

CHAPTER VIII.4. TREE PRESERVATION

Section VIII.4.1. Purpose

The purpose of this Article is to preserve, protect and enhance existing trees and the City's natural landscapes to contribute to and improve the overall quality of life, public health and environment. Trees are an integral part of healthy upland habitats as weak stream and river corridors. In addition, trees are beneficial in reducing stormwater runoff, improving water quality, recharging groundwater, controlling erosion and dust, abating noise, improving air quality through removal of pollutants and provision of oxygen, sequestering carbon, reducing the urban heat island, reducing building energy costs, enhancing property values, and providing wildlife habitat, including for migratory birds. The natural environment and native tree species shall be preserved to the greatest extent possible during and after development or redevelopment.

Section VIII.4.2. Applicability

These standards shall apply to all property within the City except for Existing Single-Family Attached, Single-Family Detached Dwellings or Duplexes — If the lot from which the protected tree(s) is being removed is a lot (a) which has a final plat; (b) upon which a single-family attached or single-family detached dwelling or duplex is located; and (c) for which the City has authorized such occupancy.

Section VIII.4.3. Clear-Cutting Prohibited

No clear-cutting of land is allowed.

Section VIII.4.4. Tree Removal

- A. **Protected and Heritage Trees** - Removal of protected and heritage trees shall require prior city approval in the form of a tree survey and tree preservation plan or tree removal permit, as provided for herein unless otherwise exempted.
 - 1. New Development and Redevelopment - Protected and heritage trees may be removed as part of new development or redevelopment only in accordance with a tree survey and tree preservation plan, meeting the requirements of this Article which is approved as part of the development plan and platting process.
 - 2. All Other Protected and Heritage Tree Removal - A tree removal permit must be approved prior to removal of individual protected and heritage trees from properties to which Section VIII.4.4.A.1 does not apply.
- B. **Underbrush and Unprotected Trees** - An underbrush removal permit is required when access to a property being considered for development is needed to perform soil borings, property boundary surveys, to prepare a tree survey, or similar actions and such access requires the removal of underbrush and unprotected trees.
- C. **Exemption** - Notwithstanding the requirements of this Article, no permit shall be required for the tree removal activities listed in Section VIII.4.9. below.

Section VIII.4.5. Tree Removal Permits

- A. An application for a tree removal permit shall be submitted to the Planning Director and shall include:
 - 1. The number, species, and health of the protected trees to be removed;

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2. The location of each protected tree to be removed;
 3. The size of the land area from which protected trees will be removed; and
 4. The location of floodplain, open drainageways, or creeks, if any, on the property.
- B. In determining whether to grant a tree removal permit, the Planning Director shall take into account whether the tree mitigation requirements outlined in this Article are met.

Section VIII.4.6. Underbrush Removal Permit

- A. An underbrush removal permit shall be submitted to the Planning Director and shall include:
1. The land area of the site;
 2. The area that will be impacted by underbrush and unprotected tree removal activities; and
 3. The location of floodplain, open drainageway, or creeks, if any, on the property.
- B. In determining whether to grant an under brush removal permit, the Planning Director shall take into account any engineering site plans in review or approved, the density of the foliage, proximity to floodplains and drainage ways, requirements of other departments, such as a Storm Water Pollution Protection Plan, and past actions of the applicant in adhering to tree removal requirements.

