

Sec. 13-61. - Purpose

The general purpose of these regulations is to establish the standards for the preservation and protection of a diminishing natural resource, in particular the native and other adapted existing site trees located in the City of Cedar Hill, and to encourage the planting of trees to replace and supplement our urban forest during the development, construction, and redevelopment process. It is the general intent of this article to protect mature trees that are eight (8) or more caliper inches in size, except for species that are identified as unprotected. In adopting this article, the city council expressly recognizes that protected trees often must be removed during the development process and thus it is necessary to define mitigation measures that over time will result in the reforestation of the city. Specific purposes include the following:

- (1) Preserve and enhance the existing natural features of Cedar Hill that attract people to this community.
- (2) Encourage preservation of existing public and private shade trees and ornamental trees.
- (3) Define reasonable measures to preserve existing protected trees.
- (4) Increase the population and the life span of protected trees.
- (5) Improve the air quality and environmental comfort of both business and residential citizens.
- (6) Reduce the erosive effects of rainfall.
- (7) Prevent the indiscriminate destruction or removal of mature trees.
- (8) Increase property values by improving the aesthetic qualities of the built environment by incorporating existing mature trees into the built environment.
- (9) Encourage the preservation of tree groves in order to protect and decrease fragmentation of wildlife habitat.
- (10) To balance the needs of development with the goals of preserving mature trees.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-62. - General requirements

- (1) **Applicability.** The provisions of this article III apply as follows:
 - (a) To any activity resulting in removal of any protected tree on a developed lot or parcel, or on public land, that is not exempt under section 13-63(1) or (3);
 - (b) To any plat application or site plan application that is not exempt under section 13-63(2); and
 - (c) To any building permit application that is not exempt under section 13-63(2).
- (2) **Prohibition on removal of protected tree.**
 - (a) For purposes of this article III, a protected tree is any species of tree eight (8) caliper inches or more in size and that is not an unprotected tree species.
 - (b) No protected tree shall be removed unless:
 - (i) The tree is located on property subject to an exempt development application or activity pursuant to section 13-63; or
 1. Removal of the tree has been authorized under a tree protection plan pursuant to division 2 of this article, or a tree removal permit pursuant to division 3 of the article, and the removal of the protected tree is fully mitigated.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-63. - Exempt activities and applications

- (1) **Exempt activities.** The following activities are exempt from these regulations. Whenever the removal of a protected tree is authorized for an activity by this subsection, the activity also is exempt from any other obligation imposed by these regulations related to protection of trees.
 - (a) **Single-family and duplex units.** Removal of a protected tree by the owner or authorized agent of a finally platted lot, or a parcel two (2) or less acres in size, containing a single-family or duplex dwelling unit, for which the city has authorized occupancy.
 - (b) **Pre-existing public contracts.** Removal of a protected tree on property for which a design contract has been awarded by the city council on or before the effective date of these regulations.
 - (c) **Public utilities and infrastructure.** Removal of a protected tree by the city, another governmental entity or a public utility in any right-of-way or easement dedicated to and accepted by the city.
 - (d) **Sports and recreation facilities.** Removal of a protected tree within soccer, baseball, football or other sports facilities, and within golf courses and approved hike and bike trails, which are open for public use.
 - (e) **Pre-existing paved surfaces.** Replacement or maintenance of any paved surface that existed on or before the effective date of these regulations and that is located within the critical root zone of a protected tree.
 - (f) **Plant nursery.** Activities within a plant nursery related to trees grown on the premises solely for sale, retail or wholesale.
 - (g) **Pruning.** Tree pruning solely for purposes of removing diseased limbs or to shape for aesthetic and safety purposes, according to the applicable provisions of the Texas Association of Nurserymen Grades and Standards.
- (2) **Exempt development applications.** The following development applications are exempt from these regulations.

