

CHAPTER 125: Article 7. Tree Preservation, Mitigation, and Maintenance

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Sec. 7.1 Permit Required

7.1.1 *Permit.* Except as otherwise provided in this article, a Tree Disposition Permit shall be obtained by a Responsible Person prior to authorizing or subjecting a Protected Tree to any Tree Impact Activity or Tree Removal.

7.1.2 *Permit valid.* A Tree Disposition Permit is valid for a period of six (6) months from the date of issuance.

7.1.3 *Significant trees.* No Tree Disposition Permit may be issued to allow the removal, cutting down, or other activity intended to kill or destroy a healthy Significant Tree, unless the Planning Director determines that the failure to grant such a permit would result in violation of state or federal law.

Sec. 7.2 Permit Application Requirements

7.2.1 A Tree Disposition Permit may be issued by the City Arborist only upon the submission and approval of the following:

7.2.2 An application that includes the following:

- a.** the applicant's name, address, and phone number;
- b.** the address of the property at which a Tree Impact Activity or Tree Removal is sought;
- c.** the name, address, and phone number of the person or entity that will actually perform the Tree Impact Activity or Tree Removal, if not the applicant; and
- d;** the name, address, and phone number of the owner of record of the property at which a Tree Impact Activity or Tree Removal is sought, if not the applicant.
- e.** A Tree Disposition Plan certified by a licensed surveyor, a Certified Arborist or registered landscape architect, that:
 - 1.** Identifies:
 - i.** The Protected Trees sought to be subjected to a Tree Impact Activity or Tree Removal at the site, according to location, type and size;
 - ii.** Location and total caliper inches of invasive species to be removed, if seeking credit for elimination of invasive species;
 - iii.** areas of construction or other activities to be performed within the Critical Root Zone of a Protected Tree, including site plans documenting measures to be taken for protection of each impacted Critical Root Zone;
 - 2.** Includes tables summarizing the total caliper inches of Protected Trees to be removed in size categories as follows:
 - i.** for Small Trees:
 - a)** six inch (6") to nine inch (9") caliper;
 - b)** greater than nine inch (9") to twelve inch (12") caliper; and
 - c)** greater than twelve inch (12") caliper.
 - ii.** for Large Trees:
 - a)** twelve inch (12") to fifteen inch (15") caliper;
 - b)** greater than fifteen (15") to eighteen inch (18") caliper; and
 - c)** greater than eighteen inch (18") caliper; and
 - 3.** States the total number of caliper inches to be replaced, calculated using the Tree Replacement Calculation set forth below, and how replacement will be achieved, whether by on-site replacement or off-site replacement, or Payment in Lieu of replacement; and

4. Includes the proposed plan for tree replacement by location, type and size, if applicable;
- f. An application fee in an amount as set by the City Council; and
 - g. One of the following:
 1. A cashier's check or money order for the full amount of the Payment in Lieu of replacement; or
 2. A cash escrow, bond, letter of credit, or other acceptable security instrument securing an amount equal to a full Payment in Lieu of replacement, which by its terms:
 - i. Can be redeemed or called by the City one year from the date the Tree Disposition Permit is issued, if not earlier released; and
 - ii. Can only be released upon the City's approval, which approval the applicant may request only after completion of all replacement planting.

Sec. 7.3 Tree Replacement Calculation

7.3.1 Tree replacement calculations are based upon the following guiding principles:

- a. Greater value is placed on Protected Trees of greater size, therefore caliper inch replacement is increased as the size of each tree increases;
- b. Greater value is placed on maintaining trees on-site, therefore caliper inch replacement is increased if replacement occurs off-site or through Payment in Lieu of replacement;
- c. Greater value is placed on maintaining large or interconnected conservation areas, therefore exceptions and incentives are available to maintain these areas;
- d. Invasive tree species harm the native tree canopy, therefore incentives are available for elimination of species shown in the Invasive Tree List in this article; and,
- e. Protection and maintenance of the community's tree canopy is more critical than equal replacement of individual trees, therefore replacement calculations result in a total number of caliper inches to be replaced as measured following application of the above principles.

