

ARTICLE I. IN GENERAL

Secs. 66-1—66-30. Reserved.

ARTICLE II. TREES***DIVISION 1 GENERAL****Sec. 66-31. Purpose.**

It is the purpose of this article to preserve the environmental, economic, health, and aesthetic value of our trees, which includes: reduction of air pollution by particulates, CO₂, and other gases, return of O₂ to the atmosphere, reduction of soil erosion and water runoff, climate control and resulting energy savings, acting as noise buffers and light shields, and increasing property values; and to enhance the desirability of our city by requiring careful site planning and the protection of trees during construction, controlling unnecessary tree removal, requiring tree replacement, prohibiting indiscriminate cutting or clearing of trees, and encouraging the increase of our canopy cover while preserving owners' rights to utilize and enjoy their property.

(Ord. No. 946, 3-27-06)

Sec. 66-32. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning:

Certified forester. A degreed forester that is a graduate of an accredited four-year college or university.

Critical root zone. the area within a concentric circle centered on the trunk location, with a diameter equal in feet to twice the number of the tree's trunk diameter in inches.

Crown. The tree's branches and leaves.

Crown clearance. The distance from the ground to the lower branches of the tree.

Crown configuration. Shape of the crown.

Diameter at breast height (DBH). Diameter of the tree 4.5 feet above the ground.

Drip line. A concentric circle reaching to the tips of the largest branches of the tree.

Fiscal security. A cash deposit to secure the cost of replacement trees as set out herein.

Lot. A parcel of land defined in section 74-1 of this Code.

***Editor's note**—Ord. No. 946, § 1, adopted Mar. 27, 2006, repealed the former Art. II, Div. 1, §§ 66-31, 66-32, Div. 2, § 66-56, Div. 3, §§ 66-81—66-83 and enacted a new Art. II as set out herein. The former Art. II pertained to trees and derived from Ord. No. 758, §§ 2, 3, 7-26-93; Ord. No. 882, § 1, 8-22-02; Ord. No. 645, §§ 1—5, 5-21-84.

Low impact activity. Projects including but not limited to walkways, small structures such as pool motors and filters, and re-roofing of structures; which will not have any significant adverse effect upon any protected tree or RMD tree, as determined by a certified forester approved by the city building official.

Multiple-trunk tree. A tree with two or more trunks visibly connected above the ground.

Protected tree. A qualified tree as hereinafter defined equal to or greater than three-inch DBH.

Qualified tree. Any tree of a species that is included in section 66-33 hereof.

Remodeling. Alterations or modifications made to a structure which would alter the footprint of said structure.

Required minimum density (RMD). One RMD tree per 1000 ft² of lot area.

Replacement tree. A protected tree.

RMD tree. Any tree of greater than or equal to [a] three-inch DBH that is included in the RMD calculation of a lot.

Public right-of-way (ROW). The surface, air space above the surface, and area below the surface of any street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property dedicated to the public within the city.

Root pruning. A clean cut between the undisturbed and disturbed root zones within the critical root zone of a tree; commonly done with a rock saw or similar equipment to minimize root damage.

Setback lines. Front, side, rear yards as defined in section 74-244(c) of this Code.

Shared tree. A tree the body of the trunk of which grows on the property line of different owners.

Structure. Anything constructed or erected that requires location on the ground, or is attached to something having a location on the ground, including but not limited to signs, fences, walls, water fountains, ponds, air-conditioning/heating equipment, swimming pools, swimming pool motors and filters, gazebos, tennis/sports courts, driveways, walkways, poles, and buildings, whether of a temporary or permanent nature.

Tree. A self-supporting woody plant with a single trunk, un-branched for several feet above the ground, supporting a definitely formed crown and having a mature height of at least 20 feet.

Tree disposition permit. A permit issued by the city allowing removal of, or damage to, any protected tree or RMD tree.

Tree disposition plan. A written plan prepared by a certified forester indicating how all protected trees and RMD trees and their critical root zones on a lot, and all protected trees and

RMD trees located elsewhere, which have 30 percent or more of their critical root zone in a lot, are to be protected pursuant to section 66-48 hereof; and how replacement trees and/or new trees are to be maintained to encourage survival and sustained growth.

Tree survey. An on-the-ground survey of protected trees and RMD trees on a lot, showing the location, circumference, crown configuration, crown clearance, crown area (drip line), critical root zone (CRZ), types (species); and the same information on any protected tree or RMD tree located elsewhere which has 30 percent or more of its crown or CRZ in such lot.

