**Division 51A-10.130. Urban Forest Conservation**

**SEC. 51A-10.131. APPLICATION OF DIVISION.**

 (a) This division applies to all property in the city except for:

 (1) lots smaller than two acres in size that contain single-family or duplex

uses; and

 (2) lots in an overlay district or a planned development district with

tree preservation regulations that vary appreciably from those in this article, as

determined by the building official.

 (b) In this section, a demolition permit is a declaration of intent to remove the single

family or duplex use on the property. The tree removal property is considered to be vacant when

a demolition permit is issued for the single family or duplex structure. The tree removal property

is considered to be vacant until:

 (1) the demolition permit is closed (not expired) by the building inspector

(being proof of the return of the single family or duplex use); or

 (2) a certificate of completion is provided to the tree removal property owner

for a new single family or duplex structure for occupancy is completed on the property.

**SEC. 51A-10.132. TREE REMOVAL APPLICATION PROCEDURES.**

 (a) Tree removal application and posting.

 (1) Except as provided in this subsection, a responsible party must post

either an approved tree removal application in accordance with this section or a building permit

in a conspicuous place at the entrances to the tree removal property, before

removing or seriously injuring a protected tree on that tree removal property.

 (2) For trees removed from a public right-of-way, it is not necessary to post

the required tree removal permit.

 (b) Application for review. An application required under this section must be filed

with the building official on a form furnished by the city for that purpose. The application must

include the following:

 (1) The name, address, telephone number, and signature of the applicant. The

applicant may be the owner of the tree removal property or a contracted agent acting for the

owner

.

 (2) The name, address, and telephone number of each tree removal property

owner.

 (3) The street address, zoning district, or overlay district of the tree removal

property.

 (4) A tree survey that shows the location, caliper, and name (both common

and scientific) of all trees on the lot or tract (trees in close proximity that all have a diameter

of less than eight inches may be designated as a "group of trees" with only the number

noted), or an estimate of the total diameter inches of protected trees, calculated and

documented in a manner determined by the building official to be reasonably accurate. The

survey does not have to be prepared by a registered surveyor, architect, or landscape architect.

Trees not proposed for removal or serious injury, or located within 20 feet of proposed

construction activity need not be shown on the survey unless the building official determines it

would help evaluation of the application.

 (5) A forest stand delineation may be used for the purpose of calculating the

total square footage of forest canopy coverage of building sites and providing an ecological

assessment of a property. An FSD must be approved by the building official. Required

information in an FSD is determined by the building official. The FSD is applicable to and may

be used to calculate:

 (A) Tree canopy cover assessment for old-field and ~~vacant~~ undeveloped lots in early succession stages on properties that are ~~ten~~ two acres or larger when:

 (i) a stand, or partial stand, of Class 3 and unprotected trees is

located in a development impact area;

 (ii) the forest stand delineation excludes areas within 50 feet of

a floodplain, 50 feet of a wetland, 50 feet of an escarpment zone, and 150 feet of a stream bank;

and

 (iii) the trees in the stand, or partial stand, is designated in an

age class based on site and historical data.

 (iv) see to 10.135

 (B) Tree canopy cover credit for single family and duplex construction.

 (i) see to 10.135

 (C) Tree canopy cover assessment for development impact areas when applying Sustainable development incentives.

 (i) see 10.135

 (D) Tree canopy cover assessment on properties five acres or larger

with institutional and community service uses or recreation uses when:

 (i) The measured tree canopy coverage is the baseline for

determining the number of trees required for replacement by using the canopy cover replacement

calculation for legacy trees in the Sustainable Development Incentives replacement option. ~~The~~

~~property must maintain or increase the tree canopy coverage for the property recorded in the~~

~~most recent FSD.~~

 ~~(ii) Significant trees that are included in an FSD tree canopy~~

~~coverage must be replaced according to the caliper standards for significant trees in this article.~~

 (ii) see 10.135

 (E) Forest analysis for baseline documentation to create a conservation

easement.

 (F) Tree canopy cover assessment where trees are removed without

authorization.

