

Article II Tree Protection

Working Draft

Division 1 General provisions

- Authority
- Goals, purpose, and intent
- Relationship to other laws
- Severability
- Jurisdiction & Enforcement
- Definitions

Division 2 Applicability & Exemptions

Division 3 General performance standards for public & private trees

- Guidelines regarding Public Trees
- Guidelines regarding Private Trees

Division 4 Tree Valuation using the TVM

Division 5 Procedure for obtaining a permit for removal of a dead, dying, or hazardous tree.

- Removal of dead, dying, or hazardous trees
- Permitting & removal of nuisance trees
- Permitting & removal of trees for a public safety emergency

Division 6 Procedure for obtaining a permit for removal of a healthy, non-hazardous tree which are of an invasive species

Division 7 Procedure for obtaining a permit for removal of a healthy, non-hazardous tree pursuant to a homeowner exemption

Division 8 Procedure for obtaining a permit for removal of a healthy, non-hazardous tree pursuant to construction, demolition, land disturbance, or landscaping

- General Requirements
- Pre-Application Conference & Tree Save Commitments
- Tree Save Requirements
- City Review
- Tree Save Areas
- Preliminary Approval & Posting
- Appeals

Division 9 Planting

- Applicability
- Tree planting requirements
- Tree planting specifications

Owner responsibility to protect trees
Recompense

Division 10 Calculation of recompense

Applicability
Site Plan calculations
Recompense calculation depending on context
Appeal of recompense decisions

Division 11 Preservation during Construction

Recompense & record keeping at issuance of a CO
Recompense & record keeping 2 years after the issuance of a CO
Appeals

Division 12 Parking lots

Division 13 Requirements for issuance of a CO

Division 14 Violations & Enforcement

Enforcement Authority
Finding of a violation & notification to responsible party
Remedial actions
Penalties including recompense
Suspension or revocation of a tree removal permit
Stop work orders
Appeals

Division 15 Tree Conservation Commission

Establishment, powers, duties
Appointment of members & Commission composition
Terms, vacancies, compensation
Administrative meetings & hearings
Staff, administrative analyst, court reporter
Appeals of decision by City Arborist
Appeal of decision by Tree Conservation Commission

Division 16 Tree Trust Fund

Division 17 Special requirements for Federal Consent Decrees

Special requirements for the Department of Watershed Management for tree removal based upon achieving compliance with Federal Consent Decrees
Tree replacement standards for tree removal based upon achieving consent with Federal Consent Decrees

Recompense requirements for tree removal based upon achieving compliance with Federal Consent Decrees.

Division 18 Planning & Conservation

Access agreements for private property planting by the City
Quarterly reports to the Tree Conservation Commission

DIVISION I. GENERAL PROVISIONS

Section 158-26. Authority

This Article is enacted pursuant to the City's authority granted by the Constitution of the State, including but not limited to Ga. Const. Art. IX, § II, paragraphs 3 and 4; the City's general police power; Appendix I of the City Charter, paragraphs 15, 21, 25, 30, 31, 47 and 57; and all other state and local laws applicable to this Article.

Section 158-27. Policy, purpose, and intent

It is the policy of the City of Atlanta that there will be no net loss of trees and tree canopy within the boundaries of the City. It is the intent of the City to protect mature trees to the extent feasible and to ensure that when trees must be removed, trees that will provide the same quality of canopy shall be replanted wherever conditions permit. The purpose of this Article is to establish the standards necessary to ensure that this policy will be realized so that current and future citizens of the City of Atlanta continue to enjoy public safety, health and welfare, ecosystem services, and economic benefits provided by trees.

The provisions of this Article are enacted to:

- A. Establish, maintain, and protect the maximum amount of tree cover on public and private lands in the City by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this Article;
- B. Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices, establishing and revising standards for tree planting and maintenance as necessary;
- C. Maintain trees in the public right-of-way to minimize hazards and damage to streets and sidewalks and to minimize cost of public right-of-way maintenance;
- D. Provide for the identification, designation and protection of trees during development by placing preservation at the beginning of the planning process.
- E. Promote the preservation and generation of forest in conjunction with development by requiring that all development include tree protection and planting;
- F. Provide latitude in the interpretation and application of City administrative rules, standards, and guidelines when reasonable and necessary to minimize the destruction of trees and to provide for public safety, health and welfare.

Section 158-28. Relationship to Other Laws, Regulations, and Ordinances

- A. No permit or approvals granted under this division shall remove an applicant's or adjacent property owner's obligation to also comply in all respects with the applicable provisions of any other federal, state, or local laws or regulations including, but not limited to, the City of Atlanta Building Code, the City of Atlanta Zoning Ordinance, the ordinances enforced by the Department of Watershed Management, and any other required permits and/or approvals.
- B. The City of Atlanta Tree Protection Ordinance requires that obligations imposed on an owner of property pursuant to the enforcement of this Ordinance shall become the responsibility of subsequent owners, until such time as those obligations are fulfilled. Before and in conjunction with any transfer of property, owners must disclose these obligations to the purchaser or recipient of the affected property by recording an affidavit in the real estate records containing reference to any property-specific obligations that have been placed upon such property pursuant to the enforcement of this Ordinance.

Section 158-29. Severability

If any section, paragraph, sentence, clause, or phrase of this Article is found to be invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remaining portions of this chapter.

Section 158-30. Jurisdiction & Enforcement

- A. The Department of City Planning shall have authority over the implementation and enforcement of this Article including but not limited to authority over all activities on public and private property to the extent that such activities involve the protection and planting of trees subject to the provisions of this Article.
- B. The Department of City Planning, the Atlanta Police Department, the Tree Conservation Commission and the Atlanta Municipal Court shall be charged with the enforcement of this Article.

Section 158-31. Definitions

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

American National Standards Institute Inc. (ANSI). A US-based non-profit organization that works to develop and promote standards in the United States and around the world.

Applicant. Any person seeking approval to take action under this Article.

Arborist. A specialist in the cultivation and care of trees and shrubs, including tree surgery; the diagnosis, treatment, and prevention of tree diseases; and the control of pests.

|

Area Median Income (AMI). The current household median income for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area as published by the US Department of Housing and Urban Development. [Confirm standard.]

Base Horizon. The deepest defined layer of an installed soil for tree planting that mimics the “B”, or “subsoil” in a natural soil. The base horizon shall consist of soil with a hydrogen ion concentration greater than 6 pH, an organic component not to exceed 4%, a bulk density not to exceed 1.6g/cm³, and have a depth of 24 inches or greater below the intermediary level. Soil beneath the base horizon has no pH or bulk density requirement, but may not consist of organic matter greater than 4%.

Bioretention soil mix. Engineered soil mix designed for vegetated green infrastructure that maximizes infiltration and water quality treatment as defined by the Department of Watershed Management standards.

Boundary tree. A Tree, wholly or in part on adjacent property, with a critical root zone that crosses a property line.

Buildable area. Area of a lot available for the construction of buildings and permissible accessory uses after having provided the front, side, rear and any other special yards required by Part 15 or Part 16 of the City Code.

Building. A structure with a roof intended for shelter or enclosure and constructed or erected with a fixed location in or on the ground or attached to something having a fixed location in or on the ground.

Bond. A financial instrument in which a property owner or agent of the owner – either independently or with the assistance of a financial institution - deposits a predetermined amount of money with the City, to be held in trust by the City starting from the end of development for a period of time, and returned to the owner or developer after fully satisfying the conditional requirements of the bond.

Caliper. A term used to describe tree size for nursery stock. For smaller nursery-sized trees that are readily transplanted, the trunk diameter is measured in inches at 6 inches above the soil for trees less than 4.5” caliper, and 12 inches above ground for 4.5” or larger.

Cambium layer. The growing vascular tissue of a tree’s roots and stems that annually produces new bark and new wood in response to hormones that pass through the phloem with food from the tree’s leaves.

City. The City of Atlanta.

City arboricultural standards. The arboricultural specifications and standards of practice prepared by the City Arborist, which must be consistent with this Article and with the

American National Standards Institute, Inc. (ANSI) A300 series of standards for tree care management.

City Arborist. An employee of the City who is responsible for administering and enforcing this Article. The term City Arborist shall include such employee's staff. A City arborist should be certified as an ISA-certified arborist within 3 months of beginning his/her duties.

Code. The City of Atlanta Code of Ordinances (available online at municode.com).

Co-Owned tree. A boundary tree that straddles the property line measured at the point where the trunk meets the ground not including the root flare.

Commission. The City of Atlanta Tree Conservation Commission.

Critical root zone (CRZ). The critical root zone shall consist of a circle having a radius of one foot for each one inch of diameter at breast height (DBH) of the tree. Adjustments to the CRZ may be made by the City Arborist if justified by specific documented site conditions which indicate an irregularly shaped root zone based on obstructions such as buildings, retaining walls, or streets.

DDH. Dead, Dying, or Hazardous as defined in this Article.

Dead. A dead tree is a Protected Tree that presents none of its own living tissue above ground level. For deciduous trees during the growing season, this may be determined by the absence of green foliage.

Destroy. To perform, cause to be performed, directly or indirectly, or knowingly allow to be performed any act/failure to act that will more likely than not cause tree to die within a period of five years. Examples of such conduct could include without limitation: 1) failing to protect 100% of a tree's structural root plate during construction; 2) failing to protect 80% of a tree's critical root zone during construction 3) damaging more than 20% of a tree's critical root zone by trenching or by performing grade changes (including lowering or filling the grade of soil); 4) cutting, girdling, or inflicting other severe mechanical injury to the trunk, structural root plate, roots, or other vital sections of a tree; 5) removing in excess of 30% of the live crown of a tree within two growing cycles; 6) damaging the critical root zone of a tree by applying toxic substances (including without limitation solvents, oils, gasoline and diesel fuel), operating heavy machinery and/or storing heavy materials thereon; 7) burning a tree; 8) topping, tipping, flush cutting, or utilizing any similar improper pruning practices upon a tree. In determining whether a tree is destroyed, the City Arborist will evaluate the cumulative impact of destructive actions on the condition of the tree.

Diameter at breast height (DBH). The diameter of the main stem of a tree as measured 4.5 feet above the natural grade at the base. Multi-stemmed trees shall be measured at 4.5 feet above natural grade by adding the diameter of the largest stem and one-half the diameter of

each additional stem. The top diameter of a stump less than 4.5 feet tall shall be considered the DBH of an illegally destroyed tree for the purpose of calculating recompense.

Disease. Any fungal, bacterial, or viral infection that will likely result in structural failure or death of the tree within two years and where treatment will not prevent the death of the tree, as determined by the City Arborist.

DPC. The City of Atlanta Department of City Planning.

DPR. The City of Atlanta Department of Parks and Recreation.

Dying Tree. A Protected Tree that is diseased, injured, or in terminal decline to the extent that death is more likely than not within two years.

Ecosystem Services. The many and varied human and environmental benefits provided by trees and healthy ecosystems. These ecosystems, functioning in healthy relationship, offer benefits such as natural pollination of crops, clean air, extreme weather mitigation, and human mental and physical well-being. Collectively, these ecosystem services are integral to the provisioning of clean drinking water, decomposition of wastes, and resilience and productivity of food.

Enforcement authority. The City entities with authority to enforce this Article, namely the City Arborist, DCP, DPR, Atlanta Police Department, the Tree Conservation Commission, and Atlanta Municipal Court.

Environmentally sensitive area. An area of a property that includes important environmental features eligible for protection under City, State, or Federal regulations based upon its ecological value, including without limitation wetlands, floodplains, permanent and intermittent streams, riparian buffers, stands of specimen trees, critical wildlife habitat, steep slopes, threatened and endangered species, and other significant aspects of the natural environment on site.

Established recompense value. The dollar value assigned by the City to compensate for the removal or destruction of a healthy tree. This amount shall be evaluated periodically and adjusted as needed by amendment to this ordinance and/or through application of the Consumer Price Index to the amounts established by this ordinance.

Excellent Value Tree(s). A tree whose value is very high, or excellent, as determined by the Tree Value Matrix (TVM).

Fair or better condition. A tree that has a structurally sound and solid root, trunk, and canopy structure and no major insect infestation or other pathological problem, as determined by the City Arborist following ANSI A300 Part 9 Tree Risk Assessment standard practices.

Floodplain. An area of land adjacent to a stream or river which stretches from the banks of its channel to the base of the enclosing topography, and which experiences flooding during periods of high discharge, and as delineated by the Federal Emergency Management Agency's 100-year floodplain map.

Flush cutting. The incorrect pruning of a limb of a Protected Tree by cutting immediately adjacent to the trunk, destroying the protective branch collar and exposing the trunk to decay organisms.

Green Infrastructure. An interconnected natural system and/or engineered system that strengthens and mimics natural hydrologic functions and processes through the use of plants and soil to slow, filter, evapotranspire and infiltrate stormwater runoff close to its source; or the capture and reuse of stormwater runoff. Examples of projects on development sites that can help support tree growth and health include preserving conservation areas, reducing impervious surfaces, and installing structural measures such as vegetated swales, permeable pavement, and infiltration planters.

Hardship. A unique or special existing condition that is not addressed by the ordinance.

Hazardous tree. A tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the City Arborist. In no case shall a tree be classified as hazardous unless it is determined to be a "high risk" or "critical risk" tree according to the ISA TRAQ risk matrix.

Heat island. A ground area covered by an impervious surface that retains solar or other heat energy and thereby contributes to an increase in the average temperature of the ecosystem. An external heat island is one situated outside the boundaries of a site plan, including but not limited to public streets. An internal heat island is one found within a designated site, including but not limited to rooftops, patios, driveways, and other vehicular maneuvering or parking areas.

Healthy tree. Any tree subject to this Article pursuant to Subsection 158-28(B) that is not dead, dying, diseased, hazardous or destroyed.

Heritage tree. A tree designated by the Tree Conservation Commission to be of historic and interest because of its age, size, or historic association, in accordance with the City's arboricultural specifications and standards of practice. A complete listing of the location of all designated Heritage trees within the City of Atlanta is maintained by the Tree Conservation Commission and registered with the Municipal Clerk.

High Value Tree(s). A tree whose value is high as determined by the Tree Value Matrix (TVM).

Illegally destroyed tree. Any tree subject to this Article that is removed or destroyed without obtaining a permit where required pursuant to this Article or in violation of conditions attached to a permit obtained pursuant to this Article.

Imminent Hazard. A Protected Tree which in its current condition presents an imminent hazard to the safety of humans or occupied structures if not removed immediately.

Impacted Tree. Any tree subject to this Article with a structural root plate that has been protected but with a critical root zone that has been impacted between 15 and 33% without obtaining a permit pursuant to the Article or in violation of conditions attached to a permit obtained pursuant to this Article. Such a tree may be saved with a prescription as defined herein, subject to approval by the City Arborist.

Impervious Surface. A surface that does not allow free flow, infiltration, and penetration of rainwater, typically created by roads, sidewalks, driveways, buildings, constructed stormwater collection devices, and other hard surfaces.

Incursion. Any activity that damages a tree's critical root zone including, without limitation, soil compaction, trenching, storage of materials, and parking vehicles.

Injure. The commission of any intentional or negligent act that damages a tree, including but not limited to spiking, trimming, flush cutting, topping, lion-tailing, over-lifting, or unpermitted incursion into a tree's critical root zone.

Intermediate Horizon. The middle layer of an installed soil for tree planting that mimics the "A" or "surface soil" or "topsoil" in a natural soil. The intermediary horizon shall consist of soil with at least 80% mineral content, an organic component not to exceed 15% and a bulk density not to exceed 1.3 g/cm³, and shall be between 6" and 10" deep, measured beneath the surface horizon. Imported topsoil from another site may meet these requirements but, by definition, topsoil manufactured from recycled wood products do not.

Invasive species. A non-native tree, plant, insect, or other organism documented to spread disrupting the natural balance of an ecosystem. A list of invasive tree species shall be maintained by the Arborist Division and is also available online.

ISA. International Society of Arboriculture.

Landscaping permit. Permit issued for tree removal in association with landscaping for which no building permit is required.

Live stake. A dormant cutting of a live tree that will readily sprout roots and grow when driven into soil. Per Subsection 158-75(B)(6), live stakes may be installed on public land by the Department of Watershed Management as a component of a federal Consent Decree for stream bank erosion control or stabilization projects, and for stream or wetland restoration projects. Live stakes must have a minimum diameter of three quarters (0.75) of an inch and

a minimum length of 24 inches. Live stake species may include the following species or other species native to the Piedmont region: black willow (*Salix nigra*), Streamco willow (*Salix purpurea*), Tag alder (*Alnus serrulata*), red chokeberry (*Aronia arbutifolia*), wither rod (*Viburnum cassinoides*), Southern arrow-wood (*Viburnum dentatum*), yellow-root (*Xanthorhiza simplicissima*), Virginia sweetspire (*Itea virginica*), buttonbush (*Cephalanthus occidentalis*), alternate leaf dogwood (*Cornus alternifolia*), silky dogwood (*Cornus amomum*), stiff dogwood (*Cornus foemina*), and silky willow (*Salix sericea*).

Low-Income. Three hundred percent (300%) or less of the Federal Poverty Level

Low Value Tree(s). A tree whose value is low as determined by the Tree Value Matrix (TVM).

Mechanical injury. A wound which exposes or destroys the cambium layer of a tree.

Midstory or mid-canopy tree. A tree that normally attains a DBH of 10 to 25 inches, a height of 30 to 60 feet, and approximately 900 square feet of canopy at maturity. Examples include Georgia oak (*Quercus Georgiana*), Chinquapin oak (*Quercus myehlenbergi*), Persimmon (*Diospyros virginiana*), American yellowwood (*Cladrastis kentukea*), American hornbeam (*Corpinus caroliniana*), American hophornbeam (*Ostrya virginiana*), Blackgum (*Nyssa sylvatica*), Chalk maple (*Acer leucoderme*), and others on the City of Atlanta's Recommended Tree List.

Minimum planting density. A minimum number of trees or DBH and caliper-inches of trees required to be planted on a site after permitted removal activities. Minimum requirements are based upon zoning district classification (see Section 158-49).

Moderate Value Tree(s). A tree whose value is moderate as determined by the Tree Value Matrix (TVM).

MSA. Metropolitan Statistical Area.

Mulch Layer The layer of decomposable material added above the planting medium. This layer is used to retain water, build soil fertility, and prevent compaction. It is designed to mimic the "O" layer or "leaf litter layer" found in natural forests where it is integrated with the topsoil and is constantly thickened by falling leaves and debris of the trees above it. The surface horizon must consist of mulch, wood chips, or other natural decomposable material and must be installed with a depth between 2" and 4". Pine straw and hay are not permitted.

Natural Aspect Ratio. A ratio quantifying the value-per-square-foot for the purposes of calculation of recompense or bonding. The Natural Aspect Ratio shall be (Value of the subject property *after* development / Area of the subject property in square feet)

Native. A plant species that has evolved to grow in a geographic area without having been introduced through human intervention.

Neighborhood Planning Unit (NPU). One of the twenty-five geographic divisions of the City of Atlanta established in 1974 for planning purposes.

New lot of record. A tract of land that has been subdivided within the past five years and so recorded as a separate buildable property of record with the county land registrar's office.

Nuisance tree. A tree with uncorrectable defects severe enough to pose an imminent danger to people or buildings on public property under normal conditions, as determined by the City Arborist.

