

1 December 2009

City of Dallas Urban Forest Advisory Committee

Draft of Recommended Revisions to Article X

**ARTICLE X.
LANDSCAPE AND TREE PRESERVATION CONSERVATION REGULATIONS.**

Division 51A-10.100. In General.

SEC. 51A-10.101. DEFINITIONS.

In this article:

() ARBORIST means a city employee who is subordinate to the chief arborist, responsible for administering the rules and regulations outlined in Article X as directed by the chief arborist. When directed by the chief arborist, the arborist has the authority to administer Article X.

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

() BOARD OF ADJUSTMENT for the purpose of this article means the city’s quasi-judicial board that has the authority to review and rule on appeals to Article X as outlined in this article.

(2) CALIPER means:

(A) for a single-stem tree, the diameter of the trunk measured 12 inches above the ground undisturbed grade 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. measured 12 inches above undisturbed grade.

(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 undisturbed grade. When branching occurs at or lower than 12 inches above the ground undisturbed grade, 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.

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

() CHIEF ARBORIST means the city employee responsible for administering the rules and regulations outlined in Article X. In this division, the chief arborist also includes all subordinate city arborists who have been authorized by the chief arborist to administer Article X as a representative of the chief arborist. To avoid a conflict of interest or the perception of a conflict in interest, and to foster consistent enforcement of Article X, the chief arborist shall not be subordinate directly or indirectly to the director of development services. The Chief Arborist shall be part of the department of urban forestry or an equivalent department at such time as such department is authorized.

() CITY FORESTER means the city employee responsible for administering the management of the city’s urban forest. For the purposes of this article the city forester advises the chief arborist in matters regarding the use of the reforestation fund and the interest on such fund. The city forester is an employee of the park and recreation department until such time a department of urban forestry or an equivalent department is authorized.

(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.

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

() DUPLEX USE for the purpose of this article means continuously occupied, legal use of a residential unit designed to accommodate two families. Duplex use does not include, but is not limited to vacant lots, residential units permitted for demolition, lots permitted for grading, lots permitted for construction, lots permitted for flood plain fill, and constructed units that do not have a certificate of occupancy.

(6) ENHANCED PAVEMENT means any permeable or nonpermeable decorative pavement material intended for pedestrian or vehicular use. Examples of enhanced pavement include brick or stone pavers, grass paver, exposed aggregate concrete, and stamped and stained concrete.

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

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

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

(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.

() HERITAGE TREE means a protected tree with a caliper of 24 inches or greater, or a Post Oak, *Quercus stelata*, with a caliper of 12 inches or greater. The chief arborist may classify any tree or grove of trees that has attained a size that is unusually large for its species, a Heritage Tree. Mitigation for such a tree shall be three times the standard caliper inches for replacement trees or three times the standard payment in to the Reforestation Fund.

() HISTORIC TREE means any tree in the city of Dallas that has been recognized by resolution of the city council to have a significant cultural connection with the citizens of Dallas, past and present, and those cultures living in the area prior to the mid 1800's. Historic trees would include trees that are the only living witnesses to historic events. Candidates for Historic Tree status will be presented to the city council by the city forester. Mitigation for such a tree shall be five times the standard caliper inches for replacement trees or five times the standard payment in to the Reforestation Fund.

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

() INVASIVE PLANT SPECIES means those plants whose introduction is more likely than not to cause environmental harm.

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

(13) LANDSCAPE AREA means an area at least 80 percent of which is covered by natural grass, ground cover, or other natural plant materials (excluding screening).

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

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

(16) LARGE TREE means a tree of a species that normally reaches a height of 30 feet or more upon maturity.

(17) LOT means:

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

(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.

() NATIVE PLANT SPECIES means those plants that are part of the natural ecosystems of North Central Texas, and thus are adapted to seasonable growing conditions.

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

() PALM TREE means any plant that is part of the family Palmae, characterized by chiefly tropical evergreen trees or shrubs having large compound leaves in featherlike or fanlike fronds, large clusters of small flowers, and fleshy or dry fruit, and including the palmettos.

(20) PERMEABLE PAVEMENT means 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.

(21) 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.

