

ARTICLE 1. TREE AND NATURAL AREA PROTECTION.

Division 1. General Provisions.

§ 25-8-601 APPLICABILITY.

- (A) Except as provided in Subsection (B), this article applies in the zoning jurisdiction.
- (B) For a preliminary plan, final plat, or subdivision construction plan in the portion of the city's extraterritorial jurisdiction that is within Travis County:
 - (1) this article does not apply; and
 - (2) [Title 30](#) (*Austin/Travis County Subdivision Regulations*) governs.

Source: Section 13-7-37(d); Ord. 990225-70; Ord. 031211-11; Ord. 031211-42.

§ 25-8-602 DEFINITIONS.

In this article:

- (1) HERITAGE TREE means a tree that has a diameter of 24 inches or more, measured four and one-half feet above natural grade, and is one of the following species:
 - (a) Ash, Texas
 - (b) Cypress, Bald
 - (c) Elm, American
 - (d) Elm, Cedar
 - (e) Madrone, Texas
 - (f) Maple, Bigtooth
 - (g) All Oaks
 - (h) Pecan
 - (i) Walnut, Arizona
 - (j) Walnut, Eastern Black

This list of eligible heritage tree species may be supplemented, but not reduced, as prescribed by rule.

- (2) OWNER includes a lessee.
- (3) PROTECTED TREE means a tree with a diameter of 19 inches or more, measured four and one-half feet above natural grade.
- (4) REMOVAL means an act that causes or may be reasonably expected to cause a tree to die, including:
 - (a) uprooting;
 - (b) severing the main trunk;
 - (c) damaging the root system; and
 - (d) excessive pruning.

Source: Section 13-7-38; Ord. 990225-70; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-603 ADMINISTRATION.

- (A) A city arborist, appointed by the director of the Planning and Development Review Department, shall implement this article.
- (B) The Planning and Development Review Department shall adopt administrative rules for the implementation of this subchapter.
- (C) The rules shall:
 - (1) describe methods to protect trees against damage during development;
 - (2) identify actions that will constitute removal;
 - (3) identify the root areas that require protection against soil compaction or the effects of impervious paving; and
 - (4) identify mitigation measures and methods of calculation for fiscal security to ensure performance of mitigation measures that may be required under article 1 of this subchapter.

Source: Section 13-7-39; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-604 DEVELOPMENT APPLICATION REQUIREMENTS.

- (A) An application for site plan approval must:

- (1) include a grading and tree protection plan, as prescribed by the Administrative Manual and the Environmental Criteria Manual; and
- (2) demonstrate that the design will preserve the existing natural character of the landscape, including the retention of trees eight inches or larger in diameter to the extent feasible.
 - (B) If development under a proposed site plan will remove a tree eight inches or larger in diameter, the City may require mitigation, including the planting of replacement trees, as a condition of site plan approval. The director may not release the site plan until the applicant satisfies the condition or posts fiscal security to ensure performance of the condition.
 - (C) For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a protected tree, the city arborist must review the application and make a recommendation before the application may be administratively approved or presented to the Land Use Commission or city council.
 - (D) For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a heritage tree, the applicant must file a request for a variance to remove the heritage tree under Division 3 of this Article before the application may be administratively approved or presented to the Land Use Commission or City Council.

Source: Sections 13-7-40, 13-7-46(c), and 13-7-48; Ord. 990225-70; Ord. 000309-39; Ord. 010607-8; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-605 WAIVER AND MODIFICATION OF CITY REQUIREMENTS.

- (A) If enforcement of a City department policy, rule, or design standard will result in removal of a protected or heritage tree, the Planning and Development Review Department may request that the responsible City department waive or modify the policy, rule, or design standard to the extent necessary to save the tree.
- (B) The responsible City department may waive or modify the policy, rule, or design standard after determining that a waiver or modification will not result in a serious or imminent adverse effect.
- (C) The city manager shall resolve differences of opinion between the Planning and Development Review Department and another City department under this section.

Source: Section 13-7-43; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-606 REPORTS.

The city arborist shall annually report to the Environmental Board and monthly report to the Urban Forestry Board. The report shall include, but is not limited to, impacts to protected or heritage trees, tree promotional programs, and urban forestry planning efforts.

Source: Ord. 20100204-038.

§ 25-8-607 APPLICABILITY TO CITY.

The requirements of this subchapter apply to land development and other actions by the City.

Source: Ord. 20100204-038.

Division 2. Protected Trees.

§ 25-8-621 PERMIT REQUIRED FOR REMOVAL OF PROTECTED TREES; EXCEPTIONS.

- (A) Except as otherwise provided in this section, a person may not remove a protected tree unless the Planning and Development Review Department has issued a permit for the removal under this division.
- (B) A person may, without a permit, remove a damaged protected tree that is an imminent hazard to life or property if the tree is removed within seven days of being damaged. The Planning and Development Review Department may extend this deadline for widespread and extensive storm damage.
- (C) A person may, without a permit, remove a protected tree if the tree is identified for removal on an approved preliminary plan, final plat or site plan.

