

Subsection 4.01. Tree Preservation Requirements

4.01.01. Purpose

The terms and provisions of the Subsection 4.01 Tree Preservation Requirements are intended to accomplish the following public purposes:

- (A) To encourage preservation of shade and ornamental trees through incentives and penalties;
- (B) To define reasonable protective measures required to preserve the Protected Tree (See **Tree, Protected** (Page 308)) population;
- (C) To increase the number of Protected Trees and the projected residual life span of Protected Trees;
- (D) To improve the quality of life and comfort of both business and residential citizens while educating them in current basic tree cultivation and management techniques;
- (E) To reduce the erosive effects of rainfall, protect water resources, mitigate ambient air temperatures and improve air quality;
- (F) To prevent clear cutting; and
- (G) To maintain or increase property values by preserving visually pleasing and desirable site features.

4.01.02. Purpose

The scope of this **Subsection 4.01 Tree Preservation Requirements** includes the removal and/or transplanting of any tree and mitigation for the removal of Protected Trees and the scope of the project and/or activity authorized by a Tree Removal Permit is limited to removing and/or transplanting trees or required mitigation. A permit approved by the Director is required before removing and/or transplanting any tree and mitigation for the removal of Protected Trees.

4.01.03. Tree Removal Permit

(A) Tree Removal Permit

A Tree Removal Permit approved by the Director shall be required for the transplanting and/or removal of all trees within the City, regardless of size or species, except for trees located on a single family or two family lot contained within a plat of record.

(B) Application for a Tree Removal Permit

An application for a Tree Removal Permit may be submitted at any time and is not required to be submitted in conjunction with development plans, Preliminary Plat or a Building Permit. An application for Tree Removal Permit shall be submitted to the Director and shall include:

- (1) A letter signed by the property owner allowing the City access to the property for verification of all tree survey information;
- (2) A written document indicating the reasons for transplanting and/or removal of Protected Trees;
- (3) Two (2) copies of a legible site or planting plan; and
- (4) A detailed tree survey and/or tree preservation plan if required in **4.01.07. Tree Surveys and Tree Preservation Plans** (Page 120).

(C) Review of the Application for a Tree Removal Permit

- (1) Upon receipt of an application for a Tree Removal Permit, the Director shall review the application and may conduct field inspections of the site or development and/or refer the permit application

to other departments for review and recommendations as deemed necessary and appropriate by the City.

- (2) Protected Trees may not be removed or transplanted unless the Director approves the Tree Removal Permit. The removal of protected trees is subject to the mitigation requirements of **4.01.05. Mitigation for Trees Removed** (Page 118).
- (3) If the Director determines that the tree(s) are not protected as defined herein, then the applicant may remove the tree(s) from their property without mitigation.

4.01.04. Exceptions

(A) Director Authority to Remove Protected Trees

The Director may authorize, in writing, removal of a Protected Tree without mitigation under the following circumstances.

- (1) A Protected Tree is determined by an arborist to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, such as a tree that is damaged or diseased.
- (2) A Protected Tree is located in a right-of way or easement and hinders or obstructs the construction, maintenance, repair, and/or replacement of major and minor thoroughfares as defined by the Thoroughfare Design Standards Ordinance, water and sewer lines, drainage and storm sewer infrastructure, or other public improvement projects.

(B) Single Family or Two Family Lots

A Tree Removal Permit shall be required to remove and/or transplant a Protected Tree (see definition **Tree, Protected** (Page 308)), except for a Protected Tree located on a single family or two family lot contained within a plat of record. If a tree required by the Zoning Ordinance is removed, it shall be replaced with a three (3) inch caliper or greater tree of an approved species from the City's recommended large and medium tree lists. Street trees if removed shall be replaced with a three and one-half (3½) inch caliper or greater trees by the adjacent property owner.

(C) Nurseries

All retail, commercial, and wholesale nurseries are exempt from the terms and provisions of this **Subsection 4.01 Tree Preservation Requirements** in relation to those trees planted and growing on the premises of said business and that are planted and growing for the sale or intended sale in the ordinary course of business only.

