

CHAPTER 99: NATURAL RESOURCES MANAGEMENT

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GENERAL PROVISIONS

§ 99.01 TITLE.

This chapter shall be known as and may be referred to as the *Natural Resources Management Ordinance*.
(Ord. 1220, passed 7-27-98)

§ 99.02 PURPOSE AND INTENT.

The purpose of this chapter is to promote site planning which furthers the preservation of mature trees and natural areas, to protect trees during construction, to facilitate site design and construction which contribute to the long term viability of existing trees and to control the removal of trees when necessary. It is the further purpose of this chapter to achieve the following broader objectives:

- (A) Prohibit the indiscriminate clearing of property.
- (B) Protect and increase the value of residential and commercial properties within the city.
- (C) Maintain and enhance a positive image for the attraction of new business enterprises to the city.
- (D) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the city.

(Ord. 1220, passed 7-27-98)

§ 99.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and terms used in this chapter, but not defined in this chapter shall have the meanings ascribed thereto in the zoning ordinance or other ordinances of the city. Words and terms defined in two ordinances shall be read in harmony unless there exists an irreconcilable conflict in which case the definition contained in this chapter shall control.

AGRICULTURAL USE. The use of land to produce plant or animal products, such as the growing of crops, raising and pasturing of livestock or farming. It does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

BUILDABLE AREA. That portion of a building site exclusive of the required yard areas on which a structure or building improvements may be erected and including the actual structure, driveway, parking lot, pool and other construction as shown on a site plan.

BUILDING PAD. The actual foundation area of a building and the area within six feet of the foundation that is used for construction and grade transition.

CLEAR CUTTING. The removal of all of the trees or a significant majority of the trees within an area.

CRITICAL ROOT ZONE (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the dripline. (See Appendix A.)

CUT/FILL. Areas where the natural ground level has been excavated (cut) or fill brought in.

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree trunk, or, in the case of a multi-trunk tree, the total of the diameter of the largest trunk and one-half of the diameter of each additional trunk, measured at a height of four and one-half feet above the ground.

DRIP LINE. A vertical line run through the outermost portion of the canopy of a tree and extending to the ground. (See Appendix A.)

LIMITS OF CONSTRUCTION. A delineation on the graphic exhibit which shows the boundary of the area within which all construction activity will occur.

MUNICIPAL/PUBLIC DOMAIN PROPERTY. Examples of this would include City Hall, public parks, county property, Corps of Engineers property, State of Texas R.O.W., library, fire stations, water tower sites or similar properties.

PROTECTIVE FENCING. A physical and visual barrier installed around the critical root zone of a protected tree as required by this chapter in order to prevent damage to the tree and its root system.

SELECTIVE THINNING. The process by which noncontiguous protected trees are identified and removed within a heavily wooded area to provide the maximum benefit to the remaining protected trees.

TREE. Any self-supporting, woody, perennial plant which will attain a trunk diameter of two inches or more when measured at a point four and one-half feet above ground level and normally an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks.

TREE BOARD. There is hereby created and established a City Tree Board. This Board shall be the Planning and Zoning Commission unless otherwise appointed by City Council.

TREE, PARK. Trees in public parks and all areas owned by the city to which the public has free access to as a park.

TREE, PROTECTED. Any canopy tree that has a diameter at breast height of six inches or greater; any understory tree that has a diameter at breast height of two inches or greater; any specimen tree which is determined by the Landscape Administrator to be of unique and intrinsic value to the general public because of its size, age, historic association or ecological value; or any tree listed in the most current edition of the Big Tree Registry, as amended, published by the Texas Forest Service.

TREE, STREET. Trees on land lying between property lines on either side of all streets, alleys, avenues, lanes or ways within the city.

TREE TOPPING. The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. (Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10)

PERMITS

§ 99.15 TREE REMOVAL PERMIT REQUIRED.

No person, directly or indirectly, shall cut down, destroy, remove or move or effectively destroy through damaging any protected tree situated on property regulated by this chapter without first obtaining a tree removal permit unless otherwise specified in this chapter.

(Ord. 1220, passed 7-27-98) Penalty, see § 99.99

§ 99.16 AUTHORITY FOR REVIEW.

The Landscape Administrator shall be responsible for the review and approval of all requests for tree removal permits submitted in accordance with the requirements specified herein.

(A) *Deferrals.* The Landscape Administrator may defer the approval of a tree removal permit to the Tree Board for any reason. All decisions made by the Tree Board shall be final.

(B) *Appeals.* Any decision made by the Landscape Administrator may be appealed to the Tree Board. All decisions made by the Tree Board shall be final.
(Ord. 1220, passed 7-27-98)

§ 99.17 SUBMITTAL REQUIREMENTS.

The Landscape Administrator shall establish administrative procedures necessary to facilitate the implementation and enforcement of this chapter.

(A) *Tree removal permit.* A request for a tree removal permit must be submitted and approved prior to the removal of any protected tree in the city unless the tree is exempt under a provision of this chapter.

(B) *Fees.* All tree removal permits shall be accompanied by a payment made to the city in the amount specified by City Council.

(C) *Required documents.* Either a transparency or tree survey shall be required as determined by the Landscape Administrator and must include the items referenced in this chapter and its appendices.