Source: Section 13-7-46; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-622 APPLICATION FOR REMOVAL.

- (A) For a protected tree located on public property or a public street or easement, an application for removal of the tree may be filed by:
 - (1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or
 - (2) the owner of property adjoining the site of the tree.
- (B) For a protected tree located on private property, an application for removal of the tree may be filed by:
 - (1) the owner of the property on which the tree is located; or
 - (2) the city arborist, if the tree is seriously diseased or is a safety hazard.

- (C) An application for removal of a protected tree must:
- (1) be filed with the director of the Planning and Development Review Department; and
 - (2) include the information prescribed by the Administrative Manual.
- (D) An application fee is not required if the application is for removal under Subsection [25-8-624](#)(A)(3), (4), or (5) (*Approval Criteria*).

Source: Section 13-7-47; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-623 INSPECTION BY CITY ARBORIST.

The city arborist shall promptly inspect a tree for which removal is requested.

Source: Section 13-7-41(a); Ord. 990225-70; Ord. 031211-11.

§ 25-8-624 APPROVAL CRITERIA.

- (A) The Planning and Development Review Department may approve an application to remove a protected tree only after determining that the tree:
- (1) prevents reasonable access to the property;
 - (2) prevents a reasonable use of the property;
 - (3) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;
 - (4) is dead;
 - (5) is diseased, and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health; or
 - (6) for a tree located on public property or a public street or easement:
 - (a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or
 - (b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted.

- (B) If an application filed by a political subdivision of the state is approved under Subsection (A)(2), the Land Use Commission may, in its discretion, review the approval.
- (C) For an application to remove a protected tree located on private property, an applicant must request a variance, waiver, exemption, modification, or alternative compliance that would eliminate the reason for removal of the tree.
 - (1) The application to remove the protected tree may not be approved unless the request is denied.
 - (2) An application fee is not required for a variance, waiver, exemption, modification, or alternative compliance request required by this subsection.
 - (3) This subsection does not apply to an application that may be approved under Subsection (A)(3), (4), or (5).
 - (4) The body considering the variance, waiver, exemption, modification or alternative compliance will consider the benefit of preserving the protected tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.
 - (5) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.
- (D) The Planning and Development Review Department shall require mitigation as a condition of application approval. A removal permit may not be issued until the applicant satisfies the condition or posts fiscal security to ensure performance of the condition within one year.

Source: Section 13-7-41(b), (c), (d), and (f); Ord. 990225-70; Ord. 010329-18; Ord. 010607-8; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-625 ACTION ON APPLICATION.

- (A) The Planning and Development Review Department shall take action on an application to remove a protected tree:
 - (1) not later than the 10th working day after the complete application is filed; or
 - (2) if a variance, waiver, exemption, modification, or alternative compliance request is required by Subsection [25-8-624\(C\)](#) (*Approval Criteria*), not later than the 10th working day after the request is denied.
- (B) An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the

Planning and Development Review Department does not take action on the application before the expiration of the applicable deadline in Subsection (A).

Source: Section 13-7-41(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-626 EFFECTIVE DATE AND EXPIRATION OF APPROVAL.

- (A) Approval of an application to remove a protected tree is effective immediately.
- (B) An approval to remove a protected tree expires:
 - (1) one year after its effective date, provided that the mitigation conditions in the permit remain in effect until the conditions are met; or
 - (2) for a development described in Subsection [25-8-621\(C\)](#) (*Permit Required For Removal Of Protected Trees; Exceptions*), when the development plan expires.

Source: Section 13-7-41(e); Ord. 990225-70; Ord. 031211-11; Ord. 20100204-038.

§ 25-8-627 APPEAL.

An applicant may appeal the denial of an application to remove a protected tree to the Land Use Commission.

Source: Section 13-7-42; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

Division 3. Heritage Trees.

§ 25-8-641 REMOVAL PROHIBITED.

- (A) Removal of a heritage tree is prohibited unless the Planning and Development Review Department has issued a permit for the removal under this division.
- (B) A permit to remove a heritage tree may be issued only if a variance is approved under Section [25-8-642](#) (*Administrative Variance*) or [25-8-643](#) (*Land Use Commission Variance*).
- (C) The requirements in this division apply to trees on private and public property. To the extent of conflict with another section of the Code, this division applies.
- (D) A person may, without a variance, remove a damaged heritage tree that is an imminent hazard to life or property if the tree is removed within seven days of being damaged. The director may extend this deadline for widespread and extensive storm damage.

Source: Ord. 20100204-038.

§ 25-8-642 ADMINISTRATIVE VARIANCE.

