

City of Avondale Estates — Draft Tree Ordinance

ARTICLE X. - TREE PROTECTION AND PRESERVATION

Sec. 5-406. - Purpose and intent of article.

- (a) Trees are declared to be beneficial public resources, deterring soil erosion, increasing air purification, aiding in noise reduction, glare and heat abatement, enhancing property values, beautifying residential and commercial property, providing shelter for birds and wildlife and contributing to the general health, safety and well-being of the citizens. To that end, it shall be unlawful to cut down, damage, poison or in any manner destroy or cause to be destroyed any trees covered by this article, except in accordance with the provisions of this article.
- (b) The provisions of this article shall apply to any person removing trees on any lot or tract of land which is zoned in any designation, whether for himself or on behalf of another person, including all tree removal companies, utility companies or persons in the business of tree removal or construction.
- (c) The provisions of this article shall prevent the reduction of a healthy tree canopy, educate citizens and property owners on the value and methods of tree protection, lessen the impact of tree removal, and provide recourse to the City and its citizens for the unwanted removal of healthy specimen trees.

(Ord. No. 861, § 1(5-180), 1-17-94)

Sec. 5-407. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Buildable area means that portion of a lot which is not located within any minimum required yard, landscaped area or buffer; that portion of a lot wherein a building may be located according to current zoning requirements.

Conifer tree means any tree with needle leaves and a woody cone fruit including, but not limited to pine, juniper and cedar species.

Critical root zone means the minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The critical root zone (CRZ) will typically be represented by a circle centering on the tree's trunk with a radius equal in feet to one (1) times the number of inches of the trunk diameter. Example: The CRZ radius of a tree which has a diameter of twenty (20) inches is twenty (20) feet.

Density factor means a unit of measure used to prescribe the calculated tree coverage on a site. See section 5-410.

Development activity means any alteration of the natural environment which requires the approval of a building permit or land disturbance permit. Development activity shall also include the thinning or removal of trees from undeveloped land in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

Diameter breast height (DBH) means the diameter in inches of a tree measured at four and one-half (4½) feet above the existing grade.

Drip line means an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground. The circular area of land surrounding the tree from the trunk to the outermost branches.

Enforcement officer means the city manager or the manager's duly authorized representative.

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Hardwood tree for the purposes of this article, means any tree that is not coniferous (cone bearing) shall be classified as a hardwood.

Person means any individual, partnership, corporation, association or other legal entity, including the plural as well as singular, and including utility companies and all tree removal companies and persons removing trees on behalf of others.

Special hardship. A special hardship will be deemed to exist when, in the opinion of the enforcement officer, the planting of the trees required by this article will create unusual problems, including, but not limited to, the following:

- (1) There is inadequate space on the site to permit the normal, anticipated growth and spread of the trees proposed for the site;
- (2) The topography of the site makes planting of the trees particularly difficult or survival of the trees unlikely;
- (3) The placement of the trees would create unsafe conditions for vehicular traffic.
- (4) If a special hardship is determined by the enforcement officer, the applicant will be required to pay into the tree bank as calculated by the enforcement officer.

Specimen tree means any tree described in Sec. 5-409 which qualifies for special consideration for conservation due to its size, type condition, location or historical significance.

Tree means any self-supporting, woody, perennial plant usually having a single trunk diameter of two (2) inches-**Note: Dunwoody has this listed as 3-** or more and which in the city would normally grow to an overall height of a minimum of fifteen (15) feet at maturity.

Tree Bank means an account within the City budget to receive funds to be used for future tree plantings and/or maintenance.

Tree density means a figure arrived at by measuring the diameter of trees at the diameter breast height. See section 5-410.

Tree planting list means the recommended species of trees as adopted by the board of mayor and commissioners.

Tree Preservation Plan means a plan indicating the location, species, size, drip line and condition of all trees on the property which are eight (**Note: ten?**) or more inches DBH and detailing the methods and practices to be used to provide protection for all such trees to be preserved.

Tree protection zone means all lands that fall outside the buildable area of a parcel, including driveways and parking areas, all areas of a parcel required to remain in open space, and/or all areas required as yard areas, buffers or landscaped areas according to the provisions of the zoning ordinance of the city, or by conditions of zoning and variance approval, and/or these administrative guidelines.

Tree Removal Permit means a permit granted pursuant to the requirements of this chapter which allows the removal of one or more trees.

(Ord. No. 861, § 1(5-181), 1-17-94)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 5-408. - Application—Required; procedure.

