

Proposed Avondale Estates Tree Ordinance – Division 2

August 29, 2017

ARTICLE X. – TREE PROTECTION AND PRESERVATION.

Division 1: Tree protection and preservation in single-family residential zoning districts (R-12/R-24).

[Previously submitted].

Division 2: Tree protection and preservation in non-single-family residential zoning districts.

Sec. 5-410. Purpose and intent of this division.

- (a) Trees are declared to be beneficial public resources, deterring soil erosion, increasing air purification, aiding in abatement of noise, glare, and heat, enhancing property values, beautifying residential and commercial property, providing shelter for birds and wildlife, and contributing to the general health, safety, and well-being of the community and its citizens. The existing tree canopy is also a hallmark of the residential areas of Avondale Estates, contributing to the City's sense of place and identity.
- (b) The purpose and intent of this division is to prevent the loss of the City's existing healthy tree canopy, lessen the impact of tree removal, educate citizens and property owners on the value and methods of tree protection, and provide recourse to the City and its citizens for the unauthorized removal of healthy tree canopy within the non-residential areas of the City.
- (c) The Downtown Master Plan sets forth a unique pedestrian-oriented town center with tree-lined streets, pocket parks and plazas. Therefore, this division places priority on maintaining the existing healthy tree canopy in the City's commercial areas and establishing a new extensive network of tree canopy.
- (d) For the above reasons, it shall be unlawful to cut down, damage, poison or in any manner destroy or cause to be destroyed any tree covered by this division, except in accordance with the provisions of this division.

Sec. 5-411. Applicability of this division.

- (a) This division applies to all property in the City of Avondale Estates that is not within the following zoning districts of the City:
 - a. R-12 Low density single family detached residential.
 - b. R-24 Very low density single family detached residential.
- (b) Exemptions.
 - (1) Property in zoning districts zoned R-12 or R-24.
 - (2) Removal of trees for any purpose that does not require a land disturbance permit required in Sec. 20-304.
 - (3) Properties for which a complete and valid land disturbance permit application was filed in the City of Avondale Estates City Hall prior to adoption of this division by the Board of Mayor and Commissioners.
 - (4) The routine or seasonal pruning or transplanting of trees.

- (5) In an emergency situation, such as a severe storm or fire, the City Manager, a public safety officer, or utility company representative may remove, or authorize removal of trees that pose an imminent danger to life, property, or safe access/egress to or from public streets or private property.

Sec. 5-412. Definitions.

Arborist – A professional qualified as a Certified Arborist in the state of Georgia.

Boundary tree - a tree growing on a property boundary line between two lots resulting in joint ownership by the adjacent property owners when the trunk exists on each property, or a tree that has 20 percent or more of its critical root zone extending across a property boundary and into an adjacent property.

City Manager – the City Manager of the City of Avondale Estates, or his/her designee.

City Tree Official - the person designated by the City of Avondale Estates to administer this division of the City Code.

Critical root zone (CRZ) – the area beneath a tree represented by a circle centered on the tree's trunk with a radius equal in feet to the number of inches of the trunk diameter (DBH). For example, the CRZ of a tree that has a trunk diameter of 20 inches (DBH) is 20 feet.

Diameter at Breast Height (DBH) – Diameter of a tree's trunk measured between 4 to 4.5 feet above grade for a single-trunked tree that is not forked below 4.5 feet; measured at the smallest diameter of the trunk below a fork located below 4.5 feet; the diameter of the largest stem of a multi-stemmed tree as described above for non-forked and forked trunks.

Dead or diseased tree - a tree that has certain infestation or defects so that it would not be classified as a healthy tree. (See definition of healthy tree, below).

Hardwood tree – for purposes of this division, a tree that is not a pine tree.

Healthy tree - a tree that could be classified as being in fair or better condition with a life expectancy of at least 15 years; a relatively sound and solid trunk without extensive decay or hollow; less than 20 percent radial trunk dieback; no more than one major and several minor dead limbs; and no major insect or pathological problems.

