

## **CITY CODE: APPENDIX A: ZONING ORDINANCE**

### **CHAPTER 6: DEVELOPMENT STANDARDS**

#### **§ 6.302 URBAN FORESTRY.**

(a) *Purpose.* It is the purpose of this section to achieve 30% tree canopy coverage citywide and to promote a multi-aged urban forest. This may be accomplished by addressing the preservation and protection of healthy and significant trees, providing for the replacement and replanting of trees that are removed during development, and establishing additional tree canopy.

(b) *Applicability of urban forestry requirements.* These requirements shall be applicable to all development as described below, unless subject to the exemptions in subsection (c) below:

- (1) Removal of any trees of six inches or greater in diameter;
- (2) Construction of new structures for which a building permit is required;
- (3) Expansion of structures used for commercial/institutional and industrial uses that increase the footprint of existing structures by at least 30% or add at least 3,000 square feet to existing structures;
- (4) Clearing of all or a portion of property, including grading or construction of a new parking lot;
- (5) Subdivision of land greater than one acre for the construction of one- or two-family dwellings, including contiguous lots with the same owner that total more than one acre;
- (6) Construction of manufactured home parks and recreational vehicle parks for which a permit is required and private recreation facilities located in manufactured housing subdivisions;
- (7) Mixed use (“MU”) zoned properties. These properties must provide, through either preservation or planting, 50% canopy coverage of required open space;
- (8) New agricultural development that requires tree removal; and
- (9) Public projects that will physically change the surface or will include removal of trees six inches or greater.

(c) *Exemptions from urban forestry requirements.* The following are not subject to urban forestry requirements:

- (1) Structures that do not create or expand building square footage or temporary structures such as job shacks associated with construction activities, when no trees greater than six inches are removed;
- (2) Any single residential lot with a one- or two-family dwelling that is one acre or less in size;
- (3) Change in use of an existing structure, unless the structure is expanded in accordance with subsection (b)(3) above;
- (4) Any area within a design district unless the standards for that district do not address urban forestry;

(5) Construction or expansion of structures in the “H” central business district;

(6) Any area located within an airport operating area as defined by § [3-1](#) of the city code;

(7) Any tree that is deemed to be in unsafe condition, or is injurious to common good, or to electrical, gas or water utilities, or sewer pipes, pavement or improvements, or is infested and dangerous to other trees or conflicts with other ordinances or regulations; and

(8) Gas well sites and natural gas pipeline compressor stations, except as outlined in [Chapter 15](#), gas drilling of the city code.

(d) *General requirements.* The following requirements apply to all development:

(1) *Tree protections and maintenance.*

a. *Procedures required prior to development activities.*

1. *Protective fencing.* Prior to development activities, the contractor or subcontractor shall construct and maintain, for each preserved tree or tree cluster on a tract, a protective fence which encircles the outer limits of the critical root zone of the tree to protect it from development activities. All protective fencing shall be in place prior to commencement of any site work and remain in place until all exterior work has been completed. Fencing shall meet the state minimum standards of a four-foot orange plastic mesh net with T-posts, including a top rail or other type of support. Significant trees shall be protected with a minimum four-foot chain link fence with support cables and T-posts.

2. *Bark protection.* In situations where a preserved tree remains in immediate area of intended construction and the city forester determines the tree bark to be in danger of damage by development activities, the contractor or subcontractor shall protect the tree by enclosing the entire circumference of the tree with two-inch by four-inch lumber encircled with wire or other means that does not damage the tree. The intent is to protect the bark of the tree against incidental contact by large construction equipment.

3. *Canopy coverage protection.* All trees being preserved for canopy coverage under subsection (g)(4) below or a significant or large tree covered under subsection (g)(5) below due to size will be protected during any development activities. Development activities will include vegetation removal, grading, demolition, installation of utilities and/or construction of structures and site amenities.

b. Protective measures (as defined in this section) must occur on all trees located within 50 feet of development activities.

c. Protective measures are required within the critical root zone radius from the trunk at one foot per inch diameter measured at breast height (DBH).

d. The following activities within the critical root zone are prohibited:

1. No material intended for use in construction or waste material accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any preserved tree;

2. No equipment shall be cleaned or other liquids deposited or allowed to flow overland with the limits of the critical root zone of a preserved tree. This includes, without limitations, paint, oil, solvents, asphalt, concrete, mortar or similar materials;

3. No signs, wires or other attachments, other than those of a protective nature, shall be attached to any preserved tree;

4. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any preserved tree other than on existing street pavement;

5. No heavy equipment, including, but not limited to, trucks, tractors, trailers, bulldozers, bobcat tractors, trenchers, compressors and hoists shall be allowed inside the critical root zone of any preserved tree on any construction site without the specific approval of the city forester;

6. No grade change within the critical root zone of any preserved tree without submission of a certified arborist/forester report dealing with protections and the report acceptance by the city forester; or

7. No filling activity in the critical root zone of any preserved tree may occur as a permanent condition which may damage the tree. Tree wells may be used to ensure that the root zone is protected.

e. Replacement of any preserved tree which dies within five years due to construction or development activities will be the responsibility of the original applicant. Replacement will be new trees with a minimum of three inches each in diameter and equal to five times the lost canopy. Tree replacement will be guaranteed for an additional period of two years.

