

## 3.4 Tree Replacement Requirements

### Section 51A-10.132

(a) *In general. Except as provided in this section, if a **tree removal application** is approved, a **building permit** is issued, an **unauthorized tree removal** occurs, or when a **tree is removed from a public right-of-way** in conjunction with a private development, one or more healthy replacement trees must be planted in accordance with the requirements in this article.*

### Unrestricted Zone

(b) *Exception. Trees removed with a **building permit for construction of a single family or duplex dwelling on a lot one acre or less in a residential district** are not required to be replaced if the tree was located in the **unrestricted zone** on the tree removal property. Trees not in the unrestricted zone are subject to replacement.*

(1) *For front and rear yards, the unrestricted zone does not include required setbacks or the area 15 feet from the property line, whichever is greater.*

(2) *For side yards, the unrestricted zone does not include required setbacks or the area five feet from the property line, whichever is greater.*

## Tree Classification and Selection

### Classification of trees

(1) *Quantity.*

(A) *Except as provided in this section, the minimum total caliper of replacement trees must equal or exceed the total classified diameter inches of the protected trees removed or seriously injured as listed below.*

(B) **Tree classification for mitigation:**

(i)	<b>Historic trees:</b>	<b>3:1</b>
(ii)	<b>Significant:</b>	<b>1.5:1</b>
(iii)	<b>Class 1:</b>	<b>1:1</b>
(iv)	<b>Class 2:</b>	<b>0.7:1</b>
(v)	<b>Class 3:</b>	<b>0.4:1</b>

(2) *Species.*

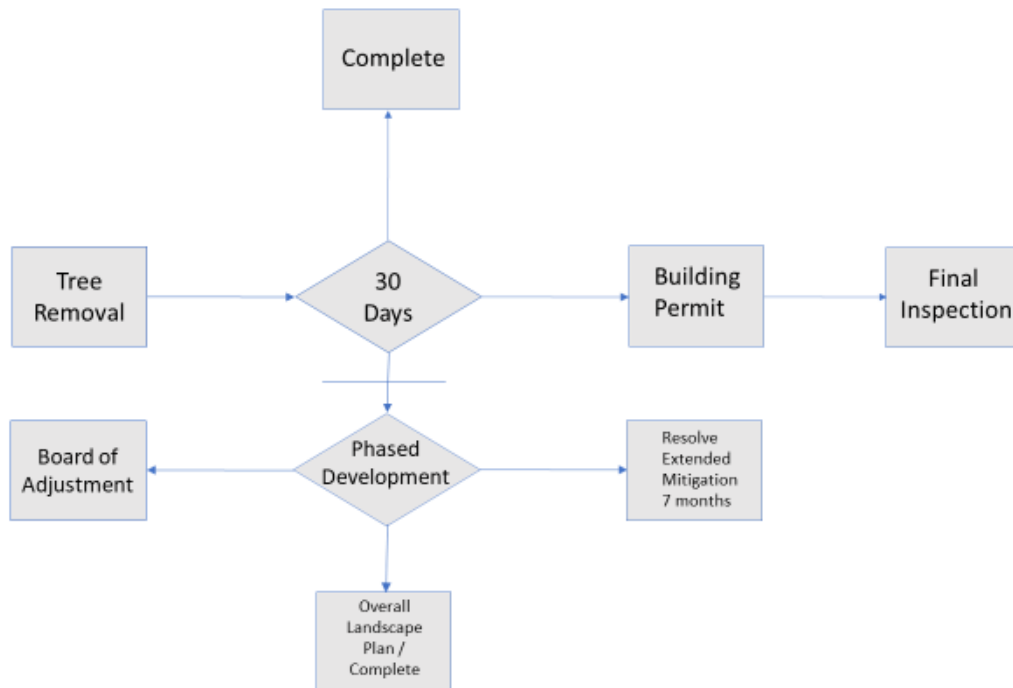
(A) *A replacement tree must be an approved tree determined by the director.*

(B) *For a tree removal property two acres in size or more, no one species of tree may constitute more than 35 percent of the replacement trees planted on the tree removal property.*

(3) *Location. The replacement trees must be planted on the lot from which the protected tree was removed or seriously injured, except as otherwise allowed by Section 51A-10.135. Replacement trees may not be planted within a visibility triangle, a water course, in an area within 15 feet horizontally to the closest point of an overhead electric line, or an existing or proposed street or alley unless the tree is authorized by a license and permit and is required to be in that location by other ordinance.*

