

APPENDIX E

Tree Removal Process

The majority of trees in the City of Dallas are protected but are also classified by their species and size (Class 2 and Class 3); by their location (Class 1); and by their native status, species, and large size (Significant).

It is important to understand that the arborist review for tree mitigation requirements applies the specific ordinance requirement that the diameter inches of a protected tree having been removed must be replaced. It is the exception when a removed tree is not replaced. These exceptions are listed in the ordinance as a defense to prosecution or through a direct tree removal exception provided as incentive.

The removal of trees is a normal process of growth and maintenance to assure that the living, growing forest is also safe for habitation. The condition (health and/or structure) and the location of a tree play major roles in selecting when a tree should or should not be removed due to any number of factors. We look at all variables in considering the status of a tree and it begins with your safety.

The city urban forest conservation ordinance determines that we initially consider all protected trees subject to retention or replacement. In many cases, we also determine that tree conditions may warrant the tree should be removed without permit or replacement. It is the careful evaluation of the city arborist to verify the tree status with the help of professional tree assessors and surveyors. This process confirms if a tree is excepted from ordinance or may be removed without a permit through one of the multiple defenses to prosecution. The following information will help clarify the selection process in determining tree removal and when replacement is required.

The first critical determination of tree replacement comes from the site management objectives for the current and future use of the property. A large property which has been left unmanaged for many years with extensive tree coverage will be reviewed differently than a small 'infill' lot in a neighborhood with a select number of large trees by which people may be threatened by a tree's condition on a daily basis.

The tree assessor may essentially conduct two assessments with two separate factors to consider. First, evaluate the tree and forest for mitigation on the status of a living 'healthy' tree subject to replacement; and second, assess the tree and forest for the

purpose of informing an owner for property owner responsibility. A tree with some structural faults which may eventually cause a failure of the tree will not necessarily remove the tree from a mitigation requirement at the time of removal for a new development but may be a candidate for eventual removal if the safety factors aside from the development should change in time. Understanding this distinction is important to evaluating trees for mitigation and in defining the public interest.

Summary:

Regulations

Procedure for Tree Removal

Tree Condition for Survey Analysis

Guide for Decision – Site objectives & Physical tree condition

Field Assessment

Decision of the building official

Regulations

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.' Refer to 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 the application of modified Article X tree protections on a property which did not formerly apply protections. The single family or duplex use on the property in a residential district and contained within the NFO will be subject to all Urban Forest Conservation regulations as indicated in the NFO ordinance. Tree removal applications are reviewed and approved only after an initial Site Assessment Plan review process to assess the Tree Conservation Area assigned to the elected properties.

Procedure for Tree Removal

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 Information

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 must be submitted 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 with 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.

Tree removal for property management

In the past, there was a trend for landscape designs to include trees in the wrong locations, or some trees would grow up 'voluntarily' in locations where they should not have been allowed and then were never maintained. Where trees are in need of maintenance or removal, property managers should prepare a plan of action for removing or pruning trees and present the information to the city arborist before taking any action. We recommend that the site manager work with a qualified arborist or landscape architect to discuss maintenance activities for correction and prevention purposes.

There are no assurances that all trees will be authorized for removal, but a plan based on a site analysis provides the information needed for proper and cost-effective management. If work to correct structural site damages is pending, the authorization for tree removal is more likely to be provided in conjunction with the repair.

Other City 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 tree 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

The building official is represented by the chief arborist and district and Q-Team arborists 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 or structural 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

It is critical when evaluating trees for condition that we understand that there will be various opinions offered on the condition of the tree. We must find distinctions between structural and biological conditions. Field observations can provide multiple assessments and cause confusion between all parties involved. We must also maintain a level of objectivity in how we rate a tree following a course of rules and definitions more easily understood by the professionals which are also adaptable for the layman. The City of Dallas arborist provide guidelines in this manual for helping to assess trees for surveys or forest stand delineations to be presented for a property. If there are questions regarding these standards, you should consult with the city arborist. Each site may have distinct conditions that would require a discussion of methods of assessment to be applied. Every site and every case for review is distinct and unique.

