



MAYOR

Richard E. Roquemore

CITY ADMINISTRATOR

Michael E. Parks

CITY COUNCIL

Robert L. Vogel III

Taylor J. Sisk

Jamie L. Bradley

Joshua Rowan

**CITY OF AUBURN
MAYOR and CITY COUNCIL**

Meeting

July 25, 2024

6:00 PM

Council Chambers

1 Auburn Way

Auburn, GA 30011

WORKSHOP

1. Water Treatment Facility Change Order Notification- Jim Aton
2. Community Redevelopment Tax Incentive Program – Jack Wilson
3. Discussion of Existing Tree Ordinance – Sarah McQuade
4. Citizen Comments on Agenda Items

Executive Session- Pending Litigation and Potential Real Property Acquisition

ADJOURNMENT

Agenda subject to change prior to meeting



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AGENDA ITEM: 1

TO: Mayor and Council

FROM: Jim Aton
Hussey Gay Bell

DATE: July 25, 2024

PURPOSE: For approval of Change Order No. 1 associated with the Heavy Constructors Contract

BACKGROUND: Heavy Constructors is under contract to complete the water treatment facility. According to the contract, any change order should be approved by the Mayor and Council. The change order being presented is a reallocation of funds within the given contract. The funds will be reallocated from contingency for unexpected expenditures associated with the reasons stated in Change Order No. 1. The contingency funds are part of the overall budgeted contract that was approved previously by the city. Because the contingency funds were budgeted for unexpected expenses there will be no additional cost related to the contract.

RECOMMENDATION: To approve Change Order No. 1 for the Heavy Constructors contract.

FUNDING: GEFA

ATTACHMENTS: Included

Change Order No. 1

Project Name: Auburn Drinking Water Treatment Plant	HGB Project No.: 22-0033-WWS
Project Owner: City of Auburn, City Hall, One Auburn Way, Auburn, GA, 30011	Owner's Purchase Order #23-005
Project Contractor: Heavy Constructors, 1596 Low. Roswell Rd, Marietta, GA, 30068	Owner's Project No.: 002-22
	Date of Issuance: 7-8-2024
	Date of Contract: 8-4-2022
	Contract Period: 8-4-22 to 3-11-2024



The following Change Order items are based on necessary changes Contract Time

Item	Description of Changes	Qty.	Contract Cost/Unit	Change in Contract Cost	Change in Days
Additions					
1	Removal & Replacement of Unsuitable Soil	1	\$3,200.00	\$3,200.00	0 days
2	Trash Haul Off	1	\$9,756.00	\$9,756.00	0 days
3	WTP Building Metal Interior Liner Panels	1	\$14,660.00	\$14,660.00	0 days
4	Strengthen Roof for Solar Panels	1	\$25,841.00	\$25,841.00	0 days
5	City's Equipment Storage During Construction	1	\$26,586.00	\$26,586.00	0 days
6		1		\$0.00	0 days
7		1		\$0.00	0 days
8		1		\$0.00	0 days
Deductions					
?	Move Office Trailer to Owner's Contingency			-\$20,000.00	0 days

Total Change	\$60,043.00	156 Days
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The contract time, start date and completion date have been changed by the owner because of delays caused by State Environmental Review Process and Funding Requirements. Listed improvement will be paid out of contingency with no change in the GMP. See Attachment.

Summary: it is agreed to modify the Contract referred to above as follows:

Contract Price prior to this Change Order	\$16,035,193.00	Contract Time prior to this Change Order	585 Days
Net Increase (decrease) of this Change Order	\$60,043.00	Net Increase (decrease) of this Change Order	156 Days
Revised Contract Price with all approved Change Orders	\$16,095,236.00	Revised Contract Time with all approved Change Orders	156 Days 11-30-24

The changes included in this Change Order are to be accomplished in accordance with the terms, stipulations and conditions of the original Contract as though included therein.

Accepted for Contractor by:		Date:	7/18/24
Recommended for Approval by:	Hussey Gay Bell & DeYoung, Inc.	Date:	7-18-24
Approved for Owner by:		Attest:	
Approved: (Other - when required)		Date:	

Attachment to Change Order #1, 7-17-24

1. A geotechnical soils investigation and report was conducted prior to going to bid with the project and provided to the contractor during the project bidding phase. The soils report was based upon five soil borings within the footprint of the drinking water treatment plant (DWTP) and reported that the soils were suitable for the support of the drinking water treatment plant building. The geotechnical engineer determined that the soils under the membrane filter feed tank was not strong enough to support the membrane filter feed tank. The membrane filter feed tank is outside the footprint of the DWTP building. The geotechnical engineer recommended removing the unsuitable soils and replacing them with suitable material. This was done.
2. During the grading of the entrance road to the DWTP, buried trash was discovered in the roadway alignment that was not known at the beginning of the project. The trash was removed and hauled to a licensed municipal solid waste landfill.
3. The DWTP building is insulated to provide a suitable interior temperature for the drinking water treatment equipment. Bag insulation was determined to be the most cost-effective type of insulation. Spray-on insulation is effective but has an unsightly finish. Bag insulation looks great when it is newly installed but is subject to being torn by equipment and personnel. After studying the alternatives, installing metal interior liner panels over the bag insulation is the best solution.
4. Strengthen Roof for Solar Panels. The Georgia Environmental Facilities Authority has a funding program for Solar Panels for local governments. The program provides low-cost funding for the solar energy generation project. Providing solar electric energy to the water plant will be cost effective. The roof system on the DWTP building was strengthened to accommodate the addition of solar panels on the water plant and reducing the electric energy cost associated with the operation of the DWTP.
5. The city purchased drinking water treatment process equipment directly for the DWTP. This was done so that the city could select the process equipment to manufacture the drinking water. If the contractor selected the equipment, it might not have been the solution the city preferred. Advanced purchase also provided that the equipment was on site when the contractor was ready to install it. This equipment needed to be stored indoors to prevent damage by the weather. The city does not have the warehouse space available to store this expensive and sensitive equipment. Purchasing shipping containers and storage shed was more cost effective than renting warehouse plus it is right on the site. The containers and storage shed become the property of the public works department at the end of construction.
6. Increase the contract time by 156 days. The City requested Heavy to slow down work for cash flow reasons and Heavy complied. Therefore, Heavy should not be penalized for assisting the City with the project time line.



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AGENDA ITEM: 2

TO: Mayor and Council

FROM: Jack Wilson
City Attorney

DATE: July 25, 2024

PURPOSE: For discussion of a Community Redevelopment Tax Incentive Program within the City of Auburn.

BACKGROUND: After recent discussions, we would like for the Council to discuss establishing a Community Redevelopment Tax Incentive program which would help address vacant and blighted buildings in the City of Auburn.

RECOMMENDATION: For discussion only.

FUNDING: N/A

ATTACHMENTS: Draft Attached

Ordinance _____

AN ORDINANCE AMENDING THE CODE OF AUBURN, GEORGIA, TO ESTABLISH A COMMUNITY REDEVELOPMENT TAX INCENTIVE PROGRAM, PURSUANT TO ARTICLE IX, SECTION II, PARAGRAPH VII (D) OF THE 1983 CONSTITUTION OF THE STATE OF GEORGIA; SPECIFYING ASCERTAINABLE STANDARDS TO BE APPLIED IN DETERMINING WHETHER PROPERTY IS MAINTAINED IN A BLIGHTED CONDITION; ESTABLISHING A PROCEDURE FOR THE OFFICIAL IDENTIFICATION OF REAL PROPERTY WHICH IS MAINTAINED IN A BLIGHTED CONDITION; SPECIFYING AN INCREASED RATE OF AD VALOREM TAXATION TO BE APPLIED TO REAL PROPERTY WHICH HAS BEEN OFFICIALLY IDENTIFIED AS MAINTAINED IN BLIGHTED CONDITION; SEGREGATING THE REVENUES ARISING FROM THE INCREASED RATE OF AD VALOREM TAXATION AND PROVIDING FOR USE OF SUCH REVENUES ONLY FOR COMMUNITY REDEVELOPMENT PURPOSES; SPECIFYING ASCERTAINABLE STANDARDS FOR REHABILITATION THROUGH PLANS FOR REMEDIAL ACTION OR REDEVELOPMENT WITH WHICH THE OWNER MUST COMPLY TO HAVE THE IDENTIFICATION OF BLIGHTED CONDITION REMOVED; SPECIFYING A DECREASED RATE OF AD VALOREM TAXATION TO BE APPLIED FOR A SPECIFIC PERIOD AFTER THE OWNER COMPLIES WITH A PLAN FOR REMEDIAL ACTION OR REDEVELOPMENT; REPEALING CONFLICTING ORDINANCES AND CODE PROVISIONS; REAFFIRMING AND RESTATING THE CODE OF AUBURN, GEORGIA, AS AMENDED; ESTABLISHING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Auburn, Georgia is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect the public health, safety, and welfare of the citizens of the City Of Auburn, Georgia; and

WHEREAS, the duly elected governing authority of the City of Auburn, Georgia is the Mayor and City Commission therefore; and

WHEREAS, in 2002 a majority of the State’s electorate, voting in a referendum called for the purpose of ratifying a Constitutional amendment to the 1983 Constitution of the State of Georgia, now Article IX, Section II, Paragraph VII(d), confirmed the existence in a community of real property which is maintained in a blighted condition increases the burden of state and local government by increasing the need for governmental services, including but not limited to social services, public safety services, and code enforcement services; and

WHEREAS, rehabilitation of blighted property decreases the need for such governmental services and allows local governments to better utilize limited revenues available from ad valorem taxation of real property; and

WHEREAS, this Mayor and City Council has previously determined the existence of properties within the City that are maintained in blighted condition and has enacted various ordinance intended to combat the existence of slum and blight and prevent its spread to properties in other areas of the City, including the designation of urban

redevelopment areas, pursuant to Chapter 61 of Title 36 of the Official Code of Georgia Annotated, however, the cost of current and previous efforts has outpaced the ability of the City to fund from current revenue sources;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF AUBURN, GEORGIA HEREBY ORGAINS THAT THE FOLLOWING ORDINANCE BE ADOPTED AND ENACTED AS FOLLOWS:

1.

The Code of Auburn, Georgia, is hereby amended by the establishment of a community redevelopment tax incentive program, in accordance with the authority found at Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia, as follows:

“Sec. 3.05.010. Purpose.

The existence of real property which is maintained in a blighted condition increases the burden of the State and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

In furtherance of its objective to eradicate conditions of slum and blight within the City, this Board of Commissioners, in exercise of the powers granted to municipal corporations at Chapter 61, Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has designated those areas of the city where conditions of slum and blight are found or are likely to spread.

In recognition of the need for enhanced governmental services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvement thereon in good condition and repair, and as an incentive to encourage community redevelopment, a community redevelopment tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia.

Sec. 3.05.020. Definitions.

- 1) “Blighted property,” “blighted,” or “blight” means any urbanized or developed property which:
 - a.) Presents two or more of the following conditions:
 - (i) Uninhabitable, unsafe, or abandoned structure;
 - (ii) Inadequate provisions for ventilation, light, air, or sanitation;
 - (ii) An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the Governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by the property and the owner has failed to take reasonable measures to remedy the harm.

- (iv) A site identified by the federal Environmental Protection Agency as a Superfund site pursuant to [42 U.S.C. Section 9601, et seq.](#), or environmental contamination to an extent that requires remedial investigation or a feasibility study.
 - (v) Repeated illegal activity on the individual property of which the property owner knew or should have known; or
 - (vi) The maintenance of the property is below state, county, or municipal codes for at least one year; and
- b.) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property.

Property shall not be deemed blighted solely because of esthetic conditions.

- 2) “Building Inspector” means a certified inspector possessing the requisite qualifications to determine minimal code compliance.
- 3) “Community redevelopment” means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or thorough local ordinances relating to the repair, closing, and demotion of buildings and structures unfit for human habitation.
- 4) “Governing authority” means the Board of Commissioners of the City of Auburn, a Georgia municipal corporation.
- 5) “Millage” or “millage rate” means the levy, in mills, which is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction’s general fund expenses for the fiscal year.
- 6) “Person” means such individual(s), partnership, corporations, business entities and associations which return real property for ad valorem taxation or who are chargeable by law for the taxes on the property.
- 7) “Public Officer” means the City Administrator or such officer or employee of the City as designated by the City Administrator to perform the duties and responsibilities hereafter set forth in this Ordinance.
- 8) “Qualified Inspector” means building inspector possessing the requisite qualifications to determine minimal code compliance as certified in accordance with O.C.G.A 8-2-26-1.
- 9) “Abandon” means to terminate the use of a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through nonaction. Except for ongoing agricultural activities, there shall be a presumption that a use has been abandoned if it is not undertaken, utilized, implemented or performed for a period of two years.

Sec. 3.05.030 Levy of Increase Ad Valorem Tax on Blighted Real Property.