(Ord. No. 946, 3-27-06; Ord. No. 952, § 1, 5-22-06; Ord. No. 967, 11-27-06; Ord. No. 984, § 1, 10-22-07)

Sec. 66-33. Qualified trees.

LARGE TREES:

Ash, Green	Oak, Live
Pine, Slash	Oak, Nuttall
Ash, White	Oak, Mexican White
Cypress, Bald	Oak, Post
Cypress, Montezuma	Oak, Overcup
Elm, Cedar	Oak, Shumard
Elm, Lacebark	Oak, Swamp Chestnut
Elm, Winged	Oak, Water
Hickory, Black	Oak, White
Hickory, Mockernut	Pecan
Magnolia, Southern	Pine, Loblolly
Maple, Drummond Red	Poplar, Yellow
Maple, Trident	Red Cedar, Eastern
Gingko	Sycamore
Oak, Bur	Sweetgum
Oak, Chinkapin	Walnut, Black
Oak, Laurel	

SMALL TREES:

Anacua	Holly, Savannah
Birch, River	Fringe Tree
Blueberry (single trunk)	Laurel, Cherry
Buckeye, Mexican	Laurel, Texas Mountain
Holly, American	Pistache, Chinese
Holly, Burford	Plum, Mexican
Holly, East Palatka	Redbud, Eastern

(Ord. No. 946, 3-27-06; Ord. No. 2009.05.11, § 1, 5-11-09)

Sec. 66-34. Management of vegetation located on public rights-of-ways or other public property.

(a) Vegetation located on public right-of-way is hereby defined as trees, shrubs, bushes, and all other woody vegetation on land lying between the curb, pavement line, and the property lines of either side of all public streets, public avenues, or public ways including within the city. This also includes vegetation located on city street rights-of-way, easements, alleys, circles, cul-de-sacs, and parks.

(b) The public works officer or his designee shall be responsible for the management of vegetation on public rights-of-way, including but not limited to, planting, pruning, maintaining, replacement, and removal of all trees located within the street rights-of-way, easements, alleys, circles and parks. It shall be unlawful for any other person to perform any of the above actions or to damage or harm any vegetation on public rights-of-way unless a permit is issued by the public works officer or his designee.

(c) The public works officer or his designee shall develop the annual tree plan or update necessary to maintain the city's Tree City USA status. Such plan shall be subject to approval by city council. The public works officer or his designee shall be responsible for execution of the plan.

(Ord. No. 988, § 1, 3-31-08)

Editor's note—Ord. No. 988, § 1, adopted Mar. 31, 2008, enacted provisions intended for use as § 66-40. For purposes of classification, and in order to facilitate indexing, the editor has redesignated said provisions as § 66-34.

Secs. 66-35—66-44. Reserved.

DIVISION 2. REQUIREMENTS FOR COMPLIANCE

Sec. 66-45. Tree disposition permit required.

(a) It shall be unlawful for any person to remove any protected tree or RMD tree, or to damage or cause serious trauma (as determined by a certified forester) to any protected tree or RMD tree during any of the following activities, without having first obtained a tree disposition permit, unless otherwise exempted by the provisions of this section.

- (1) Demolition/remodeling/construction/new construction of any structure requiring a building permit.
- (2) Tree removal of protected trees or RMD trees, unless:
 - a. Replacement trees are provided to meet the required minimum density as set out in section.
 - b. A shared tree requires the written consent of each owner before any action under this section 66-45 can take place.
- (3) *Trenching/boring/pruning for utility installation or maintenance.* If utility installation or maintenance by a public utility requires trenching, boring, root pruning, or limb

pruning, the owner and any public utility shall consult with the city to find least-damaging design alternatives such as trenching or boring where the minimum impact is made on trees, stacking underground utilities to reduce number of trenches required, and hand-digging trenches to avoid cutting large roots. Permits issued subsequent to these negotiations shall be issued at no cost/reduced cost.

- (4) Reserved.
- (5) If a permit is issued for demolition only (without plans for new construction of a single family dwelling having been approved), a tree disposition permit shall be issued for only such trees shown on the tree disposition plan that are necessary to be removed or pruned for demolition to be accomplished, as determined by the certified forester and the city building official.

(b) *Exemptions from tree disposition permit requirements.*

- (1) Removal of all or part of a tree(s) that has disrupted public utility service, the use of a public ROW, is dead, or is in imminent danger of causing harm to people or property.
- (2) Removal of any qualified tree of less than three-inch DBH, or of any tree not listed as qualified which is not an RMD tree.
- (3) Low impact activity as defined under section 66-32.