 (i) see 10.137

 ~~(G) Forest analysis for establishment of a community management~~

~~plan.~~

 (6) All permits and approvals related to floodplain, wetland, or escarpment

regulations required by city departments or other agencies.

 (7) Any other reasonable and pertinent information that the building official

determines to be necessary for review.

 (c) Form of approval of tree removal application. A tree removal application is not

approved until it has been signed by the building official.

 (d) Separate offense for each tree removed or seriously injured without a permit. A

responsible party commits a separate violation of this section for each tree removed or seriously

injured without authorization by a building permit or approved tree removal application that is

posted at the lot or tract.

 (e) Decision of the building official. The building official shall deny a tree removal

application if the removal or serious injury is not in the public interest. This decision must be

based on the following factors:

 (1) The feasibility of relocating a proposed improvement that would require

the removal or serious injury of the tree.

 (2) The cost of preserving the tree.

 (3) Whether the lot or tract would comply with this article after the removal or

serious injury.

 (4) Whether the removal or serious injury is contrary to the public health,

safety, or welfare.

 (5) The impact of the removal or serious injury on the urban and natural

environment.

 (6) Whether an economically viable use of the property will exist if the

application is denied.

 (7) Whether the tree is worthy of preservation, is a significant tree, or a

historic tree.

 (8) Whether the tree is diseased or has a short remaining life expectancy.

 (9) The effect of the removal or serious injury on erosion, soil moisture

retention, flow of surface waters, and drainage systems.

 (10) The need for buffering of residential areas from the noise, glare, and visual

effects of nonresidential uses.

 (11) Whether a landscape plan has been approved by the board of adjustment,

city plan commission, or city council.

 (12) Whether the tree interferes with a utility service.

 (13) Whether the tree is near existing or proposed structures.

 (14) Whether the proposed mitigation for tree removal or serious injury is

sufficient.

**SEC. 51A-10.133. HISTORIC TREES.**

 (a) The agreement of the property owner where the proposed historic tree is located is

required for an historic tree designation to be approved by city council.

 (b) Except as provided in this section, historic status lasts for the life of the tree.

 (c) A certified copy of the resolution must be filed in the deed records of the county

where the historic tree is located.

 (d) Historic trees may only be removed by authorization of the city council or as

outlined in Section 51A-10.140.

**SEC. 51A-10.134. REPLACEMENT OF REMOVED OR SERIOUSLY INJURED**

**TREES.**

If a tree removal application is approved, a building permit is issued, an

unauthorized tree removal occurs, or when a tree is removed from a public right-of-way in

conjunction with a private development, one or more healthy replacement trees must be planted

in accordance with the following requirements.

 (1) Quantity.

 (A) Except as provided in this section, the minimum total caliper of

replacement trees for protected trees the total diameter ~~caliper~~ of the protected

trees removed or seriously injured.

 (B) Tree classification for mitigation:

 (i) Historic Trees: 3:1

 (ii) Significant: 1.5:1

 (iii) Class 1: 1:1

 (iv) Class 2: .7:1

 (v) Class 3: .4:1

 (C) Significant trees. The minimum total caliper of replacement trees for

significant trees, removed either individually or as part of a tree canopy cover, or legacy trees is

1.5 times the total caliper of the significant trees removed or seriously injured or 12 inches for

legacy trees, whichever is greater.

 ~~(3) Historic trees. The minimum total caliper of replacement trees for historic~~

~~trees is three times the total caliper of the historic trees removed or seriously injured.~~

 (2) Species.

 (A) A replacement tree is an approved tree determined by the director.

 (B) For a lot or tract two acres or more ~~than two acres~~ in size, no one species of replacement tree may constitute more than 35 percent of the replacement trees planted on the lot or tract.

 (3~~5[3]~~) Location. The replacement trees must be planted on the lot from which the

protected tree was removed or seriously injured, except as otherwise allowed by Section 51A-

10.135. Replacement trees may not be planted within a visibility triangle, a water course, in an

area within 15 feet horizontally to the closest point of an overhead electric distribution or

transmission line, or an existing or proposed street or alley unless the tree is authorized by

license and permit and is required to be in that location by other ordinance.

