

## ARTICLE II – TREE PROTECTION

### Division 1- General provisions

158-26 *Authority.* This article is enacted pursuant to the City's planning authority granted by the constitution of the state, including but not limited to Ga. Const. Art. IX, § II, ¶¶ 3 and 4; the City's general police power; article 1 of the City Charter, paragraphs 14, 20, 30, 42, 46, 54 and 56; and all other state and local laws applicable to this article.

158-27 Goals and purpose

- (a) The goals of this article are to protect, maintain, and advance a high-quality, biodiverse, and healthy urban forest within the boundaries of the City, so that
  - (1) High-value trees and urban forests will be preserved, and sufficient trees be planted to replace those that are removed so that the City of Atlanta may achieve and maintain its goal of 50% average tree canopy coverage within the boundaries of the city; and
  - (2) Current and future citizens of the City of Atlanta will have equal access to the health, safety, and welfare benefits provided by trees.
- (b) The purpose of this article is to establish the standards necessary to ensure that these goals will be realized; therefore, this article is enacted to:
  - (1) Establish and maintain an extensive high quality and sustainable 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;
  - (2) Establish necessary standards for the planting and maintenance of trees to improve the economic base of the city by improving property values, maintain functioning ecosystems within the city, improve sustainability through energy use reduction and carbon sequestration, enhance the livability of the city and its neighborhoods, and improve public health by lessening air and water pollution, stormwater hazards, urban heat island effects, and the incidence of flooding;
  - (3) Allow for the maintenance of public trees and forests in the city through professionally accepted arboricultural and urban forestry practices;
  - (4) Promote the acquisition of new public forest land within the city;
  - (5) Minimize hazards on streets and sidewalks;
  - (6) Provide for the designation of priority and historic trees; and
  - (7) Provide latitude in the interpretation and application of City administrative rules, standards and guidelines when reasonable and necessary to minimize the destruction of trees, account for changes in arboricultural science and practices, and follow the guidelines and principles of Atlanta City Design and the findings of Atlanta City Design: Nature and other ecology and urban forest studies.
- (c) To determine progress towards these goals, this article will be reevaluated five years after adoption. Thereafter, subsequent re-evaluations will occur after updated urban tree canopy assessments are performed, and as needed.

158-28 Applicability and exemptions.

- (a) *Applicability.* This article applies to the following trees:
  - (1) All trees on all public property subject to City of Atlanta regulation, including all public school property, public housing property, parks, rights-of-way, and easements granted to other private or public entities, including public utilities, except where superseded by franchise agreements.

- (2) All regulated trees on private property, which are all trees other than pines with a diameter-at-breast height ('DBH') equal to or greater than six inches, and pines with a DBH equal to or greater than 12 inches.
- (b) Exemptions and variations
- (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 public, or for some other public purpose.
- (2) *Botanical gardens.* All arboreta or licensed tree museums or public botanical gardens which meet the following conditions shall be exempt from the terms of this article:
- a. The botanical garden employs a full-time arborist or horticulturist;
  - b. The botanical garden is located upon property owned by the City and leased to tree museums or botanical gardens; and trees are growing for public display in furtherance of the museum or botanical garden's purpose.
- (3) The City Arborist may allow modest variations or special exceptions to any portion of this article when the strict application of a particular regulation is not necessary for the accomplishment of public purposes or the provision of public protection. Such modest variations may not allow greater than 33 percent impact to the critical root zone ("CRZ") of a saved tree.
- a. When variations are granted, a written explanation of the variations, and rationale for granting them, shall be included in the appropriate project record and available to the public.
- (c) *Waiver during an emergency.* During and immediately after a declared public emergency, such as a tornado, ice storm, flood, or other act of nature, the requirements of this article may be waived temporarily by the mayor or the mayor's designee.
- 158-29 Relationship to other laws, regulations, and ordinances.
- (a) No permit or approval granted under this article shall remove an applicant's or adjacent property owner's obligation to comply in all respects with the applicable provisions of applicable federal, state, or local laws and regulations including, but not limited to, the Atlanta building code, the Atlanta zoning ordinance, and ordinances enforced by the Department of Watershed Management in chapter 74 of the Atlanta city code.
  - (b) *Most restrictive standard.* Wherever the requirements of this article conflict with the requirements of any other governmentally adopted statute, rule, regulations, ordinance or code, the most restrictive or that imposing the higher standard for tree protection shall govern.
  - (c) *On-going compliance.* This article requires that obligations imposed on an owner of property pursuant to the enforcement of this article shall become the responsibility of subsequent owners, until such time as those obligations are fulfilled.
  - (d) *Interpretation.* When interpreting and applying the provisions of this ordinance, such provisions shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.
  - (e) *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.

## **Division 2- Jurisdiction and registration**

158-30 Jurisdiction.

- (a) The Department of City Planning shall have authority over the implementation and enforcement of this ordinance on private property.
- (b) The Department of Parks and Recreation shall have authority over the implementation and enforcement of this ordinance on public property. The Department of Parks and Recreation will also have the responsibility for the maintenance, pruning, and removal of trees in the rights-of-way and in City of Atlanta parks, including responding to maintenance requests.
- (c) *Enforcement.* The Department of Parks and Recreation, the Department of City Planning, the Atlanta Police Department, the Tree Conservation Commission, and the solicitor shall be charged with the enforcement of this article. Employees of the Department of Parks and Recreation and the Department of City Planning arborist divisions may have police power to perform all acts necessary for enforcement.

158-31 Registration of arborists, foresters, landscape architects, and tree service companies is required.

- (a) All tree service companies doing business within the City of Atlanta and all arborists, foresters, and landscape architects who submit or sign documents that are included in a tree permit application or arboriculture prescription are required to register with the City Arborist prior to conducting business. While registered with the City, the individuals and organizations providing professional tree services shall be deemed ‘registered tree professionals’ for the purpose of this article.
  - (1) All arborists who submit or sign documents related to tree removal permits must hold current ISA (International Society of Arboriculture) or ASCA (American Society of Consulting Arborists) certification and shall provide documentation at time of registration.
  - (2) All foresters or landscape architects who submit or sign documents related to tree removal permits must be currently licensed with the State of Georgia and provide documentation at the time of registration.
  - (3) Registration shall, at minimum, require arborists, foresters, landscape architects and tree service companies to sign an affidavit acknowledging they are aware of, and agree to abide by, this tree protection ordinance.
  - (4) All professionals providing tree condition assessments and species identification on site plans submitted to the City must be registered as ‘tree professionals’.
  - (5) Registration shall be renewed annually and be valid until the end of the calendar year in which the registration was obtained.
  - (6) There shall be no fee charged for the registration of arborists, foresters, landscape architects, and tree service companies.
  - (7) Violations of this article by tree service companies or repeated, significant errors or omissions on plans and other required submittals by registered arborists and foresters will result in suspension from the City’s registry for a period of time as specified below, after which the registrant may request reinstatement.
    - a. Registration suspension for repeated, significant errors on submittals to the City Arborist:
      - 1. The first violation will result in a written warning.
      - 2. The second and third violations will result in one-month and six-month long suspensions, respectively, of registered tree professional status.
      - 3. Violations beyond the third will result in an additional six-month long suspension of registered tree professional status.
    - b. Registration suspension for illegal tree destruction by tree service companies.
      - 1. The first violation will result in a written warning.

2. The second violation will result in a six-month suspension of registered tree professional status.
  3. Each violation beyond the second will result in a year's suspension of registered tree professional status.
- (8) Work performed in the city by an unregistered tree service company shall be punishable as a violation of this article.
- (9) Registered tree professionals may appeal their suspension from the City's registry to the Tree Conservation Commission.

**Division 3- General Standards for public and private trees**

158-32 Damage and destruction of trees.

- (a) *Private trees.* No person shall destroy, remove, or impact a regulated tree on private property without a permit from the City Arborist.
- (b) *Public trees.* No person shall damage, prune, remove, or otherwise affect any tree of any size in any public right-of-way, park, or other public property without first obtaining a permit or other authorization from the City.
  - (1) *Protection of replacement trees and trees planted using Tree Trust Funds.* No person may destroy or remove a tree of any size that was planted as a requirement of the current or previous tree protection ordinance or was planted with the use of Tree Trust Funds, without a permit from the City Arborist. Replacement plantings or recompense will be required based on the DBH of the destroyed or removed tree but shall be no less than one replacement tree for every tree destroyed or removed.

158-33 Tree planting and maintenance standards.

- (a) All trees planted on public property, all trees planted on private property to meet the requirements of this article, and all trees planted with the use of Tree Trust Funds, must comply with the most current versions of the ANSI A300 Standards and ISA best management practices, and the provisions of this article.
- (b) All tree pruning and other maintenance activities in the public right-of-way or on other City property must be done according to the most current versions of the ANSI A300 standard and ISA best management practices, and the provisions of this article.

158-34 Permits for removal and destruction of regulated trees

- (a) Regulated trees on public or private property may be permitted for removal or destruction only for the following purposes, and are subject to the preservation, planting, and recompense provisions of this article.

Permit type	Applicable section
Dead, dying, and hazardous trees	158-41
Invasive/undesirable species	158-45
Construction, demolition, land disturbance	158-49
Landscape permit and silvicultural prescription	158-49

158-35 Site selection for City facilities.

- (a) Prior to any land purchase or development of site plans, the Department of Enterprise Asset Management shall consult with the City Arborist on the appropriateness of potential sites for City facilities and other City-sponsored or constructed capital projects, with the exception of linear infrastructure. If the proposed site for a capital project has significant trees or tree cover as determined by the City Arborist, alternative sites that meet the proposed facility's requirements shall be considered, preferably previously developed parcels.

158-36 Procedures for boundary and co-owned trees.

- (a) The location of the tree shall be measured at the base of the tree, where the trunk of the tree meets the ground, excluding the root flare. If a tree trunk straddles one or more property lines, the tree is a co-owned tree, owned jointly by the property owners.
  - (1) Any applicant wishing to impact more than 15% of the CRZ of a boundary or co-owned tree must present a boundary tree agreement, signed by all owners of the tree, authorizing the additional impacts. The structural root plate of a co-owned or boundary tree must be fully protected.
    - a. The City Arborist may not issue a permit to remove or destroy a boundary tree on a parcel zoned for or developed as a single-family residence unless an appeal to the Tree Conservation Commission has resulted in the finding that denial of a permit to remove such a tree constitutes a hardship, after which the City Arborist may approve removal of the tree provided a valid boundary agreement is provided.
    - b. This provision shall not apply to trees growing in the public right-of-way but shall apply to trees on all other public property.
  - (2) If the City Arborist finds that removal of a co-owned tree is permissible under all other requirements of this article, the arborist may approve destruction of the tree, provided a valid boundary tree agreement is submitted.

158-37 Removal of trees within a stream or wetland buffer or floodplain.

- (a) *Tree removal as part of permitted development.* The City Arborist may not approve removal or destruction of priority or non-priority trees within a stream or wetland buffer, as described in Atlanta city code section 74-303, unless the tree(s) are located in the portion of the buffer where development or land disturbing activities have been authorized by a buffer encroachment per Atlanta city code section 74-306.
- (b) *Tree removal that is not as part of permitted development.* The City Arborist may permit the removal of dead, dying, hazardous (DDH) trees and undesirable or invasive trees within a stream or wetland buffer unassociated with a buffer encroachment for the purposes of hazard mitigation, forest management, or stream or wetland buffer enhancement activities, subject to the conditions below.
  - (1) The applicant is responsible for identifying the location of the stream or wetland buffer and for ensuring that the proposed project complies with state and local buffer regulations.
  - (2) DDH, invasive, and undesirable trees removed from the buffer must be removed without any appreciable land disturbance. Machinery that causes scouring or compacting of the earth is prohibited within the buffer. Trees shall be cut at the base and stumps shall remain.