- (a) Prior to the commencement of any development activity upon any lot or tract of land which is zoned in any zoning designation, the owner or agent responsible for such property shall submit an application for a building permit. No person shall remove, cause to be removed, poison, damage, trim or transplant any tree without first having completed such application, including all information required, and receiving a permit for the development activity proposed.

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- (b) Prior to the removal of a tree(s) on any property in the City of Avondale Estates the owner or owner’s agent shall file an application for a tree removal permit.

Sec. 5-409. – Specimen Trees.

- (a) Specimen trees and the critical root zones shall be shown on the Tree Survey and Tree Preservation Plan. The critical root zone shall be shown with a dashed line.
- (b) The sizes and types of trees to be designated as Specimen Trees are as follows:
 1. 26 inch DBH-Hardwood/Softwood Trees of the following genus: Oak, Beech, Ash, Blackgum, Sycamore, Hickory, Maple (does not include Silver Maple), Pecan, Walnut, Persimmon, Sourwood, Cedar, Cyprus, or Redwood.
 2. 30 inch DBH-Hardwood Trees of the following genus: Tulip Poplar, Sweet Gum, Magnolia, River Birch, or Silver Maple.
 3. 4(**Note: maybe 10**) inch DBH-Understory Trees such as: American Holly, Dogwood, Redbud, Cherry or other genus of Understory Trees indigenous to the City.
 4. Other Trees not mentioned above will be reviewed by the enforcement officer.
- (c) Other criteria to be considered in designating a tree as a specimen tree even if it of lesser-size include:
 1. A tree life expectancy of greater than 15 years.
 2. It is a rare or unusual species of historical significance.

Sec. 5-410. Density calculations for tree removal permits associated with a building or land disturbance permit.

Each application for a permit to remove, trim or transplant trees as required under this article shall be accompanied by a calculation which will determine the number and size of the trees required to comply. The applicant shall determine the size of the tract and the size of the area to be developed. The difference shall be the tree protection zone. The applicant shall also determine the number and size of trees necessary to meet the requirements of the article, the number and size of the trees to be left on the tract, and the number and size of the new trees which will be required to comply. Example: On a ten thousand-square-foot lot, a person wants to construct a three thousand-square-foot building, resulting in a tree protection zone of seven thousand (7,000) square feet. At a rate of four (4) inches of diameter per one thousand (1,000) square feet, the person would need twenty-eight (28) inches of tree measured at diameter breast height. In this example, the lot already has three (3) trees which will remain after the development activity, and these measure nine (9) inches, five (5) inches and four (4) inches in diameter for a total of eighteen (18) inches; therefore, additional trees with diameters totaling ten (10) inches are required. This could be accomplished by planting two (2) trees with diameters of three (3) inches and two (2) trees with diameters of two (2) inches.

- (1) Calculation of required tree density:

Size of Lot: _____	square feet
Size of Structure: _____	square feet
Difference: _____	square feet (Tree Protection Zone)

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(Trees required: 4 inches at diameter breast height per 1,000 square feet)

a. (Tree Protection Zone ° by 1000 sq. feet) × 4 inches = _____ inches (Required Density)

(2) Density of existing trees:

a.	Density of existing trees on lot proposed for development:	_____ inches
b.	Density of trees to be removed:	_____ inches
c.	Density remaining after development activity:	_____ inches

Note: These figures come from a separate sheet supplied by applicant on which there appears a list of every tree on the site greater than two (2) inches at diameter breast height. List must show the species and diameter of every tree and a notation of all trees to be left in the Tree Protection Zone, with a total of the diameter of those trees.

(3) Additional density of trees needed:

From (1)a, density of trees required:	_____ inches
From (2)c, density remaining after development activity:	_____ inches
Additional density needed:	_____ inches

(Ord. No. 861, § 1(app. A), 1-17-94)

Sec. 5-411. - Inspection of site; project approval.

- (a) The enforcement officer shall review the application which shall, upon filing, be deemed to constitute consent from the applicant to the enforcement officer and such person as the code enforcement may designate for entry upon land for the purposes of inspection. In reviewing the application, the enforcement officer may consult with the environmental committee, landscape architects, foresters, elected officials and others as he may deem necessary and advisable.
- (b) The enforcement officer shall have the authority to place conditions on any building permit or tree removal permit to ensure the initial and continued compliance with the intent and requirements of this Article.
- (c) The enforcement officer may suspend or revoke a building permit or tree permit by issuing a stop work order if it is found that the applicant has not complied with any conditions of the issuance of the permit or has exceeded the authority granted in the permit.

