

ARTICLE II. TREE CONSERVATION AND REPLACEMENT*

***Editor's note:** Ord. No. 2003-8, adopted January 21, 2003, amended art. II in its entirety to read as herein set out. Former art. II, §§ 106-26--106-63, pertained to tree preservation and replacement, and derived from Ord. No. 93-01, §§ 1--18, 1-4-93, Ord. No. 97-03, 1-27-97, and Ord. No. 98-13, 10-19-98.

Sec. 106-26. Purpose and Intent.

The intention of this section is to promote the awareness of the benefits of trees as an integral part of the land development and construction process and to establish mechanisms which result in long term community viability. This section shall be known and may be cited as "The Smyrna Tree Ordinance".

Community forests are recognized for their important role in providing economic vitality and ecological viability for all real property. The contribution of trees to the general well being and quality of life of the citizens of Smyrna is recognized and valued. Therefore:

The city deems it necessary and desirable in the interest of public health, safety and welfare to enact an ordinance for the conservation, planting and replacement of trees and to manage and grow the community forest.

The purpose of this article is to:

- (1) Provide standards for the conservation and replacement of trees as part of the land development process;
- (2) Provide standards for the protection of trees during construction whenever possible in order to enhance within the city; and
- (3) Provide education to the community about the value and best management practices for community forest management.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-27. Applicability.

(a) The terms and provisions of the Smyrna Tree Ordinance and these standards shall apply to any activity which requires the issuance of a development permit. No development permit or grading permit shall be issued until it is determined that the proposed development is in conformance with the provisions of the article.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-28. Exemptions.

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

- (1) The removal of trees from single-family or duplex lots where less than 50% of the site is affected by development activity.
- (2) The removal of trees from horticultural properties such as farms, nurseries or orchards. This exception shall not be interpreted to include timber harvesting incidental to development of the land.
- (3) The necessary removal of trees by a utility company within dedicated utility easements.
- (4) The 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 functions in the construction or improvement of public rights-of-way.
- (5) The removal of trees, other than specimen trees, from detention ponds and drainage easements and other publicly dedicated easements.
- (6) The removal of any tree which has become or threatens to become a danger to human life or property.
- (7) The removal of trees from public recreation areas such as playgrounds, ball fields, golf courses and other such uses.

(b) Notwithstanding the foregoing, all reasonable efforts shall be made to save specimen trees.

(Ord. No. 2003-8, 1-21-03; Ord. No. 2003-35, 11-17-03)

Sec. 106-29. Definitions.

For purposes of this article, the following definitions shall apply:

Arborist means the community development director or his/her designee responsible for administering the provisions of this article.

Boundary Tree means a tree 24 inches (dbh) or larger located on a property adjacent to a permitting property whose critical root zone or canopy extends more than ten percent (10%) into the permitting property. Boundary trees must be in good health and meet the minimum requirements of Section 106-30(2).

Buffer means a landscaped open space area and/or screen for buffering incompatible uses, as defined in Section 503 of the Zoning Ordinance.

Buildable Area means the portion of a lot which is not located within any minimum required yard, landscape strip/area or buffer; that portion of a lot wherein a building or structure may be located.

Caliper means a forest standard of tree trunk measurement for replacement trees. Caliper of the trunk shall be taken at six inches above the ground for trees up to and including four-inch caliper size, and 12 inches above the ground for trees larger than four-inch caliper.

Community Forest means a collection of all publicly and privately owned trees located on all right-of-ways, open green spaces, undeveloped forests, parks, residential and commercial lands which function as a system to provide a wide range of economic and environmental benefits to all the members of the community.

Critical Root Zone (CRZ) means the minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter (DBH). Example: The CRZ radius of a 20-inch diameter tree is 30 feet.

DBH (Diameter Breast Height) means the standard measure of tree size for those trees existing on a site that have a caliper of at least two inches at a height of four and one-half feet above the ground. If a tree splits into multiple trunks below four and one-half feet, then the trunk is measured at its most narrow point beneath the split.

Density Factor means a unit of measure used to prescribe the calculated tree coverage on a site. Site density factor for areas within the corporate limits of the City of Smyrna is 100 inches per acre.

Development Activity means any alteration of the natural environment which requires the approval of a development or site plan and issuance of a development permit. Development activity shall also include the "thinning" or removal of trees from any undeveloped land, including that carried out in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

Development Permit means an official authorization issued by the Community Development Director or his/her designee.

Hardwood Tree means any leaf bearing (not needle-bearing) tree that is not coniferous (cone bearing). This definition is based on the colloquialism, and does not reflect any true qualities of the tree.

Hazard Tree means a tree which has a major structural defect or damage that could lead to catastrophic loss of the tree or a portion of the tree and which has an identifiable target and may result in property damage or personal injury.

International Society of Arboriculture (ISA) means a worldwide professional organization dedicated to fostering a greater appreciation for trees and to promoting research, technology and the professional practice of arboriculture. This organization administers certification programs of arborists, tree workers, utility arborists, and municipal arborists.

Overstory Trees means those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of greater than 40 feet.

Public Tree means a tree located on city property including, but not limited to, city street rights-of-way, buildings, parks and cemeteries.

Reasonable Effort means includes, but not be limited to, alteration of building design; alternate location of building, parking area, water retention, drainage pipes; or relocation of utilities in an effort to conserve specimen trees.

Revegetation means the replacement of trees and landscape materials into the minimum required landscape areas, as determined by the zoning code, conditions of zoning approval, or the provisions of this article.

Root Plate means the area of the root zone comprised of pedestal roots, the zone of rapid taper and roots under compression, the directional radius of which based upon the tree trunk diameter at 4.5 feet above the ground. The root plate will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one-half times the number of inches of the trunk diameter. Catastrophic failure of the tree could result if roots in this area are damaged or destroyed. Example: The root plate radius of a 20-inch diameter tree is 10 feet.