7.3.2 The diameter at breast height of each Protected Tree to be removed from the site shall be measured to determine size in caliper inches.

7.3.3 Replacement of removed trees shall be achieved utilizing one of the following three methods, in accordance with the applicant’s written election:

- a. On-site replacement in accordance with all the standards and requirements of the City of League City;
- b. Off-site replacement in parks, dedicated conservation areas or selected rights-of-way at the direction of the City Planner or City Arborist; or
- c. Payment in Lieu of replacement to the City Reforestation and Tree Management Fund to be used for public reforestation and maintenance of Protected Trees on public property or Significant Trees on public or private property.

7.3.4 Caliper inch replacement of each Protected Tree shall be calculated in accordance with the following Table.

Caliper Inch Replacement of a Protected Tree		
	On Site Replacement	Off Site Replacement or Payment in Lieu
Small Trees		
6” to 9”	100 percent	120 percent
9.1” to 12”	100 percent	130 percent
Greater than 12”	130 percent	140 percent
Large Trees		
12” to 15”	100 percent	120 percent
15.1” to 18”	100 percent	130 percent
Greater than 18”	130 percent	140 percent

7.3.5 Payment in Lieu shall be calculated at a rate of \$250.00 per caliper inch of required replacement tree(s).

7.3.6 The City Planner or City Arborist shall have the discretion to reduce tree replacement requirements the removal of Invasive Trees on-site or off-site in accordance with standards established by the City Arborist. Reduction of caliper inch replacement if granted shall be calculated in accordance with the following Table.

Reduction of Caliper Inch Replacement for Removal of Invasive Trees	
Caliper Inches of Invasive Trees Removed	Percent Reduction in Total Caliper Inches
50” to 150”	5 percent
150.1” to 300”	10 percent
300.1” to 500”	15 percent
Greater than 500”	20 percent

Sec. 7.4 Tree Replacement Standards

- 7.4.1** Replacement trees shall be selected from the Protected Tree List according to available planting space and specific environmental requirements of the tree and shall be a minimum of (i) three (3) caliper inches measured one (1) foot above grade, and (ii) seven (7) feet in height.
- 7.4.2** Replacement trees shall be planted according to tree planting standards established by the International Society of Arboriculture, with a minimum of fifteen (15) feet spacing for Small Trees and a minimum of thirty (30) feet spacing for Large Trees, unless otherwise approved by the City Arborist.
- 7.4.3** Replacement trees must be planted within one (1) year from the date the Tree Disposition Permit is issued. The applicant shall notify the City Arborist after the replacement trees have been planted so that they may be inspected. If the replacement trees are not planted within this time, the City Attorney is authorized to take all legal steps to recover Payment in Lieu from the applicant to satisfy the mitigation requirements.

Sec. 7.5 Exceptions

- 7.5.1** The owner of record of a legally conforming single-family residence may remove or subject any tree on that property to a Tree Impact Activity, without a Tree Disposition Permit and without mitigation.
- 7.5.2** A Tree Disposition Permit may be issued, without requiring mitigation, to remove a Protected Tree if the tree is:
- a.** injured, dying, diseased or infested with harmful insects to the extent that it is not likely to survive as determined and documented by the City Arborist; or
 - b.** in danger of falling, interfering with utility service or other creating a hazardous or dangerous condition as determined and documented by the City Arborist.
- 7.5.3** If the owner of a Protected Tree believes that an emergency situation exists that requires the immediate removal of said tree to protect the safety of persons or property, the owner may subject the tree to a Tree Impact Activity or remove the tree without a Tree Disposition Permit, but only to the extent necessary to eliminate the dangerous situation. A person that claims this exception shall:
- a.** apply for a Tree Disposition Permit on the next working day; and

- b. be able to substantiate the claim of an emergency situation to the reasonable satisfaction of the City Arborist by providing evidence of the dangerous condition such as, but not limited to, a letter from a Certified Arborist and/or digital images.