- (3) Creation of roads or other disturbance is prohibited without an authorized buffer encroachment from the City.

#### **Division 4- Public Right-of-Way Clearance and Safety**

##### 158-38 Nuisance trees.

- (a) Any dead, diseased, or damaged tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree were live or not diseased or damaged, fell or blow such tree or part thereof onto public ways or public property and thereby imperil life or property or impede traffic. When a tree or any part of a tree is confirmed by the City Arborist to be a nuisance, the City shall commence abatement proceedings.
- (b) *Right to inspect.* The City shall have the right to inspect any private tree which may impact the public right of way. Private trees which are a nuisance as defined under this article shall be removed by the property owner upon receipt of notice to abate and a DDH tree removal permit, if applicable.
- (c) *Nuisance limbs or debris.* If the nuisance pertains only to a part of a tree, the City Arborist shall not issue a removal permit but only issue a letter requiring abatement of the nuisance.
- (d) *Permit for removal of nuisance tree.* If the nuisance pertains to the entire tree, the City Arborist shall issue a permit to the property owner authorizing them to remove the tree or trees, along with a letter requiring abatement through tree removal.
- (e) *Posting.* No posting is required for the removal of nuisance trees.
- (f) *Emergencies & notification.* Where a nuisance tree poses an immediate hazard to the public, the City Arborist may deem the risk of the process of giving notice too great for the circumstances and may abate the nuisance without first notifying the property owner. Likewise, if the obstruction or nuisance tree can be abated by removing only the portion of the tree that extends into the public right of way, the City may abate the obstruction or nuisance without notifying the owner of the tree.

##### 158-39 Abatement procedures.

- (a) *When abatement required.* Abatement may be ordered where a private property tree interferes with views or free passage along a public street, sidewalk, or multi-use trail; or is deemed a nuisance as defined in this section.
- (b) *Notice.* When the City Arborist determines that a private tree requires abatement, he or she shall give written notice to the owner of the property. The notice shall contain:
  - (1) A clear and concise statement that in the City's opinion the tree or part of a tree interferes with views or free passage along a public street, sidewalk, or multi-use trail and/or constitutes a nuisance;
  - (2) The specific actions that the owner must take to mitigate the nuisance; and
  - (3) A statement that if the work is not done by the property owner within 30 calendar days from the date of the notice, the City may issue a citation to appear in municipal court.
- (c) *Summons may be issued.* 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.
- (d) *Municipal court proceeding.* If a municipal court judge finds that the tree or part of a tree constitutes an obstruction or nuisance and orders the defendant to abate the same within a specified time, then the judge shall set a date by when the nuisance must be abated.

- (e) Each 30-day period that passes without the nuisance being abated shall constitute an offense.
- (f) *Right of City to abate.* If the private property owner does not abate the nuisance, the City shall have the right, but not the obligation, to enter the property upon which such tree is located and abate the nuisance.
- (g) *Reimbursement.* Where the City takes action to abate the nuisance because the property owner failed to, or the City determined an emergency existed, the City shall have the authority to obtain reimbursement from the property owner for the reasonable costs of such work, or the City may choose to cover the cost of such work as appropriate from the Tree Trust Fund in cases where the homeowner has been determined to be financially unable to abate the nuisance.

## **Division 5 - Tree valuation**

158-40 In order to identify and prioritize the preservation of those trees that contribute the greatest environmental services to Atlanta's residents and visitors, trees are valued differently based on species, size, and condition.

- (a) Priority trees are those trees that provide the highest level of ecosystem services to the City of Atlanta and are defined by size and species as shown in table TPO-1. Priority trees require replacement and/or recompense when destroyed or removed.
  - (1) *Site conditions.* Trees that meet the species and size of a priority tree may not be classified as priority tree if they are threatened by site conditions that will likely lead to the death or failure of the tree, such as severe erosion or other conditions that will limit the long term viability of a tree, such as limited growing space in an above-ground planter or a small planting strip.
- (b) Non-priority trees are those regulated trees that do not meet the size or species requirements to be designated priority trees and are not dead, dying, or hazardous (DDH), invasive, or undesirable trees. Non-priority trees require replacement and/or recompense when destroyed or removed.
- (c) DDH trees are those trees that have been determined by the City Arborist to meet the criteria for removal due to their structure and health. DDH trees generally do not require replacement and/or recompense when removed.
- (d) Invasive and undesirable tree species are those that have demonstrated traits that are detrimental to the long-term health of the City's urban forest. The City Arborist maintains a list of invasive and undesirable tree species. Invasive and undesirable trees generally do not require replacement and/or recompense when removed.

Table TPO-1- Priority tree list

<b>Group 1</b>	<b>Fast growing native overstory and midstory species</b>	
	<b>All listed species are priority at 18" DBH and larger</b>	
<i>Genera</i>	<i>Common Name</i>	<i>Botanical Name</i>
Catalpa	Northern Catalpa	Catalpa speciosa
	Southern Catalpa	Catalpa bignoniodes
Cottonwood	Eastern Cottonwood	Populus deltoides
Hackberry	Common Hackberry	Celtis occidentalis
	Sugarberry	Celtis laevigata
Maples	Box elder	Acer negundo
	Red Maple	Acer rubrum
	Silver Maple	Acer saccharinum
Oaks	Water Oak	Quercus nigra
	Willow Oak	Quercus phellos
Pecan	Pecan	Carya illinoensis
Pines	Loblolly Pine	Pinus taeda
Riverbirch	Riverbirch	Betula nigra
Sweetgum	American Sweetgum	Liquidambar styraciflua
Sycamore	American Sycamore	Platanus occidentalis
Tulip Tree	Tulip Tree	Liriodendron tulipifera



<b>Group 2</b>	<b>Slower growing native overstory and midstory species</b>	
	<b>All listed species are priority at 10" DBH and larger</b>	
<i>Genera</i>	<i>Common Name</i>	<i>Botanical Name</i>
Ash	Green Ash	Fraxinus pennsylvanica
	White Ash	Fraxinus americana
Basswood	American Bass	Tilia americana
Cherry	Black Cherry	Prunus serotina
Hemlock	Eastern Hemlock	Tsuga canadensis
Mulberry	Red Mulberry	Morus rubra
Oak	Black Oak	Quercus velutina
	Blackjack Oak	Quercus marilandica
	Chestnut Oak	Quercus prinus
	Chinquapin Oak	Quercus muehlenbergii
	Northern Red Oak	Quercus rubra
	Oglethorpe Oak	Quercus oglethorpensis
	Overcup Oak	Quercus lyrata
	Post Oak	Quercus stellata
	Scarlet Oak	Quercus coccinea
	Shumard Oak	Quercus shumardii
	Southern Red Oak	Quercus falcata
	Swamp Chestnut Oak	Quercus michauxii
	White Oak	Quercus alba
	Pine	Longleaf Pine
Shortleaf Pine		Pinus echinata
Virginia Pine		Pinus virginiana
Redcedar	Eastern Redcedar	Juniperus virginiana
Willow	Black Willow	Salix nigra

<b>Group 3</b>	<b>Slow growing native overstory and midstory species and faster growing understory species</b>	
	<b>All listed species are priority at 8" DBH and larger</b>	
<i>Genera</i>	<i>Common Name</i>	<i>Botanical Name</i>
Beech	American Beech	<i>Fagus grandifolia</i>
Elm	American Elm	<i>Ulmus americana</i>
	Slippery Elm	<i>Ulmus rubra</i>
	Winged Elm	<i>Ulmus alata</i>
Hickory	Bitternut Hickory	<i>Carya cordifomis</i>
	Mockernut Hickory	<i>Carya tomentosa</i>
	Pignut Hickory	<i>Carya glabra</i>
	Red Hickory	<i>Carya oxalis</i>
	Sand Hickory	<i>Carya pallida</i>
	Shagbark Hickory	<i>Carya ovata/australis</i>
Holly	American holly	<i>Ilex opaca</i>
Locust	Locust, honey	<i>Gleditsia triacanthos</i>
	Locust, black	<i>Robinia pseudocacia</i>
Maple	Sugar Maple	<i>Acer saccharum</i>
	Southern Sugar Maple	<i>Acer floridanum</i>
Oak	Georgia Oak	<i>Quercus georgiana</i>
Persimmon	American persimmon	<i>Diospyros virgiana</i>
Redbud	Eastern Redbud	<i>Cercis canadensis</i>
Sassafras	Sassafras	<i>Sassafras albidum</i>
Sourwood	Sourwood	<i>Oxydendrum arboreum</i>
Tupelo	Blackgum	<i>Nyssa sylvatica</i>
	Swamp Tupelo	<i>Nyssa biflora</i>
Walnut	Black Walnut	<i>Juglans nigra</i>
Yellowwood	American Yellowwood	<i>Cladrastis kentukea</i>

<b>Group 4</b>	<b>Native understory and slow growing smaller trees</b>	
	<b>All listed species are priority at 6" DBH and larger</b>	
<i>Genera</i>	<i>Common Name</i>	<i>Botanical Name</i>
Buckeye	Georgia Buckeye	Aesculus sylvatica
	Red Buckeye	Aesculus pavia
Chinquapin	Allegheny Chinquapin	Castanea pumila
Crabapple	Southern Crabapple	Malus angustifolia
Dogwood	Alternate-Leaf Dogwood	Cornus alternifolia
	Flowering Dogwood	Cornus florida
	Swamp Dogwood	Cornus foemina
Fringetree	White Fringetree	Chionanthus virginicus
Hackberry	Georgia Hackberry	Celtis tenuifolia
Hawthorne	Hawthornes, native	Crataegus ssp.
	Green Hawthorn	Crataegus viridis
	Littlehip Hawthorn	Crataegus spathulata
	Parsely Hawthorn	Crataegus marshalii
	Washington Hawthorn	Crataegus phaenopyrum
Hornbeam	American Hornbeam	Carpinus carolinia
Hophornbeam	American Hophornbeam	Ostrya virginica
Hoptree	Common Hoptree	Ptelea trololata
Magnolia	Magnolia macrophylla	Bigleaf Magnolia
	Magnolia tripetala	Umbrella Magnolia
Maple	Chalk Maple	Acer leucoderme
	Southern Sugar maple	Acer floridanum
Pawpaw	Pawpaw	Asimina triloba
Plum	American Plum	Prunus americana
	Chickasaw Plum	Prunus angustifolia
	Flatwoods Plum	Prunus umbellata
Serviceberry	Allegheny Serviceberry	Amalanchier laevis
	Downy Serviceberry	Amelanchier arborea
Silverbell	Carolina Silverbell	Halesia carolina
	Two-Winged Silverbell	Halesia diptera

<b>Group 5</b>	<b>Non-native species</b>	
	<b>All listed species are priority at 26" DBH and larger</b>	
<i>Genera</i>	<i>Common Name</i>	<i>Botanical Name</i>
Cedar	Deodar Cedar	Cedrus deodara
Cypress	Bald Cypress	Taxodium distichum
	Pond Cypress	Taxodium ascendens
Ginkgo	Ginkgo	Ginkgo biloba
Oak	Darlington/Laurel Oak	Quercus hemispherica
	English Oak	Quercus robur
	Nuttall Oak	Quercus nuttalli
Osage Orange	Osage Orange	Maclura pomifera
Tupelo	Water Tupelo	Nyssa aquatica
Redwood	Dawn Redwood	Metasequoia glyptostroboides

**Division 6- Requirements for the removal of dead, dying, and hazardous (DDH), invasive, and undesirable trees.**

158-41 Standard operating procedures for issuing dead, dying, or hazardous (DDH) tree removal permits.