Softwood Trees means any coniferous (cone bearing) tree, such as pine, fir, hemlock, cedar, etc. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Specimen Tree or Stand means any tree or collective group of trees which qualifies for special consideration for preservation due to size, type and condition. See Section 106-30 for general criteria regarding specimen trees or stands.

Street Tree means any overstory tree planted within the public easement, which is a planted three feet (3') from the back edge of the sidewalk, running parallel to the street. An understory tree shall be planted as a Street Tree with the presence of overhead utilities.

Technical Standards means the *Technical Standards and Best Management Practices for Smyrna's Community Forest* prepared in conjunction with this ordinance and which, as they exist and may be amended from time to time shall be incorporated herein, and a copy of which shall be maintained in the office of the City Clerk of the City of Smyrna, Georgia. If any term of the Technical Standards is deemed to conflict with the terms of this ordinance, the terms of this ordinance shall be controlling.

Tree means any self-supporting, woody perennial plant usually having a single trunk.

Tree Bank means an account, maintained by the finance department of the City of Smyrna, of funds contributed from developers as a form of alternative compliance to the Smyrna Tree Ordinance. Funds from the tree bank are to be used solely for maintenance, education and the purchase and planting of trees on public sites within the city as authorized by the Community Development Director.

Tree Removal means any act which causes a tree to die, including but not limited to damage inflicted upon the root system or trunk as a result of:

- (a) The improper use of machinery on the trees;
- (b) The storage of materials in or around the trees;
- (c) Soil compaction;

- (d) Altering the natural grade to expose the roots or to cover the tree's root system with more than 4 inches of soil;
- (e) Causing the infection or infestation of the tree by pests, fungus or harmful bacteria;
- (f) Pruning judged to be excessive by the Community Development Director or not in accordance with the standards set forth by the International Society of Arboriculture (ISA);
- (g) Paving with concrete, asphalt or other impervious surfaces within such proximity as to be harmful to the tree or its root system; and
- (h) Application of herbicides or defoliant to any tree without first obtaining a permit.

Tree Removal Permit means a formal letter or permit issued by the Community Development Director allowing for the removal of said tree(s) on a property.

Tree Protection Zone means all lands that fall outside the buildable area of a parcel required to remain in open space, or all areas required as landscaping strips or buffers according to the Smyrna Zoning Code, conditions of zoning approval or provisions of this article.

Tree Save Area means an area designated for the purpose of meeting tree density requirements, saving existing trees, preserving the root system of existing trees and/or preserving existing buffers.

Undesirable Tree Species List means a list of tree species that shall be prohibited when complying with the shading and landscaping provisions of this article. See the Technical Standards of the Smyrna Tree Ordinance for this list.

Understory Tree means those trees that grow beneath the overstory, and will generally reach a mature height of under 40 feet.

All other words or phrases as appropriate to the context of their uses shall be interpreted as defined in the Zoning Ordinance of the City of Smyrna, Georgia.
(Ord. No. 2003-8, 1-21-03; Ord. No. 2003-35, 11-17-03)

Sec. 106-30. General Criteria for the Determination of Specimen Trees or Stands of Trees.

(a) *Specimen tree:*

- (1) Any tree which equals or exceeds the following diameter sizes:
 - a. 24 inch dbh – Overstory trees of the following Genus: Oak and Beech.
 - b. 30 inch dbh - Overstory trees of the following Genus: Ash, Blackgum, Cedar, Fir, Hickory, Maple, Pecan, Persimmon and Spruce.
 - c. 36 inch dbh – Overstory trees of the following Genus: Pine, Poplar and Sweetgum.
 - d. 10 inch dbh - Small trees such as dogwoods, redbuds, sourwoods, etc.

- (2) A specimen tree must meet the following minimum standards:
- a. A life expectancy of greater than 15 years.
 - b. A structurally sound trunk, not hollow and having no extensive decay, and less than 10 percent radial trunk dieback.
 - c. No more than two major and several minor dead limbs (hardwoods only).
 - d. No major insect or pathological problem.
 - e. Relatively uniform crown distribution or correctable crown distribution with no more than 70% of all branches on one side of tree.
- (3) A lesser sized tree can be considered a specimen tree if it is a rare or unusual species, or of exceptional or unique quality, or of historical significance. *Requires approval from the Director of Community Development.*
- (4) A lesser size tree can be considered a specimen tree if it is specifically used by a builder, developer, or design professional as a prominent feature in a landscape project. *Requires approval from the Director of Community Development.*

(b) *Specimen tree stands:* A contiguous grouping of 4 or more trees which has been determined to be of high value in the opinion of the Community Development Director. Determination is based upon the following criteria:

- (1) A relatively mature, even-aged stand.
- (2) A stand with uniform species composition or of a rare or unusual nature.
- (3) A stand of historical significance. *Requires approval from the Director of Community Development.*

(c) All surveyed trees will be inspected by an ISA certified arborist and those that qualify as Specimen Trees or Specimen Tree Stands will be noted, located on the Tree Survey and the Tree Protection Plan, and certified in writing as being of specimen quality prior to the issuance of any permit.

(Ord. No. 2003-8, 1-21-03; Ord. No. 2004-24, 6-21-04)

Sec. 106-31. Minimum Tree Density Requirements.

(a) A basic condition of The Smyrna Tree Ordinance is that all applicable sites maintain a minimum tree density of 100 inches per acre. The density requirement must be met whether or not a site had trees prior to development for the issuance of a development permit.

Notwithstanding any other provisions of this article, all trees designated for replacement meeting the definition of specimen trees shall be replaced on an inch-for-

inch basis with a maximum recompense of 100 inches. All trees used to replace specimen trees shall have a minimum caliper of four inches. Any trees planted on site to recompense specimen trees shall not be counted towards the required tree density for the site. However, any street tree and/or parking lot tree planted after the minimum density for the site has been satisfied can be counted to recompense specimen trees.

