

ARTICLE X.
LANDSCAPE AND TREE CONSERVATION [~~PRESERVATION~~] REGULATIONS.

Division 51A-10.100. In General.

SEC. 51A-10.101. DEFINITIONS.

In this article:

(1) AGE CLASS means a distinct group of trees originating from a single natural event or regeneration activity, or a grouping of trees, e.g., 10-year age class, as used in inventory management.

(2) ANSI A300 means the American National Standard for Tree Care Operations, including all parts, as amended.

(3) APPROVED TREE LIST means a list of trees approved as replacement trees determined and maintained by the by the Director.

(4) ARTIFICIAL LOT means an area within the building site that is delineated by the building official or the director of park and recreation for the sole purpose of satisfying the requirements of this article (see Section 51A-10.122).

(5) BOUNDARY TREE means a tree growing on a property boundary line between two lots resulting in joint ownership by the adjacent property owners when the trunk exists on each property, or a tree that has 20 percent or more of its critical root zone extending across a property boundary and into an adjacent property.

(~~6~~[2]) CALIPER means:

(A) for field grown stock, the measurement of a tree taken six inches above ground level;

(B) for container grown stock, the measurement of a tree taken six inches soil level; which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, 4½ inches);

(C) if the caliper measured at six inches is four and one-half inches or more, the caliper must be measured at 12 inches above the ground level, soil line, or root flare, as appropriate; and

(D) for trees with multiple stems, it is the caliper specified as one-half of the caliper of the three largest trunks. ~~for a single stem tree, the diameter of the trunk measured 12 inches above the ground for a tree having a diameter up to and including eight~~

~~inches, and measured at four and one half feet above the ground for a tree having a diameter of more than eight inches.~~

~~(B) for multi stem trees, the diameter of the trunk measured at the narrowest point below branching when branching occurs higher than 12 inches above the ground. When branching occurs at or lower than 12 inches above the ground, caliper means the diameter of the largest stem plus the average diameter of the remaining stems, measured at four and one-half feet above the ground.~~

(7[3]) CANOPY TREE means a species of tree that normally bears crown foliage no lower than six feet above ground level upon maturity.

(8[4]) CLEARING means any activity that removes or seriously injures one or more trees or the vegetative ground cover of one or more trees, such as root mat removal or topsoil removal.

(9) COVERED SOIL AREA means an area of soil that is under pavement and designed to accommodate tree root growth.

(10[5]) CRITICAL ROOT ZONE means the circular area of ground surrounding a tree extending a distance of one foot per diameter [caliper] inch of the tree, measured from the tree trunk or stem.

(8) DEVELOPMENT IMPACT AREA means the area of land or vegetation alteration within a property boundary including, but not limited to, clearing, grading, excavating, filling, and any construction, paving, or any other installation.

(9) DIAMETER means:

(A) the measure of a tree trunk measured at a height of 4 ½ feet above the ground, or diameter at breast height (DBH), measured at the uphill side of the tree or as recommended in the Landscape and Tree Manual for special situations for tree fork, lean, or on slopes;

(B) for trees with multiple stems, the diameter of the trunk measured at the narrowest point below branching when branching occurs below DBH, or near DBH; and

(C) when branching occurs at or lower than 12 inches above the ground, diameter means the diameter of the largest stem plus the average diameter of the remaining stems, measured at DBH.

(10[6]) ENHANCED PAVEMENT means any director approved permeable or nonpermeable decorative pavement material intended for pedestrian or vehicular use. Examples of enhanced pavement include, but are not limited to, brick or stone pavers, grass paver, exposed aggregate concrete, and stamped and stained concrete.

(11[7]) EVERGREEN TREE OR SHRUB means a tree or shrub of a species that normally retains its leaves throughout the year.

(12[8]) FLOOD PLAIN means any land area susceptible to inundation by the hundred-year frequency flood.

(13) FOREST STAND DELINEATION means a comprehensive assessment of the conditions of a property using multiple types of information, including, but not limited to, a tree survey, aerial imagery collected from private or public sources, natural resources assessments, topographic maps, management plans, a map of conservation areas, land use maps, etc., to provide the required data to determine tree replacement requirements and forest conservation objectives.

(14[9]) GRADING means any digging, scooping, removing, depositing or stockpiling, of earth materials.

(15[10]) GROUND COVER means natural mulch, or plants of species that normally reach a height of less than three feet upon maturity, installed in such a manner so as to form a continuous cover over the ground.

(16) HISTORIC TREE means any tree that has been recognized by resolution of the city council to have a significant cultural or historical connection with the citizens of Dallas. A tree cannot receive historic designation unless the property owner approves of the status, and then the status applies to all following property owners. The tree may not be removed without authorization of the city council or as stipulated by Section 51A-10.140.

(17[11]) HUNDRED-YEAR FREQUENCY FLOOD means the flood having a one percent chance of being equalled or exceeded in any given year. This flood is based upon the drainage area being fully developed to current zoning limitations.

(18) INVASIVE PLANT means a plant 'whose introduction does or is likely to cause economic or environmental harm or harm to human health' and has been classified as invasive to the Dallas region by Texas Parks and Wildlife or the Texas Department of Agriculture.

(19[12]) LANDSCAPE ARCHITECT means a person licensed to use the title of "landscape architect" in the State of Texas in accordance with state law.

(20[13]) LANDSCAPE AREA means an open soil area covered by natural grass, ground cover, or other natural plant materials maintained on a property for the sole purpose of landscaping application and growth and establishment of trees [~~an area at least 80 percent of which is covered by natural grass, ground cover, or other natural plant materials (excluding screening)~~].

(21[14]) LANDSCAPE BUFFER STRIP means a landscape area that serves a buffer function.

(22[15])LARGE SHRUB means a shrub that normally reaches a height of six feet or more upon maturity.

(23[16])LARGE TREE means a tree which may typically attain a canopy height of 50 feet or greater and 50 feet or greater in width at maturity, or as classified by the director [a tree of a species that normally reaches a height of 30 feet or more upon maturity].

(24) LEGACY TREE means a large tree planted in a landscape area of 500 square feet or greater or a medium tree planted in a landscape area of 400 square feet or greater, in a development using Sustainable Development Incentives for the specific purpose of actively establishing and maintaining unencumbered sustainable large shade trees for future generations.

(25[17])LOT means:

- (A) a "lot" as defined in Section 51A-2.102; and
- (B) an "artificial lot" as defined in this section.

(26[18])LOT WITH RESIDENTIAL ADJACENCY means any of the following:

(A) A building site containing a multifamily use that is adjacent to or directly across:

- (i) a street 64 feet or less in width; or
- (ii) an alley;

from private property in a single family, duplex, townhouse, or CH district.

(B) A building site containing a nonresidential use that is adjacent to or directly across:

- (i) a street 64 feet or less in width; or
- (ii) an alley;

from private property in an agricultural, single family, duplex, townhouse, CH, multifamily, or manufactured housing district.

(C) An artificial lot containing a multifamily use if the lot is less than 200 feet from private property in a single family, duplex, townhouse, or CH zoning district.

(D) An artificial lot containing a nonresidential use if the lot is less than 200 feet from private property in an agricultural, single family, duplex, townhouse, CH, multifamily, or manufactured housing zoning district.

(27) MEDIUM TREE means a tree which may typically attain a canopy height of 30 feet or greater and 15 feet to generally less than 50 feet in width at maturity, or as classified by the director.

() MONOCULTURE means a stand of single species, generally even-aged (single age class) trees.

(28[49])NONPERMEABLE COVERAGE means coverage with any pavement that is not "permeable pavement" as defined in this section.

(29) NURSERY STOCK means a plant grown in or obtained from a nursery.

() OPEN SOIL AREA means an unpaved area of soil in a landscape area surrounding a tree or shrub.

(30[20])PERMEABLE PAVEMENT means paving systems, pavers, or other devices that provide a structural surface but allow stormwater infiltration as authorized for use by the Director [a paving material that permits water penetration to a soil depth of 18 inches or more. Permeable pavement may consist of nonporous surface materials poured or laid in sections not exceeding one square foot in area and collectively comprising less than two thirds of the total surface area].

(31) PEDESTRIAN PATHWAY means an unobstructed area intended only for use by pedestrians or non-motorized vehicles.

