

Section 9.8 - Tree Preservation

9.8.1 Introduction

The preservation of trees and natural vegetation is deeply rooted in the history of Conway and is a critical public concern. Few communities can actually boast that they build streets around trees as Conway does. Few communities attach names and historical significance to particular trees as Conway does. The live oak trees, which line many streets within the city, are probably the city's most prized and most protected natural resource. Local legend has it that when the large oaks along Main Street were threatened by the construction of the railroad in 1887, Mrs. Mary Beaty, who lived near the Wade Hampton Oak, appeared with a loaded shotgun and demanded that the construction workers "*touch not a single bough.*" The actions of Mary Beaty have inspired the citizens of Conway to actively protect the live oak trees as well as certain other native tree species. It is felt that Mrs. Beaty's actions that day were the genesis of tree protection, not only in Conway, but in the State of South Carolina.

9.8.2 Intent

- A. The intent of the City of Conway tree protection ordinance is to accomplish the following:
1. To provide for the protection, preservation, proper maintenance, and use of trees and woodlands;
 2. To minimize disturbance and prevent damage from erosion and destruction of the natural habitat without denying the reasonable use and enjoyment of the property within the city;
 3. To protect trees and woodlands (including other forms of vegetation) for their economic support of local property values and for their natural beauty, wilderness character, or geological, ecological or historical significance;
 4. To address the public concern for these valued natural resources in the interest of health, safety, and general welfare of the residents of the City of Conway;
 5. To encourage the beautification, air-cooling and purification, noise abatement, property value enhancement and the other attributes of trees within a city;
 6. To naturally control flooding and erosion, moderate noise pollution, dust, and other airborne pollutants, moderate the city climate and shelter and feed wildlife;
 7. To enable citizens to prevent and control the spread of diseases, to preserve trees in the path of development, and to avoid the unnecessary cost associated with sewer clogging, sidewalk replacement and tree-related accidents.

9.8.3 Applicability

The provisions of this ordinance shall apply to all trees identified as being protected or landmark trees, as described herein, that are located on public or private property inside the city limits of the City of Conway, South Carolina.

9.8.4 Administration

The city arborist, zoning administrator, or their designee shall be responsible for the administration of all provisions of this chapter and for public tree management, **and** shall be assisted in the administration of these regulations by the Conway tree board, as provided for in Section 9.8.6.

9.8.5 Tree City USA

- A. The City of Conway shall maintain Tree City USA status and apply for this designation each year to the South Carolina Forestry Commission and / or National Arborist Day Foundation. To maintain eligibility, the City of Conway shall meet the following criteria:
1. Hold an annual Arbor Day Celebration on or around Arbor Day in South Carolina, the 1st Friday in December;
 2. Have a Tree Ordinance. The tree ordinance shall be reviewed, and revised, if necessary, at least once every two (2) years;
 3. Have a Tree Board or Commission, appointed by City Council, responsible for advising the City of Conway on tree-related matters;
 4. Spend at least \$2 per capita on public tree management, including planning, education, tree establishment, maintenance, protection, and removal, and any and all other maintenance or management activities.

9.8.6 Conway Tree Board

The Conway City Council hereby establishes a board of appointed citizens as the Conway tree board. The members of this board serve concurrently as appointed members of the community appearance board (CAB), already established and as provided for in Section 14.1 of this Unified Development Ordinance (UDO). Any duties described in the appointment of the CAB that relate to tree issues hereby convey to the Conway tree board, as do any present appointment of members and scheduling of board meetings. The Conway tree board is one and the same as the CAB, with duties and responsibilities as described in its charter. All current appointments remain in effect until each respective member's normal expiration of term. Future appointments to the community appearance board will include appointment to the Conway tree board. Any reference to the tree board in this chapter also refers to the current community appearance board. [ZA2007-11-12(A)]

9.8.7 Definitions

All words in these standards have their customary dictionary definition except as specifically defined herein. The words "shall" and "must" are mandatory, and the words "may" and "should" are permissive. Technical terms used are defined as follows:

- A. **Area:** The area of a tree, as defined in this chapter, shall be arrived at by multiplying pi (3.14, a constant) times the square of the radius of the tree (where the radius equals one and one-half (1 ½) times the diameter breast high) or the standard area formula: $A = \pi \times r^2$.
- B. **ANSI (current edition):** American National Standards Institute.
1. ANSI A300: American National Standards for Tree Care Operations – Trees, Brush, and Other Woody Plant Maintenance – Standard Practices. ANSI A300 standards represent the industry consensus on performing tree care operations.
 2. ANSI Z60.1: American National Standard for Nursery Stock
 3. ANSI Z133.1: American National Standard for Arboricultural Operations – Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush – Safety Requirements
- C. **Best Management Practices:** Forest management practices developed pursuant to federal water quality legislation, to minimize or prevent non-point source water pollutions established by the SC Forestry Commission.