- (a) **Zoning applications.** Any application to change the zoning district classification of property or amend the regulations applicable to the district.
 - (b) **Plat applications, not including replats.**
 - (i) Any plat application approved before or on the effective date of this article III; or
 - (ii) Any plat application pending for approval on such date, provided the application is subsequently approved; or
 - (iii) Any subsequent plat application in the same series as the approved or pending plat application.
 - (iv) For plat applications filed after the effective date of this article III, the applicant must seek a determination from the tree preservation administrator pursuant to procedures in section 13-76 that the application is exempt based on prior approvals.
 - (c) **Site plan applications.** Any application for a site plan required by the zoning ordinance and approved before or on the effective date of this article III or any site plan application pending for approval on such date, provided the application is subsequently approved.
 - (d) **Building permit applications.**
 - (i) Any application for a building permit approved before or on the effective date of this article III; or
 - (ii) Any building permit application pending for approval on the effective date, provided the application is subsequently approved;
 - (iii) Any building permit application filed after the effective date of this article III for a single-family or duplex residential use on a lot or tract in a subdivision subject to an exempt plat application; or
 - (iv) Any building permit application filed after the effective date for a nonresidential or apartment use on land subject to an exempt site plan application; or
 - (v) Any building permit application for land on which all protected trees have been removed pursuant to an approved tree protection plan.
 - (vi) For building permit applications filed after the effective date of this article III, or for applications for land on which all protected trees have been removed pursuant to an approved tree protection plan, the applicant must seek a determination from the tree preservation administrator pursuant to procedures in section 13-83 that the application is exempt based on prior approvals.
 - (e) **Vested applications.** Any application for which it is determined pursuant to section 20-30 of the City Code of Ordinances that the applicant has a vested right to proceed under prior regulations, provided that the application or a prior approved application upon which the vesting claim is based remains in effect for such land.
- (3) **Conditional exemptions.** The following activities are exempt from these regulations, subject to conditions, upon approval of the tree preservation administrator pursuant to procedures in section 13-76:
- (a) **Emergency conditions.** During the period of an emergency, such as a tornado, storm, flood or other natural disaster, the requirements of this article may be waived as deemed necessary by the emergency management coordinator or other designee of the tree preservation administrator.
 - (b) **Utility and drainage easement maintenance.** Utility service providers, including the city, or their contractors, agents, successors and assigns shall have the right to maintain their facilities, through removal or trimming of protected trees located within lawfully designated easements or rights-of-way, so as to prevent any part of such trees from becoming a danger to public health, safety and welfare by interfering with utility service. Where possible, trimming shall be done in a manner such that the aesthetics and health of the trees are not destroyed.
 - (c) **Diseased or damaged trees.** A disease or damaged protected tree may be removed by the city or the owner of the land on which the tree is located upon certification by a landscape architect or other qualified professional that the tree is diseased or damaged beyond the point of recovery, or removal is necessary to prevent the spread of the disease to adjacent, healthy trees, when approved by the tree preservation administrator.
 - (d) **Public health and safety.** A protected tree that is in danger of falling or otherwise poses a hazard to the public health or safety may be removed by the city or the owner of the land on which the tree is located, when approved by the tree preservation administrator.
 - (e) **Agricultural and ranching activities.** Removal of a protected tree within a vacant tract or parcel of land at least five (5) acres in size in conjunction with farming or ranching activities, except activities conducted within a flood plain or riparian buffer zone, or for which a sedimentation and erosion control plan must be approved.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-64. - Definitions

The following definitions apply to this article III:

- (1) **Caliper inches.** The measurement of the average cross-sectional diameter of the trunk of an existing tree at four and one-half (4½) feet above grade in inches. If the tree is on a slope, it shall be measured from the high side of the slope. Newly planted trees shall be measured six (6) inches above grade.
- (2) **Drip line.** The vertical line that runs from the outermost portion of the crown of the tree to the ground.
- (3) **Non-disturbance area.** Any area of a proposed subdivision or site within which no grading or other development activities will take place and which has been buffered, as required by division 4 (entitled additional standards) of this article.
- (4) **Pad site.** The footprint of a principal building or addition to a principal building to be placed on a platted lot or tract, as evidenced from an approved building permit application, together with all land lying within ten (10) linear feet of such footprint.

