

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. TREE PRESERVATION*

Sec. 18-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Caliper means the diameter of a tree as measured at a point on the tree that is 12 inches above the ambient grade.

Circumference means the circumference of the trunk of a tree measured at a height of 4½ feet above the ground using an ordinary tape measure or diameter tape. If the tree has unusual swells in the trunk at measurement height, measurement shall be taken either below or above the swell at the smallest trunk diameter as close to 4½ feet as possible.

Critical root zone means the area within the drip line of a tree.

Development activity means construction or preparation for construction, and includes grading, clearing and grubbing, and demolition of existing structures.

Drip line means an imaginary circle drawn around a tree extending to the outer tips of the largest branches.

Impervious material means concrete, tar, asphalt, brick pavers or similar paving materials.

Minimum required density means, for a particular lot:

- (1) Seven protected or replacement trees, of which at least three must be located in the front yard, plus one additional protected or replacement tree for every 1,000

***Editor's note**—Ord. No. 720, § 1, adopted May 20, 2008, amended Ch. 18, Art. II in its entirety to read as herein set out. Former Art. II, §§ 18-19—18-25, pertained to similar subject matter, and derived from the Code of 2002, §§ 3.1401, 3.1402(a)—(g), 3.1403, 3.1405, and 3.1406, and Ord. No. 562, adopted November 16, 1999.

square feet of area in excess of 22,500 square feet, up to a maximum of seven additional protected or replacement trees per lot, provided, however, that where a lot contains areas that are not suitable for the location of trees because of topology or other natural features, those unsuitable areas shall not be included in calculating the number of additional protected or replacement trees required in addition to the first seven;

- (2) For a lot that is less than 20,000 square feet in area: a) the minimum number of protected or replacement trees may be reduced to five where the collective circumference of the protected and replacement trees equals 375 inches or more; and b) the minimum number of protected or replacement trees in the front yard may be reduced to two protected or replacement trees where the collective circumference of the protected and replacement trees in the front yard equals 150 inches or more.
- (3) A protected or replacement tree that is located within the public street right-of-way shall not be counted in determining whether a lot has the minimum required density of protected or replacement trees.

Professional means a person with a professional working knowledge of trees, and includes architects, engineers, landscape or tree professionals, arborists, surveyors and any city official approved by the city council.

Property owner means the owner of a lot, tract, parcel or other site, and includes the owner's authorized agents.

Protected tree means any existing tree that has a circumference of 18 inches or more.

Protective fence means a physical barrier that is:

- (1) At least four feet in height;
- (2) Supported by metal posts spaced no wider than eight feet apart; and

- (3) Constructed of chain link fencing or similar material that is effective in preventing the passage of persons, machinery, trash, material or other items.

Replacement tree means a tree that: a) has a caliper of six inches or more; b) is at least ten feet in height; c) is one of the species listed in section 18-27; and d) is planted under the requirement of this article.

Root pruning means a clean cut between the undisturbed and disturbed root zones within the drip line of a tree, commonly done with a rock saw or similar equipment to minimize root damage.

Serious damage means any damage to a tree that will, in reasonable probability, cause the death of the tree or seriously impair its health. The following actions are actions that will cause serious damage to a tree: severing a main trunk or large branches or large roots, girdling, poisoning, carving, mutilating, touching with live wires, piercing with nails or spikes, crushing or exposing the roots, digging or drilling any hole or trench larger than three cubic feet within the critical root zone, covering over a substantial portion of the critical root zone with two inches or more of soil or other nonporous material or compacting a substantial part of the soil in the critical root zone (e.g., driving or parking a vehicle in the critical root zone, or otherwise placing heavy objects within the critical root zone).

Tree disposition and protection plan means a written plan prepared by a professional that shows how the protected trees and critical root zones on the site, and the critical root zones of protected trees that are located off of the site but that have 30 percent or more of their critical root zones within the site, are to be protected, and how replacement trees are to be planted and maintained to encourage survival and sustained growth.

Tree removal permit means a permit issued by the city pursuant to the conditions and requirements of this article, granting permission and authority to remove protected trees from a site.