(D) *Permit expiration.* Permits for tree removal issued in connection with a building permit or site plan shall be valid for the period of that building permit's or site plan's validity. Permit(s) for tree removal not issued in connection with a building permit or a site plan shall become void 180 days after the issue date on the permit.
(Ord. 1220, passed 7-27-98)

§ 99.18 ACTION ON PERMIT APPLICATION.

The Landscape Administrator or the Tree Board shall grant a tree removal permit based on the following criteria:

(A) Whether or not a reasonable accommodation or alternative solution can be made to accomplish the desired activity without the removal of the tree.

(B) The cost of preserving the tree.

(C) Whether the tree is worthy of preservation depending on the individual characteristics of the tree.

(D) The effect of the removal on erosion, soil moisture, retention, flow of surface waters and drainage systems.

(E) The need for buffering of residential areas from the noise, glare and visual effects of nonresidential uses.

(F) Whether the tree interferes with a utility service.

(G) Whether the proposed tree replacement pursuant to the tree replacement requirements hereof adequately mitigates the removal of the tree.

(H) Whether the removal affects the public health, safety or welfare.
(Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10)

REGULATIONS

§ 99.30 CLEAR CUTTING.

The clear cutting of land as defined in this chapter is prohibited.
(Ord. 1220, passed 7-27-98) Penalty, see § 99.99

§ 99.31 SELECTIVE THINNING.

The removal of selected trees from within a densely forested area when done in a professionally accepted manner shall be allowed as a single permit upon approval by the Landscape Administrator. Approval will only be granted when the Landscape Administrator determines that the selective thinning is being done in a manner that would enhance the environment and likelihood of survival for the remaining trees.

(Ord. 1220, passed 7-27-98) Penalty, see § 99.99

§ 99.32 GROUND LEVEL CUTS.

Where protected tree removal is allowed through exemption or by tree removal permit and the root system is intertwined with protected trees which are intended to be saved, the tree shall be removed by flush cutting with the natural level of the surrounding ground. Where stump removal is also desired, stump grinding shall be allowed, or upon approval of the Landscape Administrator, a trench may be cut between the two trees sufficient to cut the roots near the tree to be removed, thereby allowing removal of the remaining stump without destruction of the root system of the saved tree.

(Ord. 1220, passed 7-27-98)

§ 99.33 NEW DEVELOPMENTS.

All developments which have not submitted final construction plans as of the effective date of this chapter shall be subject to the requirements for tree protection and replacement specified as follows.

(A) *Residential developments.* All areas within street right-of-ways, utility or drainage easements as shown on an approved final plat and areas designated as cut/fill on the master construction plan approved by the Landscape Administrator shall be exempt from the tree protection and replacement requirements specified herein. The developer may request the Landscape Administrator to allow trees within potential building pad areas be included in the exemption described herein. All other area shall be subject to these requirements.

(B) *Non-residential development.* All area within street right-of-ways, public utility or drainage easements as shown on an approved final plat, area designated as cut/fill on the master construction plan approved by the Landscape Administrator, plus fire lanes, parking areas and building pad as shown on an approved construction plan shall be exempt from the tree protection and replacement requirements specified herein.

(C) *Gas well drilling and production facilities/natural gas pipelines.* Facilities constructed for gas well drilling and production, such as drill sites, operation sites, compressor stations, frac ponds and access roads, and natural gas pipelines and their related surface appertances, shall not be exempt from the tree protection and replacement requirements of this chapter.

(D) *Permit requirements.* A tree-removal permit shall not be required for removal of a protected tree within an area noted in divisions (E)(1) and (E)(2) below, however a permit must be obtained prior to the removal of any other protected tree on the property.

(E) *Landscape Administrator review.*

(1) *Residential development.* A developer shall be required to furnish a digital copy of the proposed development showing all proposed improvements (e.g. right-of-ways, easements, lot patterns, cut/fill, etc.) with the submittal of a site plan, development plan, preliminary plat, or final plat, whichever occurs first. The digital copy shall use the North American Datum 1983 (NAD 83), Texas State Plane - North Central Zone (4202), United States, and providing a scale factor if a surface survey is used. The Landscape Administrator is authorized to require a tree survey meeting the requirements of Appendix D herein when determined to be needed to fully evaluate the impact on trees.

(2) *Non-residential development.* A developer shall be required to furnish a digital copy of the proposed development showing all proposed improvements (e.g. right-of-ways, easements, lot patterns, cut/fill, fire lanes, parking areas and building pads, etc.) with the submittal of a site plan, development plan, construction plan, plot plan or building permit application, whichever occurs first. The digital copy shall use the North American Datum 1983 (NAD 83), Texas State Plane - North Central Zone (4202), United States, and providing a scale factor if a surface survey is used. The Landscape Administrator is

authorized to require a tree survey meeting the requirements of Appendix D herein when determined to be needed to fully evaluate the impact on trees.

(3) It is highly recommended that the developer consult with the Landscape Administrator and submit the required transparency or survey for review as early as possible so as to minimize changes in preliminary or final plats and to determine that there is adequate area for the proposed improvements after tree protection and replacement have been taken into consideration.