- D. **Caliper:** A caliper measurement shall be measured six (6) inches above the soil line, or across the stump, in the event the tree has been severed at less than 12 inches above the soil line.
- E. **Critical root zone:** That area of tree roots under the canopy measured to be no less than one and one-half (1 ½) feet in radius for every inch of trunk diameter measured four and one-half (4 ½) feet above the ground.
- F. **Diameter at breast height (d.b.h.):** The diameter measurement of a tree is measured at four and one-half (4 ½) feet above ground level, commonly referred to as d.b.h.
1. Forks located less than one (1) foot from the ground are to be treated as separate trees and measured at standard DBH. The square root of each DBH (sum of the square of each) is used to derive total DBH.

$$\sqrt{(a^2 + b^2 + \dots)}$$

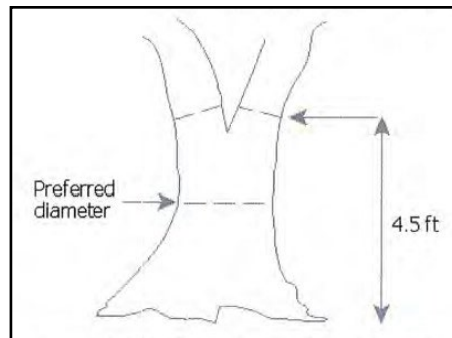
a. Total DBH=

where:

b. "a" and "b" are the DBH of split trunks.

2. Forks located between one (1) foot and four and a half (4.5) feet from the ground are to be treated as separate trees and calculated with the formula above but measured from three and a half (3.5) feet from the pitch, or at the start of the fork.
3. Forks located at or greater than four and a half (4.5) feet from the ground are measured just below the fork beneath the swelling. See Figure 7 (below):

Figure 7: DBH for Forks located at or above 4.5 feet



- F. **Drip line:** An imaginary vertical line extending downward from the outermost tips of the tree branches to ground level.
- G. **Grading:** the process of leveling / releveling the ground to a specific elevation or slope to create a more suitable topography for development of a site, to ensure proper stormwater drainage, and control soil erosion and sedimentation during and after construction. "Mass" grading typically involves the clearing of trees and other vegetation.
- H. **Grubbing:** The removal of understory vegetation, stumps, roots and other debris which does not remove any trees with a d.b.h. of four (4) inches or greater.
- I. **Hazard tree:** A tree, or tree part that may be dangerous and is likely to fail and cause damage or injury, and the likelihood of failure exceeds an acceptable level of risk. The city arborist, zoning administrator or their designee shall make such determination.

- J. Landmark Tree:** Any Live Oak Tree that is equal to or greater than 24 inches D.B.H.; all live oak trees designated on the map entitled "The Oaks of Conway, South Carolina," researched and prepared by Evelyn Snyder, Joseph N. Pinson, Jr., and Eugene Holbert, and any tree that City Council designates as a landmark tree (See Section 9.8.9, B).
- K. Pruning:** The cutting or removing of any part of the branching structure of a tree in the crown, trunk or root areas.
- L. Public nuisance trees (trees that have become):** Any tree with an untreatable disease or insect pest problem; dead trees or trees in irreversible decline; a tree or limb(s) that obstruct streetlights, traffic signs, the free passage of pedestrians or vehicles; a tree that poses a threat to public safety or property.
- M. Silviculture:** The art and science of controlling the establishment, growth, competition, health, and quality of forests and woodlands to meet the diverse needs and values of landowners and society on a sustainable basis.
- N. Tree:** Any self-supporting woody plant growing upon the earth that provides single or multiple trunks with potential d.b.h. of two (2) inches and grows to an overall height of fifteen (15) feet or more.
- O. Tree Protection Plan:** a plan identifying the location, species and size (d.b.h.) of existing trees as well as trees that are proposed to be removed, including the tree protection areas and the means of protection. The Tree Protection Plan shall also include the location, species and size of all trees proposed to be replanted on the site as mitigation.
- P. Tree removal:** The cutting or removal of 50 percent or more of the crown, trunk, or root system of a tree, or causing the death of a tree through damaging, poisoning, or other direct or indirect action.
- Q. Tree survey:** A survey plan prepared by a South Carolina Licensed Surveyor, registered forester or a certified arborist indicating an accurate location, size, and species, and/or other desired measurements or information on protected or landmark trees present on a property or given location.