(2) *Construction methods.*

a. *Boring.* Boring of utilities under preserved trees shall be required in those circumstances where it is not possible to trench around the critical root zone of the preserved tree. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.

b. *Grade change.* In situations where the city forester approves a grade change within the critical root zone of a preserved tree, procedures and special conditions shall be approved by the city forester in advance of any work.

c. *Trenching.* All trenching shall be designed to avoid trenching across the critical root zone of any preserved tree, unless otherwise approved by the city forester. All work within the critical root zone requires advance approval by the city forester. The placement of underground utility lines such as electric, phone, gas, etc., is encouraged to be located outside the critical root zone of preserved trees. Trenching for an irrigation system shall be placed outside the critical root zone, except into the critical root zone perpendicular to the tree trunk and in the manner that has the least possible encroachment into the critical root zone. Boring is required for all underground utility lines that cross the critical root zone.

d. *Root pruning.* All roots two inches or larger in diameter which are exposed as a result of trenching or other excavation shall be cut off square with a sharp medium tooth saw and covered with pruning compound within two hours of initial exposure.

e. *Underground utilities.* All onsite underground utilities with backfill other than onsite material shall have a clay dam every 200 feet for the entire length of the utility placement.

f. *Paving.* No paving is allowed within the critical root zone of any preserved tree unless otherwise approved by the city forester. Approvals will be based upon best management practices for tree preservation.

(3) *Tree planting to achieve the goal of canopy coverage.*

a. Trees planted to provide canopy coverage shall be a minimum of two and one-half to three inches each in diameter and will be credited its canopy coverage at normal maturity. These credits are as follows:

1. *Large canopy tree with typical crown width of 50 feet in diameter.* Two thousand square feet (minimum spacing of 40 feet on center);

2. *Medium canopy tree with typical crown width of 30 feet in diameter.* Seven hundred square feet (minimum spacing of 24 feet on center); and

3. *Small canopy tree with typical crown width of ten feet in diameter.* One hundred square feet (minimum spacing of eight feet on center).

b. Tree planting requirements: Table H is a list of desirable and adapted trees for the Fort Worth area. Other trees other than those in Table H will be considered by the city forester and granted on a case-by-case basis. The approval of additional species will be judged on adaptability, long-term health and growth characteristics of the tree type.

c. The minimum size of tree planted will be two and one-half to three inches in diameter. The caliper measurement of the trunk shall be taken at a point six inches above the ground if the resulting measurement is no more than four inches in diameter. If the resulting measurement is more than four inches, the measurement of the caliper shall be taken at 12 inches above the ground. If the tree is multi-trunk, the main stem will be given full credit for its diameter and all other stems will receive one-half credit. The total of all must be three inches or greater.

d. All newly planted trees that die within two years of the date of project completion will be replaced. The replacement tree carries the same two-year replacement requirement. The requirement to replace the trees shall run with the land.

e. A minimum of 16 square feet of permeable surfaces must be provided for all tree plantings.

f. Expansion of structures used for commercial/institutional and industrial uses: Tree plantings to achieve canopy coverage will be based only on the square footage of the expansion footprint rather than the entire site to ensure at least minimal tree replacement. Only tree removal permits for trees greater than six inches in diameter are required for expansions under 3,000 square feet.

(4) *Warranty/replacement.* Any preserved tree that dies or becomes hazardous and a threat to public safety or property due to construction activities within five years following the date of issuance of the certificate of occupancy shall be replaced following the criteria outlined above for tree preservation and significant tree replacement by the original applicant or assigned party.

(5) A certificate of occupancy shall not be issued until the requirements of subsection (g) below are met.

(e) *Specific requirements based on land use.* The city's goal to achieve a city-wide tree canopy cover of at least 30% and to promote the functional distribution of that canopy throughout various land uses as development occurs through a combination of planting and retention goals and requirements for tree canopy cover. In support of the overall goal of tree canopy cover for the city, the following land use requirements shall apply.