There is hereby levied on all real property within the city which has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of millage rate times seven (7) to the property, so that such property shall be taxed at a higher millage rate generally applied in the municipality, or otherwise provided by general law; provided, however, real property on which there is situated a dwelling house which is being occupied as the primary residence of one or more persons shall not be subject to official identification as maintained in a blighted condition and shall no be subject to increased taxation.

Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.

Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the City Administrator and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the City's program to close, repair, or demolish unfit building and structures.

Sec. 3.05.040 Official Identification of Property Maintained in Blighted Condition.

- 1) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:
 - a. An inspection must be performed on the parcel of property. In order for an inspection to be performed,
 - i. a request may be made by the Public Officer
 - ii. the Public Officer may cause a survey of existing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels which may be in a blighted condition and for which a full inspection should be conducted to determine if that parcel of property meets the criteria set out in this ordinance for designation as being maintained in a blighted condition.
 - b. A written inspection report of the findings for any parcel of property inspected pursuant to Subsection (a) above shall be prepared and submitted to the Public Officer. Where feasible, photographs of the conditions found to exist on the property on the date of inspection shall be made and supplement the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the city are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.
 - c. Following completion of the inspection report, the Public Officer shall make a determination, in writing, that a property is maintained in a blighted condition, as defined by this ordinance, and is subject to increased taxation.

- d. The Public Officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be served upon the person(s) shown on the most recent tax digest of Barrow County as responsible for payment of ad valorem taxes assessed thereon; provided, however, where through the existence of reasonable diligence it becomes known to the Public Officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available. Service in the manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice to the property's owner or person chargeable with the payment of ad valorem taxes for purpose of this section, except that posting of the notice on the property will not be required.
- 2) The written notice given to the person(s) chargeable with the payment of ad valorem taxes shall notify such person of the Public Officer's determination the real property is being maintained in a blighted condition and shall advise such person of the hours and location at which the person may inspect and copy the Public Officer's determination and any supporting documentation. Persons notified that real property of which the person(s) is chargeable with the payment of ad valorem taxes shall have 30 days from the receipt of notice in which to request a hearing before the City's Municipal Court. Written request for hearing shall be filed with the Public Officer and shall be date stamped upon receipt. Upon receipt of a request for hearing, the Public Officer shall notify the Municipal Court and the Building Inspector or person who performed the inspection and prepared the inspection report.
- 3) Within thirty (30) days of the receipt of a request for hearing, the Municipal Court Clerk shall set a date, time and location for the hearing and shall give at least ten (10) business days notice to the person(s) requesting the hearing, the Public Officer and the Building Inspector or person who performed the inspection and prepared the inspection report. Notice of scheduled hearings shall be published prior to the hearing. Hearings may be continued upon request of any party, for good cause.
- 4) At the hearing, the Public Officer shall have the burden of demonstrating by a preponderance of the evidence that the subject property is maintained in a blighted condition, as defined by this ordinance. Upon hearing from the Public Officer and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the Judge of Municipal Court shall make a determination either affirming or reversing the determination of the Public Officer. The determination shall be in writing and copies thereof shall be served on the parties by certified mail or statutory overnight delivery. The determination by the Court shall be deemed final. A copy of such determination shall also be served upon the Tax Commissioner of Barrow County, who shall include the increased tax on the next regular tax bill rendered on behalf of the City.
- 5) Persons aggrieved by the determination of the Court affirming the determination of the Public Officer may petition the Superior Court of Barrow County for a writ of certiorari, within thirty (30) days of issuance of the Court's written determination.

Sec. 3.05.050. Remediation or Redevelopment to Remove Designation of Blighted Condition.

- 1) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property which has been officially designated pursuant to this ordinance as

property maintained in a blighted condition may petition the Public Officer to lift the designation, upon proof of compliance with the following:

- a) Completion of work required under a plan of remedial action or redevelopment approved by the City's Planning and Development Director which addresses the conditions of blight found to exist on or within the property, including compliance with all applicable minimum codes; or
 - b) Completion of work required under a Court Order entered in a proceeding brought pursuant to Article IV, Unfit Buildings and Structures, of Chapter 22 of the Code of Auburn, Georgia.
 - c) Any outstanding ad valorem taxes (state, school, county and city, including the increased tax pursuant to this ordinance) and governmental liens due and payable on the property must be satisfied in full.
- 2) Before action on a petition to lift the designation, the Public Officer shall cause the property to be thoroughly inspected by a Building Inspector, who, by written inspection report, shall certify that all requisite work has been performed to applicable code in a workmanlike manner, in accordance with the specifications of the plan of remedial action or redevelopment, or applicable court order. Upon finding required work to be satisfactorily performed, the Public Officer shall issue a written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Barrow County.
- 3) All plans for remedial action or redevelopment shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the Director of the City's Building and Community Development Departments, and contain the following:
- a) The plan shall be consistent with the City's Comprehensive Plan and all laws and ordinances governing the subject property, and shall conform to any urban redevelopment plan adopted for that area;
 - b) The plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with minimal statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property.
 - c) The plan shall contain a timetable for completion of required work.

Sec. 3.05.060. Decreased Rate of Taxation to be Applied After Successful Remedial Action or Redevelopment of Blighted Property.

- 1) Real property which has had its designation as maintained in a blighted condition removed by the Public Officer, as provided in Section 5 of this ordinance, shall be eligible for a decrease in the rate of City ad valorem taxation. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by

the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment.

Sec 3.05.070. Duty of Public Officer to Provide Notice to County Tax Commissioner.

It shall be the duty of the Public Officer to notify the Tax Commissioner of Barrow County in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street address and Tax Map, Block and Parcel number, as assigned by the Barrow County Tax Assessor's Office. The Public Officer shall cooperate with the Tax Commissioner to assure accurate tax billing of those properties subject to increased or reduced ad valorem taxation under this Ordinance.”

Sec 3.05.080. Tax Incentives and Abatements to fill unoccupied buildings

Any property owner of a qualified empty/vacant commercial or residential building and pays City real property taxes for the qualifying property will receive credits for all such taxes paid. The amount of these credits will be calculated as follows: The property owner will receive cash reimbursements for all City real property taxes paid over the same number of years the qualified property had been continuously empty and/or vacant and which was listed for sale and or lease during that time, up to a maximum period of five (5) years, as long as the property is maintained and occupied.

2.

The City Administrator and City Clerk are further authorized to correct typographical errors in the text of this Ordinance and the existing City Code and to produce and publish a final codified version of the City Code with the amendments and revisions outlined herein.

3.

In the event any Court of competent jurisdiction determines that any portion of the foregoing amendment is invalid, unconstitutional, or otherwise illegal, such rulings shall not impair the validity of the rest and remainder of this amendment.

4.

All laws and parts of laws in conflict with this Ordinance are hereby repealed.

This Ordinance shall be effective immediately upon its adoption by the Mayor and City Council.

SO ORDAINED this ____ day of _____, 2024.

Richard E. Roquemore, Mayor

Joshua Rowan, Council Member

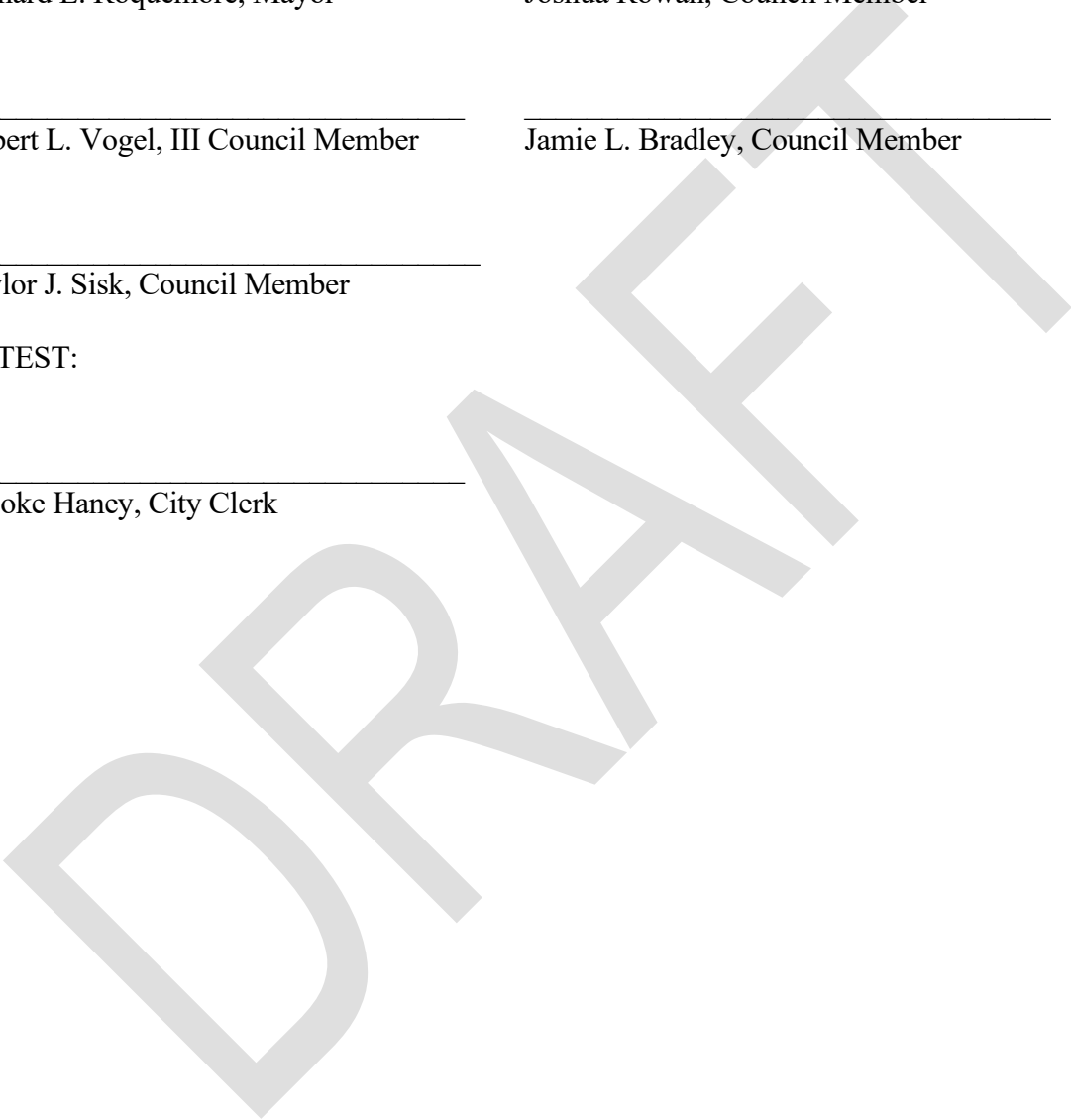
Robert L. Vogel, III Council Member

Jamie L. Bradley, Council Member

Taylor J. Sisk, Council Member

ATTEST:

Brooke Haney, City Clerk





MAYOR
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AGENDA ITEM: 3

TO: Mayor and Council

FROM: Sarah McQuade
City Planner

DATE: July 25, 2024

PURPOSE: For discussion of the existing tree ordinance located in Chapter 16.43 of the City of Auburn Municipal Code

BACKGROUND: Recent discussion within the community, Planning & Zoning Commission, and the Mayor & Council has determined the need to review the current tree ordinance as written in the City. This discussion will allow for comments and any necessary adjustments that need to be made to the existing ordinance. The tree ordinance was adopted in 2008.

PLANNING & ZONING COMMISSION RECOMMENDATION: To discuss the tree ordinance for change, if needed.

FUNDING:
N/A

ATTACHMENTS: Chapter 16.43

Chapter 16.43 TREES AND LANDSCAPING

Sections

16.43.010 Tree protection plan.

All utility installation, subdivisions, single- and two-family residential, multifamily, commercial, industrial and institutional developments shall be subject to the standards and procedures of this title.

(Ord. No. 08-017, 8-7-08)

16.43.011 Intent.

The intent of this chapter is to promote preservation of trees during land development and on all property, public and private. Such preservation shall protect and enhance the city's greenery through tree protection and planting. Benefits include reduced soil erosion, stormwater management costs and flooding potential; moderation of microclimates; improved air and water quality; mitigation of noise and glare; energy conservation through reduced heating and cooling costs; and enhanced property values. These benefits are heightened by the scenic and psychological values associated with the tree canopy and are consistent with the city's emphasis on neighborhood quality and community revitalization. The further purpose of this article is to establish standards necessary to ensure that this objective will be reached and that the city will enjoy the benefits provided by an appropriate tree canopy. It is the objective of the city that there shall be no net loss of trees within the corporate boundaries of the city by creating a means to:

- A. Provide standards for the preservation of trees as part of the land development process.
- B. Prevent mass grading of land, both developed and undeveloped, without at least a minimum provision for protection and replacement of trees.
- C. Protect trees during construction whenever possible in order to enhance the quality of life in the city.
- D. Establish and maintain the maximum amount of tree cover on public and private property in the city by prohibiting destruction and removal of trees except in accordance with standards set forth as well as requiring the planting of trees on all development sites to achieve a specified minimum tree cover.
- E. Maintain trees in the city in a healthy and nonhazardous condition through adoption and enforcement of professional arboricultural practices.
- F. Establish, and revise as necessary, standards for planting and maintaining trees so as to improve the city's economic base by improving property values, to enhance the city's visual quality and its neighborhoods, and improve public health by reducing air pollution and the incidence of flooding.
- G. Provide for the designation of specimen trees.