 (4~~6[4]~~) Minimum size. A replacement tree must have a caliper of at least two

inches.

 (5~~7[5]~~) Timing.

 (A) Except as provided in this section, all replacement trees must be

planted within 30 days of removal.

 (B) If the property owner provides the building official with an

affidavit stating that all replacement trees will be planted within six months, the building official

may allow the replacement trees to be planted during that six month period.

 (i) If the property owner submits an application for a building

permit for construction on the tree removal property within the six month period, the tree

replacement requirements may be transferred to the building permit for final completion of all

tree replacement prior to a final certificate of occupancy or certificate of completion for the

property.

 (ii) If the property owner does not submit an application for a

building permit for construction within the six month period, all tree replacement must be

completed within 30 days after the six month period.

 (C) For a single or multi-phase residential subdivision~~s~~ development and multi-phase commercial development, the tree replacement may be completed in accordance with a comprehensive tree replacement plan for the development ~~subdivision~~. The building official may allow the property owner additional time to complete the development project to plant the replacement trees, with the following restrictions:

 (i) A proposed landscape plan identifying all conceptual

landscaping for the properties within the subdivision must be provided by a landscape architect

and designed according to the soil and area requirements of this article. The proposed plan will

specify the minimum tree size and general species distribution for the properties in accordance

with this article. The tree replacement for the development identified on the proposed plan must

be completed prior to the final certificate of occupancy or certificate of completion for the

project.

 (ii) All required tree replacement which is not scheduled by

approved design to be applied to the property under the comprehensive tree replacement plan

must be completed within 30 days of issuance of the tree removal permit or building permit for

removing trees.

 ~~(8) Forest stand delineation exceptions. When an FSD, under Subparagraph~~

~~51A-10.134(b)(5)(A), is used to assess tree canopy coverage:~~

 ~~(A) No mitigation is required when:~~

 ~~(i) at least 60 percent of the trees in the stand are Class 3 and~~

~~unprotected species; and~~

 ~~(ii) the average tree diameters are less than 12 inches DBH.~~

 ~~(B) No mitigation of Class 3 trees is required when:~~

 ~~(i) at least 60 percent of the trees in the stand are Class 3 and~~

~~unprotected species; and~~

 ~~(ii) the average tree diameters are between 12 inches and 18~~

~~inches DBH.~~

 (D) A replacement tree that dies within five ~~two~~ years of the date it was

planted must be replaced by another replacement tree that complies with this section.

**SEC. 51A-10.135. ALTERNATIVE METHODS OF COMPLIANCE WITH TREE**

**REPLACEMENT REQUIREMENTS.**

 (a) Mitigation. If the building official determines that, due to inhospitable soil

conditions or inadequate space, it would be impracticable or imprudent for the responsible party

to plant a replacement tree on the tree removal property , the responsible party shall comply

with one or more of the following requirements:

 (1) Donate the replacement tree to the city's park and recreation department,

with the approval of the director of the park and recreation department.

 (2) Plant the replacement tree on other property in the city that is within five

miles of the tree removal property, the responsible party obtains the written approval of the

building official for:

 (A) a site plan indicating the location of the tree to be removed or

seriously injured, the address of the property where the replacement tree will be planted, and a

site plan indicating the location of the replacement tree; and

 (B) a written agreement between the owner of the property where the

replacement tree will be planted and the responsible party, to transfer

responsibility for the replacement tree under this article to the receiving party.

 (i) The agreement may be structured to allow a non-profit

association dedicated to tree advocacy or the conservation of land to monitor and manage the

replacement trees; and

 (ii) The agreement must include a written affidavit by the

owner of the property where the replacement tree will be planted agreeing to maintain the tree

for five years and to be the responsible party for the replacement tree.

 (3) Grant a conservation easement to the city in accordance with ~~Subsection~~

~~(h) and~~ the following paragraphs:

 (A) The conservation easement area must contain protected trees with

a combined caliper equal to or exceeding the number of inches ~~caliper~~ for which replacement tree credit is being requested.

