

Sec. 9.272. - Tree protection; permits.

(a) *Generally.*

- (1) No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging any tree located on any property within the city without first obtaining a permit, unless otherwise provided herein in subsection (b) of this section. Trees may be trimmed up to 20 percent of their canopy without obtaining a tree permit.
- (2) No person shall trim, remove or alter vegetation in a designated occupied scrub jay habitat area without obtaining approval from the United States Fish and Wildlife Service (USFWS), except that non-indigenous, non-native, noxious species may be individually moved with the approval of the code compliance division.
- (3) Tree permits authorized by this section, may be obtained by making application for permit to the code compliance division on a form to be supplied by the city, indicating the type tree and how it is proposed to be cut, destroyed or removed, who will perform the work; and such other information as may be required by the code compliance division to effectively enforce the provisions of this article. A separate application shall be filed for each site upon which tree removal is requested.

(b) *Exceptions.* The following types of trees shall be exempt from the provisions of this section and this chapter and no permit or fees shall be required for the removal, cutting down, or destruction of these trees or other trees identified as exempt by the code compliance division:

- (1) *Melaleuca quinquenervia* (Cajaput or Paperbark).
- (2) *Melaleuca leucadendra* (Punk).
- (3) *Casuarina* (SPP) (Australian Pine), (Brazilian Oak).
- (4) *Schinus terebinthifolius* (Brazilian Pepper).
- (5) *Araucaria excelsa* (Norfolk Island Pine).
- (6) *Eucalyptus* (all varieties except *Eucalyptus Cinerea*).
- (7) *Bischofia javanica* (Bishopwood, Bischofia).
- (8) *Ricinus cummunis* (Castorbean).
- (9) *Metopium toxiferum* (Poison Wood).
- (10) *Melaiceae azedarach* (Chinaberry).
- (11) *Enterolobium* (SPP) (Eartree).
- (12) *Cinnamomum Camphora* (Camphor Tree).
- (13) *Cupaniopsis anacardioides* (Carrottwood Tree).
- (14) Trees located in state-licensed and governmental plant or tree nurseries or botanical gardens in which the trees are planted and growing for the sale or intended sale to the general public in the ordinary course of business or for some public purpose and which are sold.
- (15) Trees which are required to be removed by law.
- (16) Trees which, due to natural circumstances, are no longer viable, are in danger of falling, are too close to existing structures so as to endanger such structures, interfere with utility services, create unsafe vision clearance or constitute a safety hazard.
- (17) Trees located on properties with existing single and duplex dwellings.

(c) *Application for tree permit.*

- (1) Applications for construction sites of one acre or more in size. Any person proposing tree removal in conjunction with any construction or development of real property on sites of one acre or more

in size shall submit as an attachment to the tree permit application, unless already submitted to the city as an attachment to an application for building permit or site plan approval, two copies of a legible reproducible plan, drawn to scale and indicating the following information for the entire site:

- a. Location, shape and spatial arrangements of all existing and proposed buildings, walls or fences, or other improvements and structures.
 - b. Identification of uses on adjacent properties.
 - c. Location, shape and spatial arrangement of all parking areas and access roads.
 - d. Existing and proposed utility services.
 - e. Existing and proposed elevations.
 - f. Setbacks, yard requirements and location of easements.
 - g. Existing and proposed wells.
 - h. All sink holes, rock outcroppings and historical sites.
 - i. A tree survey certified by a landscape architect or other qualified person overlaid directly upon the site plan, and indicating the location, referenced to structures, of all trees as defined in this chapter. The survey shall distinguish existing trees, which are proposed to be destroyed, relocated, replaced or preserved at their present location. Said survey shall show the location of all existing trees as defined in this chapter and include all non-native, non-indigenous trees required to be removed. Tree information shall be summarized in a legend form and shall contain the variety, trunk diameter, height and location, referenced to structure of all trees shown on the survey. Groups of trees less than three feet apart may be designated as clumps, with the exception that any tree with a trunk diameter of eight inches or more must be specifically designated. For sites on which tree removal activity is to occur on less than the entirety of the site, the code compliance division shall provide that the tree survey may exclude those portions of the site which it determines will not be affected by the tree removal or clearing activity.
- (2) Applications for construction sites of less than one acre in size. Any person proposing tree removal in conjunction with any construction on, or development of real property on sites of less than one acre in size shall submit as an attachment to the tree permit application, the following listed information on a sketch or rendering, drawn to scale indicating the types of trees and their location in relation to the proposed structure.
- a. Location, shape and spatial arrangements of all existing and proposed buildings, walls or fences, improvements or structures and existing trees, and the size and type of existing trees, and the listing and location of all non-native, non-indigenous trees required to be removed.
 - b. Identification of uses on adjacent properties.
 - c. Location, shape and spatial arrangement of all parking areas and access roads.
 - d. Existing and proposed utility services.
 - e. Existing and proposed elevations.
 - f. Setbacks, yard requirements and easements.
 - g. Existing and proposed wells.
 - h. All sink holes, rock outcroppings and historical sites.
- (3) Permit fee. The fee for the tree permit authorized under this section shall be \$15.00 plus \$10.00 for each tree for which removal is requested on said application with a maximum fee not to exceed \$100.00 for individual single-family and duplex lots and not to exceed \$1,000.00 for other areas where trees are to be removed.