(1) *One- and two-family residential land uses.*

a. Minimum retained or planted canopy coverage shall be 40%;

b. Canopy for new subdivisions: the 40% canopy coverage requirement for one- and two-family residential land uses will be reduced to 25% if:

1. One tree per residential lot is planted on all lots up to 5,000 square feet in area;

2. One additional tree for each additional 5,000 square feet of lot area, or fraction thereof is planted, up to a maximum of nine trees per residential lot; and

3. The remaining portion of the 25% canopy coverage may be provided in public rights-of-way, parks, homeowner's association lots or boundary street parkways.

c. Phased development of residential subdivisions: residential subdivisions that are to be developed in phases must provide a plan that complies with the retention requirements at full build-out as approved on the preliminary plat. If a final plat requests credit for trees in undeveloped phases or units that are planned for future development, it will be necessary for all subsequent plats to identify trees for retention or provide mitigation as needed to obtain the required canopy coverage percentage. Updated plans must be provided to urban forestry as the subdivision is developed.

d. Canopy for existing platted residential lots over one acre:

1. Retained canopy coverage of 25%; and

2. Overall canopy coverage of 40%.

(2) *Multifamily land uses.* Minimum retained or planted canopy coverage shall be 50% of open space.

(3) *Institutional land uses.* Minimum retained or planted canopy coverage shall be 30%.

(4) *Commercial land uses.* Minimum retained or planted canopy coverage shall be 30%.

(5) *Mixed use land uses in "MU" mixed-use zoning.* Minimum retained or planted canopy coverage shall be 50% of open space.

(6) *Industrial land uses.* Minimum retained and planted canopy coverage shall be 20%.

(7) *Surface parking areas.*

a. Minimum canopy coverage shall be 40%;

b. The canopy coverage shall be achieved through preservation of existing trees or tree planting within the parking field and drives;

c. No requirement for one- and two-family residential uses; and

d. 1. Credit shall be given for preserved or planted trees located outside the subject property within the parkway of adjacent streets.

2. Trees planted to provide canopy coverage shall be a minimum of three inches each in diameter and will be credited its canopy coverage at normal maturity. These credits are as follows:

i. *Large canopy tree with typical crown width of 50 feet in diameter.* Two thousand square feet (minimum spacing of 40 feet on center);

ii. *Medium canopy tree with typical crown width of 30 feet in diameter.* Seven hundred square feet (minimum spacing of 24 feet on center); and

iii. *Small canopy tree with typical crown width of ten feet in diameter.* One hundred square feet (minimum spacing of eight feet on center).

(8) *Public projects (e.g., water, sewer, street or drainage).*

a. Minimum retained and planted canopy coverage shall be 30%; and

b. Public projects may elect to mitigate required canopy coverage through payment into the tree fund at a rate of \$600 per required tree. No mitigation or payment in to the tree fund shall be required if the public project does not prevent the surface from being restored to its original condition or where the public project will not require tree removal.

(9) *Agricultural land uses.*

a. Minimum canopy retention shall be 25%.

b. New agriculture development will require documentation of the existing canopy coverage and a detailed tree survey of the property prior to clearing or grading of the property. The tree survey will include the location, size and species of tree. At the time of development a payment of \$200 per diameter inch will be required for up to 25% of the removed trees over six inches in diameter. The canopy coverage and total diameter inch total will run with the land provided approved documentation is recorded in the applicable county deed records.

(f) *Delineation of artificial lot.* If a developer wishes to develop a portion of a one acre or larger tract, the developer may request that the development services director delineate the portion of the tract to be developed as an artificial lot, for purposes of calculating urban forestry requirements for the development. Artificial lots may be delineated in any type of development, including schools and places of worship. All artificial lots shall meet the following requirements:

(1) Contain the entire area on which the development is to occur, including all paved areas;

(2) Contain a land area of less than 50% of the entire tract, or, if the proposed artificial lot contains more than 50% of the entire tract, the director must determine that a substantial amount of the tract is not affected by the proposed development; and

(3) Be delineated on the urban forestry plan as provided in subsection (g) below.



(g) *Urban forestry plan/permits.* No activity subject to the urban forestry requirements shall be conducted without the required permit for such activity, as further described below.

(1) *Permits.*

a. Tree removal permit is required:

1. Prior to the removal of a single tree. No permit shall be issued if the remaining canopy coverage is less than the 25% minimum retention; or
2. For the removal of any tree six inches or greater in diameter.

b. Urban forestry permit is required:

1. For the removal of more than one tree;
2. For construction of new structures on properties where a building permit is required, unless exempted under subsection (c) above.

c. An urban forestry plan is required to be submitted with the urban forestry permit.

d. An approved urban forestry permit will run with the land. If the project scope or configuration changes prior to any disturbance of the land, the approved urban forestry permit is invalid and the owner/developer shall apply for a new permit.

e. An urban forestry permit shall expire on the fifth anniversary of the date the permit was issued if no progress has been made toward implementation of the urban forestry plan.

(2) *Urban forestry plan.*

a. Submission of an urban forestry plan is required for the issuance of an urban forestry permit and is required before or at the time of application for building permit. At the time of submission of the urban forestry plan, the applicant shall elect a method of preservation of existing canopy under subsection (g)(4) below.

b. If no trees exist on the site, the applicant shall document the existing conditions and comply with urban forestry plan application requirements below, but shall not be required to elect a method of preservation of existing canopy under subsection (g)(4) below.