(31[24])PRIVATE PROPERTY means any property not dedicated to public use, except that "private property" does not include the following:

- (A) A private street or alley.
- (B) Property on which a utility and public service use listed in Section 51A-4.212 is being conducted as a main use.
- (C) A railroad right-of-way.
- (D) A cemetery or mausoleum.

(30[22])PROTECTED TREE means:

- (A) means trees of all species that are at least eight (8) inches in diameter except for trees identified as unprotected in this section, and
- (B) any tree in a stand which projects a tree canopy coverage over a lot or tract when identified within a Forest Stand Delineation review, and
- (C) a tree that was planted as a replacement tree.

the following trees: ~~[a tree that has a caliper of eight inches or more and is not one of~~

- ~~(i) *Acer saccharinum* (Silver Maple).~~
- ~~(ii) *Ailanthus altissima* (Tree of Heaven).~~
- ~~(iii) *Albizia julibrissen* (Mimosa or Silk tree).~~
- ~~(iv) *Celtis occidentalis/laevigata* (Hackberry or Sugarberry).~~
- ~~(v) *Fraxinus velutina* (Arizona Ash).~~
- ~~(vi) *Juniperus virginiana* (Eastern Red Cedar)[unless protected under subparagraph (B)].~~
- ~~(vii) *Maclura pomifera* [female only] (Bois d'Arc or Horseapple).~~
- ~~(viii) *Melia azedarach* (Chinaberry).~~
- ~~(ix) *Prosopis glandulosa* (Mesquite) [unless protected under subparagraph (B)].~~
- ~~(x) *Salix nigra* (Black Willow).~~
- ~~(xi) *Sabium sebiferum* (Chinese Tallow).~~
- ~~(xii) *Ulmus pumila* (Siberian Elm).~~

~~(B) an Eastern Red Cedar (*Juniperus virginia*) or Mesquite (*Prosopis glandulosa*) tree that has a caliper of eight inches or more and the trunk is located:~~

- ~~(i) in, or within 120 feet of the boundary of: a floodplain [as defined in Article V]; a wetland area [as defined in federal environmental regulations]; or an escarpment zone [as defined in Article V]; or~~
- ~~(ii) within 50 feet of a natural channel setback line [as defined in Article V].~~

~~(C) an Eastern Red Cedar (*Juniperus virginiana*) or Mesquite (*Prosopis glandulosa*) tree that has a caliper of at least 12 inches; or~~

~~(D) a tree that was planted as a replacement tree.]~~

(33[23])REMOVE OR SERIOUSLY INJURE means an intentional or negligent action that will more likely than not cause a tree to decline and die within five years of the act. Actions that constitute removing or seriously injuring a tree include, but are not limited to: cutting down a tree; excessively pruning or topping a tree; compacting the soil above the root

system of a tree; changing the natural grade above the root system of a tree; damaging the root system or the trunk of a tree (such as by operating machinery near, or by clearing or grading the area around, the trunk of a tree); failing to repair an injury to a tree from fire or other causes, which results in or permits tree infections or pest infestations into or on the tree; applying herbicidal or other lethal chemicals; and placing nonpermeable pavement over the root system of a tree.

(34[24])RESPONSIBLE PARTY means the property owner and any other person or entity responsible for removing or seriously injuring a protected tree.

(35[25])REPLACEMENT TREE means a tree that is planted in accordance with Section 51A-10.134.

() ROOT PATH means a constructed path using aeration or drainage strips to provide roots a path from the tree space and under pavement to connect to adjacent open soil areas.

(36[26])SCREENING means screening that complies with Section 51A-4.602, except as those regulations may be expressly modified in this article.

(37) SIGNIFICANT TREE means a healthy native tree that because of age, size, unique type, or natural and historical significance are of special importance to the City, and meets the following size requirements:

(A) A post oak measured at a minimum of 12 inches in diameter or greater.

(B) All oak, pecan, cedar elm, American elm, bois d'arc, eastern red cedar, and chittamwood trees of 24 inches in diameter or greater.

(38[27])SMALL TREE means a tree that may attain a height of up to 30 feet at maturity, or as classified by the director [a tree of a species that normally reaches a height of less than 30 feet upon maturity].

() STAND means a group of trees or other growth occupying a specific area that is sufficiently similar in species composition, size, age, arrangement, and condition, as to be distinguished from the forest or other growth in adjoining areas.

(39[28])SOIL means a medium that plants will grow in.

(40) SUSTAINABLE DEVELOPMENT INCENTIVE means an optional alternative method of compliance that applies sustainable development, tree preservation practices, and tree mitigation reductions based on providing large or medium 'legacy' trees in enhanced soil surface planting environments for a projected increase of the tree canopy coverage on the property.

(41) TOPPING means the reduction of tree size using internodal cuts without regard to tree health or structural integrity. Topping is not an acceptable practice. (ANSI A300 Part 1).

(42) TREE CANOPY COVER, or TREE CANOPY COVERAGE, means the amount of ground area directly beneath a tree's crown or the combined crowns of a stand of trees, measured in square feet.

(43[29])TREE SURVEY means a report that meets all of the requirements for a tree survey in Section 51A-10.132.

(44[30])UNDERSTORY means a grouping of natural low-level woody, herbaceous plant species, or plants that normally reach a height of less than three feet upon maturity.

(45) UNPROTECTED TREE means the following:

- (A) Callery pear (all cultivars).
- (B) Chinaberry.
- (C) Chinese tallow.
- (D) Palm (all plants in *Palmae*).
- (E) Tree-of-heaven or *Ailanthus*.

(45) URBAN TREE means a tree of size, species, and habit that is determined to be suited for planting in a limited surface soil environment and in restrictive air space for optimum tree canopy growth.

(46[31])VISIBILITY TRIANGLE means the term "visibility triangle" as defined in Section 51A-4.602.

(47[32])WATER COURSE means a natural or constructed channel for the flow of water.

SEC. 51A-10.102. PURPOSE.

The process of development with its alteration of the natural topography, vegetation, and creation of impervious cover can have a negative effect on the ecological balance of an area by causing increases in air temperatures and accelerating the processes of runoff, erosion, and sedimentation. The economic base of the city can and should be protected through the conservation [~~preservation~~] and enhancement of the unique natural beauty, environment, and vegetative space in this area. Recognizing that the general objectives of this article are to promote and protect the health, safety, and welfare of the public, the city council further declares that this article is adopted for the following specific purposes:

- (1) To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground-water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, wind, and heat abatement.
- (2) To provide visual buffering between land uses of differing character to alleviate the harshness of urban life.
- (3) To enhance the beautification of the city.
- (4) To safeguard and enhance property values and to protect public and private investment.
- (5) To conserve energy.
- (6) To provide habitat for wildlife.
- (7) To encourage the preservation of large trees which, once removed, can be replaced only after generations.
- (8) To conserve water.
- (9) To recognize and conserve the urban forest as part of the city's green infrastructure.

SEC. 51A-10.103. ACCEPTABLE PLANT MATERIALS.

- (a) No artificial plant materials may be used to satisfy the requirements of this article.
- (b) In satisfying the requirements of this article, the use of high-quality, hardy, and drought-tolerant plant materials is recommended and encouraged.
- (c) No palm trees may be used to satisfy the requirements of this article.
- (d) Invasive plant material is prohibited in required landscapes.
- (e) A list of acceptable plant materials will be maintained by the Director.
- (f) Synthetic, or artificial, turf may not be used to qualify for landscape area requirements. Synthetic turf is defined as 'a grass-like ground cover that replicates lush natural grass in appearance and function.' – Synthetic Turf Council. Synthetic turf is recognized as an impervious surface material for purposes of this ordinance unless otherwise determined by the building official. Synthetic turf may not be applied within the critical root zone of a protected tree.

SEC. 51A-10.104. SOIL AND PLANTING AREA REQUIREMENTS.

(a) In general. Planting areas dedicated to the growth of roots may consist of open soil areas, covered soil areas, and root paths. The planting areas must have native soils, prepared soils, or structural soils, and may include permeable pavement, sidewalk support, and soil cells.

(b) Planting area requirements. Except as provided in this section, p[lan]ting areas must ~~meet~~ [have] the following requirements [soil depths and dimensions]:

(1) For each [~~large shrub or~~] small tree installation, a minimum of 24 inches of soil depth and 25 [~~16~~] square feet of open soil [~~surface~~] area (total of 50 [~~32~~] cubic feet).

