

**CITY OF PINEY POINT VILLAGE
NEW CONSTRUCTION PERMITS
TREE DISPOSITION PLAN**

Date: _____

Project Address: _____

SQ FT of Property: _____

Contractor Name: _____

Phone: _____

Contact Person: _____

Phone: _____

Owner: _____

Phone: _____

The following items must be attached:

_____ Tree Survey (signed by a Certified Forester)
Specie, Trees 3" > DBH, approx. CRZ

_____ Proposed Site Plan

_____ Narrative/Report on Trees
(i.e. removals, replacements, treatments)

Project: (Please circle one of the following)

New Single Family Dwelling Remodel/Addition Pool

Garage Demolition Tree Removal Other

I hereby certify that I have completed the above information to the best of my ability.
I understand that any information submitted in error will result in
Tree Disposition Plans and Surveys being returned and an additional re-checking
fee being assessed.

Signature _____ Date _____

Name (print) _____ Title _____

City Forester _____ Date _____

**CITY OF PINEY POINT VILLAGE
FOR POOL DEVELOPERS
TREE DISPOSITION – HELP SHEET**

1. Proposed Building Site Plan (must include the following)

- A. Site plan with proposed building activity (i.e. outline all new or remodel construction: swimming pool, deck, and add-ons.)
- B. The ACCESS route for Pool equipment and material must be shown on the plan.**

**2. Tree Survey (ONLY if any trees are to be removed or severely impacted by pool construction)
(If the New Pool is part of a new house construction then its Tree Survey and Tree Disposition Plan can be used)**

- A. All Trees (3" diameter and larger) located within pool construction site should be identified by specie, size (DBH), and approximate critical root zone. (CRZ)
- B. All trees impacted must be numbered on site
- E. Tree Survey must be signed by a degreed Forester from a Major US University
- F. No tree may be removed from site before Tree Disposition Plan has been approved and Tree Protection Fencing is in place and inspected by the City Forester.**

3. Tree Protection

- A. Trees must be protected by a 4' high or greater chain link fence with metal posts no further part than 8 (eight) feet apart
- B. If protected tree(s) are next to an impervious surface, then wood fencing 8' high may be banded by wire around the trunk of the tree. (NOT NAILED)
- C. . If construction access is to take place within the CRZ of a protected tree and outside the protective fencing, the balance of the CRZ shall be covered with at least 6 inches of wood chip mulch, covered with plywood to protect from soil compaction.
- D. Fences must have signs (in English and Spanish) stating "OFF LIMITS" and "NO TRASH" and the City of Piney Point Tree Protection Sign posted on the fence.

The fencing must remain in place until Final Inspection of project. Before the final inspection, the temporary removal of protective fencing for landscaping purposes must first notify the City Forester.

3. Tree Replacement Conditions (should include the following where applicable)

- A. Any Trees to be removed that falls below the Required Minimum Density for the lot,, must be replaced inch for inch with trees 3"DBH> from the Quality Tree List in Section 66-33. Of the City of Piney Point Village Tree Ordinance. The Tree Replacement must meet the Required Minimum Density (RMD) of one (1) tree every 1000 SQ FT of Lot Area. These conditions must be met at the time of Final Inspection.
- B. Any shared trees (trees located on property lines) if the shared tree is to be removed or impacted by construction, you must notify the adjacent owner and get written approval.

Remember to inform subcontractors of the following:

- 1. Protective tree fencing regulations – DO NOT REMOVE!!!!
- 2. Where applicable Hand Dig areas with tree roots, do not cut roots larger than 1" diameter- alter route or bore under.
- 3. DO NOT wash concrete out in the TREE CRITICAL ROOT ZONES.
- 4. Remove excess soil promptly (i.e. from foundation pad and driveway, sidewalk excavation) DO NOT spread out excess soil in tree critical root zones.
- 5. **HEAVY EQUIPMENT AND MATERIALS IN DESIGNATED AND APPROVED ACCESS ROUTE ONLY!**

**REVISED TREE DISPOSITION PLAN
CITY OF PINEY POINT VILLAGE
NEW CONSTRUCTION PERMITS**

Date: _____ Revised Date _____

Project Address: _____

SQ FT of Property: _____

Contractor Name: _____

Phone: _____

Contact Person: _____

Phone: _____

Owner: _____

Phone: _____

The following items must be attached:

_____ Tree Survey (signed by a Certified Forester) _____
Species, Trees 3" > DBH, approx. CRZ

_____ Proposed Site Plan _____

_____ Narrative/Report on Trees _____
(i.e. removals, replacements, treatments)

Project: (Please circle one of the following)

New Single Family Dwelling	Remodel/Addition	Pool
Garage	Demolition	Tree Removal
		Other

I hereby certify that I have completed the above information to the best of my ability.
I understand that any information submitted in error will result in
Tree Disposition Plans and Surveys being returned and an additional re-checking
fee being assessed.

