

ORDINANCE NO. 2023-09-064

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING NEW ARTICLE 4, ENTITLED “TREE PRESERVATION,” TO CHAPTER 150, ENTITLED “UNIFIED DEVELOPMENT CODE,” OF THE CODE OF ORDINANCES, CITY OF MCKINNEY, TEXAS; ESTABLISHING PRESUMPTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

WHEREAS, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, the City Council and the Planning and Zoning Commission have recognized that certain provisions of the Code of Ordinances should be reviewed and updated; and

WHEREAS, amendments to these provisions have been proposed and the City Council and the Planning and Zoning Commission of the City of McKinney are of the opinion that these chapters should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

- Section 1. The Code of Ordinances, City of McKinney, Texas, Chapter 150 Article 4, “Tree Preservation” is hereby amended and shall read as indicated in Exhibit “A”, attached hereto.
- Section 2. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.
- Section 3. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.
- Section 4. The caption of this ordinance shall be published one time in a newspaper of general circulation in the City of McKinney.
- Section 5. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 19TH DAY OF SEPTEMBER, 2023.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor
CHARLIE PHILIPS
Mayor Pro Tem

Article 4: Tree Preservation

401 Administration

Purpose

The purpose of this section is to preserve, protect, and enhance existing trees and natural landscapes to contribute to a safe and livable community; to enhance a positive community image that attracts new residents and business enterprises; and to support the long-term viability of existing trees through protection measures that promote the natural, ecological, environmental, and aesthetic qualities of the City. The Director of Planning, or their designee, is appointed by the city manager to administer city ordinances related to tree preservation.

Applicability

All properties within the City of McKinney are subject to Tree Preservation, and all trees shall be preserved, protected, and mitigated according to the regulations of this Section.

402 Tree Preservation Standards

Prohibited Activities

The critical alteration, removal, or disturbance of any tree is prohibited unless otherwise authorized in this Article.

Critical Alteration of Trees

General Standards

- Prior to the critical alteration of any tree, a permit must be submitted and approved in compliance with §404, *Tree Removal Procedures*.
- Specimen Trees shall not be critically altered, unless approved by the Director of Planning. Approval shall be based on the type of tree, health of the tree, location of the tree on site, elevation of the tree, and impact of the tree on the proposed site or development plan.
- Critical alteration of any Protected Tree, including Specimen Trees, is subject to the tree mitigation and replacement requirements of §405, *Tree Mitigation and Replacement*.

Protected Trees

Table 4-1, *Protected Trees*, indicates protected trees that are subject to the protection measures and mitigation and replacement requirements of this Article. Protected trees located in the perimeter tree zone are not allowed to be removed.

Table 4-1 Protected Trees			
● Protected Tree			
● Protected Tree when adjacent to existing platted residential lots			
Location	Quality Tree (6" or greater)	Quality Tree (27" or greater)	Specimen Tree (42" or greater)
Existing Single-Family (attached and Detached), Duplex, Triplex, and Quadplex Uses		●	●
Existing Non-Residential, Manufactured Housing, and Multi-Family Residential Uses	●	●	●
Qualified Ag Land [1]	●	●	●

Development Projects	•	•	•
Other Properties [2]	•	•	•
<i>Special Locations</i>			
Perimeter Tree Zone	○	○	○
Floodplain	•	•	•

[1] A property receiving a special use appraisal as a qualified agricultural, timber land, and wildlife management property from the Collin Central Appraisal District (CCAD). An agricultural exemption is not the same as a qualified agricultural, timber land, and wildlife management property special use appraisal.

[2] Unless otherwise determined by the Director of Planning.

NOTE: sizes measured at DBH

Special Protected Tree Locations

All protected trees shall be protected as identified in Table 4-1, plus the following additional regulations shall apply to protected trees in the following locations:

a. Perimeter Tree Zone

If a protected tree exists within 15 feet of the boundary line between a proposed development and an existing platted residential development with four or fewer units per lot, a perimeter tree zone shall be provided. The perimeter tree zone shall extend 15 feet out from each protected tree onto the proposed development for a maximum 30-foot-wide perimeter tree zone. No protected tree within the perimeter tree zone may be critically altered. See Figure 4-1.