Sec. 7.6 Appeals

7.6.1 An applicant may appeal the Planning Director's decision to not grant a Tree Disposition Permit for the removal of a Significant Tree to the City Council by filing the following with the City Secretary's Office:

- a. A written notice of appeal within ten (10) business days from notification of the Planning Director's decision;
- b. A written legal opinion from an attorney licensed in Texas that details how the failure to grant the permit would violate state or federal law, within thirty (30) days of the filing of the notice of appeal; and
- c. A site plan for the subject property showing the locations of the Significant Tree and the proposed improvement(s) that not removing the Significant Tree would render unfeasible, within thirty (30) days of the filing of the notice of appeal

7.6.2 An applicant may appeal to the City Manager the calculation of the total caliper inches of replacement trees required by filing with the City Secretary's Office a written notice of appeal within ten (10) business days from notification by the City Arborist of the tree replacement calculation, setting forth the reason(s) and including the documentation for any contention that the calculation of caliper inches of replacement trees is too high

Sec. 7.7 Offense; Restitution

7.7.1 Any person who recklessly removes or subjects a Protected Tree to a Tree Impact Activity without a valid Tree Disposition Permit authorizing such action shall be guilty of a misdemeanor, which shall be punishable by a fine not to exceed \$500.00. Each subsequent day that elapses without the person obtaining a Tree Disposition Permit shall constitute a separate offense.

7.7.2 In any prosecution under this section, the prosecuting attorney shall seek and the judge is authorized to award restitution to be paid into the City Reforestation and Tree Management Fund, in an amount calculated by the City Arborist pursuant to the provisions below:

- a. For removal of Protected Trees not including any Significant Tree, the City Arborist shall:

1. assume that each tree on site is a Large Protected Tree measured at 18 caliper inches with an individual tree canopy of 2,200 square feet;
 2. determine total caliper inches to be replaced by measuring the total tree canopy covering the site prior to removal of trees using aerial imagery acceptable to the City of League City; and
 3. calculate replacement cost in accordance with Payment in Lieu requirements of this article with an additional one hundred (100%) penalty.
- b. Restitution for removal of a Significant Tree shall be equal to the Payment in Lieu value of the tree, as determined by the City Arborist, plus an additional two hundred percent (200%) penalty.
- c. For subjecting a Protected Tree to a Tree Impact Activity, the City Arborist shall:
1. calculate a Payment in Lieu amount as if the Protected Tree had been removed pursuant to a Tree Disposition Permit, if the tree is not a Significant Tree;
 2. calculate a Payment in Lieu amount and add a penalty of one hundred percent (100%) if the tree is a Significant Tree; or
 3. adjust the restitution amount calculated pursuant to this section, if in the sole and reasonable judgment of the City Arborist the restitution so calculated is disproportionate to the level of disturbance or alteration of the tree.

Sec. 7.8 Tree Preservation Standards

7.8.1 Maintenance Practices. Maintenance practices, including but not limited to large limb pruning and canopy thinning, of a Protected Tree shall be in accordance with best practices as approved by a Certified Arborist or the City Arborist.

7.8.2 Critical Root Zone. The Critical Root Zone of a Protected Tree shall be protected as follows:

- a. No materials intended for construction or waste materials from grading, excavation or demolition shall be allowed to accumulate.
- b. No equipment shall be cleaned in such close proximity to allow harmful liquids to be deposited or flow overland and/or runoff into the Critical Root Zone.
- c. No vehicular or construction equipment may be parked in or on a Critical Root Zone.

- d. No grade changes shall be allowed in a Critical Root Zone
- e. A protective barrier, such as a temporary fence, shall be installed to protect the Critical Root Zone prior to and throughout the duration of any work and/or improvements that occur on a property containing a Protected Tree.

7.8.3 *Utilities Below Tree Canopy.* Any utilities to be installed below the canopy of a Protected Tree, shall be bored, not trenched, and shall be so shown on the Tree Disposition Plan.

7.8.4 *Tree Support Systems.* Trees requiring support systems shall be secured according to type and size. Tree staking, cabling, and other materials shall remain in place only until the tree has been established, which time period shall not to exceed one (1) year.