Overstory tree. A tree that normally attains a DBH in excess of 25 inches, a height in excess of 60 feet, and 1,600 square feet or more of canopy at maturity. Examples include White oak (*Quercus alba*), Overcup oak (*Quercus lyrata*), Nuttall oak (*Quercus nuttallii*), Post oak (*Quercus stellata*), Tulip poplar (*Liriodendron tulipifera*), Pignut hickory (*Carya glabra*), Mockernut hickory (*Carya tomentosa*), American beech (*Fagus grandifolia*), and others on the City of Atlanta's Recommended Tree List.

Pervious Surface. A surface that typically allows the free flow and percolation of water, typically uncompacted soil.

Pine. A tree that is a member of the genus *Pinus* in the family Pinaceae.

Pre-application conference. A meeting with the City Arborist and the applicant, and/or property owner and other necessary professionals to determine which trees must be protected and remain on site after construction is complete.

Prescription/silvicultural prescription. A written directive developed by a private arborist for a site or individual tree for the purpose of preserving a tree(s). Prescriptions must include: 1) the private arborist's name, signature, qualifications, and contact information; 2) the site address and individually identified tree(s) at issue; 3) the current condition of the tree(s); 4) tree protection provisions to be implemented during construction or site disturbance such as a watering regime, mulching, fencing, physical barriers, and other methods to prevent soil compaction or damage; 5) a soil and foliar analysis; 6) a five-year survivability assessment; and 7) a schedule of recommended treatment, including any recommended soil amendments, fertilizer application, pesticide application (with copy of pesticide label), or pruning. Specifications for pruning, soil modification, and fertilization in the prescription shall be written in accordance with requirements of this Article and provisions of the American National Standards Institute, Inc. (ANSI) A300 series of standards. A written report of treatment actions, an assessment of the condition of the tree at the end of treatment, and an estimate of the survivability of the tree following the application of such a prescription shall be provided to the City.

Priority tree. A tree meeting the following criteria:

1. Trees of high or excellent value as determined by the TVM;

2. Lesser-sized trees of rare species, exceptional aesthetic quality, or historical significance as designated by the Tree Conservation Commission.

Private arborist. Any person not employed by the City of Atlanta who is a Georgia Registered Forester or International Society of Arboriculture (ISA) certified arborist, or an arborist with a Tree Care Industry Association (TCIA)-accredited company.

Private property. Property located within the City of Atlanta that is not owned or leased by a governmental entity, except that property that is owned or leased by the Atlanta Housing Authority or Atlanta Public Schools shall be deemed private property for purposes of this Article only. [Is this needed?: Property that is leased by the City or the State to a third party pursuant to a lease with a duration (including potential extension periods) of 5 or more years shall be deemed to be private property.]

Private property tree. For purposes of this Article, a tree for which more than 50% of the flare of the tree, where the tree interfaces with the earth, is located on private property.

Pruning. The selective removal of plant parts. For the purposes of this Article, pruning be performed in accordance with the American National Standards Institute, Inc. (ANSI) A300 series of standards for tree care management.

Public property. All property owned or leased by the City, including without limitation City parks, streets, sidewalks and other rights-of-way, and all other governmental property for which the City has jurisdiction with the exception of property owned by the Atlanta Housing Authority or Atlanta Public Schools.

Public property tree. For purposes of this Article, a tree for which at least 50% of the flare of the tree, where the tree interfaces with the earth, is located on public property.

Recommended Tree Planting List. A list of preferred species for planting and replacement trees in the City of Atlanta. The list includes information about the estimated size of trees at maturity. The list may be updated periodically by the arboricultural manager based upon current research.

Recompense. Monetary compensation assessed to compensate for the lost public value of healthy trees that are removed or destroyed. Recompense is required when tree replacement is not feasible and is calculated in accordance with the formulas contained in this Article.

Remedial action. The acts required to fulfill the requirements of this Article after a violation has occurred, including without limitation replanting, payment of recompense, and silvicultural prescriptions. Fines or other penalties assessed pursuant to Code Section 1-8 are not remedial actions.

Replacement or replanting. Planting new trees of equal or comparable size, species, vigor, health, and mature canopy potential (permitted by conditions) to restore the lost public value of healthy trees that are removed or destroyed.

Required yard area. The open space on a lot not occupied by a structure, including both buildable area and setbacks not occupied by a structure.

Responsible party. Any person(s) and/or entities whose actions and/or failures to act violate this Article, including without limitation any person who allows his or her agent or contractor to violate this Article. Where a tree is injured, destroyed or damaged in violation of this Article, there may be more than one responsible party. A responsible party may include without limitation: the owner of the property on which a tree of concern is located; an agent of the owner; a tree removal company; a builder; or a landscaper.

Riparian Buffer. The area within 75 feet of a perennial or intermittent stream which shall remain undisturbed pursuant to City of Atlanta code. [\[Insert Code Reference.\]](#)

Sampling. The employment of statistical survey methods recognized by current forestry standards to count and measure existing trees on a site.

Saved tree. Any tree that, under the terms of this Article, is to be protected from injury or destruction as a result of during land disturbing or other construction activities.

Saved with prescription. Any tree with impact between 20% and 33% of its critical root zone, as long as the structural root plate of the tree remains 100% protected and an arboricultural prescription is approved by the City Arborist prior to construction in accordance with the provisions of this Article.

Setback tree. A tree located in the area between the property line and the buildable area of the lot.

Severe mechanical injury. A wound or combination of wounds that, when measured at the widest extent of the wound, exposes or destroys the cambium layer of 30% or more of the circumference of a tree. For the purposes of this definition, the circumference of the tree shall be measured at the top of the wounded area.

Shearing. Cutting stems to an indiscriminate length.

Silviculture. The practice of managing trees according to current forestry and tree care standards to ensure their continued health and survival.

Spiking. The use of metal spurs or gaffs to climb trees. Unless a tree is permitted for removal under this Article or is the setting for a bona-fide aerial rescue under ANSI Z133.1 in which a person's life is in danger, spiking is prohibited by this Article.

Steep Slope. A slope is the natural inclination of the land’s surface. Steep slopes are defined as areas with a 15-foot or greater vertical rise over 100 feet of horizontal run, or 15 % or greater rise. Grading or other land modifying activities that create steep slopes shall not be permissible.

Structural root plate or compression plate. The circumferential area around a tree within which roots provide stability against wind throw. The radius of the root plate is a function of a tree’s DBH. The table below provides guidelines for estimating root plate radii for upright trees without restricted roots. [Make table more granular as provided in the 2020 City definitions.]

Size of Structural Root Plate by DBH of Tree				
Diameter at breast height(DBH)	8 inches	16 inches	32 inches	48 inches
Structural root plate	5.5 feet	8 feet	10.5 feet	12 feet

Structural soil. An engineered soil designed to bear the weight of pavement and provide the proper root environment for trees to grow beyond the confines of a tree pit into the compacted soil.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground.

Subdivision. A tract of land that has been subdivided within the past five years in accordance with the City of Atlanta’s Subdivision Ordinance and so recorded as a separate property of record with the county land registrar’s office.

Surface soil dimension. The measured length and width of a landscape area not covered by an impervious material.

Tipping. The cutting of a lateral limb of a tree in such a manner as to leave a prominent stub extending beyond a branch node or the trunk, which is prohibited by this Article.

Topping. Reduction of tree size using internodal cuts without regard to tree health or structural integrity, which is prohibited by this Article. For the purposes of this Article, topping refers to the cutting of any significant branch or leader of a tree back to a branching union in which the remaining branch or leader’s diameter is not at least one-third the diameter of the cut branch or leader. By extension, if any prominent stub extends-beyond the node (crotch, or intersection) of a pruned branch or leader, that branch or leader is considered to have been topped or tipped (see above).

Tree. Any self-supporting woody, perennial plant that has a trunk diameter of 2.5 inches or more when measured at a point six inches above ground level and which normally attains

an overall height of at least 15 feet at maturity, usually with a single main stem or trunk and many branches.

Tree Conservation Commission. A citizen board, appointed by the Mayor and City Council Members to assist in the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta. The Commission hears and decides appeals of decisions of administrative officials related to trees.

Tree replacement plan. A drawing which depicts the location, size, and species of existing and proposed replacement trees on a lot for which a permit is sought; a table detailing, by species and DBH, the existing trees to be saved, lost, or destroyed, and the replacement trees to be planted, the location on any tree save areas; and other provisions as required by the City Arborist.

Tree save area. A portion of a lot which includes trees and undisturbed soil, and which is excluded from any development activity. A tree save area must have soils sufficient for supporting trees and be fully stocked with trees at the time of development.

Tree trust fund. A trust fund maintained by the City under the stewardship of the Tree Conservation Commission which includes monies collected as contributions provided pursuant to this Article and which funds may be expended only as provided in this Article.

Tree Value Matrix (TVM). A system for evaluating the qualitative value of trees in the metro-Atlanta region of the Georgia Piedmont. The Tree Value Matrix is attached hereto as Appendix A and is synthesized from the health, structural condition, species, and location of a tree.

Tree well. An area of pervious surface surrounding a tree that contains soil to support the growth of the tree; typically bordered by impervious surfaces such as curbs, sidewalks, and streets.

Understory tree. A tree that normally attains a DBH of less than 10 inches, a height of less than 30 feet, and a canopy of approximately 400 square feet at maturity. Examples include Pagoda dogwood (*Cornus alternifolia*), Redbud (*Cercis canadensis*), Sourwood (*Oxydendrum arboreum*), Sassafras (*Sassafras albidum*), Serviceberry (*Amelanchier arborea*), Bigleaf magnolia (*Magnolia macrophylla*), Fringe tree (*Chionanthus virginicus*), and others included on the City's Recommended Tree List.

Undesirable species. Trees with demonstrated negative qualities to warrant limited use in the City of Atlanta. Those qualities include without limitation: weak branch structure, chronic pest or disease problems, invasive tendencies, and over-planting. A list of undesirable tree species is maintained by and available from the City Arborist's office.

Urban forest. The system of trees and other plants that grow individually, in small groups, or under forest conditions on public and private lands in cities, suburbs, and towns" is the definition that appears in "Assessing Urban Tree Canopy in the City of Atlanta; A Baseline Study," City of Atlanta, Spring 2014.

|

Urban Forest Master Plan. The City’s management plan for protecting and preserving trees and forest resources in the urban environment. This document outlines an action plan with detailed information, recommendations, and resources to effectively manage, plant, and maintain trees in Atlanta.

Vacant lot. A property of record that has not had a structure on it in the past five years. [Is this definition needed?]

Yard area. The open space on a lot not occupied by a structure, including both buildable area and setbacks not occupied by a structure.

DIVISION II. APPLICABILITY & EXEMPTIONS

Section 158-32. Applicability & Exemptions

A. Applicability:

The terms and provisions of this Article shall apply to all private and public property trees located within the geographic boundaries of the City.

B. *Exemptions.*

1. *Nurseries and tree farms.* All licensed plant or tree nurseries and tree farms shall be exempt from the terms and provisions of this Article only in relation to those trees which are planted and are being grown for sale or intended sale to the general public or for some other public purpose.
2. *Tree museums and botanical gardens.* All non-specimen trees in licensed tree museums or public botanical gardens which meet the following conditions shall be exempt from the terms of this Article:
 - a. The museum or botanical garden employs a full-time arborist or horticulturist;
 - b. The museum or botanical garden is located upon property owned by the City and leased or managed to said tree museum, non-profit or botanical garden; and
 - c. Trees were planted for the sole purpose of display or public education.

C. *Emergencies.*

During and immediately after a declared public emergency, such as a tornado, ice storm, flood, or any other act of nature, the requirements of this Article may be waived temporarily by the Mayor and the Mayor's designee.

DIVISION III. GENERAL PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE TREES

Section 158-33. Standards regarding Public Trees

- A. *Prohibitions.* No person shall damage, prune, remove, maintain, or otherwise affect any tree or shrub in any public street or other public place except pursuant to this Article.
1. Damage to public trees includes, but is not limited to, construction and excavations, vehicular accidents, vandalism, adhering advertisements, electrical wires, animal damage (tied to or damaged by), allowing toxic substances to come in contact with soil

within the critical root zone, such as herbicides, gas, brine water, oil, liquid dye, or other substances deleterious to tree health.

2. No known invasive may be planted on any public property or right-of-way.

B. *Standards.* Tree planting, pruning, fertilizing, other maintenance action, and/or disturbance in the CRZ performed on any public tree requires a permit and must be done according to the most current versions of the ANSI Standards and ISA Best Management Practices, and the provisions of this Article.

C. *Collection of Remedial Action Expenses for Public Trees.* In addition to applicable penalties, remedial action necessitated by damage to or destruction of public trees may be executed by the Department of City Planning or the Department of Parks and Recreation and the expense of such repairs or replanting shall be collected from the person(s) responsible for the damage.

Section 158-34. Standards regarding Trees on Public and Private Properties

A. General provisions

1. No person may damage or destroy a tree over 6" DBH pursuant to this Article without a permit from the City Arborist.
2. No replacement requirements can be met by planting invasive or undesirable tree species that are shown on the list of invasive and undesirable tree species maintained by the City of Atlanta Arborist.
3. The removal of existing trees requires a permit from the Office of Buildings. Trees planted must comply with the most current versions of the ANSI Standards and ISA Best Management Practices, and the provisions of Division 9 of this Article.

B. Protection of the Public Right-of-Way Clearance and Traffic Safety

1. *Pruning for Clearance.* Any person being the owner or lessee of real property abutting a public street or sidewalk shall prune any tree or other vegetation on the owner's property so that such tree or other vegetation shall not obstruct or imperil the view of traffic, pedestrians, or cyclists, nor obstruct or interfere with free passage of pedestrians, traffic or cyclists on any public street, pathway, or sidewalk or the view of traffic signs or signals or with the extension or maintenance of wires for street electric lights. Private trees shall be maintained to provide a minimum clearance of 8 feet over sidewalks and 14 feet over public streets.
2. *Pruning or Removal for Traffic Safety.* Whenever the Department of City Planning determines that any tree on any private premises in the city dangerously obstructs the view in the "visibility triangle" as defined in section 16-28.008 (9), the Department of City Planning may notify the owner or other person in control of the property where any tree is located that it is the duty of such person to remove or prune such tree or part in accordance with directions of the Department of City Planning. If the affected owner does not comply with directions of the City DCP shall cause the required work to be done, thereafter rendering a bill to the affected owner for costs of services and materials resulting from such work. If the affected owner is low-income as defined in this Ordinance, the owner may present proof of

household income and the City shall reduce costs by one-half and permit a payment plan.

DIVISION IV. TREE VALUATION USING THE TREE VALUE MATRIX (TVM)

[TVM currently being field tested by professionals.]

[The TVM is a prioritization tool and is utilized when trees must be removed. Otherwise, all tree protection pursuant to this Article apply.]

Section 158-35. Tree Valuation; Purpose & Intent

This section deals with the valuation of trees for the purpose of determining which trees must be preserved and which may be destroyed as allowed under this Article. TVM values are used only to determine the qualitative value of trees for use on site plans or pre-application site plans. A TVM value indicates a tree's intrinsic value to the community and does not indicate a monetary value or a statement of tree risk.

The TreeValueMatrix is intended to allow arborists to determine the value of a tree or trees that shall be included in a submittal under this Article. The TVM consists of three tables as outlined below and in addition there is a free app which can be downloaded that allows rapid determination of values.

In addition to helping plan preservation efforts during development, the TVM is used throughout the Article in various applications.

TreeValueMatrix™ Charts FINAL DRAFT

© Kathryn Kolb, 2020

1. Tree Value Rating Charts. The **TVM Tree Value** is found by combining the Species/Size and Condition and Value in Matrix 1 with the Contribution Value in Matrix 2.

Step 1. Find the Species/Size Value Table in Appendix 1.

Step 2. In Matrix 1, match the species/size value to the condition value to find the Matrix 1 value.

Step 3. In Matrix 2, match the Matrix 1 value to the contribution value to find the **TVM Tree Value**.

Matrix 1: Condition & Species/Size

Condition	Species/Size			
	Low	Moderate	High	Excellent

DDH	1	1	1	1
Moderate Problems	1	1	2	2
Minor Problems	1	2	3	3
No Apparent Problem	1	2	4	4

Matrix 2: Overall Value

Condition + Species/Size	Contribution & TVM Tree Value		
	Poor site	Fair site	Urban Forest*
1	Low	Low	Moderate
2	Low	Moderate	High
3	Moderate	High	Excellent
4	Moderate	High	Excellent

* these values are not considered for non-native or invasive species

2. Value Rating Criteria:

a. Species/Size. The Species/Size rating is found using Appendix 1: "Species/Size Tree Table."

Species/size ratings are determined by species and diameter-at-breast-height (dbh) size for understory, midstory, and overstory trees. *(For more detail on these values see: TreeValueMatrix™ Introduction and Background*

Species/Size exceptions: When it is clear that smaller trees of "high" or "excellent" species value were previously planted rather than growing from natural regeneration, then the Arborist may determine them to be of lesser value, especially if the tree was planted in poor soils in isolated conditions with inadequate soil volume for maturity, or if the landscape type is inappropriate for that species.

b. Condition. The Condition rating is determined by a basic evaluation of a tree's health and structural integrity. Factors to be considered include: root flares, trunk, scaffold branches, small branches, twigs, foliage and/or buds.

(i) **NO APPARENT PROBLEMS** - Indicates a tree that looks healthy in crown, trunk, tree base/root flares and visible roots.

(ii) **MINOR PROBLEMS** - Indicates a tree with disease or injuries that are not likely to significantly impact the tree's longevity; usually with less than 20% crown dieback, and/or less than 20% damage to trunk, roots or root flares. If the injury is purely mechanical, an otherwise healthy tree should be considered viable as long as 2/3 of the crown is intact.

(iii) **MODERATE PROBLEMS** - Indicates a tree with disease or injury such that decline is likely to continue, usually with more than 20% crown dieback, and/or more than 20% damage to trunk, roots or root flares; or more than 33% mechanical injury to the crown if tree is otherwise healthy. Trees with moderate problems may need to be evaluated by an ISA Certified Arborist.

(iv) **DDH (DEAD, DYING, or HAZARDOUS)** - For a tree to be considered DDH it must show signs of disease or injury where death or structural failure is expected imminently or within

2 years. In order for a tree to be rated as DDH, it must be found to have an overall “high or “extreme” risk of failure as assessed using the Tree Risk Assessment Qualification (TRAQ) guidelines published by the International Society of Arboriculture. *Note: Trees in dead or declining condition, are beneficial to the urban forest and regional ecology if they are located in areas where no target exists if structural failure occurs.*

c. Contribution. The Contribution rating is determined by the site conditions of the tree. Trees found in the best locations for health and longevity, in the most suitable locations for the species, provide the highest green infrastructure and ecosystem value to a municipality, including stormwater mitigation. The contribution rating is highest when trees are found growing in the richest, oldest soils and in inter-connected stands that most closely resemble native forest conditions. The contribution rating is found through visual assessment of the site where the tree is located:

POOR SITE: Current site conditions are adverse to the degree that the trees’ health, ability to reach maturity, and normal life-span for its species will likely be significantly compromised.

