

Tree Protection and Preservation

Article I of Chapter 22.5

Excerpt from Chapter 22.5, Tree Protection and Preservation; Tree Board, of the City of Richardson, Texas Code of Ordinances.

Sec. 22.5-1. – Applicability.

Except as provided in Section 22.5-2, this article shall apply to all real property and the development, construction, and redevelopment of real property within the City including, but not limited to, the following:

- (a) Undeveloped property;
- (b) Non-residential and multi-family uses, and non-residentially zoned property; and
- (c) Any real property owned, leased, controlled, developed, constructed or redeveloped by a public independent school district is subject to this article except to the extent that this article unreasonably interferes with the decision of the independent school district on where to locate an educational facility.

Sec. 22.5-2. – Exemptions.

Except as otherwise provided herein, this Article I shall not apply to the following:

- (a) Trees removed from a developed residential property or in association with the redevelopment of residential dwellings on a lot previously used for a residential dwelling;
- (b) The removal, trimming, and maintenance of a tree by a public utility company or other entity if such removal, trimming, and maintenance is:
 - (1) Reasonably necessary to protect the utility's facilities from damage or disruption in the event of damage to such tree from weather-related events,
 - (2) Reasonably necessary to allow the utility or other entity to access its facilities for purpose of operating, maintaining, repairing, and/or replacing such facilities;
 - (3) Authorized by prior agreements with the City; or
 - (4) Is authorized by other law or regulation that preempts the provisions of this article;
- (c) Trees removed, trimmed, damaged or destroyed during a weather-related event such as a tornado, windstorm, flood, other natural disaster, or other act of God;
- (d) The removal of some or all of a tree which is diseased, injured or determined by a qualified professional to be in a hazardous or dangerous condition so as to endanger the public health, safety, or welfare and immediate removal is required;
- (e) The removal of trees from that portion of a property owned or operated by a plant and/or tree nursery on which trees are planted, and/or grown and held as inventory for future sale to retail or wholesale customers but not trees planted on the property pursuant to zoning regulations applicable to the property; and
- (f) The removal of trees by the City from City Managed Property.

Sec. 22.5-3. – Definitions.

The following definitions shall apply to this chapter and the words and phrases shall have the meanings ascribed unless the context clearly indicates otherwise.

Caliper means the diameter of the trunk of a newly installed tree (planted within the previous year) as measured 12 inches above grade, or the diameter of an existing tree measured at the DBH of four and one-half feet above the ground. For trees with multiple stems, the measurement is one-half of the combined caliper of the three largest stems.

City means the City of Richardson, Texas.

City Manager means the City Manager of the City or designee.

City Managed Property means public streets, alleys, City right-of-way, parks, public places, and other property owned, leased, or controlled by the City. City Managed Property does not include public streets or highways under ownership or control of the state, the North Texas Tollway Authority, or other governmental entity.

DBH means diameter in inches of a tree as measured through the main trunk at a point four and one-half feet above the natural ground level.

Director means the Director of Development Services or designee.

Non-Residential means commercial, multifamily or other nonresidential use.

Parkway means the area lying between the street right-of-way line of any public street and/or alley, and the curb line of the street and/or alley; or if there is no curb line, the paved portion of the street and/or alley. Generally, the parkway area is the area between the edge of the road/curb and the farthest edge of the sidewalk.

Protected Tree means any tree six (6) inches in caliper DBH or larger which is not an Unprotected Tree.

Qualified Professional means a certified arborist or registered landscape architect.

Residential means any single-family attached or detached, duplex, three-family or four-family dwelling.

Specimen Tree means a tree with a caliper of 24-inches DBH or greater.

Standard Construction Details means the City Standard Construction Details, as amended.

Trees means, collectively, Protected Trees, Specimen Trees, and Unprotected Trees.

Tree Management Fund means a fund set aside for the planting of trees or other vegetative plantings in the City in which developers and property owners have the option of paying fees into the tree management fund as a form of tree mitigation.

Tree Mitigation Plan means a layout of the proposed development with the graphical and tabular representation of all Protected Trees and other trees to be preserved on a site.

Tree Survey means a graphical and tabular representation sealed and signed by a qualified professional of all trees on site six (6) inches DBH or greater that identifies the location, species, caliper size, general health of the tree and total caliper of tree.

Unprotected Tree means the following species of trees: callery pear (all cultivars), hackberry, mulberry, bois D'arc, mimosa, chinaberry, silver maple, cottonwood, Chinese tallow tree, tree of heaven, privet, and other trees classified as invasive to Dallas region by the Texas Parks and Wildlife Department, the Texas A & M Forest Service, or the Texas Department of Agriculture.

Sec. 22.5-4. – Administration; enforcement.