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- (d) Upon completion of the development activity, the enforcement officer shall inspect the property to determine compliance with the permit and tree density requirement. If the enforcement officer finds that the project does not meet the requirements of this article or that it varies from what was proposed in the application, he shall withhold final approval of the project and notify the applicant of the deficiencies which must be corrected. The applicant shall take prompt action to bring the project into compliance.
- (e) When the enforcement officer is satisfied that the project is in compliance, he shall grant his final approval in writing. It shall be the responsibility of the applicant to see that all trees included in the calculation to fulfill the tree density requirement of this article, whether new or existing trees, remain alive for a period of two (2) years from the date of the final approval. Trees that die shall be replaced and the tree density requirement shall be maintained throughout the two-year period.

(Ord. No. 861, § 1(5-183), 1-17-94)

Sec. 5-412. - Trees required.

- (a) For every tract of land covered by the application described in the preceding section, a determination shall be made of the square footage of the tree protection zone. As a condition of granting a permit, the enforcement officer shall require the applicant to assure that there be a density factor of no less than four (4) inches of tree diameter, measured at diameter breast height, per one thousand (1,000) square feet of area in the tree protection zone. This may be accomplished by calculating the diameter breast height of trees already existing in the tree protection zone, plus any trees transplanted from the buildable area of the tract or from elsewhere. See section 5-409.
- (b) In fulfilling the planting requirements of this article, the following rules shall apply:
 - (1) As there is a desire to expand the presence of hardwoods, no more than twenty-five (25) percent of trees planted to meet the requirements shall be conifers.
 - (2) In determining the tree density factor, no tree of less than two (2) inches at diameter breast height shall be counted, and no trees planted to meet the requirements of this article shall be less than two (2) inches diameter at diameter breast height nor less than eight (8) feet high at time of planting.
 - (3) New trees required shall not be located in one (1) particular area of the property but shall, as much as possible, be planted across the entire tract in a manner acceptable to the enforcement officer.
 - (4) Where specimen trees exist on the tract, every effort shall be made to avoid their removal.
 - (5) During any development activity, every effort shall be made to prevent harm or damage to all trees located in the tree protection zone and no encroachment, placement of solvents, material, construction machinery or temporary soil deposits shall be allowed within six (6) feet of the area inside the drip line of any specimen tree within the zone. Fencing, barricades, or other substantial devices shall be used to adequately protect trees during construction and any development activity.
 - (6) When parking areas are developed on a tract, every effort shall be made to protect existing trees or newly planted trees from damages by motor vehicles. This may be accomplished through the use of curbing or other devices. In addition, efforts shall be made to avoid the placement of impervious material in a tree's critical root zone area.
 - (7) All replacement trees and existing trees used to meet the density factor shall be maintained properly to ensure their survival, and any such tree which dies within two (2) years of the date the project receives final approval shall be replaced with trees of sufficient diameter to maintain the density factor.
 - (8) Nothing in this article shall be construed to allow the removal of vegetation in a required buffer, except for authorized buffer improvements.

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- (c) The requirements set forth in this section may be varied by the enforcement officer upon showing that such requirements will create a special hardship in the use of the site as defined in section 5-407. The enforcement officer shall make diligent effort to review various alternatives which would allow compliance with this article, and may suggest the relocation of new structures planned for the site. Following this effort, if the enforcement officer determines that variations are justified, and the tree density factor cannot be met on a particular site, the officer shall be empowered to reach an agreement wherein the applicant may make a contribution to the city which shall be used for the purchase, placement and care of trees. These trees shall be located on property within the city which is under the control of the city or another governmental entity. The amount of the contribution by the applicant shall be based upon the fair market value of the number, size, and type of trees that cannot be planted on the site to meet the tree density requirement plus labor to secure and plant the trees and to maintain the trees for a period of two (2) years after they are planted. The city shall be responsible for selecting the species and size of the trees and for making arrangements for planting any trees falling under this alternative. Every effort shall be made to assure that the property under development comes as nearly as possible into full compliance with this article. Should it be necessary to grant a variation, in no instance shall more than fifty (50) percent of the required tree density for a particular lot or tract be met through this alternative method. If the variation is granted, the limitation on the percentage of conifers planted shall still apply, and no more than twenty-five (25) percent of whatever trees are planted shall be conifers.

(Ord. No. 861, § 1(5-184), 1-17-94)

Sec. 5-413. - Tree removal, relocation, or trimming.