(Ord. No. 08-017, 8-7-08)

16.43.012 Definitions.

As used in this chapter, unless specifically stated otherwise, the following terms shall be defined as indicated and where any definition herein conflicts with another definition in the zoning ordinance, the more restrictive definition shall prevail:

-
- a.1 "Applicant." Any person seeking approval to take action under this article.
 - b.1 "Basal area." The cross sectional area of a tree trunk at diameter breast height (DBH) expressed herein as "units" per acre.
 - b.2 "Buffer." A natural or planted landscaped area intended to separate and partially obstruct the view of adjacent land uses from one another or from a public right-of-way or for purposes of noise reduction or to provide a visual break.
 - b.3 "Buildable area." The area of a lot that is outside the minimum required front, side or rear yard and which is not subject to the open space requirements or other environmental restrictions of this chapter or other laws, codes or ordinances.
 - c.1 "Caliper." A measure of the diameter of a tree trunk performed at a point on the tree six inches above the natural, adjacent grade for trees up to and including four-inch caliper, and twelve inches above the natural, adjacent grade for trees larger than four-inch caliper. The caliper of multiple-stemmed trees, such as crape myrtle, shall be the sum of the individual stem diameters.
 - c.2 "City planner." The person or designee with the authority to issue permits and administer the ordinance in regards to zoning and development.
 - c.3 "Clearing." Any activity which disturbs the vegetative cover of a parcel including trees.
 - c.4 "Coniferous." Also referred to as "evergreen," any tree which retains its green foliage throughout the year.
 - c.5 "Construction permit." A permit issued on-site by the city planner or designee to allow initiation of any clearing, grubbing and/or grading. This permit is issued only after a land disturbance permit has been issued, and all erosion control and tree protection measures have been installed in accordance with the approved plan.
 - c.6 "Critical root zone (CRZ)." The minimum area beneath a tree, which must remain undisturbed during land development or construction activity to preserve a sufficient root mass, which will afford a reasonable chance of tree survival. CRZ is defined by a circle with a diameter dimension equal in feet to one and one-half the trunk diameter in inches and centered on the tree's trunk. For example, the CRZ of a twenty-inch diameter tree is thirty feet.
 - c.7 "Crown." The upper portion of a tree comprised of branches and leaves.
 - d.1 "Deciduous tree." Also referred to as "broad-leafed" trees, any tree which loses its leaves at the end of the growing season.
 - d.2 "Density factor." A unit of measure used to prescribe the calculated tree coverage on a site. Site density factor for properties within the corporate limits of the city is one hundred units per acre.
 - d.3 "Drip line." A vertical line extending from the outermost branches of a tree canopy to the ground.
 - d.4 "Drip line area." The total area underneath a tree, which would encompass all drip lines.
 - d.5 "Diameter breast height (DBH)." A standard measure of tree size performed at a height of four and one-half feet above the natural, adjacent grade.
 - d.6 "Development activity." Any alteration of the natural environment, which requires approval of a site plan, construction drawings or issuance of a development permit. Development activity shall also include the selective cutting, thinning or removal of trees from any undeveloped land, including that performed in conjunction with a forest management program, as well as removal of trees incidental to land development or to the marketing of land for development.

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- d.7 "Development permit." Official, written authorization issued by the city planner or designee in accordance with provisions of this article.
 - f.1 "Floodplain, 100-year." An area identified by the U.S. Army Corps of Engineers or other surveying agencies as subject to inundation by surface waters once every one hundred years and deemed necessary for the unrestricted flow of floodwaters.
 - g.1 "Growing season." A period of not less than twelve months during which there are at least three contiguous months of dormancy followed by a spring leafing.
 - h.1 "Hardwood tree." Any leaf-bearing (not needle-bearing) tree that is not coniferous (cone-bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.
 - l.1 "Land disturbance" or "building construction permit." A permit issued by the City Planner or designee that authorizes the clearance or alteration of any lot or lots, the installation of any public or private infrastructure and/or the commencement of any construction activities.
 - l.2 "Land disturbing activity." Any land change which may result in soil erosion from water or wind and the movement of sediments into the waters or into land within the city, including but not limited to clearing, grubbing, stripping, dredging, grading excavating, transporting and filling of land.
 - l.3 "Landscape area." An area reserved for installation and maintenance of ornamental plant materials.
 - l.4 "Landscaping." Any addition to the natural features of a lot intended to restore construction disturbance or to enhance its attractiveness, as by adding trees, shrubs, ground covers or lawns.
 - p.1 "Person." Any human being, firm, public agency, public utility, partnership, association, corporation, company, legal entity, organization or society.
 - p.2 "Protection area." All land outside the buildable area of a lot designated as permanent open space; the drip line area beneath a tree or clusters of trees to be retained, and all areas required as landscaping strips or buffers by provisions of the city zoning ordinance or as conditions of zoning approval.
 - p.3 "Public utility." Any publicly, privately, or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, steam, waste, storm water not connected with highway drainage and other similar services and commodities, including publicly owned fire, police, traffic signals and lighting systems, which directly or indirectly serve the public or any part thereof.
 - r.1 "Radial trunk dieback." A measure of the amount of decay, which identifies the percentage of a tree's trunk, which is visibly damaged by decay.
 - r.2 "Revegetation." Reestablishment of trees and other landscape materials within the minimum required landscape areas, according to standards and provisions of this chapter, or as determined by the zoning ordinance or conditions of zoning approval.
 - s.1 "Shrub." A woody plant or bush, usually between one and six feet in height, and distinguished by multiple stems.
 - s.2 "Site density standard." The minimum number of trees, measured in average site density per acre that must be present on a lot following development not exempted from this chapter.
 - s.3 "Softwood tree." Any coniferous (cone-bearing) tree, such as pine, spruce, hemlock, cedar, etc. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.
 - s.4 "Specimen tree or stand." Any tree or grouping of trees, which qualifies as being of high value because of its size, species, age, location or historical character. Designation of such trees may be initiated by the city planner or designee, upon application by the city planner or any other interested person. such designation may occur only by resolution of council. The city planner or designee shall maintain and file

with the city clerk a complete listing of the location and identifying features of all specimen trees. General criteria for the determination of specimen trees are:

1. Any deciduous tree with a diameter of thirty inches or greater;
 2. Any coniferous tree with a diameter of twenty-four inches or greater;
 3. Any understory tree with a diameter of ten inches or greater;
 4. Any tree with significant historical value, documented through historical records or otherwise; and
 5. Any tree which is rare or unique.
- t.1 "Thinning." Selective cutting or removal of timber.
- t.2 "Tree." Any self-supporting, woody perennial plant usually having a single trunk diameter of three inches or more which normally attains a mature minimum height of fifteen feet. Canopy trees are defined as any tree of greater or equal height and crown spread than surrounding trees. Examples include beech, hickory, maple, oak, pecan, pine and sycamore. Understory trees are defined as any tree or woody plant of lesser height and crown spread than surrounding trees. Understory species generally reach a mature height of less than forty feet. Examples include cherry, crab apple, dogwood, magnolia, pear, redbud, holly, sassafras, and red cedar.
- t.3 "Tree bank." An account of funds, maintained by the accounting department of the city, contributed by developers as an alternate form of compliance with this section. Funds from the tree bank are to be used solely for the purchase and planting of trees on public sites within the city as authorized by the city planner or designee.
- t.4 "Tree destruction." Any intentional or negligent act which will cause a tree to die within a period of two years, including, but not limited to, cutting or otherwise damaging the trunk, roots or other vital sections of the tree; damage inflicted upon the root system of a tree by the application of toxic substances; damage caused by the operation of heavy machinery or change of natural grade by excavation or filling of the cover area within the drip line; and damage from fire or other injury inflicted on a tree that results in pest infestation.
- t.5 "Tree protection permit." A written permit issued by the city planner or designee, to an individual, firm corporation or similar entity certifying that the tree protection plan, as submitted or revised, has been approved.
- t.6 "Tree protection plan (TPP)." A scaled drawing depicting the location of all trees to be preserved by species and size. Tree save areas may be identified by a line defining their limits and trees within such limits need not necessarily be individually identified. Such plans shall indicate all planned construction improvements and trees to be retained. The method of protecting trees during land disturbance and construction shall also comprise the TPP.
- t.7 "Tree removal permit." A permit issued by the city planner or designee allowing for removal of specified trees on a lot.
- t.8 "Tree replacement plan." A drawing which depicts the location, size, and species of existing and replacement trees on the lot for which a tree permit is sought.
- t.9 "Tree save area." As pertains to individual trees, the area surrounding a tree that is within the drip line. As pertains to property on which trees are to be preserved, an area designated for the purpose of complying with tree density requirements, saving natural trees, preserving the root system of natural trees and/or preserving natural buffers.

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- t.10 "Tree species selection list." The species of trees recommended in subsection (z) of this section (appendix B [Section 16.43.117]) as suitable replacement species.
 - t.11 "Water quality buffer." A designated area of adequate width to provide for protection of the stream bank, channel soils and vegetative cover as determined by the city engineer, adjacent to any state waters, watercourses, or drainage areas, in which no land disturbing activities shall be undertaken unless approved in land disturbance application or other construction plans. Such activities may include stream crossings for transportation routes or utilities construction; sewer and waterline construction; and minor landscaping or channel improvement activities designed to stabilize critical areas.
 - z.1 "Zoning buffer." Any area required to be maintained in an undisturbed state as a condition of zoning.
 - z.2 "Zoning regulations." The city zoning ordinance however designated, as amended, and such other regulations subsequently adopted by the mayor and council governing the development of land in the city.

(Ord. No. 08-017, 8-7-08)

16.43.013 Planning commission.

- A. The planning commission shall approve tree and landscape plans.
- B. The planning commission shall assist the city planner or designee in establishing and maintaining a record of historic trees, specimen trees and other unique or environmentally significant trees within the city.
- C. The planning commission shall hear and decide appeals of decisions of administrative officials as provided in this chapter.
- D. The planning commission shall establish educational and other programs to encourage proper management and maintenance of trees on private property in the city.
- E. The planning commission shall review and approve amendments to the city's preservation standards promulgated by the city planner or designee.
- F. The planning commission shall provide consultation and assistance to the city planner or designee in the preparation of amendments to the city's tree preservation standards.

(Ord. No. 08-017, 8-7-08)

16.43.014 Application requirements.

Developers and design professionals may meet with the city planner or designee to discuss the tree preservation planning process. The city planner or designee is available for field inspections of site conditions prior to submittal to give advice as to the relative value of trees, and to assist in the design process as it relates to preserving trees. Information may also be disseminated concerning preparation of a tree preservation plan.

Application Requirements. The terms and provisions of this article and these standards shall apply to any activity, which requires issuance of a development permit on all public and private property within the city. No development permit or grading permit shall be issued until it is determined that the proposed development is in conformance with the provisions of this article. No person shall remove, cause to be removed, poison, or damage any tree with a trunk diameter of six inches or more without first obtaining a permit, as provided here in. Applications for development permits subject to this chapter must be accompanied by an application for a tree removal permit providing the following information:

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- A. A complete tree survey and inventory, as specified in Section 16.43.015.
 - B. A complete tree protection plan, as specified in Section 16.43.016. This plan shall be an integrated site plan showing specimen trees, tree protection areas, those trees to be saved and those to be removed, utilities to be installed, grading, approximate location of all structures, driveways and curb cuts, proposed tree planting and other landscaping;
 - C. A complete tree replacement plan as specified in subsection Section 16.43.100. Replacement trees used in the density calculation must be ecologically compatible with the site. A list of acceptable replacement trees is provided in Section 16.43.117 of this title.
 - D. Minor additions to existing developments require only a sketch plan showing proposed changes submitted to the city planner or designee for review and approval. The city planner or designee shall determine whether or not an addition is "minor" based on building codes applicable in the city.
 - E. Single- and two-family residential projects may include the tree survey, protection plan and any required replacement onsite plan.

(Ord. No. 08-017, 8-7-08)

16.43.015 Tree survey and inventory.

- A. A tree survey shall be prepared in the form of a scaled site plan sealed by a registered surveyor, professional engineer, landscape architect, certified arborist or registered forester noting the location of all specimen trees plus all other trees to be preserved and credited toward site density standards.
- B. All specimen trees and their critical root zones shall be labeled, indicated on the survey and inventoried by size and species. This includes specimen trees to be preserved as well as those proposed for removal.
- C. All other trees to be credited toward site density standards must be indicated on the survey and inventoried by size and species. Trees with a DBH measurement of three inches or greater are eligible for density compliance purposes.
- D. Trees other than specimen trees that are proposed for removal, and thus, cannot be counted toward density requirements, are not required to be counted and shown individually on the plan. Such trees shall be identified as a stand provided estimated number; size and species are identified as part of the total site inventory.
- E. Sampling methods may be used to determine tree densities for forested areas over two acres.
- F. All tree protection zones and tree save areas must be delineated on the tree survey. All buffers with existing trees must be delineated on plans as tree save areas. Land disturbance within any buffer is subject to approval by the city planner or designee.
- G. The tree survey shall provide an accurate list of those trees to be saved and a total value of existing density factor units for the entire property.