 (B) The conservation easement area must be a minimum of 25 percent

of the size of the development impact area on the tree removal property.

 ~~(h[d]) Conservation easement.~~

 (C) The city manager is authorized to accept and approve on behalf of the city, a conservation easement to conserve trees and other natural features, upon:

 (i) approval as to form by the city attorney; and

 (ii) a determination by the building official that the easement area is suitable for conservation purposes, based on:

 (aa) the submission of baseline documents prepared by a

qualified professional describing the property's physical and biological conditions and the

conservation values protected by the easement;

 (bb) the likelihood that the proposed conservation easement area would preserve vegetation on a parcel otherwise attractive for development;

 (cc) the overall health and condition of the trees on the

conservation easement property;

 (dd) the suitability of the area as a wildlife habitat; [and]

 (ee) other unique features worthy of preservation, e.g. water channels, rock formations, topography, or rare herbaceous or woody plant species;[.] and

 (ff) the percentage of conservation easement land area in a

flood plain does not exceed fifty percent of the overall conservation easement area.

 (D) The conservation easement may be structured to be monitored and

managed by a nonprofit association dedicated to the conservation of land, with the city as a joint

grantee having the right, but not the duty, to monitor the management of the conservation area.

 (E) The city manager may not accept a sole or joint conservation easement on behalf of the city, unless and until the owner provides the building official with:

 (i) a tree survey as set forth in Section 51A-10.132, or an estimate of the caliper and type of protected trees documented in a manner determined to be reasonably

accurate by the building official, or a forest stand delineation verified and approved by the

building official; and

 (ii) a preservation strategy for the conservation easement area.

 (F) No person may place playground equipment or park amenities in a

conservation easement area unless the building official has made a written determination that the

amenities indicated on a site plan are unlikely to be detrimental to the conservation easement

area.

 (G) The replacement trees that cannot be planted on the tree removal property, and for which credit cannot be given through a conservation easement under this paragraph, must be replaced by other methods set forth in this subsection, such that the replacement trees equal or exceed the number of inches in caliper determined for replacement.

 (H) Conservation easement areas must be in the Dallas city limit.

 (4) ~~Make a~~ Payment into the Reforestation Fund. ~~a special city account, to be known as the Reforestation Fund, in accordance with Subsection (g).~~

 ~~(g[e]) Reforestation fund.~~

 (A) The director shall administer the reforestation fund to purchase trees to plant on public property, to create an urban forest master plan and to update it periodically, to fund a staff position for managing and directing the fund for planting and urban forest education, and/or to acquire conservation easements or wooded property. A minimum of fifty percent of all funds provided for each fiscal year must be available to planting trees on public property or to acquire conservation easements or wooded property.

 (B) The amount of the payment required is calculated by using the formula for appraising the value of a tree, as derived from the most recent edition of the *Guide for Plant*

*Appraisal* [*~~Establishing Values of Trees and Other Plants]~~* published by the Council of Tree &

Landscape Appraisers, unless another publication is designated by the building official. If more

than one tree is being removed or seriously injured or not planted, the values of the trees are

added when calculating the payment required.

 (C) All property purchased through this fund must be in [~~or partly in~~] the city of Dallas [~~and may not extend further than five miles from the Dallas city limit~~].

 (b) Mitigation by legacy trees.

 (1) Lots or artificial lots smaller than five acres on properties which are not

applying Sustainable Development Incentives qualification standards, may attain replacement

credit for planting legacy trees.

 (2) Each tree planted and designated as a legacy tree is given a 12 inch

replacement credit.

 (c) Sustainable development incentives.

 (1) Prerequisites for development. ~~Qualified development requirements~~. For a development to qualify for sustainable development incentives it must meet the following prerequisites ~~requirements~~.

 (A) The development may only be for properties that are a minimum of

two acres with no residential uses other than multi-family uses and single-family uses in shared

access developments.

