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**Sec. 3-41. - Tree preservation.**

There is hereby created and established a tree preservation program to provide a valuable amenity to the urban environment and to establish terms and provisions to apply to real property within the city, as follows.

(Ord. No. 2571, § 1, 4-2-07)

**Sec. 3-42. - Applicability.**

1. All real property upon which any protected tree is located, excluding developed single-family and two-family residential property.
2. All vacant and undeveloped real property.
3. All real property to be subdivided or re-subdivided, including record plats and replats.
4. The yard areas of all developed property, excluding developed single family and two-family residential property.
5. All easements and rights-of-way, excluding those included on a record plat approved by the council and filed in the plat records of the county.

(Ord. No. 2571, § 1, 4-2-07)

**Sec. 3-43. - Exceptions.**

The following exceptions from the terms and provisions of this section are hereby authorized and granted:

1. The terms and conditions of this section allow trees located in necessary public rights-of-way and easements to be removed without a tree removal permit and prior to the issuance of a building permit.
2. In the event that any protected tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and requires immediate removal

without delay, authorization for removal may be given by the parks and recreation director, or designee, and the protected tree may then be removed without obtaining a written permit as herein required.

3. During the period of an emergency, such as a tornado, storm, flood or other act of God, the requirements of this section may be waived as may be deemed necessary by the council.
4. All licensed plant or tree nurseries shall be exempt from the terms and provisions of this section only in relation to those trees planted and growing on the premises of the licensee, that are so planted and growing for the sale or intended sale to the general public in the ordinary course of the licensee's business.
5. Utility companies franchised by the city may remove protected trees that endanger public safety and welfare by interfering with utility service, except that where the trees are on properties developed for single-family or duplex use, disposal of the trees shall be at the option of the property owner(s).
6. The mowing, clearing and grubbing of brush located within or under the drip lines of protected trees shall be allowed, provided the mowing, clearing or grubbing is accomplished by hand or by mowers. The use of bulldozers, loaders or other construction or earth moving equipment for this purpose shall not be allowed.
7. For recreational property or uses, such as golf courses, ball fields, etc., of the property shall include that portion of the property necessary for the construction of the recreational improvements, including sufficient adjacent area to allow the normal operation of construction equipment.
8. The terms and provisions of this section shall not apply to any development, subdivision or re-subdivision for which a record plat has been approved by the council and filed in the plat records of the county prior to the effective date of this ordinance.

(Ord. No. 2571, § 1, 4-2-07)

**Sec. 3-44. - Tree management plan required.**

1. Along with the submittal of an application for approval of a detailed development plan, site plan, subdivision plat, clearing and grading plan, erosion control plan or public improvement construction plan, a tree management plan shall be submitted to the community development department and any lot one acre or greater must have a plan submitted by a landscape architect. See section 3-47 for tree preservation and mitigation requirements.
2. The tree management plan shall:
  - a. Show the location, species, and caliper of all trees on the site that are three inches or greater in caliper measured at four and one-half feet above natural grade.
  - b. Identify those trees proposed to be removed and those to be protected.
  - c. Show the methods of preservation of the trees to be protected.

- d. Show the location of proposed building pads, drives, parking, and all easements which will affect existing trees on the site.
  - e. Show the location of all floodplain limits, and general grading limits of cut and fill.
3. The tree management plan is not required to protect trees that are:
- a. Injured, dying, diseased or infested with harmful insects;
  - b. In danger of falling, interferes with utility service or creates unsafe vision clearance;
  - c. In any manner creating a hazardous or dangerous condition so as to endanger the public health, welfare or safety.

(Ord. No. 2571, § 1, 4-2-07; Ord. No. 2584, § 1, 7-2-07)

**Sec. 3-45. - General requirements related to protected trees.**

- 1. No person, directly or indirectly, shall cut down, destroy, remove or effectively destroy through damaging, any protected tree on any real property within the city without an approved tree management plan as provided herein.
- 2. Under no circumstances shall the clear cutting of protected trees on any real property within the city be allowed prior to the approval of a tree management plan for the property.
- 3. Unless otherwise approved by the city, no construction or construction-related activity shall occur under the canopy or drip line of any protected tree or group of protected trees.
- 4. No person, directly or indirectly, shall replant, relocate, transfer or move from one location to another any protected tree on any real property within the city without approval from the director of parks and recreation (refer to section 3-47).
- 5. All protected trees are required to be protected from the harmful effects of nearby construction. In order to insure survival of protected trees during the construction process the following shall be required:
  - a. Prior to construction or land development, the developer shall clearly mark with three-inch wide red ribbon or tape all protected trees within 30 feet of a public right-of-way, public easement or buildable lot area, as included on the applicable approved and filed recorded plat.
  - b. Prior to construction or land development of the subdivision, the developer shall establish designated parking areas for the parking and maintenance of all vehicles, trailers, construction equipment and related items and designated stockpile areas for the storage of construction supplies and materials during construction of the subdivision. The location and dimensions of said designated areas shall be clearly identified on both subdivision construction and site plans and shall be approved by the city prior to construction or land development of the subdivision.

- c. Designated parking and stockpile areas shall be completely fenced with chain-link fencing and gated for safety purpose and to separate protected trees from the construction area and related construction activity. The designated parking and stockpile areas may be combined into one fenced area provided the preservation of protected trees is not adversely affected or jeopardized.
  - d. Supplies and pipe and other items that are customarily unloaded where installed shall be required to be stored within the designated stockpile areas.
  - e. During construction, the developer shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected tree or group of protected trees.
  - f. If a foundation, street or alley pavement, utility line, on-site sewerage facility, pool, tennis court, patio, sidewalk, drive or parking lot, as approved by the city, must be constructed within the drip line of a protected tree, it shall be constructed no closer than five feet from the trunk of the protected tree and the canopy of the tree pruned appropriately to balance the effect of damage to the roots.
6. During construction no attachments or wires of any kind, other than those of a protective nature, shall be attached to any protected tree.
7. To accommodate grade changes of six inches or greater, a retaining wall or tree well of rock, brick, landscape timbers or other approved materials shall be constructed around the tree no closer than the drip line of the tree. The top of the retaining wall or tree well shall be constructed at the new grade.