When two or more of the following apply:

1. Soils are known to be polluted, or are compacted or paved to the point where tree health is compromised or would be after remediation of the soil.
2. Tree is located where not enough soil exists for continued growth and maturity (sq ft)
3. Species is not appropriate to the landscape type (*example: Sycamore, a wetland species, is located on a dry hilltop, or the species is native to a colder climate; example: White pine.*)

FAIR SITE: When current site conditions are such that the tree’s health and longevity is expected to be normal for its species. When two or more of the following apply:

1. Tree is well established (*such as in older neighborhoods, historic sites, parks*)
2. Ample square footage of soil area exists for continued growth and maturity.
3. Species is appropriate to site conditions (*example: Post oak or Hickory on a dry hilltop*)

URBAN FOREST: Urban forest conditions exist when two or more of the following apply:

1. Where a tree’s Critical Root Zone intersects 33% or more with the Critical Root Zones of other trees
2. Top soil layer contains significant natural organic material, such as accumulated duff, fallen branches and leaves from previous years.
3. Where native “indicator” tree or plant species are found in the forested area. (Note: such species may not be visible in all seasons).

DIVISION V. PROCEDURE FOR OBTAINING A PERMIT FOR REMOVAL OF DEAD, DYING, OR HAZARDOUS TREES, NUISANCE, OR IMMINENT HAZARD TREES

Section 158-36. Removal of dead, dying, or hazardous trees

A. *Permit to remove dead, dying, or hazardous trees.*

1. *Submittal requirements and procedure.* Applications to remove dead, dying, or hazardous trees with a DBH of 6 or more inches shall be submitted to the City Arborist in writing, preferably online. Each application shall include the address of the property and the owner's name, phone, and email address as available. Request should also include the name, phone, and email of any tree service engaged to conduct the work. Each tree for which the permit is requested should be identified by species and DBH (if known), and location, and any identifying characteristics or added markings. The reason for the request should be stated.
2. *Applicants.* An applicant may be a property owner or an agent, such as a tree service, designated to make an application on behalf of the property owner.
3. *City procedure.* By submitting an application for removal of a DDH tree, an applicant grants permission for the City Arborist to enter the property and inspect the tree(s) and shall make entrance possible by removing any obstacles to inspecting the tree. Prior to granting any permit to remove a DDH tree the City Arborist may conduct a site visit and may request additional information about the condition of the tree. A written report of the City Arborist's findings shall be recorded in Accela.
4. *City's Arborist's prerogative to review an application.* The City Arborist relies on the accuracy and completeness of information submitted by applicants and may reject any application which is inaccurate, incomplete, or ambiguous, and shall provide the applicant with the relevant standard to which they must comply in the event their submittal does not meet the relevant standard.
5. *Standards of tree risk.* Permits to remove DDH trees shall only be approved for trees determined to be "high risk" or greater according to the ISA Tree Risk Assessment Qualification (TRAQ) risk matrix. City Arborists shall approve only those trees determined to be "high risk" or greater according to the ISA TRAQ risk matrix. City Arborists shall have no obligation to conduct testing or look for invisible decay, but shall have the duty to approve or deny permits submitted by applicants based on the information provided and subsequent verification thereof under this section.
6. *Foundation Damage.* The City Arborist shall approve a permit to remove a tree which is actively causing damage to the structural elements of the foundation of a primary structure. A permit of this type will rely upon an engineer's report, which must state that the pressure exerted by the tree is in excess of the design limits of the foundation. Such report shall be subject to the relevant requirements under this Section.
7. *DDH tree marking.* If DDH trees are to be removed while a construction permit is pending or within 6 months of the issuance of a construction permit, then the applicant shall mark each such tree for DDH removal with an orange capital "D". The capital "D" must be visible from the street unless the tree's location or site conditions make compliance with this requirement impractical as determined by the City Arborist. This marking distinguishes the tree from healthy trees approved for removal in association with construction.
8. *DDH permit posting.* DDH permit approval postings shall be placed in a prominent location on the activity site so that the posting sign(s) are clearly visible, and may be

seen and read by passers-by. The postings shall reference any relevant permit information available on Accela.

9. *Replacement and recompense.* Removal of dead, dying, and hazardous trees are not subject to the replacement or recompense requirements of Divisions 9 & 10 except as follows:
 - a. Parking lot trees as set forth in Division 12;
 - b. Illegally destroyed trees pursuant to this Article.
10. *Permit approval and expiration.* Permits to remove dead, dying, or hazardous trees shall be valid for six months from the date of issuance. The City Arborist may extend the expiration date of the permit by up to six additional months based upon the Arborist's finding of extenuating circumstances.

B. Imminent hazard removal.

When an applicant believes and can demonstrate that a tree on private property or on non-City-owned public property over which the City has jurisdiction, poses imminent danger to the health, safety and welfare of persons or property, the applicant may follow the procedures under Section 158-38.

- C. *Reporting public property trees in dead, dying, or hazardous condition.* Any person who believes that a tree on City-owned property is in dead, dying, or hazardous condition and/or presents an Imminent Hazard may request an inspection of the tree by contacting 311 and providing information regarding such tree, including its street address.

Section 158-37. Removal of Nuisance Trees

The provisions of this section shall apply to all property in the city, as follows:

1. *Generally.* Any dead or diseased tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree or part thereof were live or not diseased, cause such tree or part thereof to fall onto public right-of-way or public property, and thereby imperil life or property or impede traffic. When a nuisance tree is brought to the attention of and confirmed by two City Arborists, nuisance abatement proceedings shall commence.
2. *Examination/Inspection.* The Department of City Planning, or its designee, shall have the right to examine all trees, alive or dead, standing or fallen, and logwood piles for determining whether trees are contagiously diseased or infested. Such examinations shall include the right to take samples from such trees and logwood piles for laboratory testing purposes.
3. *Notice to owner to remedy conditions; failure to comply; hardship exemptions.* The City Arborist shall give written notice to the owner or the person in possession, charge or control of the property where a tree nuisance as defined in this section exists. Said Notice shall include the following:
 - a. A clear and concise statement that in the city arborist's opinion the tree or part of a tree constitutes a nuisance that shall be removed,
 - b. The specific actions that the owner must take to mitigate the nuisance;

- c. The owner has 30 days from the date of receipt of the notice to complete the mitigation actions.
 - d. If the mitigation actions are not completed within the 30 day time period, the City arborist may issue a citation requiring the responsible party to appear in the municipal court to determine whether the tree or part of a tree involved constitutes a nuisance and should be abated.
 - e. Notice to remedy shall include instructions on how to apply for a hardship exemption including how to receive assistance in applying for such an exemption.
4. If the tree is not removed within the time specified by the city arborist, the City Arborist may cause the owner of such tree, or the person in possession, charge or control thereof, to be summoned to appear before the judge of the municipal court to determine whether or not the tree or part of a tree involved constitutes a nuisance. Said Summons shall include notice of the right to apply for a Hardship Exemption under Division III.
 5. *Hearing; failure to comply with order to abate.* If upon such a hearing as provided for before the judge of the municipal court, the judge shall find that the tree or part of a tree constitutes a nuisance and orders the defendant to abate the same within a specified time, then each ten days that the conditions adjudicated to be a nuisance by the judge are maintained subsequent to the expiration of the time fixed in the judgment, the same to be abated shall constitute an offense.
 6. *Removal, Pruning, or Treatment.* The Arborist Division shall have the power and is authorized and instructed, after proper notification as referred to above and noncompliance therewith, to cause such trees, or already-cut communicably diseased or infested wood, which are deemed to be a public safety risk or liability as referred to above, to be removed, pruned, or treated at the expense of the owner of the land. At the discretion of the Department of City Planning or designee, a “hardship exception” may be granted wherein the City will assume all or part of the expenses involved in removing, pruning or treating such trees.

Section 158-38. Removal of Protected Trees Presenting an Imminent Hazard.

(A) *Imminent hazard.* The process for tree removal with a DBH of 6 or more inches based upon an Imminent Hazard is stated in this Section.

(B) *Application.*

1. Where a tree is deemed by an applicant to present an Imminent Hazard which requires removal within the following 24 hours to avoid bodily harm or substantial damage to an occupied structure, an applicant may request approval for immediate removal by contacting the City Arborist by email and/or telephone and providing the City Arborist with information about the imminent hazard and claimed necessity for immediate removal of the tree.
2. If the applicant is unable to reach the City Arborist, the applicant may remove the tree without approval. Within five working days of the removal, the applicant shall apply for retroactive approval by submitting to the City Arborist: a tree removal

application; photos and written descriptions that demonstrate the Imminent Hazard and the need to remove the tree without prior approval of the City Arborist; and any other information reasonably requested by the City Arborist.

- a. *Review of application by City Arborist.* To determine whether to issue a tree removal permit based on an Imminent Hazard, including whether to issue a retroactive permit, the City Arborist, in consultation with the director of any City department with purview over the type of hazard alleged, must find that an Imminent Hazard exists (or existed), and removal of the subject tree(s) will be (or was) necessary to abate the Imminent Hazard within 24 hours.
 - b. *Posting.* No posting of the property is required for a removal permit to address an Imminent Hazard.
 - c. *Replanting and Recompense.* No replanting or recompense requirements shall apply to a permit to remove a tree to abate an Imminent Hazard.
 - d. *Denial.* Where an applicant requests tree removal pursuant to this Section and the City Arborist denies the permit, the tree may not be removed pursuant to this section.
 - e. *City Arborist findings.* Where the City Arborist finds that the applicant did not follow procedures of this section and/or failed to demonstrate that the tree removal was required to abate a public emergency, the Arborist may charge the responsible party applicable recompense, impose replacement requirements, and applicable penalties and fines.
3. *Emergencies.* The City shall have the right, but not the obligation, to enter the property upon which such tree is located and abate a nuisance, and the reasonable costs of such work shall be reimbursed to the City. The City shall have the authority to obtain reimbursement from the property owner. The City must provide notice of the right to apply for a low-income hardship exemption.

DIVISION VI. PROCEDURE FOR OBTAINING PERMITS FOR REMOVAL OF HEALTHY, NON-HAZARDOUS TREES; UNDESIRABLE SPECIES

Section 158-39. Removal and destruction of healthy, non-hazardous trees that are undesirable species, as designated by the City of Atlanta.

- A. *Undesirable species defined.* The following species of trees are deemed to be undesirable: Bradford Pear (*Pyrus calleryana*); Carolina cherry laurel (*Prunus caroliniana*); Chinaberry (*Melia azederach*); Eastern arborvitae (*Thuja occidentalis*); Mimosa (*Albizia julibrissin*); Princess tree (*Paulownia tomentosa*); Leyland cypress (*Cupressocyparis leylandii*); Paper mulberry (*Broussonetia papyrifera*); Privets (*Ligustrum species*); Red Tip (*Photinia x fraseri*); Tree of heaven (*Ailanthus altissima*); White mulberry (*Morus alba*); Goldenraintree (*Koelreuteria paniculata*); Chinese parasol tree (*Firminia simplex*); Chinese tallow tree (*Triadica sebifera*); and Chinese holly (*Ilex cornuta*), Lacebark elm (*Ulmus parvifolia*). This list may be updated by the City Arborist.
- B. *Permit required.* A permit is required to remove or destroy an undesirable species tree 6 inches or greater DBH.

C. *Permit requirements.* . The permitting process for removal of healthy, non-hazardous invasive species trees from private property differs from permitting requirements for other healthy, non-hazardous trees as follows:

(1) *Application.*

- (a) An applicant may request a permit to remove up to six trees of an invasive species, by submitting a request for an inspection by a City Arborist or by submitting an application to the City Arborist with at least two photographs showing each invasive tree or may request a site inspection by a City Arborists who may issue a permit based solely on the site inspection.
- (b) For permits to remove seven or more invasive species trees, the applicant shall submit to the City Arborist: at least two pictures of each tree at issue sufficient for the City Arborist to identify the species or an applicable construction or landscaping plan meeting the requirements set forth in Section 158-42(E) and a statement of the zoning category of the property at issue. [NOTE: is (b) needed?]

(2) *Invasive tree permit posting and marking.* Invasive tree removal permit approval postings shall be placed in a prominent location on the activity site so that the posting sign(s) are clearly visible, and may be seen and read by passers-by. The postings shall reference any relevant permit information available on Accela.

(3) *Replacement and recompense.* Removal of invasive trees are not subject to the replacement or recompense requirements of Divisions 9 & 10 except as follows:

- a. Parking lot trees as set forth in Division 12; and
- b. Illegally destroyed trees pursuant to Division 14.

F. *Permit approval and expiration.* Permits to remove invasive trees shall be valid for six months from the date of issuance, though the City Arborist may extend the expiration date of the permit by up to six additional months based upon the Arborist's finding of extenuating circumstances.

DIVISION VII. PROCEDURE FOR OBTAINING PERMITS FOR REMOVAL OF HEALTHY, NON-HAZARDOUS TREES; HOMEOWNER EXEMPTION

Section 158-40. Special Removal Permit for Homeowners for low and moderate value trees.

(A) *Requirements of special removal permit.* The City Arborist may issue a special "non-development" removal permit to remove any single private property tree of low or moderate value per the Tree Value Matrix, provided the removal is not associated with the development of land (e.g. renovations),

- (B) *Permitting process for special removal permits.* The special removal permit process differs from the permitting of other healthy, non-hazardous trees as follows:
- (1) *Application.* The owner of the property must submit a special removal application to the City Arborist in a format prescribed by the City Arborist, stating the reason for the removal of the tree.
 - (2) *Review of application by City Arborist.* City Arborist may issue a special “non-development” tree removal permit only if:
 - (a) The owner is the applicant and is a resident of the property and provides documentation acceptable to the City Arborist that he/she has owned the property for at least one year;
 - (b) The applicant provides a statement that the removal of the tree(s) is not related to sale or development of the property;
 - (c) The application is for a private property tree;
 - (d) The tree(s) is not a boundary tree, unless the adjoining property owner is a co-applicant for the special removal permit;
 - (e) The tree’s value is low or moderate value per the Tree Value Matrix;
 - (f) There has been no removal of a tree pursuant to a special removal application for at least three years prior to the submission date of the current application.
 - (g) Neither the property on which the tree is located nor the homeowner/applicant has been the subject of a violation of this Article within one year prior of the filing of the special removal permit application.
 - (h) *Homeowner permit posting.* Homeowner permit approval postings shall be placed in a prominent location on the activity site so that the posting sign(s) are clearly visible, and may be seen and read by passers-by. The postings shall reference any relevant permit information available on Accela.
- (4) *Replacement.* No tree replacement shall be required for trees removed under this section. if the site meets or exceeds 150% of the minimum site density requirements before and after the removal,
- E. *Unlawful removal.* Where a tree is removed without a permit, recompense and fines shall be calculated and owed as described in Section 158-55 & 158-65, even if the property would have been eligible for a special removal permit pursuant to this Subsection.

DIVISION VIII. PROCEDURE FOR OBTAINING REMOVAL PERMIT FOR HEALTHY, NON-HAZARDOUS TREES PURSUANT TO CONSTRUCTION, DEMOLITION, OR LANDSCAPING

Section 158-41. General requirements

- A. *Policy.* It is the policy of the City of Atlanta to encourage the preservation of the City’s highest quality trees during development where feasible.
- B. *Applicability of this section.* The contents of this section apply only to healthy, non-hazardous trees on private and public property.
 1. *Permits for tree removal based on construction and demolition.* A permit may be issued by the City Arborist to remove or destroy a tree to

accommodate construction and/or demolition for which a building permit is required, or to accommodate installation of infrastructure associated with the improvement, including without limitation dwellings, buildings, garages, pools, patios, driveways, retaining walls and utility lines and other constructed features. All tree removal is subject to review under Section 158-44 of this Article and all the limitations of this Division.

2. *Permits for tree removal based on landscaping improvements.* The City Arborist may issue a permit to remove or destroy a tree in order to accommodate landscaping projects, either under this Section or, if applicable under Section 158-40. If under the latter, the rules of this Section do not apply.

C. *Permit required.* No person shall directly or indirectly remove or destroy any healthy, non-hazardous tree meeting one of the following two descriptions without first obtaining a permit from the City Arborist except as otherwise set forth in this Article:

- (1) Healthy, non-hazardous trees located on public property;
- (2) Healthy, non-hazardous trees located on private property, which is six inches DBH or greater.

D. *Minimal loss of trees.* Each applicant for a permit to remove or destroy a healthy, non-hazardous tree shall be required to minimize the damage to trees to the maximum extent feasible. Before issuing a permit to remove healthy non-hazardous trees, the City Arborist shall ensure that:

- a. the value of trees and urban forest areas on the site area maximized,
- b. the total DBH inches saved is maximized; and
- c. the improvement cannot reasonably be positioned to further maximize tree preservation.

If there is a choice between which trees or forest areas will be saved or destroyed, the Arborist may require the applicant to preserve the highest value trees and urban forest areas.

E. *Permit on site.* All tree removal permits shall be available for public inspection on site and on the City of Atlanta website.

Section 158-42. Pre-Application Conference and Tree-Save Commitments

A. *Exemption:* A Pre-application Conference should occur when an applicant wishes to remove trees pursuant to an activity for which a land disturbance, demolition, or building permit is required. An applicant may opt out at their own risk if they believe that their plans, once complete, will show that either:

- a. No trees are impacted;
- b. Impacted trees can all be preserved;
- c. Only low-value trees will be destroyed;
- d. Tree destruction will be minimal so as to preclude any environmental, ecological, financial, or riparian concerns under Article.

B. *Policy.* It is the policy of the City to facilitate the preservation of high quality trees and to streamline the permitting process. The identification of trees that must be

saved prior to submission of a full site plan is critical to achieving this policy goal. The intent of this section is to: (1) provide an opportunity for applicants to plan which trees will be preserved or destroyed by meeting with City Arborist and other City reviewers before costly detailed site plans are drafted; and (2) complete the any appeal in the earliest stages of the permitting process.

- C. *Participants.* The City Arborist and the applicant be present at the Pre-application conference, along with any other representatives at the request of the City or applicant.
- D. *Fees.* A fee, according to Table 1 must be paid prior to the Pre-Application conference.
- E. *Tree survey requirements.* The applicant shall provide a complete tree survey which depicts in graphic and list form the location, size, species, TVM value, and CRZ of each tree, boundary tree, and tree save area.
- F. *Pre-application site plan requirements.* A preliminary version of the site plan in graphical form must be submitted prior to the pre-application conference and must include:
 - 1. the location of existing structures known to have been present on the site within the last 10 years, other impervious areas, including but not limited to, walkways, driveways, parking lots, gravel covered areas, fences, and walls;
 - 2. the location of other features relevant to property development such as existing public utility locations, easements, adjoining roadways and right-of-ways;
 - 3. all environmentally sensitive areas including any protected waterways or wetlands under City code;
 - 4. the approximate location of all proposed structures;
- G. *City Review.* Before issuing providing Preliminary Approval, the City Arborist shall determine:
 - 1. Whether the plan minimizes the loss of trees when developing existing lots of record according to Table 1 and plan review guidelines under this Division.
 - 2. For subdivisions and commercial zoning areas, whether placement of improvements relative to Tree Save Areas protects the highest value trees according to the TVM under Section 158-45 and meets the requirements of Table 1.
 - 3. Whether setback trees and boundary trees are protected to the fullest extent possible.
 - 4. Whether environmentally sensitive areas are protected from disturbance.
 - 5. Whether improvements are positioned in a manner that prevents an increase in water flows of [percentage TBD; additional consideration required] from the property.
- H. *City arborist's decision.* At the Pre-Application Conference, the City Arborist shall approve or reject a plan, or may request alternative plans.