Signature _____ Date _____

Name (print) _____ Title _____

City Forester _____ Date _____

**CITY OF PINEY POINT VILLAGE
NEW CONSTRUCTION PERMITS
TREE DISPOSITION PLAN – RMD TREE REPLACEMENT**

Date: _____

Project Description: _____

Project Address: _____

SQ FT of Property: _____

Contractor Name: _____

Phone: _____ Fax: _____

Narrative/Report on Trees: (i.e. removals, replacements, treatments)

Number of Trees on Site: _____ Number of Trees dead/poor: _____

Number of trees for RMD: _____ Number of trees for RMD 25% _____
(trees located 20' from the perimeter)

Number of trees removed for construction _____ Number of Trees remaining _____

Number of replacement inches _____ Number of Replacement Trees 3" > _____
(Quality Tree List)

Consultation Recommended: YES _____ NO _____

I hereby certify that I have completed the above information to the best of my ability.

I understand that any information submitted in error will result in

Tree Disposition Plans and Surveys being returned and an additional re-checking

fee being assessed. **NO OTHER TREES BUT THE THOSE SHOWN ON THIS FORM TO BE
REMOVED WITHOUT CITY APPROVAL.**

Signature of Contractor _____ Date _____

Name (print) _____ Title _____

City Forester _____ Date _____

**CITY OF PINEY POINT VILLAGE
TREE DISPOSITION – HELP SHEET**

1. Tree Survey (must include the following)

- A. All Trees (3" diameter and larger) on building site should be identified with specie, size (DBH), and approximate critical root zone (CRZ)
- B. All Protected Trees (3"DBH>) represented with a solid circle
- C. All Trees to be removed (3" DBH>) represented with a dashed circle
- D. All trees must be numbered on site
- E. Tree Survey must be signed by a degreed Forester from a Major US University

2. Proposed Building Site Plan (must include the following)

- A. Site plan with proposed building activity (i.e. outline all new construction, swimming pool and deck, add-ons and ect.)
- B. No tree may be removed from site before **Tree Disposition Plan has been approved and Tree Protection Fencing is in place and inspected by the City Forester.**

3. Tree Disposition Conditions (should include the following where applicable)

- A. Any Trees to be removed, must be replaced with trees 3"DBH> from the Quality Tree List in Section 66-33. of the City of Piney Point Village Tree Ordinance. The Tree Replacement must meet the Required Minimum Density (RMD) of one (1) tree every 1000 SQ FT of Lot Area. At least 25% of the RMD trees must be in the Building Area.

These conditions must be met at the time of Final Inspection.

- B. Remaining Trees must be protected by a 4' high or greater chain link fence with metal posts no further part than 8' apart. The fencing should completely cover the Critical Root Zone. (The area within a concentric circle centered on the tree's location, with a diameter equal in feet to twice the number of the tree's trunk diameter in inches.) **The fencing must remain in place until Final Inspection of project. Before the final inspection, the temporary removal of protective fencing for landscaping purposes must first notify the City Forester.** If protected tree(s) are next to an impervious surface, then wood fencing 8' high should be banded by wire around the trunk of the tree. Fences must have signs (in English and Spanish) stating "OFF LIMITS" and "NO TRASH".
- C. Mulch. If construction is to take place within the CRZ of a protected tree or RMD tree outside the protective fencing, the balance of the CRZ shall be covered with at least 6 inches of wood chip mulch, covered with plywood to protect from soil compaction.
- D. Other measures: trees to be fertilized or pruned by a professional tree service. Pruned for health of protected tree or construction conflict.
- E. Watering systems for trees? Especially during dry summer months.
- F. Any shared trees (trees located on property lines) if the shared tree is to be removed or impacted by construction, you must notify the adjacent owner and get written approval.
- G. Transfer of liability for planting replacement trees. If the owner of the Tree Disposition Permit sells the property associated with the said permit, liability for planting replacement tree(s) is transferred to the new owners.
- H. Permittee of the Tree Disposition Permit must post a fiscal security deposit for the cost of the replacement trees plus 15% administrative costs.