(3) *Urban forestry plan application requirements.* Prior to any platting activity, site plan preparation and submission for development, demolition, disruptive activities (including clearing and grading) or tree removal, the following information must be submitted through a two-part process.

a. *Part One: documentation of existing conditions.*

1. The first submittal shall include two copies of a scaled diagram of the subject property in which development, disruption or tree removal is proposed. The scaled diagram may be an engineered drawing, survey, air photo or other illustration. Part One will reflect the existing conditions by including the following information:

- i. Boundaries of the property and its calculated area, i.e., acres, square feet;
- ii. Location map showing the proximity of the property to the nearest streets;

iii. Outline of the existing tree canopy area on the property and the calculated area (square feet or acres) of existing canopy coverage. Properties with no existing canopy shall indicate such conditions;

iv. Scaled existing or proposed utilities regulated by the public utility commission and/or Texas railroad commission. Indicate the calculated area (square footage or acres) for these rights-of-ways or easements;

v. Location of each significant or large tree as defined in § [9.101](#), its species and canopy area; and

vi. Tables B, C, D and E in subsection (l) below.

2. Upon completion and approval of Part One documentation, tree removals will be granted if a minimum of 50% of the existing tree canopy is retained. The documentation of pre-development canopy coverage shall be maintained with the property until development occurs. The required retention indicated in Part One documentation will be achieved within the area remaining after the initial clearing.

3. Part One documentation shall expire on the second anniversary of the date of approval if no progress has been made toward completion of a Part Two submission.

b. *Part Two: Components of the urban forestry plan.* Part Two will overlay the proposed improvements and removals/preservations/ plantings. Two copies shall be provided and shall include the following information:

1. Scaled site plan depicting the location of proposed structures, parking areas, drives and amenities;

2. Tree canopy areas that are desired to be removed;

3. Location and description of trees (large, medium or small canopy crown) that will be planted from Table F to reach the minimum canopy as stated in subsection (e) above; and

4. Tables G and H in subsection (l) below.

(4) *General preservation methods of tree canopy.* At the submission of an urban forestry plan/permit application, the applicant shall elect one of the following tree preservation of existing canopy compliance methods.

a. *Method "A."* Preservation of existing canopy coverage regardless of tree species:

1. At least 25% of the existing canopy coverage must be retained, regardless of tree species, on all properties greater than one acre, provided however, significant or large trees must be preserved as outlined in subsection (g)(5) below. The existing canopy can be determined via recent air photo, on the ground survey or other approved method by the city forester;

2. Property located in floodplains or located in areas that will be dedicated to public spaces may be counted toward the required 25% minimum retention;

3. Calculation of all canopy coverage and retention areas will not include utility rights-of-way or easements covered under the rules and regulation of the public utility commission and/or Texas railroad commission;



4. To remove more than the minimum retention will require a waiver from the urban design commission; and

5. The overall canopy coverage percentage requirement must be met by planting the size and species of protected trees in Table A, Protected Trees, in subsection (l) below.

b. *Method "B."* Preservation of existing canopy coverage using protected trees only. Protected trees must be on the site to use this method. See Table A of subsection (l) below for a list of protected trees:

1. For property greater than one acre, at least 25% of the protected trees must be retained, provided however, significant or large trees must be preserved as outlined in subsection (g)(5) below. The total overall retained and planted canopy coverage for the applicable land use must meet a total of 5% over the required minimum canopy coverage. (e.g., residential coverage would be a minimum of 45%, commercial coverage would be a minimum of 35% and industrial would be a minimum of 25%); and

2. An onsite tree survey noting the location, size and species (diameter of trees six inches or greater) and canopy coverage of each protected tree with a diameter of six inches or greater will be required. This survey shall be completed and signed/sealed by one of the following: Texas licensed landscape architect, certified arborist, Texas licensed landscape contractor or Texas certified nurseryman.

(5) *Preservation of significant or large trees.*

a. Significant or large trees 27 inches in diameter (84.82 inches in circumference) for the entire city or 18 inches in diameter (56.55 inches in circumference) for Post Oaks and Blackjack Oaks east of Interstate Highway 35W can only be removed by permit of the city forester. The reduced diameter for post Oaks and Blackjack Oaks east of IH 35W is in recognition of the naturally occurring Post Oak Savannahs within the Cross Timbers Zone. Preservation of a significant or large tree will be credited to the required canopy cover one and one-half times the actual canopy size.

b. Significant or large trees may be removed if one of the following conditions is met:

1. An area one and one-half times the area of the canopy of the tree identified for removal is retained on the same site. The one and one-half retention of existing trees shall be of the same species as the tree being removed in the Post Oak Savanna as indicated on Exhibit "A" or from the protected list if not in the Post Oak Savanna and be in excess of the required tree coverage on the site/tract;