(2) For each large or medium tree installation, a minimum of 36 inches of soil depth and 160 [~~25~~] square feet of open soil [~~surface~~] area (total of 480 [~~75~~] cubic feet).

(3) Except as provided in this subsection, trees may share open soil areas.

(4) Legacy trees may not share open soil areas with large or medium trees.

(5) Except as provided in this section, large trees and medium trees must be planted a minimum of four feet from pavement.

(c[~~b~~]) Alternative planting area requirements. Planting areas located above underground buildings or structures or in an urban streetscape must have the following open soil area depths and dimensions:

(1) For each [~~large shrub or~~] small tree installation, a minimum of 30 inches of soil depth and 25 square feet of open soil [~~surface~~] area (total of 62.5 cubic feet).

(2) For each large or medium tree installation, a minimum of 40 inches of soil depth and 36 square feet of open soil [~~surface~~] area and a combination of open soil area, covered soil area, and root paths for a minimum of 240 cubic feet of soil volume. Trees planted in less than 480 cubic feet of soil volume do not count as replacement trees [~~(total of 120 cubic feet)~~].

(3) Trees may share open soil areas.

(4) Trees must be planted a minimum of two-and-one-half feet from pavement.

(d[e]) Waiver. The building official may waive the minimum open soil and planting area requirements if a landscape architect certifies that:

(1) the proposed alternative soil depths and dimensions are sufficient to support the healthy and vigorous growth of the plant materials affected; or

(2) the depth to impermeable subsurface prohibits minimum soil depth requirements; or

(3) that the proposed structural soils or suspended paving system are sufficient to support the healthy and vigorous growth of the plant materials.

(e) Large and medium trees. Large trees may not be planted closer than 20 feet to the closest point of an overhead electric distribution line. Medium trees may not be planted closer than 15 feet to the center line of an overhead electric distribution line.

(f) Space. All required trees must be planted in adequate space to allow unobstructed growth to maturity.

(g) Tree locations. At the time of planting, trees, measured from the center of the trunk, must be located at the following minimum distances.

(1) Side yard property boundaries: minimum distance is two feet.

(2) Traffic signs: minimum distance is 20 feet

(3) Light poles: minimum distance is 20 feet

(4) Underground local utility lines: minimum distance is five feet

(5) Fire hydrants, electrical transmission boxes, water meters, other ground utility access: minimum distance is 5 feet

(6) Buildings:

(A) For large trees minimum distance is 15 feet.

(B) For medium trees minimum distance is 12 feet.

(C) For small trees minimum distance is five feet.

(7) Large trees:

(A) For large trees minimum distance is 25 feet.

(B) For medium trees minimum distance is 20 feet.

(C) For small trees minimum distance is 10 feet.

(8) Medium trees:

(A) For large trees minimum distance is 20 feet.

(B) For medium trees minimum distance is 20 feet.

(C) For small trees minimum distance is 10 feet.

(9) Small trees: minimum distance is 10 feet

(h) Street buffer zone trees.

(1) For street buffer zones with no existing obstructions to growth, large trees and medium trees must be required.

(2) For street buffer zones with existing obstructions to growth, small trees may be substituted for large trees or medium trees.

SEC. 51A-10.105. PROTECTION OF PLANTING AREAS.

Required areas for plant materials must be protected from vehicular traffic through the use of concrete curbs, wheel stops, or other permanent barriers.

SEC. 51A-10.106. IRRIGATION REQUIREMENTS.

(a) In general. Except as otherwise stated in this section, automatic irrigation systems with dedicated water zones are required for all non-residential landscape designs that include landscape areas of 500 square feet or greater. The designed irrigation system must be:

(1) shown on the landscape plan, if any; and

(2) adequate to maintain the plant materials in a healthy, growing condition at all times.

(b) Permits for renovations and additions, on building sites or artificial lots less than one acre, with a net increase of less than 2,000 square feet of impervious surface, must have all required plants within 100 feet of a verifiable water supply. Proposed watering methods (irrigation or otherwise) must be:

(1) indicated on the landscape plan, if any; and

(2) adequate to maintain the plant materials in a healthy, growing condition at all times.

~~[All plant materials used as screening under this article must be irrigated by an automatic irrigation system installed to comply with industry standards. Other plant materials used to comply with this article must be located within 100 feet of a verifiable water supply. Proposed watering methods (irrigation or otherwise) must be:~~

~~(a) indicated on the landscape plan, if any; and~~

~~(b) adequate to maintain the plant materials in a healthy, growing condition at all times.]~~

SEC. 51A-10.107. PLANTERS ALLOWED.

Planters may be used to satisfy the requirements of this article provided that the soil requirements in Section 51A-10.104 are met.

SEC. 51A-10.107.1. PEDESTRIAN PATHWAYS

(a) Pedestrian pathways must be a minimum of three feet in width and a maximum of 15 feet in width.

(b) Pedestrian pathways must be distinguished from parking and driving surfaces by landscape barriers or a change in surface materials such as pavers, patterned concrete, or flagstones.

SEC. 51A-10.108. GENERAL MAINTENANCE.

(a) Required plant materials must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any plant that dies must be replaced with another living plant that complies with this article and the approved landscape plan, if any, within 90 days after notification by the city.

(b) Any damage to utility lines resulting from the negligence of the property owner or his agents or employees in the installation and maintenance of required plant materials in a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the plant materials and return them to their prior locations after the utility work. If, nonetheless, some plant materials die, it is the obligation of the property owner to replace the plant materials. (Ord. 22053)

SEC. 51A-10.109. LANDSCAPE AND TREE MANUAL

Landscape and tree manual is provided as a technical guide for conserving, protecting, maintaining and establishing the landscape and urban forest of the City.

~~[References to this section, or paragraphs or subsections of this section, now refer to Section 51A-10.135, or corresponding paragraphs or subsections of Section 51A-10.135.]~~

SEC. 51A-10.110. SPECIAL EXCEPTIONS.

(a) Landscaping.

(1~~[a]~~) The board may grant a special exception to the requirements of Division 51A-10.120 ~~[this article]~~ upon making a special finding from the evidence presented that:

(A~~[1]~~) strict compliance with the requirements of this article will unreasonably burden the use of the property;

(B[2]) the special exception will not adversely affect neighboring property; and

(C[3]) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

(2[b]) In determining whether to grant a special exception under Subsection (a), the board shall consider the following factors:

(A[4]) The extent to which there is residential adjacency.

(B[2]) The topography of the site.

(C[3]) The extent to which landscaping exists for which no credit is given under this article.

(D[4]) The extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

(b) Tree Conservation.

(1) The board may grant a special exception to the requirements of Division 51A-10.130 upon making a special finding from the evidence presented that:

(A) strict compliance with the requirements of this article will unreasonably burden the use of the property;

(B) the special exception will not adversely affect neighboring property; and

(C) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

(2) In determining whether to grant a special exception under Subsection (a), the board shall consider the following factors:

(A) The extent to which there is residential adjacency.

(B) The topography of the site.

(C) The ability to plant replacement trees safely on the property.

(D) The extent to which alternative methods of replacement will compensate for a reduction or extended time for tree replacement.

Division 51A-10.120. Landscaping.

SEC. 51A-10.121. APPLICATION OF DIVISION.

- (a) This division does not apply to the following:
- (1) Property governed by a landscape plan approved by the city council or the city plan commission.
 - (2) Property lots in the following districts:
 - (A) The Dallas Arts District (Planned Development District Nos. 145 and 145-H/18).
 - (B) The Deep Ellum/Near East Side District (Planned Development District No. 269).
 - (C) The Oak Lawn Special Purpose District (Planned Development District No. 193).
 - (D) Central area districts.
 - (3) Restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind. For purposes of this section, "restoration" means the act of putting back into a former or original state.
 - (4) Property located within or in close proximity to an airport boundary if the city's director of aviation determines that the required landscape materials will threaten public health or safety.
- (b) Only Section 51A-10.125(a) of this division applies to lots containing single family or duplex uses.
- (c) This division only becomes applicable to a lot or tract when the nonpermeable coverage on the lot or tract is increased by more than 2,000 square feet within a 24-month period, not including pedestrian pathways, or when an application is made for a building permit for construction work that:
- (1) increases the number of stories and increases the height of ~~it~~ a building on the lot; or
 - (2) increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period. The increase in combined floor area is determined by adding the floor area of all buildings on the lot within the 24 months prior to application for a building permit, deducting any floor area that has been demolished in that time or will be demolished as part of the building permit, and comparing this figure with the total combined floor area after construction.
- (d) When this division becomes applicable to an individual lot or tract, its requirements are binding on all current and subsequent owners of the lot or tract.