(22) PROTECTED TREE means: those trees as specified in Table A

(A) a tree that has a caliper of eight inches or more and is not one of the following trees:

- (i) *Acer saccharinum* (Silver Maple).
- (ii) *Ailanthus altissima* (Tree of Heaven).
- (iii) *Albizia julibrissen* (Mimosa or Silktree).
- (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 virginiana*) 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.

(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 over the root system of a tree; and placing nonpermeable pavement over the critical root zone system of a tree. The determination of whether a tree is deemed removed or seriously injured rests solely on the chief arborist.

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

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

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

() SINGLE FAMILY USE for the purpose of this article means continuously occupied, legal use of a residential unit designed to accommodate one family. Single family use does not include, and is not limited to: vacant lots, residential units permitted for demolition, lots permitted for grading, lots permitted for construction, lots permitted for flood plain fill, and constructed units that do not have a certificate of occupancy.

(27) SMALL TREE means a tree of a species that normally reaches a height of less than 30 feet upon maturity.

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

() URBAN FOREST CONSERVATION DISTRICT means a collective group of contiguous lots where the property owners, agree to tree preservation regulations that exceed those regulations delineated in Division 51A-10.130. The purpose of such a district includes, but is not limited to preserving the character of the neighborhood, maintaining street canopy cover, and protecting privacy.

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

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

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

(32) WATER COURSE means a natural or constructed channel for the flow of water. (Ord. Nos. 19455; 20496; 22053; 25155)

SEC. 51A-10.102. PURPOSE.

[Note from the Committee: It is the recommendation that the committee work with the city attorney's office to structure a more appropriate purpose statement than what currently exists. It is also the recommendation of the committee that the "PURPOSE" statement precede the previous "DEFINITIONS" section.]

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 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 conservation** of large trees which, once removed, can be replaced only after generations. (Ord. Nos. 19455; 22053)

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, **winter-hardy,; and heat** and drought-tolerant plant materials is recommended and encouraged. **Native plant species are preferred when landscape conditions are species appropriate.**(Ord. Nos. 22053; 25155)

(c) **No palm trees, or members of the Palmae family, shall be used to satisfy the requirements of this article.**

(d) **The chief arborist shall have the authority to require plant species substitutions on a submitted landscape plan should he/she deem the scheduled plant is an invasive plant species.**

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

(a) **Soil P** planting areas **in general** must consist of **native soils, prepared soils, structural soils, and areas of permeable pavement; and** have the following soil depths and dimensions:

(1) For each large shrub or small tree installation, a minimum of 24 inches of soil depth and **16 64** square feet of surface area **(total of 32 cubic feet).**

(2) For each large tree installation, a minimum of 36 inches of soil depth and **25 180** square feet of surface area **(total of 75 cubic feet).**

(b) Planting areas located above underground buildings or structures must have the following soil depths and dimensions:

(1) For each large shrub or small tree installation, a minimum of 30 inches of soil depth and **25 64** square feet of surface area **(total of 62.5 cubic feet).**

(2) For each large tree installation, a minimum of 40 inches of soil depth and **36 180** square feet of surface area **(total of 120 cubic feet).**

(c) The **building official chief arborist** may waive the minimum planting area requirements if a **proposed alternative soil depth and dimension is sufficient to sustain a healthy and vigorous plant. a landscape architect certifies that the proposed alternative soil depths and dimensions are sufficient to support the healthy and vigorous growth of the plant materials affected.** (Ord. Nos. 22053; 25155)

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 **subject to the review and approval of the city arborist.** (Ord. Nos. 22053; 25155)

SEC. 51A-10.106. IRRIGATION REQUIREMENTS.

All plant materials used as screening under this article must be irrigated by an automatic irrigation system installed to comply with [current State of Texas Board of Licensed Irrigators industry](#) standards. Other plant materials used to comply with this article must be located within [100 50](#) 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. (Ord. Nos. 22053; 25155)

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. (Ord. 22053)

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.

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. (Ord. Nos. 22053; 22581; 25047; 25155)

SEC. 51A-10.110. SPECIAL EXCEPTION.