(4) The Landscape Administrator will evaluate the required transparency, survey or plan to determine that the developer has made a best good-faith effort at saving as many protected trees as possible. The Administrator will forward review comments to the Planning and Zoning Commission for consideration regarding denial or approval of the development. If the review involves a document that normally does not require the approval of the Planning & Zoning Commission, the Administrator will follow the procedures in division (E)(1) herein.

(F) *Parking area.* When a non-residential development consists of extra parking spaces beyond 110% of the minimum parking spaces required by the Zoning Ordinance, the developer shall be required to replace a percentage of the trees removed or make a payment into the Tree Restoration Fund. The replacement trees shall be calculated by multiplying the total diameter of trees removed in all parking spaces by the percentage of said extra parking spaces to the total number of parking spaces (i.e. total diameter of trees removed x extra parking spaces ÷ total parking spaces). The replacement trees shall be provided in accordance with § 99.37.

(Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10)

§ 99.34 PRIVATE PROPERTY.

(A) *Homestead.* The owner of property which is used for an individual residence or homestead shall be exempt from the tree protection and replacement requirements specified herein.

(B) *Property owned by home builder.* All areas within the building pad, driveway, sidewalks, patios, septic tank and lateral lines, parking area, pool and associated deck area as shown on a plot plan approved by the Landscape Administrator shall be exempt from the tree protection and replacement requirements specified herein. All other area of the lot shall be subject to these requirements.

(1) *Permit requirements.* A tree removal permit shall not be required for removal of a protected tree within an area noted above; however a permit must be obtained prior to the removal of any other protected tree on the property.

(2) *Landscape Administrator review.* A transparency showing all proposed improvements shall be required with the submittal of a building permit application. The transparency shall be on a sheet drawn to a scale as required by the Landscape Administrator or on a computer disk in the format of a commonly used Computer-Aided Design (CAD) program. The Landscape Administrator is authorized

to require a tree survey meeting the requirements of Appendix D herein when determined to be needed to fully evaluate the impact on trees.

(C) *Agricultural property.* The owner of property being actively used for agricultural purposes shall be permitted to remove up to seven protected trees per calendar year without obtaining a permit. Protected trees removed in excess of seven will require permits. It is not the intent of this chapter to prohibit the clearing of land for legitimate, agricultural use. The property owner shall request the Landscape Administrator to make an on-site inspection of the property to be cleared and provide the Landscape Administrator the purpose and reason for the clearing. If the Landscape Administrator determines the clearing of land to be for a legitimate, agricultural reason, he/she will issue a tree removal permit.

(Ord. 1220, passed 7-27-98) Penalty, see § 99.99

§ 99.35 MUNICIPAL/PUBLIC DOMAIN PROPERTY, RIGHTS-OF-WAY AND EASEMENTS.

All construction and maintenance activities within municipal/public domain property, public right-of-ways or public easements by the city or franchise utility companies shall be subject to the requirements for tree protection and replacement specified herein.

(A) *Removal of protected trees.* A tree removal permit shall not be required for removal of a protected tree. Pruning activities by a utility shall be governed by the provisions of § 99.39.

(B) *Tree Board responsibilities.* The Tree Board is authorized to study, investigate, counsel and develop and/or update periodically, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets and in other public areas. When adopted by the City Council, such plan shall represent the comprehensive tree plan for the city.

(C) *Acceptable trees.* The Landscape Administrator shall maintain a list of trees acceptable for planting along streets, within parks or other public areas. Trees other than those listed as acceptable may only be planted upon approval of the Landscape Administrator.

(D) *Street tree spacing.* The spacing of street trees shall be in accordance with recommendations of the Landscape Administrator. Closer spacings or group plantings may be approved by the Landscape Administrator in unique situations and when recommended by a registered landscape architect.

(E) *Public tree care.* The city shall have the right to plant, prune, and maintain street trees and park trees within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public properties. The city may remove or cause or order to be removed any tree or part thereof, which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or which is affected with any injurious fungus, insect or other pest.

(Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10) Penalty, see § 99.99

§ 99.36 EXCEPTIONS.

A tree removal permit and tree protection and replacement requirements shall not be required under any of the following circumstances. The burden of proof as a qualified exemption is upon the remover of a tree. It is highly recommended that qualification as an exemption be determined with the Landscape Administrator prior to removal of any tree.

(A) *Preexisting conditions.* All construction activities for which final construction plans and building permit applications have been submitted prior to the effective date of this chapter shall be exempt.

(B) *Diseased trees.* The tree is diseased, damaged beyond the point of recovery or in danger of falling as determined by the Landscape Administrator prior to the removal of the tree. The removal of a diseased tree by the city or an individual is required to reduce the chance of spreading the disease to adjacent healthy trees.

(C) *Public safety.* The tree endangers the public health, welfare or safety and immediate removal is required.

(D) *Utility service interruption.* The tree has disrupted a public utility service due to a tornado, storm, flood or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to reestablish and maintain reliable utility service.

(E) *Landscape nursery.* All licensed plant or tree nurseries shall be exempt from the requirements of this chapter as they pertain 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.

(Ord. 1220, passed 7-27-98)

§ 99.37 TREE REPLACEMENT REQUIREMENTS.