(Ord. No. 08-017, 8-7-08)

16.43.016 Tree protection plan.

- A. A tree protection plan (TPP) shall be submitted to the city planner or designee for review under this chapter concurrent with the application for a land disturbance permit for development of any single-family or two-family residential subdivision lot in excess of one acre and any multifamily, commercial, or industrial lot

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regardless of size. The TPP must be approved prior to commencement of any site alteration, defoliation or land disturbing activity-requiring issuance of a development permit.

- B. Tree protection plans shall be prepared by a professional landscape architect, registered forester, or certified arborist in accordance with the specifications for such plans contained herein. Performance of professional services in preparation of plans required herein shall comply with state law governing the practice of the applicable profession. Other licensed professionals (e.g., architects, engineers, surveyors, etc.) may be authorized by the city planner or designee to prepare tree protection plans, provided competency and knowledge in the principles and practices of arboriculture are demonstrated to the satisfaction of the city planner or designee. In the case of land disturbance permit applications for owner-occupied detached, single-family properties; the TPP may be prepared by the owner or contractor applying for the land disturbance permit.
- C. Prior to approval of the TPP, the city planner or designee may require relocation or replacement of trees as uniformly as possible throughout the site, so that the entire property conforms to the site density standards or other tree coverage objectives are met.
- D. The tree protection plan shall be a detailed plan designed to protect and preserve trees before, during and for a period of two years after, construction. The tree protection plan shall be submitted on a current survey of the proposed site, drawn to scale, and clearly depicting all required information as outlined by this section. The TPP shall provide the following information:
 - 1. Project name, district, land lot and parcel number; north arrow and scale (not to exceed one inch equals fifty feet).
 - 2. Name, address and phone number of property owner, developer and any tenant of the property.
 - 3. Name, address, and phone number of the professional landscape architect, forester, or arborist responsible for preparation of the plan, and the seal or statement of professional qualifications of said person (qualifications may be attached separately).
 - 4. Total acreage of the site and acreage exclusive of all zoning buffer areas.
 - 5. Delineation of all areas located within a 100-year floodplain and indication of acreage.
 - 6. Location of all specimen trees and their critical root zones indicating those specimen trees proposed for removal or preservation. Any specimen tree proposed for removal is to be identified in terms of exact location, size and species.
 - 7. The location, size (DBH) and species of all trees to be preserved and to be retained to fulfill site density requirements. Five or more trees the drip lines of which combine into one tree protection area may be outlined as a group and their number, size and species listed in a summary table. All tree protection areas are to be outlined and labeled.
 - 8. The TPP shall show all utility lines existing and proposed, including irrigation and electrical lines existing and proposed. The developer shall coordinate the location of these utility lines with the utility companies in order to prevent root damage within the critical root zones of protected trees, and to minimize damage to trees located in protected zones.
 - 9. The TPP must state the location of any state waters and the limits of any proposed disturbance in a water quality buffer zone.
 - 10. All tree protection zones, natural areas, landscaped areas, buffers and areas of revegetation. Specifications describing tree protection methods shall be indicated for all tree protection areas, including tree fencing, erosion control, retaining walls, tunneling for utilities, aeration systems, transplanting, staking, signs, etc.

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11. Location, size and species of all new trees to be planted to fulfill site density standards. Trees grouped in tree planting areas may be listed in a summary table by total number in the grouping, by size and species.
 12. A summary table indicating the number of existing trees to remain and trees to be planted, by caliper to the nearest inch, shall be shown along with calculations demonstrating showing the site density achieved. Additional credits shall be noted where applicable. Groupings of trees in tree protection areas and areas for tree planting may be keyed to the summary table by area rather than labeling each tree individually on the plan.
 13. A delineation of tree save areas in which trees have been inventoried for site density standards.
 14. Location and details for all permanent tree protection measures (tree wells, aeration systems, permeable paving, retaining walls, bollards, etc.).
 15. Limits of clearing and land disturbance such as grading, trenching, etc., where these disturbances may affect tree protection zones.
 16. Grade changes or other work adjacent to a tree that could adversely impact its survival, with specifications as to how the grade, drainage and aeration will be maintained around the tree.
 17. Boundaries of all required buffer, landscaped and vehicle use areas.
 18. Location of all existing and proposed utility lines or easements; include location of any boring sites for underground utilities.
 19. Indication of staging areas for vehicle and equipment parking, materials storage, concrete washout, debris burn and burial holes and other areas where tree protection may be affected.
 20. Location of existing and proposed structures, paving, driveways, cut and fill areas, detention areas, etc.
 21. Phase lines, if applicable.
 22. Additional information as requested by the city planner or designee.
- E. When a choice is available as to which existing trees to save, emphasis shall be given to the preservation of specimen trees, even isolated individual trees, over the retention of other trees. Non specimen trees, however, should be saved in stands rather than as individual trees scattered over a site.
- F. The following notices shall also be shown on the TPP:

Tree protection notices

TREE PROTECTION FENCING MUST BE INSTALLED AND INSPECTED PRIOR TO ANY CLEARING, GRUBBING OR GRADING. CALL THE CITY ENGINEER FOR AN INSPECTION.

TREE PROTECTION SHALL BE ENFORCED ACCORDING TO STANDARDS ESTABLISHED IN THE MUNICIPAL CODE OF THE CITY OF AUBURN, GEORGIA.

TREE DENSITY REQUIREMENT SHOWN ON THE PLAN(S) MUST BE VERIFIED PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY OR ACCEPTANCE OF THE FINAL PLAT. CALL THE CITY ENGINEER FOR AN INSPECTION.

WITH THE EXCEPTION OF SINGLE OR TWO FAMILY RESIDENTIAL DEVELOPMENTS ON LESS THAN ONE ACRE, A TREE MAINTENANCE INSPECTION WILL BE PERFORMED AFTER ONE FULL GROWING SEASON FROM THE DATE OF THE FINAL SITE INSPECTION. PROJECT OWNERS AT THE TIME OF THE MAINTENANCE INSPECTION ARE RESPONSIBLE FOR ORDINANCE COMPLIANCE.

(Ord. No. 08-017, 8-7-08)

16.43.017 Permit procedures.

- A. A tree protection plan must be submitted to the city planner or designee concurrent with submission of site grading plans. No land disturbance permit shall be issued prior to approval of the TPP.
- B. All tree protection plans and related documentation shall be reviewed by the city planner or designee for conformance to the provisions of this chapter and either recommended for approval to the planning commission or returned for revision. If recommended for approval, the plan shall be forwarded to the next available meeting of the planning and zoning commission, as determined submittal date and commission agenda.
- C. All tree protection measures shall be installed prior to any land disturbance, and the city planner or designee shall be contacted for a preconstruction conference prior to land disturbance. Land disturbance may proceed only after a permit is obtained and tree protection measures have been installed and approved by the city planner or designee.
- D. The city planner or designee shall make unscheduled inspections prior to and during development to ensure protection of trees, critical root zones and buffer zones.
- E. Upon completion of a development, the city planner or designee shall conduct an inspection to ensure compliance with the tree protection plan.

(Ord. No. 08-017, 8-7-08)

16.43.018 Tree protection requirements.

Minimum Tree Density Standard Guidelines. The following guidelines and standards shall apply to trees proposed to be retained for credit toward the minimum tree density standard:

- A. Tree Protection Areas. Tree root systems are the most critical factor in tree preservation throughout the development process. The root system can easily extend beyond the drip line of the tree canopy (Figure 2). Disturbance of the root system can directly affect a tree's survival. The following guidelines and standards shall apply to trees proposed to be retained for credit toward the minimum site density standard and to protect the critical root zones:
 - 1. The root system within the drip line is generally considered to be the critical root zone. To protect these critical root zones, a tree protection area shall be established around each tree or group of trees to be retained;
 - 2. The tree protection area shall include no less than the total area beneath the tree canopy as defined by the drip line of the tree or group of trees, collectively. In some instances, an area greater than the drip line area may be required to be designed as a tree protection area as determined by the city planner or designee;
 - 3. Layout of the project site utility and grading plans shall avoid disturbance of tree protection areas. Whenever utilities must be installed within a tree protection area and such installation will encroach into the drip line of any tree to be saved, the utility shall be installed by tunneling at a minimum depth of thirty-six inches. Reasonable efforts shall be made to save as many trees as possible, including avoiding utility routing which would endanger the taproot of certain species; and
 - 4. Construction site activities such as vehicle or equipment parking, materials storage, concrete washout, burn pit placement, etc., shall be arranged so as to prevent damage to trees within tree protection areas.

B. Reserved.

C. Protective Barriers.

1. Prior to any land disturbance, all protective tree barriers shall be installed and maintained until completion of site landscaping. Authorization to remove protective barriers shall be in writing by the building inspector or by issuance of a final certificate of occupancy. Inspection of tree protection barriers is required prior to any land disturbance or development activity and the building inspector shall be contacted to schedule an inspection. Signs requesting subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.
2. Tree fencing shall be a minimum four feet high, constructed in a post and rail configuration. A two-inch by four-inch wooden post and a double one-inch by four-inch rail, painted orange is recommended. Four-foot orange, polyethylene laminar safety fencing is also acceptable.
3. Where approved, other forms of tree protection may be utilized to delineate tree save areas, which are remote from areas of land disturbance. These areas must be completely surrounded with continuous rope of flagging (heavy mil. minimum four inches wide).
4. All tree protection areas must be protected from soil sedimentation intrusion through the use of silt fencing or other acceptable measures placed upslope from tree protection areas. No construction of any structure or improvement, or any construction activity, shall encroach or place solvents, materials, construction machinery or temporary soil deposits within six feet of the drip line, as defined herein, of any specimen tree or any tree within a tree protection zone.
5. All protective tree measures must be maintained throughout land disturbance and construction, and shall not be removed until final landscaping is installed.

D. Encroachment. Most trees can tolerate only a small percentage of critical root zone loss. If encroachment is anticipated within the critical root zones of exceptional trees, stands of trees, or otherwise designated tree protective zones, the following preventive measures shall be employed:

1. Clearing Activities. Roots often fuse and tangle among trees. Tree removal adjacent to tree save areas can cause inadvertent damage to the protected trees. Where possible, it is advisable to cut minimum two-foot trenches (e.g., using a "ditch witch") along the limits of land disturbance, so as to cut rather than tear roots. Trenching may be required for the protection of exceptional specimen trees.
2. Soil Compaction. No parking, material storage or traffic shall be permitted within the designated tree protective zones.
3. Utility Installation. The installation of utilities through a protective zone should occur by way of tunneling rather than trenching (Figure 3).
4. Grade Changes. A decrease in grade is best accomplished with the use of retaining walls or through terracing (Figure 5).
5. Removal and Replacement Due to Damage. Where the city planner or designee has determined that irreparable damage has occurred to trees within tree protective zones, the trees shall be removed and replaced.

E. Trees to be Retained.

1. Canopy trees with a drip line area within twenty feet of a proposed structure should be removed and replaced with an appropriate tree species. When such canopy trees are to be saved, special attention shall be given to protection of the drip line area. The state forestry commission should be contacted for technical assistance.

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2. Where design constraints require placement of paved surfaces within ten feet of the drip line area of a canopy tree, such trees should be removed and replaced with an appropriate tree species. Alternately, the state forestry commission may be contacted to provide technical assistance concerning precautions that may be used to protect the tree and pavements.
 3. All reasonable efforts shall be made to save specimen trees. Reasonable effort shall include, but not be limited to, alteration of building design; alternate location of building, parking area, water retention drainage pipes; or relocation of utilities.

