

8.30 – Tree Preservation on Private Property

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8.30.010 – Purpose

The purpose of this Chapter is to maintain existing trees within the City to the greatest extent possible, while allowing for reasonable development of private property. Trees are assets to the community in many ways, including contributing to its character and scenic beauty, clean air, reducing noise, preventing erosion of topsoil, reducing the rate of stormwater runoff, providing nesting areas for birds and habitat for other wildlife, conserving energy, and providing shade and windbreaks. The health and general welfare of the community, as well as its tax base, are enhanced when trees are preserved.

(2014-M-27 : § 1; 2001-M-73 : § 1)

8.30.020 – Definitions

Approved Trees: Approved trees are those species described in Chapter 12.20 of this Code as being suitable street trees in the City of St. Charles, and shall not include restricted species listed in Chapter 12.20.

Building Lot: A lot for which application has been made for a building permit to construct a new building or structure, or to demolish or move an existing building or structure.

Construction Zone: The area of a site where construction of buildings and other site improvements may occur.

DBH (diameter at breast height): The diameter of a tree measured at a height of four and a half feet above the ground.

Land Development: The process of developing a parcel of land, starting with the submittal of a preliminary plan of subdivision or Planned Unit Development and concluding with the completion and acceptance of site improvements. Land development may involve unimproved vacant land, or land improved with buildings and/or site improvements that is proposed to be redeveloped, but does not include review and issuance of a building permit.

Lot: A parcel of land which is designated by its owner at the time of application for a building permit as a tract all of which is to be developed and used as one parcel under single ownership. A lot may consist of (a) a single lot of record or (b) a combination of contiguous lots of record.

Remove or removal: The actual physical removal of a tree, or the effective removal through damaging, cutting, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a tree.

Tree Preservation Plan: A plan identifying existing trees, designating areas where trees will be preserved and removed, and detailing the location and type of tree protection measures to be undertaken during and/or after construction. An easement for tree and/or natural area preservation established in a subdivision or Planned Unit Development approved prior to November 19, 2001, including but not limited to the Tree Conservation Areas listed in Section 8.30.050 § 1 hereof, shall constitute an approved Tree Preservation Plan where the Tree Preservation Zone is the area within the easement, and the Construction Zone is all areas outside the easement.

Tree Preservation Zone: The area of a site that is not necessary for construction of buildings and other site improvements and within which trees shall be preserved.

(2001-M-73 : § 1; 2014-M-27 : § 1)

8.30.030 – Tree preservation requirements for land development

- A. No live tree(s) with a trunk size of six inches (6”) or more DBH shall be removed from any parcel undergoing Land Development except as permitted by an approved Tree Preservation Plan.
- B. In addition to the other requirements of this Chapter, where a Site Development Permit is required by Title 18 of the St. Charles Municipal Code no trees shall be removed from a site undergoing Land Development unless a Site Development Permit has been issued and remains valid.
- C. Where trees six inches (6”) or more DBH exist on the property to be developed or redeveloped, a Tree Preservation Plan shall be submitted with the preliminary plan of subdivision or planned unit development. If the preliminary plan stage is omitted or is combined with final engineering plans, the Tree Preservation Plan shall be submitted with the final engineering plans, and shall be subject to approval of the City Council at the time of approval of the Final Plat.
- D. The removal of trees six inches (6”) or more DBH proposed as part of a Tree Preservation Plan shall be permitted only to the extent necessary to accommodate the construction of public and private site improvements, buildings and structures in conformance with the standards of 8.30.070 § 2 hereof. Submittal of a separate Tree Preservation Plan for each Building Lot shall not be required for Building Lots within a subdivision or Planned Unit Development if all areas where trees are to be removed are identified in the approved Tree Preservation Plan.
- E. Where an easement for tree and/or natural area preservation has been established in a subdivision or Planned Unit Development approved prior to November 19, 2001, including but not limited to the Tree Conservation Areas listed in Section 8.30.050 § 1 hereof, no additional Tree Preservation Plan approval shall be required to remove existing trees located outside of the established easement areas.

(2014-M-17 : § 1; 2001-M-73 : § 1)

8.30.040 – Tree preservation requirements for building lots

- A. No live tree(s) of six inches (6”) or more DBH shall be removed from any Building Lot except as permitted by an approved Tree Preservation Plan.
- B. A proposed Tree Preservation Plan shall be submitted with the application for a building permit where trees six inches (6”) or more DBH exist on the Building Lot if (a) no Tree Preservation Plan has been approved for the property or (b) the applicant proposes to alter the approved Tree Preservation Plan.
- C. Where a Site Development Permit is required (refer to Section 18.36.040 of this Code), a Tree Preservation Plan for a Building Lot shall be approved only if a Site Development Permit has been issued and remains valid.
- D. The City Administrator or his designee shall approve a Tree Preservation Plan (or amendment thereto) for a Building Lot if the application complies with the provisions of this Chapter and in particular the standards of Section 8.30.070 § 1.
- E. Appeals: A property owner may appeal the denial of a Tree Preservation Plan to the City Council by submitting a written request. If the City Council finds that the standards of Section 8.30.070 § 2 have been met, it may approve the Tree Preservation Plan and may include conditions it deems necessary to ensure compliance with this Chapter.