- (a) The City Arborist shall maintain and publish standard operating procedures describing the criteria for determining whether a tree is DDH and the issuance of permits to remove DDH trees. The criteria contained in the standard operating procedures shall be followed by the City Arborist and registered tree professionals when assessing trees pursuant to a removal permit.
- (b) The City Arborist may update the standard operating procedures for issuing DDH permits upon approval by a vote of the Tree Conservation Commission.

158-42 Permits to remove dead, dying, or hazardous trees on private property.

- (a) *Jurisdiction.* The City Arborist for the Department of City Planning has permit authority for the removal of DDH trees on private property.
- (b) *Applicants.* Applications to remove DDH trees may be submitted only by the owner of the property on which the subject tree is growing, or the owner's agent, such as a tree service company designated to make an application on behalf of the property owner.
- (c) *Multiple trees.* For DDH permit applications involving seven or more trees, the City Arborist will require an assessment of the trees to be submitted by a registered tree professional.
- (d) *Requirements of application.* Applications to remove dead, dying, or hazardous trees with a DBH of six or more inches for trees other than pines and a DBH of 12 inches or greater for pines shall be submitted to the City Arborist in a manner prescribed by the City, and contain, at a minimum, the following information:
  - (1) The address of the property and the owner's name, phone, and email address if applicable, including that of any tree service engaged to conduct the work.
  - (2) The name and certification number of the registered tree professional, if applicable.
  - (3) Each tree for which the permit is requested should be identified by species (if known) and DBH, and location, identifying characteristics, and markings.
  - (4) Applicants are required to provide one or more photos of the tree in question. DDH inspection results shall be sent to the applicant via email or USPS mail.
- (e) City review and findings.
  - (1) 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.
  - (2) The City Arborist shall use the standard operating procedures for DDH trees when assessing trees pursuant to a removal permit.
  - (3) The City Arborist shall make the final determination of whether a tree meets the criteria for a DDH permit. The City Arborist shall approve or deny, or request additional information, based on the information submitted with the application and physical inspection of the tree, as necessary.
  - (4) A written report of the City Arborist's findings and decision, including any supporting documentation, shall be made in the project record and made available to the public online.
- (f) Permits to remove DDH trees shall be valid for six months from the date of issuance. The City Arborist may extend the permit for up to six months upon request.
- (g) *No posting or preliminary approval required.* Removal of DDH trees does not require public notification and posting as set forth in section 158-73.

- (h) *Replacement and recompense.* Removal of DDH trees is not subject to tree replacement and recompense requirements except as follows:
  - (1) Illegally destroyed trees pursuant to section 158-85(b)(1); and,
  - (2) Trees planted as a requirement of this article on commercial projects pursuant to section 158-68(f)(3).
- (i) *Right of appeal.* No appeal may be filed for a notice of approval for a DDH tree. An applicant or their agent may appeal a notice of denial for a DDH removal permit to the Tree Conservation Commission as provided in section 158-75 of this article.
- (j) *Permits available for public inspection.* All DDH tree removal permits shall be readily accessible for public inspection online.

158-43 Emergency removals for trees with imminent likelihood of failure.

- (a) *Authorization for immediate removal.* When an applicant believes and can demonstrate the imminent likelihood of failure for a tree on their property and that the tree poses an immediate danger to the health, safety and welfare of persons or property, the applicant may request a permit for immediate removal by contacting the City Arborist by phone or email to request verbal or written approval for the removal. Examples of trees with an imminent likelihood of failure include: a tree with a sudden change of pitch of the main stem; cracked or heaved soil opposite the tree's lean; a visibly raised root plate; and cracks or breaks in the tree's main stem or in a large leader.
- (b) If the person is unable to reach the City Arborist, the person may remove the tree without approval. Within five business days of said removal, the person shall apply for retroactive approval by submitting to the City Arborist a tree removal application and photos demonstrating that the tree presented an imminent likelihood of failure, and any other information reasonably requested by the City Arborist.
- (c) *Failure to follow procedures.* Where the City Arborist finds that the applicant did not follow the procedures of this subsection or failed to demonstrate an imminent likelihood of failure, the City Arborist may require replacement planting and charge the responsible party applicable recompense and fines per section 158-84(b)(1).
- (d) *Right of appeal.* The person or their agent may appeal a decision by the City Arborist regarding imminent likelihood of failure or tree removal associated therewith. Appeals must be filed with the Tree Conservation Commission within 15 days of the applicant's/owner's receipt of the City Arborist's written decision.

158-44 Permits to remove dead, dying, and hazardous trees on public property

- (a) *Jurisdiction.* The City Arborist for the Department of Parks and Recreation has the authority to issue permits for the removal of DDH trees on public property.
- (b) *Reporting public property trees in DDH condition.* Any person who believes that a tree on City-owned rights-of-way or park property is in DDH condition may request an inspection of the tree by calling the Department of Parks and Recreation or the ATL311 system to request a tree inspection to be completed by the City Arborist.
- (c) *Reporting public property trees posing imminent likelihood of failure.* Any person who believes that a tree on city-owned property or in the right-of-way is imminently dangerous may notify the City by calling 911.
- (d) *City Arborist determination.* The City Arborist will determine the tree's condition, assign a response priority, and prescribe appropriate action as needed.

(e) *Right of appeal.* No appeal may be filed for a DDH tree on public property.

158-45 Removal of invasive and undesirable trees on private property.

(a) A permit is required to remove an invasive or undesirable tree with a DBH of six inches or greater.

(b) The list of invasive and undesirable tree species is maintained by, and available from, the City Arborist. The City Arborist may update the list of invasive trees periodically, based on guidance by the Georgia Invasive Species Council, scholarly research, and consultation with professional arborists, ecologists, and foresters. All updates shall be approved by the Tree Conservation Commission.

(c) Applications to remove an invasive and undesirable tree may be submitted only by the owner of the property on which the subject tree is growing or the owner's agent.

(d) Applications should be made to the City Arborist in a format prescribed by the department and should contain the following:

(1) At least two pictures of the tree at issue that identify the species of tree; and

(2) If seven or more invasive and undesirable trees are proposed to be removed, a tree survey including the quantity, species and DBH of each tree, prepared by an ISA or ASCI certified arborist or a landscape architect, in good standing with the City as a registered tree professional.

(e) City review and findings.

(1) By submitting an application for removal of an invasive or undesirable 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.

(2) The City Arborist shall make the final determination of the species of the tree based on the information submitted with the application and/or physical inspection of the tree and may issue a removal permit for any tree of a species on the list of invasive and undesirable tree species. The City Arborist's findings and decision will be made available to the public online.

(3) Permits to remove an invasive or undesirable tree shall be valid for six months from date of issuance. The City Arborist may extend the permit for up to six months upon request.

(f) *No posting or preliminary approval required.* Removal of invasive and undesirable trees does not require notification and posting as set forth in section 158-73.

(g) *Replacement and Recompense.* Removal of invasive and undesirable trees is not subject to the replacement or recompense requirements except when the removal of seven or more undesirable trees from a single property is not associated with a building, land disturbance, or demolition permit; the owner must either obtain City Arborist approval of a landscape plan showing tree for tree replacement of the undesirable trees with trees from the City Arborist's recommended tree list or demonstrate that the site meets the tree density requirement for the site, either per table TPO-2 for single-family residential properties or per section 158-58 for other properties.

158-46 *Invasive or undesirable trees on public property.* At the City Arborist's discretion, invasive or undesirable trees may be removed from public property. A permit or other authorization for removal is required, though no posting, replacement, or option to appeal are required.

## **Division 7- Requirements for the removal of priority and non-priority trees**

158-47 Permits required.

(a) No person shall directly or indirectly remove or destroy a regulated tree on public or private property without first obtaining a permit from the City Arborist, except as otherwise set forth in this article.

(b) *Replacement or recompense required.* Any person removing or destroying a regulated tree must replace one or more trees and/or pay recompense based on the calculated value of the tree pursuant to the rules set forth in this article, unless otherwise exempted by this article.

(c) Permits shall be available for public inspection on the City's website.

158-48 General requirements.

(a) *Tree valuation.* All regulated trees on site shall be valued and classified based on the species, size, and condition of the tree as described in section 158-41.

(b) *Tree preservation standards.* This ordinance establishes tree preservation standards for the following project types:

(1) Single-family residential projects on a single lot must meet the requirements of one of the two tree preservation options, described in section 158-53.

(2) Single-family subdivisions and planned conservation developments must meet the tree preservation requirement described in section 158-55.

(3) Commercial development on greenfield sites must meet the tree preservation standard described in section 158-60.

(c) *Tree density requirement.* All projects other than demolition, public linear infrastructure projects, and the infrastructure phase of single-family residential subdivisions and planned conservation developments have a required minimum number of trees, referred to as tree density, that must be growing on the property at the time of project completion. Tree density may be met through priority and non-priority trees saved on site, trees planted on site, or a combination of the two. All projects must meet the required tree density unless otherwise exempted in this ordinance.

(d) *Replacement tree planting and recompense.* In addition to meeting the tree density requirement, additional trees may be required to be planted on or off-site as replacement for the priority or non-priority trees that were removed from the site.

(1) For private property trees, a recompense payment may be made in lieu of planting replacement trees off-site, provided that the on-site tree density requirement is met and replacement trees have been planted to the degree that the site will allow. A recompense payment may not be made in lieu of meeting the tree density requirement.

(1) For public property trees, all priority and non-priority trees removed shall be replaced on public property per section 158-69(b)(1).

(e) *Removal of invasive vines from saved trees.* All priority and non-priority trees saved on site must be cleared of non-native invasive vines such as English Ivy, Chinese Wisteria, and Kudzu in a manner approved by the City Arborist.

(1) The site will not pass final arborist inspection until invasive vines growing on priority and non-priority trees have been severed or killed in a manner that does not harm the tree.

(2) Removal of invasive vines from the ground around trees to prevent reinfestation is strongly encouraged.

(3) A list of invasive vines is included on the list of invasive species, maintained by and available from, the City Arborist.

158-49 Permits for the removal of priority and non-priority trees.

(a) *Permits for tree removal based on permitted construction.* A permit may be issued by the City Arborist to remove or destroy a priority or non-priority tree in order to accommodate construction or demolition of a property improvement for which a building, demolition, or land disturbance permit is required.

(1) Tree removal for demolition will only be permitted when the City Arborist determines it is unfeasible to perform the demolition without destruction or removal of trees. The City

Arborist may require certain areas of proposed demolition to be deferred until a building permit is issued, or require specialized demolition methods, where such deferral may preserve trees.

- (b) *Permits for tree removal based on landscaping improvements.* A permit may be issued by the City Arborist to remove or destroy a non-priority tree in order to accommodate landscaping projects and other activities for which a construction permit is not otherwise required.
- (c) *Permits for tree removal associated with silvicultural prescriptions.* Permits for tree removal for forest stand improvement may be approved at the determination of the City Arborist. Each application shall include a silvicultural plan that is prepared by an arborist or forester in good standing with the City as a registered tree professional. Replacement and/or recompense is required unless the City Arborist determines that the removal of trees is necessary to reduce or prevent the spread of pests or disease or improve forest health.
- (d) *Permit for tree removal based upon compliance with federal consent decrees.* Specific provisions for issuance of permits to the Department of Watershed Management for the removal of trees associated with work 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) can be found in section 158-88.
- (e) *Pre-application conference.* A pre-application conference with the City Arborist office is highly recommended for all projects that propose to remove or destroy trees to ensure that the design is consistent with the requirements of this article. Plans will be reviewed again when submitted for a construction or other permit.

