

Sec. 126-361. - Departmental review.

- (a) *Generally.* The department of planning shall review the submitted tree removal permit application to verify the applicant has provided all required information.
- (b) *Referral to appropriate departments.* Completed applications shall be referred by the planning department to other appropriate city departments and consultants for review and comment.
- (c) *Field inspection or review meeting.* The city may conduct a field inspection or review meeting.
- (d) *Results forwarded to reviewing authority.* City departments involved in the review shall submit their report and recommendations to the director of the department of planning who shall forward them to the appropriate reviewing authority.

(Code 1976, § 4-12.08.01)

Sec. 126-362. - Decision to approve or deny.

- (a) *Standards.* The decision to approve or deny a tree removal permit shall be governed by the review standards enumerated in section 126-368.
- (b) *Site plans.* Where the site is proposed for development necessitating site plan, subdivision plat, or condominium plan review by the planning commission, the planning commission shall be responsible for approving or denying the application for a tree removal permit.
- (c) *Other.* Where neither site plan, subdivision plat, nor condominium plan review is required by city ordinance, the director of the department of parks, forestry, and facilities shall be responsible for approving or denying the application for a tree removal permit.

(Code 1976, § 4-12.08.02)

Sec. 126-363. - Notice.

Before the reviewing authority makes a decision on a tree removal permit application, notice of the tree removal permit application shall be sent by regular mail to the owners, according to the city's tax roll, of all property immediately adjoining the property for which the tree removal permit is requested, including property directly across public rights-of-way and easements. The notice shall be sent at least seven days before the reviewing authority is to make its decision and shall include a statement that interested persons may examine the application at the planning department or parks, forestry, and facilities department. Where the planning commission's recommendation is required pursuant to section 126-362, notice to adjoining property owners shall be required before the planning commission meeting only.

(Code 1976, § 4-12.08.03)

Sec. 126-364. - Denial.

Whenever an application for a tree removal permit is denied, the permit applicant shall be notified, in writing, of the reasons for denial.

(Code 1976, § 4-12.08.04)

Sec. 126-365. - Approval.

Whenever an application for a tree removal permit is approved, the reviewing authority shall:

- (1) *Conditions.* Attach to the approval of the permit any reasonable conditions considered necessary by the reviewing authority to ensure the intent of this article will be fulfilled and to minimize damage to, encroachment upon, or interference with natural resources and processes within wooded areas; and
- (2) *Performance guarantee.* Require the permit grantee to file with the city a cash or corporate surety bond or irrevocable bank letter of credit in an amount, if any, necessary to guarantee compliance with tree removal permit conditions and this article.

(Code 1976, § 4-12.08.05)

Sec. 126-366. - Site plans, condominium plans and plats.

With respect to land which is the subject of a site plan, condominium plan, subdivision plat, or land division submitted to the city for approval, a tree removal permit shall not be effective nor shall the permit holder remove, cause to be removed, transplant, or damage any regulated tree until after both final approval of the site plan, condominium plan, preliminary subdivision plat, or land division and approval by the city engineer of construction and engineering plans for the proposed construction or development activity have occurred.

(Code 1976, § 4-12.08.06)

Sec. 126-367. - Duration.

Tree removal permits shall remain in effect for one year or the duration of the approved site plan, preliminary subdivision plat, or condominium plan, if any, they relate to, whichever period is less.

(Code 1976, § 4-12.08.07)

Sec. 126-368. - Application review standards.