(2014-M-27 : § 1; 2001-M-73 : § 1)

8.30.050 – Tree conservation areas

- A. The Tree Conservation Areas listed in this section are hereby found to be unique community assets that, if protected, will enhance the value of the property encumbered by said covenants and easements as well as other property within the community. These Tree Conservation Areas shall be maintained in conformance with the provisions of their respective covenants and easements, and in conformance with the Tree Conservation Area Guidelines set forth in Exhibit “A” hereto (the “TCA Guidelines”).

Tree Conservation Areas:

Red Gate Units 4, 5 and 7: Tree Preservation Area

Red Gate Units 2 and 8: Natural Area Easement

Tradition of St. Charles: Tree Conservation Easement

Woods of Crane Road: Natural Area Easement

Kingswood, and Kingswood Unit II and III: Tree Conservation Zone, Natural Area Easement

Majestic Oaks: Tree Conservation Easement

Willowgate: Drainage and Conservation Easement


Woods of Delnor: Conservation Area

Woods of Fox Glen Units 1 and 2: Natural Area Easement

The Royal Fox: Natural Area Easement

- B. A property owner who proposes to make changes within a Tree Conservation Area shall submit a written request to the City. Such request shall clearly describe the type of work to be undertaken, the locations, quantities, and specifications of materials and equipment, and the name and licensing of any contractor performing the work. Written approval from the City must be received before proceeding with any alterations, even if such alterations are allowed by the TCA Guidelines.
- C. Any encroachment in the Tree Conservation Area that has not been previously authorized by City Administrator or their designee, must be removed immediately by the property owner and at their expense. The property owner may however submit a written request to the City Administrator or their designee requesting that the encroachment be allowed to remain. Each request will be reviewed individually by the City Administrator or their designee, and on a case-by-case basis taking the TCA Guidelines and the following criteria into consideration:
1. The length of the time the encroachment has been installed and whether it was installed by a previous owner.
 2. The quality/condition of the vegetation in the area prior to the installation of the encroachment.
 3. Whether the encroachment can be easily relocated outside of the easement.
 4. Potential for further damage to vegetation caused by removal of the encroachment.
- The final determination shall be made by the City Administrator or their designee and shall be final. If any encroachment in the Tree Conservation Area is authorized to remain, it shall not be expanded, enlarged, or enhanced during its usable lifespan. At such a point that the encroachment is no longer usable or functional for its original purpose, it shall be completely removed at the property owner's expense. Removal shall include all above and below grade improvements, including, but not limited to, foundations, footings, utilities. The encroachment area shall be restored to its original condition. If the original condition is unknown, then the encroachment area shall be restored to match the conditions of the surrounding area.
- D. When active restorative measures such as planting or vegetation removal are necessary to bring a property into compliance with the TCA Guidelines, the owner shall submit a restoration plan within 60 days of written notification that the property is in violation of the TCA Guidelines. If the City Administrator or his designee determines the following proposed restoration plan will restore the area to a condition that conforms with the TCA Guidelines, he shall approve it. The owner shall restore the disturbed area in conformance with the approved restoration plan within twelve months following its approval.

Exhibits:

 Exhibit A 8.30.050.pdf

(2014-M-27 : § 1; 2013-M-79 : § 1; 2001-M-73 : § 1)

8.30.060 – Emergency removal

Notwithstanding other provisions of this Chapter, a Tree Preservation Plan or other approval is not required when removal of a tree is necessary due to an emergency situation posing an immediate danger to a person, property or the community, and where such emergency renders compliance with the permit process unreasonable. The individual who proposes to remove the tree(s) shall contact the City Administrator or his designee to receive permission for emergency removal of the tree(s). If the contact is not during business hours, the individual shall leave a voicemail message indicating name, time, tree location, and phone number, and may then proceed with emergency removal.

