



FAQs Regarding Development Related Tree Removals

1. What does this code apply to?

This code applies to tree removal associated with certain development applications under the Durham Development Code, including Type II, Type III, limited land use, and expedited land division applications.

2. Does this code apply to all tree removals in Durham?

No. This code applies only to tree removal connected to development applications covered by Chapter 5 of the Durham Development Code. All other tree removals on private property not covered by this chapter are governed by the Durham Municipal Code.

3. What counts as a "tree" under this code?

A tree is a woody plant with a diameter at breast height (DBH) of 6 inches or greater.

4. What is "tree removal" under this code?

Tree removal includes cutting down a tree, removing more than half of its crown, trunk, or root system, or damaging a tree so severely that it becomes dead, declining, or a hazard tree. Routine trimming and pruning that does not create those conditions is not considered removal.

5. What is DBH?

DBH means diameter at breast height, which is the diameter of the tree trunk measured at 4.5 feet above the ground.

6. Can I remove a tree before getting approval?

No. A person may not remove a tree covered by this chapter without first demonstrating compliance with the code.

7. What must be submitted with a development application that proposes tree removal?

The application must include a tree report with:

- ✓ an inventory of all trees on the site,
- ✓ the species and DBH of each tree,
- ✓ whether each tree will be preserved or removed,
- ✓ and a Tree Preservation Plan prepared by a project arborist.

The Tree Preservation Plan must include a scaled map, tree assessment information, preservation and protection measures during construction, and a mitigation plan.

8. Does the City require an arborist?

Yes. The code requires a project arborist for the Tree Preservation Plan. The arborist must be certified and maintain Tree Risk Assessment Qualification (TRAQ).

9. How many trees must be preserved?

In general, an applicant must show:

- ✓ at least 20% of all trees on the site are preserved, excluding dead, declining, or hazard trees;
- ✓ at least 40% of the site's existing canopy coverage is preserved; and
- ✓ the preserved trees are dispersed across at least 50% of the distribution area.

10. What if a site cannot meet the standard preservation requirements?

The code allows discretionary compliance. The applicant must submit a written narrative and supporting information showing why full compliance is not possible and why additional removal is necessary, such as because of unavoidable utilities or topographic conditions affecting tree survival.

11. What is a Tree Protection Zone?

A Tree Protection Zone is the protected area around a preserved tree. It is measured from the trunk outward at a distance of 1 additional foot for each inch of the tree's DBH.

12. How must preserved trees be protected during construction?

Conditions of approval include measures such as:

- ✓ tagging trees to match the Tree Preservation Plan,
- ✓ installing at least 4-foot-high construction fencing around each Tree Protection Zone,
- ✓ placing mulch and plywood within the protection zone,
- ✓ having the project arborist oversee excavation within protection zones,
- ✓ and watering and repairing preserved trees as needed.

13. How long can the City inspect preserved trees after approval?

The City may inspect preserved trees for two years following the issuance of the land use approval.

14. What happens if a preserved tree dies within that two-year period?

If a preserved tree becomes dead or declining within two years after approval, it must be replaced in accordance with the mitigation requirements.

15. Is mitigation required when trees are removed?

Yes. Mitigation is required for trees removed under this chapter, and also for trees removed in violation of the chapter.

16. How much mitigation is required?

Removed trees must be replaced so that, at maturity, the mitigation trees provide canopy coverage equal to the removed trees, or canopy coverage equal to 35% of the lot or parcel, whichever is less.

17. Do preserved trees count toward mitigation?

Yes. Preserved trees receive credit equal to 130% of their existing canopy size and that credit counts toward the 35% canopy coverage requirement.

18. What kind of replacement trees can be planted?

Mitigation trees must be selected from the City’s approved tree list and meet minimum planting size standards. Deciduous trees must be at least 1 3/4 inches in diameter, and evergreen trees must be at least 6 feet tall at planting.

19. Are there spacing rules for mitigation trees?

Yes. The code establishes spacing requirements based on whether the tree is categorized as small, medium, or large on the City’s tree list. Mitigation trees must also be distributed across at least 50% of the distribution area.

20. What if the site does not have enough room for all required mitigation trees?

If the lot or parcel cannot accommodate the required number and spacing of mitigation trees, the applicant must pay a fee in lieu of replacement in the amount set by resolution.

21. When must mitigation planting be completed?

Mitigation planting must be completed, and proof submitted to the City, within six months of land use approval, or before building permits are issued if that occurs later. The City’s Planning Commission may grant a 60-day extension for abnormal weather.

22. What happens if someone violates the tree code?

The City may:

- issue a stop work order,
- assess penalties established by ordinance or resolution,
- pursue other legal or equitable remedies, including revocation of land use approval.

Each day a violation continues may count as a separate violation, and each tree removal or separate act of noncompliance may also count as a separate violation.

23. What is a “minor” tree removal modification?

A minor modification is a tree removal change that does not rise to the level of a major modification. Minor modifications follow the Type 1 process.

24. What is a “major” tree removal modification after approval?

A major modification is a Type 2 process for a request to increase tree removal beyond the preservation standards in the code, or more than a combined total of 24 inches of DBH additional tree removal, whichever is less.

25. Why was this ordinance adopted as an emergency ordinance?

The ordinance states that immediate regulation of development-related tree removal was necessary to prevent irreparable canopy loss and protect public health, safety, and welfare.

26. Does this FAQ replace the actual code?

No. This FAQ is only a summary for general informational purposes. Applicants and property owners should rely on the adopted code language, applicable fee resolutions, and any direction provided by the City during the development review process.