 (B) Property within a development used to qualify for sustainable

development incentives may not be used for conservation easements.

 (C) Before a building permit is applied for, a qualified professional or

consulting arborist or landscape architect must provide the following to the building official:

 (i) A forest stand delineation that identifies tree preservation

areas for legacy trees.

 (ii) A conceptual landscape plan identifying tree preservation,

areas, natural features, landscape areas, proposed buildings, and any other site elements or

improvements in as much detail as possible.

 (iii) A soil management study for all landscape areas.

 (D) All healthy ~~native quality~~ top soils disturbed during construction must be restored, where applicable.

 (E) Development must be fitted to the topography and soils to

minimize cut and fill sections.

 (F) Grading and clearing in or around the development impact area

may not encroach in a floodplain area, escarpment zone, wetland, or within 50 feet of a

streambank, except in conjunction with the construction of drainage facilities, approved through

private development engineering review.

 (i) Grading near preserved trees, and around the edge of the

development impact area, must be planned and implemented to have the least disturbance on

natural topography, watercourses, vegetation, and wildlife.

 (ii) Indigenous vegetation must be retained and protected

except in immediate areas of development, or except to control or remove invasive plants.

 (G) Utility easement planning and locations must be designed to insure

the least impact to preserved trees and sensitive land area.

 (H) All tree preservation and legacy tree plantings must fully comply

with the tree protection requirements and soil area and tree spacing standards of this article.

 (I) A consulting arborist must be consulted throughout the

development and provide periodic inspections of the preserved trees, confirm the standards for

tree planting of the legacy trees, and report findings to the building official before the final

landscape inspection.

 (J) Water conservation irrigation standards must be designed for

optimum water conservation management on the property, with dedicated irrigation for all

legacy trees.

 (K) A sustainable site maintenance, schedule, and implementation plan

covering a minimum of five years must be written by a qualified professional and implemented

for the development, and retained on the property

 (2) Tree canopy coverage goal and credit. The cumulative tree canopy coverage of existing trees excluding FEMA-designated 100-year floodplain, the escarpment zone setback,

and the projected 50 feet beyond a streambank, and planted legacy trees on the final approved

landscape plan determines the credited tree canopy cover and is then compared to the projected

tree canopy goal for the property. The required tree replacement inches is reduced by the

percentage of legacy tree cover and existing tree cover in the development impact area as

compared to the goal tree canopy cover for the property.

 **Street Typology Canopy Cover Goal**

 Residential 40%

 Mixed Use 35%

 Commercial & Freeways 30%

 Industrial 25%

 Parkways 45%

 (3) Preserved tree credit. Existing healthy large and medium trees preserved

on the property are provided tree replacement credit for the tree canopy cover determined by completing a forest stand delineation and a conceptual landscape plan of protected trees to be preserved: Qualified trees must be protected as required in this article.

 (A) in the development impact area;

 (B) not in the development impact area;

 (C) in a protected zone

 (4) Legacy tree credit. Legacy trees may be established on the property in

enhanced landscape areas for tree replacement credit. The tree credit is achieved by planting an

approved large or medium tree in a minimum surface soil area, and volume, which is determined

best suited to establish and sustain the tree to full maturity projected over an extended period of

time. Legacy trees and their tree credit cover are established as follows:

 (A) Large legacy trees must be planted in an open soil area of at least

500 square feet (or 1500 cubic feet) per tree. The area must be increased to 750 square feet in

shallow soils of less than two feet in depth. Large legacy trees will provide a projected 1200

square feet per large legacy tree to the tree canopy cover total for the development.

 (B) Medium legacy trees must be planted in an open soil area of at

least 400 square feet (or 1200 cubic feet) per tree. The area must be increased to a minimum of

600 square feet in shallow soils of less than two feet in depth. Medium legacy trees will provide

a projected 750 square feet per legacy tree to the tree canopy cover total for the development.