(Ord. No. 08-017, 8-7-08)

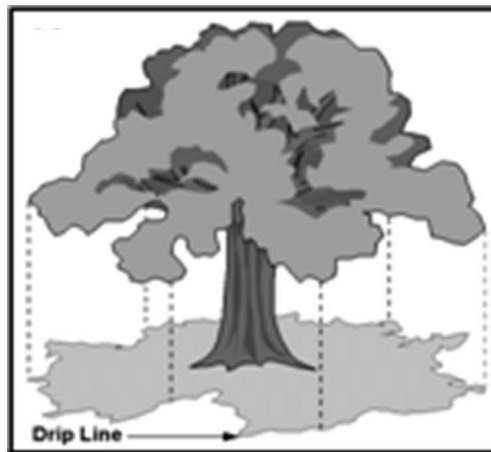


Figure 2
Tree Drip Line
City of Auburn Tree Ordinance

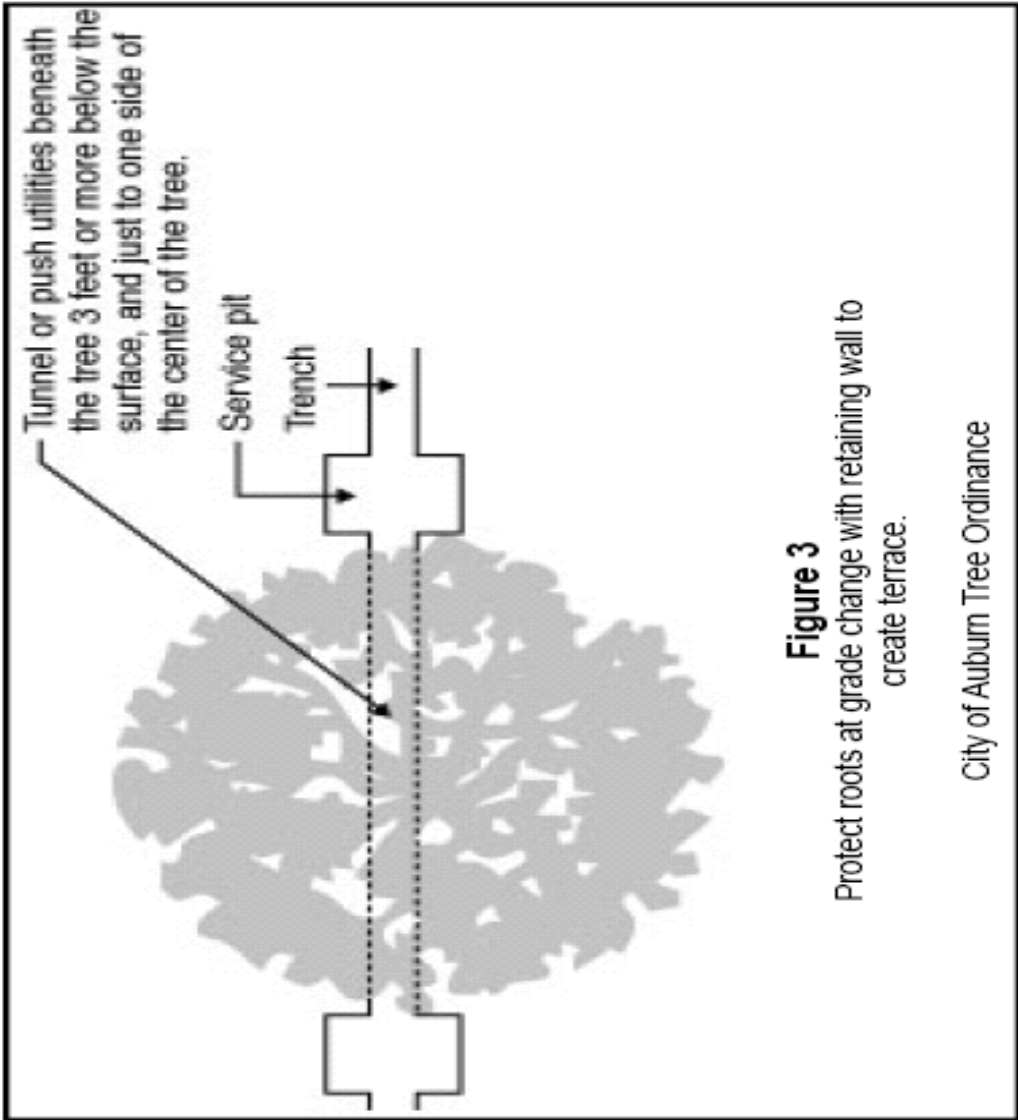
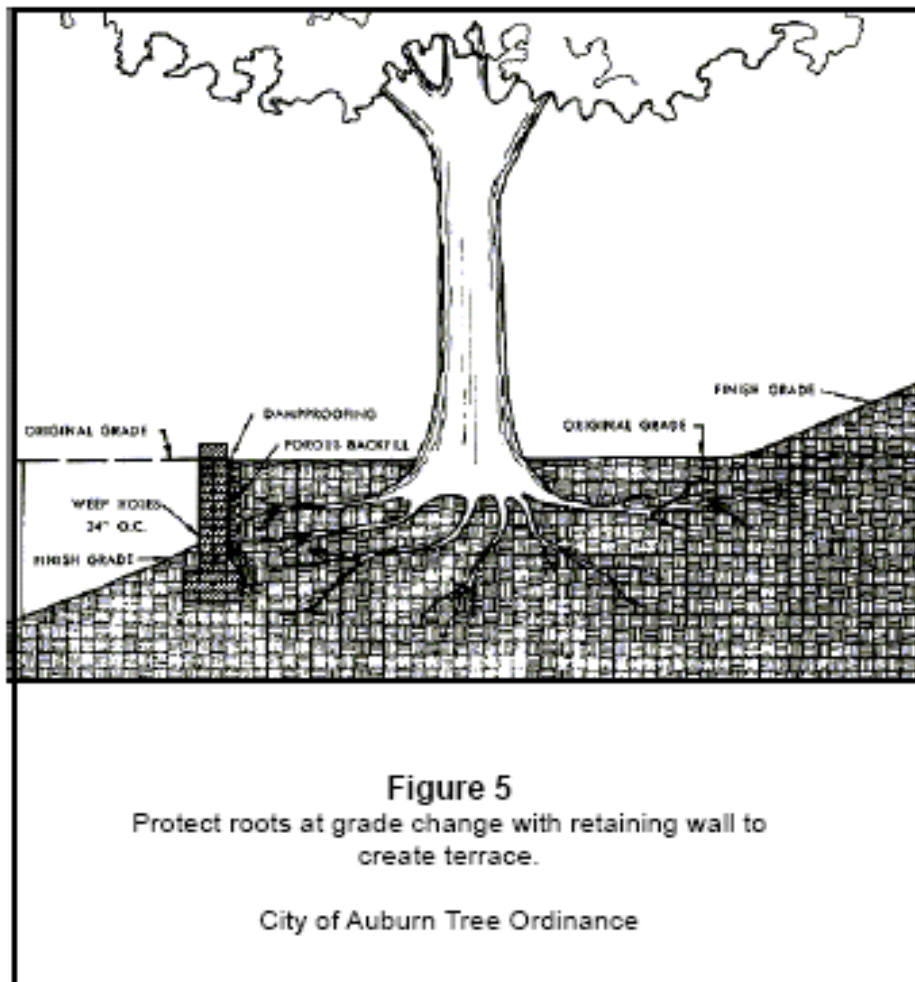


Figure 3

Protect roots at grade change with retaining wall to create terrace.

City of Auburn Tree Ordinance



16.43.019 Tree protection plan approval, fees and appeals.

The following standards shall govern the review, approval and issuance for tree protection plans:

- A. No land disturbance permit shall be issued until the tree protection plan (TPP) has been reviewed and approved, in writing, by the planning commission.
- B. The planning and zoning commission shall approve, deny or approve the TPP with conditions within 30 business days of submittal. Upon approval of the TPP, a permit shall be issued to the applicant. If no action is taken within thirty business days of the submission of the TPP, it shall be considered approved and the land disturbance permit issued. In the event the TPP is denied, the reasons therefore shall be reported, in writing, to the applicant.
- C. The fee for a land disturbance permit shall be twenty-five dollars per acre or any portion of an acre and shall be paid at the time of application for the permit. Said fee shall be nonrefundable.
- D. All tree preservation and/or replacement plans must be approved and stamped by the planning and zoning commission prior to the issuance of any permits. The review fee shall afford no more than two plan reviews, one pre-grading, one site visit, and a final inspection without incurring additional cost. All

other reviews and/or inspections shall be based upon the city planner or designee's normal hourly fee, which fee shall be paid by applicant.

- E. The city planner or designee shall conduct a final inspection of the property to ensure compliance with the TPP prior to granting a certificate of occupancy. The city planner or designee shall have the authority to revoke, suspend or void and land disturbance permit, stop all work on a site or any portion there, or withhold a certificate of occupancy in the event of a violation of any provision of this chapter.
- F. Any applicant for a land disturbance permit who is aggrieved by a decision of the city planner or designee relating to the application of this chapter shall have the right to appeal said decision as provided to the zoning board of appeals.
- G. Any revisions to the proposed development of a property, and any changes reflected in a subsequently submitted tree protection plan, shall be shown on a revised tree protection plan and be approved as a part of the new or revised tree protection plan prior to commencement of site work.

(Ord. No. 08-017, 8-7-08)

16.43.100 Tree replacement plan.

- A. Tree replacement plans shall be prepared by a professional landscape architect, registered forester, or certified arborist in accordance with specifications for such plans contained herein. Performance of professional services in preparation of plans required herein shall comply with state law governing the practice of the applicable profession.
- B. The tree replacement plan shall be shown on a site plan, as appropriate to the proposed development, drawn to the same scale as other plan documents prepared for a land disturbance permit application on the property, and shall cover the same area.
- C. Following submission of the plan, the city engineer will perform a site inspection. The tree replacement plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this chapter will be fully satisfied.

(Ord. No. 08-017, 8-7-08)

16.43.101 Documentation.

- A. A tree replacement plan shall include the following information:
 - 1. All tree protection zones, and areas of revegetation.
 - 2. Approximate location of all specimen trees or stands of tree.
 - 3. Exact location of all specimen trees when their preservation is questionable, or might result in a change of site design.
 - 4. Indication of those specimen trees to be removed. Removal of specimen trees is subject to city planner or designee approval.
 - 5. Limits of clearing and land disturbance such as grading, trenching, etc., where these disturbances may affect tree protection zones.
- B. Methods of tree protection shall be indicated for all tree protection zones, including but not limited to tree fencing, erosion control, retaining walls, tunneling for utilities, aeration systems, transplanting, staking, signs, etc.

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- C. Staging areas for parking, material storage, concrete washout, and debris burn and burial holes where these areas might affect tree protection.
 - D. Compliance to the required site tree density factor shall be demonstrated on the tree replacement plan. Existing trees or stands of trees used in the density calculation must be indicated.
 - E. Ornamental replacement trees may not be used in density calculation without prior approval from the city planner or designee.
 - F. Replacement trees used in density calculations must be ecologically compatible with the intended growing site.
 - G. Planting schedule showing the type (common and botanical names), size and quantity of trees to be planted, and any special planting notes.
 - H. The locations of all trees to be planted on the site to meet density requirements.
 - I. Indication of the type of irrigation to be used.
 - J. Additional information as required by the city planner or designee.
 - K. The following notices shall also be shown on the tree replacement plan:

Tree replacement notices

TREE DENSITY REQUIREMENTS SHOWN ON THE TREE REPLACEMENT PLAN MUST BE VERIFIED PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY OR ACCEPTANCE OF THE PROJECT. CALL THE CITY PLANNER FOR AN INSPECTION.

WITH THE EXCEPTION OF PREVIOUSLY PLATTED SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS, A TREE MAINTENANCE INSPECTION WILL BE PERFORMED AFTER ONE FULL GROWING SEASON FROM THE DATE OF THE FINAL CONSTRUCTION INSPECTION. PROJECT OWNERS AT THE TIME OF THE MAINTENANCE INSPECTION ARE RESPONSIBLE FOR ORDINANCE COMPLIANCE.

ALL PLANT MATERIALS ARE TO CONFORM TO THE AMERICAN STANDARD FOR NURSERY STOCK 1980 EDITION AMERICAN ASSOCIATION OF NURSERYMEN.

(Ord. No. 08-017, 8-7-08)

16.43.102 Standards and revegetation.

- A. Tree replacement plans should be prepared with appropriate consideration given to the function of trees in the landscape. Every effort should be made to maximize the environmental benefit of the plant material.
- B. A tree replacement plan indicating the location of all trees proposed for re-vegetation is required. This plan may be included as part of the tree protection plan or may be submitted as a separate drawing.
- C. The tree replacement plan shall include planting schedules with proposed tree names (botanical and common), quantity, size, spacing and any special planting notes.
- D. Trees proposed for replanting must be on the tree species selection list found in subsection (z) of this section (appendix B [Section 16.43.117]), unless otherwise approved by the city planner or designee. Trees selected must be free from injury, pests, disease, nutritional disorders or root defects, and must be in good vigor in order to ensure a reasonable expectation of survival. Standards for transplanting shall be consistent with those established in the International Society of Arboriculture publication, Tree and Shrub Planting Manual, or similar publication.
- E. Spacing and the potential size of species chosen shall be compatible with spatial limitations of the site.

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- F. Replanted trees shall be ecologically compatible with the site and neighboring sites. Accordingly, the replanted trees shall be of the same or similar species as those removed whenever practical.
 - G. Trees must be replaced with at least sixty percent canopy tree species.
 - H. The tree must be compatible in extent of crown and root systems at maturity with nearby utilities.
 - I. Where trees must be added to achieve the one hundred-tree density units per acre, pines may not comprise more than fifty percent of the required units. Where existing pines already comprise more than fifty percent or more of the required units, no more pines may be credited toward the required units.
 - J. The use of flowering ornamental trees or plants classified as tree-form shrubs may be included in the tree replacement plan, but shall not be used for the purpose of fulfilling density requirements unless approved by the city planner or designee.
 - K. All replanted canopy trees shall be a minimum height of eight feet and a minimum trunk of two and one-half caliper inches. All replanted understory trees shall be a minimum height of six feet and a minimum trunk of one and one-half inches. The following minimum criteria must be observed in order to provide sufficient growing area for planted trees, unless otherwise approved by the city planner or designee:
 - 1. For canopy trees, two hundred square feet of pervious root zone.
 - 2. For understory trees, seventy-five square feet of pervious root zone.
 - L. Planting and staking details must be provided on the plan.
 - M. Trees must be relocated or replaced on site in accordance with the provisions of this action.