2. Planting of new trees from the preferred list (see Table F of subsection (l) below) at five times greater in canopy area than the removed specific tree canopy. The additional planting of five to one (5 to 1) will be in excess of the required tree coverage on the site;

3. Payment into the tree fund based upon the total diameter of the specific tree times \$200 per diameter inch, or \$4.94 per square foot of canopy; or

4. Urban design commission approves a plan that mitigates the removal of significant or large trees.

(6) *Urban forestry plan amendments.*

a. *Minor amendments.* Minor amendments to an approved urban forestry plan may be approved administratively if one of three conditions below is met:

1. An increase in the total canopy;
2. Adjustments in the type of tree to be planted, considering that trees from the list of preferred trees must be replaced with trees from said list; or
3. Any adjustments in planting location required due to site specific issues including traffic circulation, safety, drainage or utilities, given that the adjustments include only the relocation of trees of the same type and size as provided on the approved urban forestry plan. These adjustments cannot include the removal or transplantation of a tree not considered in the approved urban forestry plan.

b. Amendments that do not meet any of the conditions in subsection (g)(6)a. of this section must be submitted to and approved by the urban design commission before construction begins.

(h) *Urban forestry development agreement.*

(1) *The urban forestry development agreement (“agreement”).*

a. The agreement is intended to facilitate the development of large tract developments, other than single-family or two-family developments, under common ownership which would meet or exceed an overall canopy coverage of 30% for all properties included in the agreement. The intent of a development agreement is to allow areas with more extensive canopy to remain and contribute to the 30% overall coverage while allowing the canopy in other development areas to be reduced. Individual properties that are subject to the agreement are required to maintain canopy coverage requirements for different land use types as outlined in subsection (h)(1)c. below.

b. The original application for an agreement shall include an initial spreadsheet of minimum canopies and acreages, the form of which is provided in Table I of subsection (l) below. Thereafter, Table J of subsection (l) below shall be completed with the provided canopies and acreages included at the time of each subsequent submittal as property/tracts are being developed. These updates shall be provided at the time of submittal of each individual Part One document. No approval shall be granted nor tree removals to be completed without the submission of the Table J form as set forth in subsection (l) below.

c. The agreement must be presented to the city council for approval prior to its execution. Any amendments may be approved administratively if the regulations of this subsection (h) are satisfied. The initial submission for approval of an agreement shall include:

1. A map all of the properties to be included in the agreement, identified by land use and acreage;
2. Individual maps of each land use type (commercial, industrial, etc.); and
3. Table I of subsection (l) below.

(2) *Overall Part One permit.* An overall Part One permit as part of an agreement will be issued if the following conditions are met:

a. Minimum acreage allowed shall be 1,000 acres with all of the acres to be located within the same watershed. Applicant shall provide an exhibit depicting all of the property/tracts and acreages that will be subject to the agreement;

b. The property/tracts subject to the agreement shall be separated by land use type, but shall not include single-family or two-family development. Applicant will provide exhibits for each land use type for the initial submittal and will update for subsequent submittals. Canopy requirements will be tracked by land use type;

c. The minimum canopy coverage for each tract described in an agreement shall be:

Commercial	15%	Parking	40%
Industrial	10%	Parking	20%
Airport industrial	5%	Parking	20%
Multifamily	25% of required open space		

d. All of the acreage to be included in an agreement shall be under common ownership at the time of the agreement, under a currently approved overall Part One, or part of an approved concept plan or preliminary plat. A list shall be provided of any separate corporations to be included in an agreement documenting that all are part of the same parent company. The list shall be provided with the initial overall Part One submission and shall provide the filing number associated with the articles of incorporation filed with the Texas Secretary of State.

e. The overall Part One permit shall not expire for a period of 15 years and may be renewed for additional ten-year periods. Renewals will be approved administratively if the permit remains under the same terms and conditions of the original agreement approved by the city council or with amendments approved administratively. Progress shall be defined as the platting, permitting or vertical construction on the properties. The expiration period in subsection (g)(3)a.3. above shall apply to the individual Part One submissions. Individual Part One permits shall be defined as property/tracts that are submitted for approval after the date of execution of the agreement.

f. The agreement shall run with the land and properties which are included in the original agreement and subsequently sold shall remain under the terms of the agreement regardless of future ownership. The agreement shall be recorded in the real property records in the county which the property subject to the agreement is located. Recordation shall be the responsibility of the applicant, including the cost of recording fees. Within 14 days after execution and recordation, a copy of the recorded documentation shall be provided to the city. The Part One permit shall not be issued until the recorded copy is received.

g. Future acquired properties by the original applicant of the agreement may be included in the agreement after a recalculation of the canopy coverage and approval by staff if the conditions of this section are met. Acquired properties not included in the agreement shall be subject to the regulations of this section. Additional properties may not be included into the agreement within three years of the end of the initial term of the agreement. No properties shall be allowed to be added to the agreement during any renewal terms.

