

O-22-Z-01
AN ORDINANCE
AMENDING PART V OF THE CODE OF ORDINANCES
OF
THE CITY OF DECATUR
UNIFIED DEVELOPMENT ORDINANCE
ARTICLE 9. ENVIRONMENTAL PROTECTION
SECTION 9.1 TREE PROTECTION

WHEREAS, amendments to Section 9.1 Tree Protection of the Unified Development Ordinance have been prepared at the direction of the City Commission; and

WHEREAS, the proposed amendments have been made for the purpose of promoting the health, safety, morals, security, order, prosperity and the general welfare of present and future inhabitants of the City of Decatur, Georgia; to preserve the city's tree canopy; to reduce flooding and other storm water impacts; to improve air quality; to reduce noise; to increase shade and reduce urban heat and other impacts of climate change; and other public necessities; and

WHEREAS, the proposed amendments have also been made under the guidance of the 2021 Strategic Plan with reasonable consideration given to, among other things, the character of the community and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, conserving the value of buildings, and encouraging the most appropriate use of land, buildings and other properties throughout the City of Decatur; and

WHEREAS, recent expert assessments have confirmed that over 70% of Decatur's tree canopy is located in low density residential areas of the City and that redevelopment of single-family properties in these areas contributes significantly to the loss of tree canopy that is essential for the health, safety and welfare of the present and future inhabitants of the City; and,

WHEREAS, in work sessions and through public forums the City Commission has received evidence supporting the need for these regulations within the City of Decatur, which evidence is relied upon by the City Commission in its consideration and adoption of this ordinance; and

WHEREAS, the City Commission wishes to approve the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Decatur, Georgia, and it is hereby ordained by authority of the same, that Section 9.1 Tree Protection, Article 9 Environmental Protection, of Part V of the Unified Development Ordinance of the Code of the City of Decatur, Georgia, is amended as follows:

Section 9.1 Tree Protection shall be deleted in its entirety and replaced with a new Section 9.1 Tree Canopy Conservation, to read as follows:

SECTION 1:

“Section 9.1 Tree Canopy Conservation

9.1.1 Intent

- A. The purposes of these regulations are to encourage the conservation of existing tree canopy and provide minimum requirements for the protection, maintenance, renewal, and increase of tree canopy cover across the City. The City believes that trees are an essential part of the community's infrastructure and recognizes that they provide measurable and valuable services and benefits to our community. These services and benefits include:
- 1) Improved health of Decatur's citizens and visitors;
 - 2) Improved air quality;
 - 3) Improved water quality;
 - 4) Improved soil quality;
 - 5) Storm water control;
 - 6) Energy conservation;
 - 7) Increased property values;
 - 8) Habitat for desirable wildlife;
 - 9) Noise and glare buffering;
 - 10) Privacy screening;
 - 11) Increased community aesthetics and quality of life;
 - 12) Increased shade for active living activities like walking, and biking;
 - 13) Mitigating the urban heat island effect;
 - 14) Implementing the City's sustainability goals, including resilience, climate change mitigation and adaptation.
- B. The City recognizes that trees and tree canopy are a community resource that requires active conservation and replanting efforts. The City's tree canopy goal is a minimum of 65% canopy coverage over the entire City of Decatur. The City's tree canopy cover shall be measured every 5 years. Future canopy measurements will use methodologies substantially similar to the “Urban Tree Canopy Assessment and Change Analysis 2009-2019” completed in 2021. The City shall review this Section following each canopy assessment to support canopy goals.
- C. The City Arborist shall prepare and publish a report at the end of each calendar quarter which shall summarize tree removals, tree replacement, and additional tree plantings. Such report shall include location, size in diameter at breast height (DBH), caliper and canopy cover as appropriate, reason for removal or planting and other

information as may be necessary to measure the effectiveness of the City's tree ordinance.

- D. Within one year of adoption of this Section, the City Arborist shall hold two (2) public information meetings to disseminate information regarding compliance with this Section for tree care companies, property owners and managers, and residents. Thereafter, an annual public information meeting shall be held, providing the public with information on best compliance practices and recent developments under this Section.

9.1.2 Applicability and Exemptions

- A. This Section applies to any and all real property within the City limits, including all public and private property and all zoning districts.
- B. This Section shall apply to all protected trees as defined herein.
- C. No protected tree shall be removed, destroyed, or disturbed without the written consent of the City Arborist in the form of an approved Tree Conservation Plan or Tree Removal Permit.
- D. The following activities and trees are exempt from compliance with this Section:
 - 1) Activities or trees included in approved community forest management plans, annual utility work plans, memoranda of understanding or other plans and agreements approved and executed by the City Manager and government entities, utility companies, public authorities, boards or commissions, provided that such activities comply with the tree protection measures described in this Section.
 - 2) Activities or trees described in a waiver issued by the City Manager during and immediately after the period of an emergency such as a flood, ice storm, thunderstorm, windstorm, tornado, or any other disastrous act of nature.
 - 3) Activities or trees on any portion of a property included within the limits of a valid site development permit issued prior to March 21, 2022, provided that all time constraints relating to the permit are observed.
 - 4) Expedited written authorization may be given by the City Arborist for a tree to be removed with a Tree Removal Permit required to be submitted within 72 hours of the removal in a case where a tree has been determined by a Certified Arborist using the I.S.A. Tree Risk Assessment Form to be in the following condition:
 - a. To be at moderate or higher risk of failure with a target present and such risk cannot otherwise be mitigated to an acceptable level as determined by the property owner or to have a high to extreme risk of failure that cannot otherwise be mitigated.
 - b. To be in such a dangerous condition that it is threatening public health, safety or welfare or threatens to cause imminent harm to a building or other infrastructure, and such tree requires immediate

removal. A request for expedited written authorization of tree removal shall include the location, size, species, and description of the condition of the tree to be removed.