Impervious surface – a surface that is composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, drives, parking spaces, walkways, decks, tennis courts, swimming pools and similar structures, compacted gravel and any concrete or asphalt surface.

Land-disturbing activity – any activity that results in land or vegetation change including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating.

New tree, or newly planted tree – a tree being at least 3 inches (DBH) and proposed to be planted on a property in order to meet the standards of Sec. 5-413(a) of this division. Newly planted trees must meet the standards of 5-413(c) of this division.

Overlapping tree(s) - one or more trees that are part of a stand of trees growing close enough that their tree canopies join or overlap.

Person – any individual, partnership, corporation, association or other legal entity, other than the City of Avondale Estates, including the plural as well as singular, including utility companies, all tree removal companies, and anyone removing trees on behalf of others.

Pine tree - a cone-bearing tree with evergreen needle leaves of genus *pinus*, including, but not limited to pine, juniper, and cedar species.

Public tree – a publicly-owned tree, including trees growing within the right-of-way or other City property.

Protected lot area – the portion of a lot or parcel subject to a land disturbance permit that is used to measure required tree canopy on a property that is subject to this division. The protected area includes all portions of a lot located a distance of 5 feet outside the perimeter of proposed structures and any existing structures that are proposed to remain except detention ponds, surface water, and utility easements. Consequently, the protected area includes approved yards, open space, buffers, parking lots, aisles, driveways, and sidewalks, but not buildings or other permanent structures.

Protected tree – any public tree or a tree that is required in order to achieve and maintain compliance with Section 5-414 (d) or otherwise required to be planted or preserved in accordance with an approved Tree Preservation and Replacement Plan.

Specimen tree – a canopy hardwood tree, other than a pine tree, 30 inches or more (DBH), a pine tree 36 inches or more in diameter (DBH), or a dogwood or redbud tree that is 10 inches or more (DBH). In order to be classed a specimen, the tree must also be in fair or better condition.

Tree – a self-supporting, perennial woody plant with a diameter of at least 2 inches (DBH) and that would grow to be at least 15 ft. tall at maturity.

Tree canopy – the area of ground within the critical root zone (CRZ) of a tree at its maturity. For newly planted trees refer to Sec. 5-413(c)(7) of this division for a listing of tree canopy for permitted species of trees.

Tree canopy coverage – the area of a lot covered by tree canopy. For purposes of this division, refer to Sec. 5-413(b) for a more detailed description of how tree canopy coverage is measured.

Tree removal permit – a permit issued by the City of Avondale Estates indicating a property owner has complied with the requirements of this division as they existed at the time that a complete Tree Removal Permit application with fee was received by the City.

Sec. 5-413. Standards of tree preservation and replacement.

- (a) Minimum required canopy coverage.

A property that is subject to review for a land disturbance permit required in Sec. 20- 304 is required to achieve a minimum of 40 percent coverage of the protected lot area of the subject property by healthy, mature trees after construction is complete.

(b) Measurement of tree canopy.

The calculation of percentage of tree canopy coverage is based on the ratio of A/B x 100, where “A” is the area of healthy tree canopy provided by existing and new trees, and “B” is the protected lot area of the property subject to a land disturbance permit. The calculation of “A” is based on the sum of existing and proposed new trees, using the following methods for measurement:

- (1) Existing trees. The tree canopy of existing trees is measured from a tree survey as provided in Section 5-414(c). The existing tree canopy is the amount of ground within the critical root zone (CRZ) of existing healthy trees on a property that is subject to a land disturbance permit. Dead or diseased trees cannot be included in the tree canopy measurement.
- (2) Overlapping trees. If the distance between two trees is less than the sum of the CRZ’s of the two trees, then these are overlapping trees. The tree canopy of existing overlapping trees is determined from a drawing showing the outer perimeter of the CRZs of the group of overlapping trees within the subject property. An estimate of the outer perimeter of the CRZ may be made using grid paper or other method acceptable to the City Tree Official.