Remember to inform subcontractors (including painters and delivery people of the following:

- 1. Protective tree fencing regulations – **DO NOT REMOVE!!!!**
- 2. Hand dig areas with tree roots, do not cut roots larger than 1" diameter-alter route or bore under.
- 3. **DO NOT** wash concrete, chemicals, and paints out in the **TREE CRITICAL ROOT ZONES.**
- 4. **NO HEAVY EQUIPMENT TRAFFIC IN CRITICAL ROOT ZONES!!**
- 5. Any special instructions to protect trees during construction.
- 6. Remove excess soil promptly (i.e. from foundation pad and driveway, sidewalk excavation) **DO NOT** spread out excess soil in tree critical root zones.

ORDINANCE 952

AN ORDINANCE AMENDING ARTICLE II, DIVISION 2, SECTIONS 66-32 and 66-45 BY PROVIDING A NEW DEFINITION FOR CERTIFIED FORESTER PROVIDING FOR A DEMOLITION ONLY BUILDING PERMIT, AMENDING THE PROVISION FOR A PENALTY, AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINEY POINT VILLAGE, TEXAS HEREBY AMENDMENT AS FOLLOWS:

Section 1. Section 66-32 is hereby amended by deleting the definition of Certified Forester and replacing with the following:

Certified Forester – a degreed Forester that is a graduate of an accredited four-year college or university.

Section 66-45 is hereby amended by adding a new Section 5, Demolition-Only Building Permit, as follows:

5. If a permit is issued for demolition only (without plans for new construction of a single family dwelling having been approved), a Tree Disposition Permit shall be issued for only such trees shown on the Tree Disposition Plan that are necessary to be removed or pruned for demolition to be accomplished, as determined by the Certified Forester and the City building official.

Section 66-83 A. 2., Subsections A. and B. are hereby amended by deleting the words “of up to \$2,000.00 per occurrence” and replacing them with “as provided in the Texas Local Government Code.”

Section 66-83 A. 3. is hereby amended by deleting the words “not to exceed \$2,000.00” and replacing it with “provided by the Texas Local Government Code.”

Section 2. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City council of the City of Piney Point Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

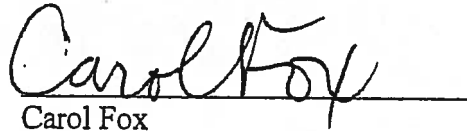
PASSED, APPROVED AND ADOPTED this 22 day of May, 2006.

ATTEST:



Lorena Briel
City Administrator

SIGNED:



Carol Fox
Mayor

ORDINANCE 946

AN ORDINANCE AMENDING SECTION 66, ARTICLE II, ENTITLED "TREES" OF THE CODE OF ORDINANCES OF THE CITY OF PINEY POINT VILLAGE, BY ADOPTING A NEW SECTION 66, ARTICLE II, IMPOSING NEW REQUIREMENTS FOR THE MAINTENANCE, PROTECTION, AND REMOVAL OF TREES, AND ESTABLISHING PENALTIES FOR THE VIOLATION OF SUCH REQUIREMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINEY POINT VILLAGE, TEXAS:

Section 1. The Code of Ordinances of the City of Piney Point Village, Texas, is hereby amended by deleting Chapter 66, Sections 66-31 through 66-83 and by substituting In lieu thereof the following new Sections to Chapter 66:

Index of Ordinance:

Section 1.

Article II. Trees

Division 1 General

Section 66-31. Purpose

Section 66-32. Definitions

Section 66-33. Qualified Trees

Division 2. Requirements for Compliance with Ordinance

Section 66-45. Tree Disposition Permit Required

Section 66-46. Tree Survey Required

Section 66-47. Tree Disposition Plan Required

Section 66-48. Replacement Trees Required

Section 66-49. Protection of Trees Remaining

Section 66-50. Removal of Diseased Trees

Division 3. Administration and Enforcement

Section 66-81. Administration

Section 66-82. Enforcement

Section 66-83. Fees, Fines, and Penalties

Section 66-84. Severability.

Article II. Trees

Division 1 General

Section 66-31. Purpose.