Sec. 7.9 Tree Maintenance Standards

7.9.1 *Maintenance of trees within the rights-of-way.* The owner(s) of any lot with frontage along a public street, including a property owners association, shall maintain the street trees and other landscaping growing along the frontage or in the street right-of-way adjacent to the lot, including in any park or parking strip between the property line and the street line.

7.9.2 *Tree Topping.* Topping (also referred to as heading, stubbing, rounding or dehorning) of any Street Tree, Park Tree, or other tree on public property is prohibited. Topping involves 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. The City Manager, upon the recommendation of the City Arborist, may specifically authorize in writing topping of a specific tree, based on clear evidence of extraordinary circumstances that justify topping. Extraordinary circumstances may include but not be limited to, trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical.

7.9.3 *Pruning, Corner Clearance.* The owner(s) of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street light or obstruct the view of any street sign or intersection, and so that there shall be a clear space of fifteen (15) feet above the surface of the street and/or sidewalk. Pruning includes crown cleaning, thinning, raising, reduction, and restoration. The pruning of trees must comply with tree trimming guidelines in the American National Standard for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance Standard Practices, or National Arborist Association's "Standards for Pruning of Shade Trees." 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.

- 7.9.4 Owner Responsibility.** If the property owner fails to prune trees to provide clearances stated, the City Arborist is authorized to notify the owners of such trees in writing of their responsibility. Pruning shall be done by said owners at their own expense within ten days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to prune such trees and charge the cost of removal to the owners.
- 7.9.5 Removal of Dead or Diseased Trees on Private Property.** A Tree Disposition Permit is required to remove a Protected Tree. The City shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within thirty (30) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal to the owners.
- 7.9.6 Emergency Removal Provision.** If the City Arborist determines that a tree poses an imminent threat, the City may secure the surrounding area and/or remove the hazardous tree.
- 7.9.7 Removal of Stumps.** Street and park trees that are removed shall have their stumps ground to grade level or removed.

Sec. 7.10 Street Trees

- 7.10.1 Minimum Distance from Sidewalks and Curbs.** Trees shall be centered in the planting strip between the sidewalk and the street curb. If centering within the planting strip is not possible or desirable due to design considerations, the tree must be located at least two feet from the sidewalk edge or the curb edge. Trees within the City rights-of-way shall not be planted where the rooting space is less than four feet (4') in width without prior approval of the City Arborist. The minimum width of a planting site for each tree will be governed by the approved street tree list. Trees that commonly produce a large-buttress root system shall be planted in a site greater than ten feet (10') wide (i.e., *Quercus* species). On public streets without sidewalks, trees shall be located to accommodate future sidewalk placement and, current and future utility line corridors.
- 7.10.2 Tree Root Barriers.** Tree root barriers shall be installed when new trees are planted to prevent uncontrollable spread of tree roots that may cause damage to hardscape/infrastructure (sidewalks, driveways, storm sewers, streets). Root barriers may be either linear or surround in form, depending on the hardscape/infrastructure to be protected, and must be installed at a minimum depth of thirty inches (30").

7.10.3 Minimum Street Tree Planting Clearances.

<u>Feature</u>	<u>Small Tree</u> (up to 35' height)	<u>Medium Tree</u> (up to 60' height)	<u>Large Tree</u> (over 60' height)
Sidewalks	2 feet	3 feet	4 feet
Driveways	5 feet	5 feet	10 feet
Fire Hydrants	5 feet	5 feet	5 feet
Intersections	35 feet	35 feet	35 feet
Water Meters	5 feet	5 feet	5 feet
Utility Boxes	5 feet	5 feet	5 feet
Utility Poles	5 feet	10 feet	10 feet
Street Lights	10 feet	20 feet	30 feet
Stop Signs	35 feet	35 feet	35 feet
Regulatory Signs	Cannot block sign		

7.10.4 Minimum Distance from Buried Utility Lines. If buried utility lines traverse the planting strip, the following minimum distances apply:

- 8"-10" water and sewer line 10 feet
- 12"-16" water and sewer line 15 feet
- 18" + water and sewer line 20 feet
- All other services 10 feet

7.10.5 Linear Spacing. Trees shall be placed an average of every thirty feet (30'). Depending on the size, species, and variety, the City Arborist may approve planting distances which may be as close as ten feet (10') and as far as forty feet (40') to fifty feet (50') based on the size and growth habit of the tree.