EXAMPLE OF TREE CANOPY CALCULATION FOR 3 OVERLAPPING TREES

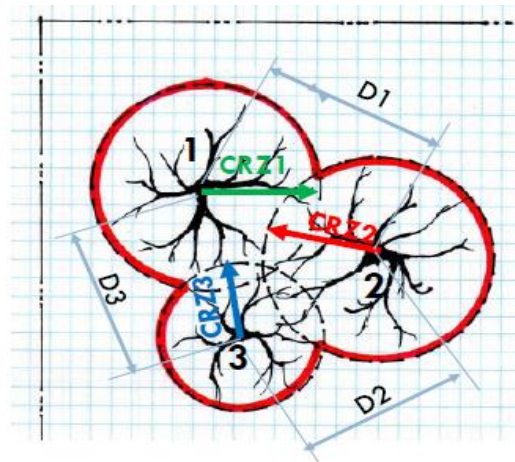
2 Overstory + 1 Understory Trees:

- Spacing D1= 35 ft.
- Spacing D2= 32 ft.
- Spacing D3= 30 ft.
- CRZ1= 22 ft. (1,520 ft.²)
- CRZ2= 24 ft. (1,809 ft.²)
- CRZ3= 16 ft. (804 ft.²)

Total CRZ Area = 4,133 ft.²

Tree Canopy Area:

Sum of grid squares = 226
 Area = 226 x 16 = 3,616 ft.²



- (3) Boundary trees. The portion of the critical root zone of healthy boundary trees that is within the property subject to a land disturbance permit is included in the measurement of tree canopy on the subject property.
- (4) Public trees. The portion of the tree canopy of public trees that is within the property subject to a land disturbance permit is included in the measurement of tree canopy on the subject property.
- (5) New trees. The tree canopy of a new tree is based on the expected critical root zone of a mature tree of a certain species, without consideration of the amount of overlap. See Sec. 5-

413(c)(7) for the canopy coverage value of permitted species of trees. In order to be included in the 40 percent canopy coverage, a new tree must meet all the standards provided in Sec. 5-413(c).

- (6) Trees impacted by land disturbance. If land-disturbing activity authorized pursuant to the subject land disturbance permit impacts more than 20 percent of a tree's critical root zone, that tree's canopy cannot be included in the tree canopy calculations above.

(c) New trees.

Newly planted trees must meet the following standards in order to be included in the calculation of tree canopy coverage.

- (1) Minimum 3-inch (DBH) at time of planting.
- (2) Meet or exceed the standards of ANSI Z60.1 Standards for Nursery Stock.
- (3) Meet or exceed minimum tree spacing standards of Sec.5-413(c)(8).
- (4) Conform to planting methods shown in City of Avondale Administrative Guidelines and Standard Details for the Tree Preservation Ordinance, current ANSI A300 Standards for Tree Care Operations, and ANSI Z133 Safety Standards.
- (5) Be a permitted tree species that appears in Sec. 5-413(c)(7). Other species of trees may be accepted if approved in writing by the City Tree Official.
- (6) A minimum of 75 percent of newly planted trees shall be hardwood species. No more than one-third of newly planted trees shall be of the same species.
- (7) Credit towards meeting tree canopy coverage shall be determined from the lists provided in 5-413(c)(7)a. and b.
 - a. Overstory trees.
Newly planted trees of the following species provide 1,900 sq. ft. of tree canopy coverage credit:

Botanical name	Scientific Name
Carya aquatica	Water Hickory
Carya cordiformis	Bitternut Hickory
Carya glabra	Pignut Hickory
Carya ovata	Shagbark Hickory
Carya tomentosa	Mockernut Hickory
Fagus grandiflora	American Beech
Liriodendron tulipifera	Tulip Poplar
Nyssa sylvatica	Blackgum or Tupelo
Quercus alba	White Oak
Quercus coccinea	Scarlet Oak
Quercus hemispherica	Laurel Oak
Quercus lyrata	Overcup Oak
Quercus michauxii	Swamp Chestnut Oak
Quercus muehlenbergii	Chinkapin Oak
Quercus nuttalli	Nuttall Oak
Quercus pagoda	Cherrybark Oak
Quercus phellos	Willow Oak
Quercus prinus (or Q. montana)	Chestnut Oak
Quercus rubra	Northern Red Oak
Quercus shumardii	Shumard Oak
Quercus x comptoniae	Compton Oak
Tilia americana	Basswood
Tilia heterophylla	White Basswood
Ulmus americana	American Elm

b. Understory trees.