The standard tree assessment should be conducted by a professional who can provide a reasonable rating of tree health and structural conditions by visibly identifiable characteristics of a shade tree. If no condition status is provided, or if the city arborist does not find the information reliable based on verification, the city arborist will evaluate based on their own field observations during verification or presume the tree

to be rated fair or better. Trees rated excellent, good, or fair, will be assessed for their mitigation based on their classification and protected status. Trees under fair status may have other qualifiers that should be considered for final rating.

In the full context of the tree survey, consider that the final analysis of the chief arborist must determine all aspects of the site in reference to Article X and the tree stand overall. The Guide for Decision presented below is provided to help bring a better understanding of the assessor's opinion when a specific tree in the survey is rated.

Guide for Decision*

The determination of whether or not tree mitigation applies are typically made by the building official under the following factors in this order: 1) **Site Objective** meaning natural resource management being continued or removal for development or the added tree risk assessment for occupied and infill lots; and 2) **Physical Tree Condition and Health Status** giving the results of a tree survey for lots with a regular use or occupancy and known risk factors. The tree professional is expected to provide complete results for their client for the purpose of risk liability protection, but the results may not directly affect the tree mitigation outcome for a site projected for continued natural resource management or if the trees are expected to be removed for development. Actual hazardous trees will be removed from mitigation consideration.

A. Site objective:

1. Natural resource management continued or tree/woodland removal for

development: If the site of the tree is in a woodland or natural area, the main criteria will foremost be established by the status of the tree canopy coverage to be established and sustained by living and relatively healthy trees which would be expected to remain for more than 5 years. Structural weaknesses which may hinder a tree long-term are not factors for a defense to prosecution. In this process, the overall woodland capacity for urban forest conservation use is weighted above individual tree risks where practicable.

Trees which are physically in perimeter locations adjacent to rights-of-way or lots which are typically occupied for a use will be subject to consideration of the adjoining site objectives and uses. The assessor must identify the specific trees and the given identified risks at the site.

2. Tree risk assessments for occupied and infill lots: If the assessment is for a lot with existing or pending use and has significant liability risks to the owner, the individual tree assessment will be heavily factored in the outcome for the individual tree. The location increases the risk of the tree and imparts a responsibility for site management

B. Physical tree condition and health status:

This guide may help in evaluating a tree condition if you are not accustomed to assessing trees. The rating system can be submitted to the city arborist which may assist in rating the trees in question. The assessment should not be needed on all trees in the woodland if there is no concern for the location or condition of the tree. A selective use of the tool may be useful.

You will rate the tree trunk condition, growth rate, structure, crown development, and life expectancy to the best of your ability. In the latter, consider obvious signs of tree decline and the tree environment.

➤ Trunk Condition		Rating 1-5	
Sound & solid	Sections of bark missing	Extensive decay/hollow	
5	3	1	

5 A tree trunk that is sound and solid throughout, has no visible deterioration present, and no visible damage to bark and cambium.

4 Minor cambium damage (construction) to an otherwise sound and solid trunk.

3 A tree that is showing early signs of decay either by presence of a conk or other means would rate a 3. Damage from mechanical (auto or construction) injury.

2 A rating of two would combine extensive decay, hollowness, and some bark and cambium damage.

1 Extensive decay, very large sections of bark missing, tree is hollow, cross-section is more of a half-circle rather than a full circle.

➤ Growth Rate		Rating 1-3	
>6" twig elongation	2-6" twig elongation	<2" twig elongation	
3	2	1	

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The measure is based on general recommendations for many medium growth trees. Certain species that are fast or slow growing may need to be considered individually. Assess the growth patterns for each species in the survey.

➤ **Structure**

Rating 1-5

Sound

1 major/multi minor limbs

2 or more major limbs

5

3

1

Structure refers to the development and placement of the major limbs and branches. The rating is determined by 1) radial placement of the limbs, 2) dead, broken or missing limbs, and 3) narrow crotch angles.