(A) *Tree replacement.* In the event that it is necessary to remove a protected tree as specified in §§ 99.33 through 99.35, the party (other than franchise utility companies) removing the tree shall be required to replace the protected trees being removed with quality trees approved by the Landscape Administrator. A sufficient number of trees shall be planted to equal or exceed the diameter (measured at four and one-half inches above ground level) of each tree removed. This mitigative measure is not meant to supplant good site planning. Tree replacement will be considered only after all design alternatives which could save more existing trees have been evaluated and reasonably rejected. Said replacement trees shall be a minimum of three-and-a-half inch diameter (measured at one foot above ground) and seven feet in height when planted.

(B) *Replacement procedures.* At the time of review, the agent responsible for replacement, the time of replacement and the location of the new trees will be determined by the Landscape Administrator. The replacement trees shall be located on the subject site whenever possible. However if this is not

feasible, the Landscape Administrator has the authority to allow the planting to take place on another property, including public property. Franchise utility companies shall be exempt from this requirement. If the Landscape Administrator approves the planting of replacement trees more than 30 days after the removal of protected trees, the applicant shall provide the Landscape Administrator with an affidavit that all replacement trees will be planted within six months. Any replacement tree required by this chapter must be covered by a one-year warranty that is acceptable to the Landscape Administrator.

(C) *Tree Reforestation Fund.* In a densely forested area, the applicant, upon approval of the Landscape Administrator, may make a payment into the Tree Reforestation Fund in lieu of planting the replacement tree on the subject site. The funds shall be used for: purchasing and planting trees on public property; acquiring wooded property which shall remain in a naturalistic state in perpetuity; and any irrigation, administrative and other costs incurred by the city while pursuing the activities described herein and other activities in support of tree planting, preservation and maintenance, and the general purpose and intent of this chapter. The amount of the payment required for each replacement tree shall be calculated based on a schedule published periodically by the Landscape Administrator which sets forth the average cost of a quality tree added to the average cost of planting a tree.

(Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10) Penalty, see § 99.99

§ 99.38 TREE PROTECTION.

A major purpose of this chapter is to protect all protected trees which are not required to be removed to allow approved construction to occur. The following procedures are required.

(A) *Construction plan requirements.* All construction plans shall include the requirements noted in Appendix E.

(B) *Prohibited activities.* The following activities shall be prohibited within the limits of the critical root zone of any protected tree subject to the requirements of this chapter.

(1) *Material storage.* No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree. However, this restriction shall not apply to material storage in areas exempt from the tree protection and replacement requirements (for example, building pad, driveway, patio, parking lot and the like.)

(2) *Equipment cleaning/liquid disposal.* No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.

(3) *Tree attachments.* No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.

(4) *Vehicular traffic.* No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

(5) *Grade changes.* No grade changes shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Landscape Administrator or if grading is as directed by the city's drainage inspector.

(6) *Impervious paving.* No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree except as otherwise allowed in this chapter.

(C) *Preserved tree.* A protected tree shall be considered to be preserved only if a minimum of 75% of the critical root zone is maintained at undisturbed natural grade and no more than 25% of the canopy is removed due to building encroachment.

(D) *Prior to construction.* The following procedures shall be followed on all types of construction projects (including residential subdivisions, commercial, multi family, industrial developments, residential builders and municipal/public).

(1) *Tree flagging or marking.* Trees that are approved by the Landscape Administrator for removal shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk or marked with bright fluorescent orange paint at a height of four feet or more such that it is very visible to workers operating construction equipment. This shall not include the flagging or marking of all protected trees adjacent to right-of-ways within approved residential subdivisions during the construction of the roadway. Trees that are not flagged or marked shall be saved and protected by fencing in accordance with the requirements in division (D)(2).

(2) *Protective fencing.* In those situations where a protected tree is so close to the construction area that construction equipment might infringe on the root system or is within 20 feet of the construction area, a protective fencing shall be required between the outer limits of the critical root zone of the tree and the construction activity area. Four feet high protective fencing shall be supported at a maximum of ten feet intervals by approved methods. 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.

(3) *Bark protection.* In situations where a protected tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with 2" x 4" lumber encircled with wire or other means that do not damage the tree. The intent here is to protect the bark of the tree against incidental contact by construction equipment.

(E) *Permanent construction methods.*

(1) *Boring.* Where it is not possible to trench around the critical root zone of a protected tree, boring of utilities under the protected tree shall be required. The length of the bore shall at least be the width of the critical root zone and the depth of the bore shall at least be 24 inches.

(2) *Grade change.* In situations where the grade change within the critical root zone of a protected tree exceeds the limits noted in division (B) of this section, the procedures noted in the city standard detail sheet shall be required.

(3) *Trenching.* All trenching shall be designed to avoid trenching across the critical root zone of any protected tree. Although this section is not intended to prohibit the placement of underground services such as electric, phone, gas and the like, the placement of these utilities is encouraged to be located outside of the critical root zone of protected trees. Irrigation system trenching shall be placed outside of the critical root zone with only the minimum required single head supply line allowed within that area placed radially to the tree trunk.

(4) *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.
(Ord. 1220, passed 7-27-98) Penalty, see § 99.99

§ 99.39 TREE PRUNING RESTRICTIONS.