- I. *Resubmittal.* An applicant whose plans are rejected at this phase may make changes and resubmit.
- J. *Tree Save Commitment.* Upon the City Arborist’s approval of a pre-application site plan, the applicant signs a Tree Save Commitment. The City Arborist retains a copy of the signed agreement. By signing the Tree Save Commitment, the applicant agrees to fulfill the protection of all trees and trees save areas as shown on the pre-application plan by following all tree protection requirements pursuant to Section 158-43. The signed Tree Save Commitment constitutes a commitment on the part of the applicant to conduct future planning around the trees as specified; the trees and tree save areas must be protected throughout the construction process. The signed Tree Save Commitment must be attached to any subsequent site plan before the plan receives final approval by the City Arborist.
- K. *Early posting and appeals.* Plans with a Tree Save Commitment approved by the City Arborist pursuant to this Section require only one public notice of Preliminary Approval meeting the requirements of Section 158-46 except timing. The notice of Preliminary Approval (yellow sign) shall be posted for 12 business days.
- K. *Penalties for not upholding Commitments.* Tree Save Commitments will be reviewed alongside the full site plan at the time the applicant applies for a permit. If the commitments are not honored, the site plan will not be approved under Section 158-44.

Section 158-43 Tree Save requirements

A. Residential Zonings through R-5 for existing lots of record.

1. The City Arborist shall issue a permit to remove a tree only when its destruction is necessary for the demolition, construction, landscaping and land disturbance activities, and the City Arborist determines that no impact in excess of 15% (or 33% with approved tree preservation bonds), of the CRZ, will occur to High or Excellent value trees per the TVM, or to trees located in a setback or transitional or other buffer **except** when:

- a. The CRZ of the tree (after maximum allowable impact) occupies more than 40%* of the buildable area of the lot; or
 - b. An effort is made to preserve the highest value trees practicable through the reduction of buildable area under Table 1, subject to items 2 and 3 below.
2. In no case shall less than the Buildable Area Limit by percentage noted in Table 1 be disturbed for the construction of improvements on the site.
3. Administrative variance. In order to preserve trees, the City Arborist may allow changes to the site plan as follows: **[Further verification required.]**
- a. A 10% encroachment on side and front yard setbacks
 - b. A 20% encroachment on the rear yard setback
 - c. An increase of building height up to 10%

B. Commercial zonings and Subdivisions

1. The City Arborist shall issue a permit to remove trees only when their destruction is necessary to the demolition, construction, landscaping and land disturbance activities as proposed on the site plan, and the City Arborist determines that the tree(s) is not located in an environmentally sensitive area. Further, if the project involves the destruction either a Priority tree or 50% or more of the aggregate DBH inches on the property, the applicant shall proceed according to one of the following:
 - a. Incorporate a Tree Save in accordance with Table 1’s size requirements and complying with Section 158-45 to remain protected throughout construction and thereafter to serve as a forested portion of the property.
 - b. Pay into the Tree Trust Fund. If the applicant chooses not to incorporate a Tree Save Area, the applicant shall instead pay an amount to the Tree Trust Fund equal to Preservation Bond due on an area equivalent to the Table 1 Tree Save Area.

C. The City Arborist shall not approve a site plan where trees are proposed to be removed for the purpose of installing dry wells or other stormwater detention devices.

Zoning Classification District	Min lot Size (acres)	Buildable Area Limit* %	Buildable Area Limit in Sq ft.**	Tree Save Area Requirement***	Fees for Pre-App
R-1 Single Family Residential	2	50%	10,890	N/A	\$500/acre***
R-2 Single Family Residential	1	50%	7,623	N/A	\$500/acre***
R-2A Single Family Residential	0.69	60%	6,300	N/A	\$500/acre***
R-2B Single Family Residential	0.64	60%	6,720	N/A	\$500/acre***
R-3 Single Family Residential	0.41	60%	4,320	N/A	\$500/acre***
R-3A Single Family Residential	0.31	60%	3,645	N/A	\$500/acre***
R-4 Single Family Residential	0.21	70%	2,700	N/A	\$500/acre***
R-4A Single Family Residential	0.17	70%	2,232	N/A	\$500/acre***
R-4B Single Family Residential	0.06	70%	870	N/A	\$500/acre***

R-5 Two- Family Residential	0.17	70%	2,059	N/A	\$500/acre***
R-G Residential General	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
R-LC Residential-Limited Commercial	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
O-I Office Institutional	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
C-1 Community Business	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
C-2 Commercial Service	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
C-3 Commercial Residential	N/A	N/A	N/A	10% disturbed area	\$1000/acre***
C-4 Central Area Commercial-Residential	N/A	N/A	N/A	5% disturbed area	\$1000/acre***
C-5 Central Business Support	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
I-1 Light Industrial	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
I-2 Heavy Industrial (I-MIX)	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
SPI-Districts	N/A	N/A	N/A	15% disturbed area	\$1000/acre***
M-R Multi-Family Residential	N/A	N/A	N/A	20% disturbed area	\$1000/acre***
MRC Mixed Residential-Commercial	N/A	N/A	N/A	20% disturbed area	\$1000/acre***
LW Live-Work	N/A	N/A	N/A	20% disturbed area	\$1000/acre***
NC Neighborhood Commercial	N/A	N/A	N/A	20% disturbed area	\$1000/acre***
PD Planned Development	N/A	N/A	N/A	20% disturbed area	\$1000/acre***
Subdivision	N/A	N/A	N/A	20% disturbed area	\$1000/acre***

* *Buildable Area Limit* is the upper bound on the amount of Buildable Area that must be protected from disturbance so as to protect the CRZs of Priority trees.

** These Buildable Area Limit square footage amounts shown are for standard lots only.

***the acreage used in determining Pre-App costs shall be the forested acreage within the project limits, as determined by the presence of canopy.

Section 158-44. City Review

A. *Tree protection plan for arborist review.* Tree protection plans must be submitted for review in a format designated by the City Arborist. At a minimum, such plans shall include a tree survey and site plan which includes the list below.

1. A survey showing all site trees and boundary trees in geographic and list form clearly indicating the location of all trees with respect to property boundaries, existing and proposed site features and each other. The survey shall include each tree 2.5 caliper inches or larger on public property and all trees over 6 inches on private property. The size, species, and TVM value for each tree must be shown.

2. Environmentally sensitive areas, noting the specific designation, including, without limitation stream-buffers, wetlands, 100-year floodplains, steep slopes, and details of any proposed disturbance to such areas.
3. Topographic information at two-foot contour intervals. Single-family lots of record may be exempt from this requirement provided that no grading or cut or fill-of-earth or other changes in topography will occur.
4. The critical root zone of each tree and the percent of proposed impact, if any, to each tree's critical root zone;
5. The position of all tree save fencing around CRZs and tree save areas, including a notation of the distance (to the nearest one-half foot) from each fence to the closest tree;
6. A list of all on-site and boundary trees (numerically or alphabetically correlated with the tree survey); the total number and DBH of trees on site and trees proposed to be removed.
7. Date and signature of ISA-certified arborist, landscape architect, architect, engineer, surveyor, or other professional who prepared the survey.
8. All existing and proposed disturbances, including buildings, driveways and parking areas, drainage structures, water detention areas, utilities, construction material staging grounds and all areas where cut and fill of earth is proposed, shown to scale.
9. Limits of proposed grading and land disturbance.
10. For new lots of records and subdivisions, proposed lot lines must be shown.
11. Each preserved tree, any applicable tree save areas, and any applicable Tree Save Commitments must be attached to the plan.
12. Recompense and Bonding. The site plan shall show the recompense and bonding figures for each tree and the amounts to be paid and held in escrow under Division 10 & 11. Where more than 15% and less than 33% of a tree's critical root zone is damaged (known as an "impacted tree") the City Arborist will collect tree preservation bonds for the tree in advance under Division 11. This money will be held in escrow and returned without interest to the applicant 2 years after the issuance of a CO if the trees are healthy at that time.

B. *Tree planting plan.* Each plan that requires planting pursuant to Division X must also include a Tree Planting Plan. Tree planting plans must show all Tree Save Areas, and the location of plantings including details regarding the species, size and location of all trees to be planted. Where applicable, conflicts with business or public interest must be notated and tree size specified under Division X.

C. *Review of application by City Arborist for Construction & Demolition*

1. *Review of construction-related tree removal applications -No trees impacted.* The City Arborist shall first determine if any trees will be removed or destroyed. If no tree removal or destruction will occur and no impact in excess of 15 percent of a tree's critical root zone is proposed, the City Arborist may approve or deny the plan consistent with the terms of this Article II, and no posting shall be required.

2. *Review of construction-related tree removal applications - Trees impacted.* If the City determines no removal, destruction, or impact in excess of 15 percent of the CRZ will occur to a Priority tree, but that other trees may be impacted, the City shall issue a permit to remove a tree subject to recompense under Section 158-55. The City shall ensure that:
- (a) *Minimizing the loss of trees.* The City must find that the following conditions are met:
 - (i) The construction necessitates destruction of the tree;
 - (ii) The quantity of trees saved is maximized;
 - (iii) The total DBH inches saved is maximized;
 - (iv) The improvement cannot reasonably be positioned to maximize tree protection.
 - (b) *Environmentally sensitive areas.* For any property containing an Environmentally Sensitive Area, the City Arborist also must find that the following conditions are met:
 - (i) Where the property is one acre or larger, land disturbance shall be confined to the portion of the lot outside of the Environmentally Sensitive Area.
 - (ii) Where the property is smaller than one acre, land disturbance in the Environmentally Sensitive Area shall be allowed only to implement hydrologic and erosion control measures, to provide access corridors to streets and utility connections, and to meet the requirements of other applicable laws and codes.
 - (iii) On a property of any size that contains designated wetland, 100-year floodplain, or a riparian buffer as defined by City Code, a maximum of 5% of the trees in said Environmentally Sensitive Area on the property may be approved for removal or destruction.
 - (c) *Setback trees.* Where removal of a setback tree results in maximization of on-site and boundary tree protection, or where improvements permissible under the Code may not otherwise be accommodated, the City Arborist may permit removal of setback trees. Prior to permitting removal of a tree in a setback the City must determine that the tree cannot be saved through an adjustment of setbacks under Section 158-43 as allowed under the zoning.
 - (d) *Surface Runoff.* Where it is likely that an increase of 10% or greater in surface water flows from the site will result from tree removal, the City Arborist shall require a storm water management plan to mitigate. [Requires further consideration especially regarding runoff on neighbor's property and enforcement mechanisms.]

3. *Review of construction-related tree removal applications – High Value trees impacted.* If the City Arborist determines that one or more high value trees will be removed or destroyed or that impact in excess of 15% of a tree's critical root

zone is proposed, the City Arborist shall review the plan. In addition to those requirements outlined in Subsection (2) immediately above, the City shall ensure compliance with Tree-Save Commitments, if applicable, and Section 158-43 if not.

(a) *Deviations from preliminarily approved plans.* When the permit application involves more than 5% greater tree destruction than the preliminarily approved plan, measured by the lesser of total number of trees or total DBH of trees removed, then a condition of deviation exists. The applicant may either modify the plans to avoid deviation, or submit an additional pre-application submittal subject to review and appeal under subsection (G) of this Section.

(b) *Notice of City Arborist Decision.* The City Arborist shall give a notice of final approval or denial consistent with the terms of this Article. The notice shall include the approved tree replacement and/or monetary recompense requirements associated with the removals, as described in Division 10.

(c) *Submission.* An applicant may submit a new application at any time after receiving notice of denial.

Section 158-45. Tree Save Areas

Tree Save Areas must occupy a percentage of the buildable area as outlined in Table 1. These areas are set aside during development pursuant to Section 158-43 and protected from grading or any other incursions so that healthy trees, urban forests, and soils are protected. In cases where there are no natural soils present, the soil in these areas must be amended under the requirements of Section 158-50. The size of a Tree Save Area is calculated per the requirements listed in Table 1. The location of the Tree Save Area must be specified on site plans or on an attached Tree Save Commitment Agreement.

A. *Soil Horizons & Soil Quality.* If a Tree Save Area consists of natural soil in which mature trees grow or grew prior to development, and that soil has not been heavily disturbed or graded for at least 30 years prior to development, and therefore already naturally includes the mulch layer and 2 soil horizons described in section 158-50 of this Article, then no soil amendments or work is necessary. To the extent that it does not harm existing trees, all soil within a Tree Save Area must be amended so that it is compliance with section 158-50, prior to planting within the Tree Save Area.

B. *Placement.* If a Tree Save Area is mandated on a site, it should be positioned so as to maximize the number and quality of specimen trees on site.

1. If the tree save area is positioned to include trees whose average value is less than the property average, the City Arborist shall consider whether higher-value trees could be saved through a reasonable repositioning of the tree save area. If so, the City Arborist shall reject the plan.

2. If a Tree Save area is positioned to include a dense grouping of high-value priority trees with overlapping CRZs, the City Arborist shall approve the plan.
- C. *Size & Shape.* The overall size and shape of the Tree Save Areas must be conducive to tree health, in addition to complying with the size requirements in Table 1. In no case may a buffer be smaller in size than the 360 ft². Further, the narrowest part of any buffer shall be 8 feet, unless that narrow part constitutes a tapering extremity of the area.
 - D. *Stocking.* A Tree Save must be fully stocked with trees following the size and spacing requirements under Division 9, and trees planted in Tree Save Area count towards planting requirements under this Article.

Section 158-46. Preliminary Approval to remove Healthy, Non-Hazardous Trees & Posting

- A. *Preliminary Approval.* Preliminary Approval will be provided in written format to the applicant upon accepting a Tree-Save Commitment under Section 158-42 or upon reviewing an application for a building permit under Section 158-44.
- B. *Posting.* Upon preliminary approval, the applicant's plans are subject to public review and appeal, accomplished by posting the subject property with signs indicating the intent to remove trees.
 1. *Applicability of this subsection.* Except as provided in item 5 below, posting criteria set forth below in this subsection apply to construction-related and landscaping-related tree removal permits only.
 2. *Posting of private property trees pursuant to a Pre-Application.* For trees located on private property, only one posting shall be required and shall be placed by the City Arborist. The posting shall notify the public that an application to destroy or remove tree(s) was filed with the City and the commitments made therein accepted. Applicant will tie a yellow ribbon around each tree that is proposed for removal. The posting shall remain for a minimum of ten calendar days.
 3. *Posting of private property trees without a Pre-Application.* For trees located on private property, two postings shall be required and shall be placed by the City Arborist [some discussion around whether the private sector could be empowered to post the sign]. The first posting shall remain for a minimum of ten calendar days and shall notify the public that an application to remove the designated tree(s) was filed with the city. Applicant will tie a yellow ribbon around each tree that is proposed for removal. The City will not accept any appeals filed within this ten-day notice period. The second posting, providing notice of preliminary approval, shall be made if and when the city issues preliminary approval of the application to remove the designated tree(s) from private property. This second posting shall not begin until after the first posting is removed. The second posting shall remain in place for five business days, during which time the city will accept appeals.

4. *Posting of public property trees.* For trees located on public property, only one posting shall be required. Applicant will tie a yellow ribbon on each tree that is proposed for removal. The posting shall indicate the issuance of a notice of preliminary approval of the designated public property tree(s), and shall remain in place for 15 business days, during which time the City will accept appeals.
 5. *Electronic Posting.* All postings, in addition with complying with Sections 1 through 4 immediately above, shall be available online for public review through Accela.
 - a. Online posting information needs to be a clear list of properties searchable by street name, zip code, and NPU.
 - b. All properties for which a tree removal request has been made must remain on this online list until they are transferred to the list of “yellow” sign postings or the tree cutting request is withdrawn.
 6. *Posting after preliminary approval.* After preliminary approval of a permit under this Article has been granted, the City Arborist shall post on the property a sign indicating that trees on the property have been granted preliminary approval to be removed, giving the name of the applicant, the matter number or permit number assigned by the commission, and the date the permit was granted.
- C. *Content of postings.* Postings providing notice of the issuance of preliminary approval shall inform the reader that an appeal may be filed with the Tree Conservation Commission, and shall indicate:
- a. *Last date for Appeal.* The deadline by which the appeal must be filed. The posting shall further indicate that appeal rights will be forfeited upon failure to appeal within the designated time period.
 - b. *Criterion for Appeal.* Any citizen who lives, owns property, or owns a business within the NPU district or within a ½ mile of the subject property is eligible to make an appeal under subsection (E) of this Section. [Some discussion regarding the criterion for appeal. Should it be a larger area?]

Section 158-47. Appeals

[Intent is to consolidate appeals in a unified section.]

- (A) *Appeals of preliminary approval to destroy or remove healthy, non-hazardous trees for construction or demolition.*
- (1) *Applicability of this subsection.* The appeal criteria set forth below in this subsection apply to construction-related and landscaping-related pre-application commitments and tree removal permits only. Further, if a tree has already been subject to public appeal through posting subsequent to a pre-application conference, the plans aren't subject to a second public appeal during permitting.

- (2) *Who may appeal.*
- (a) *Appeals regarding private property trees.* Appeals of a City Arborist's decision regarding a healthy, non-hazardous tree on private property may be filed by any person who is aggrieved by the decision and who resides or owns property or a business within ½ mile of the property on which the tree(s) at issue are located. For the purposes of determining eligibility, the distance shall be measured as the free distance as the bird flies, between the closest points of the subject properties.
 - (b) *Appeals regarding public property trees.* Appeals of a City Arborist's decision regarding a healthy, non-hazardous tree on public property may be filed by any aggrieved party who is: 1) an individual who resides or owns property or a business in the City of Atlanta; and/or 2) a civic association in the NPU in which the tree(s) at issue are located.
- (3) *Timing of appeal.*
- (a) *Timing of appeal for private property trees.* Appeals regarding trees on private property must be filed within ten calendar days of the posting of the City Arborist's preliminary decision regarding the tree(s) at issue, per posting requirements described in Section 158-46.
 - (b) *Timing of appeal for public property trees.* Appeals regarding tree(s) on public property must be filed within 15 calendar days of the posting of the City Arborist's preliminary decision regarding the tree(s) at issue, per posting requirements described in Section 158-46.
 - 1. *Appeal requirements.* All appeals shall meet the requirements of Section 158-74.
- (4.) *After the appeal is filed/stay of activity.*
- (a) *Appeal by non-applicant challenging issuance of Preliminary Approval.* If an appeal is filed by a non-applicant challenging the City Arborist's decision to issue preliminary approval of tree removal(s), the preliminarily approved activities, including tree removal and related earth disturbance, shall be stayed automatically. The City Arborist shall not grant final approval until the City appeal is resolved.
 - (b) *Appeal by applicant challenging denial of Preliminary Approval.* Where the City Arborist preliminarily approves certain portions of a tree removal application and denies other portions, an appeal filed by the applicant shall not stay the preliminarily approved activities nor prevent the City Arborist from issuing a final permit for those activities.
 - (c) *Appeal of recompense and /or replacement requirements.* If an appeal is filed challenging only the recompense and/or replacement requirements associated with a Notice of Preliminary Approval, the Applicant may receive a permit before resolution of the appeal by paying the recompense amount required by the Preliminary Approval under Section 158-55 of this Article. The City shall place these funds in an escrow or other similar account so that the applicant may be reimbursed if so directed on appeal.