Newly planted trees of the following species provide 1,200 sq. ft. of tree canopy coverage credit:

Botanical name	Scientific Name
Acer barbatum	Florida Maple
Acer rubrum	Red Maple
Acer saccharum	Sugar Maple
Aesculus flava	Yellow Buckeye
Betula nigra	River Birch
Ginkgo biloba	Ginkgo
Magnolia acuminata	Cucumbertree Magnolia
Magnolia grandiflora	Southern Magnolia
Metasequoia glyptostroboides	Dawn Redwood
Taxodium ascendens	Pond Cypress
Taxodium disticum	Bald Cypress
Ulmus alata	Winged Elm

(8) Minimum tree spacing requirements.

- a. In order to receive credit for tree canopy coverage, a newly planted tree shall meet the following spacing standards:
 - i. Minimum spacing (centerline to centerline) of newly planted overstory tree listed in Sec. 5-413(c)(7) a. from nearest existing or newly planted tree: 40 ft.
 - ii. Minimum spacing (centerline to centerline) of newly planted understory tree listed in Sec. 5-413(c)(7) b. from nearest existing or newly planted tree: 20 ft.
 - iii. Minimum set back measured from centerline of newly planted tree to nearest point of buildings, structures, above ground utilities, and easements for underground utilities: 20 ft.
 - iv. Minimum set back measured from centerline of newly planted tree to nearest edge of paved or other impervious surfaces: 10 ft.
- b. Applicants who cannot meet these standards to achieve a minimum 40 percent tree canopy coverage as provided in Sec. 5-413(a) shall comply through contributions to the City of Avondale Estates Tree Bank, as provided in Sec. 5-416(a) of this division.

(d) Parking lot landscaping.

- (1) Parking lots shall be landscaped to maximize shading and minimize heat island effects.
- (2) No less than 10 percent of the interior area of a parking lot shall be landscaped pervious areas consisting of trees, shrubbery, ground cover, sod and mulch.
- (3) Overstory trees of an approved species shall be required to be preserved or planted within the interior or along the perimeter and driveways of the parking lot so that at maturity they will provide shade for no less than 40 percent of the impervious areas of the parking lot, aisles, sidewalks and driveways.
- (4) The tree canopy cover of existing, preserved boundary trees, public trees, and other protected trees that project over the parking lot, aisles, driveways and sidewalks may be counted for meeting tree canopy cover requirements.

(e) Critical root zone (CRZ) protection.

- (1) In order to prevent harm or damage of trees during development activity, temporary tree protection fencing shall be installed during construction. Tree protection fencing shall surround the critical root zones of existing trees that are outside the limits of approved land disturbance.
- (2) In addition, placement of toxic substances, solvents, building material, construction machinery or temporary soil deposits shall be prohibited within the critical root zones of trees that are to remain on the property after construction.
- (3) Excavation, trenching for utilities or drainage, trenching for silt fence, parking, material storage or other construction activities are prohibited within the critical root zones of trees that are to remain on the property after construction. The maximum encroachment of such activities shall be 20 percent of the critical root zone.
- (4) The following activities would not violate Sec. 5-413(e) of this division:

- a. Removal and replacement of driveway or sidewalk pavement within the same footprint, provided that no additional excavation is permitted.
 - b. Construction of structures over existing foundations.
 - c. Installation of permanent fences, where posts are spaced at least 6 ft. apart.
 - d. Use of staked hay bales or compost filter socks for erosion control during construction.
 - e. Jack-and-bore utility construction.
- (f) Specimen trees and recompense.
- (1) Development activities that require a land disturbance permit shall not result in the loss, nor removal, of a specimen tree located outside the approved land disturbance area. Loss or removal of a public tree or boundary tree that is a specimen is included in this prohibition.
 - (2) Unauthorized loss or removal of a specimen tree resulting from development activity that requires a land disturbance permit shall require the property owner to pay the following amounts to the City of Avondale Estates Tree Bank prior to approval of a Certificate of Occupancy for work that is subject to said land disturbance permit:
 - a. \$100, plus \$30 per diameter inch (DBH) per specimen pine tree.
 - b. \$100, plus \$60 per diameter inch (DBH) per specimen tree that is not a pine tree.
 - (3) Land disturbance that encroaches on more than 20 percent of the critical root zone of a specimen tree shall be considered loss of the tree and may subject the owner to the penalty provided in Sec. 5-416(d) of this division.
- (g) Tree maintenance requirements.
- Applicants for a Tree Removal Permit shall sign a Tree Maintenance Agreement provided by the City of Avondale Estates as evidence that they agree to comply with the following tree maintenance requirements:
- (1) All newly planted trees shall be maintained in accordance with current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards.
 - (2) Planted trees shall be maintained in a healthy state throughout a two-year establishment period. Maintenance shall include at a minimum, watering, mulching, and pruning.
 - (3) If a tree that is part of an approved plan subject to a Tree Preservation and Replacement Plan dies or becomes diseased within two years of approval of the Certificate of Occupancy, the City Tree Official may notify the owner, and the owner shall replace the tree with an approved tree within 30 days of receiving the notice.
 - (4) See the following relevant provisions of the City Code of Ordinances:
 - a. Sec. 17-49. Pruning and removal of vegetation.
 - b. Sec. 17-50. Removal on private property.
- (h) Public trees.
- (1) Public trees are protected from disturbance or removal by development on private property except when necessary for land disturbance that has been approved by the City subject to a Tree Removal Permit.
 - (2) Removal of a public tree or disturbance of more than 20 percent of the CRZ of a public tree requires approval of a Tree Removal Permit and contribution to the City Tree Bank as

provided in Sec. 5-416(a). Failure to receive a Tree Removal Permit for such disturbance or to contribute to the City Tree Bank shall be considered a violation subject to the provisions of Sec. 5-416(d).

(3) See also City Code of Ordinances, Subdivision Regulations, Sec. 20-73. Sidewalks and planting strip.

(i) Tree trimming.

See the relevant provisions of the following portions of the City Code of Ordinances:

(1) Sec. 17-47. Planting, maintaining, removing trees, plants.

(2) Sec. 17-48. Tree topping.

(3) Sec. 17-51. Removal of stumps.

(j) Utility company requirements.

(1) All work performed by utility companies that impact protected trees shall be done in accordance with current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards and industry best management practices.

(2) Topping, tipping or heading cuts, flush cuts and stub cuts shall be prohibited.

(3) No climbing spurs or spikes shall be used in trees except when trees are to be removed or in cases of a public safety emergency, natural disaster, or aerial rescue of personnel.

Sec. 5-414. Administration of this division.

(a) When a tree removal permit is required.

(1) A Tree Removal Permit is required in addition to a land disturbance permit when a land disturbance permit is necessary pursuant to Sec. 20-304 of the City of Avondale Estates Code of Ordinances.

(2) A Tree Removal Permit is also required in order to remove a protected tree, or when land disturbance would encroach upon more than 20 percent of the critical root zone of a protected tree.

(3) Applications for a Tree Removal Permits shall be submitted to the City Tree Official using forms and fees established from time to time by the Board of Mayor and Commissioners.

(4) Each application for a Tree Removal Permit shall include a Tree Survey, a Tree Preservation and Replacement Plan and other appropriate documentation established by the City Tree Official.

(5) No land disturbance, demolition, or other construction activity may occur on the property prior to review and approval of the Tree Preservation and Replacement Plan and posting of the Tree Removal Permit on the property.

(b) Display of permit.

