

**Operator:** For each Well, the person listed on the Railroad Commission Form W-1 or Form P-4 for a Gas Well, that is, or will be, actually in charge and in control of Drilling, maintaining, operating, pumping or controlling any Well including, without limitation, a unit Operator. If the Operator, as defined herein, for any Gas Well is not the lessee of any premises affected by the provisions of this section, then such lessee shall also be deemed to be an Operator. In the event that there is no Gas lease relating to any premises affected by this section, the owner of the fee mineral estate in the premises shall be deemed the Operator.

**Pipeline Easement Map:** A map indicating all gathering line easements. The easements must be located separately from other utility easements.

**Railroad Commission:** The Railroad Commission of Texas.

**Road Repair Agreement:** A written agreement obligating the Operator to repair damage, excluding ordinary wear and tear, if any, to public streets, including, but not limited to, bridges, caused by the Operator or its employees, agents, contractors, subcontractors or representatives in the performance of Drilling or production of any Gas Wells authorized by the City.

**Well:** A hole or bore to any horizon, formation, or strata for the purpose of producing Gas or other hydrocarbons.

### **12.3.G. TREE PRESERVATION DEFINITIONS [SEE ARTICLE 13]**

**Buildable Area:** That portion of a building site exclusive of the required yard areas on which a structure or building improvements may be erected and including the actual structure, driveway, parking lot, pool and other construction as shown on a site plan.

**Building Pad:** The actual foundation area of a building and a reasonable area around the foundation necessary for construction and grade transitions.

**Construction Drawings:** Engineering or architectural drawings which have been prepared by an authorized individual and approved by the authorized authority, that describe in detail by measurements and specifications the method and manner in which a building, structure, utility, street or physical alteration to land or structure is to be accomplished.

**Critical Root Zone (CRZ):** The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than one foot radius for each one inch DBH.

**Clear Cutting:** The removal of all trees or a significant majority of the trees within an area.

**Diameter at Breast Height (DBH):** The diameter in inches of a tree as measured through the main trunk at a point four and one-half feet (4.5') above the natural ground level.

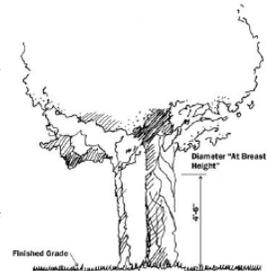
**Drip Line:** A vertical line run through the outermost portion of the crown of a tree and extending down to the ground.

**Limits of Construction:** A delineation on the 'Tree Conservation Plan' which shows the boundary of the area within which all construction activity will occur.

**Protective/Temporary Fencing:** Snow fencing, chain link fencing, orange vinyl construction fencing or similar fencing which is apparent and visible during construction and with a four (4') foot approximate height.

**Replacement Tree:** A tree from the replacement tree list with a minimum caliper size of three inches (3") and height of seven feet (7'). For the purpose of determining size, Replacement Trees should be measured at a point twelve (12") above grade.

**Tree:** Any self-supporting woody perennial plant which will attain a trunk diameter of three inches (3") DBH and normally attains an overall height of at least fifteen (15) feet at maturity, usually with one (1)



main stem or trunk and many branches. It may appear to have stems or trunks as in several varieties of oaks.

**Tree, Protected:** Any tree identified in Section 13.3.B. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at breast height to one-half the diameter of each additional trunk. Protected Trees shall not include the following species: Bois d'Arc, Hackberry, Cedar, Locust and Chinaberry.

**Tree Conservation Plan (TCP):** A graphic representation drawn to the largest scale practical showing the exact location, size (trunk diameter and height) and common name of all Protected Trees and indication of which trees are to be removed and or replaced. The TCP shall include the information tabulated in Section 13.3.C.

## Article 13 - Tree Preservation Requirements

### Section 13.1 Purpose

#### 13.1.A PURPOSE AND APPLICABILITY

The purpose of this article is to provide a policy for the preservation of mature, healthy trees and existing natural areas, to save trees as an asset and community resource during the design of streets, alleys, utilities, drainage and any other site development and to provide for replacement of trees when removal is necessary. It also establishes rules for replacement and replanting of trees that have been necessarily removed during construction. Moreover, this section is intended to protect any property from indiscriminate clearing as well as promote, maintain and enhance a positive, healthy image of the city.