158-50 Application for a permit to remove a priority or non-priority tree.

- (a) *Site plan submittal.* Any person or entity applying for a construction, demolition, or land disturbance permit; or a landscape-related tree removal permit, must submit a site plan for review by the City Arborist along with the permit application. The plan shall be prepared to meet the minimum requirements as described in section 158-51 and shall include a survey of all regulated trees unless otherwise exempted by this article. All boundary trees are also required to be shown and labeled.
- (b) *Allowed impacts to trees.* A saved tree is one with at least 80% of its CRZ protected and preserved at natural grade provided the tree's structural root plate is also fully protected. The City Arborist may allow the exceptions below.
  - (1) The City Arborist may approve impacts up to 33% of the CRZ and still consider the tree saved only if an arboricultural prescription to mitigate the CRZ impacts is provided and approved as described in section 158-64.
  - (2) No cut, fill, or land disturbance of any kind is allowed within the structural root plate of any saved tree, though the City Arborist may, upon the express finding that the stability of the tree will not be affected, allow for minor disturbances, such as the installation of a post, within the structural root plate.
- (c) *Criteria for impacts to priority and non-priority trees; arborist review.* The City Arborist shall not issue a permit for the destruction, removal, or injury of any priority or non-priority tree unless:
  - (1) The application and plans submitted to the City are accurate;



- (2) The design is appropriate to the site conditions and minimizes the impacts to trees on site to the maximum extent practicable;
  - (3) No trees are being removed unnecessarily, and the improvements cannot reasonably be designed or positioned to further increase tree protection;
  - (4) All reasonable efforts have been made to plan the construction or demolition methods and site access with protection of trees as a priority;
  - (5) For a single-family residential development, one of the tree preservation standards described in section 158-53 is met;
  - (6) For single-family subdivisions and planned conservation developments, one of the tree preservation requirements described in section 158-55 is met;
  - (7) For commercial developments on greenfield sites, the tree preservation requirement as described in section 158-60 is met;
  - (8) If applicable, the applicant has submitted a boundary tree agreement signed by the adjacent property owners for any impacts to or destruction of boundary trees;
  - (9) For landscaping projects, no priority trees are proposed to be destroyed or removed; and
  - (10) For all projects, the minimum tree density, replacement and recompense, and other requirements and standards in this article are met;
- (d) The City Arborist may require reasonable modifications to the site plan to protect priority trees or stands of trees, and environmentally sensitive areas, or require certain construction method and products to reduce impacts to the trees on site, including, but not limited to:
- (1) Reuse of cleared, paved, or previously developed areas including, but not limited to driveways, parking lots, former building footprints, and lawns;
  - (2) Directional boring instead of open trenching for utility installation;
  - (3) Root bridging for sidewalks, driveways, and other hardscapes;
  - (4) Retaining walls and use of pier and beam foundations to reduce tree impacts from site grading;
  - (5) Use of mulch, gravel, plywood, geotextiles, swamp/access mats, and temporary decking, alone or in combination per standards established by the City Arborist to prevent soil compaction from vehicular traffic and material storage; and
  - (6) Any other methods, materials, or techniques that meet with current arboricultural industry standards and are approved by the City Arborist.
- (e) Notice of City Arborist decision of preliminary approval.
- (1) Upon receipt of a complete application to remove, destroy, or impact priority or non-priority trees for construction, demolition, landscaping, silviculture, or other allowed purposes, the City Arborist shall review the application and give a notice of preliminary approval if the application meets the requirements of this article, and denial of the application if the application does not meet the requirements.
  - (2) The notice of preliminary approval shall include the approved tree replacement or monetary recompense requirements associated with the tree removals as provided in sections 158-69 through 71.
- (f) Appeals of denial of application.
- (1) A notice of denial may be appealed to the Tree Conservation Commission by the applicant or applicant's agent only; or
  - (2) An applicant may submit a new application at any time after receiving a notice of denial.

- (g) *Public posting.* Following notice of preliminary approval of priority or non-priority trees, public posting shall be made following the procedures in section 158-73.
- (h) *Notice of City Arborist decision of final approval.* Upon completion of the posting period if no appeal is filed, or after the resolution of an appeal, the City Arborist shall give a notice of final approval or denial consistent with the terms of this article. Final approval of the permit requires receipt of payment of all Recompense funds, submittal of Arboricultural Prescription reports, and submittal of Boundary Tree agreements.

158-51 *Site plans.* Site plans required under this article shall be drawn to scale and submitted in a format specified by the City and shall provide a tree survey and other information about existing site conditions and plans for the proposed development, including measures to protect trees during construction. At a minimum, site plans shall provide the following information:

- (a) *Tree survey.* The site plan shall include a survey identifying the size in DBH, species, and location of all regulated trees on the site. Regulated trees on private property are all trees other than pines with a DBH of six inches or greater, and pines with a DBH of 12 inches or greater. Regulated trees on public property are all trees with a DBH of three inches or greater. Identification of tree species and measurement of DBH must be done by a registered tree professional. Surveying the location of the trees must be done by a licensed land surveyor. The tree survey shall be certified by both the registered tree professional and the licensed surveyor.
  - (1) *Priority and non-priority trees.* The site plan shall identify all existing priority and non-priority on the site. Priority trees shall be depicted with a graphic symbol that is different from non-priority trees.
  - (2) *DDH trees, invasive trees, and undesirable trees.* Site plans shall include existing trees for which a DDH permit has been issued and the permit number must be listed. Invasive and undesirable trees shall also be clearly identified on the tree survey, though a permit for their removal should follow procedures described in secs. 158-43 through 158-47.
  - (3) *Boundary trees.* Boundary and co-owned trees shall be shown on the tree survey.
  - (4) *Illegally destroyed trees.* For the purposes of evaluating the single-family residential priority tree preservation standard, any priority tree that was destroyed illegally on the site up to two years prior to permit application, and for which a fine was imposed by the City Arborist, must be noted on the tree survey by size, species, and priority status and shall be considered a destroyed tree. Failure to include a previously illegally destroyed tree on the tree survey may be grounds for permit denial.
  - (5) *No trees on site.* If no regulated trees exist on the site, the applicant must submit at least two photos clearly showing the area affected by proposed construction and a signed tree impact statement attesting no trees exist on site.
- (b) *Existing conditions and development plans.* All existing condition surveys must be prepared and certified by a surveyor licensed in the state of Georgia. Site plans shall include, at a minimum, the information listed below.
  - (1) Existing and proposed topographic information at no less than two-foot contour intervals. A topographic survey is not required for single-family residential projects if no cut of fill or other changes in topography are proposed.
  - (2) Existing and proposed property lines, existing street names, zoning setbacks, easements, streams, stream and wetland buffers, and floodplain limits.

- (3) Existing and proposed buildings and other structures, driveways and paved areas, retaining walls, utilities.
- (4) Proposed limits of disturbance, areas of cut and fill, construction access, staging, and storage areas.
- (c) *Tree replacement plan and tree replacement/recompense calculations.*
  - (1) The site plan shall contain or be accompanied by a tree replacement plan that shows the locations of all proposed trees labeled with their species and size in caliper inches. Trees planted within parking lots or other constrained areas must also delineate and label the planting area or soil volume provided, as described in section 158-68(d).
  - (2) The tree replacement plan must contain planting details and specifications, including soil specifications when soil cells are used.
  - (3) The tree replacement plan shall also show the proposed tree plantings and recompense calculations that meet the requirements set forth in sections 158-69 and 70.
- (d) *Identification of trees to be saved or removed.* The site plan shall depict the CRZ of each tree that will be impacted and the percentage of any CRZ impact. Trees to be destroyed or removed should be clearly marked with an “X” on the plan. All trees with a CRZ impacted by construction or disturbance must show the extent of the structural root plate to demonstrate that the structural root plate is 100% protected from disturbance.
  - (1) Trees on private property, which are destroyed, but not removed from site, will require replacement and/or recompense payment.
  - (2) Trees on public property, which are destroyed, must be removed from site and will require replacement.
- (e) *Protection for saved trees.* The site plan must show the location of fencing and other appropriate measures which will protect saved trees on the subject property and adjacent properties
  - (1) *Tree protection fencing.* Tree protection fencing must be located to protect a minimum of 80% of a saved tree’s CRZ and 100% of its SRP throughout construction. Where the City Arborist determines that this level of protection is not possible and pre-approves an arboricultural prescription as part of the site plan, the tree fencing must be located so as to protect 100% of the SRP and at least 67% of the CRZ.
    - a. Tree protection fencing must protect at least 85% of the CRZ of all boundary and co-owned trees on single-family residential property.
  - (2) *Construction methods to minimize tree impacts.* The site plan should clearly identify by location any specific construction techniques or materials used to reduce impacts to trees, such as those listed in section 158-50(d).
- (f) *Surveyor not needed for tree removals related to landscape improvements.* Applications for tree removals due to landscape improvements that do not require a building or land disturbance permit must have all trees shown on the site plan with their species and size, as identified by a registered tree professional, but the plan may be hand drawn and does not require a surveyor to prepare it, provided that the plan is accurate, drawn to scale, and contains all of the information required on the City Arborist’s checklist for landscape projects.

**Division 8- Tree preservation and planting standards for single-family development**

158-52 General provisions.

- (a) *Policy*. Single-family developments should be designed specifically to maximize tree preservation and minimize the impacts to existing trees, with a special focus on the preservation of priority trees.
- (b) *Applicability*. This section applies to:
  - (1) All development on individual single-family and duplex lots zoned R1-R5, collectively referred to as ‘single-family projects’ or ‘developments’ with or without accessory dwelling units, on existing lots of record;
  - (2) New lots of record created in subdivisions that do not include the construction of new streets or shared stormwater infrastructure; and
  - (3) New lots of record created in residential subdivisions that did not meet the tree preservation requirement through a conservation area, per section 158-55(b)(1).

158-53 All single-family developments involving the construction or reconstruction of the primary residence must demonstrate that the site will meet one of the two tree preservation standards below.

- (a) Priority tree preservation standard.
  - (1) Every lot has a priority tree preservation standard which is based on lot size and defines the minimum percentage of the total DBH inches of priority trees that must be saved on site, as shown in Table TPO-2. To meet this standard, priority trees may be removed or destroyed to accommodate the proposed development, provided the site meets or exceeds the priority tree preservation standard for the appropriate lot size and the site plan adheres to the standards in section 158-50(c).
    - a. If the total DBH inches of priority trees make up 25 percent or less of the DBH inches of all priority and non-priority trees onsite, priority trees must be preserved according to table TPO-2, and at least 50 percent of the total DBH inches of non-priority trees must also be preserved in order to meet the priority tree preservation standard.
  - (2) If there are no existing priority trees on site, preservation of 50 percent of the total DBH inches of non-priority trees on site will satisfy the priority tree preservation standard.
- (b) Limited disturbed area standard.
  - (1) When the priority tree preservation standard cannot be met, the City will require that the total area of land disturbance be limited to a specified percentage of the total site area, as shown in Table TPO-2, and referred to herein as the ‘limited disturbed area’.
  - (2) All land disturbance and construction activity, including but not limited to site access, excavation and grading, building and hardscape construction, utility installation, material storage and staging, must be contained within the limited disturbed area.
  - (3) A protected ‘tree save area’ shall be established around all portions of the site that will not be subject to construction activity.
    - a. Construction access, staging, and material storage is ordinarily prohibited in tree save areas, though the City Arborist may allow portions of the tree save area to be used for site access, staging, and material storage under the following conditions:
      - 1. There is no soil disturbance within the tree save area(s); and
      - 2. The tree save area(s) are protected from soil compaction through the use of weight dispersing materials and techniques including, but not limited to, mulch, gravel, plywood, geotextiles, swamp/access mats, and temporary decking.
  - (4) With the exception of activity related to tree planting, as well as construction access and staging per subsection (3) above, soil disturbance is not allowed within a tree save area. Even

if no existing trees are present, preventing soil disturbance and compaction improves the viability of future tree growth in the area.