Before any work has commenced, but no later than 48 hours after permit issuance, the Tree Removal Permit shall be posted on the property along with the land disturbance permit in a location that is plainly visible from the adjacent street. On a corner lot, the permit shall be posted on the street opposite the front yard of the property. The Tree Removal Permit shall remain posted until a Certificate of Occupancy is granted to the applicant.

(c) Tree survey.

An application for a Tree Removal Permit shall be accompanied by a Tree Survey of the subject property. When proposed construction requires land disturbance of more than 10,000 sq. ft. of the subject property, the Tree Survey shall be prepared by a professional Arborist or Registered Landscape Architect on an accurately scaled site plan drawing that contains a current and accurate survey data prepared by a Registered Land Surveyor. The tree survey shall indicate the following information:

- (1) Surveyed property boundaries, including any proposed lot subdivision or lot combination that is part of the development plan.
- (2) Location and areal extent of surface water, and detention ponds.
- (3) Location of required zoning buffers and stream buffers, if any on the subject property.
- (4) Calculation of protected lot area of the property.
- (5) Areas of proposed land disturbance shown graphically on the tree survey drawing.
- (6) Accurate location and dimensions of existing and proposed structures, buildings, driveways, parking lots and other impervious surfaces.
- (7) Approximate location of each existing tree that is larger than 2 inches (DBH) with a description of the size and species of each such tree. Dead and diseased trees should be noted as such. Include boundary trees and public trees if a portion of the canopy area lies over the subject property. Note location of specimen trees.
- (8) Tree canopy coverage area of all existing trees, including public trees and boundary trees, if applicable, shown graphically with an estimate of the land area of tree canopy coverage on the subject property.
- (9) Percentage of tree canopy coverage of the existing property, consistent with Sec. 5-413(b) of this division.

(d) Tree Preservation and Replacement Plan.

A complete application for a Tree Removal Permit shall include a scaled drawing that represents a tree preservation and replacement plan for the subject property. When proposed construction requires land disturbance of more than 10,000 sq. ft. of the subject property, the tree preservation and replacement plan shall be prepared by a professional Arborist or Registered Landscape Architect on an accurately scaled site plan drawing that contains current and accurate survey data prepared by a Registered Land Surveyor. The tree preservation and replacement plan shall indicate the following information:

- (1) All information provided on the Tree Survey.
- (2) Location, species and diameter (DBH) of trees that are intended to be removed.
- (3) Critical Root Zone of any trees where the CRZ falls within the area of proposed land disturbance and a calculation of the extent of encroachment of land disturbance within the CRZ.
- (4) Methods of tree protection for trees to be preserved on the property in accordance with Sec. 5-413(e) of this division.
- (5) Location, species, diameter (DBH), spacing and setback of each proposed new tree in accordance with Sec. 5-413(c) of this division.
- (6) Graphic depiction and calculation of tree canopy coverage area after construction is completed in accordance with Sec. 5-413(b) of this division.