(A) *General.* No protected tree should be pruned in a manner which significantly disfigures the tree without proper cause or in a manner which would reasonably lead to the death of the tree. All pruning shall be conducted in accordance with universally accepted arboricultural standards and the regulations contained in this chapter.

(B) *Permit requirements.* All franchise utility companies shall be required to maintain at the city a set of pruning specifications (updated annually) to be followed by all pruning contractors working for the company within the city. Prior to beginning any pruning not requested by the owner of the tree, the contractor for a non-franchise entity shall submit to the city an application for a pruning permit for approval. Utility companies may prune trees as necessary to maintain safe and reliable service or to re-establish disrupted electric service without obtaining a permit. Prior notification of any pruning activity shall be given to the city within 72 hours of work commencing.

(C) *Allowed pruning.* The Landscape Administrator may approve pruning of a protected tree in cases where protected trees must be strategically pruned to allow construction or demolition of a structure. When allowed, all pruning shall be in accordance with § 99.38(C), approved Arboricultural techniques and the recommendations of Appendix F. This section is not intended to require a tree permit for reasonable pruning performed or contracted to be performed by the owner of the tree when unrelated to construction activity.

(D) *Required pruning.* The owners of all trees adjacent to public right-of-way shall be required to maintain a minimum clearance of 14 feet above the traveled pavement or curb of a public street. Said owners shall also remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall also have the right to prune trees overhanging within public right-of-way which interfere with the proper spread of light along the street from a street light or interfere with visibility of any traffic control device or sign or as necessary to preserve the public safety.

(E) *Tree topping.* It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Landscape Administrator. (Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10) Penalty, see § 99.99

§ 99.40 TREE PLANTING RESTRICTIONS.

(A) *Overhead lines.* Any required replacement trees shall not be planted within an area such that the mature canopy of the tree will be within ten feet of overhead utility lines.

(B) *Proximity to utilities.* Any required replacement trees or street trees shall not be planted within five feet of electrical facilities (underground or surface), public utility lines, including water lines, sewer lines, transmission lines or other utilities. No trees shall be planted within ten feet of a fire hydrant. Shrubs will be permitted outside of the minimum clearance of surface electrical facilities established by the franchise electrical company.

(C) *Street corners.* No street tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. (Ord. 1220, passed 7-27-98) Penalty, see § 99.99

ADMINISTRATION AND ENFORCEMENT

§ 99.50 ADDITIONAL DUTIES AND AUTHORITIES OF THE TREE BOARD.

The Tree Board shall have the responsibility to review and grant a tree removal permit for the following land use:

(A) Any public or recreational use that is deemed acceptable to the Tree Board.

(B) Any private use that is deemed acceptable to the Tree Board that usually requires large areas of open space.

(C) In granting the tree removal permit, the Tree Board is authorized to impose whatever conditions of approval that is deemed necessary by the Tree Board.
(Ord. 1220, passed 7-27-98)

§ 99.51 BUILDING PERMIT.

No building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of this chapter. The Building Official shall make available to the applicant a copy of this chapter or a condensed summary of the relevant aspects pertaining to the type of permit requested.
(Ord. 1220, passed 7-27-98)

§ 99.52 ACCEPTANCE OF IMPROVEMENTS.

No acceptance of public improvements shall be authorized until all fines for violations of this chapter have been paid to the city or otherwise disposed of through the Municipal Court. No acceptance of public improvements shall be authorized until all replacement trees have been planted or appropriate payments have been made to the Tree Reforestation Fund.
(Ord. 1220, passed 7-27-98)

§ 99.53 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy shall be issued until all fines for violations of this chapter have been paid to the city or otherwise disposed of through the Municipal Court. No certificate of occupancy shall be issued until all replacement trees have been planted or appropriate payments have been made to the Tree Reforestation Fund.
(Ord. 1220, passed 7-27-98)

§ 99.54 FISCAL SECURITY.

Notwithstanding the provisions of §§ 99.51 through 99.53, public improvements may be accepted and certificate of occupancy may be issued before all trees have been replaced if a fiscal security is posted in an amount equal to the prevailing rate for installed trees with a one year guarantee, plus 15% to cover administrative costs.
(Ord. 1220, passed 7-27-98)

§ 99.98 VIOLATIONS.

It shall be deemed a violation of this chapter for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first procuring approval from the Landscape Administrator.