The terms and provisions of this article apply to all real property within the City's corporate limits.

#### 13.1.B PLAN REQUIRED AND PROTECTED TREES

No person, directly or indirectly, shall cut down, destroy, remove, move or effectively destroy through damage:

1. Any Protected Tree as defined herein situated on a parent tract, parcel or lot that is 1 acre or greater without first submitting, receiving approval of, and adhering to conditions of a Tree Conservation Plan or 'TCP' unless otherwise specified in this article;
2. Any Protected Tree or replacement tree as defined herein which has been delineated on a previously approved 'TCP' without first submitting and receiving approval of a revised 'TCP' unless otherwise exempted by Section 13.2, #s1-6, and;
3. Any tree whose DBH is greater than or equal to 6" within the Historic Preservation Overlay District without first obtaining a Certificate of Appropriateness from the Historic Preservation Commission pursuant to Article 14 – Historic Preservation Regulations, contained herein. A 'TCP' shall not be required when a Certificate of Appropriateness is issued for tree removal.

#### 13.1.C BUILDER'S/CONTRACTOR'S RESPONSIBILITY

All builders, contractors or other individuals affected by this policy shall be responsible to verify if there is a TCP approved on a parcel of land before work begins. On-site work shall not begin where a TCP is required, nor shall any work be conducted in a manner inconsistent with an approved TCP and the provisions of these requirements. All builders, contractors or other individuals who have not submitted a request for a building permit as of the effective date of this ordinance are subject to the requirements herein.

### Section 13.2 Exemptions Provided

Tree protection and replacement requirements shall not be required if the following conditions exist:

1. Agricultural: Property zoned Interim holding (IH) and being actively used solely for a documented agricultural purpose shall be exempt from the requirements specified herein.
2. Damaged/Diseased Trees: Trees that are documented to be dead, diseased, damaged beyond the point of recovery, or in danger of falling are exempt from this article. The City may, at its discretion, require that the property owner, developer or affected individual provide an opinion from an arborist to validate the welfare of the tree.
3. Public Safety: A tree is exempt that creates unsafe vision clearance or conflicts with other ordinances or regulations, or the tree is determined to be in a hazardous or dangerous condition so as to endanger the public health, safety or welfare.

4. Utility Service Interruption: A tree which has disrupted a public utility service due to tornado, flood or other act of God is exempt. Removal shall be limited to the part of the tree which is found necessary to be removed to re-establish and maintain the utility service.

5. Utility Companies, Utility Service and or Distribution/Transmission Lines: Utility companies shall be exempt from this article when establishing distribution or transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of protected trees. All rights of ways, easements or similar types of public property granted to utility companies shall be exempt from the requirements of this article.

6. Public Property: All rights of ways, easements or similar types of public property granted to the City shall be exempt from this article.

7. Homeowners: The owner of an existing residence shall be exempt from the requirements of this article for that property on which the existing home is located. Residential property owners located within the Historic Preservation Overlay (HPO) must obtain the approval of the Historic Preservation Commission for Protected Trees as defined herein.

**Section 13.3 Administrative Review and Approval**

**13.3.A GENERAL SCOPE OF APPLICATION, REVIEW AND APPROVAL**

1. The Director of Community Development or his/her designee will review the Tree Conservation Plan (TCP) submitted by the applicant, report and make recommendations to the Planning and Zoning Commission. As part of the TCP review, the City has the right to reasonably request changes or adjustments in the layout and design of the development to save Protected Trees. The Planning and Zoning Commission will review and approve, approve with modification or condition, or disapprove the TCP. Such review shall remain consistent with the purpose of this article and shall strive to protect existing, mature trees through appropriate site design.

2. The Director of Community Development or his/her designee may make field assessments to determine the correctness of the TCP submittal, validate measurements and locations of the tree species enumerated on the TCP and document compliance with the approved TCP.

3. The TCP application and TCP shall indicate the reasons for removal of any Protected Trees. The required TCP will accompany all plats, site plans, landscape plans or other applications submitted for review to the Planning & Zoning Commission. In those instances where very few Protected Trees exists on a property, the TCP can be incorporated and shown on the preliminary plat when approved by the Director of Community Development.