- (5) **Removal of tree.** The act of directly or indirectly cutting down, destroying, taking out, or effectively removing a tree.
- (6) **Riparian buffer zone.** The transitional areas between uplands and adjacent streams, ponds, lakes, and other fresh water bodies, characterized by the presence of moisture tolerant vegetation on banks, edges, or limits of fresh water bodies.
- (7) **Tree grove.** A clustering of four (4) or more trees, excluding those tree species listed as unprotected trees, below, that have a combined caliper measurement of thirty-six (36) inches or greater and trunks spaced at no greater than ten-foot intervals.
- (8) **Tree preservation administrator.** The person assigned by the city manager to administer this tree preservation ordinance.
- (9) **Unprotected tree.** Any tree of the following species regardless of size:

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|-----------------------|-------------------------------|
| Silver Maple | <i>Acer saccharinum</i> |
| Sugar Hackberry | <i>Celtis laevigata</i> |
| Hackberry | <i>Celtis occidentalis</i> |
| Honey Locust | <i>Gleditsia tracanthos</i> |
| Bois d'arc | <i>Maclura pomifera</i> |
| Mimosa | <i>Albizia julibrissin</i> |
| Red Mulberry | <i>Morus rubra</i> |
| White Mulberry | <i>Morus alba</i> |
| White (Silver) Poplar | <i>Populus alba</i> |
| Lombardy Poplar | <i>Populus nigra italica</i> |
| Cottonwood | <i>Populus deltoids</i> |
| Willow | <i>genus Salix</i> |
| Bradford Pear | <i>Pyrus calleryana</i> |
| Green Ash | <i>Fraxinus pennsylvanica</i> |
| Arizona Ash | <i>Fraxinus velutina</i> |
| Black Locust | <i>Robinia pseudoacacia</i> |

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-71. - Plan required for plats and site plans

A tree protection plan must be prepared and submitted with (i) every non-exempt application for plat approval; (ii) every non-exempt application for site plan approval for non-residential or multi-family uses; and (iii) every non-exempt building permit application for which plat or site plan approval has not been obtained and is not required. No plat, site plan or building permit application subject to this division shall be determined to be complete unless accompanied by a proposed tree protection plan. The application for a tree protection plan shall be submitted with the first application for the development, unless deferred under section 13-73. The tree protection plan shall

contain both a tree inventory pursuant to section 13-74, and a tree mitigation plan pursuant to section 13-75. The application shall be forwarded to the tree preservation administrator for processing and decision in accordance with section 13-76.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-72. - Application requirements

The application for a tree protection plan shall include the following information or documents:

- (1) Name and contact information for the applicant;
- (2) Name and location of the proposed subdivision or development for which the tree protection plan is being submitted;
- (3) An aerial photograph or other graphic depiction of the property clearly demarcating areas within which vegetation will not be removed or otherwise disturbed during the development process ("non-disturbance areas");
- (4) Certification that all non-disturbance areas have been fenced and designated as non-development zones;
- (5) A tree inventory, prepared in accordance with section 13-74;
- (6) Certification that each protected tree that is not to be removed has been tagged with an identification tag and flagged with survey tape;
- (7) A map or other graphic depiction designating the location of protected trees to be removed in relation to proposed rights-of-way, easements or lot improvements;
- (8) A table summarizing the inventory of protected trees to be preserved and those to be removed;
- (9) A summary illustrating the measures that will be taken to preserve protected trees that are not designated for removal in accordance with section 13-85;
- (10) A mitigation plan prepared in accordance with section 13-75; and
- (11) Payment of any reforestation fees proposed in the mitigation plan.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-73. - Tree protection plan options