Tree survey means a survey of the protected trees on a site. A tree survey must be prepared by a professional and must include:

- (1) The location, size, and species of all existing protected trees on the site;

- (2) A designation, by species, size and location, of all protected trees proposed to be removed or destroyed;
- (3) A designation of all proposed new and/or replacement trees by species, size and location;
- (4) Outlines of all existing and proposed structures, paved surfaces, swimming pools, fences, sprinkler systems, utilities and other improvements and structural features on the site;
- (5) A scale, north arrow, name, address, phone number, and profession or occupation of the person who prepared the tree survey; and
- (6) The name of the owner of the site and/or the builder or developer of the site.

Urban forester means the professional so designated by the city council. (Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 1, 7-15-2008; Ord. No. 779, § 1, 11-8-2011)

Sec. 18-20. Preservation and protection of trees.

(a) *Intent.* The intent of this section is to encourage site planning which furthers the preservation of trees and natural areas by these methods: to protect trees during construction; to facilitate site design and construction which contribute to the long-term viability of existing trees; to control the unnecessary removal of larger trees; and to require on-site replacement of larger trees that must be removed during development activities. It is the further intent of this article to achieve the following broader objectives:

- (1) Protect healthy trees and preserve the natural, ecological, environmental and aesthetic qualities of the city;
- (2) Protect and increase the value of properties within the city;
- (3) Prohibit the indiscriminate clearing or clear cutting of property;
- (4) Maintain and enhance a positive image toward the city;

- (5) Prevent the unnecessary removal of protected trees and to provide for remediation where removal is unavoidable.

(b) *Tree removal permit required.* It is unlawful for any person to remove or to intentionally, or with criminal negligence, cause serious damage to any protected tree within the city without having first obtained from the city a tree removal permit.

- (1) *Removal in connection with site development or construction.*

a. *Generally.* A property owner who seeks a permit to remove one or more protected trees in order to develop or construct improvements on a site must submit to the building official a current tree survey and tree disposition and protection plan. The city shall grant a tree removal permit if the applicant demonstrates that, for each protected tree that is to be removed, the removal is necessary in order to make a reasonable use of the site, and that all alternatives to removal, including redesign of the proposed improvements, have been considered.

- b. *Restrictions on additional removals.*

1. Where a permit is granted to remove protected trees in order to develop or construct a particular improvement on a site, and the subject trees are actually removed, no permit shall be granted for the removal of additional protected trees from the site for the construction of a similar improvement for a period of five years following the date the first permit was issued.
2. For example, if a permit is granted for the removal of trees for the construction of a proposed new residence and the property owner, or his successor in title, elects not to build that proposed residence, any

new proposed residence on the site must be designed to fit within the area from which protected trees have been removed and cannot require the removal of additional protected trees.

3. The purpose of this provision is to prevent the unnecessary removal of protected trees based on speculative construction or development plans and to encourage property owners to seek removal of trees only when the proposed improvements will actually be constructed.
4. For the purposes of this article, the filing of an application for removal of protected trees for the construction of a particular improvement is deemed to be an admission, by the applicant, that a reasonable improvement of the type desired can be constructed on the site without removing any additional protected trees.

- (2) *Other removal.*

a. A property owner who otherwise seeks a permit to remove a protected tree must file an application with the city describing the location, species, and size of the protected tree that is to be removed and explaining the reason that removal is desired. The city shall grant a removal permit if the applicant demonstrates that:

1. The protected tree in question is severely damaged, diseased or dead;
2. The protected tree constitutes an unreasonable impediment to the use and enjoyment of the site because of its location or size;
3. The tree is of an undesirable species that has characteristics

that interfere with the property owner's use and enjoyment of the site;