(Ord. No. 08-017, 8-7-08)

16.43.103 Tree planting specifications.

Applicants for permits under this chapter shall submit tree planting specifications. Generally, these specifications shall conform to those established by the International Society of Arboriculture, as included in the Tree and Shrub Transplanting Manual, latest edition, or similar publication.

- A. Tree species selected for replacement plantings shall consist of an appropriate mix of tree species native to the region;
- B. Trees shall not be planted within twenty feet of any structure or within fifteen feet of a paved driveway;
- C. The National Arbor Day Foundation (NADF) recommends that conifers (evergreens) be planted closely together on the northwestern and northern perimeters of buildings to buffer structures from northern, winter winds; and
- D. NADF also recommends that deciduous (broad leaf) canopy trees be planted along the southwestern and eastern perimeters of buildings to shade structures in the summer and allow sunlight to pass through in the winter.
- E. Specimen trees are classified as any tree in fair or better condition as determined by the city planner or designee or state forestry commission which equals or exceeds the following diameter sizes:
 - 1. Twenty-four-inch DBH: large hardwoods such as beech, oaks, hickories, yellow poplars, etc.
 - 2. Twenty-eight-inch DBH: large softwoods such as cedars, pines, spruce, etc.; and
 - 3. Eight-inch DBH: small species such as crab apples, dogwoods, red buds, sourwoods, etc.

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- B. Trees not fully conforming to these sizes may be considered specimen trees in the case of a rare or unusual species, of exceptional aesthetic or unique quality, or of historical significance. Such trees may also be considered specimen trees when specifically used by a builder, developer, or design professional as a focal point in a landscape design.

Specimen trees are also characterized as any tree in fair or better condition meeting the following minimum standards:

1. A life expectancy of over fifteen years;
 2. A structurally sound trunk, not hollow and having no extensive decay; not to exceed twenty percent radial dieback;
 3. No more than one major or several minor dead limbs (hardwoods only); and
 4. No major insect or pathological problem.
- C. Specimen tree stands are a contiguous grouping of trees that have been determined to be of high value by the city planner or designee based on the following criteria:
1. A relatively mature, even-aged stand;
 2. A stand with purity of species composition or of a rare or unusual nature;
 3. A stand of historical or cultural significance; and
 4. A stand with exceptional aesthetic quality.
- D. In order to encourage the preservation of specimen trees and incorporation of these trees into the project design, additional density credit will be given for successful preservation of specimen trees. Credit assigned for any specimen tree saved will be two times the density unit value shown in subsection (y) of this section (appendix A [Section 16.43.116]). Specimen trees shall be identified by the city planner or designee, and shall be located on the tree protection plan.

(Ord. No. 08-017, 8-7-08)

16.43.104 Minimum site density standards.

- A. A minimum site density of one hundred units per acre, exclusive of any acreage within a zoning buffer area and any trees needed to meet buffer requirements as set forth in this chapter or as conditions of zoning approval, must be maintained on all properties subject to this chapter.

The term "unit" is an expression of basal area, and is not synonymous with "tree." The density requirement must be met as a condition of the development permit issuance, whether or not a property contained trees prior to development. Trees, both existing and planted, shall be reasonably distributed throughout the site where feasible, with an emphasis on tree groupings to achieve aesthetic results in conformance with professional landscaping standards. Trees may be planted for credit within a public right-of-way, subject to approval by the city planner or designee. This density may be achieved through credits for preserving existing trees, by planting new trees according to the minimum standards of this article or through a combination of both. Notwithstanding the foregoing, all reasonable efforts must be made to save specimen trees. Reasonable efforts shall include, but not be limited to, alteration of building design; alternate location of building, parking area, water retention, or drainage pipes; or relocation of utilities. Minimum site density shall be calculated and established pursuant to the formula and analysis set forth in appendix A [Section 16.43.116] of this article.

Property owners shall be subject to the minimum site density requirement set forth in this section. The density calculation shall be based on the net site area, excluding infrastructure improvements, such as roads, utility

easements, detention ponds, etc. In no event, shall off-street parking areas be considered an infrastructure improvement.

- B. Credit shall be given for existing trees to be retained which are a minimum diameter of three inches; credit shall be given for trees to be planted which are a minimum caliper of two and one-half caliper inches. Additional credits shall be granted under the following circumstances:
 - 1. A total tree density credit, not to exceed twice the normal credit, may be granted by the city planner or designee for existing trees to be retained which have greater value as outstanding specimen trees, trees having historic value or being a rare or unique species; and
 - 2. Existing trees to be retained within a 100-year floodplain shall be granted a bonus credit of fifty percent of the normal credit unless the trees are located within a required zoning buffer.
- C. Trees replanted to achieve density requirements are to be species selected from the tree species selection list in appendix B [Section 16.43.117] or as otherwise approved by the city planner or designee. Replanting shall be at a minimum ratio of one canopy tree for every three understory trees. Minimum density may be met by planting all canopy trees, however, such density shall not be met by planting only understory trees.
- D. In addition, no more than forty percent of any one genus may comprise the trees proposed in any replanting plan.
- E. Minimum size requirements for replacement trees are contained in table 2 of appendix A [Section 16.43.116].
- F. Tree planting requirements may be amended by the city planner or designee in cases where minimum site densities are not evenly distributed on the net site area and aesthetic appearances are an issue.

(Ord. No. 08-017, 8-7-08)

16.43.105 Tree survey inspection.

Following receipt of a complete tree removal application, development plan, or tree survey and supporting data, the city planner or designee shall conduct an inspection of the proposed development site within ten working days. The applicant shall be notified by telephone forty-eight hours in advance of the date and time of the inspection. Following the inspection, the city planner or designee shall advise the applicant of any recommended changes in the applicant's proposed tree removal, protection or replanting plans, consistent with the purposes of this chapter.

(Ord. No. 08-017, 8-7-08)

16.43.106 Alternative compliance to site standards.

The intent of this chapter is to ensure that minimum tree density is maintained on all developed sites. In limited cases, this intent cannot be realized, as a particular site will not bear the required density.

- A. Two methods of alternate compliance may be acceptable, at the discretion of the city planner or designee:
 - 1. Planting at a location other than the project site; or
 - 2. Contributing to the city tree bank.
- B. The following standards have been established for administering these alternative compliance methods:

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1. The city planner or designee must review and approve all requests for alternative compliance. In no instance shall one hundred percent of the required site density be met through alternative compliance. As many trees as can reasonably be expected to survive must be planted on the site proposed for development. No development permit shall be issued unless the city planner or designee has approved the request and received the necessary documentation and/or funds.
 2. Whenever trees are to be planted at an alternate location, a tree replacement plan, meeting all applicable standards, must be reviewed and approved. The following note must be shown on the approved plan:

A TREE REPLACEMENT PLAN ADDENDUM FOR THIS PROJECT SHALL BE SUBMITTED TO THE CITY PLANNER OR DESIGNEE FOR THE CITY OF AUBURN AT A MINIMUM OF 30 DAYS PRIOR TO REQUESTING A FORMAL INSPECTION. THIS PLAN SHALL INCLUDE THE SPECIES, SIZE AND LOCATION OF TREES TO BE PLANTED OFF-SITE TO CONFORM TO TREE DENSITY STANDARDS OF THIS ARTICLE. RELEASE OF THIS PROJECT IS SUBJECT TO APPROVAL OF THIS PLAN, AS WELL AS VERIFICATION OF THE INSTALLATION OF THE TREES.

- C. The following conditions apply when a tree is to be removed under the provisions of this chapter:
 1. The city may, with the consent of the property owner, relocate the tree at the city's expense to city-owned property for replanting, either for permanent use at the new location, or for future use on other city property;
 2. Credit may be given to the property owner for each relocated tree as though the tree was proposed to remain on the property, provided the tree is relocated to a site designated by the city at the owner's expense.
 3. As an alternate method of compliance, the city will accept monetary donations to the city tree bank. These donations will be used for the sole purpose of planting trees on public property within the city limits. Methods of calculating contributions to the city tree bank are contained in appendix C [Section 16.43.200] to this section.
- D. The city tree bank will be administered by the city planner or designee. A quarterly report shall be submitted to the mayor and council indicating monies collected, funds expended, and the species, number, size and location of trees planted.

(Ord. No. 08-017, 8-7-08)

16.43.107 Unacceptable tree species.

A tree species selection list providing recommended canopy and understory tree species for replanting is contained in appendix B [Section 16.43.117]. The city planner or designee shall review all landscape plans and tree protection plans to ensure tree species selected are appropriate, native species. The following species are considered inappropriate and shall not be used to comply with the requirements of this section:

- A. Eastern White Pine;
- B. Lombardy Poplar;
- C. Mimosa;
- D. Silver Maple;
- E. Spruce;
- F. Box Elder
- G. Black Willow;

H. Royal Paulownia; and

I. Tree of Heaven.

(Ord. No. 08-017, 8-7-08)

16.43.108 Planting and removal sequence.

- A. All tree protection devices shall be installed prior to any clearing, grubbing or grading. The city engineer must inspect the installation of the protection and erosion and sedimentation control devices prior to issuance of the land disturbance permit or other development or construction permit. Tree protection must remain in functioning condition throughout all phases of development.
- B. Tree removal shall be prohibited in the following circumstances:
1. When soil erosion or runoff problems will result due to topography, soil type, or proximity to floodplain areas; and the removal will substantially and adversely impact the existing soils relative to runoff and/or erosion. Information provided by the city engineer or other environmental specialist may be used by the city planner or designee in evaluating such impacts.
 2. When specimen trees are located on site and cannot be adequately protected or replaced. Additionally, removal may be prohibited if reasonable accommodations can be made to alter the proposed project to save specimen trees and such accommodations have not been made.
 3. The removal will have a significant, adverse impact on property values of any adjoining property.
 4. Specimen trees removed with prior approval from the city planner or designee must be replaced in addition to the minimum site density factor to compensate for their removal. Specimen trees must be replaced on an inch-by-inch basis by species with the potential for comparable size and quality. For example, the removal of a thirty-inch DBH tree would require replacement of fifteen two-inch caliper trees of a comparable species. This tree replacement is in addition to the minimum site density.
 5. Any specimen tree removed without the appropriate review and approval of the city planner or designee must be replaced by trees with a total density equal to twice the unit values of the tree removed. Size alone will determine whether a tree was of specimen quality if the tree is removed without approval and there is not evidence of its condition.
 6. Removal of specimen trees ten inches DBH or greater shall be permitted only in conjunction with an approved preliminary tree protection plan, an approved grading plan, and an approved site development plan.
 7. No person shall directly or indirectly remove or destroy any tree having a diameter of six inches or greater which is located on property subject to the provisions of this article without first obtaining a permit as provided herein.
 8. Permits shall be obtained through application in a form prescribed by the city planner or designee. Each application shall include a written, signed statement citing the necessity for the removal or destruction of any tree, and the criteria set forth in subsection D. of this section that the applicant contends have been met.
 9. Upon receipt of a complete application, the city planner or designee shall review said application pursuant to the requirements of this chapter. The city planner or designee shall either approve, deny or approve per conditions consistent with this section. An applicant may submit a new application at any time following denial of an application made pursuant to this section. All applications not acted upon within thirty days of the date of receipt of a complete application by the city planner or designee

shall be deemed approved. An applicant may appeal the denial of a permit to the planning commission (serving as tree preservation commission).

10. No permit shall be issued for removal or destruction of any tree unless:
 - (a) A tree replacement plan meeting the requirements of subsection C. of this section has been approved;
 - (b) All other applicable requirements of this section are met; and
 - (c) One of the following conditions exists:
 - (1) The tree is located within the buildable area of the lot and the applicant has concurrently filed an application for a building permit to make improvements otherwise permissible under all applicable ordinances of the city.
 - (2) The tree is diseased or injured to the extent that death is imminent within two years, is in imminent danger of falling, is so close to existing or proposed structures as to endanger them, physically interferes with utility services in a manner that cannot be corrected by anything less than destruction or removal of the tree, or creates a hazardous traffic condition.
11. Each applicant shall, to the maximum extent feasible, minimize the removal of trees from the site. In any request for a permit for tree removal in which the resulting tree density present on the site will be less than one hundred density units per acre, the city planner or designee shall require replacement such that the average number of trees on the site is equal to not less than one hundred caliper inches per acre. Where tree removal is unavoidable, trees replanted shall be an appropriate species mix considered native to the region.
12. It shall be unlawful as a normal practice for any person to top any tree. Topping is defined as the severe pruning of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this provision of this chapter at the determination of the city planner or designee.