The density may be achieved by counting existing trees to be conserved, by planting new trees according to the minimum standards in this article or by a combination of the two. All conserved specimen trees on-site will receive density credit of three times the dbh of the tree. All conserved specimen trees must be protected in accordance to Section 106-40 of the Smyrna Tree Ordinance to receive density credit.

Minimum tree density shall be calculated and established pursuant to the formula and analysis set forth in the Technical Standards to this chapter. The property owner shall be subject to the minimum tree density requirement set forth in this section. The property owner shall base the density calculation on the net site area, excluding the infrastructure improvements (roads, utility lines, detention ponds, etc.) and buffer zones. In no event shall a parking lot be considered an infrastructure improvement.

(b) All single-family and/or duplex residential lots shall provide a minimum of one tree at time of certificate of occupancy.

(c) Trees listed on the Undesirable Tree Species List found in the Technical Standards shall not be used to achieve density, recompense and or screening requirements.

In addition, replanting shall be at the ratio of not less than one (1) overstory tree for every three (3) understory trees. Density credit may be met by planting all overstory trees, but not by planting only understory trees.

No more than thirty percent (30%) of any one genus may be included in any replanting plan. Exceptions to this requirement may be authorized by the Community Development Director where in their opinion an exception is justified.

(d) Notwithstanding the foregoing, it is required that all reasonable efforts 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, drainage pipes; or relocation of utilities.

(e) Streetscape Trees shall be required as part of the streetscape on either side of the front lot line in accordance with the provisions of this article. The developer must still meet the streetscape requirements if the minimum density for the site has been met. Street tree establishment shall be done in accordance with the Technical Standards of this ordinance. Tree canopy cover must meet the following minimum requirements;

- (1) All developments shall have one (1) overstory tree planted every forty feet (40') along all subdivision roads and cul-de-sacs, inclusive of driveways and easements.
- (2) Where overhead utility lines exist, the developer shall plant one (1) understory tree every thirty feet (30').

- (3) Where feasible, existing healthy trees greater than six inches (6") dbh on the site or lot shall be incorporated into the required streetscape.
 - (4) Trees may be spaced at variable distances to conform to the site standards and minimum distances set forth in the Technical Standards of the Smyrna Tree Ordinance, however they must be more or less evenly distributed across the front lot line.
 - (5) Street trees shall be planted in the right-of-way, three feet (3') behind the edge of the sidewalk. If a street tree is to be planted on private property a landscape easement must be provided. Maintenance of the street tree is the responsibility of the property owner.
 - (6) Street trees shall not be allowed in traffic vision clearance zones designated by the Director of Community Development.
 - (7) Street trees shall be horticulturally appropriate for use in road frontage areas. Other species may be used as street trees with approval from the Community Development Director.
 - (8) Street trees can be counted as part of the required density, but they may be an additional requirement if the 100 inches per acre is met elsewhere on site. Specimen Tree Recompense may be use to fulfill this requirement after the overall density for the site is satisfied.
- (f) Parking Lot Trees shall be required as part of the commercial developments within the city in accordance with the provisions of this article. The developer must still meet the parking lot requirements if the minimum density for the site has been met. Parking lot tree establishment shall be done in accordance with the Technical Standards of this ordinance. Tree canopy cover must meet the following minimum requirements;
- (1) A sufficient number of trees must be planted in interior portions of parking lots so that every parking space must be within fifty feet (50') of the trunk of a tree to assure uniform distribution of trees throughout the parking area.
 - (2) Any redevelopment project that results in the removal and replacement of 25 percent or more of an existing parking lot (other than routine maintenance of the parking surface) must retrofit the entire parking lot to meet the tree planting standards set forth in this section.
 - (3) Light poles are not permitted in parking lot islands, peninsulas and medians unless a lighting plan is submitted for review and approval by the Director of Community Development.
 - (4) All street yards shall be planted with one tree for each forty (40') linear feet exclusive of driveways, access ways and sight distance triangles.
 - (5) Trees planted to meet the parking lot and street yard requirements must meet or exceed the minimum standards specified in the Technical Standards of Smyrna Tree Ordinance.

- (6) Parking lot or street yard trees can be counted as part of the required density, but they may be an additional requirement if the 100 inches per acre is met elsewhere on site. Specimen Tree recompense may be used to fulfill this requirement only after minimum tree density for the site has been satisfied.

(Ord. No. 2003-8, 1-21-03; Ord. No. 2004-37, 12-20-04)

Sec. 106-32. Alternative Compliance to Tree Density Requirements.

(a) The intent of this article is to ensure that a minimum density of trees is maintained on all developed sites. Occasionally, this intent cannot be met because a site will not bear the required density of trees. To provide some alternatives in such case, two methods of compliance, at the discretion of the Community Development Director, may be acceptable:

- (1) Planting at a location remote from the project site.
- (2) Making donations to the Smyrna Tree Bank.

(b) The following standards have been established for administering these alternative compliance methods. The Community Development Director must review and approve all requests for alternative compliance. In no instance shall 100 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 in question.

(c) No development permit shall be issued until the Community Development Director has approved the request and received the necessary documentation and/or funds. If trees are to be planted at another 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 Community Development Director at least 30 days prior to requesting a final inspection. This plan shall include the species, size and location of trees to be planted off-site to meet the tree density deficit shown. Release of this project is subject to approval of this plan, as well as verification of the installation of the trees."

(d) *Smyrna Tree Bank.* As another method of alternative compliance, the city will accept donations to the Smyrna Tree Bank. These donations will be used for the sole purpose of maintenance; education and planting trees on public property within the city (See Section 106-50).

(e) *Fund Administration.* The Smyrna Tree Bank will be administered by the Community Development Director. A quarterly report shall be submitted to the City Administrator showing amounts collected, amounts spent, and the type and location of trees planted.