- (a) The administration and enforcement of this article shall be the responsibility of the Development Services Department, under the supervision of the Director. The Director, the City building official, or another authorized representative shall have the authority to place a stop work order on any activity which is effectively removing Protected or Specimen Trees in violation of this chapter and may cause the issuance of a notice of violation to any person for failing to comply with provisions of this chapter which will be adjudicated in the municipal court.
- (b) The administrative interpretation of this Article by the Director may be appealed to the board of adjustment.

Sec. 22.5-5. – Guidelines for tree protection.

Except as provided in this chapter, the protection and preservation of Protected Trees and Specimen Trees shall be preserved and protected in accordance with the Standard Construction Details unless a tree removal permit has been obtained. Prior to the commencement of construction, re-construction or land development of any property, the owner of the property shall comply with the tree protection and preservation requirements of the Standard Construction Details.

Sec. 22.5-6. – Tree removal permits.

- (a) No person, directly or indirectly, shall cut down, destroy, remove, or effectively destroy through damaging any Protected Tree or Specimen Tree within the City without first obtaining a tree removal permit, as provided in this section. Each removal of a Protected Tree or Specimen Tree without first obtaining a tree permit shall constitute a separate offense and shall upon conviction be punished by a fine of up to Two Thousand and No/100 Dollars (\$2,000.00).
- (b) Permits for removal of a Protected Tree or Specimen Tree shall be made by making application on a form provided by the City and submitted to the Director accompanied by a non-refundable permit fee established by City Council from time to time. The filing of a tree removal permit application shall authorize the Director to conduct field inspections of the site as necessary for purposes related to the provisions of this article. The Director shall review the tree removal permit application and the tree mitigation plan accompanying such application as required by Section 22.5-8 and will approve, approve with conditions, or disapprove the application.
- (c) Damaged trees. The City shall issue a tree removal permit for a Protected Tree or Specimen Tree if the owner requests a tree removal permit and:
 - (1) The tree:
 - (i) Is injured, dying, diseased or infested with harmful insects to the extent that it is not likely to survive; or
 - (ii) Is in danger of falling or interfering with utility service or creates an unsafe vision clearance; or
 - (iii) In any manner creates a hazardous or dangerous condition so as to endanger the public health, welfare, or safety; and
 - (2) Either:
 - (i) A qualified professional certifies that one or more of the foregoing conditions exist; or
 - (ii) The City inspects the tree and is satisfied that one or more of the foregoing conditions are satisfied.

Removal of a tree pursuant to this Section 22.5-6(c) shall not require the owner to comply with the tree mitigation requirements of Section 22.5-7.

- (d) Dangerous conditions. If the owner determines that an emergency situation exists that requires the immediate removal of a Protected or Specimen Tree to protect the safety of persons or property, then the owner may remove such tree only to the extent necessary to eliminate the dangerous situation without a tree removal permit; provided, however, the owner must immediately apply for a tree removal permit not later than the first City business day following the removal or partial removal of such tree. Removal of a tree pursuant to this Section 22.5-6(d) shall not require the owner to comply with the tree mitigation requirements of Section 22.5-7.
- (e) The trees to be removed pursuant to a tree removal permit shall be completely removed from the site not later than 180 days after the date of issuance of the tree removal permit. The tree removal permit may be extended by the Director one time for an additional 30 days. If the work is not completed within the time limit, then a new tree removal permit must be applied for and issued before the work can continue.

Sec. 22.5-7. – Protected Tree Replacement.

- (a) Removal of any Protected Tree or Specimen Tree shall require a tree removal permit and the replacement of tree(s) on the site or on public land designated by the Director, or by payment of a fee to the City for deposit in the tree management fund in the amount of two hundred dollars (\$200) per caliper inches of required mitigation for each tree to be removed, or such other fee as established by the City Council from time to time.
- (b) Replacement of each Protected Tree shall require the replanting of replacement trees of not less one (1) caliper inch DBH for each one (1) caliper inch DBH of removed tree.
- (c) Replacement of each Specimen Tree shall require the replanting of replacement trees of two (2) caliper inches DBH for each one (1) caliper inch DBH of removed tree.
- (d) Replacement trees shall be not less than three (3) caliper inches DBH and not less than fourteen (14) feet tall measured from the top of the root ball at the time of planting.
- (e) All replacement trees shall be planted in accordance with the Standard Construction Details and with the American Association of Nurserymen, Inc. (AAN) Standard: American Standard for Nursery Stock (ANSI Z60.1, latest edition).

Sec. 22.5-8. - Tree Mitigation Plan.