(Ord. 1220, passed 7-27-98) Penalty, see § 99.99

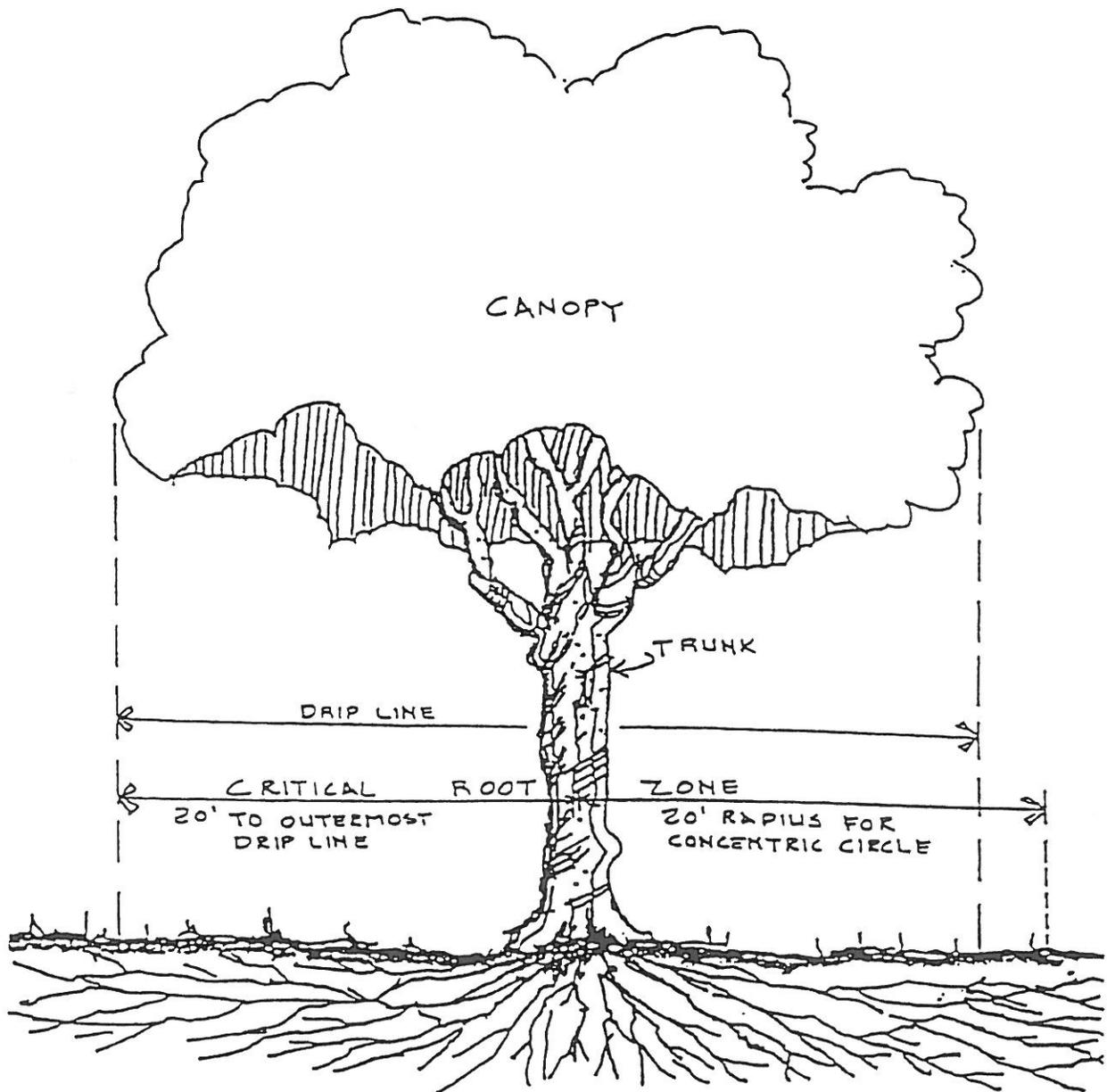
§ 99.99 PENALTY.

(A) Any person, firm, corporation, agent or employee thereof who violates the provisions of §§ 99.15 and 99.33 through 99.36 this chapter shall be guilty of a misdemeanor and upon conviction hereof shall be fined not to exceed \$300 per diameter inch of the tree(s) removed or damaged.

(B) Any person, firm, corporation, agent or employee thereof who violates any other provisions of this chapter shall be guilty of a misdemeanor and upon conviction hereof shall be fined not to exceed \$500 for each incident. The unlawful injury, destruction or removal of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein per tree.

(Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10)

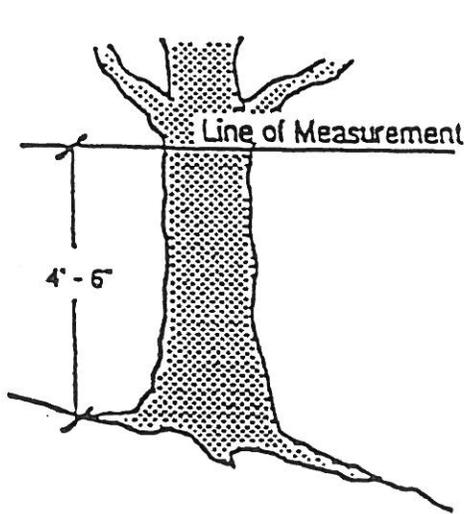
TREE EXHIBIT



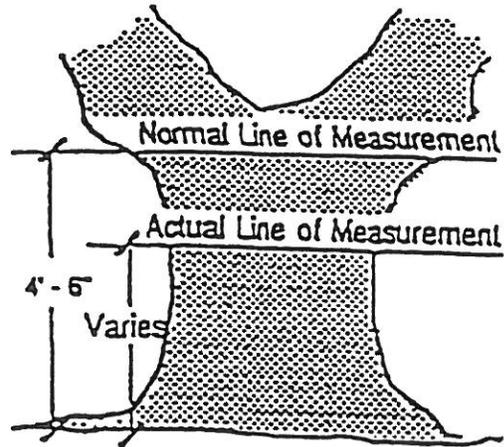
Critical Root Zone (CRZ): The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the dripline.