It is the purpose of this ordinance to preserve the environmental, economic, health, and aesthetic value of our Trees, which includes: reduction of air pollution by particulates, CO₂, and other gases, return of O₂ to the atmosphere, reduction of soil erosion and water runoff, climate control and resulting energy savings, acting as noise buffers and light shields, and increasing property values; and to enhance the desirability of our city by requiring careful site planning and the protection of Trees during construction, controlling unnecessary Tree removal, requiring Tree replacement, prohibiting indiscriminate cutting or clearing of Trees, and encouraging the increase of our canopy cover while preserving owners' rights to utilize and enjoy their property.

Section 66-32. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meaning:

- Certified Forester – a degreed forester certified by the Society of American Foresters
- Critical Root Zone – the area within a concentric circle centered on the trunk location, with a diameter equal in feet to twice the number of the Tree's trunk diameter in inches.
- Crown – the Tree's branches and leaves.
- Crown Clearance – the distance from the ground to the lower branches of the Tree.
- Crown Configuration – shape of the Crown
- Diameter at Breast Height (DBH) – diameter of the Tree 4.5 ft above the ground.
- Drip Line – a concentric circle reaching to the tips of the largest branches of the Tree.
- Fiscal Security – a cash deposit to secure the cost of replacement Trees as set out herein.
- Lot - a parcel of land defined in Chapter 74, Section 74-1.
- Low Impact Activity – projects such including but not limited to walkways, sprinkler systems, fences, small Structures such as pool motors and filters and air conditioning/heating equipment, or re-roofing of Structures, which will not have any significant adverse effect upon any Protected Tree, as determined by a Certified Forester approved by the City building official.
- Multitple-Trunk Tree – a Tree with two or more trunks visibly connected above the ground.
- Protected Tree – a Qualified Tree as hereinafter defined equal to or greater than 3" DBH
- Qualified Tree – any Tree of a species that is included in Section 66-33 hereof.
- Remodeling – alterations or modifications made to a Structure which would alter the footprint of said Structure.
- Required Minimum Density (RMD) – one RMD Tree per 1000 ft² of Lot area. At least 25% of the RMD Trees must be located within the Building Area as defined in Chapter 74, Section 74-1.
- Replacement Tree – a Protected Tree.
- RMD Tree – any tree of greater than or equal to 3" DBH that is included in the RMD calculation of a lot.
- Public Right-of-Way (ROW) – the surface, air space above the surface, and area below the surface of any street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property dedicated to the public within the City.
- Root Pruning – a clean cut between the undisturbed and disturbed root zones within the Critical Root Zone of a Tree; commonly done with a rock saw or similar equipment to minimize root damage.
- Setback Lines - Front, Side, Rear Yards as defined in Chapter 74-244 (c).
- Shared Tree - a Tree the body of the trunk of which grows on the property line of different owners.
- Structure - anything constructed or erected that requires location on the ground, or is attached to something having a location on the ground, including but not limited to signs, fences, walls, water fountains, ponds, air-conditioning/heating equipment, swimming pools, swimming pool motors and filters, gazebos, tennis/sports courts, driveways, walkways, poles, and buildings, whether of a temporary or permanent nature.
- Tree – a self-supporting woody plant with a single trunk, un-branched for several feet above the ground, supporting a definitely formed Crown and having a mature height of at least 20 feet.

Tree Disposition Permit – a permit issued by the City of Piney Point Village allowing removal of, or damage to, any Protected Tree or RMD Tree.

Tree Disposition Plan – A written plan prepared by a Certified Forester indicating how all Protected Trees and RMD Trees and their Critical Root Zones on a Lot, and all Protected Trees and RMD Trees located elsewhere, which have 30% or more of their Critical Root Zone in a Lot, are to be protected pursuant to Section 66-48 hereof; and how replacement Trees and/or new Trees are to be maintained to encourage survival and sustained growth.

Tree Survey - an on-the-ground survey of Protected Trees and RMD Trees on a Lot, showing the location, circumference, Crown Configuration, Crown Clearance, Crown area (Drip Line), Critical Root Zone (CRZ), types (species); and the same information on any Protected Tree or RMD Tree located elsewhere which has 30 % or more of its Crown or CRZ in such Lot.