9.8.8 Licensing

It shall be unlawful for any person who is being paid a fee for the business of planting, cutting, trimming, pruning, removing, or otherwise modifying trees within the city limits of Conway to conduct such business without first signing an affidavit stating that he or she has received and read the City of Conway Tree Preservation Ordinance and ANSI A300 Standards (current edition). Such affidavit shall be completed and submitted when making an application for a tree removal or tree pruning permit, and/or when renewing, a City of Conway business license.

9.8.9 Tree Preservation and Protection

The removal or destruction of any protected or landmark tree, as provided herein, within the city limits of Conway without the necessary tree removal permit shall be prohibited. No person shall intentionally damage, cut, carve, transplant, remove any tree, attach any signs with rope, wire, nails, or other contrivance allow any substance which is harmful to such trees to come in contact with them or be placed within their dripline over pervious areas; or intentionally set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any protected or landmark tree. Any such actions shall be subject to the penalties established in Section 9.8.15. All trees required for mitigation shall be in addition to any landscaping required by this ordinance as part of the overall development of the site.

- A. Protected trees:** The following trees shall be considered protected trees and shall not be removed from any lot in the city limits of Conway without a protected tree removal permit:

1. Table 9.1: City of Conway Protected Tree Species

	Common Tree Name	Scientific Name	Protected Size
1	Flowering Dogwood	Cornus florida	4" d.b.h. or greater
	Redbud	Cercis Canadensis	4" d.b.h. or greater
2	American Holly	Ilex opaca	8" d.b.h. or greater
3	Live Oak	Quercus virginiana	8" d.b.h. or greater
4	Southern Magnolia	Magnolia grandiflora	8" d.b.h. or greater
5	Red maple	Acer rubrum	8" d.b.h. or greater
6	Bald cypress	Taxodium distichum	8" d.b.h. or greater
7	River Birch	Betula nigra	8" d.b.h. or greater
8	Sycamore	Plantanus occidentalis	8" d.b.h. or greater
9	Cottonwood	Populus deltoides	8" d.b.h or greater
10	Tulip	Liriodendron tulipifera	8" d.b.h or greater
11	Red Cedar	Juniperus virginiana	8" d.b.h or greater
12	Tupelo	Nyssa sylvatica	8" d.b.h or greater
13	Iron Wood	Carpinus caroliniana	8" d.b.h or greater
14	All other Oak Species	Quercus	14" d.b.h. or greater

The proposed removal of any tree listed above may be subject to mitigation of trees approved for removal, Section 9.8.11.

2. **Required landscaping.** Any tree planted to meet the City of Conway landscaping requirements of this ordinance, including street trees (per Section 9.3.6), may not be removed without a tree removal permit. The proposed removal of any tree listed above shall be subject to mitigation in accordance with, Section 9.8.11.

- B. Landmark trees.** The following trees shall be considered landmark trees and shall not be removed from any lot in the city limits of Conway without a landmark tree removal permit:

1. All live oak trees designated on the map entitled "The Oaks of Conway, South Carolina," researched and prepared by Evelyn Snider, Joseph N. Pinson, Jr., and Eugene Holbert;
2. Any live oak tree equal to or in excess of twenty-four (24) inches d.b.h.;
3. Any tree that city council designates as a landmark tree;

- C. Mitigation Plantings.** Trees planted to meet mitigation requirements as described in this Section may not be removed without tree board approval and shall be subject to the required mitigation as described in Section 9.8.11. Any mitigation tree removed without approval shall be subject to penalties, as described in Section 9.8.16.

- D. Setback and Buffer Area(s).** For all non-residentially zoned lots, and all proposed or approved major residential development sites as defined in this UDO, all protected and landmark trees may not be removed from the exterior setback and/or required buffer area without a tree removal permit. Exceptions may be made for ingress/egress to the parcel.

