

DIVISION 2. CONSERVATION

Subdivision I. In General

Sec. 98-51. Purpose and intent of division.

The purpose of this division is to encourage the preservation of mature trees which once removed can be replaced only after generations, to preserve protected trees during construction and to control the removal of protected trees when necessary. It is the intent of this division to achieve the following:

- (1) Prohibit the indiscriminate clearing of property.
- (2) Protect and increase the value of residential and commercial properties within the city.
- (3) Maintain and enhance a positive image for the attraction of new business enterprises to the city.
- (4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the city.
- (5) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.

(Code 1982, § 9-17-1; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-52. Definitions.

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

Critical root zone means the area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

DBH (diameter-at-breast-height (caliper)) means tree trunk diameter measured in inches at a height of four and one-half feet above the ground. If a tree splits into multiple trunks below four and one-half feet, the tree shall be measured in two places, the narrowest point beneath the split and one-half the sum of the calipers of the trunks immediately above the split. Whichever is the greater measurement is to be the measurement applied. If there is no single trunk above ground level to measure, the

measurement shall be the sum of the main trunk, plus one-half of all other branches of the calipers of the various trunks at breast height.

Drip line means a vertical line run through the outermost portion of the canopy of a tree and extending to the ground.

Governmental entity means the city, independent school districts, state and county property; property owned by the United States of America or other federal agencies. Examples of this would include city hall, public parks, Corps of Engineers property, state R.O.W., library, fire stations, water tower sites or similar properties.

Multi-trunk tree means a tree with more than one trunk arising at or near the ground.

Protective fencing means snow fencing, chain link fence, barbed wire fence, orange vinyl construction fencing or other similar fencing with a four foot approximate height.

Replacement tree means a self-supporting woody perennial plant listed on the Approved Replacement Trees (Appendix "B") grouping at the end of the ordinance; a single tree, or multiple trees, at least four-inch caliper each, when added together equals one and one-half times the DBH measurement of the protected tree removed, measured 12 inches above the root ball per current Texas Nurserymen's Association specifications, as amended, as approved by the director of planning and community development and or the director's designee. Trees in any proposed street or alley right-of-way shall be replaced when added together at one-half of the diameter of the trees removed.

Tree, protected means a tree the trunk of which has a DBH of eight inches (approximate 25-inch circumference), that is not one of the following trees: Tree of Heaven, Mimosa or Silk tree, Sugarberry, Horse apple/Bois D'Arc, Chinaberry, Black Willow, Chinese Tallow, Siberian Elm, Cotton Wood, Hackberry (11-inch DBH or smaller), Lotus (Buckthorn Family).

Tree valuation means as established by the National Arborist Association per the Tree Valuation Schedule (appendix C) which is on file in the city secretary's office and made a part of this division by reference.

(Code 1982, § 9-17-2; Ord. No. 7-6-99C, § 1, 7-6-1999; Ord. No. 10-21-03B, § 1, 10-21-2003)

Cross references: Definitions generally, § 1-2.

Sec. 98-53. Enforcement of division provisions.

- (a) Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this division shall be deemed guilty of a misdemeanor and upon

conviction hereof shall be fined a penalty of a sum not to exceed \$500.00 for each offense and a separate offense shall be deemed for each tree removed. The unlawful destruction or removal of each protected tree shall be considered a separate offense and each offense subjects the violator to the maximum penalty of \$500.00 per tree for each day that the tree is not replaced.

- (b) No acceptance of public improvements shall be authorized until all fines for violations of this division have been paid to the city.
- (c) No certificate of occupancy (CO) shall be issued until all fines for violations of this division have been paid to the city.

(Code 1982, § 9-17-10; Ord. No. 7-6-99C, § 1, 7-6-1999)

Secs. 98-54--98-70. Reserved.

Subdivision V. Regulations

Sec. 98-141. Tree replacement requirements.

- (a) *Generally.* If it is necessary to remove a protected tree, the applicant shall be required to replace the protected tree being removed with an approved replacement tree.
- (b) *Replacement restriction.* Any required replacement tree shall not be planted within an area such that the mature canopy of the tree will interfere with overhead utility lines, or that the mature root zone of the tree interferes with underground public utility lines.
- (c) *Landscaping plans.* Trees required to be added per the landscaping requirements in the subdivision requirements in chapter 94 or in the zoning regulations in chapter 102 or by virtue of deed restrictions shall not be considered as replacement trees.
- (d) *Credit for saved trees.* Credit is granted for a protected tree being saved only when it is clearly demonstrated by the applicant that a building pad, driveway aisle, parking lot, street or other improvement has been modified to preserve a protected tree. For every protected tree that is saved, the developer shall receive a credit of two caliper inches that do not have to be replaced. That is, if a lot has 100 protected trees and the developer saves 50 protected trees, they shall receive a credit of 100 caliper inches that do not have to be replaced. The exception shall be designated floodplain areas.

(e) *Protected tree mitigation.* As set forth in this article, a protected tree shall be replaced with a replacement tree or trees. In lieu thereof, a replacement tree escrow fee may be paid. The following protected tree mitigation options are available:

- (1) Planted on the same site (subject property) as the removed protected tree;
- (2) Planted within a specified city designated park or other city-owned property/facility;
- (3) Planted within a specified private open space (i.e. private park, preserve, or similar property that is open for public use);
- (4) Planted within a specified public right-of-way median; or
- (5) Pay a fee in lieu of planting a replacement tree.

A specified planting area shall be recommended by the city plan review committee (PRC), then forwarded to the city tree board for consensus, and approved by the director of planning and community development or his designee.