(a) The board of [adjustment](#) may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that:

- (1) [strict](#) compliance with the requirements of this article will [unreasonably unjustly](#) burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

- (1) The extent to which there is residential adjacency.

- (2) The topography of the site.
- (3) The extent to which landscaping exists for which no credit is given under this article.
- (4) The extent to which other existing or proposed amenities will compensate for the reduction of landscaping. (Ord. Nos. 22053; 25155)

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, or when an application is made for a building permit for construction work that:
 - (1) increases the number of stories in 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. (Ord. Nos. 19455; 19786; 20496; 22053; 25155)

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 chief arborist** create an artificial lot to satisfy the requirements of this division. The **building official chief arborist** 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 chief arborist** must:

- (1) wholly include the area on which the construction work is to be done; and
- (2) have an area that does not exceed 50 percent of the area of the building site.

(b) In city parks over five acres. In city parks over five acres in size, the **director of park and recreation chief arborist** may **create authorize** an artificial lot to satisfy the requirements of this division. Any artificial lot created by the **director of park and recreation chief arborist** must wholly include the area on which the construction work is to be done.

(c) Platting not required. An artificial lot need not be platted; however, it must be delineated on plans approved by the **building official chief arborist** prior to the issuance of a building permit. (Ord. Nos. 19455; 20496; 22053)

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 chief arborist** with the application for a building permit for work on the lot. A landscape plan submission must consist of two blueline 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) Any 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 all utility easements, including the location of utility poles and overhead utility lines.**

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

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

(6 7) Locations and dimensions of proposed landscape buffer strips.

(7 8) 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 eight** inches in caliper must be specifically indicated, **along with any previous replacement trees of any caliper.**

(8 9) 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.

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

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

(11 12) A description of proposed watering methods, if an irrigation system is not proposed. If the landscape is to include an irrigation system an irrigation plan shall be included following the same scale and dimensions noted in subsection (a).

(12 13) Location of visibility triangles on the lot (if applicable). (Ord. Nos. 19455; 10496; 22053)

SEC. 51A-10.124. LANDSCAPE PLAN REVIEW.

The building official chief arborist 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 comply with at least two four "design standards" as described in Section 51A-10.126. The same landscape features and elements may be 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.") (Ord. Nos. 19455; 20496; 22053)

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 May 29, 1994, must comply with this subsection before the final inspection of any building on the lot. 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.

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

(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 25 180 square feet. The trunk of any site tree must be located at least two-and- one-half four-feet from any pavement. Site trees must be species listed in Section 51A-10.134 Table B.

(iii) In addition to any site trees, one large canopy street tree must be provided for every 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 chief arborist determines that a large canopy tree would interfere with utility lines, the arborist shall approve a substitute street tree from a species listed in Section 51A-10.134 Table B, or may modify the plan to locate the trees where no utility conflict will exist. may be provided.

(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.

(2) Screening of off-street loading spaces.

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

(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.

(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).

(3) Site trees.

(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 provided.

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

CALIPER OF RETAINED TREE NUMBER OF SITE TREES CREDIT

GIVEN FOR RETAINED TREE

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 and transportation. *Should these requirements conflict with utility easements or utilities both above and below ground, the city arborist is authorized to approve a modified plan that meets the spirit of this section, including but not limited to, relocation the trees on the property or allowing for trees with shorter mature canopies to be planted in utility easements. Approval of these modifications to the landscape plan does not require the approval of the board of adjustment.*

(5) Parking lot trees.

(A) No required parking space may be located more than **120 50** feet from the trunk of a large canopy tree. Each tree required by this subparagraph must have a caliper of at least **two three** inches and may not be planted closer than **two and one-half four** feet to the paved portion of the parking lot **including the back of curb.**

(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.

(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:

(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.

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

(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. (Ord. Nos. 19455; 19786; 20496; 22053; 24731; 25155; 26333)

(c) Exemptions to Mandatory Landscape Requirements. The city arborist has the authority to modify or make exception to any or all mandatory landscaping requirements should the site conditions make the specific requirement(s) impractical (i.e. non-traditional lots, conflicts with utilities, front or back of lot size too small for required number of trees)

SEC. 51A-10.126. DESIGN STANDARDS.