 ~~(5) Other protected tree credits. Protected trees not in the development impact~~

~~area will be credited~~

 (5) Additional SITES credits. A development which demonstrates by a

SITES rating sheet a minimum compliance with SITES Certified-rating or greater may receive

additional credit based on the percentage of the score relative to SITES Platinum-rating. The

percentage increase of projected tree canopy may be applied to each planted legacy tree when the

estimated established score is approved by the building official.

 (6) Habitat restoration and preservation.

 (A) ~~Monarch Butterfly~~ Habitat areas which are established to provide a

dedicated open landscape area for flora and fauna habitat preservation or restoration may be

credited to the legacy tree mitigation reduction for every 1,200 square feet of habitat preserved

that is not under a tree canopy, for a maximum of 2,400 square feet or five percent of canopy

cover goal, whichever is greater.

 (B) These areas must be actively monitored and managed to be fully sustained as a protected habitat area and provided a maintenance plan.

 (d) Tree canopy cover credit for single family and duplex uses ~~construction~~. To receive a

reduction of tree removal mitigation requirements a portion of existing tree canopy over a single

family or duplex construction building site must be preserved.

 (1) The tree canopy cover credit square feet threshold goal is 40 percent of the

building site. If the goal is not achieved, a penalty is not applied for not attaining the goal.

 (2) All healthy existing large and medium trees preserved on the building site,

and boundary trees, may be measured for total square footage of tree canopy cover, except for

invasive trees and trees located within 20 feet on center of the nearest overhead public electric

distribution line.

 (3) Each large and medium nursery stock trees planted as landscaping may

also qualify as 100 square feet of tree canopy cover under the forest stand delineation. If the tree

canopy cover goal is met, additional landscape trees are not required, except that one tree must

be provided in the front yard.

 (4) Healthy large and medium trees preserved in the front yard setback may

qualify for double the total square footage of tree canopy coverage.

 (5) Qualifying trees must be protected according to Section 10.136. Boundary

trees located on adjoining properties must be protected to the drip line according to the tree

protection plan.

 (6) The tree canopy cover must be measured by a forest stand delineation,

verified and approved by the building official. The forest stand delineation must be provided by a

qualified professional. The reported calculated tree canopy coverage and comparison to the goal

canopy coverage must be approved by the building official.

 (e) Tree canopy cover credit on properties five acres or larger with institutional and community service uses or recreation uses:

 (1) The property must maintain or increase the tree canopy coverage, for the property, recorded in the most recent FSD.

 (2) Significant trees that are included in an FSD tree canopy

coverage must be replaced according to the caliper standards for significant trees in this article.

 (f) Forest stand delineation exceptions. When an FSD is used to calculate tree canopy cover for old-field and undeveloped lates in early succession stages on properties that are two acres or larger: ~~under Subparagraph 51A-10.132(b)(5)(A), is used to assess tree canopy coverage~~:

 (1) No mitigation is required when:

 (A) at least 60 percent of the trees in the stand are Class 3 and

unprotected species; and

 (B) the average tree diameters are less than 12 inches DBH.

 (2) No mitigation of Class 3 trees is required when:

 (A) at least 60 percent of the trees in the stand are Class 3 and

unprotected species; and

 (B) the average tree diameters are between 12 inches and 18

inches DBH.

 (3) Significant trees that are included in an FSD tree canopy

coverage must be replaced according to the caliper standards for significant trees in this article.

 (g) SITES. A property which attains a SITES certification level of Certified, Silver,

Gold, or Platinum in the project boundary may attain tree mitigation reduction credit.

 (1) The project must meet the prerequisites in SITES version 2, or the most

recent edition.

 (2) A qualified property must have initiated a preliminary review to assess

compliance with the system before the project is completed.

 (3) The final review will determine the final certification rating for the

project. The mitigation reduction will be applied as follows:

 (A) Certified rating: 50 percent.

 (B) Silver rating: 70 percent.

 (C) Gold rating: 85 percent.

 (D) Platinum rating: 100 percent.