4. The removal of the tree is necessary for safety reasons including, but not limited to, a branch overhanging a structure, a severely leaning tree, or a tree with a seriously damaged root system that poses a reasonable threat of falling.
- b. Notwithstanding any other provision of this chapter, a property owner is not required to obtain a permit to remove a single protected tree that is severely damaged, diseased or dead or that must be removed for safety reasons, including but not limited to, a branch overhanging a structure, a severely leaning tree, or a tree with a seriously damaged root system that poses a reasonable threat of falling.
- (3) *Emergency removal.* Where the dangerous condition of a protected tree requires its immediate removal to protect against a serious and immediate risk to health, safety or property, a property owner may remove a protected tree without first obtaining a permit. However, within seven calendar days after removing the tree, the property owner must file with the building official a written statement describing the protected tree by size, species, and location and explaining the emergency conditions that required its immediate removal.
 - (c) *Tree survey and tree disposition and protection plan required.* Except as provided in subsection (c)(2) below, for small projects, no permit shall be granted for any site work or construction activity in the city unless and until a current tree survey and tree disposition and protection plan for the subject lot, and any property within ten feet of the subject lot, has been submitted to the city and approved by the urban forester.
 - (1) *Small projects exception.* Neither a tree survey nor a tree disposition and protection plan is required for projects that meet the following requirements as determined by the building official:
 - a. The construction work or other activity contemplated by the permit is of a type and scope that presents little risk of serious damage to any protected trees on the site; and
 - b. The owner, or his authorized agent, has certified to the city in writing that no protected trees will be removed or seriously damaged during the construction work or other activity.
 - (2) *Single tree exception.* Neither a tree survey nor a tree disposition and protection plan is required where a property owner seeks to remove a protected tree for any of the reasons set out in subsection 18-20(b)(2).
 - (d) *Utility right-of-way maintenance.*
 - (1) An employee of a public utility, or an authorized contractor working in a dedicated public right-of-way, drainage or utility easement, may in the course of business, prune that portion of a tree, including a protected tree, that prohibits the safe construction, operation, repair or maintenance of a service line or facility. Trees must be pruned no more than is reasonably necessary for the construction, operation, repair or maintenance of the service line or facility, and any pruning shall be in accordance with the specifications set forth by the National Association of Arborists. No tree permit, tree survey or tree disposition and protection plan is required for work performed under these circumstances.
 - (2) Trees, including protected trees, that are outside the public right-of-way or utility easement, that are severely damaged, diseased or dead and that present a risk of damaging a public utility service line or facility may be removed by an employee or authorized contractor of the public utility whose service line or facility is at risk of damage, provided that utility has the

consent of the tree owner. Such work will require a permit for removal, but no tree survey or tree disposition and protection plan is required. No permit fee shall be charged for issuance of a permit under this subsection.

- (e) *Tree replacement.*
- (1) *Generally.* Except as otherwise provided, a property owner must maintain the minimum required density of protected and replacement trees on the owner's lot at all times and, if the lot falls below the minimum required density because of the loss or removal of a tree or trees, regardless of cause, the property owner shall plant and maintain a sufficient number of replacement trees to meet the minimum required density. If a lot fall below the minimum required density because of the loss of one or more protected or replacement trees, the property owner shall, within 30 days after the removal or loss, plant a sufficient number of replacement trees to restore the minimum required density.
 - (2) *Special rule for removals related to driveway construction.* Where protected trees are removed from a front yard in order to relocate or expand a pre-existing driveway, the property owner must plant one replacement tree in the front yard for every protected tree that is removed from the front yard. Tree replacement is required under this provision regardless of whether replacement would have been required under subsection (e)(1), above.
 - (3) *Location requirements for new home construction.* Where a new home is to be constructed on a site, the tree disposition and protection plan must include provisions for preserving or planting and maintaining at least three protected or replacement trees in the front yard.
 - (4) *Timing of planting.* Any replacement tree required under this article shall be planted within 30 days after the loss or removal of the tree it is to replace. Provided however, that the building official may grant a written extension if the property owner:
 - a. Applies for the extension in writing, and within 30 days after the loss or removal; and
 - b. Demonstrates that replacement within 30 days is not practical because of ongoing construction or weather conditions.
 - (5) *Exceptions to replacement requirements.* No replacement tree shall be required if because of the topography or natural conditions of the lot, or the location of permitted structures and other improvements to the lot, it is not reasonably possible to plant and maintain an otherwise required replacement tree. A property owner who is excused from providing a replacement tree shall instead pay to the city the applicable tree replacement fee.
 - (6) *Replacement of trees that die within five years after construction activity.* A property owner shall plant replacement trees for any protected trees that die within five years after the date of completion of any outside construction activity on the property, regardless of whether the lot would have the minimum required density without the replacement. Provided however, that no replacement shall be required if the property owner can demonstrate that the death of the tree or trees was not related to the construction activity.
 - (f) *Protection of trees during site preparation or construction activity.* Protected trees, whether located on the subject site or within ten feet of the subject site, must be protected from serious damage during construction activity in accordance with the following requirements, provided, however, that the urban forester may allow modification of the requirements upon a determination that unique circumstances exist and that a strict application of the requirements would result in undue hardship to the owner of the site.
 - (1) *Prohibited activities.* The following activities are prohibited within the drip line of any protected tree:
 - a. *Material storage.* No materials intended for use in construction accu-