5 No major limbs dead, broken or missing, no narrow crotch angles, and good radial distribution of branches.

4 Good radial branch distribution but has a narrow crotch angle.

3 One of the major limbs is dead or broken, destroying the radial balance of the structure.

2 Tree has 2 or 3 major branches forming narrow crotches with at least one being broken.

1 Two or more major limbs are dead, broken or missing, and there are several narrow crotch angles present, and no good radial placement of branches.

➤ **Crown Development**

Rating 1-5

Full & balanced

Full but unbalanced

Unbalanced & no full crown

5

3

1

'Crown development is based on balance and crown density, and indicates such problems as overcrowdedness, competition, dominance, etc.'

5 Dense leafy crown that is evenly balanced on all sides.

4 Tree is slightly unbalanced with crown development extended slightly in one direction.

3 Thin crown or severe imbalance.

2 Thin crown with slight imbalance.

1 Thin crown with severe imbalance.

➤ Life Expectancy		Rating 1-5		
Over 30 years	25-30 years	15-20 years	5-10 years	Less than 5 years
5	4	3	2	1

There is a greater level of subjectivity in assessing this factor. The city arborist considers less than 5 years to be 'imminent' when suggesting a threat to the life expectancy of a tree.

Scoring:

Condition Class:	Percent	Rating
Excellent	80-100%	23-20
Good	60-80%	19-16
Fair	40-60%	15-11
Poor, or Dead	0-40%	10-3

Based on **Guide to judging the condition of a shade tree**, B. Webster, Journal of Arboriculture 4(11); November 1978*

General condition for rating based on Article X analysis:

Excellent – the tree has a good branching pattern and vigorous shoot extension with minimal to no wounds at the base or on the main stem. The crown is well-developed. Leaf quality indicates healthy soil and site conditions. The trunk is sound and solid and no apparent pests are present. The crown is full and balanced and life expectancy could be over 30 years.

Good – the tree has a good branching pattern, leaf and bud growth, and minor to no wounds at the base and on the stem. The tree may have some minor disease or pest. The crown is well developed and mostly balanced, with good shoot growth, and the tree is good to retain with some planned pruning.

Fair – the tree can have pests, disease or significant structural issues that do not imminently threaten the life expectancy of the tree. Wounds may exist along the base or the stem that do not severely impact the structural stability of the tree. The tree has continued healthy leaf growth and the shoot extension growth is still marginal. The

location and environmental conditions may be factors in the final city arborists analysis of the tree.

Poor in health with recommended removal, or the tree is dead. The tree has serious stem, canopy or root problems that significantly increase the risk of failure and imminently threatens the life of the tree. The structural integrity of the tree is compromised and is likely to be an imminent threat to the tree and a resulting immediate hazard to persons.

Decision of the building official

In the final analysis, the following ordinance provisions and interpretations are the initial basis for 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 during a FSD review is considered protected.

- *Referring to Section 1. Subchapter Z, Chapter 212, Local Government Code in Section 212.905. Regulation of Tree Removal. (Texas House Bill 7 – 2017)

The tree condition should be stated generally in the survey analysis and indicated in a rating system that best addresses the assessor's interpretation of the individual tree condition. The city arborist will use this data for evaluating the trees for final assessment.

Field assessment

1. Contact the city arborist if there are questions regarding what is needed for the survey or in selecting a forest stand delineation alternative. Identify the site objectives and level of tree assessment for 1) mitigation analysis and 2) property owner tree assessment. Determine where both may be required.
2. 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. Provide data for species, size, location, and tree conditions.*
3. Compile observations and produce a report with visual aids as needed.
4. Submit the report to the city arborist. For best results, an Excel spreadsheet and map survey of tree locations is most beneficial.
5. 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. The city arborist will determine mitigation status based on the data and field assessment of the results.
6. Plat: If filed for a plat, the Subdivision office will be notified of receipt of the tree survey.

*The tree condition should be stated in general terms based on the Tree Condition for Survey Analysis (above) with emphasis given on the location of the tree related to its current public access. An injury or growth disfigurement to a tree in a deep wood with very limited public access may not pose an imminent threat to the life of the tree or place significant risks to the public. Define the injury in how it impacts the tree structure overall or the integrity of the tree in its current condition in its given location relative to public use and structures.

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.