(i) *Appeals.*

(1) If the city forester, or other city official, refuses to accept or issue an urban forestry plan/permit, or if the applicant disagrees with the decision of city staff, the applicant may request an appeal of the decision to the urban design commission within ten days after the decision of city staff. The appeal shall be in writing and shall be transmitted to the executive secretary of the urban design commission within ten days after receipt of notification that the city forester will not accept the urban forestry plan/permit.

(2) The urban design commission shall consider the appeal within 30 days after the appeal is received by the board's executive secretary, unless the applicant requests a later hearing in writing. The urban design commission shall not release the applicant from the requirements of this ordinance, unless the applicant first presents credible evidence from which the urban design commission can reasonably conclude application of this ordinance to the applicant would be likely to deprive the applicant of rights protected by law.

(3) The urban design commission may take the following actions on an appeal:

a. Deny the appeal, in which case the urban forestry plan/permit shall not be accepted or granted;

b. Grant the appeal and direct the city forester to accept and approve the urban forestry plan/permit; or

c. Grant the appeal subject to such provisions, conditions or limitations as deemed appropriate by the urban design commission.

(4) In no event shall acceptance of an application guarantee that the city will issue the urban forestry plan/permit, unless the permit application is in compliance with all applicable codes, laws and regulations.

(5) Appeals of the urban design commission will be heard by the district court.

(j) *Penalty.*

(1) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance may be issued a citation and upon conviction thereof may be fined in an amount not to exceed \$500. In cases of offenses involving the illegal removal of trees or noncompliance with an approved permit or urban forestry plan, the removal of each tree constitutes a separate offense. In cases of continuing violation, each separate day that a violation continues constitutes a separate offense.

(2) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any provision of this ordinance may be subject to a civil penalty in accordance with Section 2-322 of the City Code for the removal of trees. The civil penalty authorized by this paragraph may be imposed by the Director in addition to the misdemeanor penalty in paragraph (1) of this section. The imposition of a civil penalty may be appealed to the City Council. Any appeal must be made in writing and must be filed with the Director within 10 calendar days following the date of the initial written decision. The Director shall refer the appeal to the City Council

and the decision of the City Council shall be final. The aggrieved shall bear the burden of proof to show why, by preponderance of the evidence, the civil penalty should not be assessed. The imposition of a civil penalty under this section suspends all permits or permit applications issued to or for the benefit of the property and all work under such any permits until the civil penalty is fully paid.

(3) Where illegal tree removal has occurred and the physical evidence has been removed from the site, the civil\_penalty will be assessed based on calculations using any remaining physical evidence, photos and documents available to the city, calculated in accordance with Section [2-322](#) of the City Code for significant or large trees removed or damaged.

(4) a. The owner of a single lot within a one-family or two-family residentially zoned district who removes or causes to be removed trees without first obtaining the required permit may be issued an after-the-fact permit. An after-the-fact permit shall be issued if:

1. The applicant can demonstrate that the criteria for removal in the after-the-fact application would meet the regulations in effect at the time the tree was removed; and

2. The applicant has paid the fee for an after-the-fact permit which shall be double the fee of a urban forestry permit.

b. A citation may be issued for a misdemeanor and upon conviction shall be fined not more than \$500 for the removal or damage of each tree.

c. If the applicant cannot demonstrate that the criteria for removal in the after-the-fact application would have met the current regulations, then an after-the-fact permit shall not be issued and the person shall be in violation of this section, subject to both criminal and civil penalties.

d. A second after-the-fact permit shall not be issued if:

1. Another violation of this section occurs by a person previously issued an after-the-fact permit; or

2. The after-the fact permit was issued on the same site on which an after-the-fact permit was issued within five years of the date of the second violation.

(k) *Enforcement.* Any code compliance officer, the city forester or his or her designee shall have the authority to enforce the provisions of this section.

(l) *Tables.*

<b>Table A. Protected Trees</b>	
Redbud	<i>Cercis canadensis</i>
Mexican Plum	<i>Prunus mexicana</i>
Cherry Laurel	<i>Prunus caroliniana</i>
Eve’s Necklace	<i>Sophora affinis</i>
Crab Apple	<i>Malus angustifolia</i>