- mulated due to excavation or demolition shall be placed within the limits of the drip line of any protected tree.
- b. *Equipment cleaning; liquid disposal.* No equipment shall be cleaned, and no liquids other than clean water shall be deposited, within the limits of the drip line of any protected tree. Prohibited liquids include but are not limited to paint, oil, solvents, asphalt, concrete, mortar or other materials.
 - c. *Tree attachments.* No signs, wires or other attachments, other than those of a protective nature and that have been approved in the tree disposition and protection plan, shall be attached to any protected tree.
 - d. *Vehicular traffic.* No vehicle, construction equipment or other parking shall be allowed within the limits of the drip line of any protected tree.
 - e. *Trespassing; trash.* Trespassing or throwing trash into a protective fence area is prohibited.
- (2) *Required procedures.* The following procedures shall be followed prior to and during any development activity on a site until a certificate of occupancy has been issued by the city:
- a. *Protective fencing; root protection.* Unless otherwise approved in the tree disposition plan, the critical root zone of each tree or group of trees to be preserved must be enclosed by a protective fence during all development activity and until a certificate of occupancy has been issued by the city. Each protective fence shall be marked with signs stating "OFF LIMITS" and "NO TRASH" (or equivalent) in both English and Spanish.
 - b. *Mulch.* If development activity is to take place within the critical root zone of any tree, the protective fence shall cover the area on which no development activity is to take place, and the balance of the critical root zone for such tree or group of trees must be covered with at least six inches of organic or wood chip mulch and covered with three-fourths inch plywood or road boards in order to protect the roots from soil compaction.
 - c. *Fence, mulch removal.* It shall be unlawful for any person to remove any portion of any protective fence or mulch and road boards for any period of time during any development activity, unless otherwise specified in the tree disposition plan.
 - d. *Tree flagging.* All trees to be removed from the site shall be flagged with orange vinyl tape (flagging) wrapped around the main trunk at a height of four feet or more. After receipt of the tree removal permit, the owner of the site or his agent shall paint with orange paint an "X" on the tree approved for removal at a height of four feet or more so that the paint is visible to workers on foot or operating heavy equipment.
 - e. *Trunk protection.* In situations where a tree remains in the immediate area of intended development activity, the tree shall be protected by enclosing the entire circumference of the tree's trunk with lumber, at least eight feet high, banded by wire or other means that does not damage the tree.
 - f. *Construction pruning.* If a tree has a low canopy, or limbs that may be broken during the course of construction, and if specified and approved by the urban forester in the tree disposition plan, the obtrusive limbs may be cut. Pruning should be done according to the National Association of Arborists Standards.
 - g. *Supplemental feeding, watering.* Protected trees should receive supplemental water during times of drought or low rainfall. Plans for feeding and

watering must be prepared by a professional, who is retained by the owner or his agent and must be included in the tree disposition and protection plan.

(3) *Design constraints.* Design constraints may dictate that in certain circumstances some protected trees will have some encroachment of their critical root zone. The following is the minimum design criteria allowed within the critical root zone of a protected tree:

a. *Change of grade.* In the event that grade changes must be made around a protected tree, the following procedures shall be followed unless otherwise approved in the tree disposition plan:

1. No cut or fill of the ambient grade greater than two inches shall be located close to the trunk of a protected tree if the cut or fill covers more than one-half of the radius of the critical root zone. If these provisions cannot be complied with, the following provisions shall apply:

(i) *Increase in grade.* The owner shall construct tree wells around the drip line of a tree which shall be of a design that provides for proper aeration and drainage of the critical root zone; or

(ii) *Decrease in grade.* The owner shall construct retaining walls around the drip line of a tree to mitigate cuts.