(g) Existing specimen trees may count toward the minimum tree density requirements if land disturbance occurs within no more than 20 percent of the CRZ and no disturbance occurs within the specimen tree's root plate. The developer shall provide a tree bond,

letter of credit or another form of fiscal surety approved by the city for a period of five years. The developer shall establish a two-year tree bond or letter of credit, which shall be automatically renewed for a period of five years. This bond/letter of credit shall be equal to the inch per inch replacement cost of the specimen tree, in addition to the removal cost of the same tree. The project landscape architect will take a photographic record of the condition of the specimen tree within 30 days after the Tree Preservation and Tree Replacement Plan have been approved for construction. The tree bond/letter of credit and the photographic record of the condition of the specimen tree must be submitted to the Department of Community Development prior to the issuance of a development permit. When the bond/letter of credit is requested to be released, the city will review the photographic record of the tree five years prior and compare it to the current condition of the tree to determine the release of the bond/letter of credit.

- (1) A developer may encroach in more than 20 percent of the critical root zone of a specimen tree at the discretion of the Community Development Director. The developer must provide following information to the Department of Community Development prior to seeking approval to encroach more than 20% into the critical root zone of a specimen tree:
 - a. A tree protection plan showing the type of encroachment, the amount of critical root zone disturbance and any other potential impacts.
 - b. A letter from a certified arborist reporting on the current health of the tree.
 - c. An implementation plan. The developer shall provide an implementation plan to remedy the encroachment into the critical root zone. The implementation plan may include, but not limited to prescribed treatments by professional tree workers (i.e. aeration, root pruning, provision of supplemental nutrients and pruning the crown), alternative construction methods and alternative building footprints. The implementation plan must provide details pertaining to the services provided, the date and time each service will be provide and etc.
 - d. A tree bond, letter of credit or other forms of fiscal surety approved by the city is required for a period of five years. The developer shall establish a two-year tree bond or letter of credit, which shall be automatically renewed for a period of five years. This bond/letter of credit shall be equal to the inch per inch replacement cost of the specimen tree, in addition to the removal cost of the same tree.

(Ord. No. 2003-8, 1-21-03; Ord. No. 2004-37, 12-20-04)

Sec. 106-33. Application Requirements.

When a person applies for a development permit, such person shall provide the following information:

- (1) A complete tree survey and inventory plan, as specified in Section 106-34.

- (2) A complete tree protection plan, as specified in Section 106-36. This plan shall be an integrated site plan showing specimen trees with their root plates and critical root zones, boundary trees with their root plates and critical root zones, the tree protection areas, those trees to be saved and those to be removed, utilities to be installed, grading, the approximate location of all structures, driveways and curb cuts.
- (3) A complete tree replacement plan as specified in Section 106-37. Replacement trees used in density calculation must be ecologically compatible with the intended growing site. A list of unacceptable replacement trees is provided in the Technical Standards of the Smyrna Tree Ordinance -- Undesirable Tree Species List.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-33.1. Grading for Future Site Development Requirements.

Land disturbance activities for future site development shall not be permitted unless accompanied by site development plans and all requirements of the Smyrna Tree Ordinance are met. Activities associated with future development shall include (but not be limited to): tree cutting, land clearing, grading and/or grubbing.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-34. Tree Survey Plan and Inventory.

(a) The tree survey plan shall be in the form of a to-scale map or a site plan prepared and sealed by a Georgia Registered Surveyor or a Georgia Registered Landscape Architect noting the location of all specimen trees, boundary trees and all other trees which will be conserved and counted toward meeting site density requirements.

(b) All specimen trees and boundary trees with their root plate and critical root zones are to be labeled and verified by an ISA certified arborist and must be shown on the survey and inventoried by size and species. This includes those specimen trees that are to be conserved as well as those proposed for removal. Specimen-sized trees must be assessed by an ISA certified arborist for specimen condition. A copy of the arborist's report detailing the specimen condition of each specimen-sized tree must be included on the plan; letter-sized reports stapled to the plan will not be accepted.

(c) All other trees that are to be counted toward meeting density requirements must be shown on the survey and inventoried by size and species. Only trees with a dbh measurement of six inches (6") or greater are to be identified as 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.

(e) Sampling methods may be used to determine tree densities for forested areas over five acres. The minimum sampling area shall be one acre.

(f) All tree protection zones and tree save areas must be delineated on the tree survey plan. 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 Community Development Director.

(g) The tree survey plan shall provide an accurate list of those trees to be saved and a total value of the existing density factor for the entire property.
(Ord. No. 2003-8, 1-21-03)

Sec. 106-35. Tree Survey Inspection.

Following the receipt of the completed tree removal application, tree survey plan and supporting data, the Department of Community Development shall schedule and conduct an inspection of the proposed development site within ten working days. Upon request, the applicant or his designee may be given an opportunity to participate in the site inspection. Following site inspection, the Community Development Director, consistent with the purposes of this article, shall advise the applicant of any recommended changes in the applicant's proposed tree removal, protection or replacement plans.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-36. Tree Protection Plan--Documents Required.

(a) Before the acceptance of a rezoning application and before the commencement of any alteration, defoliation or land disturbing activity including the demolition of structures or the removal of impervious surfaces which requires the issuance of a development permit or a demolition permit, a tree protection plan is required unless otherwise exempted under Section 106-28 of this ordinance.

(b) The tree protection plan shall be a detailed plan designed to protect and conserve trees before, during and for a period of two years after construction or one year after construction with an automatic irrigation system.

(c) The tree protection plan shall be submitted as a separate drawing.

(d) The tree protection plan shall be submitted on a current survey of the proposed site, drawn to scale, and showing clearly all required information as outlined by this section.

(e) The tree protection plan shall be prepared by a Georgia Registered Landscape Architect. Required specifications for a tree protection plan include, but are not limited to, the following:

- (1) The identity of the tract of land upon which tree(s) sought to be removed are located.
- (2) The name, address and phone number of the owner of the land and the name, address and phone number of any tenant of the property.
- (3) The type, location and size as measured at the diameter breast height of the tree(s) constituting those to be protected. Only trees designated on the tree protection plan will be counted toward density requirements.