- (1) An applicant for a master land plan may request deferral of a tree protection plan until the time of application for preliminary plats, provided that adequate measures are taken to prevent removal of any protected tree. The tree preservation administrator shall initially decide the deferral request, subject to appeal to the city council.
- (2) An applicant for plat or site plan approval may elect one of the following options in preparing the tree protection plan:
 - (i) **Removal of trees only in designated rights-of-way.** The applicant must agree to designate and secure all land subject to the application lying outside of proposed rights-of-way or easements as non-disturbance areas. The applicant then may limit the tree inventory required by section 13-74 to areas within such rights-of-way or easements, and is required to mitigate only removal of protected trees in tree groves pursuant to section 13-75.
 - (ii) **Removal of protected trees outside of designated rights-of-way.** If the applicant elects to prepare a tree protection plan that also proposes removal of protected trees on the lots to be platted or the land outside rights-of-way and easements, the tree inventory required by section 13-74 must be prepared for the entire property subject to the application, and, in addition to the requirements in subsection (a), the applicant is required to mitigate removal of protected trees on all land outside rights-of-way or easements pursuant to section 13-75.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-74. - Tree inventory requirements

- (1) A tree inventory shall be prepared by a qualified professional.
- (2) The tree inventory shall be prepared on a scaled drawing consistent with the scale on which the proposed development is graphically depicted, and shall identify the following elements:
 - (a) The boundaries of all tree groves and each non-disturbance area;
 - (b) The location of all trees greater than or equal to eight (8) caliper inches in diameter by key number;
 - (c) Identification of each protected tree and non-protected tree greater than eight (8) caliper inches, by species (common and scientific names), diameter and key number;
 - (d) Identification of each protected tree to be removed by key number; and
 - (e) Total caliper inches of protected trees to be removed and of those the removal of which is to be mitigated.
- (3) **Non-disturbance areas.** Once a non-disturbance area has been designated and protected in accordance with section 13-85, no further inventory of trees within the boundaries of the area is required.
- (4) **Tagging.** The preparer shall tag each protected tree and non-protected tree greater than or equal to eight (8) caliper-inches in diameter and designate on the tag the inventory number and indicate if the tree is to be preserved or removed. The preparer shall also identify and fence all non-disturbance areas within the development, or the proposed pad site, if the survey is prepared for purposes of a tree removal permit.

- (5) **Measurements.** The following methods shall be used to measure the diameter of a tree.
- (a) **Single-trunk tree.** The diameter of a single-trunk tree shall be calculated by measuring the diameter of the trunk at breast height (four and one-half (4½) feet above grade).
 - (b) **Multi-trunk tree.** The diameter of a multi-trunk tree shall be calculated by combining the diameter of the largest stem or trunk with one-half (½) of the diameter of each additional stem or trunk, each measured at breast height (four and one-half (4½) feet above grade).

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-75. - Mitigation plan requirements

General requirements. The removal of any protected tree, except trees in rights-of-way, easements or pad sites authorized for removal under a tree protection plan, shall be fully mitigated in accordance with one (1) or more of the following methods. The applicant may elect among options (1) through (3), or a combination of such options. Tree preservation administrator approval is required for option (4). The mitigation plan shall include a detailed description of the methods proposed for mitigating removal of protected trees.

- (1) Transplanting the protected trees;
- (2) Planting new trees at approved locations that replace a protected tree to be removed, either:
 - (a) Having twice the diameter in caliper inches of the protected tree to be removed, for tree protection plans submitted with plat or site plan applications; or
 - (b) Having the same diameter in caliper inches as that of the protected tree to be removed, for tree protection plans submitted with building permit applications, or for tree removal permits not associated with development activities.
- (3) Paying the cash equivalent ("mitigation fee") of the number of caliper inches required to replace the caliper inches of the protected tree to be removed into a reforestation fund ("urban forest fund"), that will be used by the city to plant trees in street rights-of-way, parks or other public spaces; or
- (4) The preservation of smaller, more desirable trees, as described in section 13-86(2), upon approval of the tree preservation administrator.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-76. - Approval procedures

