APPENDIX E

Tree Removal Application Process

Intent of the ordinance.

‘The city council intends that this division fully comply with state law to encourage the active planting of new trees and the replacement of damaged, injured, or removed trees by providing alternatives and options that will enhance the urban forest’ (10.131.1).

Building Official

The provisions of Article X in Division 10.130 state that the building official shall make a final determination on the protected status of all trees in the City of Dallas, unless the status is imposed by ‘a site-specific landscape plan or tree mitigation plan approved by the city plan commission or city council (10.110(b).)’ In making a decision, ‘the building official shall deny a tree removal application if the removal or serious injury is not in the public interest.’ This material is listed further in Section 3.0.

Board of Adjustment

The board may approve a special exception to the urban forest conservation regulations upon making a finding that the evidence and factors of the case support their opinion that the special exception for a provision of 10.130 should be given. The board may hear a request for provisions of quantity, timing, location, species, and methods of replacement.

The board may also hear appeals of the decision of the building official (10.138). In this process, ‘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.’ Appeals to the board's decision will be with the district court.
Planned Development Districts and Overlay Districts

In regard to planned developments, ‘deviations from this division require a three-quarters vote of the city council’ (10.131.2). The planned development or overlay district ‘with tree preservation regulations that vary appreciably from those’ in Division 10.130, as it is determined by the building official, are excepted from the division.

Other Exceptions

The provisions of Division 10.130 do not apply to ‘lots smaller than two acres (2.0 acres) that contain single-family or duplex uses in residential districts’ (10.131).

The single-family or duplex use is determined by the City of Dallas to be the existence of a dwelling structure for the single-family or duplex use.

The City of Dallas has determined for the tree removal property which is smaller than two acres that contain single-family or duplex uses in residential districts, that when an application for a demolition permit is made for a demolition permit to demolish the single-family or duplex structure, then the tree removal property is considered to be VACANT. This status remains until either the demolition permit is closed (with structure intact), or a certificate of completion is provided to the tree removal property owner for a new single-family or duplex structure for occupancy on the property.

Vacant lots are not excepted from the urban forest conservation regulations.

Other Regulations

Some zoning districts, including Historic Districts and Conservation Districts, have regulations which may vary from the Article X requirements. Depending on the regulation, it may include Article X requirements or be separate from its application. You are encouraged to check your zoning district for any additional restrictive regulations before proceeding with any site disturbance or building permit activity.

Neighborhood Forest Overlay

The NFO is under review through city council.
PROCEDURE

BUILDING PERMITS

The approval and issue of a building permit for construction provides for the authorization of tree removal on the property for the purpose of completing the authorized construction activity. The issued permit implies that all relevant review and investigation by the building official has occurred and all zoning and building regulations are in full compliance leading to the physical construction. Under ordinance, the building official does not make a separate ruling that the tree removal is in the public interest.

The permits for demolition, excavation, grading, or retaining walls do not apply under this provision and a separate tree removal application will be required for any tree removal in conjunction with the construction work, or disturbance.

SEPARATE TREE REMOVAL APPLICATIONS - GENERAL

In the case of the tree removal application, it is not a standard building permit under the regulations of Chapter 52. The application is a separate permit required under the zoning regulations of Division 51A-10.130. The tree removal application will be received directly by the city arborist in Room 105 at 320 E Jefferson Boulevard.

The owner of the tree removal property, or a contracted agent acting for the owner, must present either an accurate tree survey or forest stand delineation with the submittal of a tree removal application. It is recommended that the tree removal property owner and associates communicate with the city arborist prior to making application to verify the necessary elements of the tree survey or forest stand delineation (FSD).

The tree removal application information is provided on the Building Application Form available in the Building Inspection Division office or online. All required information described in Section 51A-10.132 must be presented on the application.

The city arborist may request additional information during the review process. The arborist office will review the provided tree analysis to confirm the accuracy of the provided data.

Once the district arborist and the chief arborist agrees with content of the tree survey or FSD, then the application will be processed in the arborist office with an approval signed by the building official.
If the information provided by the applicant is not supported by the building official, or if the conditions for removal and provisions for replacement are not confirmed by the owner, then the building official will deny the application. The tree removal property owner may receive this denial and either amend their documentation or seek appeal through formal processes.

The approved tree removal application will be provided to the owner or agent to be taken to the cashier at 320 E Jefferson Blvd. for the permit to be issued. The issued permit will be valid for a period to not exceed 6 months from date of approval.