(4) *Minimum size. A replacement tree must have a caliper of at least two inches.*

## Timing of mitigation



(5) *Timing.*

(A) *Except as provided in this section, all replacement trees must be planted within 30 days of removal.*

(B) *If the property owner provides the building official with an affidavit stating that all replacement trees will be planted within six months, the building official may allow the replacement trees to be planted during that six-month period.*

(i) *If the property owner submits an application for a building permit for construction on the tree removal property within the six-month period, the tree replacement requirements may be transferred to the building permit for final completion of all tree replacement prior to a final certificate of occupancy or certificate of completion for the property.*

(ii) *If the property owner does not submit an application for a building permit for construction within the six-month period, all tree replacement must be completed within 30 days after the expiration of the six-month period.*

(C) *For **residential subdivision developments and multi-phase commercial developments**, tree replacement may be completed in accordance with a **comprehensive tree replacement plan** for the development. The building official may allow the property owner additional time to complete the development project to plant the replacement trees, with the following restrictions:*

(i) *A proposed landscape plan identifying all conceptual landscaping for the properties within the subdivision must be provided by a **landscape architect** and designed according to the soil and area requirements of this article. The proposed plan will specify the minimum tree size and general species distribution for the properties in accordance with this article. The tree replacement for the development identified on the proposed plan must be completed prior to the final certificate of occupancy or certificate of completion for the project.*

(ii) *All required tree replacement that is not scheduled by an approved design for the property under the comprehensive tree replacement plan must be completed within six months of issuance of the tree removal application or building permit for removing trees.*

# General Development Procedures – Timing (10.134)

	Planning	Transition	Implementation	
General Process:	Pre-Development	Grading/ Building Permits	Construction	Inspection
Standard:	<p>Tree Survey (Classify trees)</p> <p>Forest Stand Delineation (FSD)</p> <p>Assess the property from concept to design, to confirm the placement of the SBZ, RBZ, Interior landscaping, potential Legacy tree locations, and existing tree protection areas.</p> <p><b>Tree removal with no development:</b> Complete within 30 days of tree removal permit approval; maximum of six months with affidavit confirming completion within the approved six month time period following permit issue date.</p>	<p><b>Tree removal prior to building development:</b> Allowed in conjunction with a grading permit, or under a separate building permit.</p> <ul style="list-style-type: none"> <li>Tree protection per 10.136 is required prior to clearing. If a building permit for construction is submitted within six months after a tree removal permit, tree replacement requirements may be transferred to the building permit, to be completed prior to a final certificate of occupancy or certificate of completion.</li> <li>If no building permit is submitted within six months of tree removal permit, all tree replacement must be completed within 30 days of the initial six month period.</li> <li>For multi-phased residential subdivisions and multi-phased commercial development, a comprehensive tree replacement plan may be completed, with restriction.*</li> </ul> <p><b>*Multi-phased development restrictions:</b></p> <ul style="list-style-type: none"> <li>Provide a professionally-designed conceptual landscape plan with the tree replacement plan for the full subdivision. The landscape plan will specify minimum tree size and species distribution in accordance with Article X. Additional time is allowed to complete replacement under the following:                             <ul style="list-style-type: none"> <li>Tree replacement per the design must be completed prior to the final certificate of occupancy or certificate of completion for the subdivision.</li> <li>Tree replacement not designated for planting on site, per the plan, must be completed within 30 days of issuance of the tree removal permit or building permit used for removing the trees.</li> </ul> </li> </ul>	<p>Replacement of Classified Inches. If Legacy trees, 12 inches credit for large or medium trees. Existing trees credited as tree canopy coverage under FSD.</p>	

## Exceptions and Additional Requirements.

(6) **Forest stand delineation exceptions for old-field and undeveloped lots.** When an FSD, under Section 51A-10.132(b)(4)(B) is used to assess tree canopy coverage:

(A) except as provided in this paragraph, no mitigation is required for a tree stand when:

(i) at least 60 percent of the trees in the stand are Class 3, eastern red cedar, or unprotected species; and

(ii) the average tree diameters in the stand are less than 12 inches DBH.