- (a) When a person desires to remove, relocate or trim a tree as defined in this article, an application shall be filed with the enforcement officer. Upon review of the application, the enforcement officer may issue a permit if one (1) or more of the following conditions is found to exist:
- (1) The tree is located in an area where a structure or improvement will be placed in accordance to an approved plan, and the tree cannot be relocated on the site because of age, type or size of tree.
 - (2) The tree is diseased.
 - (3) The tree is injured.
 - (4) The tree is in danger of falling on or close to existing or proposed structures.
 - (5) The tree interferes with existing utility service.
 - (6) The tree creates unsafe vision clearance for vehicular movement.
 - (7) The tree conflicts with other ordinances or regulations.
 - (8) The homeowner or owners agent requests the removal of one or more trees on an individual lot.
- (b) The enforcement officer, in reviewing applications for removal and relocation of trees, may suggest possible alternatives which might prevent the loss of particular trees. When a tree must be removed, the applicant shall determine that tree's diameter at diameter breast height and replace that tree with trees of equal diameter. Such replacement trees shall be located on the same tract from which trees were removed or, if approved by the enforcement officer, they may be located on governmental property within the city or the code enforcement officer determines that there is a special hardship and funds may be paid to the tree bank.
- (c) When a permit for removal is granted, it shall be the responsibility of the applicant to see that all debris from the trees cut or substantially damaged shall be removed from the site in a timely manner, including the removal of any portion of the tree stump above the original natural grade or elevation of the land.

(Ord. No. 861, § 1(5-185), 1-17-94)

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Sec. 5-414-Establishment of a Tree Bank

- (a) There is hereby established an Avondale Estates Tree Bank for the maintenance and disbursement of funds required to be paid pursuant to the terms of this ordinance.
- (b) Where it is determined by the City of Avondale Estates that payment into the Avondale Estates Tree Bank shall be required, the required funds shall be paid to the Avondale Estates Tree Bank prior to issuance of any related permit.
- (c) Funds maintained in the Avondale Estates Tree Bank shall be administered by the Finance Director pursuant to the rules and regulations regarding said funds.

Sec. 5-415. - Exceptions.

The following shall be exempt from the provisions of this article:

- (1) The routine or seasonal pruning or transplanting of trees.
- (2) In the case of emergencies, such as hurricane, windstorm, flood, freeze or other disasters, whether for one (1) lot or the entire city, the enforcement officer shall be authorized to waive these requirements upon finding that such a waiver is necessary so that public or private work to restore order in the city will not be impeded.
- (3) The removal of trees from horticultural properties such as farms, nurseries or orchards; however, this exception shall not be interpreted to include lumber harvesting incidental to development of the land.
- (4) The necessary removal of trees by a utility company within dedicated utility easements; however, for utility work within street rights-of-way or on public property, compliance with this article is required.
- (5) The removal of trees on public rights-of-way conducted by, on behalf of, or any activity pursuant to work to be dedicated to, a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way.
- (6) The removal of trees from golf courses, lakes, detention ponds and drainage easements.
- (7) The removal of any tree which is or threatens to become a danger to human life or property.

(Ord. No. 861, § 1(5-186), 1-17-94)

Sec. 5-416. - Fees.

The fee schedule to review applications for permits covered in this article shall be as follows:

- (1) Site of 1 acre or less in size\$25.00
- (2) Site greater than 1 but less than 5 acres50.00
- (3) Site greater than 5 acres:
For first 5 acres75.00
For each additional acre5.00

(Ord. No. 861, § 1(5-187), 1-17-94)

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Sec. 5-417. - Appeals.

Any person adversely affected by a decision of the enforcement officer in the enforcement or interpretation of this article may appeal such decision to the board of appeals. Such appeal shall be taken by filing written notice thereof with the enforcement officer within ten (10) days after the decision of the enforcement officer. Each such appeal shall be accompanied by payment of the fee established for appeals to said board under section 15 of the city's zoning ordinance.

(Ord. No. 861, § 1(5-188), 1-17-94)

Sec. 5-418. - Display of permit.

- (a) Failure to commence the work within six (6) months from the date of issuance of the permit shall make the permit void and require that a new application with necessary fees be filed with the city.
- (b) The applicant shall prominently display on the site the permit issued. Such permit shall be displayed continuously while trees are being removed or replaced or work is done as authorized by the permit.

(Ord. No. 861, § 1(5-189), 1-17-94)

Sec. 5-419. - Penalty.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties as provided in section 1-8. In addition thereto, such person may be enjoined from continuing the violation. Each tree cut, damaged or poisoned shall constitute a separate offense.

(Ord. No. 861, § 1(5-190), 1-17-94)

Secs. 5-420—5-430. - Reserved.