

SECTION 17B. TREE PRESERVATION

(17B-100)*Purpose.* This section is designed to establish rules and regulations governing the protection and preservation of larger native or established trees which provide a valuable amenity to the urban environment and to encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment. In addition, to provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.

(17B-200)*Applicability.*

A. No person shall remove or cause the removal of any tree that is not on the prohibited tree list, from any developed or undeveloped property, with the exception of existing single family, townhome or duplex structures, within the city without first submitting an application, paying an administrative fee and upon approval of the application securing a tree removal permit from the planning department, except as follows:

1. The protected tree is located within the street right-of-way, or utility easement required as part of an approved final plat or capital improvement project.
2. The protected tree has sustained damage in the form of a broken trunk, broken limbs, or uprooting, which creates an immediate hazard to life or property, and the removal is begun before the beginning of the fifth business day following the occurrence of the damage. If the city suffers widespread storm damage, the planning department may extend the time period allowed for removal.
3. The protected tree is to be removed in order to make improvements to property in accordance with an application for a building permit properly submitted prior to the effective date of this article and the improvements are to be made in accordance with the issued permit.
4. The protected tree is to be removed for recreational property or uses, such as golf courses, ballfields, etc., the buildable area of the property shall include that portion of the property necessary for the construction of such recreational improvements, including minimal adjacent area to allow the normal operation of construction equipment.
5. The mowing, clearing and grubbing of brush located within or under the drip lines of protected trees, provided such mowing, clearing or grubbing is accomplished by hand or by mowers. The use of dozers, loaders or other construction or earth moving equipment for this purpose shall not be allowed.
6. The terms and provision of this section shall not apply to any development, subdivision or resubdivision for which a recorded plat has been approved by the city council prior to June 16, 1997.
7. Utility companies franchised by the city which remove protected trees that endanger public safety and welfare by interfering with utility service, except that where such trees are on owner occupied properties developed for single family, townhome or duplex uses, disposal of such trees shall be at the option of the property owner(s).

(17B-300)*Tree removal permit requirements and procedures.*

A. Any person required to obtain a tree removal permit shall submit a completed application, at the time of site plan submittal, a fifty-dollar (\$50.00) administrative fee and a written document indicating the reason(s) for removal of the protected tree(s) to the planning department. The applicant shall also submit a twenty-four-inch by thirty-six-inch site plan to the planning department, containing the following information (this information does not have to be duplicated if already submitted on a required landscape site plan):

1. Location of all existing or proposed property lines with acreage listed, building lines, and yard requirements.
2. The location, caliper, approximate crown size and common name of all single trunk trees with a ten-inch or larger caliper trunk or multi-trunk trees having a total caliper of ten (10)

inches or larger.

3. The denotation of the protected tree to be removed.

4. Existing and proposed grades and major contours.

5. The location and dimensions of all existing and or proposed public streets or alley right-of-way, utility easement, pedestrian access easement or other public right-of-ways or easements.

6. Other information as may be required by the planning department.

B. No application fee shall be charged for the removal of protected trees located on real property having an agricultural zoning district classification. Provided, however, if within any twelve-month period, tree removal permits for the removal of twenty (20) or more protected trees are issued for the same agricultural property or tract, or any portion thereof, the agricultural zoning district classification of said property cannot be changed, nor can an application for a zoning amendment relative to said property be made, during the twelve-month period following the aforementioned twelve-month period during which the twenty (20) or more trees were removed.

C. Issuance of tree removal permits. A permit authorizing removal may include one or more protected trees on any one property. The application for removal of a protected tree shall only be approved and a tree removal permit issued in accordance with the following:

1. *Tree conditions.* For the removal of a protected tree which is dying or so severely diseased or damaged that its restoration to sound condition is not practical; its disease can be expected to be transmitted to other trees and endanger their health; it is a hazard to life or property which cannot be reasonably mitigated without removal; or removal is necessary to insure the survival of other protected trees.

2. *Construction, repairs, or improvements on property.* Where the application for removal of a protected tree is requested in order to undertake any construction, repairs, or make any improvements to any property, the planning department shall consider the application for removal if it determines, after review of the plans for the proposed repairs, construction, or improvements, that reasonable efforts have been made to avoid removal of the protected tree. In making its determination of whether reasonable efforts have been made, the planning department shall consider the following:

a. The feasibility of using alternate repair or construction methods or techniques;

b. The feasibility of rerouting or relocation of sewer, water, electric, gas lines or equipment, drainage facilities, sidewalks, driveways, or other utilities, equipment, or improvements required or needed to serve any building or use located or to be located on the property or other property; and

c. The additional cost that would be incurred as a consequence of insuring preservation of the protected tree.

(17B-400) *Tree protection measures.*

A. The following protection measures shall be required for protected trees:

1. Prior to construction or land development, the developer shall clearly mark with a three-inch wide red ribbon or tape all protected trees within thirty (30) feet of a public right-of-way, public easement or buildable lot area, as included on the approved and filed record plat.

2. Prior to construction of land development, the developer shall establish designated parking areas for the parking and maintenance of all vehicles, trailers, construction equipment and related items and designated stockpile areas for the storage of construction supplies and materials during construction.

3. During construction, the developer shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected tree or group of protected trees.

4. If a foundation, street or alley pavement, utility line, on-site sewerage facility, pool, tennis court, patio, sidewalk, drive or parking lots must be constructed within the drip line of a

protected tree, it shall be constructed no closer than five (5) feet from the drip line of the trunk of such protected tree, as approved by the planning department.

(17B-500)*Replacement requirements and penalties.*

A. Protected trees which are removed shall be replaced by a minimum of two (2), three-inch caliper trees for each tree removed. The replacement of removed trees shall not count toward the number of trees to be planted as required in other portions of this article.

B. If any protected trees are removed from properties; except existing single family, townhome or duplex structures, prior to issuance of a tree removal permit from the planning department, the city shall have the authority to enact one or more of the following administrative and civil penalties on the developer of the property from which such protected trees are removed:

1. Replacement by a minimum of four (4), three-inch caliper tree(s) for each tree removed. The replacement of removed trees shall not count toward the number of trees to be planted as required in other portions of this subsection.

2. A monetary penalty of one hundred dollars (\$100.00) per caliper inch of the removed or injured protected tree(s) resulting from the builder's failure to follow required tree protection measures that causes or may reasonably be expected to cause the tree to die shall be assessed and made payable to the city. Funds paid to The Colony as tree removal penalties shall be deposited in a special account or fund and used by The Colony to provide and or supplement landscape plantings in public areas in The Colony.

(Ord. No. 97-983, § 2, 6-16-1997)