5) Trees grown specifically for sale, such as Christmas trees and nursery stock.

- E. **Special exceptions to canopy coverage standards for affordable housing.** The City Commission may authorize special exceptions to the requirements of this Section when public purposes are met and such exceptions support the community goal of affordable housing. Such exceptions shall be considered for permanent, bona fide affordable housing and subject to such standards, limitations and conditions as determined by the City Commission.

9.1.3 Administrative Standards and Supplemental Materials

- A. *Administrative Standards:* Administrative standards, which provide detailed information on how this Section shall be administered and implemented, are hereby established and incorporated by reference herein. Upon approval of the UDO Administrator, the City Arborist may waive or modify administrative standards to respond to a bona fide hardship based on criteria described in the administrative standards.
- B. *Tree Species List:* There is hereby established a City Tree Species List that is included in the Administrative Standards and is hereinafter referred to as the Tree Species List.

9.1.4 Tree Canopy Cover Credit

- A. Unless otherwise specified in this Section, actual tree canopy cover may be supplemented with tree canopy cover credit as defined in this section.
- B. All existing healthy trees greater than 4 inches DBH, with the exception of invasive and non-native, flowering ornamental species, that are rated fair or better shall be eligible for tree canopy cover credit. Poor-rated trees shall not be eligible for tree canopy cover credit. Trees whose crown and/or trunk are adversely impacted by invasive species including but not limited to English ivy, wisteria, kudzu and other species detrimental to tree health shall receive no tree canopy cover credit until such invasive species are removed.
- C. The area of tree canopy cover on a site shall be measured as the percent of the lot area that is covered by tree canopy, including canopy that projects over buildings and impervious surfaces. The portion of canopy projected over and onto the applicant's property by a boundary tree located on the property line or by a tree located on public property shall be included in the measurement of total tree canopy cover existing on a site. Tree canopy projected by a tree located in a public right-of-way shall be included. Tree canopy projected by a tree located on the applicant's property over and onto neighboring or adjacent property shall be included. Tree canopy projected over and onto the applicant's property by a tree growing on a neighboring or adjacent property shall not be included in the tree canopy cover measurement.

- D. The amount of tree canopy cover credited to an individual or group of existing trees shall be the actual projection of the combined crowns onto the ground measured in square feet as described in the Administrative Standards. The crowns of existing understory trees as defined in the Tree Species List may be credited at half their combined crown area and included in the tree canopy cover measurement. The preservation of a tree designated as a Landmark Tree within the buildable area of a lot shall receive 1.5 times canopy credit in the calculation of existing tree canopy if 70% of the critical root area and the entire structural root plate is undisturbed. An arboricultural tree prescription from a certified arborist or registered forester will be required for this credit.
- E. New trees shall receive partial credit at the time of planting based on the tree canopy cover potential for the species at maturity as listed in the table below and the Tree Species List:

Tree Canopy Cover Credit by Mature Canopy Size	
Mature Canopy Size Category	Amount of Tree Canopy Cover Credit
Large	1,600 square feet (SF) x 50% = 800 SF
Medium	900 SF x 65% = 585 SF
Small	400 SF x 80% = 320 SF
Very Small	150 SF x 80% = 120 SF

9.1.5 Tree Canopy Cover Requirements

- A. Tree canopy cover provided by existing protected trees on March 21, 2022 shall be conserved on a property to the greatest extent possible. No disturbance or removal of existing protected trees shall be permitted without the written permission of the City Arborist in the form of an approved Tree Conservation Plan or Tree Removal Permit.
- B. Tree canopy cover conserved or planted to meet the requirements of this Section shall be conserved on the site in perpetuity unless such trees become untreatably diseased, infested, or have a moderate or higher risk rating and such risk cannot otherwise be mitigated as determined by a Certified Arborist using the I.S.A. Tree Risk Assessment. Tree canopy cover required by this Section that is lost over time shall be replaced during the first planting season (November 15 - March 1) after the loss occurs.
- C. Commercial, High Density Residential, and Institutional.
- 1) This subsection applies to properties in the following zoning districts: RS-17, RM-18, RM-22, RM-43, PO, C-1, C-2, C-3, MU, NMU, and I.

