

ARTICLE 3.09 TREE PROTECTION



The purpose of this article is to promote a superior community environment, to maintain the rural character, to maintain air quality and ecological balance, to maintain property values, and to ensure the maximum preservation of the valuable natural features and scenic rural, and tree-covered character of the community as contemplated in the city's comprehensive plan by establishing regulations regarding the protection of trees and natural vegetation. (Ordinance 2017-09 adopted 3/21/17)



For the purposes of this article, the following terms shall be defined as follows:

Critical root zone. A circle on the ground corresponding to the drip line of the tree; or the diameter of the tree trunk in inches at 4.5 feet height, multiplied by twelve.

Grand tree. A native mature tree with a minimum diameter of twenty-four (24) inches measured four and one-half (4.5) feet off natural ground.

Multi-trunk trees. The calculated size of the tree shall be equal to the caliper of the largest trunk between ground level and four and one-half (4.5) feet high plus half (1/2) the sum of all remaining trunk diameters larger than three (3) inches.

Protected tree. A living tree within the city with a caliper larger than sixteen (16") inches measured four and one-half feet off natural ground.

Protective barricades. A temporary barrier system that is erected to preserve and prevent damage to trees during construction activities.

Site plan/construction plan. A site plan is an architectural plan, landscape architecture document, and a detailed engineering drawing of proposed improvements to a given lot for construction of commercial projects or multi-family residential projects. A site plan usually shows a building footprint, travel ways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, and landscaping elements. Such a plan of a site is a "graphic representation of the arrangement of buildings, parking, drives, landscaping and any other structure that is part of a development project." A site plan is a set of construction drawings that a builder or contractor uses to make improvements to a property. Site plans are often prepared by a design consultant who must be either a licensed engineer, architect, landscape architect or land survey.



(a) The following tree species shall not be planted in the city due to their high susceptibility to oak wilt:

- (1) Texas Red oak (*Quercus texana*);
- (2) Spanish oak (*Quercus buckleyi*);

- (3) Shumard oak (*Quercus shumardii*);
- (4) Southern red oak (*Quercus falcata*);
- (5) Blackjack oak (*Quercus marilandica*); and
- (6) Other members of the red or black oak group.

(b) Existing, viable, trees of the above prohibited species are hereby grandfathered as of the date of adoption of Ordinance 2022-02.



All tree surveys must be certified by a surveyor and shall be submitted with the site plan or construction plan. The survey shall show all existing hardwood trees with a caliper larger than sixteen (16") inches and larger as measured 4 and one-half (4.5) feet off natural ground. Each tree shall be tagged, and a tree list shall show type and size. The tree survey shall show a calculated tree dripline drawn for each tree at one (1) foot radius per inch of diameter. The tree survey shall have been performed by a registered professional licensed surveyor within one year of submittal to the city.



Unless otherwise specified by this article, a person must not, directly, or indirectly, cut down, destroy, move, remove, or effectively destroy through damaging any protected tree or grand tree situated on property regulated by this article without first obtaining a building permit, site plan or construction plan approval.



- (a) A building permit or construction permit must be filed with the development services department before a protected or grand tree may be removed.
- (b) A building permit or construction permit shall not be required for the removal of a protected or grand tree under the following circumstances:
 - (1) The tree is dying, dead, or diseased to the point that restoration is not practical.
 - (2) Public safety. If the tree endangers the public health, welfare or safety, and immediate removal is required as determined in writing by the development services director.
 - (3) Utility service disruption. A building or construction permit shall not be required if a tree has disrupted a public utility service due to a tornado, storm, flood, or other act of God.

(Ordinance 2022-02 adopted 11/16/21)



The following measures should be taken to care for protected trees during all construction activities within the city limits:

- (1) Protective barricades shall be installed around all protected trees and grand trees before any construction activities commence on a site.
- (2) Barricades shall be installed at no less than ten (10') feet from a protected tree or at the designated protective root zone.
- (3) Protective barricades shall be comprised of wood, fencing, or other solid materials.
- (4) Protective barricades shall be a minimum of three (3') feet in height with horizontal and vertical structural members designed to prevent damage to existing landscaping.
- (5) The parking or storage of vehicles, equipment or other materials is prohibited within the protective root zone.
- (6) Barricades shall only be removed after construction activities have been completed and the site is ready for final landscape activities.



- (a) Enforcement. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.
- (b) Criminal prosecution. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00), except as may be otherwise expressly provided by state law. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a misdemeanor.
- (c) Civil remedies. Nothing in this article shall be construed as preempting or waiving the rights of third parties from instituting any action for remedies against site operators or permittees. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;
 - (2) A civil penalty up to one thousand dollars (\$1,000.00) for each day a violation occurs, when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and
 - (3) Other available relief.

(Ordinance 2017-09 adopted 3/21/17)