An applicant shall comply with at least **two** **four** 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. (Ord. Nos. 19455; 20496; 22053)

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 chief arborist** with documented assurance that the landscaping will be completed within six months, the **building official chief arborist** 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 chief arborist** 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. (Ord. Nos. 19455; 20496; 22053)

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

Whenever any work is being done contrary to the provisions of this division, the **building official chief arborist** 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 chief arborist** to proceed with the work. (Ord. 25155)

Division 51A-10.130. Tree Preservation, Removal, and Replacement, and Transplantation.

SEC. 51A-10.131. APPLICATION OF DIVISION.

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

(a) lots smaller than two acres in size that contain single family or duplex uses; and

(b) lots in a planned development district with landscaping and tree preservation regulations that vary appreciably from those in this article X, as determined by the **building official chief arborist**; and (Ord. Nos. 22053; 25155)

(c) lots in a urban forest preservation district established by the property owners in the district, with landscaping and tree preservation regulations that vary appreciably from those in this article X.

SEC. 51A-10.132. TREE REMOVAL APPLICATIONS.

(a) When a tree removal application must be approved and posted. A responsible party must post either an approved tree removal application in accordance with this section, or a building permit, demolition permit, a grading permit, or a flood plain fill 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.

(b) Application for review. An application required under this section must be filed with the building official chief arborist on a form furnished by the city for that purpose. No fee shall be associated with an application for tree removal on a lot with single family use or duplex use if the application is not associated with a building permit, grading permit, demolition permit or flood plain fill permit. The application must include the following:

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

(4) A tree survey that shows the location, caliper, and name (both common and scientific) of all trees eight inches in caliper, on the lot and on adjacent lots when the critical root zone spans the property line, or tract artificial 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 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 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 copy of all All permits and approvals related to floodplain, wetland, or escarpment regulations required by other city departments, or other county, state, and federal agencies.

(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 chief arborist.

(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 properly posted authorization by a building permit or approved tree removal application that is posted at the lot or tract.

(e) Decision of the building official chief arborist. The building official chief arborist 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.
- (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. (Ord. Nos. 22053; 25155)

SEC. 51A-10.133. RESERVED. (Ord. 25155) TRANSPLANTATION OF PROTECTED TREES

A protected tree, deemed healthy by the chief arborist to be transplanted to a location noted on an approved landscape plan, may be approved as a replacement tree. Transplanted trees may be relocated to a holding area until the site is readied for planting. All plans for tree transplantation shall be noted on the tree conservation plan. Mitigation for successfully transplanting an existing tree to another location on the site shall be 2 caliper inches per 1 inch transplanted. If the transplanted tree is moved solely for the purpose of mitigation, the tree must survive a minimum of three years. Should the tree be planted as part of a required landscape plan, and die, it shall be replaced with a tree with a minimum of 3 inches in caliper, with the remainder of the transplanted inches fully mitigated.

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

If the tree removal application is approved, one or more healthy replacement trees must be planted in accordance with the following requirements.

(1) Quantity. The total caliper of replacement trees must equal or exceed the total caliper of the protected trees removed or seriously injured. Should the protected tree be a Heritage Tree, the total caliper of replacement trees must equal or exceed three times the total caliper of such tree. Should the protected tree be a Historic Tree, the total caliper of replacement trees must equal or exceed five times the total caliper of such tree.

(2) Species. A replacement tree must be one of the following trees listed in Table B., and no one species of tree may constitute more than 30 percent of the replacement trees planted on a lot, artificial lot, or tract without the approval of the chief arborist.