- (1) **Completeness of application.** The tree preservation administrator shall review each application for a tree protection plan to determine whether the application is complete in accordance with the procedures in City Code of Ordinances section 20-6. If the administrator determines that the tree protection plan application is incomplete, the plat, site plan or building permit application with which the plan is submitted also shall be deemed incomplete.
- (2) **Decision on exemption claim.** Where a plat application, site plan application or building permit application is accompanied by a claim for exemption from the requirements of this division 2, the tree preservation administrator shall determine whether the application is exempt under section 13-63, and shall report his decision to the official responsible for processing the plat, site plan or building permit application within ten (10) working days of the date the application is submitted. If the application is determined to be exempt, the responsible official shall process it in accordance with applicable requirements. If the application is determined to be subject to the requirements of this division 2, the responsible official shall advise the applicant of the administrator's decision and not process the application further until a complete tree protection plan has been submitted with the application. The applicant may appeal the tree preservation administrator's decision in the manner provided in section 13-103(2).
- (3) **Decision.** The tree preservation administrator shall decide whether to approve, conditionally approve or deny the application for a tree protection plan in accordance with the criteria in subsection (4). The tree preservation administrator shall decide the application within thirty (30) days of the date a complete application is submitted.
 - (a) Conditional approval of the tree protection plan shall constitute conditions applicable to approval of the plat or site application for the property subject to the plan. No final plat application, site plan application or building permit application subject to this division 2, however, shall be approved until the tree protection plan has been approved.
 - (b) Denial of the tree protection plan shall result in denial of the associated plat, site plan or building permit application.
 - (c) An appeal of the tree preservation administrator's decision to the city council in accordance with section 13-103 shall stay final action on the associated plat, site plan or building permit application.
- (4) **Criteria for approval.** In deciding the application for a tree preservation plan, the tree preservation administrator, or the city council on appeal, shall approve, conditionally approve or deny the application based on the following criteria:
 - (a) The tree inventory correctly identifies each protected tree on the development site;
 - (b) Each protected tree has been appropriately tagged and keyed;
 - (c) The mitigation plan for each protected tree to be removed meets the requirements of section 13-50; and
 - (d) The proposed tree protection measures during development satisfy the requirements of section 13-56.
- (5) **Effect.** Approval of a tree protection plan authorizes the applicant to remove protected trees from the site during the construction process in accordance with the plan. No protected tree shall be removed, however, until all of the following have occurred:

- (a) All non-disturbance areas and protected trees not to be removed during development have been demarcated and secured on the ground in accordance with measures set forth in this article;
 - (b) All proposed mitigation fees have been paid.
- (6) **Occupancy limitations.** No building permit for a single-family or duplex residential use, nor certificate of occupancy for other uses, shall be finally approved until all mitigation measures approved for a tree protection plan have been undertaken and verified by the administrator, or performance secured by a letter of credit or other form of surety approved by the city attorney.
- (7) **Plan verification and enforcement.** Approval of a tree protection plan authorizes the tree preservation administrator to inspect the property during or after construction to determine whether the tree protection plan has been followed. If the tree preservation administrator determines that protected trees not designated for removal have been removed, or that adequate measures are not being taken to preserve protected trees during development, he may seek immediate enforcement of the plan, including measures to stop work on the development, until additional mitigation has been made in accordance with section 13-50. Prior to acceptance of improvements for the development or issuance of a building permit, the tree preservation administrator shall verify that the developer's obligations under the tree protection plan have been fully satisfied, and, in the event that some obligations have not been fulfilled, shall identify measures to bring the development into compliance with the approved tree protection plan, which shall serve as conditions for acceptance of improvements or issuance of a building permit.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-81. - Permit required

A tree removal permit application must be submitted (i) with every non-exempt application for a building permit or (ii) every non-exempt activity not associated with development that is intended to or may foreseeably result in removal of a protected tree. The application shall be submitted to the tree preservation administrator for processing and decision in accordance with section 13-54.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-82. - Application requirements