The appeal shall not stay the preliminarily approved activities and shall not prevent the City Arborist from issuing a final permit.

- (F) *Issuance of permit where no timely appeal filed.* If no appeal is filed within the time frames prescribed above, the permit shall be issued in accordance with the terms of said Notice of Preliminary Approval.
- (G) *Minor amendments.* After the time for appeals has expired with respect to any Notice of Preliminary Approval, the City Arborist may approve minor amendments to the permit without there being any new right of appeal from such approval, provided that the City Arborist, in connection with such approval, shall certify in writing to the following, which certification shall be attached to the permitted amendments:
 - (1) That the amendments do not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case; and
 - (2) That the amendments in the aggregate do not increase by more than 5% either the total number or the total DBH of the trees permitted for removal or destruction, starting from original commitments made at the time of preliminary approval
- (H) *Permits available for public inspection.* All tree removal permits and tree save commitments shall be available for public inspection on the activity site and on the Arborist Division website, searchable by street name, zip code, and NPU.

DIVISION IX. MINIMUM TREE DENSITY AND PLANTING STANDARDS

Section 158-48. Applicability

This Division applies to trees planted pursuant to the requirements under this Article, including any street tree planting. Voluntary tree plantings, whether by a private individual or a non-profit organization, are exempt from the requirements of this Section.

Section 158-49. Minimum Tree Density

A, Minimum tree plantings density standards by zoning district. If trees are removed under Division 8, planting of young trees (or preservation of existing trees under 6”) as shown in Table 2 is required for all projects except residential projects that disturb less than 1,000 square feet of land and have construction costs less than \$30,000. These minimum planting standards may be met by as follows subject to Section 158-50:

1. Either planting the trees according to the standards of this Article or preserving existing young trees.
2. In order to count existing trees under 6”, they must be of a species from the list* and meet the soil requirements of this Division.

3. Trees planted in Amenity strips or Parking lots count towards the planting density requirement.
4. For installed trees only, trees over 5" DBH when planted count as 2 trees for the purposes of determining planting density.

Table 2. (should specify overstory trees)

Zoning District	Minimum Lot size	Minimum planting density* <i>must meet one requirement</i>	
		Trees / Lot	Trees / acre
R-G & non-residential districts	NA	N/A	18
R-5	0.17	3	6
R-4	0.21	3	7
R-4A	0.17	3	6
R-4B	0.06	2	4
R-3	0.41	4	8
R-3A	0.31	4	8
R-2	1	10	10
R-2A	0.69	8	10
R-2B	0.64	7	9
R-1	2	15	13

B. Locations of plantings.

1. Required trees may not be planted off-site.
2. *Trees in required front yard area.* A minimum of one tree must be located in the required front yard area for a lot within that zoning district. Where applicable, there shall be at least one tree for every fifty linear feet of street frontage on any given property.

C. Density requirements for Atlanta Housing Authority properties. AHA shall be subject to underlying zoning requirements.

D. Density requirements for Atlanta Public Schools. On APS properties one tree shall be planted for every 750 square feet of open space which is not required for buildings, driveways, playing fields or other necessary structures. Overstory and midstory trees shall be planted where conditions permit, in accordance with spacing standards of Section 158-46(F). Parking areas are subject to the parking standards described in Section 158-60.

Section 158-50. Tree Planting specifications Plantings may be exempted from these requirements at the discretion of the City Arborist to the extent that the requirements are outside the scope of the project. In any case where hardscape is part of the scope of the project, all of the requirements under this Section shall be met. Trees planted under this Article may require inspection by the City and bonded under Section 158-51 to ensure compliance with this Section.

A. *Replacement tree type and on-site planting requirements.* Where possible, the applicant should allocate land and/or design features to encourage plantings of overstory, mid-story trees. Where the City Arborist determines that these specified plantings under this Article cannot feasibly be met due to site conditions, the Arborist may allow one or more of the following alternatives, or a combination thereof:

1. Planting only mid-story or understory trees on-site;
2. The use of rooftop gardens, or arbors that provide equal vegetative cover or shade as a mature tree would.
3. Payment of recompense.

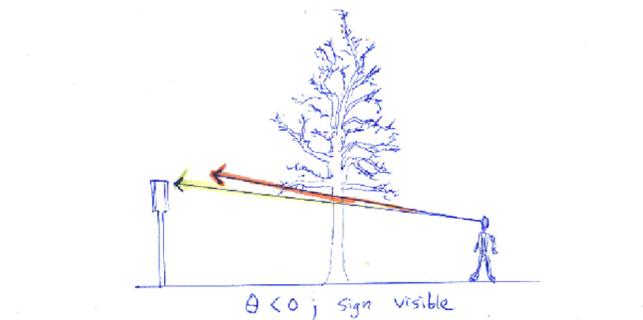
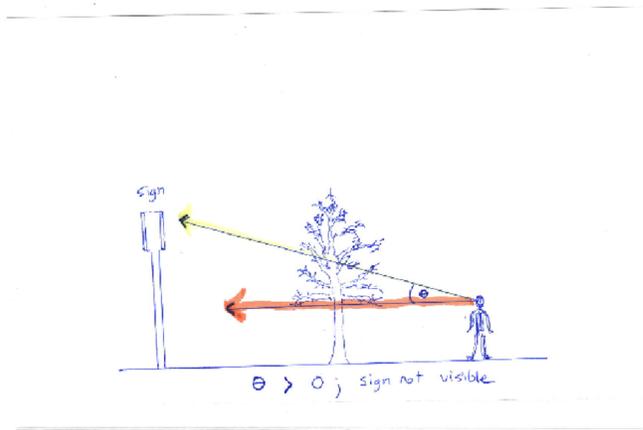
B. *Size and quality of replacement trees.*

1. *Quality.* All planted trees must be free of girdling roots, disease, or pests such as fungal pathogens or insects. In addition, all trees shall meet or exceed the ANSI Z60 nursery stock standards.
2. *Tree Size.* Overstory and Mid-story trees shall be a minimum of 2.5" inches in caliper for Residential districts through R-5 and 5 inches in caliper for R-G and non-residential districts, but the City Arborist shall mandate a larger tree when greater visibility beneath the canopy of a tree is required for the success of any business interest or any public interest. The City may mandate trees up to 10" in caliper, or ask that signs, displays, facades, or other features be reconsidered, relocated or resized as appropriate. Using Table 3 & 4 guides, the applicant shall select a larger enough tree to ensure success in business or public spaces, including for parking lot considerations. Where permitted, understory trees in amenity strips shall be 2" minimum.

Table 3 Finding maximum height (including all pruning) of lowest limb for shade trees

Tree Height	Caliper of tree in inches									
	2	2.5	3	4	5	6	7	8	9	10
10	4	4.5	5							
12	4.5	5	5	5.5						
15		5.5	6	6.5						
20			8	9	9	9.5				
25			9	10	11	12	12	12.5		
30				12	12.5	13	14	14.5	15	
35					12	13	14	15	15.5	16
40						12	14	15	16	17

Table 4.



- C. *Planting Area & Soil Requirements – This Article.* All trees planted under this Article must comply with:
1. *Mulch.* Trees have must be planted with between 3” and 4” of mulch, wood chips, or other natural decomposable material above the planting medium. Parking lots only may utilize pine straw.
 2. *Support.* Trees must be installed with stakes or other support devices to provide stabilization for a period of time of 12 months after planting, if needed because of lean or stability issues and must be installed at a depth such that the root flare is even with the top of the surface horizon at the time of planting.
 3. *Area.* Planted trees must have a minimum surface area requirement of 360 ft² within a 25’ radius of the center of the tree, free from improvements other than irrigation, drainage, or aeration, or other amenities under Article 16, roughly centered on the tree. Further, the minimum width of a planting area must be:
 - a. 5 feet for R zonings excluding R-G
 - b. 8 feet for all other plantings
 - c. 9 feet for parking lots

D. *Planting Area & Soil Requirements – Amenity Strips, Tree Save Areas, & Parking Lots.* All planted trees within Tree Save Areas, Amenity Strips and Parking Lots as defined in Division 12, in addition to the requirements under (C) above, must comply with the following quality requirements:

1. *Irrigation.* Trees that are irrigated with a programmable irrigation system must allow for periodic deep irrigation, and if combined into an irrigation system for landscape plants must allow for separate programming controls for trees, apart from landscape material. No planted tree may be irrigated by a spray-pattern irrigation head.
2. *Soil Horizons.* Tree planting areas must either consist of undisturbed natural soils in which no grading is known to have occurred within the last 30 years, or consist of a planting medium with 2 soil horizons with a mulch layer above the planting medium. From top to bottom the layers are:
 - a. The mulch layer must consist of mulch, wood chips, or other natural decomposable material with a depth between 2” and 5”.
 - b. The intermediary horizon shall consist of soil with an organic component not to exceed 20% and a bulk density not to exceed 1.3 g/cm³, and shall be between 4” and 10” deep, measured beneath the mulch layer.
 - c. The base horizon shall consist of soil with hydrogen ion concentration equal to or greater than pH of 6, an organic component not to exceed 4%, and a bulk density not to exceed 1.6g/cm³, and shall have a depth of 20 inches or greater below the intermediary level. Planting medium deeper than 30” below the mulch layer has no pH or bulk density requirements but may not consist of organic matter greater than 4%.
3. *Aeration.* Aeration devices must each provide at least 20 ft² of air-soil interaction space per tree and must provide aeration to both sides of a tree’s root system. The devices must resist contamination and plugging and have an estimated lifespan of 20 years in the environment in which they are installed.
4. *Compaction protection.* At a minimum, protection against compaction shall include an 8” curb which separates the tree planting area from pedestrian or vehicular areas. For high-traffic areas, the tree planting area shall be also planted to discourage pedestrian use of the tree planting area.

E. *Species of replacement trees.*

1. *Recommended Tree List.* The species of acceptable replacement trees are listed on the City’s Recommended Tree List. Where the City Arborist finds the presence of extenuating circumstances, s/he may approve a species not on the Recommended Tree List.
2. *Prohibited replacement trees.* No trees may be planted that are listed as undesirable, exotic or invasive in the City Arborist’s tree list. This list may be amended, as appropriate. [NOTE: THERE IS ADDITIONAL WORK TO BE DONE ON INCORPORATING THE COMPLETE LIST OF TREES, AND MARRYING

THIS LIST WITH THE TVM PROPERLY. IT IS AGREED THAT AS A MINIMUM THE FOLLOWING INVASIVES ARE PROHIBITED: Bradford Pear (*Pyrus calleryana*); Carolina cherry laurel (*Prunus caroliniana*); Chinaberry (*Melia azederach*); Eastern arborvitae (*Thuja occidentalis*); Mimosa (*Albizia julibrissin*); Princess tree (*Paulownia tomentosa*); Leyland cypress (*Cupressocyparis leylandii*); Honey locust (*Gleditsia triacanthos*); Paper mulberry (*Broussonetia papyrifera*); Privet (*Ligustrum vulgare*); Red Tip (*Photinia x fraseri*); Tree of heaven (*Ailanthus altissima*); and White mulberry (*Morus alba*).]

3. *Species diversity required.* If more than 15 but fewer than 50 replacement trees are being planted on a site, a single species shall comprise no more than 25% of all replantings. If 50 or more replacement trees are being planted on a site, no more than 20% of all replacement trees shall be of the same species. If 100 or more replacement trees are being planted on a site, no more than 150% of all replacement trees shall be of the same species, no more than 250% shall be of the same genus, and. New streetscape design for a continuous corridor may be exempted at the discretion of the City Arborist.
- F. *Planting priority.* Where consistent with the planting requirements of this Article, trees shall be replanted in the following locations where feasible:
1. *Heat islands.* Planted trees shall be located to shade streets and other external heat islands. Street trees shall be planted as close to the street as is practicable to accommodate the growth of the tree and minimize conflict with power lines, etc. Internal heat islands shall be shaded with a minimum of one tree per 750 square feet of heat island area.
 2. *Soil stabilization of slopes.* Replacement trees may be planted on slopes with a grade between 2:1 and 3:1, other erodible areas, and on the banks of wetlands and waterways. Where site conditions on such slopes and stream buffers necessitate, the City Arborist may accept replacement trees of one inch in caliper and may determine appropriate spacing requirements based on site conditions and shall credit recompense proportionally. Replacement shade trees less than 2.5 inches in caliper shall not be credited in the calculation of site density requirements.
 3. *Stormwater management.* Replacement trees shall be used to meet the requirements of the Post-development Stormwater Ordinance (Section 74, Article X) where feasible.
- G. *Spacing standards.* Replacement trees shall meet the following spacing standards:
1. Overstory trees should be planted about 30 feet apart on center.
 2. Mid-story trees should be planted about 25 feet apart on center.
 3. Understory trees should be planted at a minimum of 15 feet apart on center.

Section 158-51. Owner responsibility to protect planted trees.

- A. *Removal or destruction of replacement trees not authorized.* Regardless of caliper or DBH, replacement trees shall not be removed or destroyed without a permit pursuant to this Article.

B. Owner Responsibility for replanted trees.

- a. *Replacement trees must live for a minimum of two years.* The owner and his or her successor(s) in title shall be responsible for maintaining the health of all planted trees under this Article for a minimum of two years from the date of planting or the date of issuance of the certificate of occupancy (where applicable), whichever is later. The owner or his or her successor shall replace within six months any tree which dies or is determined to be dying during this time period. To ensure compliance with this Division, The City shall require that the owner:
 - i. *Inspection.* The City shall inspect tree plantings to ensure that all of the specifications of this Division are met. To make an inspection the irrigation, and aeration features, if applicable, must be ready for inspection, and the proposed backfill must be staged nearby and ready for placement around the trees. Alternatively, an engineer's report may be submitted for fill dirt which will be delivered to the site. Upon passing such an inspection, the trees may be bonded.
 - ii. *Bonding.* The Owner shall post a Tree Planting Surety Bond for all planted trees, known hereafter in this subsection as a bond. The bond amount shall be calculated to include 120% the aggregate cost of the tree, shipping, installation per the requirements of this Division, and maintenance for a period of 2 years.
- b. *Tree Decline.* If a City Arborist determines that a planted tree fails to meet the requirements under this Division, is dead, or is dying during the two years following the issuance of a CO, he or she shall require that the tree be replaced.
- c. *Inspections.* The City is under no obligation to inspect trees regularly to ensure survivability or ensure that the Owner's bonds are not redeemed by the City. The City Arborist shall inspect the condition of replacement trees between 20 and 22 months after the bonds are posted and shall notify the responsible party of any required replacements. If the trees are not replaced by 24 months, the City shall redeem the bond.

Section 158-52. Recompense

Payment of recompense in lieu of planting. If an applicant cannot meet their planting obligations under this Division, they may pay recompense under Division 10. Every tree left unplanted will be assessed recompense based on the CRZ associated with a tree of 2.5 inches in caliper for Residential districts through R-5 and 5 inches in caliper for R-G and non-residential districts.

DIVISION X. CALCULATION OF RECOMPENSE

[Recompense requires rationalization with Violations and Enforcement as well as assessing how to protect low income homeowners. Discussion regarding whether Recompense should be tied to property value or only tree preservation bonds.]

Section 158--53. Applicability of this Division VI to healthy non-hazardous trees only

The provisions of this Division X shall pertain to healthy non-hazardous trees only. In the case of planting requirements the Division may apply if the applicant foregoes planting because of site requirements under Division IX.

Section 158-54. Calculations on site plans.

Applicability. This Section 158-54 shall apply to private property trees only.

- A. *Calculation required on site plan.* The applicant's site plan shall include a calculation of the Value of Trees Removed, which shall be the recompense owed for proposed removed trees under this Article. The City Arborist shall confirm the accuracy of these calculations and shall require corrections as needed prior to granting preliminary approval.
- B. *Value of Trees Removed.* The property owner must compensate the Tree Fund for the value of trees removed by paying recompense.

Section 158-55. Recompense calculation according to context of removal.

A. *General.* Recompense is calculated using a formula and a Table 5. The formula is:

$$\text{Recompense} = (\text{square feet of CRZ of tree or trees}) \times (\text{Value}) \times (\text{Table C Factor})$$

Value = Value Per Square Foot of Subject Property According to County Tax Assessment to include project costs if applicable

1. *One Tree.* Calculating Aggregate CRZ Lost. The CRZ for purposes of recompense shall be the CRZ of the subject tree on the site. CRZ areas which fall outside the property limits are included.
 2. *Multiple Trees.* The aggregate CRZ lost shall be the aggregate of the CRZ of every removed tree on the site, except DDH trees. Overlapping CRZs are consolidated; overlapping areas do not count as more square footage than non-overlapping areas, but CRZ areas which fall outside the property limits are included.
- C. *Recompense Factors.* The context of recompense effects both the destination of funds collected from recompense and recompense under Table 5.

Table 5.

Context of recompense	Recompense Factor	Destination of Funds
Division 8 removal - construction; demo; land disturbance; landscaping	3%	Tree trust fund
Removal for Div. VIII - Low Income Housing	1.50%	Tree trust fund
Illegal tree removal	12%	Tree trust fund
Preservation - returned after 3 years if tree survives	10%	escrow account
Homeowner Exemption - only due upon failure to replant	8%	Tree trust Fund
Planting - due when required plantings aren't added	15%	Tree trust Fund
Federal Consent Decree Recompense	0.50%	City current account

D. Natural Ratio. The Natural Ratio is determined by dividing the assessed value of the subject property by the square footage to arrive at a value-per-square-foot of the subject property. When done under Division VIII, the assessed value shall be the value after the proposed improvements are made to the property.

Section 158-56. Appeal of recompense decisions

[Intent is to consolidate appeals in a unified section.]

- A. *Appeal of recompense amount authorized.* City Arborist decisions regarding recompense and replanting requirements may be appealed by any aggrieved party to the Tree Conservation Commission within 15 calendar days of receipt of the written decision of the City Arborist, and shall meet the requirements set forth in this Section and Section 158-74.
- B. *Finding of hardship may reduce recompense owed.* The Commission shall create written guidelines by which to determine whether and to what extent hardship exists. In the event that the Tree Conservation Commission decides that recompense should be assessed, but finds that the amount of recompense owed constitutes a financial hardship, the Commission shall have the authority to reduce or eliminate the recompense amount owed, provided that said decision is consistent with the guidelines. The guidelines shall include a requirement that the person requesting a finding of financial hardship make a written request and provide documentary evidence of such hardship. The specific documents to be provided shall be determined by the Commission. The Commission shall apply these guidelines consistently for all hardship requests and shall issue a written decision regarding hardship and the basis for the decision.

- C. *Plan approval when appeal is pending.* An appeal for the sole purpose of requesting an adjustment in cash recompense shall not prohibit the issuance of the City Arborist's final approval of a tree replacement plan if the appellant submits payment to the City in the amount of the calculated recompense along with the appeal. The City shall retain the funds until the appeal is decided. If a recompense adjustment is granted, the City shall reimburse the appellant accordingly.

DIVISION XI. PRESERVATION DURING CONSTRUCTION

Section 158-57 General Preservation Requirements.