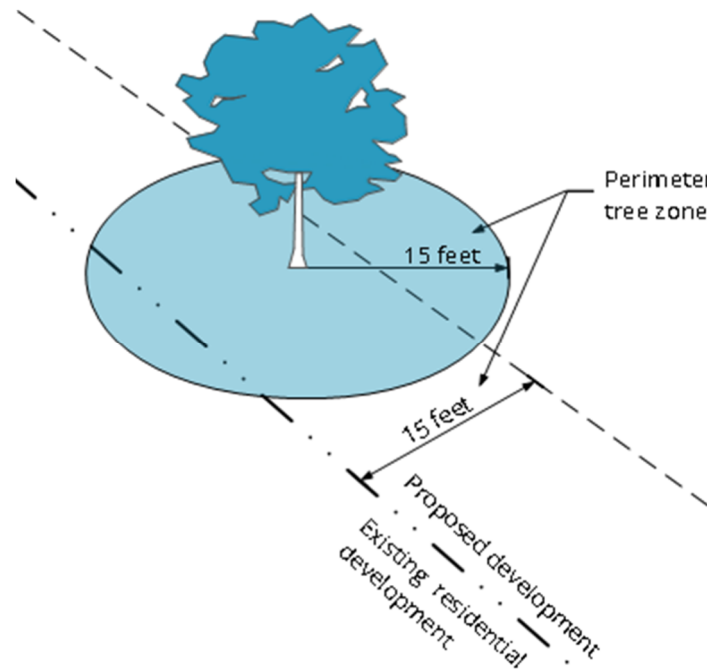


Figure 4-1: Perimeter Tree Zone

b. Floodplain

- I. Within the 100-year fully developed floodplain, no more than 30 percent of protected trees may be critically altered. The following conditions are exempt from the requirement:
 - a. If the floodplain area is located within the interior of a commercially zoned property and construction of buildings or parking is to occur on both sides of the floodplain; or

- b. When the construction of roads are required by the City to provide cross access to adjacent properties or a second point of access.
- II. A request to remove greater than 30 percent of quality trees may be made pursuant to §203G.1, *Design Exception*.

Quality Tree List

The following list of tree species are quality trees.

Table 4-2 Quality Tree List	
Common Name (Botanical Name)	Common Name (Botanical Name)
Maple Species (<i>Acer spp.</i>) [1]	Crabapple (<i>Mallus spp.</i>)
Chittamwood (<i>Bumelia lanuginosa</i>)	Dawn Redwood (<i>Metasequoia glyptostroboides</i>)
Birch Species (<i>Betula spp.</i>)	Wax Myrtle (<i>Myrica cerifera</i>)
Buckeye Species (<i>Aesculus spp.</i>)	Pine (<i>Pinus spp.</i>)
Texas Madrone (<i>Arbutus xalapensis</i>)	Chinese Pistache (<i>Pistacia chinensis</i>)
Hickory Species (<i>Carya spp.</i>)	Sycamore (<i>Platanus occidentalis</i>)
Pecan (<i>Carya illinoensis</i>)	Mesquite (<i>Prosopis glandulosa</i>)
Redbud (<i>Cercis canadensis</i>)	Cherry Laurel (<i>Prunus caroliniana</i>)
Desert Willow (<i>Chilopsis linearis</i>)	Mexican Plum (<i>Prunus mexicana</i>)
Chinese Fringe Tree (<i>Chionanthus virginica</i>)	Oak Species (<i>Quercus spp.</i>)
Dogwood Species (<i>Cornus spp.</i>)	Carolina Buckthorn (<i>Rhamnus caroliniana</i>)
Smoketree (<i>Cotinus coggygria</i>)	Aromatic Sumac (<i>Rhus aromatic</i>)
Hawthorn (<i>Crataegus spp.</i>)	Smooth Sumac (<i>Rhus glabra</i>)
Arizona Cypress (<i>Cupressus arizonica</i>)	Prairie Flameleaf Sumac (<i>Rhus lanceolata</i>)
Leyland Cypress (<i>Cupressocyparis leylandii</i>)	Western Soapberry (<i>Sapindus drummondii</i>)
Persimmon (<i>Diospyros spp.</i>)	Gum Bully (<i>Sideroxylon lanuginosum</i>)
Ginkgo (<i>Ginkgo biloba</i>)	Eve's Necklace (<i>Sophora affinis</i>)
Holly Species (<i>Ilex spp.</i>)	Texas Mountain Laurel (<i>Sophora secundiflora</i>)
Juniper Species (<i>Juniperus spp.</i>)	Pond Cypress (<i>Taxodium ascendens</i>)
Walnut Species (<i>Juglans spp.</i>)	Bald Cypress (<i>Taxodium distichum</i>)
Golden Raintree (<i>Koelreuteria paniculata</i>)	Elm Species (<i>Ulmus spp.</i>) [2]
Crape Myrtle (<i>Lagerstroemia indica</i>)	Mexican Buckeye (<i>Ungnadia speciosa</i>)
Goldenball Leadtree (<i>Leucaena retusa</i>)	Viburnum (<i>Viburnum spp.</i>)
Sweetgum (<i>Liquidambar styraciflua</i>)	Vitex (<i>Vitex agnus-castus</i>)
Magnolia (<i>Magnolia spp.</i>)	