- (5) The City Arborist may allow a larger disturbed area as necessary to accommodate the following:
  - a. *Septic fields.* The City Arborist may allow for a larger disturbed area to accommodate a single primary septic field on properties that do not have access to the public sanitary sewer system. Backup or secondary septic fields are not eligible for this allowance unless the primary field has failed.
  - b. *ADA Compliance.* Retrofits to create Americans with Disabilities Act (ADA) compliant access routes and facilities.
- (c) Preservation requirements for additions and other small single-family projects.
  - (1) Small single-family residential projects that do not include the construction or reconstruction of the primary dwelling, such as additions, garages, decks, or pools are ineligible for the priority tree preservation standard and must use the limited disturbed area tree preservation standard.
  - (2) For small single-family residential projects ineligible for the priority tree preservation standard, no priority trees may be destroyed or removed unless all construction activity is limited to areas of existing impervious surface or a modified disturbed area, calculated as described below.
    - 1. Calculate the size of the limited disturbed area equal to the percentage of the lot, as defined in Table TPO-2;
    - 2. Subtract the area of existing impervious surface from the limited disturbed area to get the modified disturbed area.

*Example:* 20,000 square foot (sf) site has a limited disturbed area of 40% of the lot area, or 8,000 sf. The site has 6,000 sf of existing impervious surface, including the primary structure. To determine the modified disturbed area allowed for a small project, the 6,000 sf of existing impervious is subtracted from the 8,000 sf limited disturbed area, for a total of 2,000 sf of additional disturbance allowed in a modified disturbed area.

158-54 Tree density and other planting requirements for single-family projects.

- (a) All single-family lots have a minimum number of trees, referred to herein as tree density, that are required to be growing on site prior to the issuance of a certificate of occupancy. Tree density requirements may be met with priority or non-priority trees saved on site, newly planted trees, or a combination of the two. Tree density requirements apply to all sites, regardless of whether and how many trees are removed or destroyed, except as specifically exempted in these regulations.
  - (1) When calculating tree density, all quantities shall be rounded up to the nearest whole number of trees. Tree density requirements for single-family developments are found in table TPO-2.
  - (2) *Front yard trees required.* All single-family lots must have trees planted in the front yard at a maximum spacing of 40 feet, with allowances for driveways, and within 20 feet of the public right-of-way. The City Arborist may require trees to be planted in half-depth front yards on corner lots if space is sufficient.
  - (3) Trees planted to achieve tree density count towards meeting tree replacement requirements, but achieving tree density on site is a minimum requirement and does not relieve the

applicant from meeting the front yard tree requirement or additional replacement planting or recompense payments necessary to offset trees removed or destroyed.

- (b) *Tree density exception.* Single-family residential projects meeting the following conditions are exempt from meeting tree density requirements. Additionally, the tree survey for a project exempt from tree density must only show the trees within 50 feet of any land disturbance associated with the project.
- (1) No priority trees are removed or destroyed; and
  - (2) The cost of construction and/or disturbed area is below the current thresholds established by and available from the City Arborist.

Table TPO-2

<b>Single Family Residential Tree Preservation Standards, Limited Disturbed Areas, and Tree Density</b>	
<b>Very Small Lots (&lt;5000 sf)</b>	
Priority Tree Preservation Standard	No preservation required
Limited Disturbed Area	No restrictions
Tree Density	2 trees per lot
<b>Small Lots (5001-8500sf)</b>	
Priority Tree Preservation Standard	60% of priority tree DBH
Limited Disturbed Area	55% of site area
Tree Density	20 trees/ acre
<b>Med Lots (8501- 15000 sf)</b>	
Priority Tree Preservation Standard	60% of priority tree DBH
Limited Disturbed Area	50% of site area
Tree Density	21 trees/ acre
<b>Large Lots (15001- 30,000 sf)</b>	
Priority Tree Preservation Standard	75% of priority tree DBH
Limited Disturbed Area	40% of site area
Tree Density	22 trees/ acre
<b>Large Lots (30,001- 50,000 sf)</b>	
Priority Tree Preservation Standard	75% of priority tree DBH
Limited Disturbed Area	35% of site area
Tree Density	25 trees/ acre
<b>Very Large Lots (&gt;50,000 sf)</b>	
Priority Tree Preservation Standard	75% of priority tree DBH
Limited Disturbed Area	25% of site area
Tree Density	28 trees/ acre

## **Division 9- Tree preservation and planting standards for residential subdivisions and planned conservation developments**

158-55 Tree preservation and planting standards for residential subdivisions and planned developments.

- (a) *Applicability.* This section applies to all new single-family subdivisions and planned conservation developments that require installation of shared roads and stormwater management facilities.
- (b) *Tree preservation required.* Single-family subdivisions and planned conservation developments must meet one of the following tree preservation standards:
  - (1) *Permanent conservation.* Under this standard, a conservation area or areas totaling at least 50% of the area of the site and would be established prior to construction and protected from all land disturbance in perpetuity through deed restriction or conservation easement, as further described in section 158-61. The conservation area shall be delineated so as to maximize the preservation of priority trees, stands of trees, and the protection of environmentally sensitive areas.
    - a. Developments that preserve at least 50% of the site area in permanent conservation are not required to preserve any additional trees on site during subsequent phases of land disturbance or individual lot development.
      - 1. Tree plantings may be needed to meet tree density on the common areas and on the residential lots during later home construction.
      - 2. Replacement plantings and/or recompense payments will be required for trees removed under a land disturbance permit.
    - b. *Conservation credits.* Priority and non-priority trees preserved in conservation area(s) shall be counted as newly planted trees at their standard replacement value for replacement and recompense calculations as described further in section 158-69(c)(2)(b)(2). This credit does not affect tree density calculations.
  - (2) *Conservation credits.* Priority and non-priority trees preserved in conservation area(s) shall be counted as newly planted trees at their standard replacement value for replacement and recompense calculations as described further in section 158-69(c)(2)(b)(2). This credit does not affect tree density calculations.
- (c) *Preservation on a parcel level.*
  - (1) Under this standard, tree removal under a land disturbance permit for a single-family subdivision shall be limited to only the disturbance required to install the roads, site utilities, and required stormwater management facilities on common property, as determined by the City Arborist. Trees removed or destroyed under a land disturbance permit require replacement plantings or payment of recompense as described in sections 158-69 and 70.
  - (2) Prior to the construction of individual houses per approved building permits, the individual residential lots may not be disturbed beyond the area approved by the City Arborist per the land disturbance permit.
  - (3) Individual residential lots may then be developed under separate permits and must adhere to the single-family residential tree preservation, tree density, tree replacement, and tree recompense requirements.

158-56 Tree replacement plan required.

- (a) All single-family residential subdivisions and planned conservation developments must submit a tree replacement plan showing proposed tree plantings on common property for the entire development, including public and private streets.
  - (1) Tree density requirements for common areas in single-family residential subdivisions and planned conservation developments shall meet commercial tree density requirements described in section 158-58.

- a. Street trees or front yard trees are required along all public and private streets in residential subdivisions at a minimum of 40 foot spacings.

## **Division 10- Tree preservation and planting standards for commercial development and parking lots**

### 158-57 General provisions.

- (a) *Applicability.* All projects, other than single-family, duplex, subdivisions, and planned conservation developments are classified as commercial developments for the purposes of this article and shall be subject to the tree density requirements described in this division.
- (b) Tree preservation is required for commercial development on greenfield sites, as described in section 158-60.
- (c) All other commercial developments are strongly encouraged to preserve priority trees growing on the site during construction. Priority trees that are preserved on site will reduce the tree density requirement.

### 158-58 Tree density on commercial sites.

- (a) The tree density requirement sets a minimum level of trees needed for a development, both to provide benefits to the individuals that use the site as well as to ensure that the site contributes to the City's overall canopy and the benefits it provides to all residents and visitors.
- (b) After meeting the other requirements of this article, all commercial developments must have a minimum number of trees per acre, referred to as tree density, that are required to be growing on both the disturbed portions and undisturbed portions of the site prior to the issuance of a certificate of occupancy, unless otherwise exempted in this article.
- (c) Tree density requirements may be met with priority and non-priority trees saved on site, newly planted trees, or a combination of the two. Tree density requirements apply to all sites, regardless of whether and how many trees are removed or destroyed, except as specifically exempted in these regulations.
- (d) The required tree density for both the disturbed and undisturbed portions of all commercial developments on private and public property is 20 trees per acre of site area that is not occupied by a building, multi-story parking structure, sports field, sports court, swimming pool, pond or other perennially wet body of water, stormwater detention facility, utility corridor, electrical substation or other open-air electrical power equipment yard owned or operated by a public utility.
  - (1) The required tree density for the disturbed and undisturbed portions of commercial sites must be met independently within each portion.
  - (2) Every priority tree saved on a commercial site will count as 2 trees for the calculation of tree density for the undisturbed portions of the site.
- (e) When calculating tree density, all quantities shall be rounded up to the nearest whole number of trees.
- (f) Trees planted to achieve tree density count towards meeting replacement requirements, but achieving tree density on site is a minimum requirement and does not relieve the applicant from meeting the parking lot planting requirements, street tree requirements, any additional tree replacement or recompense payments required to offset trees removed or destroyed.
- (g) Small project exemption from commercial tree density requirement.



- (1) Commercial projects meeting the following conditions are exempt from meeting tree density requirements across the entire site:
    - a. No priority trees are removed or destroyed;
    - b. Project disturbs less than 20% of the site area, with a maximum land disturbance of 10,890 square feet;
    - c. Project increases the impervious surface area on the entire site by less than 20%; and
    - d. On-site replanting of one tree for each tree removed will be required unless the City Arborist determines that space is insufficient.
  - (2) This exemption does not alter parking lot or street tree planting requirements as described in section 158-59 and section 158-58(i), respectively.
  - (3) This exemption does not alter replacement and recompense calculations.
  - (4) This exemption does not apply if a modified project area as described in section 158-58(h) below is used.
- (h) *Modified project area.* Commercial projects that disturb only a portion of the site may be allowed to define a modified project area that is smaller than the entire site area, for the purposes of calculating the required tree density using the standards contained within this section.
- (1) On commercial projects that disturb less than 40% of the site, the City Arborist may allow the applicant to define a portion of the site as the modified project area. The modified project area must include all areas of proposed land disturbance, with the boundaries defined by logical internal site features including but not limited to buildings, driveways, project phase boundaries, parking lots, streams and other natural features. If approved by the City Arborist, the modified project area may be used instead of the full site area for determination of tree density calculations.
    - a. When using a modified site area to calculate tree density, only existing and planted trees within the boundaries of the modified project area may be included in the calculations.
- (i) Street trees required.
- (1) All commercial sites must have trees planted along any public street at a maximum spacing of 40 feet, with allowances for driveways, and within 10 feet of the back of curb, or back of sidewalk if the distance between the sidewalk and curb is insufficient for planting trees.
  - (2) All street trees must be overstory or midstory species, with at least half of the trees being overstory species.
    - a. Zoning-mandated streetscape tree planting requirements supersede the 40 feet maximum spacing requirements for public street frontages, but do not alter the required minimum planting areas/soil volumes described in section 158-68(d).
    - b. The City Arborist may waive or alter the street tree planting or spacing requirement if there are sufficient trees growing along the street frontage of the property, whether at regular or irregular spacing, or if site conditions prevent planting.