(d) *Criteria for issuance of permits.* Tree permits shall be issued in accordance with this section when the code compliance division has been satisfied that the application meets all of the following criteria:

- (1) The subject tree is located within the area where any building, roadway, pavement, retention pond or other improvement is proposed to be constructed, or where a grade change necessary to proposed development of the site will be made which is too severe for the tree to survive, and cannot be reasonably accommodated with tree wells as determined by the code compliance division, and such proposed improvements or grade change cannot be relocated upon the site so as to further maximize the preservation of the existing trees upon the site while not unreasonably restricting the permitted use of the property.
- (2) It is in the welfare of the general public that the tree be removed for a reason other than set forth above.
- (3) Appropriate arrangements for disposal of trees, and tree parts have been provided. Commercially viable grade trees shall be salvaged and used for commercial resources including lumber or mulch materials when such vegetation is of sufficient size, of a healthy condition, and economically viable to do so. Canopy trees removed shall be made available for use as commercial wood products. No vegetative debris, including limbs, trunks, roots, leaves, or mulched vegetative materials shall be used for fill material except for landscaped ground cover.

(e) *Relocation or replacement.*

- (1) As a condition to the granting of a tree removal permit under this section the applicant may be required, where practical, to:
 - a. Relocate those trees which would otherwise be destroyed, to another location upon the site; or
 - b. Replace those trees which will be destroyed with suitable replacement trees elsewhere within the site. Such replacement trees shall be of a variety listed in section 9.273(c)(2)(a), or of any other variety approved by the code compliance division. No less than 80 percent of replacement trees shall be of the species classified as being drought tolerant.
- (2) In determining the required relocation or replacement of trees, the code compliance division or agency shall consider the needs of the intended use of the property, including all lands dedicated to public use, together with an evaluation of the following:
 - a. Existing tree coverage on the site and in the immediate surrounding area.
 - b. Number of trees to be removed on the entire site.
 - c. The type, size and condition of the trees to be removed.
 - d. The feasibility of relocating the particular trees, including relocating such trees to public lands or rights-of-way.
 - e. Topography and drainage of the site.
 - f. The extent to which the trees contribute to the aesthetic, economic and environmental integrity of the surrounding area.

(f) *Procedure for permitting tree removal.*

- (1) Upon receipt of a completed application containing all the information as required by this article, the code compliance division shall review said application. The review procedure shall determine the adequacy and accuracy of content and determine whether the application meets the requirements of this section and whether the applicant has taken all necessary and reasonable steps and considered design alternatives to preserve existing trees and to otherwise enhance the aesthetic appearance of the proposed development by the incorporation of existing trees into the design process.
- (2) Following approval of the application, the code compliance division shall issue the appropriate permits and indicate compliance with the provisions herein.

- (3) Upon the issuance of a tree removal permit under this section, a copy of said permit shall be prominently displayed on the site prior to the removal, relocation or replacement of any trees. Tree removal permits shall be included with all other permit cards and shall be displayed alongside them on the site.
 - (4) No final certificate of occupancy shall be issued nor electrical power connection authorization given until any relocation or replacement of trees required by the tree removal permit has been completed and final tree inspection approval has been given by the code compliance division. Trees relocated from one portion of the site to another which do not survive transplantation for at least one year shall be replaced by the owner of the site with a suitable replacement tree listed in section 9.273(c)(2)(a).
- (g) *Protection of trees not approved for removal, relocation or destruction.* It shall be unlawful for any person to place, or cause to place, materials, machinery or temporary soil deposits within the drip line of any tree protected by this chapter and not permitted for removal or destruction; to fail to erect and maintain barriers until certificate of occupancy, necessary to protect such tree or to attach anything other than protective wires, braces or other similar, non-injurious materials to such tree. Furthermore, no structure or impervious paving shall be located within a five foot radius of the trunk perimeter of any such tree. A tree of 1.5 feet or more in diameter shall require additional space as may be determined by the code compliance division.
- (h) *Penalty for removal or destruction of any tree not approved for removal or relocation.*
- (1) When a tree removal permit is required, any time that a tree is removed without a permit, the building official or code compliance division may cite the owner or developer of the property from which the tree was removed, and the person removing the tree, for a violation of this section 9.272(h)(1), City Code, illegal tree removal. Each day that the property is not in compliance with this code provision shall be deemed to be a separate offense and violation hereof, and destruction of a tree without a required permit shall be considered to be an irreversible and irreparable violation of this code. Alleged violators may be prosecuted before the code enforcement board, or as otherwise provided in this code or by law.
 - (2) Regardless of any action that may be taken by the code enforcement board, the property owner on whose property the tree was removed shall provide replacement trees of the same type and size as the one destroyed. If it is not possible to replace the tree with those of exact size and variety, the following replacement requirements shall apply:
 - a. A canopy tree must be replaced with a canopy tree.
 - b. An accent may be replaced with an accent or a canopy.
 - c. Each illegally removed tree must be replaced with a containerized (not field grown) tree of a cumulative trunk diameter equal to or greater than the sum in inches for each inch of tree removed and no tree may be used as a replacement tree that has less than six inch caliper measured one foot above grade when feasible.
 - d. Replacement trees may be no less than 12 feet high.
 - (3) Until the illegally destroyed or removed trees are replaced on the site, no certificate of occupancy or completion, if applicable, shall be issued by the city.
 - (4) Replacement trees under subsection (h) shall not be counted toward satisfying the minimum landscaping requirements for development.