7.10.6 Medians. No tree shall be planted in any median that is less than ten feet (10') in width.

7.10.7 Overhead Utility Lines. No tree with the potential of reaching a mature height of more than fifteen feet (15') shall be planted in the right-of-way under overhead wires.

7.10.8 Street Tree List. The Street Tree list includes suggested species for street trees. The City Arborist may approve trees that do not appear on this list.

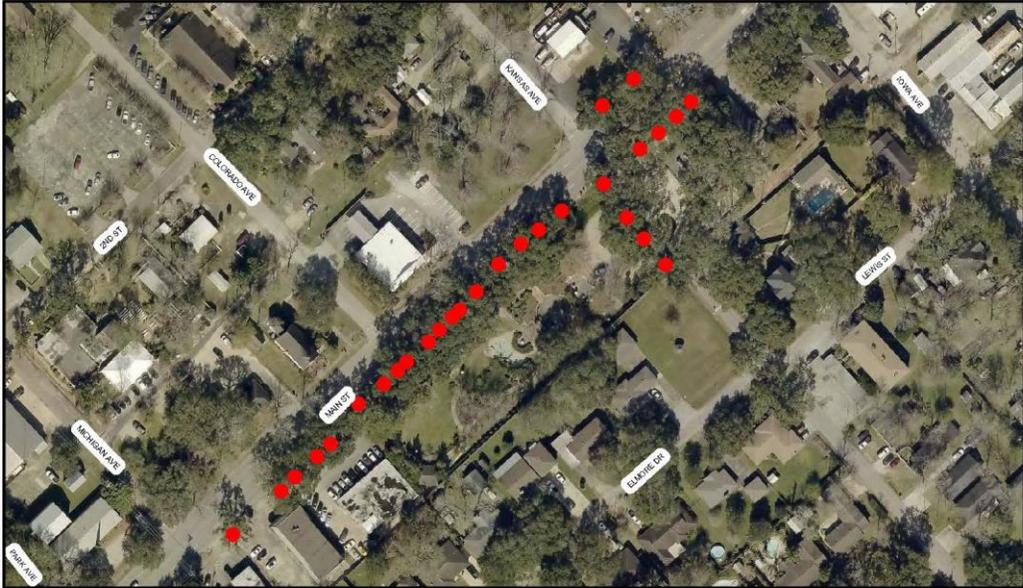
Small Trees	
Common Name	Botanical Name
American Holly	Ilex opaca
Bottlebrush	Callistemon sp.
Eagleston Holly	Ilex x attenuate 'Eagleston'
Possumhaw Holly	Ilex decidua

Texas Redbud	Cercis canadensis ‘Texensis’
Vitex	Vitex agnus-castus
Yaupon Holly	Ilex vomitoria
Medium Trees	
Common Name	Botanical Name
Cathedral Oak	Quercus virginiana ‘Cathedral’
Chinese Elm	Ulmus parvifolia
Chinese Pistache	Pistacia chinenses
Crape Myrtle	Lagerstroemia indica
Eve’s Necklace	Sophora affinis
Highrise Oak	Quercus virginiana ‘Highrise’
Little Gem Magnolia	Magnolia grandiflora ‘Little Gem’
River Birch	Betula nigra
Sweetbay Magnolia	Magnolia virginiana
Teddy Bear Magnolia	Magnolia grandiflora ‘Southern Charm’
Large Trees	
Common Name	Botanical Name
Bald Cypress	Taxodium distichum
Black Walnut	Juglans nigra
Bur Oak	Quercus macrocarpa
Cedar Elm	Ulmus crassifolia
Crabapple	Malus sp.
Live Oak	Quercus virginiana
Loblolly Pine	Pinus taeda
Mexican Plum	Prunus mexicana
Montezuma Bald Cypress	Taxodium mucronatum
Mulberry	Morus sp.
Pecan	Carya illinoensis
Shumard Oak	Quercus shumardii
Slash Pine	Pinus elliottii
Southern Magnolia	Magnolia sp.
Sweetgum	Liquidambar styraciflua
Texas Palmetto	Sabal texana
Texas Persimmon	Diospyros texana
Texas Red Oak	Quercus texana
Water Oak	Quercus nigra