9.8.10 Tree Permits Required

A. Protected tree removal permit: This permit is necessary to remove any protected tree on any lot within the City of Conway. Requests to remove protected trees shall be reviewed on a case-by-case basis by the city arborist, zoning administrator or their designee.

1. Prior to the issuance of a tree removal permit for a protected tree, it shall be determined that one (1) or more of the following conditions exist:
 - a. The tree is considered hazardous per the definition in Section 9.8.7;
 - b. The tree is dead or in irreversible decline as determined by a registered forester / city arborist, zoning administrator or their designee;
 - c. The tree has an untreatable disease or insect pest problem as certified by a registered forester/certified arborist, the city arborist, zoning administrator or their designee;
 - d. The tree or its root system is causing visible damage to structures, and/or areas used for pedestrian and vehicular traffic;
 - e. The tree or its root system is causing damage to structures or underground utilities;
 - f. Trees within power line easements that cannot be properly pruned by the local utility company;
 - g. Trees, which after proper pruning, remain classified as hazard trees;
 - h. The tree is located in the footprint of a proposed building, addition or expansion, and there are no practical alternative locations on the lot for the addition or expansion or practical means to build around the tree.
2. Protected trees may only be removed with the issuance of a tree removal permit.
 - a. All protected tree removal permits are valid for six (6) months from the date of issue.
 - b. A condition of the protected tree removal permit shall be mitigation, as provided for in Section 9.8.11.

B. Tree Removal Permits Required for Non-residential Property and major (residential) subdivisions:

1. All developments shall strive to minimize the removal of existing trees.
2. The following items shall be submitted in conjunction with an application to remove protected and/or landmark trees:
 - a. Site / construction plans;
 - b. A tree survey depicting all protected and landmark trees, all waterways, wetlands, buffers, and setback areas, where applicable;
 - c. A tree preservation plan, prepared in accordance with Section 9.8.9. The plan shall indicate the location, size, (DBH), and species of all trees proposed for protection;
 - d. A tree protection plan, in accordance with Section 9.8.12;
 - e. A tree mitigation plan, prepared in accordance with Section 9.8.9. The plan shall indicate the location, size (DBH), and species of all trees proposed for mitigation planting.
3. All trees proposed for protection or preservation shall be clearly identified in the field (*i.e.* clearly marked) prior to the issuance of any tree removal permits.
4. All tree removal permits that are issued for non-residential developments and major subdivisions shall be valid for two (2) years from the date of issuance.

C. Landmark tree removal permit: This permit is necessary to remove any landmark tree on any lot within the City of Conway. Requests to remove landmark trees shall be reviewed on a case-by-case basis by ~~the city arborist, then by~~ the Conway tree board.

1. The tree board may authorize the issuance of a landmark tree removal permit for the removal of a

landmark tree, provided the board determines one (1) or more of the following:

- a. The tree is classified a hazard tree, is in irreversible decline, and cannot be properly pruned to alleviate such condition;
 - b. The tree is diseased or infectious as certified by a registered forester or a certified arborist and cannot be properly treated or pruned to alleviate such condition;
 - c. The tree is located on an undeveloped lot in such a position that the lot cannot be developed in a reasonable and prudent manner. In this instance, the applicant shall be required to request a variance from a particular zoning requirement if it would alleviate the need to remove such landmark tree; and if so determined, initiate such request with the Board of Zoning Appeals (BZA).
 - i. In this instance, if no alternative to the removal of the landmark tree can be obtained through the BZA, the Tree Board may attach any conditions to the permit deemed necessary to ensure compliance with the intent of this section if removal of the landmark tree is granted by the board.
 - d. The tree is causing visible structural damage to a building and no feasible alternative other than removal of such tree exists, as certified by a structural engineer.
2. All landmark tree removal permits are valid for six (6) months from the date of issue.
 3. A condition of the landmark tree removal permit shall be mitigation, as provided for in Section 9.8.11.