(c) *Transfer of permit.* If the owner of a tree disposition permit sells the property associated with said permit, such permit, together with any related tree survey and tree disposition plan, shall be transferred to any or all subsequent owners, until the conditions of the permit are satisfied.

(Ord. No. 946, 3-27-06; Ord. No. 952, § 1, 5-22-06; Ord. No. 988, § 1, 3-31-08)

Sec. 66-46. Tree survey required.

A tree survey is required in conjunction with any activity covered in section 66-45(a).

All protected trees and RMD trees shall be identified and located.

Methods for locating trees may vary depending on the size of the project and number of trees. For small lots with few trees, taping the distance to the center of the trunk from two known points is a viable option. For large, tree-covered lots, using a total station survey system from a platform elevated above the tree line may be the most practical method.

The tree trunk location on the plan shall represent the center of the trunk at ground level in the field.

If the tree leans substantially above that point, the direction of the lean shall be shown with an arrow.

The tree survey shall include:

- (1) *Measurement requirements.*
 - a. Diameters of listed trees shall be measured at DBH. If the tree is on a slope, measurement shall be from the high side of the tree. If unusual swells are present at DBH, measurement shall be made at the narrowest point between the swell and the ground.
 - b. Diameters of multi-trunk trees shall be measured by adding the DBH of the largest trunk to one-half the DBH of each additional trunk.
 - c. Diameter measurements shall be accurate to the nearest one-half inch. Trees may be measured by standard tape measure or diameter tape. Standard tape measurements must be transposed from circumference to diameter. Diameter = Circumference divided by 3.142.
 - d. Spot elevation shall be measured within one foot from the trunk of the tree. If the tree is on a slope, measurement shall be made from the high side of the slope.
 - (2) *Tree number.* Each protected tree or RMD tree shall be individually numbered thereon. Each protected tree and RMD tree shall be tagged with this number.
 - (3) *Crown configuration.* If the protected tree or RMD tree has a crown which is skewed in one direction, this information shall be recorded on the survey. Crown clearance shall be recorded on the survey.
 - (4) *Crown clearance.* Shall be recorded on the survey for each protected tree or RMD tree.
 - (5) *Critical root zone.* Shall be shown on the survey for each protected tree or RMD tree.
 - (6) *Type.* Tree type shall be shown on the survey and shall be accurate to species level (i.e. Post Oak, Cedar Elm, Sweetgum) and be listed in both common and botanical names. (White Oak *Quercus alba*).
 - (7) *Condition.* The general condition (healthy, diseased, poor condition, etc.) of each protected tree or RMD tree as determined by the certified forester shall be recorded.
 - (8) *Spot elevation.* An elevation reading for each protected tree or RMD tree shall be recorded.
- (Ord. No. 946, 3-27-06)

Sec. 66-47. Tree disposition plan required.

To obtain a permit for any activity listed in subsection 66-45(a), a tree disposition plan shall be filed. Each tree to be retained shall be represented by a solid circle on the tree survey. Each tree to be removed shall be shown by a dashed circle on the tree survey.

(Ord. No. 946, 3-27-06)

Sec. 66-48. Replacement trees required.

(1) Each protected tree or RMD tree to be removed that requires a tree disposition permit or that must be replaced to maintain the RMD of the lot shall be replaced with a protected tree of equal DBH or by multiple trees of lesser DBH as designated in this section, unless the number of remaining qualified trees is greater than the required minimum density. The relevant tree disposition permit wording shall include replacement, escrow, and maintenance time period requirements, and transfer of liability as stipulated in subsections (4), (5), and (6) below.

(2) *DBH formula for multiple tree replacement of a single tree.* Any replacement tree required may be replaced by multiple tree, each of which has a DBH of three inches or greater, and the sum of whose DBH is equal to or greater than the DBH of the tree being replaced. Any replacement tree whose DBH is greater than the minimum three inches will be credited with replacement inches twice the number of the actual DBH.

(3) *Location of RMD trees and replacement trees.* At least 25 percent of RMD trees shall be at least 20 feet from the perimeter of the lot; the remaining 75 percent of RMD trees may be within ten feet from the perimeter of the lot. If any portion of a lot is encumbered by a roadway right-of-way, the perimeter of that portion shall mean the boundary of the right-of-way nearest the interior of the lot.