Section VIII.4.7. Tree Survey and Tree Preservation Plan

- A. **Tree Survey and Tree Preservation Plan Not Required** - For properties with no trees, the applicant shall indicate such on the concept plan or engineering site plan, but no tree survey or tree preservation plan is required.
- B. **Tree Survey and Tree Preservation Plan Required**
1. Tree surveys and tree preservation plans must be prepared by a civil engineer, certified arborist, landscape architect, or surveyor.
 2. The following information is required for tree surveys and tree preservation plans, but city staff may require additional information as deemed necessary:
 - a. Tree survey - The exact location, size, condition and common name of each tree that is six (6) inches DBH and Larger Trees within rights-of-way and other city easements do not have to be shown. If an area is to be left in its natural state and undisturbed during and after construction, the area may be designated as such on the tree survey, and individual identification of protected trees within the area is not required.
 - b. Tree preservation plan - The exact location of all trees, whether each tree is to be preserved or removed, and the methods by which the trees will be protected during construction.
- C. **Tree Survey Not Required/Tree Preservation Plan Required** - If a property has ten (10) or fewer trees, the DBH and species may be shown on the concept plan or engineering site plan and supplemented with an aerial image instead of a tree survey. A tree preservation plan is required.

Section VIII.4.8. Mitigation Required

The removal, or damage or destruction during construction, of protected trees requires mitigation in the form of either replacement of the protected trees or payment of a tree mitigation fee in lieu of the replacement of the protected trees as outlined herein.

Section VIII.4.9. Exemptions

Neither mitigation nor a tree removal permit shall be required in the following circumstances, though tree preservation plan requirements still apply if an engineering site plan is required:

- A. **Public Utilities** - In any existing right-of-way or easement dedicated to a public entity. Mitigation is required for trees in any newly required easements.
- B. **When Required by City** - If the City requires removal of a protected tree(s).
- C. **Removal by Franchised Utility** - In addition to rights granted by any applicable easement, utility companies franchised by the City may remove protected trees during or following a period of an emergency that are determined by the company to be a danger to public safety and welfare by interfering with utility service.
- D. **Dead or Diseased Trees** - If the City approves a tree survey and report from a certified arborist showing that the protected trees proposed to be removed are already dead, dying, or fatally diseased. The City can request any other information deemed necessary to prove the protected trees are dead, dying, or fatally diseased.
- E. **As Required by Law** - As required by V.T.C.A., Local Government Code § 212.905(h).

Section VIII.4.10. Replacement of Protected Trees and Credits for Preserved Trees

- A. Protected trees, if removed, or damaged or destroyed during construction, shall be replaced with replacement trees at a one-to-one (1:1) ratio of caliper inch measured at DBH. Heritage trees, if removed, or damaged or destroyed during construction, shall be replaced with replacement trees at a two-to-one (2:1) ratio of caliper inch measured at DBH for inches plants for each inch removed.
- B. All replacement trees shall be at least three (3) inches DBH. Replacement trees shall be shade trees from the approved list in Article VIII.3.3 or alternatives approved by the Planning Director. Trees required for landscape strips and landscaping in parking lots as required by Article VIII.3, may count towards the tree replacement requirement outlined herein.
- B. If the Planning Director determines that physical limitations of the property from which the protected trees and heritage trees are removed are such that replacement trees cannot be located on the property, the developer shall be required to plant replacement trees on property mutually agreed to with the City or pay a tree mitigation fee, as provided for in Section VIII.4.11, below.
- C. **Tree Preservation Credits** - For every tree in healthy, thriving condition that is preserved, tree preservation credits shall be given as shown in Exhibit VIII.4.10-1 below. Tree preservation credits may be used to offset the required replacement of protected trees required herein.

EXHIBIT VIII.4.10-1 TREE PRESERVATION CREDITS	
TREE CLASSIFICATION	TREE PRESERVATION CREDIT
Post Oaks and Black-jack Oaks less than 6 inches DBH	One (1) inch for every inch preserved
All Other Protected and Heritage Trees	One (1) inch for every inch preserved

Section VIII.4.11. Tree Mitigation Fee

- A. The developer shall pay a tree mitigation fee, as set forth in the adopted fee schedule in Volume 1, Chapter 2.VIII.201 of the Code of Ordinances, in lieu of the replacement of protected and heritage trees, if replacement trees cannot be planted on the subject property or on other property mutually agreed to with the City.