[1] Except: Box Elder (*Acer negundo*) and Silver Maple (*Acer saccharinum*).

[2] Except: American Elm (*Ulmus americana*) and Siberian Elm (*Ulmus pumila*).

403 Tree Protection Measures

Applicability

Trees being preserved on- or off-site are subject to the following procedures, unless otherwise exempted.

Prohibited and Limited Activities in Critical Root Zone

The following activities are prohibited within the limits of the critical root zone of any tree being preserved, unless otherwise specified in this section.

Material Storage

No materials intended for use in construction or waste materials shall be placed within the critical root zone of any tree being preserved.

Equipment Cleaning/Liquid Disposal

No cleaning or other liquids shall be deposited or allowed to flow over land within the critical root zone of any tree being preserved. This includes, but is not limited to paint, oil, solvents, asphalt, concrete, mortar or similar materials.

Tree Attachments

No signs, wires or other attachments, other than those of a protective nature, shall be attached to any tree being preserved.

Construction Equipment/Vehicular Traffic

No vehicular and/or construction equipment traffic or parking shall take place within the critical root zone of any tree being preserved other than on existing street pavement, unless otherwise approved by the Director of Planning. This restriction does not apply to single incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance, emergency restoration of utility service, or routine mowing operations. No heavy equipment including trucks and tractors shall be allowed inside the dripline of any protected tree on any construction site without the specific approval of the Director of Planning.

Grade Changes

No grade changes shall be allowed within the critical root zone of any tree being preserved, unless the Director of Planning and/or the Director of Engineering approves adequate construction methods.

Impervious Paving Near Protected Trees

No paving shall occur within the critical root zone of a protected tree that is being preserved. Paving with asphalt, concrete, or other impervious materials may be allowed to encroach within the first 25 percent from the edge of the critical root zone of a protected tree that is being preserved only when a health, safety, or welfare issue arises due to access and circulation requirements.

Impervious Paving Near Non-Protected Trees

Unless otherwise approved by the Director of Planning, for any non-protected tree that is being preserved, the following shall apply:

- a. No paving with asphalt, concrete, or other impervious materials may be placed within a 5-foot radius of the trunk; and
- b. A total of 400 square feet of area on the critical root zone shall be kept free of impervious materials. This pervious area may be in the shape of a circle, rectangle, or other shape, and shall include and be contiguous with the area within a 5-foot radius of the trunk.

Boring

Where it is not possible to trench around the critical root zone of the protected tree, boring of utilities under a protected tree shall be required. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.

Trenching

Trenching shall be designed to avoid the critical root zone of any protected tree, unless otherwise approved by the Director of Planning. Mechanical trenching within the critical root zone shall be prohibited. Trenching by hand shall not critically alter the root system. The placement of irrigation systems and underground utility lines such as electric, phone, gas, etc., shall be located outside of the critical root zone of protected trees. The minimum required single head supply line for irrigation systems is allowed to extend into the critical root zone perpendicular to the tree trunk and in the manner that has the least possible encroachment into the critical root zone.

