

Chapter 32 TREES*

***Cross references:** Planning and zoning commission, § 2-71 et seq.; historic landmarks preservation committee, § 2-156 et seq.; community development, Ch. 9; parks and recreation, Ch. 23; streets, sidewalks and other public property, Ch. 29; subdivision regulations, App. B; zoning regulations, App. C.

Sec. 32-1. Purpose and intent.

- (a) The purpose of this chapter is to establish a city policy regarding the largest and most valuable trees in the City. Trees are hereby declared to be of great value in the maintenance of the public health and welfare of the inhabitants of the City, in the conservation of vital energy resources, and in the preservation of the city's historical heritage.
- (b) Trees are a valuable amenity to the urban environment, creating greater human comfort by providing shade, cooling the air and atmosphere, reducing glare, reducing noise levels, and breaking the monotony of urbanized development on the land, all of which aid in protecting the health and general welfare of the community. They greatly reduce the requirements for air conditioning, thereby reducing the demands for utilization of scarce energy sources.
- (c) Many trees were growing when Paris was selected as a town site. These trees should be preserved to the maximum extent feasible for the education and enjoyment of future generations, since large, old trees, if destroyed, can be replaced only after generations of time.
(Code 1970, § 29 1/2-1; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-2. Definitions.

For the purposes of this chapter, the following terms shall have the special meanings respectively ascribed to them below, which special meanings shall govern in case of any conflict with other definitions set forth in this Code:

Approval. Approval means written approval from the department of parks and recreation pursuant to a duly executed application for approval made on a form promulgated by the department of parks and recreation.

C.I.P. Capital improvement project.

Mature tree. A mature tree means a tree having a trunk circumference of at least ten (10) inches but less than sixty (60) inches measured four and one-half (4 1/2) feet above natural grade level.

Owner. Owner shall mean the person who has legal title to the property or a lessee, agent, employee or other person acting on behalf of the title holder with authorization so to do.

Protected tree. A protected tree means any tree having a circumference of sixty (60) inches or more, measured four and one-half (4 1/2) feet above natural grade level.

Removal. Removal as applied to protected trees means uprooting, severing the main trunk of the tree or any act which causes, or may reasonably be expected to cause the tree to die, including but not limited to, damage inflicted upon the root system by machinery, storage of materials, or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; paving with concrete, asphalt, or other impervious material in a manner in which may reasonably be expected to kill the tree.

Tree. A tree shall be defined and will qualify as such if either of the following are met:

- (1) A woody plant having one well-defined stem or trunk and a more or less definitely formed crown, and usually attaining a mature height of at least eight (8) feet; or
 - (2) A plant listed as a tree in any of the following:
 - a. Forest Trees of Texas, by the Texas Forest Service of the Texas A and M University System.
 - b. Simon and Schuster's Guide to Trees.
 - c. The Audubon Society's Field Guide to North American Trees.
 - d. A list of trees prepared by the city parks department.
- (Code 1970, § 29 1/2-2; Ord. No. 84-067, § 1, 9-10-84)

Cross references: Definitions and rules of construction generally, § 1-3.

Sec. 32-3. Administration of chapter.

- (a) This chapter shall be implemented by the director of the department of parks and recreation who is hereby designated city arborist until such time as he appoints his successor. He shall oversee regulation of the care and removal of protected trees growing now or thereafter in the City, and shall enforce and administer the provisions of this chapter.
 - (b) The tree committee shall, with the concurrence of the planning and zoning commission and city council promulgate written guidelines which shall, among other things, prescribe the measures required to protect trees against damage in connection with construction and property development, and shall further identify actions that will be interpreted as "removal" under the definition thereof in this chapter, including the identification of the root areas requiring protection against soil compaction or against the effects of impervious paving.
- (Code 1970, § 29 1/2-3; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-4. Removal of protected trees.