9.8.11 Mitigation of Trees Approved for Removal

- A. Mitigation shall be required to compensate for the loss of any removed tree(s) in cases where a tree removal permit has been issued, unless otherwise specified.
 1. The species of replacement trees shall be selected from one (1) of the following sources:
 - a. Canopy trees listed in the recommended plant list in Section 9.5.1; unless located within a bioretention area; then see Section 9.5.3.
 - b. Trees listed as protected trees in Section 9.8.9, A;
 - c. Other trees as approved by the city arborist, zoning administrator, or their designee.
 2. All mitigation tree selections shall be reviewed and approved by the city arborist, zoning administrator, or their designee, or the Conway tree board. An effort should be made to include a diversity of species when planting mitigation trees.
 3. Where the city arborist, zoning administrator, or their designee determines that a site cannot sustainably support the required replacement, due to the size and shape and/or structures and/or viable site constraints, a fee based on the current nursery market value plus installation costs shall be paid to the City of Conway Tree City USA mitigation account.
 4. All trees planted to satisfy the mitigation requirements shall be healthy living trees. The owner, occupant, tenant, or agent shall be jointly and severally responsible for the maintenance of all trees. Any dead or damaged tree shall be promptly replaced with a tree of a similar size and type. Mitigated trees shall be maintained in perpetuity.
 5. All trees required for mitigation shall be in addition to any landscaping required by the Unified Development Ordinance (UDO) as part of the overall development of the site.
- B. **Mitigation for trees removed with approved protected or landmark tree removal permit.** The following table (Table 9.2) shall be used to calculate mitigation tree requirements for protected and landmark

trees removed with a permit.

Table 9.2: Mitigation Requirements for trees removed with a tree removal permit

Type of Tree to be removed	Number of Replacement	Minimum Caliper of Replacement	Alternate Fee
Protected Trees; Any tree other than Landmark Trees	Equal to number of d.b.h. inches removed	4"	*Current nursery market value for required replacement plus associated installation costs
Landmark Trees	Two times the number of d.b.h. inches removed	4"	*Two times the current nursery market value for required replacement plus associated installation costs

*Alternate fee to be used in the event mitigation trees cannot be replanted on the subject property.

1. All required mitigation trees must be planted within 12 months of the issuance of the removal permit.
2. All violations of the required tree planting shall be subject to the penalties outlined in Section 9.8.15, *Table 9.3*.

C. Mitigation for property unable to replant the required number of trees with any approved tree removal permit.

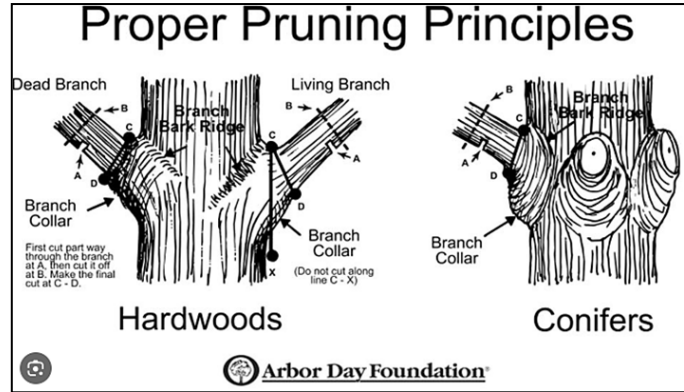
1. If a property owner obtains a tree removal permit for any tree planted to meet the City of Conway's landscaping and buffer requirements, they shall be required to replant the minimum landscape requirements, in accordance with Section 9.2.
2. A property owner/applicant may apply to the Tree Board for relief from the tree mitigation requirements. The board may waive the tree mitigation requirements if the applicant illustrates that there are unique topographic conditions that prevent the planting of the replacement trees. In this case, the board may require that payment in the amount equal to the current nursery market value for the required replacement trees plus associated costs of installation for as many four (4) inch caliper trees necessary to meet the total required inches removed from the site.
3. All mitigation trees required as a condition of a tree removal permit must be installed prior to the issuance of a certificate of occupancy, or prior to the recording of a final plat for any proposed major development. The property owner or developer may post a financial guarantee for mitigation trees in accordance with the standards of Section 9.4.7.
4. As an alternative to the above, the property owner(s) / applicant may replant the required replacement (mitigation) trees on a different property from which the trees are to be removed, with the following provisions:
 - a. The property is owned by the same property owner as the property from which the trees requiring mitigation are being removed;
 - b. A landscape plan, in accordance with Section 9.4.2, is submitted for review showing the proposed location of the mitigated trees and meeting the requirements for mitigation.
 - c. Mitigation trees must be installed prior to the issuance of a certificate of occupancy, or prior to the recording of a final plat for any proposed major development.