- (1) **Application contents where building permit sought.** The application for a tree removal permit that accompanies a building permit application shall include the following information or documents:
- (a) Name and contact information for the applicant;
 - (b) Address and location of the platted lot or tract for which the tree removal permit is being submitted;
 - (c) The approved tree protection plan, if any, for the platted lot or tract to be developed;
 - (d) A tree inventory prepared in accordance with section 13-74;
 - (e) A tree mitigation plan prepared in accordance with section 13-75;
 - (f) A schematic and appropriately scaled site plan showing the layout of the lot or tract, including the proposed pad site and the location of each protected tree on the lot or tract in relation to the pad site;
 - (g) Certification that each protected tree that is not to be removed has been tagged with an identification tag and flagged with survey tape;
 - (h) A map or other graphic depiction designating the location of protected trees to be removed in relation to the pad site;
 - (i) A table summarizing the inventory of protected trees to be preserved and those to be removed outside the boundaries of the pad site;
 - (j) A summary of the measures that will be taken to preserve protected trees that are not designated for removal;
 - (k) Payment of any reforestation fees proposed to mitigate protected tree removal.
- (2) **Application contents for tree removal not associated with development.** Where the applicant seeks authorization to remove a protected tree in conjunction with activities not associated with development, the following information or documents shall be submitted:
- (a) Name and contact information for the applicant;
 - (b) Address and location of the platted lot or tract for which the tree removal permit is being submitted;
 - (c) Identification of each protected tree to be removed, consistent with section 13-74;
 - (d) A description of the methods to be used to mitigate the removal of each protected trees, consistent with section 13-75; and
 - (e) Payment of any reforestation fees proposed to mitigate protected tree removal.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-83. - Approval procedures

- (1) **Completeness of application.** The tree preservation administrator shall review each application for a tree removal permit to determine whether the application is complete in accordance with the procedures in City Code of Ordinances section 20-6. If the tree removal permit application is incomplete, the application for such permit, together with the accompanying application for a building permit, shall be deemed incomplete.
- (2) **Decision on exemption claim.** Where a building permit application is accompanied by a claim for exemption from the requirements of this division 3, the tree preservation administrator shall determine whether the application is exempt under

section 13-63, and shall report his decision to the official responsible for processing the building permit application within ten (10) working days of the date the application is submitted. If the application is determined to be exempt, the responsible official shall process it in accordance with applicable requirements. If the application is determined to be subject to the requirements of this division 3, the responsible official shall advise the application of the administrator's decision and not process the application further until a complete tree protection plan has been submitted with the application. The applicant may appeal the tree preservation administrator's decision in the manner provided in section 13-103(2).