- (a) No person or corporation shall remove or cause the removal of any protected tree without first securing approval from the department of parks and recreation, except as provided in paragraphs (b) through (e) of this section.
- (b) When any protected tree sustains damage in the form of a broken trunk, broken limbs, or uprooting, which creates a hazard to life or property, no application shall be required for the removal of the damaged part or parts of the tree, provided that the removal is effected before the beginning of the fifth business day following the occurrence of the damage and provided further that the department of parks and recreation may extend this period in case of widespread and extensive storm damage.
- (c) When site plan approval by the planning and zoning commission and/or city council is required by this Code for any development, the actual or schematic locations of such existing trees as would be protected by this chapter shall be shown on all site plans and such site plans depicting any such trees shall be submitted to the arborist for evaluation and recommendation before submission to the planning commission and/or city council. Final approval of the site plan shall constitute approval for tree removal as to any protected tree indicated on the site plan as being removed by the approved development.
- (d) For every city C.I.P., the department proposing the C.I.P. shall submit to the arborist, for evaluation and recommendation by the arborist, any C.I.P. plans which are known at the time to involve the removal of such existing trees as would be protected by this chapter prior to the city council's public hearing on such C.I.P. City council approval of the C.I.P. shall constitute approval for tree removal as to any protected tree identified at that time as being removed by the C.I.P. For any C.I.P. which requires site plan approval by the planning and zoning commission

and/or city council prior to the commencement of construction, the removal of any protected tree not previously identified and approved for removal as provided by the preceding sentence shall be subject to the provisions of paragraph (c) of this section. Any other removal of a protected tree by a C.I.P. which is not addressed by the preceding provisions of this paragraph shall be subject to the general requirements of this chapter.

(e) When a protected tree must be removed or altered to protect existing utilities or to construct new utilities or to protect existing utilities in a right-of-way or easement. If the city arborist suspects an abuse of this paragraph by a department of the City or utility company, he may in writing request an explanation as to why a removal or alteration was necessary and should the city arborist find abuse he may suspend, in writing, the rights herein granted to such department or utility for a period of one (1) year. Such a suspension would be appealable to the city council whose judgment is final.

(Code 1970, § 29 1/2-4; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-5. Removal of mature trees.

(a) No person or corporation shall remove or cause the removal of more than seventy-five (75) percent of mature trees from a plot, tract, lot or building site being developed for a nonresidential use without first securing approval from the department of parks and recreation.

(b) Issuance of building permits for nonresidential development will require submission of an acceptable replanting program when more than seventy-five (75) percent of mature trees have been removed without securing approval.

(Code 1970, § 29 1/2-5; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-6. Application for removal.

(a) Application for the removal of a protected tree located on public property or in any public street, alley, right-of-way or easement shall be made by any city department or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.

(b) Application for the removal of a protected tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that any appropriate city official may make application to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased, if the owner thereof cannot be located or if he fails to remove the protected tree within a reasonable time after notice so to do.

(c) The city council may require an application review fee in an amount to be established by ordinance, to be paid at the time of submission of an application for removal of a protected tree. However, no fee shall be required for an application made by any city department or agency. Further, no fee shall be required for an application to remove a dead, diseased or hazardous tree pursuant to section 32-7(d).

(d) An application for the removal of a protected tree must specify:

(1) The approximate location of the tree.

(2) The circumference of the trunk of the tree, as measured four and one-half (4 1/2) feet above natural grade level.

(3) The approximate crown size of the tree.

(4) The species and/or common name of the tree.

(5) The approximate size of the lot, tract, or parcel on which it is located.

- (6) The reason for the proposed removal.
- (7) Such other information as may be reasonably required by the city arborist.
- (e) Where practicable, an application for tree removal shall be combined with any other applications and/or site plans required by this Code for specific development projects, with all the information as listed in paragraph (d) of this section, included.
(Code 1970, § 29 1/2-6; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-7. Action on application.

(a) Upon receipt of an application to remove a protected tree, the city arborist shall promptly inspect the subject tree and the department of parks and recreation shall approve or deny the application in accordance with the provisions of this chapter. Approval is automatically granted ten (10) working days after application therefor if not denied during such interval; provided that, if a variance of special exception from the board of adjustment is required for approval of the application as provided by paragraph (b) of this section, then the department of parks and recreation shall have an additional thirty (30) days to process the application; provided further, that the applicant must be notified of the thirty-day extension prior to the expiration of ten (10) days from the date of application.

(b) The department of parks and recreation shall approve an application for the removal of a protected tree located on privately owned property when a valid application therefor is received and a showing is made that the tree is so located as to prevent reasonable access to the property or as to preclude reasonable and lawful use of the property. Where removal of the tree would become unnecessary if a variance or special exception were granted by the board of adjustment in the application of the zoning ordinance, no application shall be approved except where such application for a variance or special exception is denied. No application fee for the variance or special exception shall be charged where such application is required by this subsection.