(Ord. No. 08-017, 8-7-08)

16.43.109 Exemptions.

This section shall not apply to so-called "grandfathered" projects, that is, any portion of a property included within the limits of a valid land disturbance permit issued prior to the effective date of this article, provided that all time constraints relating to the permit issued shall be observed. In no event shall any grandfathered project be extended for a time period greater than twelve months from the date of enactment of this chapter.

- A. The county extension service, state forestry commission, a certified arborist or registered forester shall examine trees believed to be dead, diseased, structurally unsound or infested which constitute a danger to human life or property and submit a report of their findings prior to their removal.
- B. No more than five non-specimen trees totaling twenty-four inches DBH or less may be removed from an owner-occupied, single-family lot of less than two acres within a single calendar year.
- C. Provisions of this section only in relation to those trees which are planted and are being grown for sale or intended sale to the general public in the ordinary course of business.
- D. Removal of trees from horticultural properties such as farms, nurseries or orchards.

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- E. Necessary removal of trees by a utility company within dedicated utility easements.
 - F. Removal of trees on public rights-of-way conducted by, on behalf of, or for any activity to be dedicated to a federal, state, county, municipal or other government agency in pursuit of its lawful activities or function in the construction or improvement of public rights-of-way, including public streets, drainage and utilities.
 - G. Removal of trees, other than specimen trees, from detention ponds and drainage easements.
 - H. Activities which require issuance of a building permit but do not require or authorize land disturbance.
 - I. None of the above exemptions shall be interpreted to include tree removal or timber harvesting incidental to development of the land. Notwithstanding the foregoing, all reasonable efforts shall be made to save specimen trees.

(Ord. No. 08-017, 8-17-08)

16.43.110 Land disturbance and building construction permits.

- A. Compliance With Site Density Factor. When seeking a limited land disturbance permit (i.e., clearing, clearing and grading, or grading only), it is necessary for applicants to show compliance with the required site density factor. Trees existing on site should be used to meet the required tree density. Tree removal and replacement shall be subject to city planner or designee approval. A replacement tree plan must be a part of the approved clearing and/or grading plan.
- B. Phased Projects and Reduced Net Site Areas. Where development is scheduled to occur in phases, density calculations must be based on the site area defined by an established phase line. Similarly, a reduced net site area may be achieved by using only the area of actual site disturbance, provided that a limit of construction line is clearly shown on the plan.
- C. Criteria. In the instances of section 16.43.012, the following criteria are applied regarding existing trees:
 - 1. Existing trees to be counted toward meeting the density requirements should be within the phase line or limits of construction;
 - 2. If the tree save areas must be established outside these areas, they must be located where future development will not impact them; and
 - 3. Trees located in such saved areas outside the phase line or limits of construction may not be counted toward the density requirement of subsequent phases or new projects.

(Ord. No. 08-017, 8-7-08)

16.43.111 Tree removal by utility and construction companies.

All provisions of this section shall apply to any person removing trees on behalf of any other person, including all tree removal companies, utility companies or persons in the business of removing trees or construction.

- A. It shall be unlawful for any person or company to remove or cause to be removed any tree, or undertake any work for which a development permit is required pursuant to this section, unless a valid permit thereof is in effect and displayed according to subsection 16.43.113(j). If any such work or removal is performed without the permit being displayed as required, such removal or work shall constitute a violation of this article and shall subject the person or company violating this section to all penalties provided herein.

(Supp. No. 21)

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- B. Utility companies may provide emergency work without formal approval; provided, however, that such emergency work is reported in writing to the city planner or designee within three business days following completion of all emergency work. Further, the permit taken by any person, company or utility under this section shall include defined areas of tree cutting and trimming under a single permit.
 - C. All tree removal companies, utility companies or persons in the business of removing trees or construction shall remove from the site any trees, stumps, limbs or debris caused by activities allowed by the issuance of a permit under this chapter.
 - D. All utility companies shall be required to obtain an annual permit issued by the city planner or designee. All applications for an annual permit shall include a list of subcontractors with names, addresses, telephone numbers and city business license numbers. Periodic work schedules are to be submitted to the city planner or designee showing the proposed location and extent of tree work to be performed.
 - E. All tree trimming and pruning to be performed by public utilities, public agencies, and their subcontractors on trees growing on private or public rights-of-way shall be done according to the National Arborist Association Standards for Pruning of Shade Trees.
 - G. The routing of all public and private utility easements shall be subject to review and comment by the city planner or designee.

(Ord. No. 08-017, 8-7-08)

16.43.112 Debris disposal requirements.

Any land disturbing activity, including clearing, grading or logging, all biodegradable debris, including but not limited to tree stumps, trunks, limbs or brush, shall be hauled off-site to an appropriate disposal location. All debris from trees cut 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, unless excepted by the city planner or designee for a specific reason such as, but not limited to, unusually large size or access considerations. Under no circumstances shall such materials be stored or buried on-site.

(Ord. No. 08-017, 8-7-08)

16.43.113 Enforcement.

The city's code enforcement officer or city planner shall enforce this section, and may withhold issuance of a certificate of occupancy, or permits and inspections, for any development as required until the provisions of this chapter have been fully met. For purposes of enforcement of this section, the city planner or code enforcement officer is hereby clothed with police power to perform all acts necessary to ensure that the provisions of this section are not violated, including, but not limited to, the issuance of citations for violation of any provision of this section.

- A. Preconstruction Inspection. Prior to or concurrent with the issuance of a permit for clearing, grubbing and grading, site development or road construction, the city planner or designee must inspect all tree protection devices for compliance with the approval plans. Failure to adhere to the standards set forth in this section will constitute noncompliance and will subject the project to enforcement procedures found in this subsection.
- B. Construction Inspection. During construction, the city planner or designee will periodically inspect all projects to assure the adequacy of tree protection fencing. Failure to adhere to the city's standards for tree protection will constitute ordinance noncompliance and will subject the project to enforcement procedures found in this subsection.

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- C. Final Inspection. Prior to the release of the project for final platting or certificate of occupancy, or other form of the city's acceptance, the city's city planner or designee shall inspect for compliance with all the requirements of this section. Any disturbances in tree save areas or deficiencies in the required site density factor (SDF) will be cited at this time. Tree save area disturbances and/or SDF deficiencies must be corrected with new tree plantings prior to project release. Existing trees which are not expected to survive will not be counted toward meeting density requirements. Conversely, any existing trees not shown to remain on plans but which have been preserved, utilizing all tree preservation standards through field adjustments to the project may be counted toward density requirements, provided that all changes are recorded on the city's file plans.
- D. Maintenance Inspection. One full growing season after the date of the inspection of new tree installations, the city planner or designee will inspect all trees on the project site. Any trees planted to meet the required site density factor which are dead or near death must be replaced. Trees preserved to meet the required site density, which are dead or near death at the time of the maintenance inspection, must be replaced if there is evidence that the demise of such trees was due to construction injury. Project owners at the time of the maintenance inspection are responsible for compliance to this chapter. Trees which are used to meet the density requirements in this section shall be maintained for two years after the date of final inspection. The property owner shall maintain the required tree density. The developer or builder will be responsible for identifying newly planted trees to the homeowner and to inform the homeowner as to their proper maintenance. Any trees to be replaced by this inspection must be planted within thirty days of receipt of notification by the current owner. New tree plantings may be postponed for up to six months by posting a performance bond in the amount of one hundred ten percent of the planting cost. Failure to plant new trees in accordance with these provisions will constitute ordinance noncompliance, and will subject the project to possible civil penalties found in the city's tree preservation ordinance.
- E. Issuance of Certificate of Occupancy.
1. All trees used to fulfill the site density standard shall be planted prior to issuance of a certificate of occupancy (CO).
 2. Upon final installation of new trees planted under the requirements of this section, and following acceptance by the city planner or designee, the owner shall warrant the new trees and provide for replacement of those that do not survive for a minimum two-year period.
 3. In the event that new trees proposed to be planted to achieve the site density standard are not installed upon application for a CO or final plat approval, as appropriate, a performance bond or other acceptable surety in an amount equal to one hundred ten percent of the value of the new trees and their installation shall be posted in accordance with performance bonding requirements. The term of the bond shall not exceed one year.
 4. An inspection of all tree plantings shall be made by the city engineer to assure compliance with plan requirements prior to release of the performance bond. The bond will be drawn upon by the city at the time of expiration if the planting requirements have not been fulfilled, or if the owner has not requested an extension. One six-month extension is permitted with documented justification. Any inspections performed after the final inspection (for project release) are subject to re-inspection fee schedules.
- F. Restoration of Disturbed Tree Save Areas. Once a tree save area has been established through the city planner or designee plan approval process, any destruction of trees in that area must be mitigated by planting new trees to restore the required site density or to achieve the intended effect of the buffer as appropriate.

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- G. Remedial Care. Trees in the tree save areas which have been adversely impacted by the construction process may be subject to remedial care. Remedial care will be performed at the discretion of city engineer and may include, but not limited to, the following:
 - 1. Pruning;
 - 2. Soil aeration;
 - 3. Fertilization; and
 - 4. Supplemental watering.
 - H. Appeals. Any person adversely affected by a decision of the city planner in the enforcement or interpretation of any of the terms or provisions of this section may appeal the decision to the planning commission. Such appeal shall be made by filing written notice thereof with the city planner within ten business days following the decision being appealed.
 - I. Administrative Variances. Front, side and rear yard setbacks may be reduced by an amount not to exceed fifty percent where it is determined by the city planner or designee to be necessary in order to preserve existing specimen or significant trees. Appropriate conditions to said administrative variances shall be imposed so as to ensure the continued health of said trees following the granting of such variances, including mandatory replacement requirements. Such administrative variances shall be considered and decided consistent with the procedures and criteria contained in this section. Appeals of final decisions regarding administrative variances may be made to the zoning board of appeals.
 - J. Display of Permit and Inspections. The applicant shall prominently display the permit in a conspicuous location on the job site. Such permit shall be displayed continuously while trees are being removed or replaced or work done as authorized on the permit. As a condition for issuance of a permit, the applicant shall agree in writing to entry onto their premises by representatives of the city as designated by the city planner or designee to inspect the permit and activities at any time, and such entry shall be lawful. Failure to allow such entry shall be unlawful and shall constitute a violation of this chapter.
 - K. Stop Work Orders. Upon notice from the issuing authority, work on any project that is being done contrary to the provisions of this section shall be immediately stopped. Such notice shall be in writing; shall state the specific violations; shall be given to the applicant, his authorized agent, or the person or persons in charge of the activity on the subject property; and shall state the conditions under which work may resume. Where an emergency exists, no written notice shall be required.
 - L. Emergencies. During the period of any emergency, such as a hurricane, windstorm, ice storm, flood or other disaster, the requirements of this section may be waived by the mayor, or other designated official, upon a finding that such waiver is necessary so that public and/or private work to restore order in the city will not be impeded.

(Ord. No. 08-017, 8-7-08)

16.43.114 Fees.

Each applicant requesting a permit under the provisions of this section shall deposit with the city a fee of two hundred dollars, which shall be nonrefundable. Provided, however, no fee shall be charged on any application filed solely for work within a public right-of-way. Provided, further, that no fee shall be charged on any application where the city planner determines that the trees meet the exception/exemption criteria contained in section 16.43.109.

(Ord. No. 08-017, 8-7-08)

(Supp. No. 21)

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16.43.115 Violations and penalty.

Any person, firm or corporation violating a provision of this section shall be deemed guilty of violating a duly adopted ordinance of the city and, upon conviction by a court of competent jurisdiction, may be punished as provided in the City Code, as amended, and in addition thereto may be enjoined from continuing the violation.

The court shall have the power and authority to place any person found guilty of a violation of this section on probation, and to suspend or modify any fine or sentence. As a condition of said suspension, the court may require payment of restitution or impose other punishment allowed by law which may include mandatory attendance at an educational program concerning tree preservation. Each day's continuance of a violation may be considered a separate offense. Each tree cut, damaged or poisoned shall constitute a separate offense.

The owner of any property wherein a violation exists, and any architect, developer, builder, contractor, tenant or agents who commits or may have assisted in the commission of any such violation, shall be guilty of a separate offense.

(Ord. No. 08-017, 8-7-08)

16.43.116 Density factor.

All properties subject to this article must maintain a minimum tree density of one hundred units per acre. The term "unit" is an expression of basal area, and is not synonymous with "tree." The density requirement must be met as a condition of development permit issuance, whether or not a property contained trees prior to development. This density may be achieved through credits for preserving existing trees, by planting new trees according to the minimum standards of this section or through a combination of both.

- A. The following formula shall apply to site density factor (SDF) analysis:

$$\text{SDF} = \text{EDF} + \text{RDF}.$$

SDF is the minimum tree density to be achieved and maintained on all developed sites, 100 units per acre.

EDF (existing density factor) is the density value or credit of existing trees to be preserved on a site.

RDF (replacement density factor) is the density value of new trees to be planted on a site.