Each tree removed that must be replaced to maintain RMD or RMD location shall be replaced as stipulated in subsections (1) or (2). If such tree removal does not cause the lot to go below RMD, but RMD location is violated, replacement tree(s) to meet RMD location shall be placed at least 20 feet from the perimeter of the lot. If such tree removal causes the lot to go below RMD, but RMD location is not violated, replacement tree(s) to meet RMD may be placed anywhere on the lot. If such tree removal causes both RMD and RMD location to be violated, replacement trees must first be located to satisfy RMD location, then may be placed anywhere on the lot.

(4) *Time limit for planting replacement trees.* Planting of replacement trees shall take place before a certificate of occupancy is issued.

(5) *Transfer of liability for planting replacement trees.* If the owner of a tree disposition permit which requires planting of replacement tree(s) sells the property associated with said permit, liability for planting replacement tree(s) shall transfer to any or all subsequent owners of the subject property.

(6) *Escrow/maintenance time period for determining viability of replacement trees.* If replacement trees are planted, the permittee shall post fiscal security in and amount equal to the cost of replacement trees, plus 15 percent to cover administrative costs, together with all necessary rights of entry.

(Ord. No. 946, 3-27-06; Ord. No. 967, 11-27-06; Ord. No. 2009.05.11, §§ 2, 3, 5-11-09)

Sec. 66-49. Protection of remaining trees.*(a) Required activities.*

- (1) *Protective fencing.* Unless otherwise approved in the tree disposition plan, each tree or group of trees to be preserved shall be enclosed by a protective fence during all development activity. The protective fence shall be made of chain link and completely enclose the critical root zone of the tree or group of trees. The protective fence shall be at least four feet high with metal posts spaced no wider than eight feet apart. Each protective fence shall be marked with signs stating "OFF LIMITS" and "NO TRASH" (or equivalent) in both English and Spanish.
- (2) *Mulch.* If development activity approved in the tree disposition plan is to take place within the critical root zone of any protected tree or RMD tree, the protective fence described in subsection (a)(1) above shall cover the area on which no development activity is to take place, and the balance of the critical root zone for such tree or group of trees shall be covered with at least six inches of organic or wood chip mulch and covered with three quarter-inch plywood or roadboards in order to protect the roots from soil compaction.
- (3) *Tree flagging.* All trees to be removed from the lot shall be flagged with orange vinyl tape (flagging) wrapped around the main trunk at a height of four feet or more. After receipt of the tree removal permit, the owner of the lot or his agent shall paint with orange paint an "X" on the tree(s) approved for removal, at a height of four feet or more so that the paint is visible to workers on foot or operating heavy equipment.
- (4) *Trunk protection.* In situations where a protected tree or RMD tree remains in the immediate area of intended development activity approved in the tree disposition plan and its critical root zone cannot be enclosed by a protective fence, such tree shall be protected by enclosing the entire circumference of the tree's trunk with lumber at least eight feet high banded by wire or other means that does not damage the tree.
- (5) *Construction pruning.* If a protected tree or RMD tree has a low canopy or limbs that may be broken during the course of construction and if specified and approved by a certified forester in the tree disposition plan, the obtrusive limb(s) may be cut. Pruning shall be done according to the National Association of Arborists Standards.
- (6) *Watering during and after construction.* Remaining protected trees and RMD trees shall receive supplemental water during times of drought or low rainfall. Plans for feeding and watering shall be prepared by the certified forester who is retained by the owner or the owner's agent, and shall be included in the tree disposition plan.