(c) The department of parks and recreation shall approve an application for the removal of a protected tree in connection with construction, maintenance, or repair of public facilities in or above a public street, alley, right-of-way or easement or other public land under one (1) or more of the following conditions:

- (1) The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes in a street or alley;
- (2) The location of the tree prevents the construction of utility lines or drainage facilities which may not feasibly be rerouted;
- (3) The location of the tree prevents all reasonable access to the property;
- (4) The denial of approval of such application would deny a political subdivision of the state the reasonable use of public property for the achievement of its public purposes.

However, protected tree removal in connection with a city C.I.P. shall be governed by section 32-4(d) above. Further, any approval under this paragraph (c) of this section may be reviewed by the planning and zoning commission at its discretion.

(d) Notwithstanding any of the foregoing provisions of this section, the department of parks and recreation shall approve an application for the removal of a protected tree under the following circumstances:

- (1) The city arborist determines that the tree constitutes a hazard to life or property which cannot reasonably be mitigated without removing the tree; or,

(2) The city arborist determines that the tree is dying/dead or is diseased to the point that its restoration to sound condition is not practicable, or that its disease can be expected to be transmitted to other trees and to endanger their health.

(e) No approval, except an approval to remove a dead, badly diseased, or hazardous tree, shall become effective until the third working day after it is granted. Every approval for tree removal shall automatically expire one (1) year from its effective date, except approvals pursuant to section 32-4(c) and (d), which shall be in effect for the duration of the approvals provided by said subsections.

(f) The parks and recreation department, planning and zoning commission or city council, as the case may be according to this chapter, may require as a condition for approval that a replacement tree be planted. Any such condition must be met within twelve (12) months after removal of the protected tree.

(Code 1970, § 29 1/2-7; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-8. Required placement of trees in front yards.

In all nonresidential zoning districts wherein a front yard is required it shall include at least a twenty (20) percent greenbelt landscaped area. In all nonresidential zoning districts wherein a front yard is not required but the property is being developed with a front yard, it shall include at least a twenty (20) percent greenbelt landscaped area in such front yard. Such greenbelts shall include one (1) tree at least six (6) feet tall for the first ten thousand (10,000) square feet of the lot being developed and one (1) additional tree for each additional twenty-five thousand (25,000) square feet of the lot being developed.

(Code 1970, § 29 1/2-8; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-9. Appeals.

(a) If a protected tree removal application is denied, the applicant therefor may appeal such action to the planning and zoning commission by filing written notice of such appeal with the director of parks and recreation department within ten (10) days of notice to such applicant of the denial of the application by the department of parks and recreation. The commission shall have thirty (30) days from the date of appeal to review such denial. The commission may affirm or reverse the determination of the parks and recreation department. If the commission fails to act within thirty (30) days, the appeal shall be automatically granted and the approval shall be granted per the original application. The commission shall adopt written findings of fact for every appeal authorized hereunder.

(b) An applicant for a protected tree removal who is aggrieved at any determination or ruling of the planning commission on a matter before it under this chapter may appeal such action to the city council by filing written notice of such appeal with the city clerk within ten (10) days of the action of the commission. The city council shall act on the appeal within thirty (30) days from the date of the filing of the appeal. If the city council fails to act within thirty (30) days, the appeal shall be automatically granted and the approval shall be granted per the original application. The city council may affirm or reverse the determination of the commission and shall either adopt or modify the findings of fact of the commission, which findings may be reduced to writing or may be entered in the minutes.

(c) A developer not wishing to comply with the requirements of section 32-8 may present his request for waiver to the planning and zoning commission which shall recommend either

granting or denial of the request to the city council which shall make the final determination in such cases.

(Code 1970, § 29 1/2-9; Ord. No. 84-067, § 1, 9-10-84)

Sec. 32-10. Conflicts with departmental rules.

In any case where engineering or design standards, departmental policies, or departmental rules establish conditions that cannot be met in a specific situation without removal of a protected tree, the city department or agency responsible for enforcing the standard, policy, or rule shall, upon request of the department of parks and recreation, determine what specific adverse effect would result from waiver or modification of such standard, policy, or rule, or application thereof, to the extent necessary to save the tree. If the responsible department or agency determines that there is no serious and imminent adverse effect, the standard, policy, or rule may be modified or waived. Irreconcilable differences of opinion between the department of parks and recreation and other city departments as to the seriousness of such adverse effects as may result from waiver or modification of the standard, policy or rule in question shall be resolved by the city manager. All determinations required to be made under this section, including the resolution of departmental conflicts by the city manager, shall be made before the expiration of ten (10) working days from the date of the application for tree removal, in accordance with subsection 32-7(a).

(Code 1970, § 29 1/2-10; Ord. No. 84-067, § 1, 9-10-84)