- (a) A tree mitigation plan that complies with this section shall be submitted to the Director with the application for tree removal permit for review and approval.
- (b) The owner may request the City Council grant a variance or waiver of the tree mitigation requirements set forth in this article and the Standard Construction Details or as set forth in the tree mitigation plan by submitting a written request, on a form provided by the City, to the Director which may be requested prior to or concurrent with the submission of tree mitigation plan. The request shall include the requirements of this article, the Standard Construction Details, or the tree mitigation plan, as the case may be for which a variance, waiver, or alternative tree protection measure is requested. The City Council shall endeavor to consider the request not later than thirty (30) days after the date the request is delivered to the Director. The City Council may deny the request, grant a variance or waiver, or approve alternative protection measures for the tree mitigation plan.

- (c) The tree mitigation plan shall consist of the following elements:
 - (1) A site plan of the proposed development depicting all proposed and existing site elements and easements superimposed with a tree survey that identifies and describes the location, species, caliper size, and general health of all trees on the property that are six (6) inches DBH or greater;
 - (2) A tree survey compiled in a tabular format with each tree identified by a number corresponding to a numbered tree on the site plan, the total caliper of all trees to be removed and preserved, and the reason for each proposed tree removal;
 - (3) The protective measures and barriers to be used during construction to preserve the Protected Trees that are to remain shall be in accordance with the Standard Construction Details, as amended;
 - (4) Identification of the Protected and/or Specimen Trees proposed to be removed; and
 - (5) If planting replacement trees to replace some or all of the Protected and/or Specimen Trees, the location, species, and number of the replacement trees to be planted.
- (d) A tree mitigation plan shall be submitted to the Director in conjunction with the following:
 - (1) An application for a permit to fill or grade property.
 - (2) Submittal of a development application including site plan, landscape plan, civil plans, or a plat.
- (e) The tree mitigation plan must be prepared by a qualified professional and shall be current within six (6) months prior to submission to the Director in association with an application.
- (f) An approved tree mitigation plan shall constitute a tree mitigation agreement between the City and the owner relating to the owner's obligation to plant replacement trees or to pay money in lieu of replacement with respect to Protected and/or Specimen Trees removed.
- (g) Replacement of trees shall be in accordance with the approved tree mitigation plan. In approving the tree mitigation plan, the Director (or the City Council, if a waiver or variance is approved) shall consider the species, growing characteristics, root systems, soil conditions and proposed location of replacement trees, as well as other mitigation efforts including, but not limited to, the realignment of rights-of-way or relocation of utilities, which minimize tree loss.
- (h) If there are no Protected Trees located on a property to be developed, an affidavit prepared by a qualified professional shall be submitted to the Director, verifying that Protected Trees are not located on the property.

Sec. 22.5-9. - Grant of authority; coordination with public services department.

- (a) The director of parks and recreation is granted authority, control and supervision over all trees, plants and shrubs planted or growing in or upon City Managed Property including but not limited to, the planting, removal, care, maintenance, and protection thereof.
- (b) The Public Services Department will coordinate with the director of parks and recreation and will provide services as required to assure compliance with this chapter as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under the control or supervision of the director of parks and recreation.

Sec. 22.5-10 - Planting, preserving, removing, etc. on public property.

- (a) The director of parks and recreation shall have the authority to plant, preserve, spray, trim, cable or remove any tree, shrub or plant on any City Managed Property, street, alley, public place, or easement owned or controlled by the City. The director of parks and recreation is authorized to remove, or order removed and/or sprayed any tree, shrub or plant or any part thereof that is in an unsafe condition, is injurious to the common good or to sewer pipes, public utility lines, drainage facilities, pavements, improvements, or is infested and dangerous to other trees, shrubs, or plant.
- (b) It is an offense for any person to plant or remove or permit or cause to be planted or removed any tree, shrub, or plant on or from any public street, park, or other City Managed Property without the prior approval of the director of parks and recreation. The parkway area not managed by the City is the responsibility of the adjacent property owner.
- (c) No tree, shrub or other landscaping shall interfere with the free passage of vehicles on a public street or alley, or of pedestrians on the sidewalk or obscure the view of motor vehicle operators of any traffic-control device or street sign, visibility triangle, or otherwise create a traffic hazard.

Sec. 22.5-11 - Breaking, injuring, etc., tree, shrubs.

Except to remove, prune, trim or maintain trees, shrubs or landscaping as required by Section 22.5-10 or as authorized by the director of parks and recreation in writing, it shall be an offense for any person, firm, or corporation to cut or break any branch of any tree or shrub or injure in any way the bark of any tree or shrub on any City Managed Property. It shall be an offense for any person, firm, or corporation to permit, suffer or allow any injurious substance such as gas, salt, oil, or other harmful substance to come in contact with any tree, shrub, or plant on any City Managed Property.

Sec. 22.5-12-Attaching objects to public trees.

It shall be an offense for any person, firm, or corporation to attach any cable, wire, rope, sign or any other object to any tree, shrub, or plant on any City Managed Property without the prior written consent from the director of parks and recreation.