(f) *Replacement tree escrow fee.* In lieu of planting a replacement tree, a monetary value (escrow fee) for required replacement tree inches shall be assessed and paid by the property owner prior to issuance of a building permit for site improvements, infrastructure construction, or other work on the subject property. The monetary value of a replacement tree, as outlined herein, shall be calculated on the average market cost of trees within the Dallas metro area as recommended by the International Society of Arboriculture (ISA).

The city forester shall determine the monetary value of a replacement tree by contacting landscape companies, plant nurseries, or garden centers for the price of a three-inch caliper tree installed, then averaging that cost to determine the mean cost of a three-inch tree; and then dividing by three to determine the mean cost of a one-inch tree installed. The mean cost of a one-inch tree installed is then multiplied by the required number of replacement tree inches proposed for fee payment in lieu of planting. Said formula is represented as follows:

$$((A+B+C)/3)/3 * X = \text{Replacement Tree Escrow Fee}$$

Where A, B and C represent the installed cost of a three inch tree from three sources, and where X represents the required number of replacement tree inches.

(g) *Reforestation fund.* The director of planning and community development or his designee shall assess escrow fees paid in lieu of replacement tree planting during submission and review of a tree survey/preservation plan and/or tree removal

permit application. Fees shall be collected prior to issuance of a building permit, and deposited into the reforestation fund, which is maintained by the parks and recreation department.

(Code 1982, § 9-17-7.3; Ord. No. 7-6-99C, § 1, 7-6-1999; Ord. No. 8-20-02B, § 1, 8-20-2002; Ord. No. 02-17-04H, § 1, 2-17-2004)

Sec. 98-142. Tree protection measures during construction.

A major purpose of this division is to protect all protected trees which are not required to be removed to allow approved construction to occur. The procedures in sections 98-143--98-145 are required in the situations noted; however, unique circumstances may be accommodated by the director of planning and community development or his/her designee.

(Code 1982, § 9-17-8; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-143. Prohibited activities.

The following activities shall be prohibited within the limits of the critical root zone of any protected tree subject to the requirements of this division:

- (1) *Material storage.* No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
- (2) *Equipment cleaning/liquid disposal.* No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This would include paint, oil, solvents, asphalt, concrete, mortar or similar materials.
- (3) *Tree attachments.* No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.
- (4) *Vehicular traffic.* No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within a critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.
- (5) *Grade changes.* No grade changes (cut or fill) shall be allowed within the limits of the critical root zone of any protected tree unless adequate

construction methods are approved by the director of planning and community development or his/her designee.

- (6) *Impervious paving.* No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree

(Code 1982, § 9-17-8.1; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-144. Prior to construction.

The following procedures shall be followed on all types of construction projects (i.e., residential subdivisions, commercial, multi-family manufacturing developments, residential builders and municipal/public):

- (1) *Tree flagging.* All protected trees on the subject property within 40 feet of a construction area or surface improvements such as driveway, walks, etc., shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of four feet or more such that the tape is very visible to workers operating construction equipment. This shall not include the flagging of all protected trees adjacent to R.O.W. within approved residential subdivisions during the construction of the roadway.
- (2) *Open space flagging.* All trees or groups of trees within areas intended to be saved as open space shall be enclosed with fluorescent orange tape along all areas of possible access or intrusion by construction equipment. Tape shall be supported at a maximum of 25-foot intervals by wrapping trees or other approved methods. Single incident access for the purposes of clearing underbrush is allowed.
- (3) *Protective fencing.* Protective fencing will be located at the drip lines of all protected trees that border the limits of construction. In situations where a protected tree is located within the immediate area of intended construction, protective fencing will be located at the drip line.
- (4) *Bark protection.* In situations where a protected tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with two-inch by four-inch lumber encircled with wire or other means that do not damage the tree. The intent here is to protect the bark of the tree against incidental contact by large construction equipment.

(Code 1982, § 9-17-8.2; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-145. Permanent construction methods.

- (a) *Boring.* Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.
- (b) *Trenching.* All trenching where possible shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, gas, etc.
- (c) *Root pruning.* It is recommended that all roots two inches or larger in diameter which are exposed as a result of trenching or other excavation be cut off square with a sharp medium tooth saw and covered with pruning compound within two hours of initial exposure.

(Code 1982, § 9-17-8.3; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-146. Maintenance after development.

If any of the trees required to be retained or trees planted as a part of this division should die within a period of one year after completion of the activities associated with construction, the owner of the property shall replace the trees within six months at a ratio of one-to-one with an approved identical size tree from the tree replacement list which is the same size as the tree removed.

(Code 1982, § 9-17-9; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-147. Issuance of permit; conditions.

No building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of this division. The chief building official shall make available to the applicant a copy of this division.

(Code 1982, § 9-17-11; Ord. No. 7-6-99C, § 1, 7-6-1999)

Sec. 98-148. Tree pruning restrictions.

- (a) *Generally.* No protected tree shall be pruned in such a manner which significantly disfigures the tree or in a manner which would reasonably lead to the

death of a tree, except where such pruning is necessary for safety and electrical reliability.

- (b) *Permit requirements.* All utility companies shall be required to file in the office of the director of planning and community development or his/her designee a set of pruning specifications (updated annually) to be followed by all pruning contractors working for the company within the city. Prior to beginning any pruning not requested by the owner of the tree, the contractor shall submit to the city an application for a pruning permit for approval. Such permit shall be effective for a one year period. As allowed in section 98-123(2), utility companies may prune trees as necessary to re-establish disrupted utility service without obtaining a permit.
- (c) *Pruning standards.* All pruning shall be in accordance with the National Arborist Association Standards for Pruning of Shade Trees which shall be on file in the office of the director of planning and community development.

(Code 1982, § 9-17-5.4; Ord. No. 7-6-99C, § 1, 7-6-1999)