- (7) *Design constraints.* Design constraints dictate that in certain circumstances some protected trees or RMD trees will have some encroachment of their critical root zone. The following are the minimum design criteria that are allowed within the critical root zone of such trees:
- a. *Change of grade.* In the event that grade changes must be made around such tree(s), the following procedures shall be followed unless otherwise approved in the tree disposition plan:
 1. No cut or fill of the ambient grade greater than two inches shall be located close to the trunk of such tree if the cut or fill covers more than one-half of the radius of the critical root zone. If this provision cannot be complied with, the following provisions shall apply:
 - i. *Increase in grade:* The owner shall construct tree wells around the critical root zone of such tree(s), which shall be of a design that provides for proper aeration and drainage of the critical root zone; or
 - ii. *Decrease in grade:* The owner shall construct retaining walls around the critical root zone of such tree(s) to mitigate cuts.
 2. If development activity causes standing water or wet soil conditions which are detrimental to a species of such tree(s) on a lot or adjacent property adequate drainage shall be provided in the tree disposition plan in order to prevent suffocation and/or root rot of affected tree(s).
 - b. *Underground utilities.* Boring for the installation of underground utilities is permitted under protected trees in certain circumstances. The minimum depth of the bore shall be 30 inches. In special circumstances approved by a certified forester approved by the city, trenching for underground utilities may be permitted with respect to all such protected trees. If utility trenching is approved, the following procedures shall be adhered to:
 1. Root pruning shall take place at least two weeks prior to any trenching:
 - i. Root pruning shall be supervised by a certified forester approved by the city; and
 - ii. The utility trench shall be backfilled less than 24 hours after it is dug.
 - c. *Drainage systems and irrigation systems.* Every effort should be made to route drainage systems and irrigation systems to avoid trenching across the critical root zone of any quality tree or RMD tree. If the city forester determines that this is not possible, the following trenching requirements must be met:
 1. The drainage plans must designate tree locations that will be impacted.
 2. The drainage pipes should be routed where they will have the least impact on the critical root zones (CRZ) of the designated trees.
 3. It is mandatory that trenches within the CRZ of designated trees be hand-dug. Only roots less than one-inch diameter may be cut.

4. Drainage pipe must be placed in trenches and inspected by the plumbing inspector and the city forester as quickly as possible after the trench is dug and before the line is covered.
- d. *Paving and impervious material.* A maximum of 25 percent of the critical root zone of a protected tree or RMD tree may be covered with impenetrable material, such as but not limited to concrete, tar, or asphalt. If the design plan of the lot calls for any impervious material over any part of the critical root zone with respect to all such trees, then the following procedures shall be adhered to:
1. Root pruning shall be done six inches to one foot from the proposed impervious covering on the tree side of the covering and shall take place at least two weeks prior to any fill or cut;
 2. Root pruning and necessary limb pruning shall be supervised by a certified forester approved by the city building official;
 3. A plastic vapor barrier of construction grade shall be installed between the roots of such tree(s) and the impervious material to inhibit leaching of lime into the soil; and
 4. A root remediation schedule shall be included in the tree disposition plan.
- (b) *Prohibited activities.*
- (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 or RMD tree.
 - (2) *Equipment cleaning/liquid disposal.* No equipment shall be cleaned or other liquids deposited within the limits of the critical root zone of any protected tree or RMD tree. This includes but is not limited to paint, oil, solvents, asphalt, concrete, mortar, or other materials.
 - (3) *Tree attachments.* No signs, wires, or other attachments other than those of a protective nature, which have been approved in the tree disposition plan, shall be attached to any protected tree or RMD tree.
 - (4) *Vehicular traffic.* No vehicle, construction equipment or parking is allowed within the limits of the critical root zone of any protected tree or RMD tree unless included in the tree disposition plan, and the affected critical root zone area is covered by mulch and roadboard as stipulated in subsection (a)(2) above and the truck of such tree(s) is protected as stipulated in subsection (a)(4) above.
 - (5) *Trash.* Trespassing or throwing trash into a protective fence area is prohibited.
 - (6) *Removal of protective fencing or mulch.* It shall be unlawful for any person to remove any portion of any protective fence or mulch and roadboards for any period of time during any development activity except for landscaping activity, after which such fence shall be replaced until a certificate of occupancy shall be issued by the city building official.

(c) *Liability for survival of remaining trees.*

- (1) *Transfer of liability for survival of remaining trees.* If the owner of a tree disposition permit that involves trees remaining on the property sells the property associated with said permit, liability for survival of remaining protected trees and RMD trees shall transfer to any subsequent owners of the subject property until survival conditions are met.
- (2) *Escrow/maintenance time period for determining survival of remaining trees.* The permittee shall post fiscal security in an amount equal to the cost of replacement trees, plus 15 percent to cover administrative costs, together with all necessary rights of entry.

(Ord. No. 946, 3-27-06; Ord. No. 984, § 1, 10-22-07)

Sec. 66-50. Removal of diseased trees.