(e) The city council shall, as a minimum, impose landscaping requirements that are reasonably consistent with the standards and purposes of this division as a part of any ordinance establishing or amending a planned development district, or granting or amending a specific use permit. (Note: This subsection does not apply to ordinances that merely renew a specific use permit when no substantive changes are made other than to extend the time limit of the permit.) All landscaping requirements imposed by the city council must be reflected in a landscape plan that complies in form and content with the requirements of Section 51A-10.123 and complies with Division 51A-10.100.

SEC. 51A-10.122. ARTIFICIAL LOT DELINEATION.

(a) In general. If the building site is over two acres in size, the applicant may request that the building official create an artificial lot to satisfy the requirements of this division. The building official shall not create an artificial lot which would, in his or her opinion, violate the spirit of the landscape regulations. Any artificial lot created by the building official must:

- [and]
- (1) wholly include the area on which the construction work is to be done;
 - (2) have an area that does not exceed 50 percent of the area of the building site;[-]
 - (3) include all new exterior paving additions except pedestrian pathways; and
 - (4) include the street buffer zone for new construction or additions that are located wholly, or in part, within 60 feet of the nearest street frontage.

(b) In city parks over five acres. In city parks over five acres in size, the director of park and recreation may create an artificial lot to satisfy the requirements of this division. Any artificial lot created by the director of park and recreation must wholly include the area on which the construction work is to be done. Artificial lot requirements do not apply to pedestrian pathways in a city park over five acres.

(c) Platting not required. An artificial lot need not be platted; however, it must be delineated on plans approved by the building official prior to the issuance of a building permit.

SEC. 51A-10.123. LANDSCAPE PLAN SUBMISSION.

(a) If this division applies to a lot pursuant to Section 51A-10.121, a landscape plan must be submitted to the building official with the application for a building permit for work on the lot. For landscape plans that are not submitted electronically, a[A] landscape plan submission must consist of two blue-line or blackline prints. The plan must have a scale of one inch equals 50 feet or larger (e.g. one inch equals 40 feet, one inch equals 30 feet, etc.) and be on a standard drawing sheet of a size not to exceed 36 inches by 48 inches. A plan which cannot be drawn in its entirety on a 36 inch by 48 inch sheet must be drawn with appropriate match lines on two or more sheets.

(b) Except as provided in this chapter, a[A]ny person may prepare the landscape plan required under this division. ~~[There is no requirement that the plan be prepared by a landscape architect or by a person engaged in the landscape business.]~~

(c) A landscape plan required under this division must contain the following information:

(1) Date, scale, north point, and the names, addresses, and telephone numbers of each property owner and the person preparing the plan.

(2) Location of existing boundary lines and dimensions of the lot, the zoning classification of the lot, and the zoning classification of adjacent properties. A vicinity map should also be attached to or made a part of the plan.

(3) Approximate centerlines of existing water courses and the location of the flood plain, the escarpment zone, and geologically similar areas, as those terms are defined in Article V, if applicable; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, utility easements, driveways, and sidewalks on or adjacent to the lot.

(4) Location of centerlines of overhead and underground utility lines adjacent to and within the building site, and the location of all utilities, utility easements, including the location of utility poles, generators, and equipment.

(5) Project name, street address, and lot and block description.

(6[5]) Location, height, and material of proposed screening and fencing (with berms to be delineated by one-foot contours).

(7[6]) Locations and dimensions of required [~~proposed~~] landscape areas [~~buffer strips~~].

(8[7]) Complete description of plant materials shown on the plan, including names (common and scientific name), locations, quantities, container or caliper sizes at installation, heights, spread, and spacing. The location and type of all existing trees on the lot over six inches in caliper must be specifically indicated to be counted as required trees.

(9[8]) Complete description of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area to be provided internal to parking areas and the number and location of required off-street parking and loading spaces.

(10[9]) An indication of which protected trees will be removed during construction and how existing healthy trees proposed to be retained will be protected from damage during construction.

(11[10]) Size, height, location, and material of proposed seating, lighting, planters, sculptures, and water features.

(12[41])A description of proposed watering methods.

(13[42])Location of visibility triangles on the lot (if applicable).

(14) Trees to be relocated on site must be identified with their existing and proposed locations.

SEC. 51A-10.124. LANDSCAPE PLAN REVIEW.

The building official shall review each landscape plan submitted to determine whether it complies with the requirements of this division. All landscape plans must comply with the mandatory provisions in Section 51A-10.125. In addition, all landscape plans must meet ~~comply with~~ at least the minimum number of design option points ~~two "design standards"~~ as described in Section 51A-10.126. Except as provided in this article, t[F]he same landscape features and elements may be used meet the requirements of multiple design options ~~strategically placed so as to comply with more than one provision~~. (For example, the same large trees might be located so as to be classified as "street trees" and "parking lot trees.")

SEC. 51A-10.125. MANDATORY LANDSCAPING REQUIREMENTS.

(a) Single family and duplex uses.

(1) General. Except as provided in Section 51A-10.127, a lot containing a single family or duplex use established after Date of Passage ~~May 29, 1994~~, must comply with this subsection before the final inspection of any building on the lot. The minimum number of trees required on a lot is determined by the lot size. ~~[The lot must have at least three trees with a caliper equal to or exceeding two inches. At least two of these trees must be located in the front yard. The trees must be species listed in Section 51A-10.134.]~~The trees may be located in the public right-of-way if all private licensing requirements of the city code and charter are met.

(A) For lots 7,500 square feet or greater: Minimum three nursery stock trees per lot with minimum of two nursery stock trees in front yard.

(B) For lots between 4,000 square feet and 7,449 square feet: Minimum two nursery stock trees per lot with minimum one nursery stock tree in front yard.

(C) For lots 4,000 square feet or less: Minimum one nursery stock tree per lot.

(D) Planting requirements:

(i) The nursery stock trees must be species listed in the Approved Replacement Tree List maintained by the Director.

(ii) Trees must be a minimum caliper of at least two inches.

(iii) An existing tree in the front yard setback may qualify as a required tree if it is protected and maintained.

(iv) The trees may be located in the public right-of-way if all private licensing requirements of the city code and charter are met.

(v) Trees must be planted a minimum of twenty feet on center from the nearest point of an overhead electric distribution line.

(2) Shared access development.

~~[(A) Single family districts. Shared access developments in single family districts must comply with the following requirements:~~

~~(i) Three trees with a caliper equal to or exceeding two inches are required for each individual lot in the shared access development. One of the three required trees per lot may be located on the individual lot, but at least two trees per individual lot must be located in the front yard of the shared access development, where all of the property in the shared access development is considered to be one lot ("shared trees").~~

~~(ii) If there is more than one front yard to the shared access development, where all of the property in the shared access development is considered to be one lot, the shared trees must be evenly distributed within those front yards.~~

~~(iii) The trees must be species listed in Section 51A-10.134. The trees may be located in the public right of way if all private licensing requirements of the city code and charter are met.]~~

~~(A[B]) [Districts other than single family districts.] Shared access developments [in districts other than single family districts] must comply with the following requirements:~~

~~(i) A minimum of 20 percent of the shared access development must be designated as landscape area. Permeable pavement does not count as landscape area.~~

~~(ii) One site tree must be provided for every 4,000 square feet within the shared access development. [Every site tree must have a planting area of at least 25 square feet.] The trunk of any site tree must be located at least two-and-one-half feet from any pavement. Site trees must be species listed in the Approved Replacement Tree List [Section 51A-10.134]. Nursery stock trees may not be planted within twenty feet on center of the nearest point of an overhead electric distribution line.~~

~~(iii) In addition to any site trees, one plant group [large canopy street tree] must be provided for every 40 [25] feet of street frontage, [excluding shared access points, with a minimum of two street trees required]. Street trees may be located within the front yard or parkway if all private licensing requirements of the city code and charter are met. In this~~

subparagraph, parkway means the portion of a street right-of-way between the projected street curb and the front lot line or corner side lot line. If the director determines that a large [canopy] tree would interfere with utility lines, a substitute street tree from a species listed in the Approved Replacement Tree List [Section 51A-10.134] may be provided.