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- B. The tree mitigation fee shall be administered as required by V.T.C.A., Local Government Code § 212.905, as amended.
 - 1. The applicant may apply for a tree mitigation credit against the tree mitigation fee, through planting replacement trees as set forth in Section VIII.4.8 above.
 - 2. To qualify for a tree mitigation credit, a replacement tree must be planted on the property for which the tree mitigation fee was assessed or on other property mutually agreed to with the City.
 - C. Payment of the tree mitigation fee is due as follows:
 - 1. New Development and Redevelopment
 - a. Protected trees and heritage trees approved for removal - prior to release of a project for construction
 - b. Protected or heritage trees damaged or destroyed during construction - prior to acceptance of the project by the City.
 - 2. All Other Protected Tree and heritage Tree Removal
 - a. Prior to issuance of a tree removal permit
 - b. Under any other circumstance - Immediately upon notice by the City.
 - D. Tree mitigation fees shall be designated to a tree mitigation fund dedicated to the replacement of protected trees and urban forestry management.
 - E. If the developer chooses, they may have a certified arborist conduct an appraisal of some or all trees to be removed using the Guide for Plant Appraisal published by the Council of Tree & Landscape Appraisers. The mitigation fee for those trees would then be equivalent to the appraised replacement value of the tree and not based on the fee schedule in Chapter 2.VIII.201.

Section VIII.4.12. New Development or Redevelopment of Single-Family Detached and Single-Family Attached Dwellings, Duplex, and Condominium Detached Units

- A. All protected trees and heritage trees must be preserved or mitigated.
- B. In order to facilitate preservation of trees, the City shall allow:
 - 1. Individual lots to be smaller than allowed by the zoning district; provided that, the average lot size for the subdivision meets or exceeds that which is required by the zoning district.
 - 2. For lots that contain protected trees or heritage trees which have been preserved, a reduction of five (5) feet in the required front and rear yards from that required by the zoning district, provided 20 feet is maintained in front of a front entry garage.

Section VIII.4.13. Multi-Family and Non-Residential Developments

- A. All protected trees and heritage trees must be preserved or mitigated.
- B. For every protected tree in healthy, thriving condition that is preserved, the City shall allow:
 - 1. For proposed parking lots that contain protected and heritage trees, a reduction in the number of required parking spaces by one (1) parking space for every protected tree and three (3) parking spaces for every heritage tree which is preserved within the area of the proposed parking lot, up to a maximum of 20 percent of the total required parking spaces.

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2. For lots that contain protected trees, a reduction of up to ten (10) feet in the required front and rear yards from that required by the zoning district.

Section VIII.4.14. Tree Protection Measures During Construction

- A. For new development or redevelopment, developers shall, at minimum, adhere to the following tree protection measures on all construction sites:
- B. Prior to grading or construction, the developer shall:
 1. Clearly mark all protected and heritage trees to be preserved;
 2. Erect protective fencing a minimum of four (4) feet in height around each tree or group of trees to be preserved in order to prevent the placement of debris or fill or parking of equipment or vehicles under the canopy of the trees to be preserved, which must be maintained at all times during construction; and
 3. Cause a third-party inspection to be conducted verifying on-site compliance with the approved tree preservation plan, the results of which must be submitted to and approved by the City. The third party inspection may be conducted by the party that prepared the tree survey and mitigation plan.
- C. During construction:
 1. Cleaning, parking or storage of equipment, materials, and vehicles and disposing of any waste material, solvents, concrete, mortar, or similar products is prohibited within the dripline of any protected tree or group of protected trees to be preserved.
 2. Fill or excavation is prohibited within the dripline of a protected tree or group of protected trees or heritage tree or group of heritage trees to be preserved, unless retaining walls to preserve trees is approved on the tree preservation plan. Major changes of grade will require additional measures to maintain proper oxygen and water exchange with the roots.
 3. Boring shall be used to install utilities within the dripline of a protected tree or group of protected trees or heritage tree or group of heritage trees to be preserved.