- A. *Bonding.* All trees impacted with between 15% and 33% impacted CRZ must be bonded. Bond funds must be held in the City's escrow account for two years and returned if the trees are healthy at the end of two (2) years. The owner is obligated to install fencing to delineate the disturbed area and to protect undisturbed areas from incursion, and may engage a private Arborist to utilize additional techniques or implement precautions in order to maximize survivability.
- B. *Fencing.* Tree fencing must be constructed of chain link or substantial mesh material that is erected around critical root zones of trees at a minimum height of four feet before the commencement of any land disturbance, demolition, or construction. Chain link fencing must be used for trees in the front yards of residential properties and other locations as prescribed by the City Arborist. The City Arborist may also require more substantial wood or steel fencing and secured posts where they find a significant risk of damage to the saved tree's critical root zone. The City Arborist may require these measures at any time, including after commencement of site disturbance.

Section 158-58 Recompense & record keeping at the time of issuance of a CO.

- A. *City Process.* When trees are impacted in excess of 15% and less than 33% of the CRZ under Division VIII, preservation efforts are required in order to maximize survivability of the trees. Further, other minimally impacted trees must also be protected. The efforts to preserve trees should be entrusted to certified arborists or other competent persons, and the City shall record the arborist or person entrusted with the preservation effort for every

tree. Further, the City shall review every tree at the time of issuance of a CO for a property and review the following:

1. Any minimally impacted trees whose CRZ was impacted between 0 and 14.99% and their health and condition
2. Any preserved trees whose CRZ was impacted between 15% and 33% and their health and condition.
3. The trees shown on the site plan at the time of the issuance of a permit to construct, demolish, grade under Division VIII.
4. The name of the arborist or competent person responsible for preserved trees, and their unique professional credential number, such as ISA certification number, that identifies them as it relates to tree preservation.
5. The tree preservation bond paid for each preserved tree impacted between 15% and 33%.

B. *Forfeiture of Tree Preservation Bond.* The City shall immediately redeem a Tree Preservation Bond from any applicable escrow account under Division X and deposit in the current account when trees which were to be preserved are lost prior to the issuance of a CO.

1. The City shall identify if any of the minimally impacted trees are dead or dying as determined by assessed survivability over the next 2 years. (see definition of “dying tree”, page. 7) If any such trees are dead or dying, the City Arborist shall make a determination of the reason. If the tree or trees are determined to have died from natural causes, no recompense will be retained for their loss and permits may be issued for their removal. If the trees are determined to have died or be dying because carelessness during construction, the Arborist may require remedial preservation efforts under Division XIII, and those trees will be considered preserved trees going forward. If the City deems that preservation efforts will not succeed, the Tree Preservation Bond that would have been required under Division X for a preserved tree shall be levied and deposited in the City’s Tree Trust Fund.
2. The City shall identify if any of the preserved trees are dead. If any such trees are dead, the Tree Preservation Bond paid under Division X for a preserved tree shall be redeemed and the money removed from the escrow account and deposited in the City’s Tree Trust Fund.
3. Any minimally impacted or preserved trees which are lost at this time shall be recorded and the records shall include the proposed % impact, the observed % impact, the responsible arborist or competent person, and shall be maintained for a period of time of 25 years by the City,
4. The City shall issue a permit for removal for any trees found to be dead or dying at this time.

Section 158-59 Recompense & record keeping 2 years after the issuance of a CO.

A. *City Process.* The City shall make an inspection of the property and review every preserved tree between 20 and 22 months after the time of issuance of a CO, determining:

1. Any preserved trees whose CRZ was impacted between 15% and 33% and their health and condition.
2. The trees shown on the site plan at the time of the issuance of a permit to construct, demolish, grade under Division VIII.
3. The name of the arborist or competent person responsible for preserved trees, and their unique professional credential number, such as ISA certification number, that identifies them as it relates to tree preservation.
4. The Tree Preservation Bond paid for each preserved tree impacted between 15% and 33%.

B. *Return of bond.* The City shall immediately return escrowed bond funds to the owner for every preserved tree which is not dead or dying at the time of the inspection. If there are trees which are dead or dying, the City shall proceed as follows:

1. The City shall identify if any of the preserved trees are dead. If any such trees are dead, the Tree Preservation Bond paid under Division X for a preserved tree shall be removed from the escrow account and deposited in the City's Tree Trust Fund.
2. The City shall identify if any of the preserved trees are dying as determined by assessed survivability over the next 2 years. (see "dying tree" in definitions). If any such trees are dying, the property owner must either forfeit their escrowed Tree Preservation Bond funds or replant a new tree for each tree lost at their expense. To be eligible to replant a new tree in lieu of forfeiture of bonds, the property owner must demonstrate that they made a reasonable effort at preservation. A reasonable effort to save a tree must include, *at a minimum*:
 - a. Engaging a certified arborist;
 - b. Providing irrigation as needed for the tree;
 - c. Establishing and enforcing tree save areas, through at least 4 site visits per year over the course of disturbance;
 - d. Cutting roots using specialized tools and covering cut roots appropriately afterwards; and,
 - e. Installing mulch or other ground cover materials, and *possibly* taking the additional precaution of:
 - a. Using specialized soil treatments and/or amendments;
 - g. Utilizing insect control measures; or,
2. In determining whether to allow replanting in lieu of forfeiture of recompense, the City shall consider whether reasonable preservation efforts were made and in cases where efforts appear somewhat reasonable, may consider other factors such as how many trees survived on a site or the observed impact on the tree 2 years after issuance of a CO. The City shall issue a written decision regarding recompense as it relates to preservation during construction.

3. The City shall issue a permit for removal for any trees found to be dead or dying at this time.

Section 158-60. Appeal of City decision

[Intent is to consolidate appeals in a unified section.]

Appeal of recompense amount authorized. City Arborist decisions regarding preservation requirements may be appealed by any aggrieved party to the Tree Conservation Commission within 15 calendar days of receipt of the written decision of the City Arborist, and shall meet the requirements set forth in this Section and Section 158-71.

DIVISION XII. PARKING LOTS

Section 158-61. Parking lot landscaping and tree planting requirements

All surface parking lots, whether commercial or non-commercial, which are being built or resurfaced, and which have a total of 15 or more parking spaces, shall meet the landscaping requirements and tree planting requirements set forth in this Article. For purposes of this section, a parking area on any property shall be deemed a separate parking lot if it is separated from other parking areas by a road or right-of-way.

A. Landscaping requirements for parking lots.

1. *Landscaped Areas are for trees.* In addition to ground level plantings designed for aesthetics, landscaped areas must be fully stocked with trees as described in subsection B immediately below.
2. *Minimum landscaped area.* Surface parking lots shall have a minimum interior landscaped area within the parking lot equal to at least twelve percent of the paved area of such lot.
3. *Landscaped areas adjacent to sidewalks and other rights-of-way.* Continuous landscaped areas of at least eight feet in width shall be constructed and maintained along sidewalks and public rights-of-way that are adjacent to the surface parking lot, except at points of a facility's ingress and egress.
4. *Landscaped areas between parking spaces or between rows.* A landscaped area shall be installed either between contiguous spaces or between parking rows as defined under this Article.
 - a. *Landscaped Areas between spaces.* Every group of 8 contiguous parking spaces. The area shall be a minimum of nine feet in width and 20 feet in length unless adjacent to a compact car space and reduced to fit, per City Arborist's approval.
 - b. *Landscaped Areas between parking rows.* For lots with two or more parking rows, every parking row shall be divided by a landscaped

area at least nine feet in width unless the conditions do not permit and the requirement is exempted by the City Arborist.
mit and the requirement is exempted by the City Arborist.

5. *Barrier curbs and wheel stops.* Where the end of a parking space abuts a landscaped area, barrier curbs or wheel stops shall be installed in the parking space at a minimum of two feet from the landscaped area. The two-foot area may be comprised of a pervious material. Barrier curbs and wheel stops shall be a minimum of six inches high and eight inches wide. The barrier curbs and wheel stops must be constructed of concrete, stone or other durable material, and may have openings that allow drainage from the pavement to enter and percolate through the landscaped areas.
 6. *Ground cover of landscaped areas.* Landscaped areas shall contain one or more of the following types of ground cover in order to protect tree roots and prevent erosion: shrubs, organic mulch, pine straw, or other similar organic landscaping materials. Ground cover shall be maintained at all times and mulch shall not exceed three inches in depth. Shrubs shall be maintained at a maximum height of 2.5 feet, except where such shrubs screen the parking surface from an adjacent property. Plants shall not be planted within the structural root plate of trees; plantings within the critical root zone of trees shall be dug by hand.
- B. *Tree planting requirements for parking lots.* In evaluating the tree plan for parking lots, the City Arborist shall require that trees be planted in accordance with Division 9 within the landscape areas under subsection C immediately above. Trees planted in parking lots shall be:
1. *Number of trees.* A minimum of one tree per eight parking spaces shall be planted in and/or on the perimeter of the parking lot. For the purpose of meeting this requirement:
 - a. Existing trees over 12" DBH whose CRZ extends to within 5 feet of the parking lot shall count as 5 trees;
 - b. Planted trees over 5" shall count as 2 trees;
 - c. Trees planted in a bioretention area utilized in the design of the parking lot, and meeting the design standards of the City code Chapter 74 Article X entitled "City of Atlanta post development stormwater management ordinance", each tree may be credited as 2 trees;
 - d. But in no case shall the aggregate number of trees be less than one tree per 16 parking spaces.
 2. *Requirements.* Newly planted trees shall meet the following requirements:
 - a. For the purpose of satisfying this requirement, existing trees that are two and one-half inches or larger can be one tree for the parking lot requirement.
 - b. Trees shall comply with all applicable requirements under Division IX
 - c. Shade trees shall be a native species-
 - d. Trees shall have an anticipated mature height of at least 40 feet (except under utility lines).
 - e. Trees shall be broad-leaved overstory or mid-story shade trees.

C. *Adjustments to parking spaces.*

1. If it is determined by the City Arborist that implementation of these regulations will result in the loss of parking spaces in an existing lot, the Director of the Office of Buildings or her/his designee may increase the allowable percentage of compact car spaces from 25% up to 35% to minimize the loss of parking spaces.
2. For existing parking lots with fewer than 30 spaces, no more than five percent of parking spaces may be required to be lost to meet the requirements of this subsection. For existing parking lots with 30 or more spaces, no more than twelve percent of parking spaces may be required to be lost, provided that the minimum number of spaces required by Code are retained.

D. *Administrative variances authorized.* The Tree Conservation Commission is authorized to waive or modify the requirements of this parking lot subsection upon written application by any person subject to this Article. An appeal may be granted only if all of the following findings can be made:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, subsurface conditions, and/or overhead structures; and
- b. Such conditions are peculiar to the particular piece of property involved; and
- c. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Article and of Part 16 (Zoning) of the Code.

E. *Replacement of lost trees.* A parking lot tree which dies, regardless of cause, must be replaced by the owner of the property.

DIVISION XIII REQUIREMENTS FOR CONSTRUCTION AND ISSUANCE OF A CERTIFICATE OF OCCUPANCY

Section 158-62. Requirements

A. *Pre-demolition/Preconstruction conference required.* Upon approval of any permit for grading, demolition, or construction, no work shall commence, no grading shall be undertaken, and no trees shall be removed prior to a preconstruction conference on the site between the City Arborist and the applicant or his/her designee. The City Arborist shall inspect the site to assure the accuracy of permit application data and shall inspect tree protection fences and other protective devices which have been installed to protect trees. After the inspection is complete, the City Arborist shall document inspection results. Demolition, grading, or construction may proceed only upon City Arborist approval.

1. *Exception.* For any permit for an addition to a one-family or two-family residence, the City Arborist may elect to rely on data submitted in the application and certified by the applicant for the building permit in lieu of a

preconstruction conference on the site. [Discussions continue as to whether this exception should be allowed.]

- B. *Site inspection required during construction.* The results of all inspections shall be posted on Accela.
1. A site inspection shall be conducted at least once during land disturbance, construction, or demolition activities to verify that the site work is proceeding in accordance with the approved site plan and all requirements of this Article.
 2. If a complaint is filed during construction, a site inspection will occur within 24 hours of the complaint.
- C. *Site inspection required prior to issuance of Certificate of Occupancy.* No Certificate of Occupancy shall be issued by the Director of the Office of Buildings or a designee with respect to any permit unless and until the City Arborist has inspected such site and confirmed that:
1. All replacement trees have been planted in accordance with this Article;
 2. All trees shown to be saved on the City Arborist-approved site plan have been saved in accordance with the provisions of this Article;
 3. All fines and recompense associated with preservation, illegal destruction, or removal of trees have been paid in full;
 4. Inspections are complete and bonds are posted for planted trees;
 5. All invasive species that impact trees on the subject property, such as vines, must be cut at or near ground level to eliminate their continued invasion of trees' canopies.

DIVISION XIV. VIOLATIONS AND ENFORCEMENT

Section 158-63. Enforcement Authority

The City Arborist and administrative officials, Atlanta Police Department, DPC, Tree Conservation Commission and Atlanta Municipal Court shall be charged with primary enforcement of violations of this Article.

Section 158-64. Finding of violation- notification to responsible party

Where a person with enforcement authority finds that a violation of this Article has been committed, s/he shall provide written notice of said finding to the responsible party/parties by issuance of a Warning, Notice of Violation, and/or Citation. In making such finding, a person with enforcement authority may rely upon credible evidence provided by one or more third persons.

(A) *Written notice.* The forms of written notice are:

- (1) *Warning.* A warning may be issued by any person with enforcement authority of this Article to each responsible party where: a) the responsible party not been charged previously with a violation of this Article (including receipt of a warning);

and b) the City Arborist finds that the violation has not caused any injury to a tree, including without limitation any part of a tree's critical root zone. A warning may be issued verbally first, but must be documented and issued to the responsible party in writing within seven working days thereafter. Where the responsible party is issued a warning only, s/he shall not be charged an administrative penalty hereunder or a fine or other penalty pursuant to Code Section 1-8.

- (2) *Notice of Violation.* Any person with enforcement authority of this Article shall issue a Notice of Violation to each responsible party for an alleged violation of this Article with the exception of such violations for which only a warning is appropriate under the limited criteria of Section (A)(1) above. Notices of Violation shall result in imposition of administrative penalties by the City Arborist as set forth below in this Article, in addition to any replanting and recompense requirements as may be necessary to cure the illegal destruction of or injury to a tree under this Article, which penalties and requirements may be appealed to the Tree Conservation Commission.
- (3) *Citation.* Any person with enforcement authority of this Article may issue a Citation to a responsible party for an alleged violation of this Article pursuant to Code Section 1-8. A citation shall be issued if a responsible party has received three (3) Notices of Violations during the prior three (3) years.
 - a. Citations are subject to the jurisdiction and rules of the Atlanta Municipal Court and the fines or other penalties to be imposed by reason of such citation shall be determined by the Atlanta Municipal Court. Citations may not be appealed to the Tree Conservation Commission. If the Municipal Court finds the defendant in violation of this Article, it shall order that any remedial actions required by the City Arborist or the Tree Conservation Commission to cure non-compliance with this Article be implemented and shall assess fines or other penalties pursuant to Code Section 1-8.
 - (B) *Specification of violations and remedial acts required.* Notices of Violation, Citations, and the written documentation of warnings shall state with specificity the acts or failures to act that are the basis of the charges and the Code sections that have been violated. In each Notice of Violation or written notice supplemental thereto, the City Arborist shall (i) identify the remedial action(s) required in order to cure the violation of this Article, which remedial action may include but not be limited to replanting and/or recompense requirements; and (ii) assess an administrative penalty against each responsible party. The administrative penalty shall not be less than \$500.00 nor more than \$1,000.00 for each violation that does not involve the illegal destruction of a tree. For each tree that is destroyed as a result of a violation of this Article, the administrative penalty shall not be less than \$200.00 nor more than \$500.00 per each DBH inch of each tree that is destroyed as a result of a violation of this Article. Such administrative penalty shall be in addition to the cost of any remedial action, recompense or replanting required by the City Arborist to cure any illegal destruction of or injury to a tree.

- (C) *Depositing funds.* Any recompense, penalties, and fines recovered pursuant to this Article, excluding court costs, shall be deposited into the Tree Trust Fund.

Section 158-65. Remedial actions required for compliance with Article after violation

A. *Remedial actions.* If the City Arborist reasonably determines that a responsible party has violated the terms of this Article, s/he shall determine the applicable replacement and recompense requirements if a tree is destroyed or may require alternatives to replacement and recompense if a tree may be saved (“remedial actions”). The City Arborist shall require remedial actions by all responsible parties whose action or inaction violated the Article; however, a property owner or lessee of a property at which a tree is illegally destroyed or impacted shall ultimately be responsible for causing or allowing the performance of such remedial actions.

- (1) *No apparent harm to tree.* Where the City Arborist finds that a violation of this Article has not caused any apparent impact to a tree, including without limitation any part of its critical root zone, s/he shall identify the act(s) needed to comply with the Article and shall require that the responsible party perform said act(s) within a set period of time.
- (2) *Tree is destroyed: replacement and recompense.* [Need to rationalize this section with Recompense.] Where the City Arborist finds that a violation of this Article has resulted in the destruction of a tree, the City Arborist shall determine the replacement and/or recompense requirements under this Article applicable to the destruction of such tree. Where the City Arborist is unable to determine the DBH inches of trees which have been destroyed, (s)he shall estimate the area in square feet in which the destruction occurred and calculate the replacement and/or recompense requirements based on the assumed DBH of trees within such area as provided in this Article. Replanting of replacement trees under this Division must satisfy the following:
 - a. The replanted trees must meet all planting specifications under Division IX,
 - b. The replanted area must be the same area where the destruction occurred;
 - c. The replanted area must be fully stocked with overstory trees of a 4” minimum caliper planted on 25’ centers, and either second-generation shade tolerant overstory trees or understory and mid-canopy trees of a 2.5” caliper planted on 25’ centers
- (3) *Tree may be saved: prescriptive measures.* Where the City Arborist finds that despite a violation which impacts a tree, such tree may be saved, s/he may require performance of specific tree-saving measures, including without limitation application of a silvicultural prescription, and shall establish a time-frame for performing such measures. The City Arborist may require that the responsible party obtain an assessment of the condition of such tree(s) prior to deciding whether such tree(s) can be saved. Where the City Arborist requires tree-saving measures, recompense shall be assessed and collected, with provision for return of the recompense funds to the responsible party(ies) making payment of such funds if the tree survives after 2 years. If the assessment indicates that the tree cannot be saved, or if a responsible party fails to implement the tree-saving measures within the

established time-frame, recompense will be owed with no provision for a return of funds. In addition, failure to implement the required tree saving measures within the established time-frame shall be deemed an additional violation of this Article.

- B. *Tree Protective Fencing.* The prior movement or displacement of any fencing shall be any offense under this Article for which a fine of \$1000.00 shall be levied. Each day that fencing remains moved or displaced shall constitute a separate offense. Fencing that has been moved or displaced, if not already chain link fence, shall be replaced with chain link fence.

Section 158-66. Penalties

A. *Violations.* In addition to the violations described above which result in impact or destruction of a Protected Tree, other violations of this Article shall result in issuance by the City Arborist of a Warning, Notice of Violation or Citation. The following violations shall require the issuance of a Notice of Violation and/or Citation to each responsible party:

1. It shall be a violation of this Article to submit to the City materially false, incomplete, or misleading information in a permit application or other submittal under this Article, including without limitation a tree replacement plan, site plan, and photographs.
2. It shall be a violation of this Article to fail to abide by the conditions set forth in a permit issued under this Article.