(B) Plant groups for shared access developments must include the following:

- (i) One large tree and two small trees.
- (ii) One large tree and three large evergreen shrubs.
- (iii) One large tree, two small trees, and one large evergreen shrub.

(b) Other uses. Lots containing a use other than single family or duplex must comply with the following requirements:

(1) Street buffer zone. Except as provided in this paragraph, the landscape area to be provided along the entire length of the lot adjacent to the public street frontage including paved surfaces at points of vehicular and pedestrian ingress and egress must meet the following requirements:

<u>(A) Right-of-way</u>	<u>Average Depth</u>	<u>Minimum Depth</u>	<u>Maximum Depth</u>
<u>Highways/Freeways</u>	<u>20 feet</u>	<u>5 feet</u>	<u>50 feet</u>
<u>Major Streets</u>	<u>15 feet</u>	<u>5 feet</u>	<u>40 feet</u>
<u>Local Streets</u>	<u>10 feet</u>	<u>5 feet</u>	<u>30 feet</u>

(B) Urban streetscape. For required front yards of 0 to 15 feet that create a pedestrian-oriented street environment in the front yard and the right-of-way, the building official may approve an urban streetscape plan to conform to the available frontage in accordance with the following conditions:

- (i) A planting area a minimum of six feet in width is required with the minimum soil area and volume requirements in this article.
- (ii) The planting area may be designed with open soil areas or covered soil areas.
- (iii) The planting area is measured from the property line unless the building official determines that the planting area may be measured from the back of curb based on conditions on the property.

(iv) A minimum of at least one design option must be provided in the front yard and right-of-way area.

(C) The right-of-way adjacent to the property line may be used to satisfy the required street buffer zone subject to:

(i) minimum five foot depth maintained on the property;

(ii) local utility location;

(iii) appropriate planting conditions; or

(iv) city licensing and permit requirements.

(D) Required Planting:

(i) One large tree must be provided for every 40 linear feet of frontage

(ii) When existing conditions prohibit planting large trees or medium trees, two small trees may be substituted for each large tree or medium tree upon approval of the building official.

(E) Properties less than 10,000 square feet may reduce the street buffer zone on the lot to the greater of five feet minimum width multiplied by the length of lot frontage with the street, or an area no less than five percent of the total lot area.

(2) Residential buffer zone. The landscape area to be provided along the entire length of the portion of the perimeter of the lot where a residential adjacency exists. The residential buffer zone must have an average width of 10 feet, but not less than 5 feet width and no more than 30 feet at any point, except that any portion of the residential buffer zone need not exceed 10% of the lot width.

(A) Required planting at a minimum average density of one group for each 40 linear feet of the residential buffer zone with a minimum of one group provided.

(i) When a fence is required: one large or medium tree.

(ii) When no fence is required:

(aa) One large or medium tree and three small trees, or

(bb) One large or medium tree and three large evergreen shrubs, or

(cc) One large or medium tree, two small trees, and one large evergreen shrub, or

(dd) One large or medium tree, one small tree, and two large evergreen shrubs.

(B) When the location of a local utility prohibits planting large trees or medium trees, two small trees may be planted for each large tree or medium tree.

(3) Interior zone. The remaining area of a lot not included in the Street Buffer Zone or the Residential Buffer Zone (if applicable).

(A) Facade area: area of a lot abutting an active storefront or an office or mixed use building front. Required planting from one façade option as listed in SEC. 51A-10-126.

(B) Parking Lots:

(i) Trees to be a minimum three inch caliper, planted in a landscape area and located no closer than 4 feet to paving.

(ii) Landscape area to be a minimum of 160 square feet, with a minimum width of 8 feet.

(iii) Parking lots with 21 to 100 spaces: No required parking space shall be located more than 70 feet from the trunk of a large tree or medium tree.

(iv) Parking lots greater than 100 spaces:

(aa) No required parking space shall be located more than 70 feet from the trunk of a large tree or medium tree.

(bb) A landscape area must be located at each end of a single row of parking spaces and contain a minimum of one tree (Unless approved on the Landscape Plan by the Building Official in order to preserve existing trees and natural features or due to unique site features)

(cc) Maximum number of parking spaces allowed between landscape areas is 12

(dd) No maximum number of parking spaces applied when a parking row:

(I) abuts a median landscape area running the length of the parking row with a minimum of one tree per 40 linear feet;

area; or

(II) abuts a residential buffer zone landscape

(III) abuts a street buffer zone landscape area.

(IV) This does not waive the row end landscape

areas

(v) Handicapped parking segments do not require row end landscape areas.

(C) An industrial use in an IM or IR district need not comply with Subparagraph (iv) if it provides at least one tree meeting the requirements for trees in the Street Buffer Zone street trees in Paragraph (b)(1)(D)(i) for each 25 feet of frontage. [Relocated]

~~[(b) Other uses. Lots containing a use other than single family or duplex must comply with the following requirements:~~

~~(1) Perimeter landscape buffer strip. A landscape buffer strip must be provided along the entire length of the portion of the perimeter of the lot where a residential adjacency exists, exclusive of driveways and accessways at points of ingress and egress to and from the lot. The buffer strip must be at least 10 feet wide, except that:~~

~~(A) any portion of the buffer strip adjacent to public street frontage need not exceed 10 percent of the lot depth; and~~

~~(B) any portion of the buffer strip in the front yard and adjacent to the side lot line need not exceed 10 percent of the lot width.]~~

(1) Additional Provisions

(A[2]) Screening of off-street loading spaces.

~~(i[A]) All off-street loading spaces on a lot with residential adjacency must be screened from that residential adjacency.~~

~~(ii[B]) In all districts except CS and industrial districts, all off-street loading spaces on a lot must be screened from all public streets adjacent to that lot.~~

~~(iii[C]) The screening required under Subparagraphs (A) and (B) must be at least six feet in height measured from the horizontal plane passing through the nearest point of the off-street loading space and may be provided by using any of the methods for providing screening described in Section 51A-4.602(b)(3).~~

(B[3]) Site trees.

~~(i[A]) One tree having a caliper of at least two inches must be provided for each 4,000 square feet of lot area, or fraction thereof, [with a minimum of four trees~~

~~being provided,] except for industrial uses in IM and IR districts, where one tree having a caliper of at least two inches must be provided for each 6,000 square feet of lot area, or fraction thereof[; with a minimum of four trees being provide].~~

(ii[B]) Existing trees that are determined by the building official to be healthy may be used to satisfy the site tree requirement, in accordance with the tree credit chart below:

<u>CALIPER OF RETAINED TREE</u>	<u>NUMBER OF SITE TREES CREDIT GIVEN FOR RETAINED TREE</u>
Less than 2 inches	0
2 inches or more but less than 8 inches	1
8 inches or more but less than 14 inches	2
14 inches or more but less than 20 inches	4
20 inches or more but less than 26 inches	8
26 inches or more and less than 32 inches	10
32 inches or more but less than 38 inches	18
38 inches or more	20

~~[(4) Street trees. A large tree must be provided for each 50 feet of frontage, with a minimum of two trees being provided. These trees must be located within 30 feet of the projected street curb. The trees may be located in the public right of way provided that all private licensing requirements of the city code and charter are met. For purposes of this paragraph, "projected street curb" means the future location of the street curb consistent with the city thoroughfare plan as determined by the director of public works.~~

~~(5) Parking lot trees.~~

~~(A) No required parking space may be located more than 120 feet from the trunk of a large canopy tree. No parking space in excess of required parking may be located more than 100 feet from the trunk of a large canopy tree, and the tree must be located in a landscape area of a minimum of 120 square feet. Each tree required by this subparagraph must have a caliper of at least two inches and may not be planted closer than two and one-half feet to the paved portion of the parking lot.~~

~~(B) An industrial use in an IM or IR district need not comply with Subparagraph (A) if it provides at least one tree meeting the requirements for street trees in Paragraph (4) for each 25 feet of frontage.]~~

(C[6]) Minimum sizes. Except as provided in Subsections (a), (b)(3), and (b)(5) of this section, plant materials used to satisfy the requirements of this division must comply with the following minimum size requirements at the time of installation:

(i[A]) Large trees must have a minimum caliper of three inches, or a minimum height of six feet, depending on the standard measuring technique for the species.