#### 158-59 Parking lot planting requirements

- (a) Applicability.
  - (1) All new parking lots, and those being expanded or undergoing renovation that involves excavation or alteration of the grade, which have a total of 16 or more parking spaces, shall meet the landscaping and tree planting requirements set forth in this section.
    - a. Parking lots that are being sealed, restriped, or resurfaced by overlayment on existing impervious paved surfaces are exempt and City Arborist review and approval is not

required. Owners are responsible for any damage to public or private trees caused by these maintenance and improvement activities.

(b) Tree planting requirements for parking lots.

- (1) Trees must be planted so that no parking space is further than 45 feet from a tree, as measured from the tree trunk to any portion of the parking space. Trees contributing to this standard may be planted or growing on the perimeter or within the interior of the parking lot. Existing trees on the perimeter must be no more than 10 feet from the edge of the parking lot and on the same parcel.
- (2) All trees used to meet the parking lot planting requirement shall be overstory or midstory trees, with at least 50 percent of the total number of trees being overstory species, and at least 50 percent of the trees planted in the interiors of parking lots also being overstory species.
- (3) Understory trees may be approved for use in parking lots below overhead utilities, or after the minimum planting requirements described in subsections (1) and (2) above have been satisfied.
- (4) *Barrier curbs and wheel stops.* Where the end of a parking space abuts a landscaped area where trees are planted, 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 consist of a pervious material. Barrier curbs and wheel stops shall be a minimum of six inches high and six 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.
- (5) *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, non-invasive herbaceous plants, organic mulch, pine straw, or other similar 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.
- (6) *Tree plantings adjacent to sidewalks and other rights-of-way.* Where a parcel does not have zoning related streetscape or screening requirements, landscaped areas of at least six 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. Trees planted in this area may count toward the requirements of this article.
- (7) *Minimum soil area and volumes.* Trees planted in parking lots must meet or exceed the planting soil area or soil volume requirements in section 158-68(d).
- (8) *Replacement of trees.* All trees planted to meet these current or previous parking lot planting requirements must be maintained as necessary to keep the trees healthy for the life of the parking lot, and any tree that is dying or dead must be replaced with one new tree of a similar type during the next planting season.

- (c) Bus and truck lots, including warehouse and shipping facilities, will be required to plant one tree for every 4,000 square feet of paving, excluding driveways. Trees should be planted on the perimeter and in landscaped areas within the lot. Bus and truck lots must also meet requirements of subsections (2) through (8) in this section 158-59.

158-60 Tree preservation requirements for greenfield sites.

- (a) All sites that meet the definition of a greenfield that seek a permit for land disturbance or construction must establish one or more tree save or conservation areas totaling at least 30% of the area of the site area, as described below.
  - (b) Tree save areas shall be established prior to any construction activity and shall remain protected from soil disturbance or other encroachment throughout the duration of construction of the proposed project.
    - (1) The tree save area(s) should be delineated so as to minimize impacts to and destruction of trees, with particular attention to the preservation of priority trees, stands of trees, and the protection of environmentally sensitive areas.
    - (2) Tree save areas on greenfield sites shall be a minimum of one half-acre in size with an average width of no less than 100 feet, and the narrowest portion shall be no less than 50 feet wide unless the narrow part constitutes a tapering extremity of the area.
  - (c) A tree save area on a greenfield site must protect 30% of the site area but may not include any portions of the site that are within a stream or wetland buffer.
  - (d) Conservation areas.
    - (1) Conservation areas on greenfield sites are similar to tree save areas described above but are protected in perpetuity through deed restriction or conservation easement.
    - (2) Conservation areas share the same requirements described in section 158-60(b) but up to 50% of a conservation area may lie within a stream or wetland buffer.
  - (e) *Conservation credits.* Priority and non-priority trees preserved in conservation area(s) shall be counted as replacement trees at their standard replacement value for replacement and recompense calculations as further described in section 158-69(c)(2)(b)(2).
- 158-61 Requirements for permanent conservation areas on greenfield sites, single-family subdivisions, and planned conservation developments.
- (a) Trees protected in perpetuity in conservation areas must be growing in a defined area that is conducive to tree health and must be at least one-half acre in size with an average width of no less than 100 feet, and the narrowest portion shall be no less than 50 feet wide, unless the narrow part constitutes a tapering extremity of the area.
  - (b) Unlike tree save areas on greenfield sites, the conservation areas may include portions of stream or wetland buffers, provided that no more than 50% of the tree replacement/recompense credits may come from trees growing within a stream or wetland buffer.
  - (c) Conservation areas may not contain or overlap utility or other easements that allow removal of trees or land disturbance.
  - (d) The conservation area must be protected in perpetuity through a conservation easement or deed restriction.
    - (1) If protected through a conservation easement, the easement must be held by the City of Atlanta or a qualified conservation organization recognized by Federal Treasury Regulation section 1.170A-14(c)(1). Qualified organizations recognized by this treasury regulation include, but may not be limited to, governmental entities, certain publicly supported charities, local and national land trusts, or other conservation groups that are organized or operated primarily or substantially for one of the conservation purposes specified in the Internal Revenue Code. If a deed is recorded or an easement conveyed in favor of a governmental entity, formal acceptance by the governmental entity or qualified conservation organization shall be obtained prior to the recording of the covenant or conveyance of the easement as defined in the Georgia Uniform Conservation Easement Act (O.C.G.A. § 44-10-1, et seq.).

- a. If protected through deed restriction, the conservation areas on single-family subdivisions and planned conservation developments must be owned and managed by a property owners' association governed by the Georgia Property Owners' Association Act O.C.G.A. § 44-3-220, et seq.) and must be managed in accordance with deed restrictions.
- b. If protected through deed restriction, the conservation areas on commercial developments must be managed by property owner(s) in accordance with deed restrictions.
- (2) The conservation easement or deed restriction must contain standard language, available from the City Arborist, that protects the conservation area in perpetuity from land disturbance and requires that it be maintained in a natural vegetated state.
- (e) The conservation area is not required to have public access, but may be used for passive recreation, provided that the conservation easement or deed restrictions allow only improvements that require minimal or no land disturbance such as soft-surface trails, boardwalks, benches, and signage.
  - (1) Prior to the creation of the conservation easement or recording of the deed restrictions, passive recreational improvements that require land disturbance and the removal of trees, such as hard surface trails or pavilions, may be constructed. The calculation of conservation credits will be based only on the priority and non-priority trees remaining when the conservation easement or deed restrictions go into effect.
- (f) *Approval of conservation area.* The conservation area must be reviewed and approved by the City Arborist, who may request reasonable changes to the location of the conservation area in order to protect certain exceptional trees, stands of trees, or sensitive environmental areas.

**Division 11- Pre-construction and tree protection through construction and certificate of occupancy**

158-62 Preconstruction/pre-demolition conference and ongoing inspections required.

- (a) *Pre-construction meeting required.* Upon approval of any permit for grading, demolition, or construction, no land-disturbing activities other than installation of erosion control and tree protection measures may occur without approval by the City Arborist. Tree fencing and other protection measures must be in place at the time of the pre-demolition or pre-construction meeting.
- (b) *Compliance with conditions of permit.* The City Arborist shall inspect the site to ensure the accuracy of the permit application data, site plan and placement and efficacy of tree protection fences and other tree protection devices required by the site plan.
- (c) *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 an on-site preconstruction conference.

158-63 Minimum tree protection standards during construction.

- (a) Protection for saved trees.
  - (1) A saved tree must have a minimum of 80% of its CRZ protected and preserved at natural grade, and the tree's SRP must be fully protected.
  - (2) The City Arborist may approve impacts up to 33% of the CRZ. When the City Arborist allows impacts to the CRZ between 20% and 33%, an arboricultural prescription to mitigate the CRZ impacts will be required as described in section 158-64.
  - (3) No cut, fill, or land disturbance of any kind is allowed within the structural root plate area.

- a. The City Arborist may, upon the express finding that the stability of the tree will not be affected, allow for minor disturbances such as the installation of a post within the structural root plate.
- (4) No toxic substances shall be allowed to come in contact with soil within the CRZ, such as herbicides, gas, brine water, oil, or other substances deleterious to tree health.
- (5) Trees which must be pruned to allow for clearance on construction sites must be pruned according to ANSI A300 standards and ISA best management practices standards for pruning.
- (b) *Tree protection fencing required.* Tree protection fencing must be installed on site per the site plan and maintained in place until the arborist's final inspection. Final landscaping of the tree save areas must be completed without use of heavy equipment, and with tree protection fencing in place. Tree protection fencing must meet the following requirements:
  - (1) *Location.* Tree fencing must be located at the perimeter of the tree save area(s) as shown on the plan throughout construction.
    - a. One or more openings or gates in the tree protection fencing may be approved by the City Arborist to allow pedestrian access to the tree save area for arboricultural prescriptions and other tree care and final landscaping. Openings or gates may be no wider than 4 feet and must be shown on the site plan.
  - (2) *Material.* Fences must comply with City of Atlanta arboricultural standards and must be constructed of chain link, wood, or substantial mesh material, with a minimum height of four feet. Chain link or substantial wood fencing must be used in the following circumstances:
    - a. All commercial projects;
    - b. Protection of trees in the front yards of single-family residential projects;
    - c. Protection of trees that have been approved for CRZ impacts greater than 20 percent;
    - d. Protection of trees for which the tree's destruction was appealed to, and upheld by, the Tree Conservation Commission; or
    - e. Any other situation where the City Arborist finds a significant risk of damage to a saved tree's critical root zone.
- (c) *Protection of soil from compaction.* If the City Arborist has approved use of a portion of the tree save area for construction access or staging, approved measures such as mulch, gravel, plywood, geotextiles, swamp/access mats, and temporary decking must be installed per approved plans or direction from the City Arborist and maintained until final landscaping of the site requires their removal.
- (d) Unless shown on the site plan or specifically authorized by the City Arborist in writing, no activity of any kind is allowed within tree save or conservation areas.
- (e) As directed by the City Arborist, an arboricultural prescription for treatments to mitigate construction and disturbance impacts may be required for any tree that has disturbance within its CRZ or sustains mechanical or other injuries during construction if the damage, specific circumstances of disturbance, or condition of the tree warrant a prescription.
- (f) *Plan adjustments.* These criteria are enforced in the field as well as on the plan. Plan adjustments made during construction must be reviewed by the City Arborist through submittal as a site plan revision, site plan correction, or tree permit.

158-64 Arboricultural prescriptions, care, and responsibility for impacted trees.