**SEC. 51A-10.136. CONSERVATION AND MAINTENANCE OF PROTECTED TREES DURING CONSTRUCTION OR OTHER DISTURBANCE.**

 (a) Except as provided in this section, trees on City property:

 (1) must be established and maintained in accordance with ANSI A300

standards for tree care operations and acceptable pruning practices; or

 (2) the American Standard for Nursery Stock Z60.

 (3) Topping and Lion’s tailing are not acceptable tree pruning practices.

 (b) Where a property owner plans to retain protected trees on a site to be developed

or otherwise disturbed in a manner that may affect protected trees, the following requirements

must be met when making application, or prior to application, for a building permit:

 (1[a]) Tree protection plan in general. A tree protection plan submitted to the

building official must be provided in accordance with the industry-consensus specifications

found in ANSI A300 Standards for Tree Care Operations, as amended, and industry-consensus

best management practices.

 (2) Tree protection plan additional requirements. A tree protection plan must

include the following:

 (A[1]) A site plan drawn to scale, indicating the location of land

disturbance, clearing, grading, trenching, tree protection zones, general projection of the tree

canopy area over the property, proposed underground utilities, staging areas for parking, material

storage, concrete washout, and debris burn and burial holes where t

hese areas might affect tree protection, and areas where soil compaction is likely to occur in a

tree protection zone due to traffic or materials storage.

 (B[2]) A complete tree survey in accordance with the requirements set

forth in Section 51A-10.132, or a forest stand delineation as verified and approved by the

building official. Significant and historic trees must be specifically designated on the survey.

 (C[3]) Detailed drawings and descriptions of any of the following tree

protection measures that will be used during development.

 (i[A]) Tree protection fencing. Tree protection fences must be a

minimum of four feet high, constructed with adequate, durable material (e.g. orange plastic

construction fencing) approved by the building official, and located at the drip line or the edge of

the critical root zone, whichever is farthest from the trunk, unless the building official determines

that a fence line closer to the trunk will not be likely to result in damage to the tree. The building

official may require an expansion of the critical root zone or approved encroachment. Once

established, the fence line must remain in place as approved.

 (ii) Erosion control fencing or screening. All protected trees or

stands of trees, and tree protection zones must be protected from the sedimentation of erosion

material. Silt screening must be placed along the outer uphill edge of tree protection zones.

 (iii) Tree protection signs.

 (iv) Transplanting specifications. Trees to be transplanted on

property, or relocated from a remote property, must conform to industry-consensus specifications

found in ANSI A300 Standard for Tree Care Operations, as amended.

 (v) Tree wells, islands, retaining walls, and aeration systems.

 (vi) Staking specifications.

 (vii) Soil and root protection.

 (viii) Trunk protection.

 (ix) Tree and site watering plan.

 (c) Implementation of tree protection plan.

 (1) The responsible party must install and maintain all tree protection

measures indicated in the approved plan prior to and throughout the land disturbance process and

the construction phase.

 (2) No person may disturb the land or perform construction activity until the

required tree protection measures have been inspected by the building official.

 (3) The responsible party must mulch areas where soil compaction is likely to

occur as indicated on the plan with a minimum four-inch layer of processed pine bark or wood

chips, or a six-inch layer of pine straw.

 (4) If a cut is made to the root of a tree that is not intended to be removed or

seriously injured as indicated on the plan, the cut must be made at a 90 degree angle.

 (5) The responsible party must tunnel utilities if utilities are to run through a

tree protection zone, rather than being placed along corridors between tree protection zones.

 (6) The responsible party must provide water to the tree protection zone as

needed due to weather or site conditions, with penetration between six and 18 inches of soil.

 (d) Damage to protected trees. Where the building official has determined that

irreparable damage has occurred to trees within tree protection zones, the responsible party must

remove and replace those trees. The building official may determine irreparable damage to a tree

based on, but not limited to, the following factors: site evaluation, visible extensive damage to a

tree root system, extensive soil compaction around the tree protection zone, visual evidence of

required tree protection either removed or in disrepair, a level one tree risk assessment, or a

similar report prepared by a certified arborist or other qualified arborist indicating the current

condition and prognosis for the tree and the methods for remedy.