Construction Methods

Ground-Level Cuts

Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree. Stump grinding in such situations is allowed with the approval of the Director of Planning.

Root Pruning

All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.

Protective Measures Required Prior to Construction

Prior to the commencement of any site work or construction, the contractor shall construct and maintain a protective fence and bark protection around each tree being protected as shown on standard drawing 1180M of the City of McKinney Construction Standard Details, until all work on-site has been completed.

404 Tree Removal Procedures

Permits Required

Table 4-3, *Permit Requirements* indicates the type of permit required to critically alter a tree.

Table 4-3 Permit Requirements	
Type of Work	Type of Permit
Critical Alteration (not part of a Development Project)	Tree Permit
Critical Alteration (Development Project)	Development Permit: Tree Preservation Plan
Critical Alteration (Demolition of a Building)	Limited Purpose Tree Permit
<i>Maintenance Activities</i>	
Selective Thinning	Limited Purpose Tree Permit
Grubbing under the drip line	Limited Purpose Tree Permit
Clearing underbrush with mechanical equipment	Limited Purpose Tree Permit

Permit Exceptions

a. Tree Permit Exceptions

A Tree Permit is not required if:

- I. The tree, other than a specimen tree, is being critically altered on an existing lot being used for Single-Family Residential.
- II. The tree endangers the public health, welfare, or safety and immediate alteration is required from an arborist, including documentation stating the diameter, species and reason for removal;
- III. The tree has disrupted a public utility service due to a tornado, storm, flood, or any force of nature. Critical alteration shall be limited to the portion of the tree reasonably necessary to reestablish or maintain reliable utility service;
- IV. The tree is being critically altered as part of routine utility maintenance;
- V. The tree is located on city owned property and is being critically altered as part of routine maintenance by the Parks and Recreation Department;
- VI. The tree is dead as documented by an arborist, including information citing the diameter, species, and reason for removal, unless the tree was required under a Landscape Plan or was a required replacement tree under this section;
- VII. The tree is located on the property of a plant or tree nursery, or an orchard, where trees are planted and grown on the premises for the sale or intended sale to the general public in the ordinary course of the nursery's or orchard's business; or
- VIII. Removing underbrush with hand tools, not including grubbing under drip lines.

b. Tree Preservation Plan Exceptions

An approved Tree Preservation Plan is not required prior to the critical alteration of any protected tree for the following:

- I. If no trees exist on the property. The Director of Planning may request additional information to confirm that no trees exist on the site.
- II. For the areas outside the width of construction and maintenance easements when constructing off-site public infrastructure and utilities. The Director of Planning may request that additional areas be included if impacts are anticipated beyond the limits of construction.
- III. For developments 35 acres or greater in size, an Aerial Tree Exhibit may be submitted in lieu of a Tree Preservation Plan, along with a payment into the Reforestation Fund, pursuant to [Appendix A – Schedule of Fees](#) of the Code of Ordinances.

- IV. For all projects constructed by the city, regardless of size, an Aerial Tree Exhibit may be accepted in lieu of a Tree Preservation Plan.

Tree Permit

Tree Permit Application

A Tree Permit application and submittal fees (see [Appendix A – Schedule of Fees](#)) shall be submitted in conformance with the requirements of this section and shown on one of the following:

- a. For existing single-family residential (single-family (detached and attached), Duplex, Triplex, and Quadplex) uses, a tree permit exhibit shall include the following information:
 - I. The location of any proposed tree for removal or transplanting on an aerial exhibit or plot plan;
 - II. The diameter at breast height (DBH) of the proposed tree for removal or transplanting; and
 - III. the following standard notations;
 - a. Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree.
 - b. All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.
 - IV. Tree protection measures.
- b. For existing non-residential uses, manufactured homes, multi-family residential uses, and Qualified Ag Land, a tree permit exhibit shall include the following information:
 - I. The location of any proposed tree for removal or transplanting on an aerial exhibit, Site Plan, or approved Landscape Plan;
 - II. The diameter at breast height (DBH) of the proposed tree for removal or transplanting;
 - III. the following standard notations;
 - a. Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree.
 - b. All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.
 - IV. Tree protection measures; and
 - V. Summary tables including mitigation information, if applicable.
- c. For other properties, a tree permit exhibit shall include the following information:
 - I. The location of any proposed tree for removal or transplanting on an aerial exhibit, Site Plan, or approved Landscape Plan;
 - II. The diameter at breast height (DBH) of the proposed tree for removal or transplanting;
 - III. the following standard notations;
 - a. Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree.
 - b. All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.
 - IV. Tree protection measures; and
 - V. Summary tables including mitigation information, if applicable.
- d. Alternate submittal materials may be deemed appropriate in limited instances and may be accepted, subject to the sole discretion of the Director of Planning.