2. If development activity causes standing water or wet soil conditions which are detrimental to a species of tree on a site or adjacent property, adequate drainage shall be provided in the tree disposition and protec-

tion plan in order to prevent suffocation and/or root rot of the affected tree.

b. *Underground utilities.* Boring for the installation of underground utilities is permitted under protected trees in certain circumstances. The minimum depth of the bore shall be 30 inches. In special circumstances approved by the urban forester, trenching for underground utilities may be permitted with respect to all such protected trees. If utility trenching is approved, the following procedures must be adhered to:

1. Root pruning shall take place at least two weeks prior to any trenching;
2. Root pruning shall be supervised by a professional;
3. The utility trench must be back-filled less than 24 hours after it is dug; and
4. A root remediation schedule must be addressed in the tree disposition plan.

c. *Irrigation systems.* Irrigation systems shall be designed to avoid trenching across the critical root zone of any protected tree.

d. *Paving and impervious material.* A maximum of 25 percent of the critical root zone of a protected tree may be covered with impenetrable material, such as concrete, tar or asphalt.

e. *Procedures when using impervious materials.* If the design plans for the site call for any impervious material over any part of the critical root zone of a protected tree, the following procedures shall be adhered to:

1. Root pruning shall be done six inches to one foot behind the proposed curb line and shall take place at least two weeks prior to any fill or cut;

2. Root pruning and necessary limb pruning shall be supervised by a professional;
3. A plastic vapor barrier of construction grade shall be installed between the roots of a protected tree and the impervious material so as to inhibit leaching of lime into the soil; and
4. A root remediation schedule must be addressed in the tree disposition plan.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, §§ 2, 3, 7-15-2008; Ord. No. 750, § 1—3, 12-8-2009; Ord. No. 779, §§ 2, 3, 5, 11-8-2011)

Sec. 18-21. Tree replacement payments and fund.

The city shall establish and maintain a separate tree replacement fund and shall deposit all tree replacement fees into that fund.

- (1) Monies in the tree replacement fund may only be used for the following purposes:
 - a. To purchase and plant trees within the city on public property and rights-of-way, or other property under the control of the city;
 - b. To water, feed, or otherwise maintain trees planted or maintained by the city; or
 - c. To promote the planting and conservation of trees within the city.
- (2) A property owner who removes a protected tree pursuant to a valid permit, or in an emergency situation, but who is excused from the obligation to provide a replacement tree under section 18-20(e)(4), shall pay to the city a tree replacement fee in the amount \$500.00 which the city has determined to be the average cost of providing, planting, and maintaining a replacement tree.
- (3) A property owner who removes a protected tree in violation of this chapter shall provide a replacement tree of the same size and species as the tree that was

illegally removed. If it is not feasible to provide a replacement tree, the property owner shall pay a tree replacement fee equal to \$500.00 per inch of diameter of the protected tree that was removed. The measurement of diameter shall be made at a point on the trunk of the tree that was six inches above the ambient grade immediately before the protected tree was removed. The city council shall be the final authority to determine whether planting a replacement tree is feasible.

(Ord. No. 720, § 1, 5-20-2008)

Sec. 18-22. Urban forester.

(a) *Appointment.* The city council has the authority to hire a professional as the urban forester for the city. The professional designated as the urban forester must hold at least a bachelor's degree from an accredited college or university in urban forestry or horticulture or must have equivalent arboricultural skills and experience.

(b) *Duties.* The permit secretary or the building official of the city shall deliver to the urban forester all tree disposition and protection plans, tree surveys, applications for tree removal permits and other documents reasonably requested in connection with any or all of the requirements of this article. The urban forester shall work with each owner and/or builder on the site, and appropriate officials of the city in order to administer and enforce the provisions of this article, as the same may be amended from time to time. The urban forester shall establish categories of simple and routine or low-risk development activity, the applications for which may be handled summarily without submission to the urban forester.

(Ord. No. 720, § 1, 5-20-2008)

Sec. 18-23. Appeal of permit denials.

(a) An applicant whose request for a tree removal permit has been denied by the building official may appeal that decision to the board of adjustment by filing a written notice of appeal with the city secretary.