Drip Line: A vertical line run through the outermost portion of the canopy of a tree and extending to the ground.

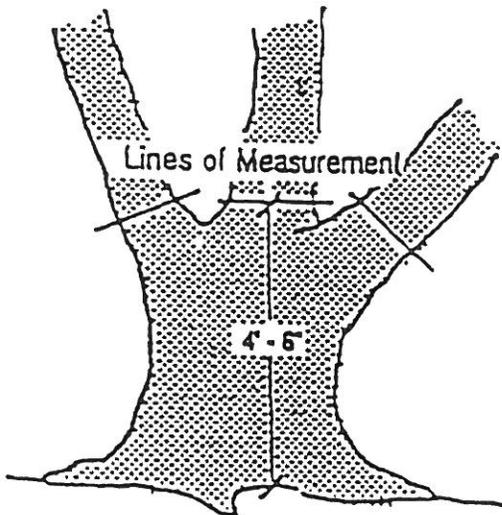
TREE DIAMETER MEASUREMENT



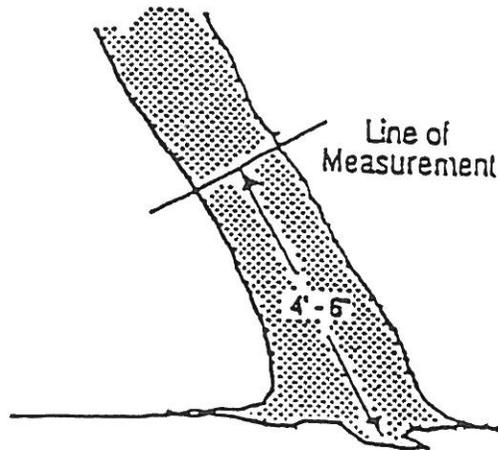
ON A SLOPE



IRREGULAR SWELLING
(requires discretion by
Landscape Administrator)



MULTI-TRUNK TREE



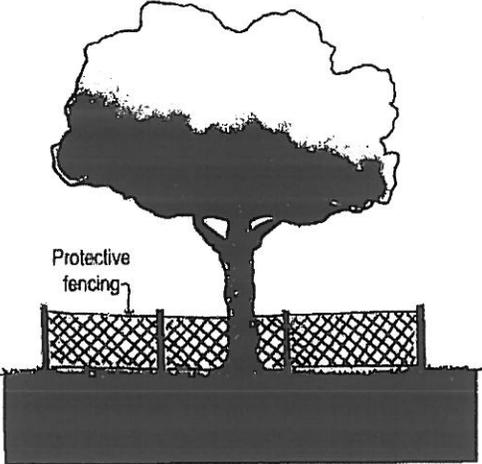
LEANING TREE

Source: COA

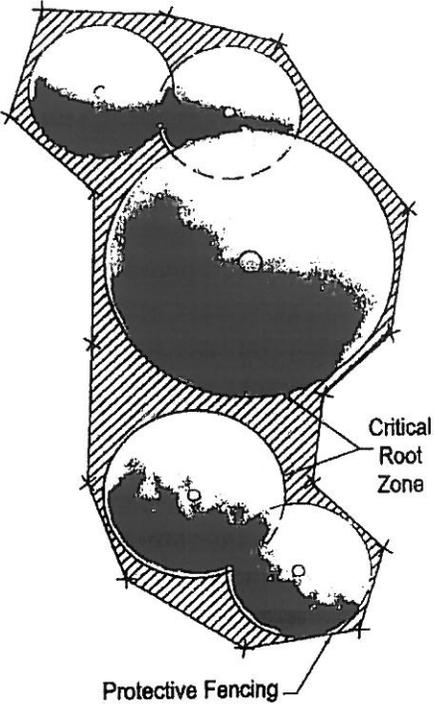
Diameter Measurement: The diameter of a tree shall be measured as shown above. The diameter of a multi-trunk tree shall be the total diameter of the largest trunk plus half the diameter of each additional trunk.

APPENDIX C

Tree Protection Detail



Protection Detail for a single tree



Protection Detail for multiple trees

(Ord. 1220, passed 7-27-98; Am. Ord. OR-1785-10, passed 9-13-10)

APPENDIX D

List of Items Required on Tree Survey

1. Appropriate title (for example, Tree Removal Exhibit or Tree Survey)
2. Title block which includes street address, lot and block, subdivision name, city and date of preparation.
3. North arrow, graphic and written scale in close proximity.
4. Scale at a size no larger than 1" = 100' for residential development; scale to be determined by the Landscape Administrator for nonresidential and home building activities.
5. Name, address and phone of owner and person preparing the document.
6. Location of all right-of-way lines and public easements.
7. Location of all buildings, structures, pools, parking and other improvements which are existing or intended on the lot.
8. Areas of cut/fill with amount of each shown and flow lines shown.
9. Existing and proposed spot elevations, grades and major contours, along with existing landscaping, streams, ponds and major natural features.
10. Areas of no disturbance labeled as "No Disturbance Area." This area must be clearly marked on the plan and surrounded with protective fencing on the ground. A single incidence removal of underbrush and vines is allowed.
11. All protected trees shown individually on the plan.² Canopy Trees six inches or greater in size and Understory Trees two inches or greater in size. Trees in close proximity that all have a caliper of less than four inches may be designated as a group of trees with quantity of quality, marginal and understory trees shown. (See Appendix C)
12. The location of protected trees must be tied by horizontal control (including dimensions from lot lines or placed through coordinates determined via survey.)
13. All protected trees shown with diameter (four and one-half feet from the ground), common name and condition.
14. Any proposed replacement trees shown with caliper size, common name of tree and mature size.