- (7) Calculation of tree canopy coverage area of trees to remain on the site along with any proposed new trees, including public trees and boundary trees, if applicable, shown graphically on the tree preservation and replacement plan.
 - (8) Percentage of tree canopy coverage of the existing property, consistent with Sec. 5-413(b) of this division.
 - (9) Tree planting methods in accordance with Sec. 5-413(c) and Sec. 5-413(d) of this division.
 - (10) Tree maintenance methods in accordance with Sec. 5-413(g) of this division.
- (e) Proposed contribution to City of Avondale Tree Bank, if any, with calculations of how the amount of contribution was determined. See Sec. 5-416(a) of this division for details. Plan Review and Enforcement Personnel.
- (1) The City Tree Official shall review the Tree Removal Permit, Tree Survey, Tree Preservation and Replacement Plan, and related documentation in order to ensure consistency of these application documents with the land disturbance application, standards and requirements of this division, and other City ordinances and regulations.
 - (2) In this review, the City Tree Official may consult with the City of Avondale Tree Board, landscape architects, foresters, arborists, and others as he/she may deem appropriate.
 - (3) The City Tree Official may suggest alternative site plans to the applicant that would minimize the loss of trees and may disapprove a proposed site plan that fails to take adequate care to preserve existing healthy specimen trees, including boundary trees and public trees.
 - (4) Following review, the City Tree Official shall approve or disapprove the Tree Removal Permit application and related documentation and notify the applicant of the status of the submitted application.
 - (5) If the permit is substantially compliant with only minor exceptions, the City Tree Official may approve the permit conditionally, subject to incorporation of comments noted and provided to the applicant.
 - (6) If the Tree Removal Plan is approved, the City Tree Official may issue the permit along with any related soil erosion control plans, stormwater management plans, and land disturbance permits to allow site development activity to commence.
 - (7) If the tree removal permit is disapproved, the City Tree Official shall provide review comments to the applicant, noting the reasons for disapproval. If the plans were disapproved, the applicant may resubmit with a revised permit application and documentation that addresses all comments, and the City Tree Official shall repeat the plan review process until the plan satisfies Sec. 5-414(e)(1).
- (f) Inspections and enforcement.
- (1) An application for a Tree Removal Permit is deemed to constitute consent from the applicant to allow the City Tree Official to enter the subject property to conduct inspections before, during, and after permitting and construction.
 - (2) At a minimum, the City Tree Official shall inspect the property prior to issuance of a Certificate of Occupancy in order to ensure that the constructed project fully complies with this division and other City permitting requirements.
 - (3) When the City Tree Official determines that the project complies with this division he/she shall provide written notice to the applicant.

(4) If the City Tree Official finds that the project does not meet the requirements of this division he/she shall withhold approval of the Certificate of Occupancy and notify the applicant of the deficiencies. The applicant shall bring the project into compliance within 15 days of receipt of such deficiency notice or reply with a written request for a time extension. The City Tree Official may grant one 30-day extension. Submission of a request for an administrative variance in accordance with Sec. 5-416(b) or an Appeal in accordance with Sec. 5-416(c) shall stay execution of the deficiency notice until such appeal or variance is resolved.

(g) Administrative guidelines and standard details.

The installation and protection of trees shall be in accordance with the "City of Avondale Administrative Guidelines and Standard Details for the Tree Preservation Ordinance" that are available during regular office hours at City Hall and made part of this division by reference.

Sec. 5-416. Compliance.

(a) Alternative compliance and Tree Bank fund.

- (1) When the City Tree Official finds that it is necessary for an applicant for a Tree Removal Permit to disturb a public tree or that it is infeasible for the applicant to meet the requirements of Sec. 5-413(a) or Sec. 5-413(h) of this division, the City Tree Official may provide written approval for the applicant to comply in an alternative manner through contributions to the City of Avondale Estates Tree Bank, as provided in Sec. 5-416(a)(2) of this division. See also Sec. 5-416(a)(3).
- (2) The amount of such contributions shall be adequate to pay the average cost of installation and maintenance of new trees of a size and species comparable to those of trees that were not planted in adequate quantity in accordance with the standards of Sec. 5-413(a) of this division. The appropriate cost shall be determined by the City based on a published schedule of installation and maintenance costs (labor and materials) for permitted trees that shall be updated from time to time by the City Tree Official and provided to applicants upon request. Maintenance costs shall be based on the average cost of maintenance of a newly planted tree for a two-year period using the standards of Sec. 5-413(g) of this division.
- (3) There is hereby established a Tree Bank fund to be maintained by the City. Such fund shall be used solely for the purchase, placement and care of trees in the City of Avondale Estates and for studies, inventories, plans and educational efforts related to the protection and expansion of the tree canopy and the related benefits to the City.
- (4) The City shall be responsible for selecting the size, species and location of such trees and shall facilitate planting of trees purchased with Tree Bank funds. Such trees shall be located on property within the City that is under the control of the City or another governmental entity. The precise timing and location of plantings shall be determined at the discretion of the City Manager.

(b) Administrative Variances.