(D) Utility Companies

- (1) Utility companies franchised by the City in easements or rights-of-way accepted by the City or otherwise authorized to provide utility service may remove Protected Tree(s) that endanger public safety and welfare by interfering with utility service;
- (2) Any trimming and/or removal of Protected Tree(s) by a utility company requires prior written approval from the Director, except in the case of emergency repairs; and
- (3) A utility company shall notify the Director of any trimming and/or removal of Protected Trees done while making emergency repairs on the first business day following the emergency.

(E) Mowing and Clearing

The mowing and clearing of brush located within or under the drip lines of Protected Trees is allowed, provided such mowing or clearing is accomplished by hand or by mechanical mowers with turf tires.

(F) Golf Courses and Pedestrian Trails

Development or redevelopment of golf courses and pedestrian trails shall be responsible for fifty (50) percent of the requirements for Replacement Trees.

(G) Agricultural Users

- (1) Agricultural users can remove Protected Tree(s) for agricultural production with prior written permission from the Director.
- (2) A Protected Tree inventory summary is required to list tree(s) proposed to be removed and preserved.
- (3) Replacement requirements of Protected Tree(s) being removed for agricultural production will be prorated equally over a period of ten (10) years.
- (4) Should the property be developed prior the full ten (10) years the remainder of required trees shall be planted on the property in addition to the required trees.

4.01.05. Mitigation for Trees Removed

(A) Replacement Requirements for Protected Trees

Protected Trees shall be replaced by planting trees on the property equal to the total caliper inches as calculated using the following replacement rate.

Size of Protected Tree*	Percentage Replacement Trees**
Less than 6"	0%
6" – 12"	100%
12.1" - 20"	150%
20.1" or greater	300%

*All existing tree measurements are in caliper inches as measured four and one-half (4½) feet DBH above the natural ground level.

For multiple trunk trees, combine the diameter of largest stem or trunk with one-half of the diameter of each additional stem or trunk, all measured at four and one half (4½) feet above ground level.

** All replacement tree measurements are in caliper inches in accordance with the American Standards for Nursery Stock (ANSI Z60.1-2004) and shall be minimum three (3) inch caliper trees unless otherwise noted.

All replacement trees shall be selected from and conform to the standards of **4.02.03. Approved Plant Materials and Landscape Standards** (Page 124).

(B) Transplanted Trees

- (1) Protected Trees on a property may be transplanted to another location on the same property without being subject to the above replacement rates.
- (2) All Transplanting shall be in accordance with industry standards. Should a transplanted tree die, it shall be removed and replacement trees shall be planted at a rate of one hundred (100) percent of the caliper inches of the transplanted tree(s).

(C) Replacement Trees on a Different Property

If any replacement tree cannot be located on the property, the applicant may plant the replacement tree(s) on City property, and/or common open space and/or pay a fee, as approved by the Director. The cash value of replacement trees will be set by the Director annually.

(D) Trees Located in Proposed Driveways, Right Turn Lanes, and/or in Median Openings

The person(s) or entity responsible for making any improvements that causes or results in the removal of tree(s) in proposed non-single or two family driveways, right turn lanes, and/or in proposed median

openings, shall plant replacement tree(s) at a rate of one-hundred (100) percent of the total diameter of the tree(s) being removed.

(E) Mitigation of all Trees in Riparian Buffer and Floodplain

All trees six (6) inches or larger in diameter regardless of species in a pre-reclamation **Riparian Buffer** (Page **304**) or floodplain shall be mitigated. Replacement trees of less than three (3) inches are allowed for mitigation of trees removed from Riparian Buffer and floodplains.

4.01.06. Tree Protection Measures

All Protected Tree(s) shall be protected by the owners as follows, unless otherwise directed by the Director.

(A) Plastic or Silt Fencing

Before development or redevelopment the owner shall install a four (4) foot tall plastic fence or where approved, silt fencing around the drip line of the Protected Tree(s).

(B) Construction Entrance Location

Before development or redevelopment the owner shall establish and maintain a construction entrance that avoids Protected Trees.

(C) Equipment or Materials Disposal

Cleaning equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., is prohibited under the canopy or drip line of any Protected Tree.