Approval Procedure

The Director of Planning shall have the authority to issue a Tree Permit if it complies with all the regulations of this Code;

Appeals

If the Director of Planning denies the Tree Permit, the owner/applicant may appeal the decision to the Board of Adjustment in accordance with §203F.1, *Administrative Appeals*.

Expiration

A Tree Permit shall expire two years after its issuance.

Development Permit Process

Development Permit Application

A Tree Preservation Plan or Aerial Tree Exhibit, conforming to the requirements below, shall be submitted for a development project with the Site Plan or Plat, unless otherwise approved by the Director of Planning.

Tree Preservation Plan Exhibit Requirements

A Tree Preservation Plan shall be prepared by a registered engineer, arborist, surveyor, architect, or landscape architect and include the following:

- a. The location of any tree with a diameter at breast height (DBH) of six inches and greater;
- b. The proposed and existing contours;
- c. The property lines, with dimensions;
- d. The location of all rights-of-way, and easements (existing and proposed);
- e. The location of all buildings, structures, pools, parking and vehicular maneuvering areas, utilities, sidewalks, and other improvements (existing and proposed);
- f. The adjacent land uses, and zoning of adjacent properties;
- g. The creeks, lakes, and other water features (existing and proposed);
- h. The location of FEMA 100-year floodplain, the 100-year fully developed floodplain, and erosion hazard setback easement (existing and proposed);
- i. The major site construction features;
- j. Any proposed non-disturbance area;
- k. Identification of the DBH, species, and location of trees that are to remain;
- l. Identification of the DBH, species, and location of trees to be removed;
- m. the following standard notations;
 - I. Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree.
 - II. All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.
- n. The tree protection measures; and
- o. Summary tables and mitigation information tables (if required).

Aerial Tree Exhibit Requirements (if applicability qualifications are met)

- a. An Aerial Tree Exhibit shall be submitted in conformance with the following requirements and processed in accordance with §203A, *Standard Procedures*.
- b. An aerial exhibit which includes a transparent overlay of the proposed plat or site plan at the same scale as a color-aerial image of the property with all non-disturbance areas, floodplain limits, and tree protection measures clearly identified.
- c. An Aerial Tree Exhibit shall include the same information required by a Tree Preservation Plan as described in provisions a. through o. in the preceding subsection, for the following areas:
 - I. Area(s) identified as a required Perimeter Tree Zone(s) unless a 30-foot non-disturbance area is identified along the property line of the proposed development and any existing, platted single family residential development; and

- II. Area(s) identified as floodplain if reclamation or land disturbing activities are to occur within said areas. The mitigation requirements of §405, Tree Replacement and Mitigation, for the areas being disturbed shall still apply.

Approval Procedure

The Director of Planning shall have the authority to approve or deny a Tree Preservation Plan or Aerial Tree Exhibit as part of the development or building permit process.

Expiration

A Tree Preservation Plan shall expire at the same time as the development or building permit expires, whichever expires first.

Limited Purpose Tree Permit Process

Limited Purpose Tree Permit Application

- a. A Limited Purpose Tree Permit shall be submitted to perform the following types of work on a property located within the City:
 - I. Building demolition;
 - II. Selective thinning;
 - III. Grubbing under drip lines; and
 - IV. Clearing underbrush with mechanical equipment, not including hand tools.
- b. An application for a Limited Purpose Tree Permit shall include the following:
 - I. Application;
 - II. Submittal fees (see [Appendix A – Schedule of Fees](#));
 - III. Affidavit certifying how the work is to be done and any unauthorized protected trees;
 - IV. Exhibit showing the limits of work;
 - V. the following standard notations;
 - a. Tree trunks must be cut at ground level where removal of a tree may damage root systems of an adjacent tree.
 - b. All roots two inches or larger in caliper, which are exposed as a result of trenching or other excavation, shall be cut off square.
 - VI. Tree protection measures; and
 - VII. Additional information deemed necessary by the Director of Planning.
- c. The Director of Planning, at their sole discretion, may in limited instances exempt requirements for a permit that are deemed unnecessary.