(2014-M-27 : § 1; 2001-M-73 : § 1)

8.30.070 – Requirements for tree preservation plans

1. A proposed Tree Preservation Plan shall include the following written and graphic information:
 - 1.1 A survey of existing trees six inches (6”) or more DBH within the entire site or lot, identifying their locations, size and species, and a plan overlaid on the survey or at the same scale showing proposed Construction Zones and Tree Preservation Zones.
 - 1.2 The proposed Tree Preservation Zone shall encompass all of the property having six inch (6”) DBH or larger trees that will not be disturbed by construction activities. All buildings, structures, parking areas, driveways, stormwater management facilities, utilities, and other site improvements shall be located to minimize tree damage and removal; preference shall be given to tree preservation when reasonable alternatives are available for the location of buildings and other site improvements.
 - 1.3 The proposed Construction Zone shall include only the areas to be directly affected by buildings, site improvements and grading activities related to the approved construction. The Construction Zone shall be as small as possible, considering factors such as the depth of excavation, necessary spoil areas, and space required for access to construction activity.
 - 1.4 The location and description of protective fencing, root pruning, canopy pruning and other protective and conservation measures necessary to protect the trees within the Tree Conservation Zone shall be indicated.
2. Standards: Removal of trees shall be authorized by Tree Preservation Plans only when one or more of the following conditions exist, as determined by the City:
 - 2.1 The tree is diseased, dead or dying.
 - 2.2 The tree is damaged or injured to the extent that it is likely to die or become diseased, or such that it becomes a hazard.
 - 2.3 Removal of the tree is consistent with good forestry practices, that is, consideration is given to the species of the tree, location, conditions, age, safety, and the historic and aesthetic value of the tree to be removed.
 - 2.4 Removal of the tree will enhance the health of remaining trees within the immediate vicinity.
 - 2.5 Removal of the tree is required to repair a sewer line or water main, or excavation for such repair will damage the tree to the extent that it is likely to die or become diseased.
 - 2.6 All reasonable efforts have been undertaken in the land planning, architectural and engineering design of the proposed building, building addition, development or site improvement to minimize tree damage and/or removal, and the tree or trees must be removed to provide adequate space for the permitted construction.

(2014-M-27 : § 1; 2001-M-73 : § 1)

8.30.080 – Practices during construction

- A. All Tree Preservation Zones shall be maintained free of all construction activity, construction equipment, material or spoils storage, compaction, fill, and debris.
- B. Crushed limestone, hydrocarbons, or other materials detrimental to trees shall not be dumped within the root zone of any tree to be preserved nor at any higher elevation where drainage toward the tree could affect its health.
- C. No attachments, signs, fences, or wires, other than those approved for bracing, guying or wrapping trees, shall be attached to trees during the construction period.
- D. Unless otherwise authorized by an approved Tree Preservation Plan, no soil shall be removed or added within the root zone of any tree to be preserved.
- E. The boundary between the Construction Zone and the Tree Preservation Zone shall be fenced during the course of construction in a manner that clearly identifies where construction activity is prohibited. The Building and Zoning Commissioner and City Engineer shall have the authority to issue a stop work order until adequate fencing is provided or repaired.

(2014-M-27 : § 1; 2001-M-73 : § 1)

8.30.090 – Penalties

- A. Any violation of this Chapter shall be punishable by a fine of not more than \$500.00 for each violation.
- B. Unauthorized removal of trees: If a tree is removed prior to approval of a Tree Preservation Plan or other approval, and the City Administrator or his designee determines the removed tree was of a species or condition that would have justified approval of a Tree Preservation Plan or other approval to remove it if application had been made, the penalties hereof shall not apply.
- C. Replacement Trees. In addition to any fine that may be assessed, each tree of six inches or more DBH which is removed in violation of this Chapter shall be replaced with trees of at least a three inch (3”) caliper selected from the list of Approved Trees according to the following schedule. The diameter of removed trees shall be determined by the average stump diameter where cut at six inches (6”) from surrounding ground level.

Existing Tree’s Stump Diameter Number of replacement trees

36 inches or more	One for each inch of stump diameter
More than 30 but less than 36 inches	11
More than 24 but less than 30 inches	9
More than 18 but less than 24 inches	7
More than 12 but less than 18 inches	5
At least 6 but less than 12 inches	3

- D. Location of replacement trees. The location of replacement trees shall be as determined by the City Administrator or his designee. If it is determined that an insufficient onsite area exists to support some or all of the replacement trees, then prior to issuance of any building permit, site development permit or approval of a plat of subdivision or planned unit development the property owner shall pay the cost of the replacement trees that cannot be accommodated onsite to the City. The funds collected from such payments shall be used for the sole purpose of planting trees at other locations determined by the City.
- E. Suspension of Permits: The City may suspend any and all building permits issued by the City and issue stop work orders with respect to any parcel of land where it has been determined that the provisions of this ordinance are not being complied with.

(2014-M-27 : § 1; 2001-M-73 : § 1)