- (4) Locations of all specimen trees and boundary trees with their root plates and critical root zones (CRZ's). Indicate those specimen trees proposed for removal or for conservation. Removal of specimen trees is subject to approval by the Community Development Director. Any specimen tree proposed for removal is to be identified in terms of exact location, size, species and condition.
- (5) The locations of all tree protection zones, natural areas, landscaped areas, buffers and areas of revegetation. Include detailed locations and specifications for active protection measures. Methods of tree protection shall be indicated for all tree protection zones, including tree fencing, erosion control, retaining walls, tunneling for utilities, aeration systems, transplanting, staking, signage, etc.
- (6) Limits of clearing and land disturbance such as grading, trenching, etc. where these disturbances may affect tree protection zones.
- (7) The locations of all existing and proposed utility lines or easements. Include the location for any boring sites for underground utilities.
- (8) Indication of staging areas for parking, material storage, concrete washout, debris burn and burial holes and other areas where tree protection may be affected.
- (9) A delineation of tree save areas in which trees have been inventoried for density calculations. A radius line from the saved tree to the tree protection fence shall indicate a length in feet to aid in accurate tree fence locations.
- (10) Calculations showing compliance with the required site density factor using existing trees, replacement trees, and/or alternative compliance methods. Site density compliance shall be demonstrated on the tree protection and tree replacement plans. Existing trees or stands of trees used in the density calculation must be indicated on the drawing. Only existing trees with a dbh of six inches (6") or greater shall be counted toward the minimum tree density requirements. Tree protection plans submitted prior to rezoning applications shall indicate thereon how the minimum site density factor shall be maintained.
- (11) Site area (roads, utility lines, detention ponds, etc.).
- (12) The locations of existing and proposed structures, paving, driveways, cut and fill areas, detention areas, etc.
- (13) Phase lines or limits of construction.
- (14) Location and details for all permanent tree protection measures (tree wells, aeration systems, permeable paving, retaining walls, bollards, etc.).
- (15) Additional information as required on a case-by-case basis or as requested by the Community Development Director.

- a. Prior to approval of the tree protection plan, the Community Development Director may require relocation or replacement of trees as uniformly as possible throughout the site, so that the entire property site meets the density requirements as outlined in Section 106-31.
 - b. Prior to approval of the tree protection plan, the Community Development Director may require the use of active tree protection fencing for any or all tree protection zones.
- (16) The following notes shall be indicated on both tree protection plans and grading plans in capital letters:

Contact the Community Development Department (770-319-5387) to arrange a preconstruction conference prior to any land disturbance. No permit shall be issued until plans are approved and an on-site inspection with city representatives occurs.

All tree protection measures shall be installed prior to grading or the removal of impervious surfaces or structures.

Buffers shall be replanted subject to Community Development Department approval.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-37. Tree Replacement Plan--Standards and Revegetation.

(a) A separate tree replacement plan in the form of a to-scale plan prepared and sealed by a Georgia Registered Landscape Architect which indicates the location of all proposed trees for revegetation is required. This required plan may be included as a part of the tree protection plan or may be submitted as a separate drawing.

(b) The tree replacement plan is to include planting schedules with proposed tree names (botanical and common), quantity, size, minimum on-center spacing, percent genus and any special planting notes.

(c) Unless otherwise approved by the Community Development Director, trees selected for replanting must not be on the Undesirable Tree Species List found in the Technical Standards of the Smyrna Tree Ordinance. Trees selected for replanting must be free from injury, pests, disease, nutritional disorders or root defects, and must be in good vigor, must have radially symmetrical branching with a dominant leader, and must have no less than four feet (4') between planted grade and lowest branch on the trunk for a two inch (2") caliper tree in order to assure a reasonable expectation of survivability. Standards for transplanting shall be in keeping with those established in the International Society of Arboriculture publication Tree and Shrub Planting Manual or similar publication.

(d) It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. Accordingly, the replanted trees shall be of the same or similar species as those removed when practical.

(e) All replanted overstory trees shall have a trunk of not less than three caliper inches. All replaced understory trees shall have a trunk of not less than two inches. All planting area must have a minimum width of eight-feet (8') to provide adequate growing area. In order to provide sufficient growing area for planted trees, the following minimum criteria must be observed unless otherwise approved by the Community Development Director:

Overstory trees -- 400 square feet of pervious root zone.

Understory trees -- 200 square feet of pervious root zone.

(f) Planting and staking details are to be provided on the plan.

(g) Trees must be relocated or replaced on site in accordance with the provisions of this article.

(h) Debris removed. All debris from trees cut or substantially damaged shall be removed from the site prior to the issuance of a certificate of occupancy. This includes the removal of any portion of the tree stump above the original natural grade or elevation of land.

(i) All existing trees and planted trees must maintain a minimum spacing between trees. There must be a minimum spacing of twenty-five feet (25') between overstory trees and any other tree. There must be a minimum spacing of fifteen feet (15') between understory trees. There must be a minimum spacing of ten feet (10') between evergreen screening trees. These spacing requirements may be adjusted upon approval from the Community Development Director.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-38. Permit Procedures.

(a) Prior to the issuance of a development permit, a tree survey plan, a tree protection plan and tree replacement plan must be submitted to the Department of Community Development for review and approval.

(b) All tree protection and tree replacement plans and related documentation shall be reviewed by the Department of Community Development for conformance to the provisions of this article and either approved or denied. If denied, the reasons for denial shall be annotated on the tree protection plan or otherwise stated in writing.

(c) After the tree protection plan is approved, the Community Development Department will be charged with the responsibility of inspecting the site to ensure that trees are adequately protected during any grading of the property for infrastructure installation. To adequately protect the site, tree save areas shall be delineated in the field with tree protection fencing.