The date of tree removal issuance will be the standard date for determining the timing for tree replacement, per ordinance, unless the owner provides evidence the tree removal was conducted at a later time period.

OTHER CITY PROPERTY OPERATIONS

All trees in the City of Dallas are subject to the urban forest conservation regulations. The building official determines, or supports the decisions of other departments, on the status of trees to be removed for utility construction, right-of-way construction, or other factors that may list the removal under defenses to prosecution (10.140).

It is expected that the review of existing trees and the placement of landscaping on city property is given thorough and transparent assessment by departmental natural resource managers or by the city arborists in Sustainable Development and Construction. Any designation or final determination of the status of trees related to the public construction plans must be confirmed by the building official.

All trees on city property ‘must be established and maintained in accordance with ANSI A300 standards for tree care operations and the ISA Best Management Practices, or the American Standard for Nursery Stock Z60’, as applicable (10.136(a)). Any construction work in violation of Division 10.130 for tree protection and removal is subject to penalty.

Decision of the Building Official – Methodology

The building official is represented by the chief arborist in the Sustainable Development and Construction Department. When reviewing a tree survey or a forest stand delineation, the chief arborist considers the factors listed in Section 3.0: 1) exceptions to the ordinance; 2) defenses to prosecution; and 3) decision of the building official. The latter is based on the fourteen factors considered for permit.
If the lot is excepted from enforcement, the chief arborist responds to state that the ordinance does not apply to the property.

On all tree surveys, if the analysis for tree condition is provided, the information is considered based on how the condition of the tree is reported and by the professional standing of the person making the report. If there are sufficient credentials to support the information, it better supports critical statements provided on the health conditions of the tree. A professional assessor is not required, but is recommended for best results and time efficiency in our analysis.

**Tree Condition for Survey Analysis**

In the final analysis, the following ordinance provisions and interpretations are the basis of determining the tree mitigation status of a tree, if a tree removal application is required, and if tree replacement (mitigation) is required on non-excepted properties:

- The Article X purpose section (10.102).
- The building official shall deny a tree removal application if the removal or serious injury is not in the public interest (10.132).
- The tree was dead and the death was not caused by an intentional or negligent act of the owner or an agent of the owner (10.140). In this, we determine whether the tree poses an imminent or immediate threat to persons or property.*
- The tree 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 (10.140). In this, we determine whether the tree poses an imminent or immediate threat to persons or property.*
- The tree was in danger of falling or had partially fallen and the danger of the fall was not due to an intentional act of the owner or an agent of the owner (10.140). In this, we determine whether the tree poses an imminent or immediate threat to persons or property.*
- 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 (10.136).
- A protected tree means any tree in a stand which projects a tree canopy cover over a building site when identified within a forest stand delineation review (Definitions). A tree presenting an appearance of a healthy canopy in an aerial image from a date prior to its removal is considered protected.

Field assessment:

Contact the city arborist if there are questions regarding what is needed for the survey or in selecting a forest stand delineation alternative.

Conduct a field tree survey. The extent of the survey may depend on the scale of the property, extent of proposed development, and the existing vegetation.

Compile observations and produce a report with visual aids as needed.

Submit the report to the city arborist.

The district arborist will field verify the data for accuracy. Any questions regarding size accuracy, species identification, or tree condition may require additional work to clarify the survey.

Plat: If filed for a plat, the Subdivision office will be notified of receipt of the tree survey.

Clearing: The tree survey or FSD does not authorize the clearing of the property of vegetation. However, if a property, or section of property, is shown to have no protected trees in it, then a clearing authorization may be approved for the designated area approved by the city arborist. Any work that requires a construction permit is not authorized by the arborist authorization.

Grading: Any work that requires a construction permit is not authorized by this process. Vegetation clearing may be authorized that does not threaten neighboring properties and protected trees. Grading or excavation will require additional permits and a possible Early Release through Subdivision.

City contracts: Work for construction by approved city contracts does not authorize the removal of protected trees for the project. A separate tree removal application is required for any work that does not conform to the condition for a defense to prosecution in Section 51A-10.140. Any work done contrary to the Article X ordinance is a violation.

Franchise utility construction: Work conducted under other permit which causes damage to a protected city tree may be a violation of Article X ordinance. Trenching is prohibited within the dripline of protected city trees.