Approval Procedures

The Director of Planning shall have the authority to issue a Limited Purpose Tree Permit if it complies with all the regulations of this Code.

Appeals

If the Director of Planning denies the request for a Limited Purpose Tree Permit, the owner/applicant may appeal the decision to the Board of Adjustment in accordance with 203F.1, *Administrative Appeals*.

Expiration

A limited use permit shall expire 90 days after the permit was issued if work has not started.

405 Tree Mitigation and Replacement

Applicability

The following tree mitigation requirements shall be applied when a protected tree, including specimen trees, for which a Tree Permit or Development Permit is required, is critically altered or removed. Replacement trees shall be provided in accordance with the requirements of this section and shown on an approved landscape Plan or another similar plan approved by the Director of Planning. The replacement trees shall be in addition to trees otherwise required by §206A, *Landscaping*, of this Article.

Exemptions

The following shall be exempt from the tree mitigation and replacement requirements described herein:

a. Public parks, infrastructure, and improvements

- I. Public projects including the construction of hike/bike trails;
- II. City-owned parks and sports fields open for public use;
- III. Construction of master planned public utilities within permanent utility easements;
- IV. Stabilization of creeks and streams; and
- V. Construction of thoroughfares as shown on the Master Thoroughfare Plan within the limits of the right-of-way when approved by the Director of Parks and Recreation or the Director of Engineering.

b. Development Activities and Improvements

- I. Install and maintain any utility lines;
- II. Dedicate public rights-of-way;
- III. Construct any public or private streets or alleys at the minimum required width only;
- IV. Provide any required easement up to the minimum width needed to accommodate the required service;
- V. Construct any fire lanes at the minimum required width only;
- VI. Construct any sidewalks;
- VII. Construct any driveways;
- VIII. Construct fences and screening walls;
- IX. Construct patios;
- X. Construct swimming pools and associated deck areas;
- XI. Construct required parking;
- XII. Install a building pad site;
- XIII. Construct any hike/bike trails; or
- XIV. Achieve cut and fill drainage as designed in master drainage construction plan, including required detention or retention ponds. Transitional slopes to the original grade, which are less steep than the maximum allowed slope shall not be exempt.

c. Demolition

The critical alteration of a protected tree is permitted if such critical alteration is necessary to allow demolition of a structure. The protected tree covered by the permit shall be exempt from the tree replacement and tree protection requirements of this section.

d. Selective Thinning

Selective thinning of certain protected trees from a densely forested area in a manner specified by a certified arborist in a management plan that will enhance the likelihood of survival for the remaining trees is permitted. The protected trees covered by the permit shall be exempt from the tree replacement and tree protection requirements of this section.

e. Grubbing under Drip Lines

Clearing and grubbing of brush located within or under the drip lines of protected trees is permitted with a management plan specified by a certified arborist that will enhance the likelihood of survival for the remaining trees.

f. Diseased Trees

A diseased protected tree may be critically altered to reduce the chances of spreading the disease to adjacent healthy trees. The protected trees covered by the Tree Permit shall be exempt from the tree replacement and protection requirements of this section.

Responsibility

The property owner shall be responsible for replacing a protected tree, including specimen trees, subject to the provisions of this section if the tree is critically altered, removed, or dies.

Size and Number

A sufficient number of canopy trees shall be planted to equal or exceed the protected trees, including specimen trees, that are critically altered, pursuant to Table 4-4, *Tree Replacement Requirements*, below.