Bradford Pear	<i>Pyrus calleryana var. Bradford</i>
Golden Raintree	<i>Koelreuteria paniculata</i>
Caddo Maple	<i>Acer barbatum var. Caddo</i>
Red Maple	<i>Acer rubrum</i>
Bigtooth Maple	<i>Acer grandidentatum</i>
Bur Oak	<i>Quercus macrocarpa</i>
Chinquapin Oak	<i>Quercus muhlenbergii</i>
Live Oak	<i>Quercus virginiana</i>
Shumard Red Oak	<i>Quercus shumardii</i>
Texas Red Oak	<i>Quercus texana</i>
Post Oak	<i>Quercus stellata</i>
Blackjack Oak	<i>Quercus marilandica</i>
Pecan	<i>Carya illinoensis</i>
Lacebark Elm	<i>Ulmus parvifolia</i>
Cedar Elm	<i>Ulmus crassifolia</i>
American Elm	<i>Ulmus americana</i>
Bald Cypress	<i>Taxodium distichum</i>
Black Walnut	<i>Juglans nigra</i>
Green Ash	<i>Fraxinus pennsylvanica</i>
Texas Ash	<i>Fraxinus texensis</i>
Southern Magnolia	<i>Magnolia grandiflora</i>

<b>Table B. Net Urban Forestry Area</b>		
Net Urban Forestry Area	Square Feet	Acres
Gross area of property		
Utility rights-of-way or easements regulated by the public utility commission/Texas railroad commission	—	—
Net urban forestry area		

<b>Table C. Required Tree Canopy Area</b>
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	Square Feet	Acres	
Net urban forestry area			
Land use/canopy coverage ratio		x	
One- or two-family (40% coverage)			
One- or two-family with trees planted on individual lots (25% coverage)			
Commercial (30% coverage)			
Industrial (20% coverage)			
Additional 5% if only protected trees are being preserved			
Required canopy coverage			

<b>Table D. Minimum Canopy Retention</b>		
	Square Feet	Acres
Existing tree canopy area		
Preservation requirement	X 0.25	X 0.25
Additional 5% if only protected trees are being preserved		
Minimum retention		

<b>Table E. Significant Tree Removal</b>			
	Calculation	Inches Dbh	Canopy Sq. Ft.
	All Post Oaks/Blackjack Oaks	20 inches dbh (if east of I-35)	
	All other trees	30 inches dbh (regardless of species or location)	
	Total of significant trees to be preserved		
	Significant tree preservation credit		(sq. ft. x 1.5)
	Total of significant trees to be removed		()
	Removal options (choose one):		
	Retention of existing canopy 1.5X the canopy of removed significant trees—in excess of minimum retention		(sq. ft. x 1.5)
	Planting additional trees 5X the canopy of removed significant trees—in excess of total planting		(sq. ft. x 5)
	Payment into tree fund for total inches dbh of significant trees removed @ \$200 per inch dbh		(sq. ft. x \$200)

Urban design commission approved plan that mitigates the removal of the significant tree(s)			
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<b>Table F. Preferred Tree List</b>	
<b>Large Canopy Trees</b>	
Pecan #	<i>Carya illinoensis</i>
Deodar Cedar	<i>Cedrus deodara</i>
Green Ash	<i>Fraxinus pennsylvanica</i>
Southern Magnolia #	<i>Magnolia grandiflora</i>
Bur Oak *	<i>Quercus macrocarpa</i>
Chinquapin Oak	<i>Quercus muhlenbergii</i>
Shumard Oak #	<i>Quercus shumardii</i>
Texas Red Oak	<i>Quercus buckleyi</i>
Live Oak *	<i>Quercus virginiana</i>
American Elm	<i>Ulmus americana</i>
Cedar Elm *	<i>Ulmus crassifolia</i>
Lacebark Elm	<i>Ulmus parvifolia</i>
<b>Medium Canopy Trees</b>	
Caddo Maple *	<i>Acer barbatum var. Caddo</i>
Bigtooth Maple *	<i>Acer grandidentatum</i>
Common Persimmon	<i>Diospyros virginiana</i>
Texas Ash	<i>Fraxinus texensis</i>
Ginkgo	<i>Ginkgo biloba</i>
Kentucky Coffeetree	<i>Gymnocladus dioicus</i>
Eastern Red-Cedar *	<i>Juniperus virginiana</i>
Golden Raintree	<i>Koelreuteria paniculata</i>
Eldarica (Afghan) Pine *	<i>Pinus eldarica</i>
Italian Stone Pine	<i>Pinus pinea</i>
Chinese Pistache *	<i>Pistacia chinensis</i>
Honey Mesquite *	<i>Prosopis glandulosa</i>
Blackjack Oak *	<i>Quercus marilandica</i>
Monterrey (Mex. White) Oak *	<i>Quercus polymorpha</i>
Western Soapberry *	<i>Sapindus drummondii</i>
Pond Cypress	<i>Taxodium ascendens</i>