9.8.12 Tree Protection During Clearing, Grubbing, Grading and Construction

- A.** During any type of clearing, grubbing, grading, development or construction, the following measures shall be utilized to protect any on- site tree that is not designated for removal:
1. It shall be the responsibility of the person in charge of the erection, repair, alteration or removal of any building or structure to place a guard or protector around any tree or shrub on subject lot or in the public rights-of-way so as to prevent injury to such tree or shrub arising out of such erection, repair, alteration or removal.
 2. Protective barriers, such as silt fences, bollards, roping or other such devices shall be placed by the person requesting construction permits around each tree at the drip line of the canopy of each tree to prevent any type of encroachment under the drip line, or six (6) times the diameter at breast height (d.b.h.) whichever is greater.
 3. Trenching shall be no closer than six (6) times the diameter at breast height to the affected tree, nor disrupt more than 30 percent of the drip line root area.
 4. No other types of disturbance, equipment or material storage, or construction shall be allowed under the drip line of any tree without prior approval of the city arborist.
 5. Any on-site inspection may be performed at any time in order to verify compliance with the above and may place a stop work order on the work site for infractions or violations of this section or this chapter.
 6. It shall be unlawful for any person to willfully fell, remove, prune, undermine, burn or otherwise damage or destroy any tree or shrub in or upon any public area or right-of-way.
 7. No soil disturbance, trenching, grading, paving or storage of equipment/materials shall take place within the critical root zone of any protected or landmark tree.
 8. When retained trees are damaged or the critical root zone is disturbed, the property owner shall be subject to the requirements in Section 9.8.15.
 9. Unnecessary cutting, breaking or skinning of roots, skinning and bruising of bark, smothering trees by stockpiling construction or excavation materials within the drip line is prohibited. Also prohibited is excessive foot or vehicular traffic and parking of vehicles within the pervious area within the drip line.
 10. **Tree Protection Plan.** A tree protection plan shall include the following:
 - a. Designation of tree protection zones identifying the trees to be protected (location, species, size – d.b.h.);
 - b. Limits of clearing and land disturbance (i.e. grading, clearing, grubbing, etc.); grading plan;
 - c. Details for protecting / avoiding tree roots in trenching plans for underground construction, such as utility placements;
 - d. Details for barricades or fencing for tree protection zones. Such protection (barricades, fencing, silt fencing, etc.) is required to be installed prior to commencement of land disturbance.
 - e. Tree mitigation table illustrating compliance with this article;
 - f. Stormwater ponds, swales, easements, drains, etc.
 - g. Trees within protection zones shall be protected from sediment erosions material;
 - h. Prior to land disturbance, suitable protective barriers shall be erected and maintained around all protected and landmark trees to be retained during development of the site, so as to prevent damage.

9.8.13 Tree pruning

- A. Tree pruning shall be accomplished in accordance with the procedures set forth in the American National Standards Institute (ANSI) A300 Tree Care Operations standards, or its revision / replacement.
- B. The use of unnatural pruning techniques shall be considered an unauthorized removal of a tree unless the tree is designated on an approved landscape plan to be shaped or formed in an unnatural pattern or to be maintained at a certain height. Examples of unnatural pruning are topping, stubbing, dehorning, lion-tailing, or lopping. These practices are detrimental to tree health and are specifically prohibited.
- C. Any tree on any public street, highway right-of-way, easement, owned or maintained by the City of Conway, or any tree on private property defined as a hazard tree or public nuisance tree in Section 9.8.6 may be pruned based upon the recommendation of a certified arborist, the zoning administrator or their designee. **The City reserves the right to prune any tree deemed to be a hazard tree or a public nuisance tree, whether on public or private property, in the interest of public safety.**
- D. Any property owner requesting the pruning of a landmark tree shall obtain a tree pruning permit. Property owners shall apply directly to the City of Conway Planning & Development Department for this permit.
- E. Properties requiring the installation of street trees shall adhere to the requirements in Section 9.3.6 and the requirements herein for proper pruning of street tree(s).