- (3) **Decision.** The tree preservation administrator shall decide whether to approve, conditionally approve or deny the application for a tree removal permit in accordance with the criteria in subsection (4). The tree preservation administrator shall decide the application within thirty (30) days of the date a complete application is submitted. Conditional approval of the tree removal permit shall constitute conditions applicable to approval of the building permit application for the property subject to the permit. Denial of the tree removal permit shall result in denial of the associated building permit application. An appeal of the tree preservation administrator's decision to the city council in accordance with section 13-103 shall stay final action on the building permit application.
- (4) **Criteria for approval.** In deciding the application for a tree removal permit, the tree preservation administrator, or the city council on appeal, shall approve, conditionally approve or deny the application based on the following criteria:
 - (a) The application is consistent with any approved tree protection plan applicable to the lot or tract;
 - (b) Where required, the tree inventory correctly identifies each protected tree on the lot or tract;
 - (c) Where required, each protected tree outside the pad site has been appropriately tagged and keyed;
 - (d) Each protected tree to be removed (and where applicable, lies outside the pad site) has been adequately mitigated in accordance with the requirements of section 13-75; and
 - (f) The proposed tree protection measures during development of the lot or tract satisfy the requirements of section 13-85.
- (5) **Effect.** Approval of a tree removal permit authorizes the applicant to remove protected trees from the site during the construction process or other activity in accordance with the permit. No protected tree shall be removed, however, until all of the following have occurred:
 - (a) All non-disturbance areas and protected trees not to be removed during development have been demarcated and secured on the ground in accordance with measures set forth in this article.
 - (b) All proposed mitigation fees have been paid.
- (6) **Plan verification and enforcement.** Approval of a tree removal permit authorizes the tree preservation administrator to inspect the property during or after construction to determine whether the requirements of the tree removal permit have been satisfied. If the tree preservation administrator determines that protected trees not designated for removal have been removed, or that adequate measures are not being taken to preserve protected trees during development of the lot or tract, he may seek enforcement of the plan, including measures to stop work on the development, until additional mitigation has been made in accordance with section 13-75. The tree preservation administrator shall verify that the owner's obligations under the tree removal permit have been fully satisfied, and, in the event that some obligations have not been fulfilled, shall identify measures to bring the development into compliance with the approved tree removal permit.
- (7) **Occupancy limitations.** No building permit for a single-family or duplex residential use, nor certificate of occupancy for other uses, shall be finally approved until all mitigation measures have been undertaken and verified by the administrator, or performance secured by a letter of credit or other form of surety approved by the city attorney.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-85. - Tree protection during development

The subdivider or developer shall assure that protected trees are preserved throughout the development process.

- (1) **Non-disturbance areas.** Each non-disturbance area within the development site shall be fenced to assure that the area will remain in a natural state. Fencing shall be adequate to prevent entry of vehicles or machinery, storage of materials or goods, or any other type of trespass that could harm the preserved area during the construction period, as determined by the tree preservation administrator.
- (2) **Construction areas.** The following measures shall be put into effect by the subdivider or developer to assure preservation of protected trees that are not to be removed during construction.
 - (a) A four-foot plastic fencing, or where approved by the tree preservation administrator, silt fencing, shall be installed around the drip line of all protected tree(s) prior to commencement of construction.
 - (b) A construction entrance that avoids protected trees shall be established prior to commencement of construction.
 - (c) Construction, placement of fill, excavation, storage of construction materials, cleaning of equipment, the disposal of waste materials, or other construction related activity is prohibited under the canopy or within the drip line of any protected tree, unless expressly authorized in writing by the tree preservation administrator. Major changes of grade (i.e. six (6) inches or greater) within the canopy or drip line will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when construction activity is authorized under the drip line of protected trees, and must be completed a minimum of two (2) weeks prior to any construction activity within the drip line.

- (d) Attachments or wires shall not be attached to any protected tree. Cables, tree rods, and similar hardware installation that aid structural integrity of a protected tree are exempt from this section, if approved in writing by the tree preservation administrator.
- (e) Any trees removed shall be chipped and used for mulch on site or hauled off-site.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-86. - Implementation of mitigation plan

- (1) **Replanted trees.** All trees planted to mitigate removal of protected trees, including transplanting of a protected tree, shall be located within public rights-of-way, within the street yard, or other public land located within the boundaries of the original development site from which protected trees were removed, or, where authorized by the tree preservation administrator, at an alternative public site.
 - (a) Minimum tree size to be planted shall be four-inch caliper and of the species listed as a "large or medium tree" on the "selected plant list" in the Cedar Hill landscape ordinance.
 - (b) The species of trees planted shall be varied, with no one (1) species accounting for more than thirty (30) percent of the total trees planted.
 - (c) The total caliper inches of new trees planted shall be not less than twice the total caliper inches of protected trees that are removed.
 - (d) Ongoing maintenance for the newly planted tree shall be guaranteed for a period not less than two (2) years following acceptance of improvements or issuance of a building permit. Maintenance typically shall require installation of permanent irrigation, unless alternative measures are authorized by the tree preservation administrator.
- (2) **Preservation of smaller, desirable trees.** When authorized by the tree preservation administrator, preservation of trees of a species other than an unprotected tree may mitigate removal of a protected tree, provided that the total caliper inches of such preserved trees is equal to or greater than the total caliper inches of the protected tree to be removed. Trees to be preserved shall be no smaller than four (4) caliper inches in diameter, shall be in healthy and thriving condition prior to construction and shall be subject to the same protection measures as for protected trees, as set forth in subsection (1).