- (a) The criteria in section 158-63 represent minimum standards for protecting trees. Critical root zone impacts of up to 33% of the CRZ (known as a “technically destroyed tree”) may be allowed by the City Arborist, who will not consider the tree destroyed, and will not require replacement or recompense, provided that the applicant proposes acceptable mitigation in the form of an arboricultural prescription described below.
- (1) An arborist or forester who is a registered tree professional is retained to prescribe and monitor the implementation of measures to maximize the survival and protection of the tree, including but not limited to root pruning, canopy pruning, mulching, watering, fertilization, and enhanced protective fencing;
  - (2) Prescriptions must include:
    - a. The registered tree professional’s name, company affiliation, signature, qualifications, and contact information;
    - b. The site address and individually identified tree(s) at issue including the DBH of each tree;
    - c. The current condition of the tree(s);
    - d. Tree protection provisions to be implemented during and after construction and site disturbance including placement of mulching, fencing, physical barriers, and other methods to prevent soil compaction or damage;
    - e. A soil and foliar analysis if application of fertilizer is being prescribed;
    - f. A five-year survivability assessment;
    - g. Description of a watering regime;
    - h. A schedule of recommended treatment, including any recommended soil amendments, fertilizer application, pesticide application, or pruning; and,
    - i. Specifications for pruning, soil modification, and fertilization in the prescription. A report of treatment actions, documented with at least two photos, shall be submitted to the City Arborists at least once per quarter or for the period of prescriptive care; and,
    - j. An assessment of the condition of the tree at the end of treatment, and an estimate of the survivability of the tree shall be provided to the City prior to the arborist’s final inspection. The assessment may be submitted up to 30 days prior to the inspection.
  - (3) The prescription written by the registered tree professional must be approved by the City Arborist in advance of the permit issuance, and a signed, paid-in-full receipt or the equivalent for implementation is provided.

158-65 Arborist final inspection required prior to issuance of certificate of occupancy/completion.

- (a) No certificate of occupancy/completion shall be issued with respect to any permit unless and until the City Arborist has inspected the site and confirmed that, at a minimum, the following conditions have been met:
- (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, or recompense associated with preservation, illegal destruction, or removal of trees have been paid in full,
  - (4) Planted trees are in good or better condition of the correct size, and meet the requirements of the planting plan and the planting specifications in sections 158-67 and 68;
  - (5) The report on prescriptive measures for trees on site has been received by the City Arborist; and,

- (6) All priority and non priority trees preserved have be cleared of invasive vines consistent with section 158-48(e).

## **Division 12- Tree planting specifications**

### 158-66 Size and quality of replacement trees.

- (a) Replacement trees and trees planted to meet tree density and replacement requirements shall be a minimum of 2.5 caliper inches and must meet appropriate ANSI Z60.1 nursery standards and be of high quality with appropriate branch structure for the species and intended use, free of trunk and branch damage, without insect or disease infestation, and in good vigor. Installed trees must be allowed to grow to their natural size and shape and not be pruned in conflict with ANSI A300 standards. The City Arborist can reject or disapprove the use of sub-standard trees. Replacement trees planted within public rights-of-way must be single stem.
  - (1) The City Arborist may approve the planting of trees smaller or larger than 2.5 caliper inches as appropriate for the project type and site conditions. Smaller trees may be allowed or encouraged for environmental restoration, slope plantings, reforestation, or similar projects. Similarly, understory tree species that are unavailable from nurseries in a 2.5 caliper inch size may be approved for planting at a smaller size. All trees will be awarded replacement credit based on the size in caliper inches of the tree but shall be credited at no less than one-quarter (1/4) inch caliper.

### 158-67 Species of replacement trees.

- (a) *Recommended tree list.* Species of acceptable replacement trees for credit are listed on the City's recommended tree list which is available from the City Arborist. The City Arborist may approve species that are not on the list if the City Arborist deems it an appropriate species and suitable for site conditions.
  - (1) *Prohibited replacement trees.* The City Arborist maintains a list of undesirable and invasive tree species that may not be planted to meet tree density or replacement tree requirements.
  - (2) No fastigate species or cultivars. Replacement credit may not be given for columnar, or fastigate species, or cultivars unless approved by the City Arborist based upon site conditions that would not be appropriate for a broad canopy. If replacement credit is given, then each columnar or fastigate tree will receive only half credit.
- (b) *Species diversity required.* Species diversity creates resilience in the urban forest and reduces the impacts of pests and disease. To ensure continued resilience, a diversity of tree species will be needed on each site. The species of planted trees should adhere to the following diversity guidelines, unless the trees saved on site, coupled with the replacement trees, offer a comparable diversity of species and genera.
  - (1) When four to 10 trees are proposed to be planted, no more than 50% of the replacement trees shall be of a single species.
  - (2) When 11 to 20 trees are proposed to be planted, no more than 33% of the replacement trees shall be of a single species.
  - (3) When 21 to 50 trees are proposed to be planted, no more than 20% of overall trees planted shall be of the same species, no more than 50% shall be of the same genus.
  - (4) When 51 or more trees are proposed to be planted, no more than 20% of overall trees planted shall be of the same species, and no more than 30% shall be of the same genus, with the exception of the genus *Quercus* (Oaks) which may make up 50% of the trees planted.

- (5) At least 75% of replacement trees planted on any project shall be a species native to the piedmont region of Georgia.
- (6) The City Arborist may adjust or waive species diversity standards for streetscapes or on other highly urbanized sites, as well as for arboreta, botanical gardens, and orchard plantings.
- (c) Mixture of mature tree sizes.
  - (1) Where appropriate site conditions exist, tree density and replacement tree plantings shall be overstory and midstory trees. Understory trees shall be permitted by the City Arborist where site conditions do not allow the planting of overstory or midstory trees. Where understory trees are allowed, they should generally make up no more than 25% of the required plantings.

158-68 Planting specifications.

- (a) All trees planted as a requirement of this article shall follow the technical planting specifications maintained by, and available from, the City Arborist. Any trees that are not planted in accordance with the specifications will not be approved by the City Arborist.
- (b) All trees planted pursuant to this article are subject to inspection by the City Arborist.
- (c) *Spacing standards.* Unless approved by the City Arborist, all trees planted as a requirement of this article shall meet the following spacing standards:
  - (1) Overstory trees shall be planted no less than 25-foot spacings if planted in a single row. When planted with other overstory or midstory trees on three sides or more, the overstory trees must be spaced no less than 30 feet apart.
  - (2) Midstory trees shall be planted no less than 20 feet apart.
  - (3) Understory trees shall be planted no less than 15 feet apart.
  - (4) No tree shall be planted closer than 18 inches from a curb or sidewalk, as measured from the trunk.
  - (5) Overstory and midstory trees may not be planted within 20 lateral feet of overhead utility lines.
  - (6) It is recommended that no tree be planted closer than 10 feet from a building. Where trees are approved to be planted closer than 10 feet, the distance between the tree and the building shall be noted on the site plan.
  - (7) *Spacing variations.* The City Arborist may approve planting distances less than the standard spacing as appropriate for the project type and site conditions. Denser plantings may be allowed or encouraged for stabilization, environmental restoration, reforestation, or similar projects.
- (d) *Minimum planting areas, soil volumes, and soil quality.* To ensure the health, longevity, and desired mature size, all trees must be provided ample healthy soil to grow. Trees do best when planted together in large open planting areas of uncompacted native or suitably amended soil. Where conditions or the design restricts the establishment of large open planting areas, suspended pavement or other comparable methods may be used to provide adequate volumes of uncompacted soil below paving or other hardscape.
  - (1) *Soil surface area.* Each tree must meet the following soil surface dimensions and utilize uncompacted, high quality native or amended planting soil per the City's technical planting specifications and City Arborist approval.
    - a. Overstory trees: 400 square feet with one dimension of at least five feet.
    - b. Midstory trees: 250 square feet with one dimension of at least five feet.
    - c. Understory trees: 100 square feet with a one dimension of at least five feet.



- d. When trees are planted together in a single planting area, the required soil area for each tree within the shared planting area may be reduced by 25 percent.
- (2) *Soil volume for planting within hardscaped areas.* For tree plantings in areas where the soil surface area requirements cannot be met, rooting area for trees below paving may be created by using suspended paving over soil cells filled with high quality topsoil, above-ground planters filled with high quality topsoil, or other approved designs or methods. Installation of suspended paving systems must follow manufacturer's guidelines, or the planting and soil specifications maintained by the City Arborist. Minimum soil volumes must be as follows:
  - a. Overstory trees: 800 cubic feet of soil.
  - b. Midstory trees: 500 cubic feet of soil.
  - c. Understory trees: 200 cubic feet of soil.
  - d. When trees are planted together and share soil within a continuous planting area, the required soil volume for each tree within the shared planting area may be reduced by 25%.
  - e. The minimum soil depth of soil in a suspended pavement system or planter is two feet and the maximum depth is four feet.
  - f. In suspended pavements, trees must be provided with at least a five foot by five foot non-paved open soil area around the tree trunk.
- (3) The City Arborist may allow for deviations from the required soil volumes, or percentage of overstory trees due to site constraints outside of the control of the applicant.
- (4) *Soil quality.* Trees must be planted in soils that meet the minimum requirements maintained by the City Arborist. If existing site soils do not meet the soil quality requirements, the soils may be amended to meet the requirements or replaced with imported soils that meet the requirements.
- (e) Planting location priorities.
  - (1) It is the intent of this article to support the livability and ecological integrity of the City. Therefore, trees planted for replacement credit and to meet tree density requirements should be planted in priority areas on-site and off-site to maximize specific tree benefits. Priority planting locations include: street frontage and other urban heat islands, areas between buildings, parks and other public areas, slopes and other erodible areas, stream corridors, wetlands and floodplains, areas with little or no tree canopy, areas adjacent to existing forests or groves, in and around stormwater management facilities as appropriate, and other areas as guided by the urban forestry master plan, and periodic urban tree canopy assessments.
- (f) Guarantee during tree establishment.
  - (1) The owner or their successor in title shall be responsible for maintaining and guaranteeing the health and survival of all trees planted to meet the requirements of this ordinance throughout the establishment period, which is two full growing seasons after planting.
  - (2) *Inspection required.* The City Arborist shall inspect the condition of replacement trees at the end of the second full growing season after planting. Any tree that is not in good or better condition at the end of the warranty period, as determined by the City Arborist, shall be replaced by the owner.
  - (3) *Replacement required for life of commercial development.* In addition to guaranteeing newly planted trees through the establishment period, the owner or their successor shall maintain all trees planted on commercial projects as a requirement of this article, with the exception of public street trees or other trees planted on City property, for the duration of the

development's existence, and shall replace any dead or dying tree with one new tree of a similar type during the next planting season.

### **Division 13 - Calculation of replacement trees and recompense payment**

158-69 Replacement tree requirements for public and private trees.

- (a) All priority or non-priority trees that are approved to be removed or destroyed by the City Arborist must be replaced by planting a certain number of caliper inches of trees either on or off-site, referred to herein as replacement trees.
- (b) Public and private tree replacement shall be shown and calculated separately on an individual project.
  - (1) *Public replacement trees.* All public priority or non-priority trees removed or destroyed must be replaced on public property at the standard replacement rate. Planting locations must be approved by the City Arborists for the Department of Parks and Recreation. No recompense payment may be made in lieu of planting replacement trees.
  - (2) Private replacement trees may consist of:
    - a. Trees planted on site to meet tree density,
    - b. Trees planted on-site after the tree density requirement has been met, or
    - c. Trees planted off-site on public or private property as approved by the City Arborist.
      1. To receive credit for trees planted on private property off-site, the applicant must provide a plan and a signed right-of-entry from the owner of the property where the tree is planted stating that the applicant has permission to plant and maintain the tree for the duration of the guarantee period, and gives permission to the City Arborist or designee to enter the property to inspect the tree during the warranty period.
- (c) Calculation of required tree replacement.
  - (1) *Standard replacement calculation.* All priority and non-priority trees shall be replaced at the following rates, herein referred to as standard replacement:
    - a. Priority trees: replaced at a ratio of one caliper inch per inch DBH removed or destroyed.
    - b. Non-priority trees: replaced at a ratio of .5 caliper inches per inch DBH removed or destroyed.
    - c. Examples:
      - (a) A 28-inch DBH priority tree would require 28 caliper inches of new trees to be replaced (28 inch DBH x 1 = 28 caliper inches.)
      - (b) A 16-inch DBH non-priority tree would require eight caliper inches of trees to be replaced (16 inch DBH x .5 = eight caliper inches.)
  - (2) Credits and incentives should be applied to the total standard replacement to determine the modified replacement required.
    - a. *Credit for planting private replacement trees.* To encourage applicants to plant the required replacement trees rather than making recompense payments, trees planted to meet the replacement requirements shall be credited at 1.25 times the planted tree's size in caliper inches. This credit is applied to all replacement trees planted, both on and off-site.
      1. Example: planting two replacement trees of 2.5 caliper inches each (for a total of five caliper inches) would reduce the required replacement planting by 6.25 inches (five inches x 1.25 planting credit = 6.25 inches).