- 2) A minimum amount of 45% tree canopy cover from trees in fair or better-rated condition shall be required on public and private properties in RS-17, RM-18, RM-22, RM-43, PO, C-1, C-2, C-3, MU, NMU, and I.
- 3) For properties zoned RS-17, RM-18, RM-22, RM-43, PO, NMU and I that require a land disturbance permit or where impervious area is increased, a minimum of 50% of the existing tree canopy cover from trees in fair or better-rated condition shall be conserved. If less than 45% canopy cover exists on the site at the time of permit application, the property owner shall apply for a Tree Conservation Plan or a Tree Removal Permit using standards for Alternative Compliance (Section 9.1.6. D).
- 4) For properties zoned C-1, C-2, C-3 and MU that require a land disturbance permit or where impervious area is increased and less than 45% canopy cover exists on the site at the time of permit application, the property owner shall apply for Alternative Compliance (Section 9.1.6. D).
- 5) For sites where impervious cover or gross floor area is increased, the Tree Bank may be used for up to 50% of tree planting requirement.

D. Single Family Residential

- 1) This subsection applies to properties in the following zoning districts: R-85, R-60 and R-50.
- 2) For properties that require a land disturbance permit or where impervious area is increased, no less than 75% of the existing tree canopy cover from trees in fair or better-rated condition shall be conserved. All tree canopy from Landmark trees (Sec. 9.1.15) shall be conserved. Planting of replacement trees is required to maintain no net loss of tree canopy, including at least one tree planted in the front yard of the property or in an adjacent public right-of-way.
- 3) If replacement trees are required, a minimum of 50% of the property's tree canopy cover replacement must be accommodated on site, including adjacent public rights-of-way. At least one large canopy tree shall be planted in the front yard of the property or in the adjacent public right-of-way. The remaining 50% may be satisfied by a combination of replacement trees planted on City-owned property or in public rights-of-way, the installation of on-site green infrastructure, the installation of rooftop solar photovoltaic panels (PV), or, upon submission of an affidavit from the property owner attesting that other options have been explored but are infeasible due to site conditions, a payment in lieu fee made to the tree bank.
- 4) A minimum amount of 60% tree canopy cover from trees in fair or better-rated condition shall be required on single-family residential properties.

E. Properties Owned or Managed by the City of Decatur and the City Schools of Decatur

- 1) Properties owned or managed by the City of Decatur or the City Schools of Decatur shall maintain no net loss of canopy, unless compliance with Sec 9.1.6 is otherwise demonstrated.

9.1.6 Tree Canopy Replacement Requirements

- A. All trees planted to meet tree canopy replacement requirements shall be 2.5" caliper or larger and shall meet ANSI Z60.1 Standards for Nursery Stock, and all planting shall be done in accordance with current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices, as well as the Administrative Standards that accompany this Section. Tree replacement under this Section shall be accomplished using trees of equivalent or better ecological value and quality on the Tree Species List.
- B. A Tree Planting Plan shall be submitted along with a Tree Removal Permit application as described in the Administrative Standards.
- C. Removal of a protected tree without a valid Tree Removal Permit shall be considered a violation of this Section and subject to penalties described in Sec. 9.1.20.
- D. Commercial, High Density Residential, and Institutional Alternative Compliance
 - 1) For properties with less than 45% tree canopy cover at the time of permit application that require a land disturbance permit or where impervious area is increased, a Tree Conservation Plan is required.
 - 2) All existing trees in fair or better-rated condition located in public rights-of-way adjacent to the property must be conserved.
 - 3) Additional tree canopy cover must be planted to achieve 45% tree canopy cover across the site, including tree canopy provided by streetscape installations on public rights-of-way. If replacement trees are required, a minimum of 50% of the property's tree canopy cover replacement must be accommodated on site, including adjacent public rights-of-way. The remaining 50% may be satisfied by a combination of replacement trees planted on City-owned property or in public rights-of-way, the installation of on-site green infrastructure, the installation of rooftop solar photovoltaic panels (PV), or, upon submission of an affidavit from the property owner attesting that other options have been explored but are infeasible due to site conditions, a payment in lieu fee made to the tree bank.
- E. Green Infrastructure
 - 1) Green infrastructure may include, but not be limited to, bioretention, rain gardens, infiltration trenches, bioswales, permeable pavement, stormwater planters, subsurface infiltration, rainwater harvesting, cisterns, landscaped green infrastructure, and other practices as described by the EPA.
 - 2) No trees shall be removed for the installation of green infrastructure to satisfy the requirements of this Section.

- 3) Green infrastructure installed to satisfy a portion of a property's tree canopy cover replacement requirement must not be otherwise legally required.
- 4) The equivalent tree canopy cover credit of green infrastructure practices is listed in the Administrative Standards.

9.1.7 Tree Bank

- A. There is hereby established a Tree Bank that shall receive payments made by property owners in lieu of planting additional tree canopy cover, as approved by the City Arborist, in addition to forfeited bonds and forfeited escrow funds. Funds in the Tree Bank shall be administered by the City Manager.
- B. Where it is determined by the City Arborist that it is impractical or impossible to fully meet the tree canopy cover requirements for a site, the portion of the canopy that cannot be accommodated on the site may be satisfied by a payment into the Tree Bank that shall be made prior to the issuance of a Tree Removal Permit, Building Permit, or Land Disturbance Permit. The amount of the payment shall be calculated using the standard tree canopy value listed in the City's fee schedule.
- C. The Tree Bank funds shall be available for use by the City for the establishment, maintenance, improvement, and expansion of tree canopy cover on public or private property. Funds shall not be used on private property to meet the requirements of a development project. Funds may be used on private property only to expand and improve the City's tree canopy. The expenditure of tree bank funds shall not be used for tree removal and shall be permitted for various activities related to tree conservation including, but not limited to:
 - a. Purchase of trees;
 - b. Planting and transplanting of trees;
 - c. Maintenance of trees during the establishment period;
 - d. Purchase of greenspace;
 - e. Funding tree care educational programs; and
 - f. Funding maintenance and arboricultural treatments of existing City-owned trees.