**13.3.B PROTECTED TREES IDENTIFIED**

The table below identifies the Protected Trees which are to be included in the TCP. Diameter at Breast Height (DBH) is defined in Article 12 – Definitions.

Protected Trees	Size Req.	Common Name (Examples given)
All varieties of Oaks	≥ 6" DBH	Black, Burr, Chinquapin, Escarpment Live, Lacey, Post, Red, Texas Red, Water
All varieties of Pecans	≥ 6" DBH	Native, Southern, etc.
All varieties of Elms	≥ 6" DBH	American, Cedar, Homestead, Lace Bark, Siberian, etc.
All varieties of Ash, Maples and Poplars	≥ 10" DBH	Texas Ash, October Glory Maple, Red Maple, Silver Maple, Silver Poplar, Box Elder, etc.
Other protected varieties	≥ 10" DBH	Native Willow

**13.3.C TREE CONSERVATION PLAN (TCP) CONTENTS.....**

The required Tree Conservation Plan (TCP) shall be submitted as a graphic representation drawn on an eighteen inch (18”) x twenty-four inch (24”) sheet and to the largest scale practical showing the exact location, size (trunk diameter and height) and common name of ALL trees, highlighting identified protected trees and the indication of which trees are to be removed and or replaced. The TCP shall include the following:

1. Location of all existing or proposed structures (or building pads), impervious cover and extent of development (or limits of construction activity) within the site as shown on the plan and all improvements properly dimensioned and referenced to property lines.
2. Setback and yard requirements.
3. Existing and proposed site grades, contours and any other topographic elements or features.
4. Location of existing or proposed utilities and easements.
5. Spatial location on the map labeling all trees and highlighting Protected Trees identified in Section 13.3.B. The TCP shall clearly identify those trees which are to be protected and those which are to be removed from the site and the location and variety of all replacement trees.
6. A table listing all Protected Trees by species, location key shown on the map with: diameter breast height (DBH), physical condition of tree, and an indication of whether or not the applicant is proposing to remove that tree. Each column with numeric values shall be totaled.
7. Detail of tree protection standards meeting the adopted city requirements,
8. List and location of replacement trees necessary to meet the requirements contained herein.
9. If the purchase of tree credits to the City Tree Fund is proposed, a letter will be required acknowledging the payment with the amount proposed to meet the requirements herein.
10. Title block stating street address, lot and block, subdivision name, and date.
11. Name, address, and phone number of person preparing the plan and the developer or property owner.
12. A calculation table identifying all plantings consistent with requirements defined within Article 8. Such calculation shall assume the submitted TCP was approved as presented. The calculation table shall include the total number of 3” caliper trees, ornamental trees and shrubs to be planted on the property and must also specifically identify additional replacement trees as required within this article.

**13.3.D NO PROTECTED TREES.....**

The property owner of a property that is to be developed, platted or replatted may submit a letter certifying that there are no Protected Trees on the property. This letter will be submitted with the understanding that if it is determined that there are protected trees on the property, the violation provisions and fines adopted as part of this article will be in full force and effect.

**13.3.E APPEALS.....**

Decisions of the Planning and Zoning Commission may be appealed by the applicant to the City Council. A written request must be submitted by the applicant to the Community Development Department within forty-five (45) days of P & Z action.

**13.3.F TCP EXPIRATION.....**

Approved TCP’s shall be valid for one (1) year from the approval date by the Planning & Zoning Commission, after which the TCP automatically becomes null and void except where substantial progress is ongoing and the project has not become dormant for a period greater than 12 months.

**13.3.G BUILDING PERMITS**.....

All builders/contractors should determine if there is an approved TCP before work begins on any property. The City will verify this inquiry and the builder/contractor shall be required to maintain a copy of the approved TCP on-site. No building permit or letter of acceptance for any public improvements shall be issued by the City unless all construction activities meet the requirements of this article and the approved TCP.

**Section 13.4 Tree Removal Permit**

A Tree Removal Permit will be required for any protected tree to be removed in accordance with an approved TCP by P&Z, or City Council upon appeal. No protected tree may be removed without such permit. A permit fee shall be required as defined in the adopted City of Granbury Fee Schedule as amended.