Bald Cypress *	<i>Taxodium distichum</i>
<b>Small Canopy Trees</b>	
Japanese Maple #	<i>Acer palmatum</i>
Common Button-bush	<i>Cephalanthus occidentalis</i>
Redbud *	<i>Cercis canadensis</i>
Desert Willow *	<i>Chilopsis linearis</i>
Rough-leaf Dogwood #	<i>Cornus drummondii</i>
Texas Persimmon *	<i>Diospyros texana</i>
Carolina Buckthorn #	<i>Frangula caroliniana</i>
Yaupon Holly *	<i>Ilex vomitoria</i>
Deciduous Holly	<i>Ilex decidua</i>
Creape Myrtle *	<i>Lagerstroemia indica</i>
Mexican Plum *	<i>Prunus mexicana</i>
White Shin Oak *	<i>Quercus sinuata var. breviloba</i>
Flameleaf Sumac *	<i>Rhus lanceolata</i>
Eve's Necklace *	<i>Sophora affinis</i>
Mexican Buckeye *	<i>Ungnadia speciosa</i>
Rusty Blackhaw	<i>Viburnum rufidulum</i>
* Drought tolerant species	
# Not recommended for parking lots or high heat areas	

<b>Table G. Tree Preservation and Planting Area</b>		
	<b>Square feet</b>	<b>Acres</b>
Area of existing tree canopy retained		
Planting		
____ large canopy trees @ 2,000 square feet per tree (minimum spacing of 40 feet on center)		
____ medium canopy trees @ 700 square feet per tree (minimum spacing of 24 feet on center)		
____ small canopy trees @ 100 square feet per tree (minimum spacing of 8 feet on center)		
____ additional trees		
Total preservation and planting		

<b>Table H. Parking Canopy Area</b>		
Parking Areas for Commercial or Industrial Uses	Square Feet	Acres
Area of parking and drives		
Required canopy coverage of parking areas	X 0.4	X 0.4
Required canopy coverage		
Area of canopy coverage being provided		

<b>Table I. Initial Urban Forestry Development Agreement</b>		
Overall (enter Land Use Type) - Part 1	Canopy	
<b><i>Net Urban Forestry Area</i></b>	<b><i>Square Feet</i></b>	<b><i>Acres</i></b>
Gross area of property		
Utility easements		
Net urban forestry area		
<b><i>Required Tree Canopy Area</i></b>	<b><i>Square Feet</i></b>	<b><i>Acres</i></b>
Net area		
Canopy ratio		
Required tree canopy coverage		
<b><i>Preservation/Retention of Existing Canopy</i></b>	<b><i>Square Feet</i></b>	<b><i>Acres</i></b>
Existing tree canopy		
Preservation requirement (20, 30, 40%)		
Minimum retention of existing tree canopy		
Area of existing tree canopy retained		
Preservation ratio		
<b><i>Retention of Canopy for Significant and Large Tree Canopy Removal</i></b>	<b><i>Square Feet</i></b>	<b><i>Acres</i></b>
Significant and large tree canopy to be removed		
Preservation requirement (150%)		

Minimum retention of existing tree canopy for removal of significant and large tree canopy		
Area of existing tree canopy retained for removal of significant and large tree canopy		

Table J. Urban Forestry Development Agreement Canopy Tracking									
UFC #	Project Name	Project Address	Site Acreage	Usage Class	Canopy Coverage Required (sq. ft.)	Canopy Coverage Provided (sq. ft.)	Off Site Mitigation? (Y/N)	Beginning Land Balance	Ending Land Balance

(Ord. 18615-05-2009, § 3, passed 5-12-2009; Ord. 24030-02-2020, § 22, passed 2-4-2020)

**CITY CODE:**

**CHAPTER 2: ADMINISTRATION**

**ARTICLE XII: FEE SCHEDULES**

§ 2-322 PENALTIES AND MITIGATION FEES.

(a) For ordinance violations or development activities requiring mitigation, the following schedule of penalties and mitigation fees is hereby adopted; provided, however, that such fees may be waived or refunded by action of the city council in accordance with policies adopted by the city council.

(b) Penalties and mitigation fees.

Notes

Urban Forestry

a. Penalties

1. Unauthorized removal of non-significant trees \$300.00/diameter inch or \$7.50/canopy sf

Penalty to be assessed according to Urban Forestry Ordinance, Section 6.302. Funds deposited into PARD Tree Fund

2. Unauthorized removal of significant trees \$600.00/diameter inch or \$15.00/canopy sf

Penalty to be assessed according to Urban Forestry Ordinance, Section 6.302. Funds deposited into PARD Tree Fund

3. Administrative fee assessed on penalties	\$500.00/case	Funds deposited into P&D account to cover staff investigative and enforcement costs
b. Mitigation Fees		
1. Removal of significant trees	\$300.00/diameter inch or \$7.50/canopy sf	Fees to be assessed according to Urban Forestry Ordinance, Section 6.302, when applicant opts for mitigation by payment. Funds deposited into PARD Tree Fund.

(Ord. 23820-09-2019, § 1, passed 9-10-2019, eff. 10-1-2019)