9.1.8 Standard Tree Canopy Value

- A. A standard value for each square foot of tree canopy shall be established by the City for the purpose of calculating payments to the Tree Bank. The standard tree canopy value for a tree shall be determined on a square foot basis for the actual tree canopy or tree canopy cover credit for the species, whichever is greater.
- B. The standard tree canopy value shall be based on a general but reasonable estimate of the average cost for a tree that would provide comparable canopy, including shipping, labor, installation, and 3 years of maintenance.
- C. The City Arborist shall make a recommendation to the City Manager each year on the amount of the standard tree canopy value. The current standard tree canopy value shall be listed in the City's fee schedule.

9.1.9 Tree Planting Easements

- A. The City is hereby authorized to acquire temporary easements with owners of private property for planting and transplanting of trees. Temporary easements shall be limited to 3 years and easement areas acquired shall be located in front yards and limited to only that which is necessary for the planting of trees. The easements shall provide that, after planting, the private property owners acquire ownership of the trees, will be responsible for tree maintenance, and will release and hold the City harmless from any liability arising out of or related to the planting or presence of the trees on their property.

9.1.10 Tree Maintenance Requirements

- A. Trees planted to fulfill the requirements of this Section shall be maintained for 2 years after the date of final inspection to establish the health and growth of the tree. Should any tree die or fail within the required maintenance period, new replacement trees shall be planted. At a minimum, maintenance shall include the following: watering, mulching, training pruning, and if necessary, pest management.
- B. All protected trees shall be maintained in accordance with current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices, and the Administrative Standards that accompany this Section.
- C. The permit holder shall be responsible for identifying both newly planted and existing trees to the property owner and for informing the property owner as to their proper maintenance and any required arboricultural tree prescriptions. A Tree Maintenance Agreement between the permit holder and property owner to determine responsibility for maintenance and replacement shall be submitted to the City Arborist prior to issuance of a Certificate of Occupancy and shall be included in the record set of plans for the permit.

D. Tree Maintenance Bond

- 1) Tree removal and land disturbance permit holders that are also required to have an approved Tree Conservation Plan shall furnish a 3-year tree maintenance bond or other financial security for trees planted outside the planting season (November 15 - March 1), or for trees impacted beyond the approved tree plan limits. The amount of the bond shall be equal to 125% of tree removal and replacement tree planting expenses, including materials and labor.
- 2) The City Arborist shall inspect planted trees and assess their health at the end of the establishment period and shall provide a written report to the permit holder indicating what actions, if any, are required before the bond will be released. If trees are found to be dead, dying, or not healthy at the time of the inspection, then replacement tree planting shall be required and the bond for replacement trees shall be retained for an additional 3 years.

9.1.11 Tree Transplanting

- A. Any protected tree transplanted using a tree spade within the boundaries of the subject site shall be given credit at 1.5 times the actual canopy coverage. Trees transplanted to locations other than the subject site shall receive actual canopy credit.
- B. A Tree Spade Transplanting Agreement must be signed by the applicant and approved by the City Arborist prior to plan approval.
- C. Transplanting shall be performed using a tree spade of proper dimension and shall comply with the current ANSI Standard Z-60.1, Section 1.3.
- D. Protected trees shall not be transplanted during the active growing period (March 15 – October 1).

9.1.12 Canopy Loss Fee

- A. A canopy loss fee based on benefits lost to the community shall be established for the purpose of calculating payments to the Tree Bank. See Administrative Standards section X.3.
- B. A canopy loss fee shall be paid to the Tree Bank by the property owner for any protected tree that is removed.
- C. A 50% reduction in canopy loss fee is allowed on single-family residential properties where green infrastructure is installed without tree removal. See Sec. 9.1.6.F.

9.1.13 Tree Protection Requirements

- A. Disturbance of up to 20% of the tree protection zone may be allowed with an approved land disturbance permit, building permit or tree conservation plan. Tree disturbance activities encroaching more than 20% of the critical root zone are prohibited without an arboricultural tree prescription and approval of the City Arborist.
- B. Land disturbance and grading on single-family residential properties (e.g., R-85, R-60, R-50) shall be limited to no more than 125% of the total lot coverage permitted by zoning regulations.
- C. Damage to be avoided within the tree protection zone shall include, but not be limited to:
 - 1) Land disturbance and grading;
 - 2) Soil compaction;
 - 3) Gas, liquid, or solid contamination of the soil;
 - 4) Application of toxic chemicals to tree roots, trunk, or crown;
 - 5) Crushing or cutting of tree roots;
 - 6) Damage resulting from grading for or installation of sod, turf, or irrigation systems;
 - 7) Attachment of ropes, wires, chains, nails, screws, advertising, posters, or any other objects to tree trunks or scaffold limbs of public trees;
 - 8) Wounding of tree roots, trunk, and scaffold limbs;
 - 9) Improper pruning, including topping;