**9.8.14 Exemptions from this chapter**

- A. If any tree is determined to be diseased, injured or located in a manner that endangers the public health, safety or welfare of city residents, the city arborist, zoning administrator or their designee may authorize its immediate removal.
- B. In case of emergencies such as windstorms, ice storms, hurricanes, tornadoes, drought or other disasters, the city arborist, zoning administrator or their designee may waive the requirements of this chapter during the emergency period so that the requirements of this chapter would in no way hamper private or public work to restore order to the City of Conway.
- C. The removal of live trees in conjunction with tree farms, agricultural practices, or commercial nurseries.
- D. Silviculture so long as the following conditions are met:
1. Property must contain at least five (5) acres.
 2. Activities occurring on the tract must be devoted of the production of marketable forest products.
 3. No trees may be removed within 50 feet of the entire perimeter of the lot.
 4. No protected or landmark trees may be removed.
 5. The silviculture activity shall be in compliance with the latest South Carolina Best Management Practices Manual for Forestry.
 6. A silviculture permit is obtained from the City of Conway. The application for such permits must include a boundary survey of the area to be harvested, depiction of the buffer area, location, size

and species of any protected or landmark tree on the site and tree protection and silt fencing devices for preservation of trees in the buffer area, protected trees and landmark trees. Also, the permit application must include a narrative detailing proposed reforestation method.

7. No development may take place on a parcel that has been issued a silviculture permit within three (3) years of the cutting unless the property owner meets the replacement standards detailed in Section 9.8.16, Violations and enforcement.
8. All silviculture permits are valid for two (2) years from the date of issue.

9.8.15 Violations and Enforcement

- A. The city arborist, zoning administrator, or their designee shall have the authority to inspect property for compliance with this chapter and issue stop work orders on any actions found in violation of this section.
 1. The city has the right to use aerial photography/ video, site inspections, existing stump measurements, previous plan submittals, or any other appropriate method to aid in determining the total d.b.h of the tree(s) removed.
- B. **Protected and landmark tree violations:** Protected and landmark trees cut, removed, or pruned in violation of this chapter are subject to the following penalties, **or** as determined by the tree board:
 1. Plant replacement trees ~~on-site~~; in accordance with Table 9.3; and/or; Section 9.8.11(C).
 2. Pay mitigation fees to the City of Conway Tree City mitigation account, as prescribed by the Tree Board.

The following table (Table 9.3) may be used by the tree board as a guide for penalties of violations.

Table 9.3. Penalties—Removal of Protected or Landmark Trees Without a Permit.

Diameter of Tree Removed (d.b.h.) Rounded Up	Number of Replacement	Minimum Caliper of Replacement	Alternate Fee
4" through 12"	Double the total d.b.h. of the removed tree	4"	Current nursery market value for required replacement plus associated costs of installation
13" or greater	Triple the total d.b.h. of the removed tree	4"	Same as above

- C. **All other violations.** Trees removed from any non-residentially zoned lots, proposed, or approved major residential developments found to be in violation of this section, are subject to the penalties listed in Table 9.3.

9.8.16 Appeals

- A. **Denial of protected tree removal permit, silviculture permit or landmark tree pruning permit:** Any person denied a tree removal permit, silviculture permit, or landmark tree pruning permit by the city arborist may appeal to the Tree Board. An appeal must be filed in writing within 10 working days of the denial of the permit to the Planning & Development Department.
- B. **Denial of landmark tree removal permit:** Any person denied a landmark tree removal permit by the Conway tree board may appeal to the Board of Zoning Appeals (BZA). An appeal must be filed in writing within 10 working days of the denial of the permit to the Zoning Administrator.

- C. **Appeal of violation penalty:** Any person assessed a penalty for the violation of this chapter by the Conway tree board may appeal to the Board of Zoning Appeals (BZA). An appeal must be filed in writing within 10 working days of the denial of the permit to the Zoning Administrator.
- D. **Appeal of mitigation requirements:** Any person (property owner, applicant, etc.) seeking relief from the mitigation requirements, that have been determined by the city arborist, zoning administrator, or their designee may appeal to the Tree Board.
- E. Decisions of the Conway Tree Board may be appealed to Circuit Court, in accordance with Section 14.1.15 of the UDO; except as provided for herein.

9.8.17 Damage to trees on public property

No person shall damage, destroy, remove, or otherwise harm a tree located on public property or within the right-of-way without a tree removal permit or the written consent of the Tree Board or an authorized city official. The City of Conway shall require compensation for the damage or destruction of a public tree equal to the appraised value of such tree prior to the damage or cost of repair to the tree.