

## ARTICLE VI. PRESERVATION OF TREES\*

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**\*Editor's note:** Ord. No. 05-341, § 3, adopted November 15, 2005, amended the Code by repealing former art. VI, §§ 10-101--10-105, and adding a new art. VI, §§ 10-101--10-107. Former art. VI pertained to similar subject matter, and derived from Ord. No. 96-174, adopted February 20, 1996; and Ord. No. 96-182, adopted July 16, 1996.

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### **Sec. 10-101. Definitions.**

For the purposes of this article, the following words, terms, and phrases shall have the meanings ascribed thereto:

*Critical root zone* of a tree shall mean the area within a circle centered on the trunk location, the diameter of said circle being one-half of the sum of the longest and shortest drip line diameters.

*Damage to a tree* shall mean any action that will, in reasonable probability, result in the tree's death, either immediately or within a period of three (3) years. Without limiting this definition, some examples are: severing the main trunk or large branches or large roots, girdling, poisoning, carving, mutilating, touching with live wires, piercing with nails or spikes, crushing or exposing the roots, digging or drilling any hole or trench larger than three (3) cubic feet within the critical root zone, covering with over three (3) inches of soil, or compacting the soil in the critical root zone.

*Diameter* of a tree shall mean the trunk of a tree measured at a point on the tree four and one-half (4 1/2) feet above the surrounding ground level.

*Person* shall mean any individual, entity, corporation, organization, unincorporated organization, partnership, or any other form of entity.

*Structure* shall mean that which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner.

*Subject site* shall mean any lot, tract, or parcel of land upon which an applicable tree subject to a permit hereunder is located.

*Tree* shall mean a long-lived, branching, woody plant, usually with one (1) main stem or trunk, and having a diameter of at least five (5) inches.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 10-102. Enforcement.**

This article shall be administered as a part of the building permit process.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 10-103. Permit required.**

It shall be unlawful for any person to remove or to cause damage to a tree within the city, without having first obtained a tree destruction permit from the city.

(1) *Criteria for issuance of a permit.*

- a. An application for a tree destruction permit shall be filed by the owner of the subject site on which an affected tree is located.
- b. A tree destruction permit shall be issued expeditiously by the building official without cost and without requirement of a replacement tree if, in the judgment of the building official:
  1. The tree in question is diseased, severely damaged, or dead;
  2. The tree in question is causing or will cause damage to any structure;
  3. The tree in question is too close to other trees causing competition for the same water, soil nutrients, and sunlight;
  4. The tree in question constitutes an unreasonable impediment to the use and enjoyment of the property; or
  5. Destruction of the tree in question is necessary due to construction, alteration, remodeling, or demolition of a structure, or construction of a subdivision improvement, for which applicable permits or other approvals have been obtained.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 10-104. Criteria for tree replacement.**

- (a) Notwithstanding the foregoing, the minimum number of trees required on each lot or parcel shall be one (1) tree for each one thousand (1,000) square feet of

required permeable lot area or one-third ( 1/3) of the cumulative diameter of all trees removed, whichever is greater. Trees located on public rights-of-way that are adjacent to lots or parcels shall not be considered as part of the required number. Nothing contained herein shall be construed as requiring the planting of any tree except where required as a condition of the issuance of a tree destruction permit.

A maximum of seventy-five (75) percent of the required trees may be within ten (10) feet of the perimeter of the subject site. The remaining required trees shall be at least twenty (20) feet from the perimeter of the subject site. For the purposes hereof, the perimeter of a subject site shall mean the boundary lines of the lot, tract or parcel comprising the subject site. If any portion of a subject site is encumbered by public or private roadway right-of-way, the perimeter shall mean the boundary of the right-of-way nearest the interior of the subject site.