- 10) Trenching for pipes, conduit, underground utilities, or silt fence;
 - 11) Excessive heat or desiccation causing bark, wood, limb, or large-scale bud or leaf injury.
- D. During land disturbance and land development, active protection shall be required for protected trees in accordance current American National Standards Institute (ANSI) A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices, and the Administrative Standards that accompany this Section.
- E. Active tree protection measures shall consist of the following:
- a. Erection of tree protection fencing around the outer limits of the critical root zone to include temporary chain link fence or four foot orange tree protection fencing and staked hay bales;
 - b. Posting of tree protection signs in both English and Spanish stating "Tree Protection Zone – Keep Out";
 - c. Removal of invasive weeds by non-mechanical means that do not damage soil and tree roots and placement of a 2 inch layer of mulch within the critical root zone;
 - d. Preconstruction limb pruning on any tree within the construction zone using ANSI Standard A300 at an appropriate height to avoid damage from construction equipment;
 - e. Root pruning using ANSI Standard A300 for any non-structural roots that may be exposed during construction; cutting or damage to the structural root plate is prohibited.
 - f. Installation of a temporary bridge over the root system for any tree within the tree protection zone;
 - g. Avoidance of any soil disturbance or land development activities within the tree protection zone.
- F. The City Arborist may require the expansion of the critical root zone up to 20%. In no case shall land disturbance activities be conducted within 10 feet of the trunk of a protected tree.
- G. All tree protection measures shall be installed prior to land disturbance and shall be maintained until after final inspection. The City Arborist or their designated representative shall be contacted for an on-site inspection after tree protection measures are installed and prior to final landscape installation.
- H. When the City Arborist determines that significant damage has occurred to any protected tree due to either permitted or non-permitted land disturbance activities, the City Arborist shall require that the tree be treated according to professional standards to mitigate the damage.
- I. If the City Arborist determines that the tree is irreparably damaged due to land disturbance activities, the City Arborist may require that the tree be removed.

9.1.14 Boundary Trees

- A. A Boundary Tree Agreement is required for each boundary tree when a Building Permit or Land Disturbance Permit is applied for that will impact more than 20% of the critical root zone. Applicants must submit a Boundary Tree Agreement executed by each boundary tree owner authorizing treatment or removal of any boundary tree. No boundary tree shall be removed without written permission from each boundary tree owner. Signing a Boundary Tree Agreement does not prevent an owner from pursuing additional legal remedies.
- B. Permit applicants must make and document three (3) bona fide attempts in person, by phone, or email to contact each boundary tree owner. If no response is provided, then one attempt by certified mail to each tree owner, with a waiting period of at least 3 weeks for response, is required. A copy of the certified mailing and the arboricultural tree prescription shall be received by the City Arborist prior to issuance of a Building Permit or Land Disturbance Permit.
- C. If the permit applicant is unable to obtain a Boundary Tree Agreement, then the permit application must be revised to reduce the impact to 20% or less of the critical root zone and a paid arboricultural tree prescription, treatments, and a tree bond shall be provided.
- D. A Boundary Tree Bond is required if no Boundary Tree Agreement was reached, in an amount totaling the estimated cost of removal plus the cost to replace the boundary tree's canopy cover shall be established prior to final inspection.
- E. Boundary tree health and potential for survival shall be determined by the City Arborist. If after 3 years the boundary tree is found dead or determined it be in irreversible decline as a result of the permit holder's disturbance activities, the City Arborist shall authorize the return of bond funds to the adjacent property owner of the subject boundary tree. The City Arborist may also require that the escrow account remain in place for up to an additional 2 years if signs of tree decline are evident but treatment options by the permit holder could be taken to improve tree health and longevity. If after 3 years the tree is in fair or greater condition the bond amount shall be returned to the permit holder.
- F. Neither the tree owner nor the permit holder shall be entitled to receive interest on any bond funds required by this provision. Any funds not collected by either the boundary tree owner or the permit holder within a period of 5 years shall be deposited in the tree bank.
- G. Recompense will be required at 2 times the canopy potential of the boundary tree.

9.1.15 Landmark Trees

- A. Any tree may be considered for Landmark Tree designation, establishing it as a public landmark.
- B. Property owners may nominate qualified trees on their own property for Landmark Tree designation by written request to the City Arborist or UDO Administrator. The

nomination will be reviewed by the City Arborist and presented to the City Commission for acceptance. If the nomination is approved, the Landmark Tree designation shall run with the property and the tree shall not be intentionally removed, destroyed or disturbed.