**Section 13.5 Tree Replacement and Planting Requirements**

If the approved TCP permits the removal of a Protected Tree, the applicant shall be required to replace the tree(s) being removed with trees selected from the list of approved trees on the replacement tree list. Replacement trees will count toward the landscaping requirements defined in Article 8. Replacement trees must be a minimum of 3 caliper inches measured 12" above grade when planted. The following replacement rules apply:

1. Protected Tree(s) measuring 10" or greater but less than 24" DBH shall be replaced with caliper inches equal to or greater than the total diameter(s) of the tree(s) removed.
2. Protected Tree(s) 24" DBH and larger, will be replaced with caliper inches equal to or greater than twice the number of inches as the tree(s) removed.
3. Replacement trees must be maintained in a healthy manner and appropriately irrigated and kept in a continual healthy condition as is appropriate for that particular species for the season of year.
4. A replacement tree shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines.
5. No replacement tree shall be planted within 10' of a fire hydrant, water or sewer line.
6. A replacement tree shall be planted first, in the area visible to the public and second, proximate to the location where trees were removed.
7. Replacement trees shall be selected from the following list and shall be a minimum of 3 caliper inches as measured 12" above grade. Oaks, Elms, and Pecans shall make up at least seventy-five percent (75%) of the required replacement trees.

<b>APPROVED TREE LIST</b>	
<b>Common Name</b>	<b>Scientific Name</b>
Ash, Texas	Fraxinus texensis
Cedar Elm	Ulmus crassifolia
Cedar, Eastern Red	Juniperus virginiana
Cypress, Bald	Taxodium distichum
Elm, Lace Bark	Ulmus parvifolia
Magnolia, Southern	Magnolia grandiflora

Maple, Bigtooth	Acer gradidentatum
Maple, Caddo	Acer saccharum
Oak, Bur	Quercus macrocarpa
Oak, Chinquapin	Quercus muhlenbergil
Oak, Escarpment Live	Quercus fusi formis
Oak, Lacey	Quercus glaucoides
Oak, Live	Quercus virginiana (Escarpment)
Oak, Post	Quercus stellata
Oak, Red	Quercus shumardi
Oak, Texas Red	Quercus texana
Osage Orange	Maclura pomifers (thornless and fruitless)
Pecan (native)	Carya illinoensis
Pistache, Chinese	Pistacia chinensis
Soapberry, Western	Sapindus drummondii
Walnut, Black	Juglans nigra

**Section 13.6 Tree Replacement Credits**

Tree replacement credits may be purchased to reduce the number of replacement inches required to be planted on the subject site. Such credits shall only be issued when it is not possible to comply with planting requirements of Section 13.5.A.

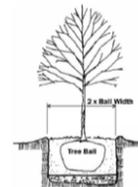
1. Payment of \$125 per caliper inch may be paid to the City of Granbury Tree Fund to reduce the total required caliper inches to be planted as defined in Section 13.5.A. Funds shall be allocated by the City of Granbury Parks Board and will be used for the planting and maintenance of trees and vegetation at approved locations. Funds shall be collected by the City prior to any plat being filed for record or issuance of any permit, whichever occurs first.

**Section 13.7 Tree Transplanting and Protection Standards**

**13.7.A TREE TRANSPLANTING STANDARDS**

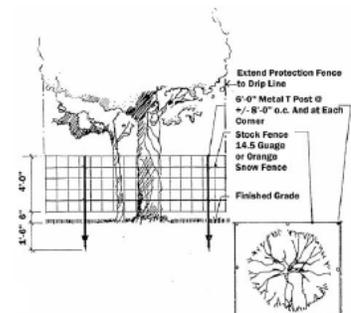
Trees of the variety listed in Section 13.5 above can be transplanted to the subject private property to meet the replacement requirements under the following conditions:

1. Trees of at least three caliper inches (3") but not exceeding six inches (6") DBH are eligible for transplanting and crediting.
2. Transplanted trees must be maintained in a healthy condition. The developer who received the transplanting credit must replace trees that fall into an unhealthy state.