B.

A. *Calculation of fines owed under Code Section 1-8.* The following factors shall be considered when calculating a fine owed pursuant to Code Section 1-8 for violation of this Article:

1. The responsible party shall be fined not less than \$500.00 for such party's first violation of this Article. The fine for all subsequent violations of this Article by the responsible party shall be \$1,000 per violation, regardless of whether such violation occur with respect to the same or a different property as the first violation. Each violation of any provision of this Article, including each destruction of or impact on each Protected Tree, shall be deemed a separate violation of this Article. Such fines shall be assessed in addition to any remedial requirements, including but not limited to tree replacement planting and recompense payments, and any administrative penalties that may be assessed for a violation of this Article.
2. In calculating the area of land for which tree replacement and recompense calculations are made if the City arborist cannot determine the specific tree numbers and DBH inches of each tree destroyed as a result of a violation of this Article, the City Arborist shall calculate the area in which land disturbance involving tree destruction occurred and add 20% to that area to account for the CRZs which extended beyond the disturbed area. [Add cross ref to earlier section explaining how to compute.]
3. A fine of \$1,000 shall be imposed pursuant to a Citation under City Code Section 1-8 for each violation of a stop work order issued pursuant to this Article.
4. Injury to each tree in violation of this Article shall be considered a separate violation.

5. Each day's continuance of a violation shall be considered a separate violation.
6. The owner of any property with a tree which is the subject of a violation of this Article, and any agent or contractor of the owner, lessee, or agent or contractor of such lessee whose act or omission contributes to violation of this Article shall be deemed to be a responsible party with respect to such violation.

Section 158-67. Suspension or revocation of tree removal permit

If the City Arborist finds that one or more terms of a permit issued pursuant to this Article are being violated, the City Arborist may suspend or revoke the permit via written notification to the permittee(s).

- A. *Contents of notice of suspension or revocation.* Notice of permit suspension or revocation must be provided in writing to the owner and/or lessee of the property which is the subject of the permit, and shall include without limitation the basis for such decision and the right to appeal such decision to the Tree Conservation Commission.
- B. *Term of suspension or revocation.* The permit suspension or revocation shall remain in effect until the City Arborist finds that the permittee has come into compliance with the applicable permit terms and conditions and any related provisions of this Article.
- C. *Debarment.* If a permit is suspended or revoked, the City Arborist may cause such permit applicant, permittee, agent, and/or contractor and/or any affiliate of such applicant, permittee, agent, or contractor to be barred from making further applications under this Article or performing any work pursuant to a permit issued under this Article for a period of 1 year. Such debarment decision may be appealed to the Tree Conservation Commission under this Article.

Section 158-68. Stop work orders

Any person with enforcement authority of this Article shall issue a stop work order to a property owner or other responsible party for a violation of this Article where the immediate cessation of work is needed to address, prevent, or assess any continuing violation of this Article. The stop work order may apply to any location where and/or activity for which the immediate cessation is needed as described above.

- A. *Notification of Stop Work Order.* Responsible parties must be notified of the stop work order and a "Notice of Stop Work Order" signage must be placed at the location.
- B. *Activity permitted after receipt of order.* In a location that is subject to a stop work order, only activities needed to correct the violation and/or prevent or eliminate hazardous conditions are permitted.
- C. *Term of order.* A stop work order will be lifted upon a finding by the City Arborist that the necessary corrective actions or remedial measures have been implemented as required.
- D. *Penalties for violating order provisions.* Violating the provisions of a Stop Work Order constitutes a further violation of this Article for each day of such violation.
- E. *Relation to other enforcement actions.* The issuance of a stop work order does not preclude the City Arborist or any other person with enforcement authority of this Article from proceeding with any other enforcement actions authorized by this Article.

- F. *Cease and desist orders.* The Atlanta Police Department shall have the authority to respond to a report of suspected illegal destruction of or impact to a tree. If an officer of the Atlanta Police Department determines that a stop work order is warranted, including without limitation because a tree is being destroyed or impacted in violation of this Article, the Atlanta Police Department shall issue a cease and desist order that terminates at the conclusion of two business days from the date of issuance. The Atlanta Police Department shall immediately inform the City Arborist of such situation, and the City Arborist shall promptly assess the alleged illegal activity and determine what, if any, corrective action is needed, including without limitation issuance of a continued stop work order. If the City Arborist determines that the continuation of the cease and desist order is not warranted, the City Arborist shall lift the cease and desist order prior to its natural expiration.

Division XV. TREE CONSERVATION COMMISSION

Section 158-69. Establishment; function, powers, duties

- A. *Commission established.* There is established a Tree Conservation Commission of the City of Atlanta.
- B. *Commission authority.* The Commission's functions, powers and duties shall be as follows:
1. Hearing and ruling upon appeals of decisions made by a City Arborist and administrative officials regarding application of this Article.
 2. Hearing and ruling upon requests for waivers and reductions of fees, recompense, and fines based upon a claim of hardship as provided in Section 158-56.
 3. Serving as a citizen advisory panel for administration and enforcement procedures of this Article.
 4. Reviewing and advising on arboricultural specifications and standards of practice implemented by the City Arborist.
 5. Providing recommendations for policy development regarding tree canopy protection and maintenance and implementation of this Article.
 6. Providing coordination, consultation, and assistance in the preparation and implementation of an Urban Forestry Master Plan.
 7. Establishing, appointing, and collaborating with advisory groups as required for supporting its activities.
 8. Designating and maintaining a written record of Heritage and Landmark Trees.
 9. Providing review of and recommendations to the Atlanta City Council regarding expenditures from the Tree Trust Fund for education and outreach, and other purposes.
 10. Establishing educational and other programs to encourage proper management and maintenance of trees on private and public property in the City.

Section 158-70. Appointment of members and Commission composition

The Commission shall consist of 11 members, 6 of which shall be appointed by the Mayor and 5 by the City Council. All members shall be confirmed by the City Council pursuant to the process set forth in Code Section 2-1855. Each of the members shall have specialized knowledge about trees, the Tree Protection Ordinance, and/or the impact of construction activities on trees.

- A. *Mayoral appointees.*
 - 1. One ISA-certified private arborist;
 - 2. One registered architect;
 - 3. One landscape architect;
 - 4. One horticulturalist, ecologist, forester, or arborist;
 - 5. One attorney or lay citizen interested in environmental protection;
 - 6. One member of an environmental organization.
- B. *City Council appointees.*
 - 1. One residential or commercial builder or developer appointed by the full City Council;
 - 2. One urban planner or environmental resource planner appointed by the President of the City Council; and
 - 3. Three citizens appointed by the paired districts in consultation with the at-large City Council member.
- C. *Manner of appointment for members from paired Council districts.* The Council shall appoint the three members in the following manner:
 - 1. One representative of Districts 1, 2, 3, and 4 and at-large post 1.
 - 2. One representative of Districts 5, 6, 7, and 8 and at-large post 2.
 - 3. One representative of Districts 9, 10, 11, and 12 and at-large post 3.

Section 158-71. Terms; vacancies; compensation.

- A. *Terms of members.* All appointments to the Commission shall be for two-year terms.
- B. *Chairperson selection and term.* The Commission shall select from its members a chairperson or co-chairs who will serve for a one-year, renewable, term.
- C. *Temporary appointment for vacant position.* If a position becomes vacant and a permanent member is not appointed within six months, the Commission, by a majority vote of the remaining members, may appoint a temporary member to the missing category until such time that a permanent member is appointed. The temporary appointee need not meet the specific requirements of the vacant position, but must have specialized knowledge about trees, this Article, and/or the impact of construction activities on trees.
- D. *Compensation of members.* Each Commission member shall receive a \$75.00 per month honorarium, but only if the member attends at least two of the hearings and/or business meetings per month.
- E. *Removal and replacement of members.* The Mayor, or the Commission by majority vote of all members, may remove a Commission member for nonperformance of duty or failure to meet the attendance requirements established by the Commission.

Section 158-72. Administrative meetings and hearings.

The Commission shall hold business meetings and appeal hearings and shall adopt procedural rules and schedules for each.

Section 158-73. Staff; administrator; court reporter

- A. *Tree Conservation Commission Administrator/Clerk of Commission.* The City shall designate an employee [who does not report to Arboricultural Manager or DCP] as Administrator of the Tree Conservation Commission. The responsibilities of Tree Conservation Commission Administrator shall include oversight of the outreach and educational activities, coordination of the work of the Commission as it relates to its functions, powers, and duties pursuant to this Division. The

Administrator shall also oversee the appeals process, supervises the Administrative Assistant and, when necessary, certify the actions of the Commission in such matters.

- B. *Administrative Assistant.* The Commissioner of the Department of City Planning shall designate an employee of the Department to serve as the Tree Commission’s administrative assistant. The administrative assistant’s duties shall include the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and providing notices required by the Commission and this Article in connection with appeals.
- C. *Court reporter.* The Commission’s appeal hearings shall be recorded by a court reporter who is paid for from the proceeds of the Tree Trust Fund.

Section 158-74. Appeal of decisions of City Arborist

[Intent is to consolidate appeals in a unified section. Current language is incomplete.]

Appeal requirements. Valid appeals must meet the minimum requirements listed in this Section.

Submission of appeals. All appeals must be filed with the Tree Conservation Commission either online, in-person, or by mail.

1. *Filing fee.* An appeal shall not be deemed filed until City staff receives a completed appeal package, along with either a \$25.00 filing fee or a hardship letter requesting a fee waiver. Where a hardship letter is submitted, it must explain in detail why the appellant is unable to pay the fee. The Commission shall determine whether to waive the filing fee at or before the time of the appeal hearing. If an appeal hearing is not held, the \$25 filing fee may be refunded.
 2. *Appeal package content.* The Appeal shall state at a minimum: the name, address, phone number, and e-mail address (if any) of the appellant and whether the appellant is a resident of the City of Atlanta. If the appellant is not a resident of Atlanta, the address of a property or business owned by the appellant within the City of Atlanta shall be included. The Appeal also shall include the address of the subject property and, if known and applicable, the name of the person(s) who filed a permit application for the property about which the appeal is being made.
 3. *Basis of appeal must be stated.* The Appeal shall specify, at a minimum: the provision(s) of this Article that the appellant believes were misinterpreted or misapplied by the administrative officer; the way in which the appellant believes the section should be interpreted or applied; and any facts material to the administrative officer’s decision that the appellant believes were misinterpreted or misunderstood.
 4. *Appeal for only one property or project.* An appeal may challenge a decision(s) regarding one property or one project only.
- D. *Stay of activity after appeal is filed.* Filing an appeal shall result in a stay of activity on the subject property. only as set forth in Subsection 158-38(E)(5)
 - E. *Notice of hearing.* The Commission shall give public notice of an appeal hearing as well as prompt written notice to the parties to the appeal. Public notice shall be given by the clerk of the Tree Conservation Commission in such a manner as shall be provided for in the rules for appeals adopted by the Tree Conservation Commission, but in no event shall such notice be given less than fifteen calendar days before the date of the hearing.

- F. *Submission of evidence.* The property owner on which the subject tree is located and each additional party shall submit to the Commission Clerk all documentary evidence supporting his or her arguments at least two calendar weeks prior to the hearing. Rebuttal evidence shall be provided one week prior to the hearing. Exceptions for evidence not available in this timeframe may be made at the discretion of the Commission.
- G. *Appeal hearing.*
1. *Who may appear.* At the hearing, any party may appear in person or be represented by an agent or by an attorney. The City Arborist or other administrative official shall appear at the hearing.
 2. All evidence shall be presented under oath.
 3. *Quorum.* Three members constitute a quorum of the Commission for an appeal hearing. The decision on any appeal shall be determined by a majority vote of the Commission members present and voting on the appeal.
 4. *Appeal of decision.* The Commission shall issue a decision at the hearing where the appeal is presented when possible. A final decision to uphold or deny the appeal must be issued within two months of the initial hearing.
- H. *Tree Conservation Commission's ruling.*
1. *Decision of Commission.* Except as described in Subsection (I)(2) and (I)(3) below, the Tree Conservation Commission shall sustain an appeal upon an express finding that the City Arborist's action was based upon a misinterpretation, erroneous finding of a material fact, or an erroneous application of law. If no such finding is made, the Commission shall deny the appeal. The Commission shall have the authority to reverse, affirm, wholly or partly, or modify the City Arborist's decision being appealed, and to that end shall have all of the powers of the City Arborist. These powers shall include, where applicable, the power to direct the issuance of a permit, provided that all requirements imposed by this Article and all other applicable laws are met.
 2. *Financial hardship.* The Tree Conservation Commission shall establish written guidelines for determining the existence of financial hardship with respect to the ability to pay the appeal fee, recompense fees and penalties. The Commission shall issue a written decision stating the basis for the hardship determination.

Section 158-75. Appeal of decision of Tree Conservation Commission

- A. *Appeal of Tree Conservation Commission decision to Superior Court.* Any person aggrieved by a decision of the Tree Conservation Commission, or any administrative official of the City, may appeal such decision through a writ of certiorari to the Superior Court of Fulton County, pursuant to the procedures set forth by Georgia law.
- B. *Lifting of stay.* Any person desiring to appeal a decision of the Tree Conservation Commission shall notify the clerk of the Commission, in writing, of such intent within six business days of the date of the written decision of the Commission. Barring such notice of intent, the stay on the activity that was the basis for the decision appealed shall be lifted and the Commission's decision shall take effect.

Division XVI. Tree Trust Fund

Section 158-76.

- A. *Establishment and purpose.* The City of Atlanta shall maintain a Tree Trust Fund for the protection, maintenance, and regeneration of trees and other forest resources of Atlanta. The primary purpose of the Tree Trust Fund is to ensure no net loss of tree canopy by replanting of trees on public property when trees are removed from private property and cannot be replaced on site. The Tree Trust Fund also supports prevention of the loss of existing tree canopy based on monitoring, data collection, analysis, forested land preservation, and public education.
- B. *Sources of Tree Trust Fund revenue.* It is the policy of the City of Atlanta that all monies collected pursuant to this Article shall be paid to the Tree Trust Fund including: recompense fees; fines and civil penalties, which shall be placed into a Collected Fines account; and appeal filing fees.
- C. *Authorized expenditures.* The Tree Trust Fund may be used for expenditures as defined below:
1. *Planting and maintaining trees.* The Trust Fund shall be used to plant and maintain trees for up to three years after planting. The City's goal is to allocate at least [percentage TBD] of each year's Trust Fund for planting trees on public property, notwithstanding drought conditions or other circumstances when planting is not feasible or cost-effective. [Note: some reviewers recommend a minimum of 60 or 70% for planting each year]
 - a. *Location.* Trees may be planted in the right-of-way or on other public property, and on private property within 30 feet of the right-of-way in a accordance with the provisions of Division 18.
 - b. *Record of location.* The location of trees planted and maintained utilizing Tree Trust Funds shall be recorded by the City or its agent in a format designated by the City. The agent shall provide those locations to the Department of City Planning at the end of the tree planting season, but no later than June 30th each year.
 - c. *Replacement.* The City shall require a minimum two-year replacement guarantee for all trees planted utilizing Tree Trust Funds.]
 - d. *Monitoring.* The City Arborist or designee shall inspect all trees planted with proceeds of the Tree Trust Fund at least once between 12 and 22 months after planting, assess the condition and survival of the trees, and shall require responsible party to plant any required replacement trees.
 2. *Planting enhancements.* The Fund may be used to support the purchase and/or installation of structural soil, soil cells, or other suspended pavement systems for right-of-way and other public tree plantings.
 3. *Front Yard Trees.* The City may enter in agreements with private property owners within the City of Atlanta, upon the consent of said property owners, for the purpose of planting trees within 30 feet of the public right-of-way or public property line provided the private property owner pays no fee for the tree planting thereof. No additional legislation shall be required to authorize said agreements or funding. Private property owners shall acquire ownership of such trees and shall agree to maintain the trees planted thereon for at least two years and also shall agree to hold the City harmless for any liability attributable to the planting or presence of the trees on the private property.

4. *Retention of sidewalk trees.* Tree Trust Fund monies may be expended to design, purchase, construct, and implement techniques and materials for sidewalk and or roadway improvements or repairs performed by or at the direction of the Department of Public Works, where the expenditures are used to prevent the destruction of existing healthy trees, including without limitation alternative sidewalk materials, root bridging, and hand digging. Where the cumulative expenditures pursuant to this subsection exceed \$100,000 in any fiscal year, all additional expenditures under this subsection during said fiscal year must be authorized by duly enacted legislation, even if not required under the City's Procurement Code.

5. *Forested land purchases.* Trust funds may be utilized to purchase forested land (Tree Trust Forests) meeting minimum standards of 80 percent canopy coverage, 1,000 DBH inches, and / or 50 trees per acre, provided that: the characteristics of the forested land are consistent with written criteria for selection of eligible purchases as established by the Departments of City Planning (DCP) and Parks and Recreation (DPR); the Commissioners of DCP and DPR provide a recommendation regarding the proposed purchase based upon these factors; and legislative approval of the purchase requires that the land be preserved in perpetuity as forested land and the purchase meets other requirements per Ordinance 16-0-1353. During any given fiscal year, [percentage TBD] of the funds received by the Tree Trust Fund during the immediately preceding fiscal year or \$200,000, whichever is greater, shall be placed into a Tree Trust Forested Land account, designated solely for procurement of forested land. Upon adoption of this article, ten percent of the unencumbered balance of the Tree Trust shall be placed in the account. Any amount not expended in the given fiscal year shall remain in the account to be utilized in future years.

6. *Maintenance of forested land.* Funds may be used for the maintenance of land purchased with Tree Trust Funds (Tree Trust Forests) within three years of purchase date after which other funding sources for ongoing maintenance must be identified. Costs must be related to establishing a long-term maintenance plan, site stabilization, pruning, mulching, treating for pests, diagnostic testing, and removal of invasive plants that threaten forest health. [insert any pending/recent legislation about maintenance costs].

7. *Healthy forest care.* Expenditures for the express purpose of enhancing tree and forest health on public land, such as invasive species control and treatment or management of insect infestation or diseases, may be authorized. The expenditures must follow a management plan approved by the City department responsible for managing the land and the plan must be consistent with provisions established in the Urban Forest Master Plan.

8. *Forested easement purchases.* Trust funds may be utilized to purchase easements on land meeting minimum forestation standards of 80 percent canopy coverage, 1,000 DBH inches and / or 50 trees per acre, provided that 1) the DPR and DCP Commissioners provide a recommendation regarding the proposed easement based on the written criteria established for forested land purchases; and 2) legislative approval of the purchase requires that the land be preserved in perpetuity as forested land and details management requirements and responsibilities.

9. *Administration of Tree Protection Ordinance.* A maximum of \$50,000 per fiscal year of the fund monies may be used for costs arising directly from administering and enforcing this Article. These costs include, but are not limited to, the cost of posting trees to be removed, the cost of supplies and field equipment, the cost of court reporter services at Tree Conservation Commission hearings, and honoraria for Commission members.

10. *Educational expenditures.* During any given fiscal year, five percent (5%) of the funds received by the Tree Trust Fund during the immediately preceding fiscal year or \$100,000, whichever is greater, shall be placed into a Tree Trust Fund Education Outreach account, and such monies shall be used for educational materials, educational programs, and educational outreach including support for projects in collaboration with community partners. Any amount not expended in the given fiscal year shall remain in the account to be utilized in future years.