The following standards shall govern the approval or denial of an application for a tree removal permit:

- (1) *Preservation and conservation.* No application shall be denied solely because some trees grow on the site. Nevertheless, tree preservation and conservation, especially with respect to trees designated as historic or landmark trees pursuant to division 4 of this article, shall be of paramount concern and importance.
- (2) *Developmental alternatives.* Preservation and conservation of wooded areas, trees, similar woody vegetation, wildlife and related natural resources and processes shall have priority over development when there are feasible and prudent location alternatives on site for proposed buildings, structures, or other site improvements.
- (3) *Diversity of species.* Diversity of tree species shall be maintained where essential to preserving a wooded area.
- (4) *Quality of trees.* Quality trees shall be preserved whenever it is feasible to do so. In evaluating quality of trees, the reviewing authority shall consider the following:

- a. Soil and habitat quality;
 - b. Tree species;
 - c. Tree size and density;
 - d. Health and vigor;
 - e. Understory size, density, quality, and type;
 - f. Wildlife presence; and
 - g. Other factors such as function as wind block, noise buffer, cooling or heating effect, and scenic value.
- (5) *Land clearing.* Where the proposed activity consists of land clearing, it shall be limited to designated street rights-of-way, drainage and utility areas, and areas necessary for the construction of buildings, structures, or other site improvements.
- (6) *Residential development.* Where the proposed activity involves residential development, residential units shall, to the extent reasonably feasible, be designed and constructed to blend into the natural setting of the landscape.
- (7) *Compliance with statutes and ordinances.* The proposed activity shall comply with all applicable statutes and ordinances.
- (8) *Relocation or replacement.* The proposed activity shall include necessary provisions for tree relocation or replacement, in accordance with subdivision III of this division and tree protection, in accordance with subdivision IV of this division.
- (9) *Limitation.* Tree removal or transplanting shall be limited to instances where:
- a. *Necessary for construction.* Removal or transplanting is necessary for the construction of a building, structure or other site improvement, and the permit applicant has shown there is no feasible and prudent location alternative on site for a proposed building, structure or other site improvement; or
 - b. *Disease, damage, etc.* The tree is diseased, damaged or in danger of falling; is located too close to existing or proposed buildings or structures; interferes with existing utility service or drainage; creates unsafe vision clearance; or does not conform to other city ordinances or regulations.
- (10) *Historic and landmark trees.* The removal of trees designated under this article as historic or landmark trees shall not be permitted where there is a reasonable alternative that would allow preservation of the trees.

(Code 1976, § 4-12.09)

Sec. 126-369. - Issuance; appeal of denial.

- (a) *Waiting period before issuing permit.* The city shall not issue a tree removal permit approved by the planning commission or director of the department of parks, forestry, and facilities until ten calendar days following the approval. There shall be no waiting period relative to permits approved by the city council.
- (b) *Right of appeal.* Relative to the decision of the planning commission or the director of the park, forestry,

and facilities department to approve or deny a tree removal permit, any person denied a tree removal permit or any aggrieved owner of property contiguous to property for which a tree removal permit has been approved, including property directly across public rights-of-way and easements, may appeal such decision to the city council as follows:

- (1) *Time to appeal.* An appeal must be filed with the city clerk, in writing, within the ten-calendar-day period following the approval or denial being appealed.
 - (2) *Issuance of permit suspended.* The timely filing of an appeal shall have the effect of suspending the issuance of a permit pending the city council's decision on appeal. The city council, upon review, may affirm, reverse, or modify the decision rendered by the planning commission or director of the department of parks, forestry, and facilities.
- (c) *City council decisions.* A decision of the city council to approve or deny a tree removal permit is not appealable to the city council.

(Code 1976, § 4-12.12)

Sec. 126-400. - Exceptions.

- (a) *Unplatted residential parcel.* For any unplatted residential parcel, trees located within the area of the footprint of only one proposed principal dwelling or any additions thereto and within 30 feet around the dwelling or addition are not required to be relocated or replaced. Furthermore, trees located within any proposed driveway, utility or other site improvement necessary to support the principal dwelling or addition and the area within ten feet of any such improvement are also not required to be relocated or replaced.
- (b) *Effect of other requirements.* The exception in subsection (a) of this section shall not be construed to waive or supersede any other requirement of this article, and the applicant must still obtain a tree removal permit.

(Ord. No. 423, § 1, 11-5-1997)