- C. **Criteria for Landmark Tree designation.** The tree must be free of untreatable diseases, pests and other serious injury, have a reasonable life expectancy of more than ten (10) or more years, must be free from structural defects that could present a hazard to the public, and must meet at least 2 of the following standards:
 - a. The tree is demonstrated to have an association with a documented historical event or is located on an historic site;
 - b. The tree has an unusually high aesthetic value;
 - c. The tree is of unique or notable character because of its age, species, variety, location, or because of the size and development of its crown, trunk, or main stem;
 - d. Minimum DBH of 26" for overstory or canopy trees and 10" for understory trees.
- D. Any tree designated as a Landmark Tree will be counted at 1.5 times the existing canopy. If a Landmark Tree no longer meets the Landmark Tree criteria, then a property owner may apply for a tree removal permit and provide an I.S.A. Basic Tree Risk Assessment Form completed by a certified arborist. If the UDO Administrator and if the City Arborist approve the removal request, tree canopy replacement requirements must be met (Section 9.1.6).
- E. The City Arborist shall maintain and publish a roster of Landmark trees and shall provide a current roster of Landmark trees to the City Clerk annually.

9.1.16 Plans and Permits

- A. The following table lists plan and permit requirements by property type and activity. In the event of ambiguity or inconsistency between the table and other parts of this Section, the provision that results in the greatest protection of trees shall apply.

Permits Requirement Guide

Property Type (Zoning Districts)	Activity	Plan/Permit Requirements
Commercial, High Density Residential and Institutional	Tree Removal	<ul style="list-style-type: none"> • Tree Conservation Plan • Tree Removal Permit • Canopy Loss Fee

(RS-17, RM-18, RM-22, RM-43, PO, C-1, C-2, C-3, MU, NMU, I)	Disturbance of up to 20% or more of critical root zone <i>Project increases impervious cover or gross floor area or proposes underground utility lines or pipes.</i>	<ul style="list-style-type: none"> • Tree Conservation Plan • Land Disturbance Permit or Building Permit • Arboricultural Tree Prescription
	No Tree Impact <i>Project increases impervious cover or gross floor or proposes underground utility lines or pipes</i>	<ul style="list-style-type: none"> • No Tree Impact Statement
Residential (R-85, R-60, R-50)	Tree Removal 1. Untreatably diseased or dead trees. 2. Trees at moderate or higher risk of failure with a target present and such risk cannot otherwise be mitigated to an acceptable level as determined by the property owner. 3. Trees at a high to extreme risk of failure that cannot otherwise be mitigated.	<ul style="list-style-type: none"> • No net loss tree planting required
	Tree Removal <i>Project increases impervious cover or gross floor area or proposes underground utility lines or pipes</i>	<ul style="list-style-type: none"> • Tree Removal Permit • Canopy Loss Fee • Tree Conservation Plan • Land Disturbance Permit or Building Permit if applicable • No net loss tree planting required
	Disturbance of up to 20% or more of critical root zone <i>Project increases impervious cover or gross floor area or proposes underground utility lines or pipes</i>	<ul style="list-style-type: none"> • Tree Conservation Plan • Land Disturbance Permit or Building Permit • Arboricultural Tree Prescription
	No Tree Impact	<ul style="list-style-type: none"> • No Tree Impact Statement

B. The following documents may be required prior to construction:

1) No Tree Impact Statement

- a. A No Tree Impact Statement is required for any exterior, outdoor, or landscaping construction project where no trees over 6" diameter are proposed to be impacted.

2) Tree Removal Permit

- a. A Tree Removal Permit is required for any removal or disturbance of a protected tree located on all public and private properties for which a Building Permit or Land Disturbance Permit is not required. Such tree shall be untreatably diseased, dead or at moderate or higher risk of failure with a target present and such risk cannot otherwise be mitigated to an acceptable level as determined by the property owner or to have a high to extreme risk of failure that cannot otherwise be mitigated.
- b. Tree planting required to achieve no net loss of canopy.
- c. A Tree Removal Permit application shall include, at minimum:
 - (1) Size of all impacted trees including canopy coverage utilizing the canopy measurement methodology in Sec. 9.1.4 and DBH.
 - (2) A tree replanting plan that shall result in no net loss of canopy on the site.
 - (3) A description of the need for tree removal.
- d. The amount of tree canopy cover removed from the site shall be replaced on site by trees of comparable or greater mature canopy size and species quality to maintain no net loss of tree canopy cover.
- e. A Tree Removal Permit application must be prepared by a Certified Arborist.
- f. The City Arborist is responsible for reviewing all tree removal permit applications. When reviewing an application for tree removal, the City Arborist shall consider the following factors, as applicable:
 - (1) Reason for removal;
 - (2) Intended use of site where tree is located;
 - (3) Tree species, size and condition;
 - (4) Impact of planned activities on tree health and stability;
 - (5) Function and value of tree;
 - (6) Current tree canopy cover on the site;
 - (7) Impact of removal to the site;
 - (8) Impact of removal to the environment;
 - (9) Impact of tree on value of property;
 - (10) Potential for replacement of tree canopy elsewhere on the site; and
 - (11) Potential for replacement of tree canopy on the public street right-of-way or other nearby public property.
- g. No Tree Removal Permit shall be granted unless the following criteria are satisfied:
 - (1) A complete application is received;
 - (2) The City Arborist concludes in writing that removal of the tree is permissible, lawful and necessary and will comply with all applicable provisions of this Section 9.1.