11. *Park Pride matching program.* A tree planting matching program, administered by Park Pride, shall be funded in an amount not to exceed \$100,000 per year. Each matching amount must be reviewed and approved by the Commissioner of the Department of Parks and Recreation, or his designee, per Ordinance 04-0-2219.

12. *Heritage Tree financial assistance.* Monies from the Tree Trust Fund, not to exceed \$20,000 per year, may be allocated for the maintenance and protection of Heritage trees with property owner consent and upon the recommendation of the City Arborist and approval of the Tree Conservation Commission.

13. *Low Income Homeowner assistance.* Monies from the Tree Trust Fund Fines Collected account, pursuant to Division XII B, may be allocated for costs associated with support of tree work for the purpose of risk reduction on the property of qualifying low-income homeowners; general Tree Trust Fund monies may not be used for this purpose. Any amount not expended in a given fiscal year shall remain in the account to be utilized in future years.

14. *Urban Forest Master Plan.* Tree Trust Fund monies may be expended on activities associated with the creation and implementation of the City's Urban Forest Master Plan.

15. *Tree canopy studies.* Tree Trust Fund monies may be expended to update tree canopy imagery and analyses on a four to seven-year update cycle, as recommended by the Tree Conservation Commission.

16. *Salaries.* Tree Trust Fund monies may be expended to support the salaries of only the following positions. The positions must adhere to the job descriptions:

a. *City Arborist positions.* A maximum of \$110,000 per year of the Tree Trust Fund may be used for the annual salary and benefits of one arborist positions in the Department of City Planning. If the costs of the salary and benefits of this position exceed \$110,000, the remainder of the cost shall be assumed by the General Fund budget in the Department of City Planning.

b. *Senior Arborist.* A maximum of \$75,000 per fiscal year of the Tree Trust Fund may be used to pay for the annual salary and benefits of an Arborist Senior/Project Manager position. All of the responsibilities of this position shall be related to oversight of projects financed by the Tree Trust Fund associated with tree planting and maintenance including identification of qualified contractors, preparation of requests for proposals, inspection of work, and assurance of compliance with this Article.

c. *Urban Forestry Crew.* A maximum of \$200,000 per year of the fund may be used to pay for the annual salary and benefits of a Tree Pruning Crew. The Tree Pruning Crew shall be comprised of one Forestry Crew Supervisor, one Tree Trimmer Senior, and one Tree Trimmer. The members of this crew shall be responsible for providing services that maintain and enhance the health of the City's tree canopy, including pruning trees that are located in City-owned parks and rights-of-way. **[NOTE: Discussions continue regarding whether it is appropriate for maintenance to be covered by the Tree Trust Fund].**

d. *Tree Conservation Commission Administrator/Clerk of Commission.* A maximum of \$65,000 per fiscal year of the Tree Trust Fund may be used to pay for the annual salary and benefits of the administrator, whose primary responsibilities are outreach, education, and support for the Tree Conservation Commission. If the cost of the salary and benefits exceeds \$65,000, the remainder of the cost may be paid from the Tree Trust Fund Education account.

e. *Tree Conservation Commission Administrative Assistant.* A maximum of \$40,000 per year of the Tree Trust Fund may be used to pay for a portion of the annual salary and benefits of the position, whose duties support the clerical and administrative aspects of the tree appeals process. The Administrative Assistant may have other duties up to one-half time and the remainder of any costs exceeding \$40,000 for salary and benefits shall be assumed by the General Fund budget in the Department of City Planning.

D. *Tracking and reporting of Tree Trust Fund.* It is the policy of the City of Atlanta to ensure transparency regarding the use of funds from the Tree Trust.

1. *Review and approval of expenditures.* For all expenditures from the Tree Trust Fund requiring approval by City Council per the City's procurement procedures, DPR, DPC, and the Tree Conservation Commission shall provide a recommendation to the appropriate committee of City Council.

2. *Yearly report of funds received.* By May 31 each year, the Department of City Planning shall submit to the Community Development/Human Service committee of City Council a report on the total amount of funds received into the Tree Trust Fund during the preceding fiscal year. The report shall include a separate summary of monies received into the Collected Fines Account and the Education Account.

3. *Yearly report of expenditures.* By May 31 each year, the Departments of City Planning and Parks and Recreation shall submit to the Community Development/Human Resources committee of City Council a report of all expenditures from the Tree Trust Fund for the preceding fiscal year.

4. *Yearly audit.* The Tree Trust Fund shall be audited annually for the first three years after adoption of this article and the results shall be publicly available on the COA website. Audits shall be conducted every five years after the initial three years.

DIVISION XVII. SPECIAL REQUIREMENTS FOR FEDERAL CONSENT DECREE-RELATED ACTIONS

[Is the Consent Decree still in place? Do we need to retain this?]

The provisions set forth in this Division apply only to removal, destruction, or injury performed as a result of the City of Atlanta's compliance with the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia), and/or with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia). These decrees (collectively the "Consent Decrees") relate to improving water quality through upgrades to the City's sewer system. For the purposes of this Division only, the City is deemed to hold an easement on any land located above City sewer lines.

Section 158-77. Special requirements for the Department of Watershed Management for tree removal based upon achieving compliance with federal Consent Decrees

- A. *Permit required for removal or destruction.* The Department of Watershed Management may only remove, destroy, or injure any tree in order to comply with the Consent Decrees if one of the following conditions is met:
1. *Removal or destruction of private property tree.* Removal or destruction of any private property tree as defined in Section 158-29, including without limitation private property trees in City easements over private property and private property trees located in part on City-owned property, may occur when such action is required for compliance with the Consent Decrees and a removal permit has been obtained from the appropriate authority. Permit decisions for trees located wholly on private property or trees deemed private property trees shall be made by the City Arborist in the Department of Planning and Community Development.
 2. *Removal or destruction of public property tree.* Removal or destruction of any public property tree as defined in Section 158-29, including without limitation public property trees located in City parks, on streets, sidewalks, and other property

owned by the City of Atlanta, may occur when such action is required for compliance with the Consent Decrees and a removal permit has been obtained from the appropriate permitting authority. Permit decisions for trees located wholly on public property or trees deemed public property trees shall be made by the Parks Arborist.

- B. *Submission of permit application.* The City's Department of Watershed Management must submit an application to the appropriate permitting authority in a form prescribed by said permitting authority. For public property trees, application may be made by projects, as defined in the Consent Decrees. Permit applications for public property trees may be made on a quarterly basis, provided that the application for each tree to be removed is submitted and approved prior to the tree's removal.
1. *Site plan required.* The Department of Watershed Management shall submit a site plan drawn to scale that meets the standards set forth in Division V. This site plan must include each tree's critical root zone, structural root plate, identification of boundary trees (if any), silvicultural prescriptions to be used (if applicable), and the construction methodology to be utilized by location. It also shall provide the total DBH of all trees to be removed and a calculation of the percentage of damage on each tree that is not removed.
 2. *Tree survey required.* A survey shall be required showing all damaged trees that will not be removed, though the survey may be performed by GPS coordinates, via a sketch describing each tree and showing its DBH. The sketch need not be performed by a registered surveyor or landscape architect.
 3. *Identification of Historic, Landmark, and specimen trees required.* The Department of Watershed Management's site plan must designate all Historic, Landmark, and specimen trees, except for the special condition of a public health emergency as described in Section 158-41. The City Arborist may discuss with the Department of Watershed Management alternative routes for the work to be performed that may allow the Historic/Landmark/specimen tree to survive, though the City Arborist may not deny the removal/destruction permit in the event the Department of Watershed Management is unable to identify an alternative route.
 4. *Tree replacement plan required.* The proposed location of any replacement plantings required pursuant to Division V should be included in the application.
 - a. *Exception.* The Parks Arborist need not approve a tree replacement plan prior to issuing a tree removal permit when the Commissioner of the Department of Watershed Management or his/her designee, working in good faith cooperation with the Director of the Office of Parks or his/her designee, is unable to identify locations in which to plant the number of requisite replacement trees at the time of granting the Consent Decree tree removal permit. Special replanting requirements detailed in Subsection 158-75 (B) and (C) shall apply to this circumstance.
 5. *Recompense calculation required.* If applicable, the amount of recompense owed pursuant to Section 158-50 shall be included in the application.
 6. *Special requirements for permit applications involving non-boundary trees in a City easement.* For trees located in a City easement that are not boundary trees, the

Department of Watershed Management may destroy, remove, and/or injure trees as prescribed in Section 158-37 of this Article, except that the number of trees to be destroyed, removed, and/or injured may be determined by acre rather than by tree-per-tree or sampling techniques, and except that Historic, Landmark, and specimen trees need not be identified. A site plan drawn to scale shall be required for these trees showing locations of damaged trees by acre, but not showing individually damaged trees. No survey shall be required.

7. *Property owner consent not required.* The City Arborist shall not require the Department of Watershed Management, as part of its Consent Decree tree removal permit application, to produce evidence of consent by a private property owner regarding removal or destruction of a tree that impacts said private property owner's property. Impact of tree removal from privately-owned property will be addressed directly by the Department of Watershed Management.
8. *Posting not required for Consent Decree tree removal permit application.* No posting of private or public property is required prior to the issuance of a Consent Decree tree removal permit.
9. *Exemption from Preliminary Approval requirements.* Applications for a Consent Decree tree removal permit are not subject to the Preliminary Approval requirements of Subsection 158-38.
10. *Replacement and recompense.* Any removal, destruction, or injury of a tree authorized by a Consent Decree tree removal permit shall be subject to special replacement and recompense requirements found in Section 158-45 and Section 158-46 of this Article.
11. *No right of appeal for Consent Decree tree removal permit.* No right of appeal is associated with a Consent Decree tree removal permit. The Tree Conservation Commission shall not have the authority to hear or in any other way consider an appeal regarding the granting or denial of such permit.
12. *Report of removal, destruction, or injury without permit required; penalties.* Where a tree is removed, destroyed, or injured without a Consent Decree tree removal permit by the Department of Watershed Management, its contractor, or any City employee or contractor during work related to the Consent Decrees, the Department of Watershed Management must report the removal, destruction, or injury to the appropriate permitting authority by the close of the following business day. In such instance, the permitting authority shall calculate the tree replacement required and/or recompense due. Where the City Arborist learns of a Consent Decree-related tree removal or destruction caused and not timely reported by the Department of Watershed Management or its contractor/subcontractor, the appropriate City authority shall institute enforcement actions pursuant to Section 158-59 of this Article, and also shall require that recompense be paid and/or replacement be performed pursuant to Sections 158-60 and 158-61.

Section 158-78. Tree replacement standards for tree removal based upon achieving compliance with federal Consent Decrees

- A. *Tree replacement required for federal Consent Decree work.* The Department of Watershed Management shall replace all public property trees that it destroys, removes, or injures on property owned by the City of Atlanta, such that the DBH of the replacement trees is equal to or greater than the cumulative DBH of the trees removed, destroyed, and/or injured. Replacement plantings should be in accordance with the tree replacement plan and exceptions described under Subsection (B) below.
- B. *Replacement tree requirements.* The City Arborist need not require the replacement trees to meet the descriptions set forth in Section 158-46, but rather may give replacement tree credit for newly planted trees to the Department of Watershed Management as follows:
1. The replacement trees need not be located within the same NPU district or within one mile of the NPU boundary from which the tree was removed or destroyed.
 2. The Department of Watershed Management shall not be required to replant trees within a City easement.
 3. For replacement trees that meet the requirements of Section 158-46, the replacement credit shall be the DBH of the replacement tree.
 4. If more than 15 but fewer than 50 replacement trees are being planted on a site, a single species shall comprise no more than 35 percent of all replantings. If 50 or more replacement trees are being planted on a site, no more than 30 percent of all replacement trees shall be of the same species.
 5. The Department of Watershed Management may plant understory trees on public property for the purpose of restoring stream banks or other environmentally sensitive areas. The replacement credit shall be the DBH of the replacement tree.
 6. The Department of Watershed Management may receive replacement credit for planting a live stakes, as defined in Section 158-29, on public property for the purpose of stream bank erosion control, stream bank stabilization, or stream or wetland restoration. The replacement credit shall be the DBH of the live stake, except that a live stake with a DBH that is less than one caliper inch shall be credited as one caliper inch.
 7. The Department of Watershed Management may receive replacement credit for removal of invasive species from trees on public property where the species threatens the life of the tree. The replacement credit shall be for the DBH of the saved tree as determined by the Parks Department.
- C. *Special replanting requirements in the event appropriate location cannot be found for required replacement trees at time of tree removal permit approval.* The Parks Arborist need not approve a tree replacement plan prior to issuing a Consent Decree tree removal permit, provided that all of the following conditions exist:
1. The Director of the Office of Parks, or his/her designee, calculates the number of caliper inches of trees that must be replanted in order to satisfy the tree protection ordinance's inch-per-inch replacement requirement. He or she shall communicate that number in writing to the Commissioner of the Department of Watershed Management or his/her designee.

2. The Department of Watershed Management agrees to plant, at its own expense, the requisite number of trees, as calculated by caliper inch, within the time frame described in (4) below. It shall be the responsibility of the Department of Watershed Management to identify potential sites for replanting, but upon request, the Director of the Office of Parks, or his/her designee, shall make a good faith attempt to assist the Department of Watershed Management with this task.
 3. The Commissioner of the Department of Watershed Management or his/her designee, working in good faith cooperation with the Director of the Office of Parks or his/her designee, is unable to identify locations in which to plant the number of requisite replacement trees at the time of granting the tree removal permit.
 4. The Commissioner of the Department of Watershed Management and the Commissioner of the Department of Parks and Recreation enter into a letter of understanding that accompanies each Consent Decree tree removal permit. The letter of understanding must set forth those replacement inches for which locations already have been identified, and additionally the number of caliper inches that the Department of Watershed Management must and agrees to plant by a date certain, but for which locations have not yet been located. The date certain shall be no greater than one year after the effective date of the decree tree removal permit, except that under extenuating circumstances, the Commissioner or his/her designee may approve an extension. The letter of understanding also shall include the requirements set forth in Subsection 158-74(B).
 5. The exact location of the replacement trees, the type of trees, and the size of each tree must be approved by the Director of the Office of Parks or his/her designee prior to the trees being planted. The Department of Watershed Management shall guarantee the life of each replacement tree for two years from the time of planting. The Director of the Office of Parks shall forward this replanting information to the impacted Councilmember for review.
 6. The Department of Watershed Management must prepare an annual report showing, for each project for which a Letter of Understanding was executed, the number of trees planted, the size by caliper inch of each tree planted, the type of each tree planted, the approximate date of planting, and the remaining balance of trees for each application. This report shall be submitted to the Director of the Office of Parks no later than May 1 of each year.
 7. The Department of Parks and Recreation shall inspect the trees between 18 and 24 months after planting and shall notify the Department of Watershed Management of any required replacement trees.
- D. *Replacement trees must live for a minimum of two years or additional replacement required.* The Department of Watershed Management shall be responsible for maintaining the health of all replacement trees for a period of two years from the date of planting. The Department of Watershed Management shall replace any replacement tree which dies during this time period.

Section 158-79. Recompense requirements for tree removal based upon achieving compliance with federal Consent Decrees

- A. *Recompense authorized for federal Consent Decree work.* Recompense may be assessed for trees removed as part of Department of Watershed Management work pursuant to Division VI.
- B. *Recompense calculation.* Recompense for federal Consent Decree work shall be calculated according to the formula contained in Division VI.
- C. *Cap on recompense for federal Consent Decree work affecting non-boundary trees in a City easement.* For trees removed as part of Department of Watershed Management work pursuant to 158-51, a maximum shall be set on recompense at \$20,000.00 per acre, prorated.
- D. *Credit against recompense for replanting associated with federal Consent Decree work.* The City shall give recompense credit to the Department of Watershed Management for newly planted trees only if the applicable replanting requirements set forth in this Article are met, but shall not give any recompense credit for new trees planted within the City's easement.

DIVISION XVIII. DATA COLLECTION AND PLANNING:

Urban Forest Master Plan; Quarterly Reports; Canopy Analysis

Section 158-80. Urban Forest Master Plan.

- A. *Purpose.* The City of Atlanta shall establish an Urban Forest Master Plan to guide the long-term management of Atlanta's tree canopy, equally and equitably throughout the City.
- B. *Plan objectives.* The Urban Forest Master Plan shall include policies and strategies to promote efficient and cost effective management of the urban forest through a comprehensive, long-range plan for the purposes of:
 1. Enhancing the visual quality of the City and its neighborhoods;
 2. Mitigating air pollution and the incidence of flooding;
 3. Strengthening environmental protection through the reduction of the heat island effect, natural management of stormwater, maintenance of stream buffers, and protection of habitat;
 4. Ensuring data are available for evaluating trends in the urban forest which can be used to inform tree planting and management decisions;
 5. Residents, tree professionals, and commercial and residential builders have a working knowledge of best management practices for tree care and protection;
 6. The Urban Forest Master plan shall guide considerations and decisions about planting, programming, and authorizing expenditures from the Tree Trust Fund pursuant to this Article.
- C. *Plan development.* The development of the plan shall be coordinated by the Administrator of the Tree Conservation Commission in consultation with City departments including but not limited to the Departments of City Planning, Parks and Recreation, and Watershed Development. The Commission will submit a draft of the Master Plan to the Community Development and Human Services committee of City Council for review and approval within one year and a final draft within two years from the adoption of this Article.

- D. *Plan updates.* The Urban Forest Master Plan may be updated as needed to reflect changing conditions and best practice in tree and urban forestry management as recommended by the City Arborist and Tree Conservation Commission.

Section 158-80. Tree Canopy Analysis. [NOTE: insert provision requiring Canopy Analysis here.]

Section 158-81. Quarterly reports to Tree Conservation Commission (see below)

A. *Quarterly report required.* The Buildings Arborist and Parks Arborist shall each prepare a quarterly report containing the items listed in Subsection (B) below. The Park Arborist's report shall pertain to trees on public property; the Buildings Arborist's report shall pertain to trees on private property.

B. *Report contents.* The report shall include the following:

1. Total number and DBH of trees removed (pines and hardwoods) and/or acreage impacted (where applicable) and the total number and caliper inches of trees replanted during the preceding quarter in each of the following categories: dead/dying/hazardous tree permits; landscaping permits; removals for construction of parking lots; illegal removals; public property and off-site planting; total caliper inches approved for green infrastructure credits; and any other permit or penalty category not listed.
2. Total recompense charged by specific property and cumulatively.
3. Total recompense collected, by specific property and cumulatively.
4. Acreage, total number of trees, and total DBH for any newly-created conservation easements or newly-created parklands.
5. A summary of enforcement actions taken during the quarter, including the number of Correction Notices, Notices of Violation, stop work orders, and citations issued.
6. Total civil fines charged and collected, by property and cumulatively.
7. Itemized expenditures from the Tree Trust Fund.
8. Total number of tree preservation bonds issued, redeemed, and released.
9. Total number of tree planting bonds issued, redeemed, and released.

C. *Submission of reports.* The Arborist Division and the Parks Department shall provide quarterly reports containing the items listed above to the Tree Conservation on a quarterly basis. The Departments shall provide an annual summary report of the information to the Community Development and Human Services committee of City Council on an annual basis by May 31. The Reports shall be published on DCP website.