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-91. - Establishment of urban forest fund

- (1) **Account established.** The city's finance department shall establish an interest-bearing account into which mitigation fees collected under this article are deposited and to which interest is allocated. Interest earned on the account into which the mitigation fees are deposited shall be considered funds of the account and shall be used solely for the purposes described in section 13-92.
- (2) **Fee established.** A mitigation fee hereby is established in the amount of one hundred fifty dollars (\$150.00) per caliper inch for each protected tree removed and that has not been otherwise mitigated pursuant to this article.
- (3) **Collection of fees.** Mitigation fees shall be collected either at the time of application for approval of a tree protection plan required under division 2, or at the time of building permit application for fees due under division 3.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-92. - Use of fees

Mitigation fees deposited in the urban forest fund shall be used solely to replant protected trees in street rights-of-way, parks or other public places. Expenditure of such funds shall be at the discretion of the tree preservation administrator.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-101. - Administration

An application for a tree protection plan or an application for a protected tree removal permit shall be submitted to the tree preservation administrator in accordance with division 2 or division 3 of this article III, respectively. The tree preservation administrator shall be the responsible official for processing or initially approving the application. The tree preservation administrator also shall be the enforcement official for this article III.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-102. – Enforcement

- (1) **Penalty.** Any person, firm, corporation, agent, or employee thereof who violates the provisions of this article III shall be subject to a fine of fifty dollars (\$50.00) per caliper inch for each protected tree removed, destroyed or damaged in violation of this article, not to exceed the sum of five hundred dollars (\$500.00) for each violation, or a fine of five hundred dollars (\$500.00) for violation of any other duty imposed by this article. The unauthorized removal of each protected tree shall be considered a separate offense. The penalty imposed by this section shall be in addition to any and all mitigation required pursuant to division 4 of this article III and any other remedy authorized by the Code of Ordinance, City of Cedar Hill, Texas, or by statute, not inconsistent with this section.
- (2) **Removal of public trees.** It shall be deemed a violation of this article for any person or firm to engage in the business or occupation or pruning, treating, or removing street or park trees within the city without first procuring approval from the tree preservation administrator.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)

Sec. 13-103. - Relief measures

- (1) **Variance.** An applicant for a tree protection plan or protected tree removal permit may request a variance to one of more requirements of this article III. The city council may grant the variance upon determining that strict application of the provisions of this article will create an undue hardship that has not been created by the actions of the applicant.
- (2) **Appeal of tree preservation administrator decision.** Any person aggrieved by a decision of the tree preservation administrator, including an exemption determination, may file an appeal with the city council. Such appeal shall be made in writing to the tree preservation administrator, shall state the nature of the complaint and shall be accompanied by an unconditional waiver of any statutory or ordinance deadline for deciding a development application with which the decision is associated. The city council shall hear such an appeal within thirty (30) days of its filing and shall decide the appeal based on the same criteria applicable to the decision of the tree preservation administrator.
- (3) **Vested rights petition.** Any property owner or applicant for a development permit may file a vested rights petition pursuant to section 20-30 of the City Code of Ordinances to determine whether the land proposed for development is exempt from the requirements of this article III because the property owner or applicant has acquired a vested right to proceed under prior regulations. The petition shall be processed and decided in accordance with the procedures and standards in section 20-30. An appeal from the tree preservation administrator's decision on an exemption for a development application, where the exemption is based upon a claim of vested rights, shall be decided under this section.

(Ord. No. 2007-320, § 1(Exh. A), 7-10-07)