- (3) In the event canopy on the site is below minimum canopy requirements, a binding, legally enforceable tree planting plan is made a condition of the permit, to bring the site into compliance with minimum canopy requirements. As a condition of each permit, monitoring and inspection reports shall be submitted to the City demonstrating compliance with Sec. 9.1.10, above, not less than annually for three years after planting. The City Arborist shall review all monitoring and inspection reports of all tree plantings made under the authority of this subsection.

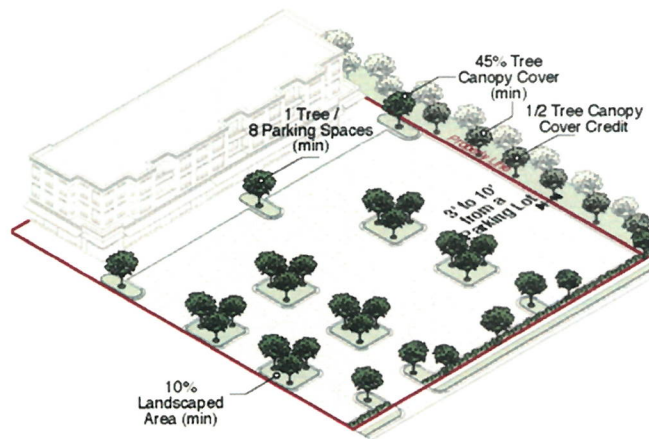
3) Tree Conservation Plan

- a. A conference with the City Arborist is required prior to the submittal of a Tree Conservation Plan or an application for a Land Disturbance or Building Permit sought for any proposed improvement or project that could result in tree disturbance or removal or that would alter soils within the critical root zone of any protected tree. The purpose of the conference is to discuss the objectives and requirements of the tree ordinance and opportunities to preserve existing trees before starting any planning for land disturbance or physical improvements. The conference shall be summarized via a written alternatives analysis submitted with the application.
- b. A Tree Conservation Plan must be submitted with all Land Disturbance and Building Permit applications for any proposed improvement or project that could result in tree disturbance or removal or that would alter soils within the critical root zone of any protected tree. No Land Disturbance or Building Permit shall be issued without an approved Tree Conservation Plan.
- c. A Tree Conservation Plan must be prepared and certified by a registered forester, registered landscape architect, or certified arborist. Tree Ratings shall be done by a certified Arborist or a Registered Forester.
- d. Upon submittal, the Tree Conservation Plan shall be reviewed by the City Arborist and either approved or returned with comments explaining the changes necessary for compliance with this Section. Corrections to be made or reasons for denial shall be noted on the plan, or otherwise stated in writing to the applicant.
- e. A Tree Conservation Plan shall include the following:
 - (1) Existing and proposed tree canopy cover for the site, including the percentage of canopy conserved and the percentage of canopy planted;
 - (2) Type and extent of proposed soil disturbance;
 - (3) Percentage of critical root zone (measured at 1.25 x DBH) to be disturbed;

- (4) Tree survey including all trees 6" DBH or larger with size, species, location, and Tree Rating;
 - (5) Protection, impactation, and arboricultural tree prescription measures for all trees to be conserved;
 - (6) For R-50, R-60 and R-85-zoned properties, tree replacement plan to maintain no net loss of canopy, including species, caliper and location;
 - f. No Tree Conservation Plan shall be approved unless the following criteria are satisfied:
 - (1) A pre-application conference is completed and documented via submittal of a written alternatives analysis, and a complete application is received;
 - (2) The City Arborist concludes in writing that removal of the tree is permissible, lawful and necessary and will comply with all applicable provisions of this Section 9.1.
 - (3) In the event canopy on the site is below minimum canopy requirements, a binding, legally enforceable tree planting plan is made a condition of the permit, to bring the site into compliance with minimum canopy requirements.
 - g. Full compliance with an approved Tree Conservation Plan and tree protection measures shall be required and maintained during all phases of construction and prior to the issuance of a Certificate of Occupancy. As a condition of each permit, monitoring and inspection reports shall be submitted to the City demonstrating compliance with Sec. 9.1.10, above, not less than annually for three years after planting. The City Arborist shall review all monitoring and inspection reports of all tree plantings made under the authority of this subsection. If the City Arborist determines that tree disturbance results in the substantial damage, decline or death of a protected tree within 3 years after project completion, the removal of the dead or declining tree and replacement of the tree canopy cover shall be required of the permit holder.
- C. Public Notice. Upon issuance of a tree removal permit or approval of a tree conservation plan, the applicant shall post a permit placard on the property identifying the location and species of tree(s) affected.
- D. Relationship to other law. Unless considered as part of the variance application, approval of a stream buffer or zoning variance shall not be deemed an exemption to full compliance with this Section. Any project or activity undertaken in connection with receipt of a stream buffer variance or zoning variance must independently comply with all provisions of this Section.

9.1.17 Surface Parking Lots

- A. New surface parking lots containing 8 or more spaces or any land development or redevelopment that results in the removal and replacement of 50% or more of an existing parking lot of 8 or more spaces, other than routine maintenance of the parking lot surface, shall be subject to the requirements of this Section. New trees planted in parking lots may be counted toward tree replacement requirements.
- B. Surface parking lots in commercial, institutional, and high-density residential zoning districts shall maintain 45% tree canopy cover. At least 10% of the required canopy cover must be placed within the interior of the parking lot in landscaped areas.
- C. A minimum of 1 large or medium canopy tree shall be required for every 8 parking spaces. All landscape islands shall include at least 1 canopy tree. Only those species approved for parking lots as listed in the Tree Species List shall be planted within parking lots, unless other species are approved by the City Arborist on a case-by-case basis.