(d) All tree protection measures shall be installed prior to any land disturbance, including the removal of structures or impervious surfaces, and the Community Development Director shall be contacted for a pre-construction conference prior to land disturbance. Land disturbance may proceed only after a permit is obtained and tree protection measures have been approved by the city.

(e) After completion of a development, the Community Development Director (or his/her designee) will conduct an inspection of the site to ensure compliance with the tree protection and/or replacement plans.

(f) The Department of Community Development may make unscheduled inspections before and during development to ensure protection of trees, critical root zones and buffer zones.

(Ord. No. 2003-8, 1-21-03)

Sec. 106.39. Removal of Trees--Conditions and Exceptions.

(a) Tree removal shall be disallowed in the following circumstances:

- (1) Soil erosion or runoff problems will result due to topography, soil type, or proximity to flood plain or river protection areas; and the removal will substantially alter the existing soils adversely with regard to runoff and erosion. Information submitted by the City Engineer or other environmental specialist may be used by the Community Development Director in their evaluation.
- (2) Specimen trees are located on site and are not adequately protected or replaced. Additionally, removal may be disallowed if alternative site designs can be utilized to save specimen trees (without decreasing building area) and have not been made.

(b) *Exceptions.* Tree removal from a site may be allowed if:

- (1) The tree is located in an area where a structure or improvement will be placed and the tree cannot be relocated on the site because of age, type or size of tree.
- (2) The tree is diseased or structurally unsound.
- (3) The tree is injured and/or poses an imminent danger.
- (4) The tree interferes with existing utility service.
- (5) The tree creates an unsafe vision clearance for vehicular movement.

(c) Trees must be relocated or replaced on site in accordance with the provisions of this article.

(d) *Existing Trees.* Any existing trees of not less than six inches dbh left in good growing condition on the property shall be counted toward the minimum density required. All replacement trees will be maintained properly to ensure their survivability.

(e) *Debris Removed.* All debris from trees cut or substantially damaged shall be removed from the site prior to the issuance of a certificate of occupancy, including the removal of any portion of the tree stump above the original natural grade or elevation of land.

(f) It is required that all reasonable efforts (see definition) be made to save specimen trees.

(Ord. No. 2003-8, 1-21-03)

Section 106-40. Tree Protection During Construction.

(a) No person in the construction of any structure(s) or improvement(s) or any activity shall encroach or place solvents, material, construction machinery or temporary soil deposits within six feet of the area outside the critical root zone, as defined herein, of any specimen tree or any tree within a tree protection zone.

(b) Before development, land clearing, filling or any land alteration, including removal of impervious surfaces or structures, the developer shall be required to erect suitable protective barriers as required by the Department of Community Development, including tree fences, tree protection signs, and erosion barriers until completion of site landscaping. Materials for active tree protection shall consist of chain link, orange laminated plastic, wooden post and rail fencing or other equivalent restraining material. Authorization to remove the protective devices shall be in writing by the Community Development Director or by the issuance of a final certificate of occupancy. Inspection of tree protection barriers is required prior to any land disturbance or development. The Community Development Director shall be contacted to schedule an inspection time.

- (1) All specimen trees to be conserved on-site and receiving a density credit of three times the dbh toward the minimum required tree density will be required to provide the following tree protection measures during construction:
 - a. A six-foot chain link fence around the critical root zone with the support posts for the fencing spaced 6' on center. No gates, doors or openings shall be permitted as part of the fencing.
 - b. 4" to 6" of organic mulch over the critical root zone within the tree protection zone. The mulch is to be spread by hand within the critical root zone. No machinery is allowed within the critical root zone of the specimen tree.
 - c. An automatic above ground irrigation system. There shall be no underground irrigation system installed within the tree protection zone.
 - d. Signage must be placed every 50' on the tree protection fencing that reads, "Tree Save Area: Do Not Enter" in both English and Spanish.
- (2) All boundary trees will be required to provide the following items prior to the issuance of a development permit:
 - a. Prior to the issuance of a development permit pursuant to this section, the applicant shall provide a tree bond, letter of credit or other forms of surety approved by the city in an amount to be sufficient to offset the removal cost of the tree and the inch per inch replacement cost of the boundary tree. The developer shall establish a two-year tree bond

or letter of credit, which shall be automatically renewed for a period of five years.

- b. In establishing the bond or letter of credit amount required pursuant to section (a) above, the proposed replacement trees upon which payment shall be computed shall be a comparable species and size potential to the boundary tree, shall be ecologically compatible with the intended growing site, and at maturity shall fully mitigate the loss of the entire canopy area of the boundary tree.
 - i. If all the replacement trees can not be planted on-site, the developer shall pay the remaining balance to the Smyrna Tree Bank.
- c. The developer or project landscape architect shall also submit a photographic record and an assessment completed by an ISA certified arborist of the boundary to the Department of Community Development prior to the issuance of a development permit. This documentation will serve as a baseline for the determination as to whether the boundary tree has failed to survive or is in a state of irreversible decline due to the permitted activity.
- d. Prior to the issuance of a development permit, the developer will be required to provide the tree protection measures required for specimen trees in Section 106 – 40 (b)(1) during construction. These tree protection measures shall only be limited to the property to which the development permit was issued.
- e. Notice shall be provided to the property owner whose property contains the boundary tree which, the notice shall include notice of the bond or letter of credit and a copy of the boundary tree provisions of this ordinance.
- f. At any time prior to a determination authorizing the release of the bond or letter of credit to the applicant pursuant to Section (g) below, if the property owner whose property contains the boundary tree (“Petitioner”) contends that the permitted activity has caused the boundary tree to fail to survive or be in a state of irreversible decline, the petitioner may petition the Community Development Director for the bond or letter of credit to be utilized for the removal and replacement of the boundary tree. Upon receipt of such petition, notice of the petition shall be provided to the applicant here under at the address provided at the time of the development permit application, or at any alternative address subsequently designated by the applicant to the Community Development Director in writing, via first class and certified mail. Within thirty (30) days of mailing of the notice, the Community Development Director shall make a determination as to whether the boundary tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Notice of the decision shall be provided to the petitioner and the applicant by certified and first class mail as set forth above. Either party may

appeal the Community Development Director's determination pursuant to Section 106-44 of this ordinance. Should the Community Development Director determine that the boundary tree failed to survive or is in a state of irreversible decline due to the permitted activity, and no appeal has been timely filed, or the applicant has fully exhausted his or her appellate rights, the bond or letter of credit shall be released to the petitioner to offset any costs incurred in removal and replacement of the boundary tree. The petitioner's rights pursuant to this section may not be exercised more than one (1) time in any eighteen (18) month period.