APPROVED REPLACEMENT TREES

SCIENTIFIC NAME COMMON NAME

Acer barbatum var. *Caddo* Caddo Maple

Acer grandidentatum Bigtooth Maple

Acer buergerianum Trident Maple

Carya illinoensis Pecan

Cercis canadensis Redbud

Chilopsis linearis Desert Willow

Diospyros texana Texas Persimmon

Diospyros virginiana [male only] Common or American Persimmon

Fraxinus americana White Ash

Fraxinus texensis Texas Ash

Gleditsia triacanthos var. *inermis* Thornless Honeylocust

Gymnocladus dioica Kentucky Coffeetree

Ilex decidua Possumhaw or Deciduous Holly

Ilex vomitoria Yaupon Holly

Juglans microcarpa Texas Black Walnut

Juniperus ashei Ashe Juniper

Juniperus virginiana Eastern Red Cedar

Lagerstroemia indica Crepe Myrtle

Liquidambar styraciflua Sweetgum

Magnolia grandiflora Southern Magnolia

Pinus eldarica Eldarica, Mondell, or Afghan Pine

Pinus nigra Austrian or Black Pine

Pinus thunbergii Japanese Black Pine

Pistacia chinensis Chinese Pistachio

Prosopis glandulosa Mesquite

Prunus mexicana Mexican Plum

Quercus buckleyi Texas Red Oak

Quercus durandii Durrand Oak

Quercus fusiformis Escarpment Live Oak

Quercus macrocarpa Bur Oak

Quercus muhlenbergii Chinkapin Oak

Quercus shumardii Shumard Oak

Quercus virginiana Live Oak

Sapindus drummondii Western Soapberry

Sideroxylon lanuginosum Chittamwood or Gum Bumelia

Sophora affinis Eve's Necklace

Taxodium ascendens Pond Cypress

Taxodium distichum Bald Cypress

Ulmus crassifolia Cedar Elm

Ulmus parvifolia Lacebark Elm

Viburnum rufidulum 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, or an existing or proposed street or alley.

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

(5) Timing.

(A) Except as otherwise provided in Subparagraphs (B) and (C), all replacement trees must be planted within 30 90 days after the removal or serious injury of the protected trees.

(B) If the property owner provides the building official chief arborist 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, and maintaining replacement trees for a period of three years, 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 three years of the date it was planted must be replaced by another replacement tree that complies with this section. (Ord. Nos. 22053; 25155)

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

(a) If the **building official chief arborist** 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, **public or private**, that is within one mile of the tree removal property, as long as the responsible party obtains the written approval of the **building official chief arborist** 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 assume mutual responsibility for the replacement tree under this article.

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

(4) **Grant Designate** 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. **to receive full mitigation credit.**

(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.

(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 chief arborist** shall maintain a list of publicly or privately owned properties for which replacement trees are sought by groups such as, **but not limited to, homeowner's homeowners' associations or school districts.**

(c) Reforestation fund.

(1) The **director of development services chief arborist with the assistance and advice of the city forester and the director of park and recreation department, or a representative thereof,** shall administer the reforestation fund to **the restricted purchase of trees to plant on public property, or to acquire conservation easements, or wooded property urban forest. The fund shall be held in a separate city account and shall be audited by the city auditor at the end of each fiscal year. Interest accrued at the end of each fiscal year may fund urban forest public education, urban forestry staff in-service education, and the purchase of non-budgeted, urban forestry related equipment.**

(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 chief arborist**. 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.**

(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 chief arborist** that the easement area is suitable for conservation purposes, based on:

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

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

(iii) the suitability of the area as a wildlife habitat; **and or**

(vi) other unique features worthy of preservation, e.g. water channels, rock formations, topography, or rare herbaceous or woody plant species.

(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) **Should the** The city manager **choose to may not** accept a sole or joint conservation easement on behalf of the city, **unless and until** the owner **shall** provides the **building official chief arborist** 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 chief arborist**; 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 chief arborist, in consultation with the city forester and the director of park and recreation**, 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 **fully within the in or partly in the** city of Dallas. **and may not extend further than five miles from the Dallas city limit.** (Ord. 25155)

(e) Quality Tree Conservation and Sustainable Development Incentives

[Note from the Committee: Quality Tree Conservation and Sustainable Development Incentives document is currently not included as part of this draft document. However, a draft of that document is to be posted in conjunction with this posting.]

SEC. 51A-10.136. PRESERVATION CONSERVATION OF PROTECTED TREES DURING CONSTRUCTION OR OTHER DISTURBANCE PERIOD.