Section 66-33. Qualified Trees

Pecan	Drummond Red Maple	River Birch
Black Walnut	Winged Elm	Fringe Tree
Cedar Elm	Nuttall Oak	Sycamore
American Elm	Sweetgum	Southern Magnolia
Eastern Red Cedar	White Oak	Swamp Chestnut Oak
Green Ash	Yellow Poplar	Bald Cypress
Overcup Oak	Live Oak	Loblolly Pine
Shumard Oak	Bur Oak	Post Oak

Division 2. Requirements for Compliance

Section 66-45. Tree Disposition Permit Required

A. It shall be unlawful for any person to remove any Protected Tree or RMD Tree, or to damage or cause serious trauma (as determined by a Certified Forester) to any Protected Tree or RMD Tree during any of the following activities, without having first obtained a Tree Disposition Permit, unless otherwise exempted by the provisions of this Section.

1. Demolition/Remodeling/Construction/New Construction of any Structure requiring a building permit.
2. Tree Removal of Protected Trees or RMD Trees, unless:

Replacement Trees are provided to meet the Required Minimum Density as set out in Section 66-48.

A Shared Tree requires the written consent of each owner before any action under this Section 66-45 can take place.

3. Trenching/Boring/Pruning for Utility Installation or Maintenance.

If utility installation or maintenance by a public utility requires trenching, boring, Root Pruning, or limb pruning, the owner and any public utility shall consult with the city to find least-damaging design alternatives such as trenching or boring where the minimum impact is made on Trees, stacking underground utilities to reduce number of trenches required, and hand-digging trenches to avoid cutting large roots. Permits issued subsequent to these negotiations shall be issued at no cost/reduced cost.

4. Tree Removal from Public Right-of-Way.

The City is responsible for any Tree removal, Tree or Root Pruning, or other Tree maintenance in the Public Right-of-Way. No Tree located in a Public Right-of-Way may be removed or damaged, unless a Tree Disposition Permit is issued by the City. This provision does not apply to tree removal initiated by the City

B. Exemptions from Tree Disposition Permit Requirements

1. Removal of all or part of a Tree(s) that has disrupted public utility service, the use of a public ROW, is dead, or is in imminent danger of causing harm to people or property.
2. Removal of any Qualified Tree of less than 3" DBH, or of any Tree not listed as qualified which is not an RMD Tree.
3. Low Impact Activity as defined under Section 66-32.

C. Transfer of permit

If the owner of a Tree Disposition Permit sells the property associated with said permit, such permit, together with any related Tree Survey and Tree Disposition Plan, shall be transferred to any or all subsequent owners, until the conditions of the Permit are satisfied.

Section 66-46. Tree Survey Required

A Tree Survey is required in conjunction with any activity covered in Section 66-45 A.

All Protected Trees and RMD Trees shall be identified and located.

Methods for locating Trees may vary depending on the size of the project and number of Trees. For small Lots with few Trees, taping the distance to the center of the trunk from two (2) known points is a viable option. For large, Tree-covered Lots, using a total station survey system from a platform elevated above the Tree line may be the most practical method.

The Tree trunk location on the plan shall represent the center of the trunk at ground level in the field.

If the Tree leans substantially above that point, the direction of the lean shall be shown with an arrow.

The Tree Survey shall include:

1. Measurement requirements

- a) Diameters of listed Trees shall be measured at DBH. If the Tree is on a slope, measurement shall be from the high side of the Tree. If unusual swells are present at DBH, measurement shall be made at the narrowest point between the swell and the ground.
 - b) Diameters of multi-trunk Trees shall be measured by adding the DBH of the largest trunk to $\frac{1}{2}$ the DBH of each additional trunk.
 - c) Diameter measurements shall be accurate to the nearest $\frac{1}{2}$ inch. Trees may be measured by standard tape measure or diameter tape. Standard tape measurements must be transposed from circumference to diameter. Diameter = Circumference divided by 3.142.
 - d) Spot elevation shall be measured within one foot from the trunk of the Tree. If the Tree is on a slope, measurement shall be made from the high side of the slope.
2. Tree number – each Protected Tree or RMD Tree shall be individually numbered thereon. Each Protected Tree and RMD Tree shall be tagged with this number.
 3. Crown Configuration – If the Protected Tree or RMD Tree has a Crown which is skewed in one direction, this information shall be recorded on the survey. Crown Clearance shall be recorded on the survey.
 4. Crown Clearance – shall be recorded on the survey for each Protected Tree or RMD Tree.
 5. Critical Root Zone – shall be shown on the survey for each Protected Tree or RMD Tree.
 6. Type – Tree type shall be shown on the survey and shall be accurate to species level (i.e. Post Oak, Cedar Elm, Sweetgum) and be listed in both common and botanical names. (White Oak *Quercus alba*).
 7. Condition – the general condition (healthy, diseased, poor condition, etc.) of each Protected Tree or RMD Tree as determined by the Certified Forester shall be recorded.
 8. Spot elevation - an elevation reading for each Protected Tree or RMD Tree shall be recorded.