(Ord. No. 2571, § 1, 4-2-07)

**Sec. 3-46. - Enforcement.**

1. Any person that removes a protected tree(s) from any real property, including any injury to a protected tree resulting from the failure to follow required tree protection measures that causes or may reasonably be expected to cause the tree to die shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as follows:
- a. Replacement of protected trees removed as set forth in the requirements for tree preservation and mitigation provided in section 3-47. The replacement trees shall have a minimum caliper width of three inches, measured at six inches above ground level, and a minimum height of at least six feet, and shall be planted in a location(s) as approved by the city or;
  - b. Failure to comply with section 3-46 1.a. will result in a civil monetary penalty of \$100.00 per caliper inch of width of the protected tree(s) removed, payable to the City of Sachse. Funds paid to the city as tree removal penalties shall be deposited in a special account or fund and used by the city to provide and/or support supplemental landscape plantings in public areas of Sachse.

(Ord. No. 2571, § 1, 4-2-07)

**Sec. 3-47. - Tree preservation and mitigation.**

1. Protected trees that are healthy and growing on a site must be preserved or replaced at the following minimum rates based on the species of trees identified:

One hundred percent of the caliper inches lost shall be replaced for the following tree species:

*Carya illinoensis* Pecan  
*Ilex vomitoria* Yaupon Holly  
*Liquidambar styraciflua* Sweetgum  
*Magnolia grandiflora* Southern Magnolia  
*Quercus macrocarpa* Bur Oak  
*Quercus muehlenbergii* Chinkapin Oak  
*Quercus shumardii* Shumard Oak  
*Quercus texana* Texas Red Oak  
*Quercus virginiana* Live Oak  
*Taxodium distichum* Bald Cypress  
*Platanus occidentalis* Sycamore  
*Quercus* spp. Oaks (all others not listed)  
*Ulmus americana* American Elm  
*Ulmus crassifolia* Cedar Elm

Eighty percent of the caliper inches lost shall be replaced for the following tree species:

*Bumelia lunuginosa* Chittamwood  
*Diospyros virginiana* Common Persimmon  
*Fraxinus pennsylvanica* Green Ash  
*Juglans nigra* Black Walnut  
*Juniperus virginiana* Eastern Red Cedar  
*Lagerstroemia indica* Crape Myrtle  
*Prunus Mexicana* Mexican Plum  
*Sophora affinis* Eve's Necklace  
*Pinus* spp. Pines  
*Pyrus calleryana* Bradford Pear

Sixty percent of the caliper inches lost shall be replaced for the following tree species:

*Cercis canadensis* Redbud  
*Gleditsia triacanthos* Honeylocust  
*Maclura pomifera* Bois d'arc  
*Photinia serrulata* Chinese Photinia  
*Prosopis glandulosa* Honey Mesquite  
*Sapindus drummondii* Western Soapberry

Forty percent of the caliper inches lost shall be replaced for the following tree species:

*Catalpa* spp. Catalpa  
*Celtis laevigata* Sugarberry

*Celtis occidentalis* Common Hackberry  
*Eriobotrya japonica* Loquat  
*Ligustrum japonicum* Japanese Ligustrum  
*Melia azedarach* Chinaberry  
*Morus rubra* Red Mulberry  
*Populus* spp. Poplars, Cottonwood  
*Prunus* spp. Plums  
*Robinia pseudoacacia* Black Locust  
*Sapium sebiferum* Chinese Tallow  
*Salix* spp. Willows

Protected trees of species not listed shall be protected at a minimum rate of 20 percent of the total caliper inches.

Existing trees may be used to fulfill the tree planting requirements specified in other city ordinances provided that such trees are in a healthy and growing condition. When existing trees are used to fulfill screening and landscape requirements, existing tree locations shall be accepted, and the formal spacing requirements may be waived.

2. Required large tree plantings may count towards the mitigation of lost caliper inches. The minimum tree caliper inch specified in the landscape requirements supersedes the minimum replacement tree size, specified in this section. In instances of unique natural, features such as unique soil characteristics, topography, geological characteristics, water features, peculiarly-shaped sites, or where the location of existing structures and other previously built features on the site inhibit the reasonable application of this article, the director of parks and recreation may approve an alternative tree management plan upon determining that the alternate plan meets the intent of these standards and is equivalent to or exceeds a plan that strictly complies with this article. If the director of parks and recreation determines that alternative compliance is not applicable, a request for approval of an alternate plan may be filed with the park board as referred to in section 3-48.
3. If, due to the size, shape or topography of the intended site of development a tree mitigation plan for the site of development is unworkable, the director of parks and recreation may approve a tree management plan that provides for the mitigation of protected trees through either the planting of replacement trees at an off-site location in private open spaces, or the payment to a city reforestation and tree management fund of an amount equal to 100 percent of the replacement cost.
4. The director of parks and recreation may authorize a reduction of not more than five percent in the number of required parking spaces for a site in order to preserve the sizes and species of significant trees that are located within a proposed parking area.

(Ord. No. 2571, § 1, 4-2-07)

#### **Sec. 3-48. - Variances.**

The park board shall hear and recommend to council on appeals that allege error in any order, requirement, decision or determination made by the director of parks and recreation.