(a) *Diseased trees.*

- (1) *Infested or diseased trees declared nuisance.* Any tree within the city limits that is infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles, or is diseased, as determined by a representative of the city or a certified forester, is declared to be a public nuisance.
- (2) *Abatement.* It shall be unlawful for the owner of any lot or parcel of land within the city to permit or maintain on any such lot or parcel of land any tree diseased or infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles. It shall be the duty of the owner of any such lot or parcel of land upon which is situated a diseased tree or a tree infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles to abate such disease or infestation and public nuisance by the felling of such tree to ground level and subsequent removal of all parts of the felled tree from the city.
- (3) *Right of entry for inspection.*
 - a. The city building official and such other officers, employees and agents of the city as may be designated by the city building official are authorized and empowered to enter upon any lot or parcel of land within the city during regular business hours for the purpose of inspecting any tree situated thereon and may remove or cause to be removed a portion of the bark to determine if such tree is diseased or infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles. Before entering upon any lot or parcel of land for such purpose, the city building official or other representative of the city shall make reasonable effort to contact the owner of such lot or parcel of land and advise such owner of the purpose and approximate time of such proposed entry and inspection.

- b. It shall be unlawful for any person to prevent or attempt to prevent the city building official or other person designated by the city building official from entering upon any lot or parcel of land in the city for the purpose of making the inspection described in subsection (a) of this section or from performing any other duties prescribed by this section.
- c. If from an examination of a tree or a bark sample removed from said tree by the city building official or other person designated by the city building official it is determined that the tree is diseased or infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles, the city building official shall serve or cause to be served upon the owner of record of the lot or parcel of land upon which such tree is situated a written notice requiring such owner to comply with the provisions of this section. Such notice may be served in person or by regular mail or by registered or certified mail, return receipt requested. Such owner shall comply with the provisions of this section within ten days after receipt of such notice.
- d. *Replacement tree required.* If the tree required to be removed is a protected tree or RMD tree and if removal of such tree shall cause tree density on the lot or parcel of land to be less than the required minimum density, a replacement tree is required as provided under section 66-48.

(Ord. No. 946, 3-27-06)

Secs. 66-51—66-80. Reserved.

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 66-81. Administration.

This article shall be administered by the city administrator, city building official, and/or their designee(s).

- (a) *Interaction with other ordinances.*
 - (1) *Conflicts with other regulations.* In any case where another city ordinance, rule, or regulation would require the removal, damage, or death of a protected tree or RMD tree, under circumstances where this chapter would prohibit such action, it is the intent of the city council that all of the applicable regulations shall be read together and harmonized so that, if reasonably practicable, the protected tree or RMD tree is not removed, damaged, or killed.
 - (2) *Liberal interpretations authorized.* All city officials, boards, and commissions are authorized and encouraged to interpret other ordinances, rules, and regulations liberally in order to minimize conflicts with this chapter and to protect existing protected trees and RMD trees, except in circumstances where there might be hazards to persons or property. Design constraints and alternatives shall be carefully considered. In cases of conflict between this article and other city

ordinances, the city engineer, city building official, and a certified forester are required to work out acceptable compromises, consulting with the board of adjustment where necessary.

(Ord. No. 946, 3-27-06)

Sec. 66-82. Enforcement.

(a) Upon observation of a violation, the city building official or designee may:

- (1) Issue a citation.
- (2) Stop the construction/demo/remodeling or other job.
- (3) Refuse to grant a certificate of occupancy.
- (4) Require replacement of trees as provided under section 66-48.

(b) Any person may report violations of this article to the city administrator, city building official, and/or their designee(s).

(Ord. No. 946, 3-27-06)

Sec. 66-83. Fees, fines and penalties.

(a) *Violation.* Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined as provided this section.

(1) *Fees.* The city building official shall fix such fees for tree disposition permits, tree surveys, and tree disposition plans issued under this section as shall be necessary to cover the costs of administering and enforcing this section. The building official may waive any fees provided that:

- a. The lot owner has resided on her/his property for one year prior to the fee event; and
- b. The property meets the required minimum density after the tree removal.

(2) *Fines.*

- a. The city may assess a fine of as provided in the Texas Local Government Code for the non-permitted removal of or damage to a tree which is not exempt from requiring a tree disposition permit, as shown in section 66-45.
- b. The city may assess a fine of as provided in the Texas Local Government Code for engaging in prohibited activities for protection of remaining trees or for failing to follow required activities for the protection of remaining trees, as described in section 66-49 of this article.

(3) *Penalties.* Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount provided by the Texas Local Government Code. Each day of violation shall constitute a separate offense.

- (4) All fines and/or penalties collected by the city municipal court shall be deposited into a special fund to be utilized for education of the public on the value of trees to our city, the purchase of trees to be planted on city-owned property, and/or to defray administration and enforcement expenses of this article.

(Ord. No. 946, 3-27-06; Ord. No. 952, § 1, 5-22-06)