(B) significant trees in a stand located on an old-field or undeveloped lots must be mitigated.

See Appendix G, Forest Stand Delineation

(7) **Additional requirements for forest stand delineation for properties five acres or greater with institutional uses or recreational uses.** When an FSD under Section 51A-10.132(b)(5)(D) is used to assess tree canopy coverage:

(A) the tree removal property must maintain or increase the tree canopy coverage for the property recorded in the most recent FSD; and

(B) significant trees that are included in the FSD tree canopy coverage must be replaced according to the diameter standards for significant trees in this article.

(C) A replacement tree that dies within five years of the date it was planted must be replaced by another replacement tree that complies with this section.

## DEVELOPMENT IMPACT AREA WAIVER

### **(f) Development Impact Area Waiver**

Except as provided in this section, if tree removal is authorized by a building permit for construction of a main structure, a property owner may apply for a waiver of the tree replacement requirements in Section 51A-10.134. The waiver applies to protected trees in the development impact area on properties not listed in Sections 51A-10.131 and 51A-10.134(b), all single family and duplex permits, and properties excepted from Article X landscape requirements in Section 51A-10.121.

(1) *Qualifications. The owner must demonstrate a good faith effort to design the building project to preserve the most, the biggest, and the best trees, by providing the following:*

(A) *a tree survey and a tree protection plan implemented as required by this division; and*

(B) *proof of consultation with a qualified consulting arborist or landscape architect for planning and implementing best management practices to reduce the negative impacts of construction on protected trees before submitting the building permit for approval.*

(2) *Tree removal property waiver requirements.*

(A) *Tree removal properties two acres and larger. All tree removal properties two acres and larger must:*

(i) *meet the qualification requirements of **Section 51A-10.135(d)(1)** for **sustainable development incentives**;*

(ii) *reduce mitigable inches of protected trees on the tree removal property by a minimum of 50 percent through application of tree canopy coverage credit using Sustainable Development Incentives procedures; and*

(iii) *develop and implement the sustainable landscape plan and tree preservation plan in Section 51A-10.135(d)(4).*

(B) *Tree removal properties less than two acres. The owner must meet all qualifications in **Section 51A-10.132(f)(1)**.*

(3) *Waivers. The building official shall waive tree replacement requirements for protected trees within the development impact area if the building official determines that all requirements in this subsection are met.*

(A) *Limitations.* Except as provided in this subsection, the waiver is limited to protected trees in the development impact area on the tree removal property growing within the building footprint, minimum required parking areas, driveways, sidewalks, utility easements, detention areas, areas of grading, excavation areas, and staging areas necessary for construction.

(B) *Waiver calculations.* Except as provided in this subparagraph, the number of inches to be waived is determined by providing the total number of inches of protected trees in the applicable locations in the development impact area.

(i) The building official shall not waive mitigation of protected trees for non-required off-street parking spaces. The number of inches waived must be reduced on a pro-rata basis determined by the percentage of non-required parking spaces provided in the parking area. (Example: If the number of parking spaces required is 450; and 521 spaces are being provided on the lot, then the tree mitigation requirements shall not be waived for the 71 excess parking spaces. [ $71/450=15.78\%$ ]).

(ii) The building official shall not waive mitigation of protected trees for an area greater than 70 percent of the tree removal property. Trees must be mitigated on a pro-rata basis if the development impact area exceeds 70 percent of the tree removal property. (Example: If the development impact area is 85 percent of the tree removal property, 15 percent of the trees removed must be mitigated, [ $0.85-0.70=0.15$ ]).

(C) *Significant trees.* Any significant tree on the tree removal property removed or seriously injured must be replaced and is not eligible for this mitigation waiver.

(D) *Primary natural area.* The development impact area waiver may not include trees within a primary natural area.

(E) *Special exception.* A tree removal property with a waiver must fully comply with the minimum landscape requirements without a special exception.

(F) *Completion.* No waiver is complete until the tree removal property passes a final tree mitigation inspection or landscape inspection and obtains a permanent certificate of occupancy.

(G) *Denial.* The building official shall deny a development impact area waiver if the building official determines that the owner is in violation of any of the applicable requirements of this division during the period between initial review and final tree mitigation or landscape inspection. If a waiver is denied, the required tree replacement must be completed in accordance with Section 51A-10.134.