- (A) The director of the Planning and Development Review Department may grant a variance from Section [25-8-641](#) (*Removal Prohibited*) to allow removal of a heritage tree only after determining, based on the city arborist's recommendation, that the heritage tree:
- (1) is dead;
 - (2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or
 - (3) is diseased and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health.
- (B) No application fee and no mitigation are required for a variance request under subsection (A).
- (C) The director of the Planning and Development Review Department may grant a variance from Section [25-8-641](#) (*Removal Prohibited*) to allow removal of a heritage tree that does not have at least one stem that is 30 inches in diameter or larger measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section [25-8-624](#)(A) (*Approval Criteria*) and that:
- (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section [25-8-646](#) (*Variance Prerequisite*); and
 - (2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.
- (D) A variance granted under this section:
- (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of variance approval for variances requested under Subsection (C) of this section; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (D)(2) or posted fiscal security adequate to ensure

performance of the mitigation conditions not later than one year after issuance of the variance.

- (E) The director of the Planning and Development Review Department shall prepare written findings to support the grant or denial of a variance request under Subsection (C) of this Section.

Source: Ord. 20100204-038.

§ 25-8-643 LAND USE COMMISSION VARIANCE.

- (A) The Land Use Commission may grant a variance from Section [25-8-641](#) (*Removal Prohibited*) to allow removal of a heritage tree that has at least one stem that is 30 inches or larger in diameter measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section [25-8-624](#)(A) (*Approval Criteria*), and that:
 - (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section [25-8-646](#) (*Variance Prerequisites*); and
 - (2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.
- (B) A variance granted under this section:
 - (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of variance approval; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (B)(2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.
- (C) Consideration of a variance under this section requires:
 - (1) review by the Environmental Board; and
 - (2) review by the Urban Forestry Board if the heritage tree is located on public property or a public street or easement.

Source: Ord. 20100204-038.

§ 25-8-644 APPEAL.

- (A) An applicant may appeal denial of an administrative variance under Section [25-8-642](#) to the Land Use Commission.
- (B) An appeal under this section requires:
 - (1) review by the Environmental Board; and
 - (2) review by the Urban Forestry Board if the heritage tree is located on public property or a public street or easement.

Source: Ord. 20100204-038.

§ 25-8-645 APPLICATION FOR VARIANCE.

- (A) For a heritage tree located on public property or a public street or easement, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or
 - (2) the owner of property adjoining the site of the tree.
- (B) For a heritage tree located on private property, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) the owner of the property on which the tree is located; or
 - (2) the city arborist, if the tree is seriously diseased or is a safety hazard.
- (C) An application requesting a variance to allow removal of a heritage tree must:
 - (1) be filed with the director of the Planning and Development Review Department; and
 - (2) include the fee prescribed by ordinance; and
 - (3) include the information prescribed by the Administrative Criteria Manual.
- (D) The application fee is not required if the application is based solely on the criteria in Subsections [25-8-624](#)(A)(3), (4) or (5).

Source: Ord. 20100204-038.

§ 25-8-646 VARIANCE PREREQUISITE.

- (A) If a variance, waiver, exemption, modification, or alternative compliance from another City Code provision would eliminate the need for a variance from Section [25-8-641](#) (*Removal Prohibited*), before requesting a variance to allow removal of a heritage tree on private property the applicant must:
 - (1) request a variance, waiver, exemption, modification or alternative compliance from the Code provisions that would eliminate the need to remove the heritage tree; and
 - (2) obtain a grant or denial of the variance, waiver, exemption, modification or alternative compliance that would eliminate the need to remove the heritage tree.
- (B) The request for a variance to allow removal of a heritage tree may not be considered unless the variance, waiver, exemption, modification or alternative compliance from other City Code provisions is denied.
- (C) The application fee for a variance from another City Code provision required under this section is waived.
- (D) This section does not apply to an application for a variance to remove a heritage tree based on the criteria in Subsections [25-8-624](#)(A)(3), (4) or (5).
- (E) The body considering the variance, waiver, exemption, modification, or alternative compliance will consider the benefit of preserving the heritage tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.
- (F) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.

Source: Ord. 20100204-038.

§ 25-8-647 ACTION ON APPLICATION.

- (A) The director of the Planning and Development Review Department shall take action on a variance request to allow removal of a heritage tree:
 - (1) not later than the 10th working day after the complete application is filed; or
 - (2) if a variance, waiver, exemption, modification, or alternative compliance from another City Code provision is required under Subsection [25-8-646](#) (*Variance Prerequisite*), not later than the 10th working day after the request is denied.
- (B) If the application is based on a damaged heritage tree constituting an immediate hazard to life or property, the application shall be approved or denied within 24 hours and no application fee is required.

- (C) An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the director does not act on the application before the expiration of the applicable deadline.

Source: Ord. 20100204-038.

§ 25-8-648 VARIANCE EFFECTIVE DATE AND EXPIRATION.

- (A) Approval of a variance request to allow removal of a heritage tree is effective immediately.
- (B) A variance to allow removal of a heritage tree expires:
 - (1) one year after its effective date, provided that the mitigation conditions in the variance remain in effect until the conditions are met; or
 - (2) for an application that is associated with a pending subdivision, site plan, or building permit submitted to the City, when the development permit expires.

Source: Ord. 20100204-038.