- g. After five (5) years from the date of the establishment of the bond or letter of credit, unless otherwise disbursed pursuant to Section (f) above, the applicant shall have the right to petition the Community Development Director for the release of all bonds or letter of credit held by the Department of Community Development for the boundary tree. Should an applicant file a petition here under, notice of the applicant's petition shall be provided to the property owner whose property contains the boundary tree by first class and certified mail at the address of the property containing the boundary tree, and at the address set forth in the tax digest regarding the property. Within thirty (30) days of mailing of the notice, the Community Development Director shall make a determination as to whether the boundary tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Notice of the decision shall be provided to the applicant and the property owner by certified and first class mail as set forth above. Either party may appeal the Community Development Director's determination pursuant to Section 106-44 of this Ordinance. Should the Community Development Director determine that the boundary tree has not failed to survive or is not in a state of irreversible decline due to the permitted activity, and no appeal has been timely filed, or the property owner has fully exhausted his or her appellate rights, the bond or letter of credit shall be released to the applicant.

(c) In addition to fencing, where active tree protection is required, each tree to be saved shall be marked at the diameter breast height (dbh) with surveyor's flagging ribbon with a permanent marker indicating the size and species of tree, or number of the tree which is cross-referenced by tree size and species on a chart on the tree survey plan. The flagging ribbon shall encompass the tree; slashing the tree bark and wedging the flagging ribbon into the bark damages the tree and is not acceptable and will incur a penalty as described herein.

(d) All tree protection devices must remain in functioning condition until the certificate of occupancy is issued. Maintenance of tree protection devices are the responsibility of the developer or property owner.

(Ord. No. 2003-8, 1-21-03; Ord. No. 2004-37, 12-20-04)

Sec. 106-40.1. Protection and care for public trees.

(a) The city shall have the right to plant, maintain, prune, and remove trees, shrubs, and plants within the rights-of-way of all city streets, roads, and highways, in parks, around city facilities, and on other city grounds, as may be necessary or desirable to ensure public safety, to preserve tree health, and to maintain and increase tree canopy cover.

(b) All trees growing on city property shall be protected from damage to the crown, trunk, and roots. It shall be unlawful for any person to engage in any activity on private property that directly or indirectly adversely affects the health, safety, or condition of a tree on city property. Furthermore, active tree protection measures, as described in this chapter, shall be undertaken by the person engaging in any such activity to protect each affected tree's roots, trunk, crown, and critical root zone, from damage. If a person damages, destroys, or fails to protect a city tree, the city may require the person responsible for the damage to pay a fine equal to the appraised value of the tree, the cost of repairing the damage, and/or the cost of restoring the site to its original condition or as near as possible to its original condition.

(c) The value of a city tree shall be equal to the inch per inch value.

(d) The city may prune, remove or cause to be pruned or removed, any city tree or part thereof which is in an unsafe condition or which by reason of its location or condition is or may be injurious to sewers, water lines, electric power lines, gas lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest.

(Ord. No. 2003-35, 11-17-03)

Sec. 106-41. Tree Damage.

Any tree, designated in the plan to be saved, which is damaged during construction or as a result of construction, as determined by the Community Development Director, shall be treated according to accepted National Arborists Association Standards, or replaced with a six-inch (6") caliper tree. If the Community Development Director deems the damaged tree to be a hazardous tree, he or she shall require removal of the tree. In the event that a damaged tree must be removed, the location occupied by the tree's critical root zone must remain in a previous state with no structures or buildings placed in this area and violations shall be subject to the applicable penalties as described herein.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-42. Emergencies.

In case of emergencies, such as hurricane, windstorm, flood, freeze or other disasters, the requirements of these regulations may be waived by the Community Development Director or other designated official, upon a finding that such waiver is necessary so that public or private work to restore order in the city will not be impeded.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-43. Variances and Waivers of Article Requirements.

The Mayor and Council may, upon appropriate application in writing, vary or waive the terms and provisions of this article due to a hardship in the use of the land

upon which a tree is located. A hardship shall be limited to factors associated with the topography of the land, size/configuration of the parcel or uniqueness of the development plan (including buildings).
(Ord. No. 2003-8, 1-21-03)

Sec. 106-44. Appeal.

Any person adversely affected by a decision of the Community Development Director in the enforcement or interpretation of any of the terms or provisions of this article may appeal such decision to the Mayor and Council. Such appeal shall be taken by filing written notice thereof with the Department of Community Development within ten days after the decision of the Community Development Director or their designee.
(Ord. No. 2003-8, 1-21-03)

Sec. 106-45. Withholding of Certificate of Occupancy.

The Community Development Director may withhold the issuance of the required certificate of occupancy, or permits and inspections, for any development as required until the provisions of the article have been fully met.
(Ord. No. 2003-8, 1-21-03)

Sec. 106-46. Tree Removal and Construction Companies.