9.1.18 Administrative Setback Adjustments for Tree Conservation

- A. Minimum front, side, and rear yard setbacks for single-family residential properties may be reduced by up to 50% of the setback with the approval of the UDO Administrator where the City Arborist determines such reduction is necessary to preserve good or higher rated trees and their existing soils. Such Administrative Tree Setback Adjustments are limited to one per property per building project in any five year period.
- B. Appropriate conditions to the Administrative Tree Setback Adjustment shall be imposed to ensure the continued health of subject trees following the granting of such adjustments, including mandatory replacement requirements if the tree were to fail.
- C. Appeals of final decisions of the City Arborist regarding requests for Administrative Tree Setback Adjustments may be taken as provided in Section 9.1.21.

9.1.19 Utility Company Requirements

- A. All utility companies shall be required to submit an annual work plan to the City Arborist by December 1 each year for the following calendar year showing the proposed location, extent and type of work to be performed, type of tree disturbance that will occur and tree protection measures to be installed to minimize tree impact. The annual work plan shall include a list of subcontractors with names, addresses and City business license numbers. No work within the tree protection zone shall be performed until the annual work plan has been received by the City Arborist.
- B. When changes are required to the annual work plan, notice in writing shall be submitted to the City Arborist for approval prior to the changes taking place. These changes may include, but are not limited to, utility infrastructure installation, repair, and tree removal or disturbance not described in the annual work plan.
- C. All work to be performed on or around protected trees shall be done in accordance with current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices, and the Administrative Standards that accompany this Section.
- D. All tree pruning shall be supervised by a Certified Arborist. Pruning cuts shall be made in accordance with ANSI standards. Topping, tipping or heading cuts, flush cuts, and stub cuts shall be prohibited. No climbing spurs or spikes shall be used in trees, except when trees are to be removed or in cases of a public safety emergency, natural disaster or aerial rescue of personnel.
- E. For installation of underground utility conduit, cable, and similar utility lines, directional boring, tunneling, or air excavation tool trenching shall be required in the canopy dripline of any fair or better-rated tree. Poor-rated, untreatably diseased or infested trees should be removed prior to commencement of work. A Tree Removal Permit is required and removal must be approved by the City Arborist. A tree maintenance bond will be required for any utility work proposed in the critical root zone of an existing moderate or higher rated tree located in a right-of-way or on public property.

9.1.20 Violations and Penalties

- A. Violations of this Section may result in the withholding of a Certificate of Occupancy, revocation or revision of a permit, issuance of a stop work order, and/or issuance of a court citation. Upon notification of a violation, a stop work order shall be issued and remain in effect until the violation is addressed. Examples of violations include, but are not limited to:
 - a. Protected tree removal without a Tree Removal Permit;
 - b. Soil disturbance or land development without a Land Disturbance Permit or approved Tree Conservation Plan;
 - c. Violation of the conditions of a Land Disturbance Permit or approved Tree Conservation Plan;

- d. Improperly installed or maintained tree protection; and
 - e. Unauthorized encroachment of a tree protection zone.
- B. When the City Arborist determines that significant damage has occurred to any protected tree due to either permitted or non-permitted land disturbance activities, the City Arborist may require that the tree be treated by a Certified Arborist according to professional standards to mitigate the damage.
- C. If the City Arborist determines that a tree is irreparably damaged due to land disturbance activities performed without a Land Disturbance Permit or in violation of the conditions of a Land Disturbance Permit or approved Tree Conservation Plan, the City Arborist shall require that the tree be removed. Such requirement is independent of any penalties, punishment or mitigation requirements imposed by the Municipal Court.
- D. When it is deemed necessary because of continued or repeated violations, the UDO Administrator may require a performance bond to ensure compliance with the provisions of this Section.
- E. Any person guilty of a violation of this Section shall be punished as provided in Section 1-12 of the Code of Ordinances. In addition to such penalties or in lieu thereof, the Municipal Court may require mitigation in the form of tree replacement, including up to twice the tree canopy cover of the removed tree, canopy loss fees and/or payments to the Tree Bank for replacement of tree canopy cover.

9.1.21 Appeals

- A. Any person aggrieved by a decision of the City Arborist relating to the application of this Section may appeal in writing to the UDO Administrator. Such appeal shall be filed within 30 days of the date of the written decision of the City Arborist being appealed and shall specify the grounds for appeal. The UDO Administrator shall provide a decision, in writing, within 30 days of the receipt of the written appeal.
- B. Any person aggrieved by the decision of the UDO Administrator may file an appeal to the Zoning Board of Appeals pursuant to the provisions of Sec. 11.2.10."

SECTION 2:

This ordinance shall become effective on March 21, 2022.

SO ORDAINED this 18th day of January, 2022.

Attest:



Meredith Roark
City Clerk



Mayor