Where a property owner or other responsible party plans to retain protected trees, protected and non-protected, on a site to be developed, redeveloped, or otherwise disturbed in a manner that requires a building permit, demolition permit, grading permit, or flood plain fill permit may affect protected trees, the following requirements must be met:

(a) Tree protection conservtion plan. A tree protection conservation plan submitted to the building official chief arborist must include the following:

(1) A site plan drawn to scale, indicating the location of land disturbance, clearing, grading, trenching, tree protection conservation zones, 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 conservation zone due to traffic or materials storage, and tree protection for critical root zones of trees on neighboring properties.

(2) A complete tree survey in accordance with the requirements set forth in Section 51A-10.132.

(3) An irrigation plan showing by what method and schedule conserved trees are to receive supplemental watering during the course of the disturbance. Should the disturbance result from a demolition permit, grading permit, or flood plain fill permit the conservation plan must provide for irrigation until the property is developed.

(3 4) Detailed drawings of any of the following tree protection measures that will be used during development the disturbance period.

(A) Tree protection fencing. Tree protection fences must be a minimum of four five feet high, constructed with adequate, durable material (e.g. galvanized chain-link orange plastic construction fencing) approved by the building official chief arborist, and located at the drip line or the edge of the critical root zone, whichever is farthest from the trunk, unless the building official chief arborist 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. Fencing shall not be removed, relocated, or disturbed during the course of the project without approval of the chief arborist. Plastic fencing (e.g. orange or green plastic construction/safety fencing) is not permitted for tree protection purposes.

(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.

(C) Tree protection signs.

(D) Transplanting specifications.

(E) Tree wells and aeration systems.

(F) Staking specifications.

(b) Implementation of tree protection conservation plan.

(1) The responsible party must install and maintain all tree protection measures indicated in the approved plan prior to and throughout the all land disturbance processes and the construction phases.

(2) No person may disturb the land or perform construction activity until the required tree protection measures have been inspected by the building official chief arborist.

(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 shredded wood chips, or a six-inch layer of pine straw, or other materials subject to the approval of the chief arborist.

(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.

(c) Damage to protected trees. Where the **building official chief arborist** has determined that irreparable damage has occurred to **protected** trees within tree protection zones, the responsible party must remove and **replace mitigate for** those trees. (Ord. Nos. 22053; 25155)

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 **build official chief arborist** to proceed with the work. (Ord. Nos. 22053; 25155)

SEC. 51A-10.138. APPEALS.

In considering an appeal from a decision of the **building official chief arborist** 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. (Ord. Nos. 22053; 25155)

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. (Ord. Nos. 22053; 25155)

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, **or neighboring trees in the case of oak wilt**, 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 department;
 - (C) the director of public works and transportation;
 - (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; or
 - (H) the director of development services;
- (7) was designated for removal 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;
- (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 Section 51A-8.404; or
- (10) was removed or seriously injured to allow construction of improvements in accordance with a building permit. (Ord. Nos. 22053; 23694; 25047; 25155)

TABLE A
Protected Trees

All Heritage trees (30 inches in caliper or greater), and all Historic trees.
All trees that are replacement trees and all trees that have a caliper of eight inches or more and are not one of the following trees:

Botanical Name	Common Name	Conditional
<i>Acer saccharinum</i>	Silver Maple	None
<i>Ailanthus altissima</i>	Tree of Heaven	None
<i>Albizia julibrissen</i>	Mimosa or Silktree	None
<i>Celtis occidentalis/laevigata</i>	Hackberry or Sugarberry	None
<i>Fraxinus velutina</i>	Arizona Ash	None
<i>Juniperus virginiana</i>	Eastern Red Cedar	caliper of 12" or less
<i>Maclura pomifera</i>	Bois d' Arc or Horseapple	female only
<i>Melia azedarach</i>	Chinaberry	None
<i>Prosopis glandulosa</i>	Mesquite	caliper of 12" or less
<i>Pyrus calleryana</i>	Callery Pear	all cultivars
<i>Salix nigra</i>	Black Willow	None
<i>Sabium sebiferum</i>	Chinese Tallow	None
<i>Ulmus pumila</i>	Siberian Elm.	None