Section 66-47. Tree Disposition Plan Required

To obtain a permit for any activity listed in Section 66-45-A, a Tree Disposition Plan shall be filed. Each Tree to be retained shall be represented by a solid circle on the Tree Survey. Each Tree to be removed shall be shown by a dashed circle on the Tree Survey.

Section 66-48. Replacement Trees Required.

1. Each Protected Tree or RMD Tree to be removed that requires a Tree Disposition Permit or that must be replaced to maintain the RMD of the lot shall be replaced with a Protected Tree of equal DBH or by multiple Trees of lesser DBH as designated in this section, unless the number of remaining Qualified Trees is greater than the Required Minimum Density. The relevant Tree Disposition Permit wording shall include replacement, escrow, and maintenance time period requirements, and transfer of liability as stipulated in items 66-48, subsections 3, 4, and 5 below.
2. DBH formula for multiple Tree replacement of a single Tree: Any replacement Tree required may be replaced by multiple Trees, each of which has a DBH of 3" or greater, and the sum of whose DBH is equal to or greater than the DBH of the Tree being replaced.
3. Time limit for planting replacement Trees. Planting of replacement Trees shall take place before a Certificate of Occupancy is issued unless approved by a Certified Forester and if the permittee posts Fiscal Security in an amount equal to the cost of replacement Trees, plus 15% to cover administrative costs, together with all necessary rights of entry.
4. Transfer of liability for planting replacement Trees. If the owner of a Tree Disposition Permit which requires planting of replacement Tree(s) sells the property associated with said permit, liability for planting replacement Tree(s) shall transfer to any or all subsequent owners of the subject property.
5. Escrow/maintenance time period for determining viability of replacement Trees. If replacement Trees are planted, the permittee shall post Fiscal Security in an amount equal to the cost of replacement Trees, plus 15% to cover administrative costs, together with all necessary rights of entry.

Section 66-49. Protection of Remaining Trees.

A. Required Activities.

1. Protective fencing. Unless otherwise approved in the Tree Disposition Plan, each Tree or group of Trees to be preserved shall be enclosed by a protective fence during all development activity. The protective fence shall be made of chain link and completely enclose the Critical Root Zone of the Tree or group of Trees. The protective fence shall be at least four feet high with metal posts spaced no wider than eight feet apart. Each protective fence shall be marked with signs stating "OFF LIMITS" and "NO TRASH" (or equivalent) in both English and Spanish.
2. Mulch. If development activity approved in the Tree Disposition Plan is to take place within the Critical Root Zone of any Protected Tree or RMD Tree, the protective fence described in item 1 above 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 shall be covered with at least six inches of organic or wood chip mulch and covered with 3/4" plywood or roadboards in order to protect the roots from soil compaction.

3. Tree Flagging. All Trees to be removed from the Lot shall be flagged with orange vinyl tape (flagging) wrapped around the main trunk at a height of 4' or more. After receipt of the Tree removal permit, the owner of the Lot or his agent shall paint with orange paint an "X" on the Tree(s) approved for removal, at a height of 4' or more so that the paint is visible to workers on foot or operating heavy equipment.
4. Trunk Protection. In situations where a Protected Tree or RMD Tree remains in the immediate area of intended development activity approved in the Tree Disposition Plan and its Critical Root Zone cannot be enclosed by a protective fence, such tree shall be protected by enclosing the entire circumference of the tree's trunk with lumber at least 8' high banded by wire or other means that does not damage the tree.
5. Construction pruning. If a Protected Tree or RMD Tree has a low canopy or limbs that may be broken during the course of construction and if specified and approved by a Certified Forester in the Tree Disposition Plan, the obtrusive limb(s) may be cut. Pruning shall be done according to the National Association of Arborists Standards.
6. Watering During and After Construction. Remaining Protected Trees and RMD Trees shall receive supplemental water during times of drought or low rainfall. Plans for feeding and watering shall be prepared by the Certified Forester who is retained by the owner or the owner's agent, and shall be included in the Tree Disposition Plan.
7. Design Constraints. Design constraints dictate that in certain circumstances some Protected Trees or RMD Trees will have some encroachment of their Critical Root Zone. The following are the minimum design criteria that are allowed within the Critical Root Zone of such trees:
 - a. Change of Grade. In the event that grade changes must be made around such tree(s), 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 2" shall be located close to the trunk of such tree if the cut or fill covers more than one-half of the radius of the Critical Root Zone. If this provision cannot be complied with, the following provisions shall apply:
 - (a) Increase in grade: The owner shall construct Tree wells around the Critical Root Zone of such tree(s), which shall be of a design that provides for proper aeration and drainage of the Critical Root Zone; or
 - (b) Decrease in grade: The owner shall construct retaining walls around the Critical Root Zone of such tree(s) to mitigate cuts.
 - (2) If development activity causes standing water or wet soil conditions which are detrimental to a species of such tree(s) on a Lot or adjacent property adequate drainage shall be provided in the Tree Disposition Plan in order to prevent suffocation and/or root rot of affected tree(s).