(b) The board of adjustment shall schedule a hearing on the appeal for a date within 45 days after the date the notice of appeal is received in

the office of the city secretary. The hearing may be held at any regular meeting of the board of adjustment.

(c) At the hearing, the board of adjustment shall provide the applicant an opportunity to present evidence and arguments demonstrating that the applicant is entitled to a permit under the terms of this article and that the building official erred in denying the permit.

(d) The board of adjustment may hear and consider any other evidence relevant to the issue of whether the applicant is entitled to a permit.

(e) If, at the conclusion of the hearing, a majority of the board of adjustment determines that the applicant has met the requirements of this article and is entitled to a permit, it shall order the building official to issue a permit. Otherwise, the decision of the building official to deny the permit shall be affirmed.

(Ord. No. 722, § 5, 7-15-2008; Ord. No. 779, § 6, 11-8-2011)

Sec. 18-24. Violations.

(a) It shall be unlawful for any person to fail or refuse to comply with the requirements of this article or any permit issued pursuant hereto.

(b) The city's building official or urban forester may withhold or withdraw (red flag) any permit issued or to be issued pursuant to this article if any condition or requirement of this article or such permit is not fulfilled.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Sec. 18-25. Penalty.

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor. The owner of a site where any violation of this article shall occur, and any agent, contractor, builder, architect or other person who shall assist in the commission of such offense, shall be guilty of a separate offense.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Sec. 18-26. Affirmative defenses.

It shall be an affirmative defense to prosecution, under this article, that immediate action to remove, seriously damage or kill the tree in question was necessary to prevent harm to persons or property.

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Sec. 18-27. Species of trees approved for use as replacement trees.

The following species of trees are approved for use as replacement trees. The urban forester may approve the use of species that are not on this list if the urban forester determines that the species is suited to the local climate, likely to grow into a protected tree, and not likely to create nuisance conditions.

<i>Approved Tree List for Hunters Creek Village</i>		
<i>Common Name</i>	<i>Species</i>	<i>Family Name</i>
Chalk maple	<i>Acer leucoderme</i>	Aceraceae
Drummond red maple	<i>Acer rubrum var.drummondi</i>	Aceraceae
American hornbeam	<i>Carpinus caroliniana</i>	Betulaceae
American beech	<i>Fagus grandifolia</i>	Fagaceae
White oak	<i>Quercus alba</i>	Fagaceae
Swamp white oak	<i>Quercus bicolor</i>	Fagaceae
Southern red oak	<i>Quercus falcate</i>	Fagaceae
Sand live oak	<i>Quercus geminata</i>	Fagaceae
Laurel oak	<i>Quercus hemisphaerica</i>	Fagaceae
Swamp laurel oak	<i>Quercus laurifolia</i>	Fagaceae
Overcup oak	<i>Quercus lyrata</i>	Fagaceae
Bur oak	<i>Quercus macrocarpa</i>	Fagaceae
Sand post oak	<i>Quercus margaretta</i>	Fagaceae
Swamp chestnut oak	<i>Quercus michauxii</i>	Fagaceae
Chinkapin oak	<i>Quercus muchlenbergii</i>	Fagaceae
Water oak	<i>Quercus nigra</i>	Fagaceae
Nuttall oak	<i>Quercus nuttallii</i>	Fagaceae
Willow oak	<i>Quercus phellos</i>	Fagaceae
Shumard oak	<i>Quercus shumardii</i>	Fagaceae
Post oak	<i>Quercus stellata</i>	Fagaceae
Black oak	<i>Quercus velutina</i>	Fagaceae
Live oak	<i>Quercus virginiana</i>	Fagaceae
Sweetgum	<i>Liquidambar stryrciflua</i>	Hamamelidaceae
Pecan	<i>Carya illino</i>	Juglandaceae
Black hickory	<i>Carya texana</i>	Juglandaceae
Sassafras	<i>Sassafras albidum</i>	Lauraceae
Southern magnolia	<i>Magnolia grandiflora</i>	Magnoliaceae
Sweet bay magnolia	<i>Magnolia ludoviciana</i>	Magnoliaceae
Black gum	<i>Nyssa sylvatica</i>	Nyssaceae
Shortleaf pine	<i>Pinus echinata</i>	Pinaceae
Longleaf pine	<i>Pinus palustris</i>	Pinaceae
Loblolly pine	<i>Pinus taeda</i>	Pinaceae
Weeping willow	<i>Salix babylonica</i>	Salicaceae
Bald-cypress	<i>Taxodium distichum</i>	Taxodiaceae
Montezuma cypress	<i>Taxodium mucronatum</i>	Taxodiaceae
Winged elm	<i>Ulmus alata</i>	Ulmaceae
Scan elm	<i>Ulmus Americana</i>	Ulmaceae
Cedar elm	<i>Ulmus crassifolia</i>	Ulmaceae