(D) Attachment to Protected Trees

- (1) Attachments or wires are prohibited from being attached to any Protected Tree.
- (2) Cables, tree rods, and similar hardware installation that aid structural integrity of a Protected Tree are exempt from this section when approved in writing by the Director.

(E) Canopy or Drip Line Protection

- (1) Fill or excavation shall not occur within the canopy or drip line of a Protected Tree.
- (2) Major changes of grade (i.e., three [3] inches or greater) within the canopy or drip line will require additional measures to maintain proper oxygen and water exchange with the roots.
- (3) Construction or construction related activity is prohibited under the canopy or drip line of Protected Trees, unless otherwise approved in writing by the Director.

(F) Root Pruning Requirements

- (1) Root pruning will be required when disturbance will occur under the drip line of protected Trees.
- (2) This root pruning shall be completed a minimum of two (2) weeks prior to any construction activity within the drip line.

(G) Disposal of Removed Trees

- (1) Any trees removed shall be chipped and used for mulch on site or hauled off-site within 72 hours of cutting.
- (2) Burning of removed trees, stumps, or foliage requires written approval by the Fire Chief.

(H) Tree Maintenance and Pruning Practices

- (1) All tree maintenance techniques shall be in conformance with industry identified standards and shall be performed by a **Certified Arborist** (Page 280).
- (2) No person(s) or entity may use improper or malicious maintenance or pruning techniques which would likely lead to the death of the tree.

4.01.07. Tree Surveys and Tree Preservation Plans

(A) Preliminary Plat and Preliminary Site Plans Require a Tree Survey

A detailed Tree Survey shall be submitted with all Preliminary Plats and Preliminary Site Plans identifying natural vegetation, Protected Trees and anticipated Protected Tree losses.

(1) Tree Survey Application and Requirements

The Tree Survey application shall include the information listed on the Development Services' Tree Survey Application Form and Checklist, which shall be established and maintained by the Director.

(2) Exception: Conditionally Approved Preliminary Plats

A detailed Tree Survey may be submitted after a Preliminary Plat submission; however, in this case, the Preliminary Plat shall have an aerial map overlaid and may only be conditionally approved. Subsequently, no construction plans may be approved until a Tree Survey has been submitted and approved.

(B) Tree Preservation Plan

A Tree Preservation Plan providing detailed information beyond the requirements of a tree survey shall be submitted with all Preliminary Plats for residential developments and all Preliminary Site Plans for nonresidential and multiple family developments and is only required for areas that are intended to be disturbed.

(1) Tree Preservation Plan Application and Requirements

The Preservation Plan application shall include the information listed on the Development Services' Tree Preservation Plan Application Form and Checklist, which shall be established and maintained by the Director.

4.01.08. Verifications and Inspections

(A) Field Verification

- (1) Prior to written approval of the Tree Preservation Plan, the applicant shall mark all trees to be preserved and notify (in writing) the Director of the marking.
- (2) The Director shall inspect and verify the markings within eleven (11) calendar days of his/her receipt of applicants' notification.
- (3) If the Director has not contacted the owner within fourteen (14) calendar days from the date of notification, the protective plan submitted by the applicant is deemed approved.

(B) Site Preparation

- (1) Prior to the preconstruction meeting or obtaining a grading permit, all tree markings and protective fencing shall be installed by the owner and shall be inspected by the Director.
- (2) An approved silt fence may serve as protective fencing and shall remain in place until the City

accepts the project.

- (3) A stop work order will be issued at any time if tree preservation requirements are not being met.

(C) Final Inspections

- (1) The owner shall notify the Director for an inspection fourteen (14) calendar days prior to receiving a Certificate of Occupancy.
- (2) All dead trees shall be replaced prior to receiving the Certificate of Occupancy.

4.01.09. Penalties for Violation

(A) Violation

Any person(s) or entity causing the transplanting or removing of a tree without first obtaining an approved Tree Removal Permit is in violation of this Ordinance.

(B) Occurrence

Each tree removed or transplanted without a permit shall constitute a separate offense.

(C) Compliance Required after Violations

Violation of this Ordinance shall not constitute an exemption to the replacement requirements of this Ordinance.