- B. The following steps are used to calculate the required tree preservation or replacement density:

Step 1. Calculate the Site Density Factor (SDF).

SDF is calculated by multiplying the number of site acres by 100.

EXAMPLE: A 2.5-acre site has an SDF of $2.5 \times 100 = 250$

Step 2. Calculate the Existing Density Factor (EDF).

EDF is determined by converting the diameter of individual trees to site density units as indicated in Table 1. These units are then totaled to determine the site EDF.

EXAMPLE: Seven trees will remain on the 2.5-acre site. This includes four 6-inch trees, two 7-inch trees and one 8-inch tree. The following site density units are associated with the trees to be preserved: The total site density units, 98, is the Existing Density Factor (EDF). TABLE INSET:

Number of Trees	Size Class	Density Units	Site Density
4	6-inch	12	48
2	7-inch	15	30

1	8-inch	20	20
		TOTAL	98

Step 3. Calculate the Replacement Density Factor (RDF). RDF is determined by subtracting the EDF from the SDF.

EXAMPLE: 250 (SDF) - 98 (EDF) = 152 (RDF)

This indicates that 152 tree density units are required on this site as replacements conform to the site density factor requirement of 100 units per acre.

Step 4. Calculate a sample plan for achieving the required Replacement Density Factor (RDF).

EXAMPLE: Plant eight 2½-inch, nine 3-inch, seven 4-inch, five 5-inch and three 6-inch diameter trees as presented below:

Number of Trees	Size Class	Density Units	Site Density
8	2½-inch	2.5	20
9	3-inch	3.5	31.5
7	4-inch	6	42
5	5-inch	7	35
3	6-inch	8	24
		TOTAL	152.5

Table 1 is used to calculate site density for existing trees by diameter.

TABLE 1. CONVERTING EXISTING TREE DIAMETERS TO SITE DENSITY UNITS

Diameter	Density Units	Diameter	Density Units
3	4	18	50
4	7	20	55
5	9	22	60
6	12	24	65
7	15	28	70
8	20	32	75
9	25	36	80
10	30	40	85
12	35	44	90
14	40	48	95
16	45	50+	100

The density factor credit for each caliper size of replacement (new) tree is shown in Table 2. An identical credit schedule applies to existing trees which are to be transplanted within the site. Such tree relocation is subject to city planner or designee approval.

TABLE 2. CONVERTING REPLACEMENT TREES TO SITE DENSITY UNITS

Diameter	Density Units	Diameter	Density Units
2½	2.5	5	7

3	3.5	6	8
3½	4.5	7	9
4	6	8	10

Basis of Site Density Tables. Site density is based on a reservation of 25 percent of the total area of each development site as open space. This is the Atlanta Regional Commission minimum standard for impervious ratios in groundwater recharge areas. It is accepted here as a reasonable standard for minimizing flooding potential and preserving the city's tree canopy. For a one-acre lot, this represents an area of 10,890 square feet. The city zoning ordinance requirement for landscaped areas is one tree per 250 square feet. The minimum planting size is 2½ caliper. This results in 43.56 trees for the 10,890 square foot area. Accordingly, a total of 40 trees in the 2½-size class is the basis of the tree diameter conversion for replacement trees. As the ordinance favors preservation of existing trees, the density credits are substantially skewed in favor of such preservation.

(Ord. No. 08-017, 8-7-08)

16.43.117 Acceptable tree species.

1.	<i>Acer floridanum</i>	Florida Maple or Southern Sugar Maple
2.	<i>Acer rubrum</i>	Red Maple
3.	<i>Fagus</i>	European Beech
4.	<i>Betula nigra</i>	River Birch
5.	<i>Carya species</i>	Hickories, Pecans
6.	<i>Castanea mollissima</i>	Chinese Chestnut
7.	<i>Celtis occidentalis</i>	Hackberry
8.	<i>Cercidiphyllum japonicum</i>	Katsura Tree
9.	<i>Cladrastis lutea</i>	American Yellowwood
10.	<i>Cunninghamia lanceolata</i>	Common Chinafir
11.	<i>Fagus grandifolia</i>	American Beech
12.	<i>Fraxinus americana</i>	White Ash
13.	<i>Fraxinus pennsylvanica</i>	Green Ash
14.	<i>Ginkgo biloba</i>	Ginkgo
15.	<i>Halesia carolina</i>	Carolina Silverbell
16.	<i>Juniperus virginiana</i>	Eastern Red Cedar
17.	<i>Betula Papyrifera</i>	River Birch
18.	<i>Liriodendron tulipifera</i>	Yellow, Tulip Poplar
19.	<i>Magnolia grandiflora</i>	Southern Magnolia
20.	<i>Metasequoia Glyptostrobooides</i>	Dawn Redwood
21.	<i>Nyssa sylvatica</i>	Black Gum, Black Tupelo
22.	<i>Pinus elliottii</i>	Slash Pine
23.	<i>Pinus virginiana</i>	Virginia Pine
24.	<i>Platanus occidentalis</i>	Sycamore
25.	<i>Quercus species</i>	Oaks, except Live Oaks
26.	<i>Robinia pseudoacacia</i>	Black Locust
27.	<i>Sophora japonica</i>	Japanese Pagoda Tree
28.	<i>Taxodium distichum</i>	Bald Cypress
29.	<i>Ulmus parvifolia</i>	True Chinese Elm
30.	<i>Zelkova serrata</i>	Japanese Zelkova

Appendix B. Tree Species Selection List—Understory Trees

1.	Acer buergerianum	Trident Maple
2.	Amelanchier arborea	Serviceberry
3.	Carpinus caroliniana	American Hornbeam
4.	Cercis canadensis	Eastern Redbud
5.	Cornus species	Dogwoods
6.	Crataegus phaenopyrum	Washington Hawthorne
7.	Oxydendrum arboreum	Sourwood
8.	Myrtles	
9.	Hollies	

(Ord. No. 08-017, 8-7-08)

16.43.200 Tree bank.

When it is determined that the required replacement trees cannot be feasibly accommodated on the project site, the applicant shall deposit funds in the designated account according to the following value calculation method:

- A. Tree Bank Calculation for Contribution Determination. Calculations for valuing contributions to the tree bank are based on two and one-half-inch caliper replacement trees with a value updated semi-annually, and on file in the parks and recreation department, representing the average cost of materials, labor and guarantee for trees planted in the city area.

Example calculation: To determine the appropriate contribution to the tree bank, calculate the density factor deficient (DFD) or number of site density units which cannot be planted on the site. Divide the DFD by 2.5 (the density unit value of a two and one-half-inch caliper replacement tree from Table 1), multiply the result by two hundred dollars (cost of a two and one-half-inch caliper replacement tree).

A 2.5-acre site has a required site density factor (SDF) of 250 units ($2.5 \times 100 = 250$).

As specified in the approved tree protection plan and tree replacement plan, following development, four six-inch trees, two seven-inch trees and one eight-inch tree will be preserved, totaling ninety-eight site density units (existing density factor). Due to site limitations, only one hundred twenty density units may be planted as replacement trees, the planted density factor (PDF).

The density factor deficient (DFD) is determined using the formula: $DFD = SFD - (EDF + PDF)$.

In this example, $DFD = 250 - (98 + 120) = 32$ units. A total of 72 density units, as calculated using Table 2, must be planted at an alternate location or the developer may elect to contribute the dollar value of these units to the city tree bank.

The contribution amount is calculated by dividing the density factor deficient (DFD) by the number of density units credited for a two and one-half-inch tree, multiplied by two hundred dollars.

That is, $32 (DFD) \div 2.5 (density\ units) \times 200 (cost\ per\ tree) = \$2,560.00$.

This value represents the total developer contribution to the tree bank in lieu of added trees planted or preserved.

Site density credits bear a relationship to the cost of planting the respective tree sizes, favoring planting of larger trees, which bears a relationship to survival rate, through a certain size class, as reflected below:

Table A: Calculations for Compliance Cost by Tree Planting Size Classes

Size	Unit Cost	Compliance Cost
2½	\$200.00	\$8,000.00
3	\$250.00	\$7,142.00
3½	\$300.00	\$6,666.00
4	\$350.00	\$5,833.00
5	\$450.00	\$6,428.00
6	\$600.00	\$7,500.00
7	\$775.00	\$8,611.00
8	\$1,000.00	\$10,000.00

(Ord. No. 08-017, 8-7-08)

16.44.300 Site plan review.

The site plan review procedures are intended to ensure adequate review and consideration of potential impacts of proposed development upon surrounding uses and activities, and to encourage a high standard of site planning and design resulting in quality development in the city.

- A. Application. An application for site plan review may be filed by the owner, or agent for the owner, of any property to be developed according to the plan. All applications for site plan review shall be filed with the city planner for transmission to the planning commission. Site plan review requirements are applicable for all proposed development in all zones within the city and all property submitted for annexation.
- B. Submission Requirements. Applications for site plan review shall contain the following information and any additional information the planning commission may prescribe by officially adopted administrative regulations; ten copies of the application shall be submitted:
 1. Site and Landscape Plan. Maps and site plans shall be submitted (minimum scale of 1" = 50' or larger, e.g., 1" = 40', 1" = 30', etc.) indicating project name, applicant's name, adjoining streets, scale, north arrow and date drawn, showing:
 - (a) The location, size and height of all existing and proposed structures on the site.
 - (b) The location and general design cross section characteristics of all driveways, curb cuts and sidewalks including connections to building entrances.
 - (c) The locations, area and number of proposed parking spaces.
 - (d) Existing and proposed grades at an interval of five feet or less.
 2. The location and general type of all existing trees over six-inch caliper and, in addition, an identification of those to be retained
 3. The location and approximate size of all proposed plant material to be used in landscaping, by type such as hardwood deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included, as required in section.

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4. The proposed general use and development of the site, including all recreational and open space areas, plazas and major landscape areas by function, and the general location and description of all proposed outdoor furniture (seating, lighting, telephones, etc.).
 5. The location of all retaining walls, fences (including privacy fences around patios, etc.) and earth berms.
 6. The identification and location of all refuse collection facilities, including screening to be provided.
 7. Provisions for both on-site and off-site storm water drainage and detention related to the proposed development.
 8. Location and size of all signs.
- C. Project Data.
1. Site area (square feet and acres).
 2. Allocation of site area by building coverage, parking, loading and driveways, and open space areas, including total open space, recreation areas, landscaped areas and others.
 3. Total dwelling units and floor area distributed generally by dwelling unit type (one-bedroom, two-bedroom, etc.) where applicable.
 4. Floor area in nonresidential use by category.
 5. Total floor area ratio and/or residential density distribution.
 6. Number of parking spaces and area of paved surface for parking and circulation.
- D. Project Report. A brief project report shall be provided to include an explanation of the character of the proposed development, verification of the applicant's ownership and/or contractual interest in the subject site, and the anticipated development schedule. At the discretion of the planning commission, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, storm water and erosion control, etc., of the proposed development.
- E. Review Procedure.
1. All applications for site plan review shall be submitted at least thirty working days in advance of the planning commission meeting at which it is considered.
 2. Upon receipt, the city planner shall place the application on the appropriate planning commission agenda. The planning commission shall consider the merits of the application at one or more public meetings.
 3. The city planner or designee may submit written reports to the planning commission containing recommendations regarding the application.
 4. The planning commission shall have thirty days after its initial consideration of the site plan to make a decision regarding the application, unless the matter is continued with the consent of the applicant. All conditions of approval or denial shall be clearly defined in the motion of approval or denial, and duly and precisely recorded in the minutes of the meeting. A failure to act on an application within the period specified above shall constitute approval of the application.
 5. The planning commission shall evaluate the site plan application, and approve the application provided the commission determines that the proposed development will be of high quality and of such design that the development will not adversely impact the city or the immediately

surrounding area. In the absence of such determination, the planning commission shall conditionally approve or disapprove the application.

6. The application shall revise any conditionally approved site plan as necessary to address any and all conditions placed on it by the planning commission to the satisfaction of the chairman of the planning commission and the building official. Upon approval and verification by the dated signatures of the chairman of the planning commission and the building official, a site plan shall be accepted and filed by the building official.
7. A building permit will be issued, subject to development being carried out in full accord with the approved site plan. In the event that any of the features, terms or conditions of the approved site plan are not complied with, the city planner or designee shall suspend or revoke any permits which have been issued pursuant to said site plan or take such other action as necessary to insure compliance.

(Ord. No. 08-017, 8-7-08)

16.43.301 Validity period for site plan.

No site plan shall be valid for a period longer than twelve months from the date it is approved by the fixing of the signature of the chairman of the planning commission and the building official, unless within such period a building permit is obtained and construction commenced.

The planning commission may grant extensions not exceeding twelve months each upon written request of the original applicant and resubmission of the application, if the application as submitted is substantially the same as the initially approved application. However, the planning commission has the power in such cases to attach new conditions to its re-approval, or to disapprove the request for an extension.

Where an application for extension contains changes which the planning commission concludes materially alter the initial application, it shall refer the application to the building official, who shall initiate a new site plan review procedure.

(Ord. No. 08-017, 8-7-08)