- (b) Any tree permitted for removal with a diameter of ten (10) inches or greater shall be replaced with trees whose combined diameter equals the diameter of the tree(s) removed, unless the tree removed was dead or diseased.
- (c) A condition for the issuance of each tree destruction permit under this article shall be the planting and maintenance of a replacement tree(s) on the subject site. Notwithstanding the foregoing, no replacement tree shall be required to be planted nearer than thirty (30) feet from another tree existing on the subject site if the subject site is located in District A, or nearer than twenty (20) feet from another tree existing on the subject site if the subject site is located in District B, or within areas covered by buildings, enclosed structures, or swimming pools. Measurements provided for in this subsection shall be from the trunk of the tree. If there is no point or location on a subject site outside the above described excepted areas, no replacement tree shall be required. No tree destruction permit shall be issued incidental to construction, alteration, remodeling, or destruction of any building or structure, or any subdivision improvement, unless the applicant therefore has submitted to the building official, designated by the city, and received approval therefore in accordance with this article, a tree disposition and replacement plan, together with a plan for the protection and preservation of each tree impacted by the proposed activity. The scale on the tree disposition and replacement plan shall be no smaller than one (1) inch equals twenty (20) feet. Trees proposed to be retained are to be represented by a solid circle on the tree survey. Trees proposed to be removed are to be shown by a hatched circle on the tree survey. Proposed replacement tree(s) shall be shown by a dashed circle. The tree type shall be accurate to species level. Tree loss protective measures shall be taken for all trees subject to danger, unless removal thereof is required because of the proposed location of the building, structure, or improvement.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 10-105. Replacement trees.**

- (a) If a tree is required to be replaced it shall be replaced by a tree(s) of equal or greater size, both as to height and diameter; provided, however, in no event shall such replacement tree be required to exceed fifteen (15) feet in height or have a trunk that measures more than six (6) inches in diameter. Provisions shall be made for maintenance of all replacement trees so as to reasonably assure survival and normal growth. No replacement tree shall be approved unless it complies with the minimum standards contained herein, and is of a variety appearing on the list of approved replacement trees listed herein below.

TABLE INSET:

Pecan	Drummond Red Maple	River Birch
Black Walnut	Winged Elm	Fringe Tree
Cedar Elm	Nuttall Oak	Chinese Elm
American Elm	Sweetgum	Southern Magnolia
Chinese Pistasche	Tulip Tree	Eastern Red Cedar
Green Ash	Yellow Poplar	Bald Cypress
Overcup Oak	Live Oak	Loblolly Pine
Shumard Oak	Bur Oak	Post Oak
White Oak	Swamp Chestnut Oak	Sycamore

- (b) *Time limit for planting replacement trees.* Planting of replacement trees shall take place within one hundred twenty (120) days.
- (c) *Liability for planting replacement trees.* If an owner has been issued a tree disposition permit which requires planting of replacement tree(s), liability for planting replacement tree(s) shall transfer to any or all subsequent owners of the subject site.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 10-106. Required tree protection.**

When required by the terms of this article, tree protection shall consist of fencing, at least forty-eight (48) inches in height, which shall be placed at the drip line of the canopy of each tree to be preserved. Fencing shall be of either metal hurricane variety with steel posts no greater than eight (8) feet apart, or a wooden rail fence with vinyl construction fencing attached, with staples every twelve (12) inches. An opening shall be left in each fence enclosure of not more than eighteen (18) inches tallow access for maintenance of grass and vegetation. No such Tree protection area shall be used to store materials or equipment.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 10-107. Appeals.**

Any person who is aggrieved by a decision of the building official hereunder may appeal such decision to the city council, by written notice to the city secretary thereof, not less than ten (10) days following entry of the decision appealed. Upon such appeal, the building official shall forthwith submit all applicable records and findings to the city council as part of the record of such application. The city council may affirm the decision of the building official or may reverse or modify such decision and issue such orders as it deems necessary and appropriate. Any decision of the building official not appealed within thirty-five (35) days from the date of entry by the building official shall become final and not subject to appeal.

(Ord. No. 05-341, § 3, 11-15-05)

**Sec. 16-1. Obstructions of fire hydrants.**

It shall be unlawful to maintain or permit to be maintained any tree, shrub, fence or any other obstruction whatsoever within ten (10) feet of any fire hydrant within the city, provided, however, that any tree, shrub, fence or structure placed or maintained to the rear of such fire hydrant at such distance as would not be reasonably anticipated to interfere with the ready availability and use of such fire hydrant shall not be construed to constitute an obstruction under this section.

(Ord. No. 82, § 1, 7-10-61)

**Cross references:** Fire prevention and protection, Ch. 6.