15. Graphic representations distinguishing protected trees that will be saved versus those that will be removed.

16. Phasing of tree survey along with phasing of the development is permitted.

Notes:

¹ The Landscape Administrator shall have the authority to designate areas as "no disturbance" areas where a survey would not be required due to no intended construction.

² An area may be designated as a "No Disturbance Zone" on the plan when approved by the Landscape Administrator and trees within that zone are not required to be individually identified on the plan.

³ The Landscape Administrator shall have the authority to exempt any of the above items that he/she deems to be not applicable.
(Ord. 1220, passed 7-27-98)

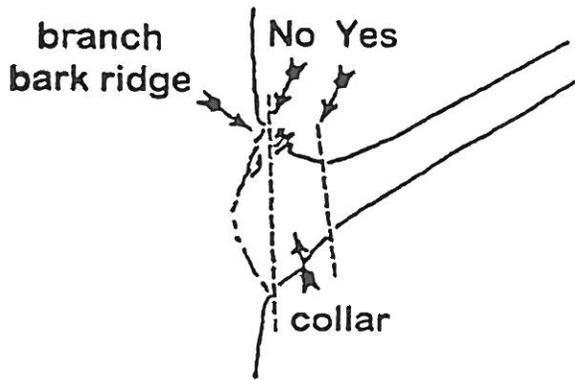
APPENDIX E

Construction Plan Requirements

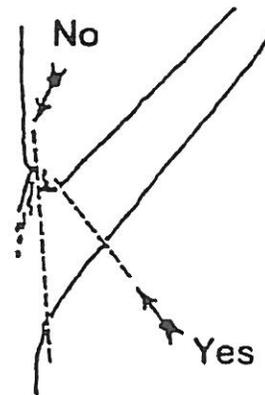
The following shall be required as a part of all construction plans submitted to the city when tree removal or tree protection is required during any phase of site work or construction.

1. A Tree Preservation Detail Sheet shall include the following at a minimum.
 - a. The requirements of § 99.38 (B) through (D) shall be noted.
 - b. A graphics legend to be used throughout the plans for the purposes of showing the following: trees to be flagged, protective fencing, trees requiring bark protection, boring, areas of cut and fill impacting protected trees.
 - c. Graphic tree exhibit showing the features of a tree to include the critical root zone, trunk, canopy, drip line and method of diameter measurement (per Appendices A & B).
 - d. Graphic exhibits showing methods of protection to include snow fences, boarded skirts and the like.
 - e. Graphic exhibits showing construction methods to include grade changes, boring, trenching and the like.
 - f. Graphic exhibit showing appropriate pruning practices (per Appendix F).
2. All practices which will be employed in meeting the requirements of this chapter shall be shown graphically on all applicable sheets within the construction plans.
3. Documents as required in Appendix D herein.
(Ord. 1220, passed 7-27-98)

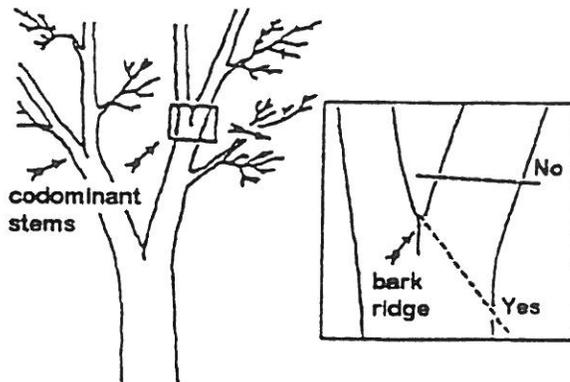
TREE PRUNING RECOMMENDATIONS



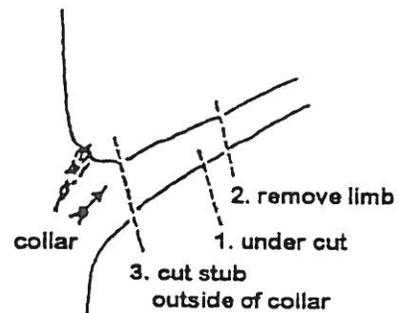
When removing a branch, always cut outside the branch bark ridge and collar. Do not make a flush cut.



Branches that do not have a distinct collar should be cut at a right angle to the branch outside the branch bark ridge.



Trees may have codominant stems, as shown on the left. If a codominant stem must be removed, cut at an angle outside of the bark ridge as shown in the insert at right. Avoid leaving any stub.



When removing heavy limbs, first make an undercut several inches outside of the collar. Then remove limb by a second cut an inch or so outside of the first cut. Remove stub with a third cut just outside of the collar. (Feucht, 1985)