts on adjacent properties and that such modification is compatible with the surrounding neighborhood.