Table 4-4 Tree Replacement Requirements

Single-Family Residential Uses

DBH of critically altered tree [1]	Replacement ratio (number of trees)	Minimum size of replacement tree (at time of planting) [2]
27 inches and greater	1:1	4 inches in caliper and 12 feet in height

Non-Residential, Manufactured Home, and Multi-Family Uses

DBH of critically altered tree [1]	Replacement ratio (DBH removed: caliper inch replaced)	Minimum size of replacement tree (at time of planting) [2]
6-16 inches	1:1	4 inches in caliper and 12 feet in height
17-41 inches	1:2	6 inches in caliper and 12 feet in height
42 inches and greater	1:2	6 inches in caliper and 12 feet in height

[1] When determining the diameter of each tree(s) being critically altered, individual fractional numbers shall be rounded to the nearest whole number.

[2] Caliper for replacement trees shall be measured at 6 inches above the ground.

Tree Preservation Credit

When trees are preserved that would otherwise have been exempt from the tree mitigation and replacement requirements, credit toward mitigation may be approved on an inch-per-inch basis. Credits for the size of trees preserved (DBH) can be applied to those trees of an equal or lesser size category, as listed in Table 4-4, *Tree Replacement Requirements*. Trees being preserved to meet landscape requirements cannot be used towards mitigation credits.

Location

Each replacement tree shall be planted on the same property as the tree that was critically altered. However, if the Director of Planning deems that the replacement tree cannot be planted on the same property in accordance with acceptable arboriculture standards, the following may be allowed:

Replacement on public property;

Replacement on private property if also approved by the Director of Planning; or

Require payment to the Tree Reforestation Fund in accordance with subsection 406G. of this section.

Timing

For Development Permits: Replacement trees shall be planted prior to receiving Final Acceptance of public infrastructure or a Certificate of Occupancy for the development.

For Tree Permits: Replacement trees shall be planted within 90 days of critical alteration. If replacement trees cannot be planted within 90 days of critical alteration, the Director of Planning may approve a delay in replacement of up to six months after the date of critical alteration, provided the following conditions are met:

- a. The applicant provides an affidavit that all replacement trees will be planted within six months.
- b. The Director of Planning may require a cash deposit or surety bond in the approximate amount of the cost to replace the trees.

Tree Replacement Payment

If an applicant cannot replace trees on the same property or gain approval to plant on an alternate site, a mitigation payment into the Tree Reforestation Fund shall be required, prior to the issuance of a tree permit or development permit, as follows.

The amount of payment required for each replacement tree shall be calculated based on a schedule published and reviewed annually by the Director of Planning which sets forth the average cost of a quality tree added to the average cost of planting a tree.

406 Violations

Violation

A violation shall occur when any tree that is preserved or protected by this code is critically altered without authorization.

Occurrence

Each tree that is critically altered shall be considered a separate occurrence. If individual trees cannot be identified but there is evidence of a violation, every 1,200 gross square feet of tree canopy removed, as identified on an aerial image within the last 12 months, shall be considered a separate occurrence.

Reforestation Fund Payment Required

For every occurrence (tree), a payment as specified in [Appendix A – Schedule of Fees](#) of the Code of Ordinances, shall be paid into the Reforestation Fund.

For every occurrence (tree) found to include a Specimen Tree, a payment as specified in [Appendix A – Schedule of Fees](#) of the Code of Ordinances, shall be paid into the Reforestation Fund.

For every occurrence (tree canopy), a payment as specified in [Appendix A – Schedule of Fees](#) of the Code of Ordinances, shall be paid into the Reforestation Fund.

407 Tree Reforestation Fund

Reforestation funds shall be expended only for purchasing, planting, growing and/or irrigating trees as per the City's Reforestation Plan. Tree reforestation funds shall not be used for routine maintenance.

It shall be the responsibility of the Director of Planning to develop and administer a Tree Reforestation Plan for the planting, growing, replanting, and appropriate irrigation of trees on all municipal and public domain property. The Director of Planning shall present the Reforestation Plan to the City Council and, when adopted by the Council, the plan shall represent the Reforestation Plan for the City.

Funds paid into the Tree Reforestation Fund shall be spent within 10 years of payment or shall be returned to the payer.

The Director of Planning shall submit periodic reports of the deposits and disbursements from the Tree Reforestation Fund to the Tree Board and City Council.