Sec. 7.11 City-maintained Trees

7.11.1 Public Tree Care. The City currently maintains Live Oak trees in the right-of way on Main Street. The locations are as follows; twenty-two Live Oaks on the south side of Main Street between Michigan and Kansas, extending down Kansas to the southern-most boundary/fence line of Helen’s Garden; four Live Oaks on the

southside of Main street between Kansas and Iowa and two Live oaks on the north side of Main street between Kansas and Iowa. See the map below.



7.11.2 City rights. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, rights-of-way and on property owned by the City, as necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public property. The City reserves the right to allow the City Arborist to authorize the pruning or removal of a street tree or park tree when immediate pruning or removal is necessary to protect against an imminent threat of substantial injury to persons or damage of property.

7.11.3 Non-liability of City. Nothing in this Chapter shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees.

7.11.4 Protected Tree List.

Large Trees	
Common Name	Botanical Name
American Sycamore	Plantanus occidentalis
Bald Cypress	Taxodium distichum
Bur Oak	Quercus macrocarpa

Chinquapin Oak	<i>Quercus muehlenbergii</i>
Live Oak	<i>Quercus virginiana</i>
Loblolly Pine	<i>Pinus taeda</i>
Longleaf Pine	<i>Pinus palustris</i>
Mexican Sycamore	<i>Plantanus mexicana</i>
Nutall Oak	<i>Quercus nutallii</i>
Overcup Oak	<i>Quercus lyrata</i>
Pecan	<i>Carya illinoenses</i>
Post Oak	<i>Quercus stellata</i>
Red Bay	<i>Persea borbonia</i>
Red Maple	<i>Acer rubrum</i>
River Birch	<i>Betula nigra</i>
Sawtooth Oak	<i>Quercus acutissima</i>
Shumard Oak	<i>Quercus shumardii</i>
Southern Magnolia	<i>Magnolia grandiflora</i>
Southern Red Oak	<i>Quercus falcate</i>
Swamp Chestnut Oak	<i>Quercus michauxii</i>
Sweet Bay Magnolia	<i>Magnolia virginiana</i>
Trident Red Maple	<i>Acer Rubrum 'tridens'</i>
Water Oak	<i>Quercus nigra</i>
White Oak	<i>Quercus alba</i>

Small Trees	
Common Name	Botanical Name
Chinese Pistache	<i>Pistacia chinensis</i>
Eastern Redbud	<i>Cercis canadensis</i>
Little Gem Magnolia	<i>Magnolia grandiflor 'little gem'</i>
Mexican Buckeye	<i>Ungnadia speciosa</i>

Mexican Redbud	Cercis canadensis ‘mexicana’
Mexican Plum	Prunus mexicana
Texas Mountain Laurel	Sophoria secundiflora
Texas Pistache	Pistacia texana
Texas Persimmon	Diospyros texana
Texas Redbud	Cercis canadensis ‘texensis’

7.11.5 Invasive Tree List.

INVASIVE TREE LIST	
Common Name	Botanical Name
Chinaberry	Melia azedarach
Chinese Parasol tree	Firmiana simplex
Chinese Tallow	Triadica sebifera
Glossy Privet	Ligustrum lucidum
Golden Rain Tree	Koelreuteria paniculata
Lead Tree	Leucaena leucocephala
Mimosa/Silk Tree	Albizia julibrissin
Princess Tree	Paulownia tonentosa
Russian Olive	Elaeagnus angustifolia
Saltcedar	Tamarix spp.
Tree of Heaven	Ailanthus altissima