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". In special circumstances approved by a Certified Forester approved by the City, trenching for underground utilities may be permitted with respect to all such Protected Trees. If utility trenching is approved, the following procedures shall be adhered to:

(1) Root Pruning shall take place at least 2 weeks prior to any trenching:

(a) Root Pruning shall be supervised by a Certified Forester approved by the City; and

(b) The utility trench shall be backfilled less than 24 hours after it is dug.

c. 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% of the Critical Root Zone of a Protected Tree or RMD Tree may be covered with impenetrable material, such as but not limited to concrete, tar, or asphalt. If the design plan of the Lot calls for any impervious material over any part of the Critical Root Zone with respect to all such trees, then the following procedures shall be adhered to:

(1) Root Pruning shall be done 6" to 1' from the proposed impervious covering on the tree side of the covering and shall take place at least 2 weeks prior to any fill or cut;

(2) Root Pruning and necessary limb pruning shall be supervised by a Certified Forester approved by the City building official;

(3) A plastic vapor barrier of construction grade shall be installed between the roots of such tree(s) and the impervious material to inhibit leaching of lime into the soil; and

(4) A root remediation schedule shall be included in the Tree Disposition Plan.

B. Prohibited Activities.

1. Material storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the Critical Root Zone of any Protected Tree or RMD Tree.

2. Equipment cleaning/liquid disposal. No equipment shall be cleaned or other liquids deposited within the limits of the Critical Root Zone of any Protected Tree or RMD Tree. This includes but is not limited to paint, oil, solvents, asphalt, concrete, mortar, or other materials.

3. Tree attachments. No signs, wires, or other attachments other than those of a protective nature, which have been approved in the Tree Disposition Plan, shall be attached to any Protected Tree or RMD Tree.

4. Vehicular traffic. No vehicle, construction equipment or parking is allowed within the limits of the Critical Root Zone of any Protected Tree or RMD Tree unless included in the Tree Disposition Plan, and the affected Critical Root Zone area is covered by mulch and roadboard as stipulated in Section 66-49.A.2 above and the truck of such tree(s) is protected as stipulated in Section 66-49.A.4 above.
5. Trash. Trespassing or throwing trash into a protective fence area is prohibited.
6. Removal of protective fencing or mulch. It shall be unlawful for any person to remove any portion of any protective fence or mulch and roadboards for any period of time during any development activity except for landscaping activity, after which such fence shall be replaced until a Certificate of Occupancy shall be issued by the City building official.

C. Liability for Survival of Remaining Trees.

1. Transfer of liability for survival of remaining Trees. If the owner of a Tree Disposition Permit that involves Trees remaining on the property sells the property associated with said permit, liability for survival of remaining Protected Trees and RMD Trees shall transfer to any subsequent owners of the subject property until survival conditions are met.
2. Escrow/maintenance time period for determining survival of remaining Trees. The permittee shall post Fiscal Security in an amount equal to the cost of replacement Trees, plus 15% to cover administrative costs, together with all necessary rights of entry.

Section 66-50. Removal of Diseased Trees

A. Diseased Trees

1. Infested or diseased Trees declared nuisance. Any Tree within the city limits that is infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles, or is diseased, as determined by a representative of the City or a Certified Forester, is declared to be a public nuisance.
2. Abatement. 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 Tree diseased or infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles. It shall be the duty of the owner of any such Lot or parcel of land upon which is situated a diseased Tree or a Tree infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles to abate such disease or infestation and public nuisance by the felling of such Tree to ground level and subsequent removal of all parts of the felled Tree from the City.
3. Right of entry for inspection.
 - a. The City building official and such other officers, employees and agents of the City as may be designated by the City building official are authorized and empowered to enter upon any

Lot or parcel of land within the City during regular business hours for the purpose of inspecting any Tree situated thereon and may remove or cause to be removed a portion of the bark to determine if such Tree is diseased or infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles. Before entering upon any Lot or parcel of land for such purpose, the City building official or other representative of the City shall make 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.