**13.7.B TREE PROTECTION STANDARDS**

1. General Standards and Tree Flagging: Prior to any construction or land development, the developer shall mark with an aluminum tag or appropriate identification marker each Protected Tree which indicates its relationship to the TCP and clearly flag with bright fluorescent orange vinyl tape all protected trees to be saved. The



orange tape should be wrapped and maintained around the main trunk of the protected tree at a height of approximately 5 feet so that the tape is clearly visible during construction at all times. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required and installed as depicted herein. The protective fence must be maintained during all construction phases until project is finished.

2. Responsible Party: The property owner or developer shall be responsible for protecting identified trees, as necessary.

3. Materials Storage: The developer or contractor shall not store any material or equipment under the drip line of any protected tree. During the construction stage of the development, no cleaning or storage of equipment or material shall be allowed within the drip line of a protected tree. Those materials include but are not limited to oils, solvents, mortar, asphalt and concrete.

4. Signs: No signs, wire or other attachments shall be attached to the protected trees.

5. Traffic: No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of a protected tree other than on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance, emergency restoration of utility service or routine mowing operations.

6. Grade: No cut or fill in excess of two inches (2") shall be allowed within the drip line of any protected tree unless adequate construction methods are approved beforehand. If approved, major cut or fill changes (i.e. two inches (2") or greater) within the critical root zone of a protected tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

7. Boring: Boring of utilities under protected trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected tree. When required, the length of the bore shall be the width of the critical root zone plus two feet (2') on either side of the critical root zone and shall be at a minimum depth of 48 inches.

8. Damage: Any physical damage to a protected tree that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree. A damaged, protected tree shown to be preserved on the approved TCP shall be replaced at a 2:1 caliper inch replacement ratio and also shall be subject to the fines enumerated in Section 13.9. A certified arborist or licensed landscape architect shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt. The City may select the arborist or landscape architect. However, the property owner or developer shall be responsible for paying the consulting cost of the arborist or landscape architect to determine the damage of the tree.

**13.7.C TREE PRUNING STANDARDS**.....

1. General: No protected tree shall be pruned in a manner, which significantly disfigures the tree, or in any manner which would reasonably lead to the death of the tree.

2. Allowed Pruning: A protected tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected trees must be pruned to allow construction of a structure. Pruning should be done in manner that does not significantly disfigure the tree. Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service. Utility companies should inform the City of their routine pruning schedules and are encouraged to prune trees in accordance with the Tree Care Industry Association standards for pruning shade trees.

3. Required Pruning: The owner of all trees adjacent to public R.O.W. shall be required to maintain a minimum clearance of twelve feet (12') above traveled pavement or curb of a public street. The City shall also have the right to prune trees overhanging the public R.O.W. as necessary.

### **Section 13.8 Tree Fund Created**

1. Tree Fund Administration: The City shall administer the tree fund. The City Council shall, by policy, have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/ or funds for purchasing trees. The funds shall be used for any of the following:
  - a. To purchase, plant and maintain trees and vegetation on public property utilizing either city staff or contract labor;
  - b. To acquire wooded property for the use as a public park and enjoyment by the community; or,
  - c. To perform and maintain a City-wide tree inventory and to educate citizens and developers on the benefits and value of trees.
2. Collection: Money contributed to the Tree Fund shall be paid prior to any site grading work, or the issuance of any construction or building permit and/or prior to filing of a Plat for recording at the Hood County Courthouse, whichever comes first.

### **Section 13.9 Violations & Penalties**

1. The unlawful damage, destruction or removal of each Protected Tree shall be considered a separate incident and each incident subjects the violator to the penalty of \$500 plus \$25 per diameter inch for each Protected Tree, not to exceed \$2,000 per Protected Tree.
2. Any person, firm, corporation, agent or employee thereof who violates any provisions of this article shall be guilty of a misdemeanor and upon conviction hereof shall be fined under Section 1.9 of this ordinance for each offense. A separate offense shall be deemed committed on each day during which a violation occurs. No acceptance of public improvements shall be authorized and no Certificates of Occupancy (C. of O.) or permits shall be issued until all fines for violations of this article have been paid to the City.