(Ord. No. 720, § 1, 5-20-2008; Ord. No. 722, § 4, 7-15-2008)

Secs. 18-28—18-53. Reserved.

ARTICLE III. SOUTHERN PINE BEETLE INFESTATION

Sec. 18-54. Generally.

(a) *Public nuisance declaration.* Any pine tree within the city limits which is infested with the insect known as the southern pine beetle, as determined by a representative of the city, a representative of the state forest service or an entomologist is declared to be a public nuisance.

(b) *Permitting, maintaining infested pine prohibited.* It shall be unlawful for the owner of any lot or parcel of land within the city to permit or maintain on any such lot or parcel of land, any pine tree infested with southern pine beetles; and it shall be the duty of the owner of any such lot or parcel of land upon which is situated a pine tree infested with southern pine beetles to abate such infestation and public nuisance either by chemical treatment of the bark of such tree or by the felling of such tree and subsequent chemical treatment of its bark, whichever shall be required.

(c) *Authorized entry for inspections.* The city building inspector and such other officers, employees and agents of the city as may be designated by the city council are authorized and empowered to enter upon any lot or parcel of land within the city, at any reasonable time, for the purpose of inspecting any pine tree situated thereon and may remove or cause to be removed a portion of the bark to determine if such tree is infested with southern pine beetles. Before entering upon any lot or parcel of land for such purpose, the city building inspector or other representative of the city shall make a reasonable effort to contact the owner of such lot or parcel of land and advise such owner of the purpose and approximate time of such proposed entry and inspection.

(d) *Denial of entry unlawful.* It shall be unlawful for any person to prevent or attempt to prevent the city building inspector or other persons designated by the city council from entering upon any lot or parcel of land in the city for the purpose of making the inspection described in subsection (c) of this section or from performing any other duties prescribed by this article.

(e) *Determination; notice; compliance.* If, from an examination of a pine tree or a bark sample removed therefrom by the city building inspector or other person with entomological competence designated by the city council, it is determined that the tree is infested with southern pine beetles, the city building inspector shall serve or cause to be served upon the owner of record of the lot or parcel of land upon which such tree is situated, a written notice requiring such owner to comply with the provisions of this article. Such notice may be served in person or by registered or certified mail, return receipt requested. Such owner must comply with the provisions of this article including, but not limited to, subsection (b) of this section, within ten days after receipt of such notice.

(Code 2002, §§ 3.1402(h), 8.900; Ord. No. 298, §§ 1—6, 5-17-1977; Ord. No. 562, 11-16-1999)

Secs. 18-55—18-81. Reserved.

ARTICLE IV. PROPERTY MAINTENANCE*

Sec. 18-82. Reserved.

Editor's note—Ord. No. 783, § 1, adopted Jan. 24, 2012, repealed § 18-82 which pertained to definitions and derived from Ord. No. 739, § 1, adopted March 24, 2009.

Sec. 18-83. Definition of nuisance.

In this article the term "nuisance" shall mean any condition of property that is dangerous to life or health, and shall include, without limitation, the following conditions:

- (a) Any accumulation of sewage or stagnant water, or other unwholesome or impure matter;

***Editor's note**—Ord. No. 739, § 1, adopted March 24, 2009, amended ch. 18, art. IV in its entirety to read as set forth herein. Former art. IV, §§ 18-82—18-86, pertained to similar subject matter, and derived unamended from the Code of 2002, §§ 6.302-6.305.

State law reference—Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health and Safety Code § 342.004.