All provisions of this article 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. 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 article, unless a valid permit thereof is in effect and is displayed in accordance with the provisions of Section 160-47. If any such work or removal is performed without the permit being displayed as required in Section 160-47, such removal or work shall constitute a violation of this article and shall subject the person or company violating this article to all penalties provided herein. However, utility companies may provide emergency work without formal approval; provided, however, that emergency actions are reported in writing to the Community Development Director within three working days after completion of all emergency services. Further, the permit taken by any person, company or utility under this section may include defined areas of tree cutting and trimming under one permit.

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 article.
(Ord. No. 2003-8, 1-21-03)

Sec. 106-47. Display of Permit and Inspections.

The applicant shall prominently display on the site the permit issued. Such permit shall be displayed continuously while trees are being removed or replaced or work done as authorized on the permit. As a condition for the issuance of a permit, the applicant shall agree in writing to entry onto his premises by representatives of the city as designated by the Community Development Director 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 failure to display the permit as required under this section.
(Ord. No. 2003-8, 1-21-03)

Sec. 106-48. Fees.

Each applicant requesting a permit under the provisions of the Smyrna Tree Ordinance shall deposit with the city a fee of \$500.00, which fee shall be nonrefundable.

Provided, however, no fees shall be charged on any application filed solely within a public right-of-way or for a single-family residence.

Provided, further, that a nominal fee shall be charged on any application where the Community Development Director, or their designee, needs to review the plan to determine that the tree(s) meet the exception criteria contained in Section 106-28.
(Ord. No. 2003-8, 1-21-03)

Sec. 106-49. Penalty.

Any person, firm or corporation violating any provisions of this article shall be punished as described herein and in addition thereto may be enjoined from continuing the violation.

- (a) A violation of this article shall be punishable by a fine of one thousand dollars (\$1,000.00) per occurrence. Each tree cut, damaged or poisoned shall constitute a separate offense.
- (b) In the event that a tree is damaged or removed in violation of this article, the violator(s) shall make a donation in the amount of \$100.00 an inch per damaged or removed tree to the Smyrna Tree Bank.
- (c) In the event that a tree must be removed in violation of this article, violator(s) shall be subject to replace the tree with a six-inch (6") caliper tree. Furthermore, the location and extent of the tree's critical root zone shall permanently remain in a previous state with no structures or buildings placed on it.
- (d) In addition to (a), (b) and (c), upon notice from the Community Development Director, work on any development that is being done contrary to the provisions of this article shall immediately cease. The stop-work notice shall be in writing and go to the owner of the property, or to their agent, or to the person doing the work, and shall state the conditions under which work may be resumed. When an emergency exists, the Community Development Director shall not be required to give written notice prior to stopping the work. Further, in the event that work on any development is being done contrary to the provisions of this article, the Community Development Director may revoke any permit pertaining to the development activity for which the land disturbance permit has been issued and may refuse to issue any further permit until, at the discretion of the Community Development Director, the work on the

development is brought into compliance with the provisions of this article or all penalties have been paid.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-50. Tree Replacement Fund.

On January 4, 1993 the Smyrna City Council adopted the Tree Preservation and Protection Ordinance. The tree replacement fund for alternative compliance shall be set in the amount described in the Technical Standards of the Smyrna Tree Ordinance for each caliper inch, that the property is deficient. This alternative compliance method may only be used when the community development department determines that a property has a justifiable hardship in meeting the density requirements set forth herein.

(Ord. No. 2003-8, 1-21-03)

Sec. 106-51. Tree Maintenance.

Any tree designated for preservation or added to a site as a result of a tree replacement plan shall be maintained properly for a period of two years from the date of installation. Any tree not properly maintained during this two-year period shall be replaced. This maintenance period can be reduced to one year if an irrigation system is installed per a set of plans approved by the city. If any tree, shrub or plant installed for the purposes of meeting the city's code requirements is removed after installation, it must be replaced on an inch per inch basis with the same species of tree, shrub or plant. This can be accomplished using more than one tree provided the total caliper equals the size of tree removed.

A tree bond with a value equivalent to the restoration cost associated with all replaced trees shall be furnished to the city. This bond may be released by the city within two years after the final certificate of occupancy is issued for the development (one year for developments with irrigation systems) provided the trees are certified to be in good condition by the Community Development Director or their designee.

A two-year tree maintenance bond shall also be required for any work within public rights-of-way or utility easements. This bond shall be equivalent to the restoration cost associated with all existing trees and shall be furnished to the city. This bond may be released by the city within two years after the work is completed provided trees are certified to be in good condition by the Community Development Director or their designee.

(Ord. No. 2003-8, 1-21-03; Ord. No. 2003-35, 11-17-03)

Sec. 106-52. Tree Board.

(a) The Smyrna Tree Board (hereinafter referred to as the "board") is hereby established to advise the Mayor and Council on matters pertaining to the conservation of trees and the conservation of tree canopy cover within the city and to take instruction from the Mayor and Council regarding such issues.

(b) The board shall consist of eight members who shall be appointed by the Mayor and Council. They shall serve without compensation.

(c) A chairman and vice-chairman shall be elected by the board from among the board members. Nominations for these positions shall be submitted to the board annually at least ten working days and not more than 30 working days prior to the first meeting of each calendar year. Elections shall be held at the first meeting of each calendar year, at which time the term of office shall begin.

(d) A secretary elected by the board from among the board members shall maintain records of the board's proceedings and assist the City Clerk with dissemination of information, public awareness, and such other administrative duties as may be assigned by the board.

(e) The term of office for each member of the Smyrna Tree Board shall be four years.

(f) In the event that a vacancy occurs during the term of any member, his or her successor shall be appointed by the Mayor and Council. The chairman of the Smyrna Tree Board shall recommend to the Mayor and Council that a replacement be appointed for any member who fails to perform his/her duties.

(g) A majority of the members of the board shall constitute a quorum.

(h) The Smyrna Tree Board shall meet not less frequently than quarterly and shall establish rules and regulations for its operation consistent with the provisions of this chapter.

(Ord. No. 2003-35, 11-17-03)