- b. It shall be unlawful for any person to prevent or attempt to prevent the City building official or other person designated by the City building official from entering upon any Lot or parcel of land in the City for the purpose of making the inspection described in subsection (a) of this section or from performing any other duties prescribed by this Section.
- c. If from an examination of a Tree or a bark sample removed from said Tree by the City building official or other person designated by the City building official it is determined that the Tree is diseased or infested with a class of Engraver Beetles including but not limited to Southern Pine Beetles, Ips, and Black Turpentine Beetles, the City building Official 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 section. Such notice may be served in person or by regular mail or by registered or certified mail, return receipt requested. Such owner shall comply with the provisions of this section within ten days after receipt of such notice.
- d. Replacement Tree required. If the tree required to be removed is a Protected Tree or RMD Tree and if removal of such tree shall cause tree density on the Lot or parcel of land to be less than the Required Minimum Density, a replacement tree is required as provided under Section 66-48.

Division 3. Administration and Enforcement

Section 66-81. Administration

This ordinance shall be administered by the City administrator, City building official, and/or their designee(s).

A. Interaction with Other Ordinances

1. Conflicts with other regulations. In any case where another City Ordinance, rule, or regulation would require the removal, damage, or death of a Protected Tree or RMD Tree, under circumstances where this Chapter would prohibit such action, it is the intent of the City Council that all of the applicable regulations shall be read together and harmonized so that, if reasonably practicable, the Protected Tree or RMD Tree is not removed, damaged, or killed.
2. Liberal interpretations authorized. All City officials, boards, and commissions are authorized and encouraged to interpret other ordinances, rules, and regulations liberally in order to

minimize conflicts with this Chapter and to protect existing Protected Trees and RMD Trees, except in circumstances where there might be hazards to persons or property. Design constraints and alternatives shall be carefully considered. In cases of conflict between this ordinance and other City ordinances, the City engineer, City building official, and a Certified Forester are required to work out acceptable compromises, consulting with the Board of Adjustment where necessary.

Section 66-82. Enforcement

- A. Upon observation of a violation, the City building official or designee may:
 - 1. Issue a citation
 - 2. Stop the construction/demo/Remodeling or other job
 - 3. Refuse to grant a Certificate of Occupancy
 - 4. Require replacement of Trees as provided under Section 66-48.
- B. Any person may report violations of this ordinance to the City administrator, City building official, and/or their designee(s).

Section 66-83. Fees, Fines and Penalties.

A. Violation

Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined as provided this section.

1. Fees.

The City building official shall fix such fees for Tree Disposition Permits, Tree Surveys, and Tree Disposition Plans issued under this section as shall be necessary to cover the costs of administering and enforcing this section. The building official may waive any fees provided that: (1) the lot owner has resided on her/his property for one year prior to the fee event, and (2) the property meets the Required Minimum Density after the tree removal.

2. Fines.

A. The City may assess a fine of up to \$2000.00 per occurrence for the non-permitted removal of or damage to a Tree which is not exempt from requiring a Tree Disposition Permit, as shown in Section 66-45.

B. The City may assess a fine of up to \$2000.00 per occurrence for engaging in prohibited

activities for protection of remaining Trees or for failing to follow required activities for the protection of remaining Trees, as described in Section 66-49 of this ordinance.

3. Penalties.

Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000.00. Each day of violation shall constitute a separate offense.

4. All fines and/or penalties collected by the Municipal Court of the City of Piney Point Village, Texas shall be deposited into a special fund to be utilized for education of the public on the value of Trees to our city, the purchase of Trees to be planted on City-owned property, and/or to defray administration and enforcement expenses of this Ordinance.

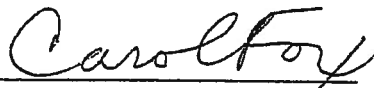
Section 66-84. Severability

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Piney Point Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED this 27 day of March, 2006.

SIGNED:

ATTEST:


Carol Fox, Mayor


Lorena Briel, City Administrator