**SEC. 51A-10.137. VIOLATION OF THIS DIVISION.**

 (a) Stop work order. Whenever any work is being done contrary to the provisions of

this division, the building official may order the work stopped by notice in writing served on any

person engaged in the work or causing the work to be done. A person issued this notice shall stop

work immediately until authorized by the building official to proceed with the work.

 (b) Mitigation. In addition to any enforcement of criminal or civil violations on the

property or responsible party, the building official may require a mitigation requirement for the

removal, or serious injury, of protected trees enacted without a tree removal application or a

building permit upon written notice of a violation of this division.

 (1) The mitigation may include:

 (A) replacement of nursery stock trees on the property based on a tree

mitigation plan provided by the responsible party, if it is determined by the building official that

it is practicable to plant trees on the tree removal property;

 (B) a fee to be applied to the Reforestation Fund, with the amount as

determined in Section 51A-10.135; or

 (C) other alternative methods of compliance in this article when

approved by the building official.

 (2) The responsible party must provide a tree survey or a forest stand

delineation identifying all tree sizes and species, or tree canopy coverage, on the property. If the

responsible party fails to provide the required information within five days of the notice of

violation the building official may conduct a forest stand delineation using aerial imagery, field

analysis, or other reasonable and pertinent information to review and identify the square footage

of tree canopy coverage on the property. The rate per square foot of tree canopy will be

calculated (*insert method*) per square foot of illegally removed trees.

 (3) Upon a finding by the building official that tree canopy coverage removal

has occurred, the building official shall give written notification to the responsible party. The

tree replacement or mitigation must be completed within 30 days of the date of the notification.

**SEC. 51A-10.138. APPEALS.**

 In considering an appeal from a decision of the building official made in the enforcement

of this division, the sole issue before the board of adjustment shall be whether or not the building

official erred in his or her decision. The board shall consider the same standards that the building

official was required to consider in making the decision.

**SEC. 51A-10.139. FINES.**

 A person convicted of violating this division shall be subject to a fine of not less than

$2,000.00 per protected tree removed or seriously injured without authorization, and not less

than $2,000.00 per day for any other violation of this division.

**SEC. 51A-10.140. CRIMINAL RESPONSIBILITY, AND DEFENSES TO**

**PROSECUTION.**

 (a) A person is criminally responsible for a violation of this division if the person:

 (1) removes or seriously injures, or assists in the removal or serious injury of,

a protected tree without complying with the requirements of this division; or

 (2) owns part or all of the land where the violation occurs.

 (b) It is a defense to prosecution under this section that the act is included in one of

the enumerated categories listed in this section. No approval of a tree removal application is

required if the tree:

 (1) was dead and the death was not caused by an intentional or negligent act

of the owner or an agent of the owner;

 (2) had a disease or injury that threatened the life of the tree and was not

caused by an intentional act of the owner or an agent of the owner;

 (3) was in danger of falling or had partially fallen and the danger or the fall

was not due to an intentional act of the owner or an agent of the owner;

 (4) was in a visibility triangle (unless the owner was legally required to

maintain the tree there) or obstructed a traffic sign;

 (5) interfered with service provided by a public utility within a public rightof-

way;

 (6) threatened public health or safety, as determined by one of the following

city officials:

 (A) the chief of the police department;

 (B) the chief of the fire-rescue department;

 (C) the director of public works;

 (D) the director of street services;

 (E) the director of sanitation services;

 (F) the director of code compliance;

 (G) the director of park and recreation;

 (H) the director of sustainable development and construction; or

 (I) the director of aviation.

 (7) was designated for removal without replacement in a landscape plan

approved by the city council, city plan commission, or board of adjustment;

 (8) interfered with construction or maintenance of a public utility or public

right-of-way; or

 (9) was removed or seriously injured to allow construction, including the

operation of construction equipment in a normal manner, in accordance with infrastructure

engineering plans approved under Article V of Chapter 49 or street paving and grading in a

public right-of-way, storm drainage easement, detention or retention pond designation, or bridge

construction, for private development.