- (1) An administrative variance from the requirements set forth in this division may be granted by the City Manager, or his/her designee upon the determination that such

requirements would create a special hardship in the use of a property subject to this division. All such administrative variances shall be made using the appropriate form provided by the City. Decisions regarding administrative variances shall be made in writing and provided to the applicant within 30 days of the filing of the administrative variance. If an administrative variance is denied, the reasons for such denial shall be provided in the written decision.

- (2) The determination of a special hardship for an administrative variance shall be based on the following findings by the City Manager:
 - a. The applicant, in consultation with the City Tree Official, has made diligent effort to redesign the site and structures proposed for the subject property in a way to minimize the impact on existing trees and to meet the standards of this division, including the provision of a minimum of 40 percent tree canopy on the property.
 - b. In addition, one or more of the following standards are met:
 - i. After construction of the otherwise approved site improvements, there is inadequate space on the site to plant a sufficient number of trees to achieve the required 40 percent tree canopy coverage and meet the spacing standards of Sec. 5-413(c)(8) of this division; or
 - ii. The topography and/or geologic conditions of the site makes planting required trees particularly difficult, or would make survival of the trees unlikely; or
 - iii. Placement of additional trees required to meet the requirements of a 40 percent tree canopy would create unsafe conditions for vehicular traffic, in the opinion of the City Manager.
- (3) Every effort shall be made to assure that the property under development is in full compliance with this division. No administrative variance shall be granted that would reduce the required number of newly planted trees by more than 50 percent compared with the required number of new trees needed to meet the 40 percent canopy coverage requirement in Sec. 5-413(a) of this division with spacing as required in Sec. 5-413(c)(8) of this division.
- (4) Nothing in this division shall prevent the applicant from applying for a Variance from the provisions of this division in accordance with Sec. 1610 of the Zoning Ordinance of the City of Avondale Estates.

(c) Appeals.

- (1) Any person adversely affected by a final decision of the City Manager in the administration of this division may appeal such decision to the Board of Appeals. Such appeal shall be taken by filing written notice thereof with the City Clerk within ten days after the appellant receives a decision of the City Manager. Each appeal shall be conducted pursuant to the rules and procedures for such appeals.
- (2) If the appellant or the City Manager is dissatisfied with the decision of the Board of Appeals, such decision may be appealed to DeKalb County Superior Court by writ of certiorari. In such event, no permit shall be issued pursuant to this division until such appeal is finally resolved.

(d) Violations and Penalties.

- (1) Any person violating or failing to comply with any of the provisions of this division shall be subject to the penalties as provided in this division. When this division does not specify a penalty, the penalty upon conviction shall be imposed pursuant to Section 1-8 of the City Code. In addition, such person may be enjoined from continuing the violation. Each tree cut, damage or poisoned shall constitute a separate offense. Examples of violations include, but are not limited to the following:
 - a. removal of a protected tree or disturbance of more than 20% of the CRZ of a protected tree other than as approved by a valid Tree Removal Permit;
 - b. land disturbance without an approved Tree Removal Permit;
 - c. failure to install or maintain tree protection;
 - d. improperly installed tree protection;
 - e. damage to existing or newly planted trees;
 - f. damage to CRZ's of existing or newly planted trees as provided in Sec. 5-413(e) of this division.
- (2) Any person violating or failing to comply with any of the provisions of this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties as provided in this division. When this division does not specify a penalty, the penalty upon conviction shall be imposed pursuant to section 1-8 of the City Code. In addition, such person may be enjoined from continuing the violation. Each tree cut, damage or poisoned shall constitute a separate offense.

(e) Fees.

- (1) The fee schedule to review applications for a Tree Removal Permit shall be as follows:
 - a. Site of 1 acre or less in size.....\$25.00
 - b. Site greater than 1 but less than 5 acres.... \$50.00
 - c. Site greater than 5 acres:
 - i. For first 5 acres....\$75.00
 - ii. For each additional acre....\$5.00
- (2) Each resubmittal for review of the same application shall be accompanied by a fee equal to the original fee.

Sec. 5-417. – Sec.5-430. – Reserved.