(ii[B]) Small trees must have a minimum height of six feet.

(iii[C]) Large evergreen shrubs must have a minimum height of three feet.

For purposes of this paragraph, "height" is measured from the top of the root ball or, if the plant is in a container, from the soil level in the container.

~~[(7) Buffer plant materials.~~

~~(A) If a fence with a buffer strip is required along any part of the perimeter of a lot, the buffer strip must contain either one large canopy tree or two large non-canopy trees at a minimum average density of one large canopy tree or two large non-canopy trees for each 50 linear feet of the buffer strip, with new trees spaced no less than 25 feet apart.~~

~~(B) In all other cases, a landscape buffer strip provided to comply with this section or Section 51A-10.126 must contain one of the following groups of plant materials at a minimum average density of one group for each 50 linear feet of the buffer strip:~~

~~(i) One large canopy tree and one large non-canopy tree.~~

~~(ii) One large canopy tree and three small trees.~~

~~(iii) One large canopy tree and three large evergreen shrubs.~~

~~(iv) One large canopy tree, two small trees, and one large evergreen shrub.~~

~~(v) One large canopy tree, one small tree, and two large evergreen shrubs.~~

~~(iv) Two large non-canopy trees.]~~

SEC. 51A-10.126. DESIGN OPTIONS [STANDARDS].

(a) An applicant shall achieve a minimum required number of points for the property as listed below.

<u>Lot size</u>	<u>Points required</u>
<u>0 to <1000 sf</u>	<u>0</u>

<u>1000 sf to <2000 sf</u>	<u>1</u>
<u>2000 sf to <3000 sf</u>	<u>2-9</u>
<u>(1 pt for each increase of 1000 sf up to <10000 sf)</u>	
<u>10000 sf to 19999 sf</u>	<u>10</u>
<u>20000 sf to 39999 sf</u>	<u>15</u>
<u>40000 sf to <3 acres</u>	<u>20</u>
<u>3 acres to <10 acres</u>	<u>30</u>
<u>10 acres to <20 acres</u>	<u>35</u>
<u>20 acres to <50 acres</u>	<u>40</u>
<u>50 acres and greater</u>	<u>50</u>

(b) Points. Points must be obtained by complying with design options in order to comprise total number of points required for the property.

(c) Design Options. An applicant shall comply with the following design options to obtain the required number of points for the property. Examples of the design options and methods for application are provided in the Landscape and Tree Manual.

(REFER TO SEPARATE HANDOUT)

[An applicant shall comply with at least two of the following design standards:

~~(a) Enhanced perimeter buffers. An applicant may enhance the perimeter landscape buffer strip to a minimum average width equal to or greater than 15 feet.~~

~~(b) Street buffers. An applicant may provide a landscape buffer strip along public street frontage. The landscape buffer strip must:~~

~~(1) be provided along the entire adjacent public street frontage, exclusive of driveways and accessways at points of ingress and egress to the lot; and~~

~~(2) have a minimum width of 10 feet or 10 percent of the lot depth, whichever is less.~~

~~(c) Screening of off street parking. An applicant may provide screening for all parking lots on the building site or artificial lot, whichever is applicable, from all adjacent public streets in accordance with the following paragraphs:~~

~~(1) The screening must be voluntary (not required by ordinance).~~

~~(2) The screening must extend along the entire street frontage of the parking lot, exclusive of:~~

~~(A) driveways and accessways at points of ingress and egress to and from the lot; and~~

~~(B) visibility triangles.~~

~~(3) The screening must be at least three feet in height.~~

~~(4) Underground parking is considered to be screened for purposes of this subsection.~~

~~(d) Enhanced vehicular pavement. An applicant may provide enhanced pavement. This pavement must be at least 25 percent of all outdoor vehicular pavement area on the lot. The same pavement cannot satisfy both Subsections (d) and (e). (Note: All vehicular pavement must comply with the construction and maintenance provisions for off-street parking in this chapter.)~~

~~(e) Permeable vehicular pavement. An applicant may provide permeable enhanced pavement. This pavement must be at least 25 percent of all outdoor vehicular pavement on the lot. The same pavement cannot satisfy both Subsections (d) and (e). (Note: All vehicular pavement must comply with the construction and maintenance provisions for off-street parking in this chapter.)~~

~~(f) Pedestrian facilities. An applicant may provide publicly accessible special pedestrian facilities and features such as plazas, covered walkways, fountains, lakes and ponds, seating areas, and outdoor recreation facilities. These facilities and features must occupy at least five percent of the lot area.~~

~~(g) Foundation planting strip. An applicant may plant large shrubs along the foundation of the main building. The planting area for the shrubs must be a minimum of three feet in width and extend along at least 50 percent of the portion of the foundation that faces a street. The shrubs must be spaced no more than six feet apart measured from trunk to trunk.~~

~~(h) Understory preservation. The applicant may preserve existing healthy understory. The preserved understory must occupy at least five percent of the lot area.~~

~~(i) Enhanced pedestrian walkways. The applicant may provide enhanced pedestrian walkways. These walkways must consist of enhanced pavement intended for pedestrian use and occupy at least five percent of the lot.]~~

SEC. 51A-10.127. WHEN LANDSCAPING MUST BE COMPLETED.

(a) Except as otherwise provided in Subsection (b), all landscaping must be completed before the final inspection of any building on the lot. If there is an approved landscape plan for the lot, the landscaping must comply with that plan before the final inspection.

(b) If the property owner provides the building official with documented assurance that the landscaping will be completed within six months, the building official may permit the property owner to complete his landscaping during the six-month period. For purposes of this subsection, "documented assurance" means:

(1) a copy of a valid contract to install the landscaping in accordance with the landscape plan within the six-month period; or

(2) a set of deed restrictions containing a covenant to install the landscaping in accordance with the landscape plan within the six-month period. The deed restrictions must:

(A) expressly provide that they may be enforced by the city of Dallas;

(B) be approved as to form by the city attorney; and

(C) be filed in the deed records of the county in which the land is located.

(c) If, at the end of the six-month period, the landscaping has not been installed in accordance with the landscape plan, the owner of the property is liable to the city for a civil penalty in the amount of \$200 a day for each calendar day thereafter until the landscaping is properly installed. The building official shall give written notice to the property owner of the amount owed to the city in civil penalties, and shall notify the city attorney of any unpaid civil penalty. The city attorney shall collect unpaid civil penalties in a suit on the city's behalf.

(d) The civil penalty provided for in Subsection (c) is in addition to any other enforcement remedies the city may have under city ordinances and state law. (

SEC. 51A-10.128. ENFORCEMENT BY BUILDING OFFICIAL.

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.

Division 51A-10.130. Tree Conservation [~~Preservation, Removal, and Replacement~~].

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 [a] overlay district or a planned development district with [landscaping and] tree preservation regulations that vary appreciably from those in this article, as determined by the building official.

(b) A demolition permit, is a declaration of intent to remove the single family or duplex use on the property. Upon the date of issue (12:01 a.m.) of the demolition permit, for purposes of this ordinance, the lot is determined to be vacant by the building official (the right of the exception is removed) until a future time 1) the structure remains standing and the unused 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 property owner indicating a new structure for occupancy is completed on the property.

(c) Recreation uses of ten acres or greater. On lots of ten acres or greater with public or private recreation uses, the property may conduct a forest stand delineation to calculate the tree canopy coverage of the property. The following conditions must apply:

(1) The measured tree canopy coverage is the baseline for determining the number of trees required for replacement by using the canopy cover replacement of legacy trees in the Sustainable Development Incentives replacement option. The property must maintain the balance of, or increase, the tree canopy coverage for the property recorded in the most recent FSD.

(2) In addition to their inclusion in the forest stand delineation tree canopy coverage, significant trees removed must be replaced in accordance with Section 10.134. Historic trees may not be removed.

SEC. 51A-10.132. TREE REMOVAL APPLICATIONS. Start here!

(a) When a tree removal application must be approved and posted.

(1) Except as provided in this subsection, a [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 lot or tract, before removing or seriously injuring a protected tree on that lot or tract.

(2) For trees located in a public right-of-way, a tree removal permit is not required to be posted.