TABLE B
Approved Replacement Trees

Botanical Name	Common Name
<i>Acacia wrightii</i>	Catclaw Acacia
<i>Acer barbatum</i> var. <i>Caddo</i>	Caddo Maple
<i>Acer buergerianum</i>	Trident Maple
<i>Acer grandidentatum</i>	Bigtooth Maple
<i>Acer truncatum</i>	Shantung Maple
<i>Aesculus glabra</i> var. <i>arguta</i>	Texas Buckeye
<i>Aesculus pavia</i> var. <i>pavia</i>	Red Buckeye
<i>Carya illinoensis</i>	Pecan
<i>Cercis canadensis</i>	Eastern Redbud
<i>Cercis canadensis</i> var. <i>texensis</i>	Texas Redbud
<i>Chilopsis linearis</i>	Desert Willow
<i>Crataegus reverchonii</i>	Reverchon Hawthorne
<i>Crataegus virdis</i>	Green Hawthorne
<i>Crataegus texana</i>	Texas Hawthorne
<i>Cupressus arizonica</i>	Arizona Cypress
<i>Diospyros texana</i>	Texas Persimmon
<i>Diospyros virginiana</i> (male only)	American Persimmon
<i>Fraxinus americana</i>	White Ash
<i>Fraxinus texensis</i>	Texas Ash
<i>Ginkgo biloba</i>	Ginkgo
<i>Gleditsia triacanthos</i> var. <i>inermis</i>	Thornless Honey Locust
<i>Gymnocladus dioicus</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>Leucaena retusa</i>	Goldenball Leadtree
<i>Liquidambar styraciflua</i>	Sweetgum
<i>Magnolia grandiflora</i>	Southern Magnolia
<i>Magnolia soulangiana</i>	Saucer Magnolia
<i>Pinus eldarica</i>	Elderica, Mondell, Of Afghan Pine
<i>Pinus nigra</i>	Austrian or Black Pine
<i>Pinus thunbergii</i>	Japanese Black Pine
<i>Pistacia chinensis</i>	Chinese Pistachio
<i>Pistacia texana</i>	Texas Pistache
<i>Prosopis glandulosa</i>	Mesquite
<i>Prunus caroliniana</i>	Carolina Cherry Laurel
<i>Prunus mexicana</i>	Mexican Plum
<i>Prunus munsoniana</i>	Wildgoose Plum
<i>Quercus buckleyi</i>	Texas Red Oak
<i>Quercus sinuata</i> var. <i>sinuata</i>	Durand Oak
<i>Quercus fusiformis</i>	Escarpment Live Oak
<i>Quercus laceyi</i>	Lacey Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus marilandica</i>	Blackjack Oak
<i>Quercus muehlenbergii</i>	Chinkapin Oak
<i>Quercus pungens</i> var. <i>vaseyana</i>	Vasey Oak
<i>Quercus shumardii</i>	Shumard Red Oak
<i>Quercus sinuata</i> var. <i>breviloba</i>	Bigelow Oak or White Shin Oak
<i>Quercus stellata</i>	Post Oak
<i>Quercus virginiana</i>	Live Oak
<i>Rhamnus caroliniana</i>	Carolina Buckthorn
<i>Rhus glabra</i>	Smooth Sumac
<i>Rhus lanceolata</i>	Prairie Flame-leaf Sumac
<i>Sapindus drummondii</i>	Western Soapberry
<i>Sideroxylon lanuginosum</i>	Chittamwood or Gum Bumelia
<i>Sophora affinis</i>	Eve's Necklace
<i>Sophora secundiflora</i>	Texas Mountain Laurel

<i>Taxodium ascendens</i>	Pond Cypress
<i>Taxodium distichum</i>	Bald Cypress
<i>Ulmus alata</i>	Winged Elm
<i>Ulmus americana</i>	American Elm
<i>Ulmus crassifolia</i>	Cedar Elm
<i>Ulmus parvifolia</i>	Lacebark Elm
<i>Ungnadia speciosa</i>	Mexican Buckeye
<i>Vitex agnus-castus</i>	Vitex
<i>Ziziphus jujuba</i>	Jujube