(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 lot or tract or a contracted agent for the owner. [If the applicant is not the owner of the lot or tract, he shall submit a letter from the owner authorizing him to act on the owner's behalf].

(2) The name, address, and telephone number of each owner of the lot or tract.

(3) The street address, zoning district, overlay district, of the lot or tract.

(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 caliper of less than eight inches may be designated as a "group of trees" with only the number noted), or an estimate of the total caliper 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 [50] 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, or FSD, may be provided for the purpose of calculating the total square footage of forest canopy coverage of building sites, and providing an ecological assessment of a property, as applicable. The FSD must be prescribed and approved by the building official. The forest stand delineation is applicable to:

(A) Tree canopy cover assessment for protected single species tree stands of eastern redcedar or mesquite trees;

(B) Tree canopy cover credit for single family and duplex construction (10.135);

(C) Sustainable Development Incentives tree canopy cover assessment of development impact areas (10.135);

(D) Tree canopy cover assessment where trees are removed without authorization;

(E) Tree canopy cover assessment on properties ten acres or larger with recreation uses;

(F) Forest analysis for baseline documentation to create a conservation easement (10.135); and

(G) Forest analysis for establishment of a community management plan.

(6[5]) All permits and approvals related to floodplain, wetland, or escarpment regulations required by city departments or other agencies.

(7[6]) 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. RESERVED.

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

If a ~~the~~ tree removal application or building permit, is approved, an unauthorized tree removal occurs, or 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. The total caliper of replacement trees for protected trees must equal or exceed the total caliper of the protected trees removed or seriously injured.
- (2) Significant and legacy trees. The total caliper of replacement trees for significant trees or legacy trees must equal or exceed three times the total caliper of the significant trees removed or seriously injured.
- (3) Historic trees. The total caliper of replacement trees for historic trees must equal or exceed five times the total caliper of the historic trees removed or seriously injured.
- (4[2]) Species. A replacement tree is an approved tree as determined by the director, [must be one of the following trees,] and no one species of tree may constitute more than 30 percent of the replacement trees planted on a lot or tract of more than one acre.

[APPROVED REPLACEMENT TREES]

SCIENTIFIC NAME

COMMON NAME

Acer barbatum var. *Caddo*
Acer grandidentatum
Acer buergerianum
Carya illinoensis
Cercis canadensis
Chilopsis linearis
Diospyros texana
Diospyros virginiana [male only]

~~Caddo Maple~~
~~Bigtooth Maple~~
~~Trident Maple~~
~~Pecan~~
~~Redbud~~
~~Desert Willow~~
~~Texas Persimmon~~
~~Common or American Persimmon~~

<i>Fraxinus americana</i>	White Ash
<i>Fraxinus texensis</i>	Texas Ash
<i>Gleditsia triacanthos</i> var. <i>inermis</i>	Thornless Honeylocust
<i>Gymnocladus dioica</i>	Kentucky Coffeetree
<i>Ilex decidua</i>	Possumhaw or Deciduous Holly
<i>Ilex vomitoria</i>	Yaupon Holly
<i>Juglans microcarpa</i>	Texas Black Walnut
<i>Juniperus ashei</i>	Ashe Juniper
<i>Juniperus virginiana</i>	Eastern Red Cedar
<i>Lagerstroemia indica</i>	Crepe Myrtle
<i>Liquidambar styraciflua</i>	Sweetgum
<i>Magnolia grandiflora</i>	Southern Magnolia
<i>Pinus eldarica</i>	Eldarica, Mondell, or Afghan Pine
<i>Pinus nigra</i>	Austrian or Black Pine
<i>Pinus thunbergii</i>	Japanese Black Pine
<i>Pistacia chinensis</i>	Chinese Pistachio
<i>Prosopis glandulosa</i>	Mesquite
<i>Prunus mexicana</i>	Mexican Plum
<i>Quercus buckleyi</i>	Texas Red Oak
<i>Quercus durandii</i>	Durrand Oak
<i>Quercus fusiformis</i>	Escarpment Live Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus muhlenbergii</i>	Chinkapin Oak
<i>Quercus shumardii</i>	Shumard Oak
<i>Quercus virginiana</i>	Live Oak
<i>Sapindus drummondii</i>	Western Soapberry
<i>Sideroxylon lanuginosum</i>	Chittamwood or Gum Bumelia
<i>Sophora affinis</i>	Eve's Necklaee
<i>Taxodium ascendens</i>	Pond Cypress
<i>Taxodium distichum</i>	Bald Cypress
<i>Ulmus crassifolia</i>	Cedar Elm
<i>Ulmus parvifolia</i>	Lacebark Elm
<i>Viburnum rufidulum</i>	Rusty Blackhaw]

(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 above-ground planters, within twenty feet horizontally of a overhead electric distribution or transmission line, or an existing or proposed street or alley unless the tree is authorized by license and permit, and required to be in the street by ordinance.

(4) Minimum size. A replacement tree must have a caliper of at least two inches.

(5) Timing.

(A) All replacement trees must be planted within 30 days of removal with a tree removal application, except as provided in this section.

(B) If the property owner provides the building official with an affidavit that all replacement trees will be planted within six months, the building official may permit the property owner to plant the replacement trees during the six month period.

(C) If the property owner submits an application for a building permit for construction for 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.

(D) If the property owner does not submit an application for a building permit for construction within the six month period after the tree removal permit, all tree replacement must be completed within 30 days after the six month period.

(E) For residential subdivisions and multi-phased commercial development, the tree replacement may be completed in accordance with a comprehensive tree replacement plan for the subdivision. The building official may permit the property owner the time required to complete the development project to plant the replacement trees, with the following restrictions:

(F) A projected landscape plan identifying all proposed landscaping for the properties within the subdivision must be provided by a landscape architect and designed according to the soil and area requirements of Section 51A-10.104. The plan will specify the minimum tree size and general species distribution for the properties in accordance with Article X landscape requirements. The tree replacement for the development identified on the plan must be completed prior to the final certificate of occupancy or certificate of completion for the project.

(G) 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.

~~[(A) Except as otherwise provided in Subparagraphs (B) and (C), all replacement trees must be planted within 30 days after the removal or serious injury of the protected trees.~~

~~(B) If the property owner provides the building official with an affidavit that all replacement trees will be planted within six months, the building official may permit the property owner to plant the replacement trees during the six month period.~~

~~(C) If the property owner provides the building official with a performance bond or a letter of credit in the amount of the total cost of purchasing and planting replacement trees, the building official may permit the property owner up to 18 months to plant the replacement trees, with the following restrictions:~~

~~(i) for single family or multifamily developments, at least 50 percent of the total caliper of replacement trees must be planted before 65 percent of the development has received a final building inspection or a certificate of occupancy, and all replacement trees must be planted prior to the completion of the development; and~~

~~(ii) in all other cases, the replacement trees must be planted prior to the issuance of a certificate of occupancy.~~

~~(D) A replacement tree that dies within 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) 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 lot where the protected tree was removed or seriously injured (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. If the director of the park and recreation department does not accept the tree, the responsible party must comply with one or more of the other alternative methods of compliance listed below.

(2) Plant the replacement tree on other property in the city that is within five ~~[one]~~ miles of the tree removal property.] The property where the replacement tree will be planted may be renovated for the tree planting by the responsible party, or by the receiver, and then the responsible party's property may obtain tree canopy cover credit for legacy trees under Sustainable Development Incentives. The tree canopy cover goal for the zoning for the removal property will apply to the remotely planted trees If placed in legacy tree planting conditions, [as long as] the responsible party must obtain[s] 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 ~~[assume mutual]~~ responsibility for the replacement tree under this article to the receiving party. An agreement may be initiated and structured to be monitored and managed by a non-profit association dedicated to tree advocacy or the conservation of land.

(C) a written affidavit, if applied through the Sustainable Development Incentives, where the owner of the property where the replacement tree will be planted agrees to sustain the tree for the natural life of the tree and will be the responsible party for the replacement tree. Any removal, or serious injury, of the protected tree will be subject to replacement by this ordinance as a significant tree.

(3) Make a payment into a special city account, to be known as the Reforestation Fund, in accordance with Subsection (c).

(4) Grant a conservation easement to the city in accordance with Subsection (d) and the following paragraphs:

(A) The conservation easement area must contain protected trees with a combined caliper equal to or exceeding the 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.

(b) Sustainable Development Incentives, or SDI. Complete site planning, construction, and post-construction maintenance for non-residential properties two acres and larger and apply enhanced landscaping and maintenance to establish legacy trees for future tree canopy cover establishment on site.

(1) A qualified development for the SDI must meet the following prerequisites:

(A) A pre-development forest stand delineation and conceptual landscape plan conforming to the zoning regulations for the property, must be provided by a qualified land professional, arborist, or landscape architect, to the building official prior to submittal for a building permit. The plan must identify the areas of tree preservation, and selected areas for legacy tree planting, as they relate to proposed buildings and other site improvements.

(B) All tree preservation and legacy tree plantings must fully apply Article X tree protection of 10.136 and soil area and tree spacing standards of 10.104.

(C) A qualified 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.

(D) Sustainable construction practices must be communicated with all contractors and verify training in a report to the building official before final landscape inspection.

(E) A soil management plan for the landscape areas on the site with an emphasis on soil conditions for 'legacy' trees must be provided with the landscape plan for review. Indigenous vegetation must be retained and protected except in immediate areas of development, or except to control or remove invasive plants.

(F) Restore quality top soils disturbed during construction where applicable.

(G) 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. Development must be fitted to the topography and soils to minimize cut and fill sections. Grading near preserved trees, and around the edge of the development impact area, must be planned and implemented so as to have the least disturbance on the area's natural topography, watercourses, vegetation, and wildlife. This may preclude all development in certain areas.

(H) Utility easement planning and locations must be designed for least impact to preserved trees and sensitive land area.

(I) Water conservation irrigation standards must be designed for optimum water conservation management on the property, with dedicated irrigation for all legacy trees.

(J) A sustainable site maintenance, schedule, and implementation plan covering a minimum of ten years must be written by a qualified professional and implemented for the development, and retained on the property

(2) Existing healthy large and medium trees preserved on the property are provided tree replacement credit by establishing the tree canopy cover of eligible preserved trees in the development impact area by completing a forest stand delineation and a conceptual landscape plan. The qualified trees must be preserved as required in 10.104.

(3) 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:

(4) Large trees must be planted in an unencumbered surface soil area of at least 500 square feet (or 1500 cubic feet) per tree. The area is 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 legacy tree to the tree canopy cover total for the development.

(5) Medium trees must be planted in an unencumbered surface soil area of at least 400 square feet (or 1200 cubic feet) per tree. The area must be increased to 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.

(6) The cumulative tree canopy coverage of existing trees in the development impact area, and planted legacy trees on the final approved landscape plan determines the credited tree canopy cover and then compared to the projected tree canopy goal of the zoning district of the site. 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 zoning district. The tree canopy cover goal for each district range from 30-60%.

(7) A development which demonstrates by a SITES rating sheet a minimum compliance with SITES (Sustainable Sites Initiative) Certified-rating or greater may achieve additional credit based on the percentage of the achieved score relative to SITES Platinum-rating. The percentage increase of projected tree canopy may be applied to each legacy tree if approved by the building official.

(8) Legacy trees may be planted on other property as stipulated in 51A-10.135(a)(2).

(c) Tree Canopy Cover Credit for all single family and duplex construction. Protect a portion of the existing tree canopy over the single family or duplex construction building site for a calculated reduction of tree replacement.

(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) Large and medium nursery stock trees applied as landscaping may qualify for tree canopy cover measurement at time of planting for 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. (see landscape requirements for SF)

(4) Existing large and medium healthy trees preserved in the front yard setback may qualify for double the total square footage of tree canopy cover over the property.

(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, prescribed 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. For example, a tree canopy cover of 30 percent of applicable trees will qualify for a reduction of 75 percent (30/40) of tree

replacement requirement. (10/26) - also refer to definitions for 'boundary tree' and 'forest stand delineation'.

~~[(B) If the conservation easement area is 25 percent or less than the area of the tree removal property, the responsible party will get credit for trees in the conservation easement area, on an inch for inch basis, up to a maximum of 50 percent of the total caliper of replacement trees required.]~~

~~[(C) If the conservation easement area is more than 25 percent and less than 50 percent of the area of the tree removal property; the responsible party will get credit for trees in the conservation easement area, on an inch for inch basis, up to a maximum of 65 percent of the total caliper of replacement trees required.]~~

~~[(D) If the conservation easement area is 50 percent or more of the area of the tree removal property, the responsible party will get credit for trees in the conservation easement area, on an inch for inch basis, up to a maximum of 80 percent of the total caliper of replacement trees required.]~~

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 in total caliper the total caliper of the trees removed or seriously injured.

~~(d[b]) Use of other property for tree replacement. A responsible party who obtains permission to plant the replacement tree on other tree replacement property in the city shall ensure that the planting and maintenance of the tree on the other tree replacement property complies with the requirements of this article. [The building official shall maintain a list of publicly or privately owned properties for which replacement trees are sought by groups such as homeowner's associations or school districts.]~~

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

(1) The director shall administer the reforestation fund to purchase trees to plant on public property, ~~[-] to produce and implement public urban forest education materials and programming, to create an urban forest master plan and to update periodically, to fund a staff position for managing and directing the fund for planting and urban forest education and~~ 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.

(2) 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 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.

(3) 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].~~

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

(1) 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:

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

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

(i) the approved 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.

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

(iii) the overall health and condition of the trees on the conservation easement property;

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

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

(vi) the percentage of conservation easement land area in a flood plain does not exceed fifty percent of the overall conservation easement area.

(2) 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. ~~[The joint grantee of a conservation easement may be an eligible grantee such that the grantor will have the option of receiving a property tax benefit on the assessed value of the conservation easement area.]~~

(3) 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:

(A) 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 prescribed by the building official; and

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

(4) 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.

(5) Conservation easement areas must be in [~~or partly in the city of Dallas and may not extend further than five miles from~~] the Dallas city limit.

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

(a) All trees on City property must be established and maintained in accordance with ANSI A300 standards for tree care operations.

(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. 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, and 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 these 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 prescribed 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. For purposes of this subsection, "drip line" means a vertical line that runs from the outermost portion of the crown of a tree to the ground. The building official may require an expansion of the critical root

zone or approve encroachment, as applicable. Once established, the fence line must remain in place as approved.

(ii[~~B~~]) 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[~~C~~]) Tree protection signs.

(iv[~~D~~]) 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[~~E~~]) Tree wells, islands, retaining walls, and aeration systems.

(vi[~~F~~]) Staking specifications.

(vii) Soil and root protection.

(viii) Trunk protection.

(ix) Tree and site watering plan.

(c[~~b~~]) 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 to 6 to 18 inches of soil.

(c) 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: a 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, or a level one tree risk assessment. A direct appeal to the building official of the decision placed on a tree status, made prior to an appeal of 51A-10.138, may be considered only with a report by a certified arborist or other qualified arborist indicating the current condition and prognosis for the tree and the methods for remedy.

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

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.

In addition to any enforcement of criminal or civil violations on the property or responsible party, the building official may impose a mitigation requirement for the removal, or serious injury, of protected trees enacted without a tree removal application or a building permit upon a written notice of the violation of the ordinance. The mitigation may be applied as replacement of nursery stock trees on the property based on a tree mitigation plan provided by the responsible party, and on determination by the building official it is practicable to plant trees on the vacant property, or as a fee to be applied to the Reforestation Fund, with the amount as determined in Section 51A-10.135. The building official may authorize an alternative method of replacement which equals or exceeds the tree replacement requirement for the property.

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, thereafter the building official may conduct a forest stand delineation using aerial imagery, field analysis, or other reasonable and pertinent information the building official needs to review and to identify the square footage of tree canopy coverage for determining the tree replacement requirements for the property. The rate per square foot of tree canopy will be calculated at a rate of two dollars per square foot of illegally removed trees.

Upon a finding by the building official of assessed removal of the trees, the building official may charge the property for the responsibility of replacement of the protected trees with a written notification to the responsible party. The tree replacement or mitigation must be completed within 30 days of the date of the notification. If the tree mitigation is not completed, the building official is authorized to restrict building permits on the property until the tree mitigation, and any city code violations on the property, are remedied.

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 right-of-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. [Section 51A-8.404; or]

~~[(10) was removed or seriously injured to allow construction of improvements in accordance with a building permit.]~~

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