- b. Credits for meeting City priorities.
    - 1. Projects that meet the affordable housing goals of sections 158-87 and 88 will have significantly reduced off-site tree replacement or recompense payment after the tree density standard is met.
    - 2. Conservation credits. Priority and non-priority trees preserved in conservation area(s) shall be counted as replacement trees at their standard replacement value for replacement and recompense calculations.
      - (a) No more than 50% of the conservation credits on a single site may be from trees preserved within a stream or wetland buffer.
      - (b) The conservation credits do not affect tree density calculations.
      - (c) The conservation credits do not include the planting incentive described in section 158-69(c)(2)(a).
        - (i) *Example:* a 20-inch DBH priority tree preserved in perpetuity would provide a credit of 20 caliper inches of replacement planting or equivalent recompense.
    - 3. Replacement and recompense incentives and credits do not change the tree density, parking lot, or street tree planting requirements, but will reduce the number of replacement trees planted or recompense paid after the tree density, parking lot, and street tree planting requirements are met.
  - (3) *Replacement of trees planted in green infrastructure.* Trees that are destroyed and removed from engineered green infrastructure facilities solely for the purpose of maintaining the function of or reconstructing the green infrastructure facility are not required to meet the standard replacement requirements of section 158-69 and may instead replant one tree for every tree removed within the same, or reconstructed, green infrastructure facility.
- 158-70 Recompense payments for private trees.
- (a) Recompense payments for private trees will be allowed when the required number of replacement trees cannot be planted on site. Recompense payment may not be made in lieu of meeting tree density requirements.
  - (b) The established recompense amount shall be based on the market rate to plant and maintain a 2.5 caliper inch tree for two years.
  - (c) The established recompense amount is \$260, to be phased according to the following schedule:
    - (1) January 1st, 2026 through December 31<sup>st</sup>, 2026: the established recompense amount is \$117.50
    - (2) January 1st, 2027 through December 31<sup>st</sup>, 2027: the established recompense amount is \$165.00
    - (3) January 1st, 2028 through December 31<sup>st</sup>, 2028: the established recompense amount is \$212.50
    - (4) January 1st, 2029: the established recompense amount is \$260.00
  - (d) The formula for recompense payment is:  
**(caliper inches owed – credited caliper inches planted) x established recompense amount = recompense**

158-71 Public tree replacement offsets and credits

- (a) *Public tree replacement offsets.* The Department of Parks and Recreation may approve public tree replacement offsets to reduce off-site replacement tree plantings through equivalent spending on urban forestry projects based on the established recompense amount.
- (b) Urban forest projects eligible for public tree replacement offsets include:
  - (1) *Enhanced tree planting infrastructure projects.* Concrete removal, utility relocation for tree infrastructure, structural soil cells, irrigation, soil amendments, and land acquisition for the purpose of planting trees.
  - (2) *Tree regeneration projects.* invasive plant control projects
  - (3) *Tree preservation projects.* expenses related to preserving or relocating public trees, pest and disease management, and extended warranties and maintenance.
  - (4) Other methods for preserving or growing the urban forest on public property may be approved at the discretion of the Department of Parks and Recreation.
- (c) *Public tree planting credits.* The Department of Parks and Recreation may approve a public tree replacement credit program in which agencies or departments receive replacement tree credit for trees previously planted or urban forestry projects previously completed for reasons other than public tree replacement. In order to gain credit, the following criteria shall be met:
  - (1) The trees shall be planted, or urban forestry projects shall be completed prior to, but no earlier than 2 years in advance of the tree removal permit application,
  - (2) The trees shall be alive and in good condition at the time of the tree removal permit application,
  - (3) The trees or urban forestry projects shall be funded by the agency or department applying for the tree removal permit; and
  - (4) The trees or urban forestry projects shall not have previously received public tree replacement credits.
- (d) Requests for public tree replacement offsets and public tree replacement credits should be submitted to the City Arborist in the Department of Parks and Recreation in the manner prescribed by the department.
- (e) Specific provisions for public and private tree replacement and recompense related to Department of Watershed Management work related to complying with the federal CSO Consent decrees can be found in section 158-86.

#### **Division 14 -Public notice, posting, appeals, and minor amendments**

158-72 Electronic submittals and other documents; public access to information.

- (a) *Document submission.* All documents submitted under requirements of this article shall be made in electronic form unless an Applicant is unable to do so in which case the City Arborist may accept submissions in paper format and convert the documents to electronic format. The City Arborist must post all submissions on-line.
- (b) *Public access to information.* Electronic copies of submitted plans, permit requests, and issued permits submitted after the effective date of this Article shall be available for public access on the City of Atlanta's online permitting system.

158-73 Notifications and posting.

- (a) *Applicability.* The notification and posting criteria set forth below apply to tree removal permits for priority and non-priority trees unless otherwise exempted by this article.

- (b) *Exemptions.* Projects performed by the Department of Watershed Management to fulfill the City's obligations under the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia) and with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia), or for any other consent decrees that the City might enter into, are exempt from posting and appeals.
- (c) *Sign postings required.* Public notice must be posted on each site where trees are proposed to be removed. The notice must be posted on sign(s) at least six square feet in size in a format designated by the City Arborist. The sign(s) must be posted prominently and visibly along at least every 100 feet of street frontage on the subject property.
- (1) *Sign postings on private property.* Before issuance of a permit to remove healthy tree(s) from private property, two sign postings shall be required. The first posting shall notify the public that an application to remove tree(s) was filed with the City. The sign shall remain posted for a minimum of ten business days and until the City Arborist has issued preliminary approval of the plan to remove tree(s). The second sign posting shall provide public notice when and if the City Arborist issues preliminary approval of the application to remove tree(s). The second posting shall remain in place for seven business days, during which time the City will accept appeals.
- (2) *Sign postings on public property.* A single sign posting is required prior to issuing a permit to remove healthy tree(s) from public property. The posting shall indicate the City Arborist's issuance of preliminary approval of a plan to remove the designated public property tree(s), and shall remain in place for 15 calendar days, during which time the City will accept appeals. However, if removal of both public and private trees are proposed within the same application, two postings shall be required as set forth in section 158-73(c)(1) above and the posting and appeal schedule for the public trees shall match the schedule for the private trees.
- (d) *Marking of trees.* Immediately after an applicant receives preliminary approval for removal of a tree on public or private property, the applicant shall mark all trees to be removed or destroyed with a large orange "X" painted on the street-facing side of the tree trunk.
- (1) *Site inspection before posting.* Upon inspecting the site to post the preliminary approval, if the City Arborist discovers significant errors or omissions on the tree survey or site plan or finds that the trees approved for removal have not been marked properly, the site shall not be posted, and the applicant shall be issued a notice to correct the errors or omissions. The City Arborist shall reinspect the site and shall post the sign only after any survey and site plan errors have been corrected, resubmitted, and given preliminary approval by the City Arborist and trees have been properly marked and the applicant informs the City that the errors have been corrected. If uncorrected errors or omissions prevent the City Arborist from posting the sign a second time, the applicant shall be charged a reinspection fee for every subsequent inspection, as authorized in section 104.2(c) of the Atlanta Building Code.
- (e) *Electronic posting.* The notice of preliminary approval for removal of public trees and private trees shall be posted on the subject site as well as the website of the department with permitting authority. The notice of preliminary approval shall inform any reader that an appeal may be filed with the secretary of the Tree Conservation Commission and shall indicate the deadline by which the appeal must be filed. The notice shall further indicate that failure to appeal within the designated timeframe will result in the issuance of the removal permit without further right of

appeal. If the notice of preliminary approval is not posted as required by this article, no permit shall be issued.

158-74 *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 any trees which are approved for removal are not counter to the guidelines below:

- (a) The amendments must not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case;
- (b) The amendments must not increase impacts on boundary trees or allow the removal or destruction of any trees designated as historic;
- (c) The amendments in the aggregate must not increase the total number of trees or total DBH permitted for removal or destruction by more than 10%, with a maximum of 10 additional trees allowed to be removed under this provision;
- (d) On single-family developments, the amendments must not alter the tree preservation standard approved in the permit, described in section 158-53, or cause the plan to be non-compliant with the preservation standard approved by the City Arborist; and
- (e) If all of the above guidelines cannot be met, the amendment cannot be approved and a new tree removal permit must be applied for and posted accordingly.

158-75 Appeals.

- (a) *Who may appeal.* Appeal rights are set forth throughout this article, and as further described below:
  - (1) *Appeals regarding impact to trees on private property associated with construction, demolition, and landscaping.* Appeals of a City Arborist's decision regarding tree(s) impacted by private development may be filed by any person who resides in or owns property or a business within the same NPU as the subject property or within 500 feet of the property.
  - (2) *Appeals regarding impact to trees on public property associated with construction or demolition.* Appeals of a City Arborist's decision regarding tree(s) on public property may be filed by any party who resides in or owns property or a business in the City of Atlanta; or any member of a civic association in the NPU where the subject tree(s) are located.
  - (3) *Appeals regarding DDH permits and undesirable species.* Appeals of denial of DDH permits or for removal of undesirable species may be filed only by the property owner or their agent.
  - (4) *Appeals of fines and recompense.* Appeals regarding assessed recompense and fines for the illegal removal of trees may be filed by any responsible party assessed recompense and fines.
  - (5) *Appeals of suspension.* Registered tree professionals may appeal decisions related to their registration status.
  - (6) *Appeals of citations.* Citations are subject to the jurisdiction of the rules of the Atlanta Municipal Court and may be appealed thereto. 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 the action required by the City Arborist to obtain compliance with this article be implemented and shall assess fines or other penalties pursuant to code section 1-8. Any recompense and fines recovered pursuant to this section, excluding court costs, shall be deposited into the Tree Trust Fund.
- (b) Timing of appeal.

- (1) For trees on private property, appeals of preliminary approval must be filed within seven business days of the on-site posting of the notice of preliminary approval.
  - (2) For trees on public property, appeals of preliminary approval must be filed within 15 calendar days of the on-site posting of the notice of preliminary approval. However, sites where both public and private trees are proposed for removal shall follow the timeline and posting requirements for private property trees as described herein.
  - (3) Appeals of recompense and fines for illegal tree destruction must be filed within 15 calendar days of receipt of the fine letter and invoice.
- (c) Appeal requirements.
- (1) *Submission of appeals.* All appeals must be filed with the secretary of the Tree Conservation Commission.
  - (2) *Filing fee.* A \$75.00 filing fee is required to defray the administrative costs of the appeal unless the Tree Conservation Commission waives the fee on the basis of hardship. Where a financial hardship is requested, the appellant must submit a letter explaining in detail why they are unable to pay the fee. The Commission shall determine whether to waive the filing fee at the time of the appeal hearing.
  - (3) *Appeal content.* The notice of appeal shall state, at a minimum, the name, address, phone number, and email address if applicable, of the appellant. If the appellant is not an Atlanta resident, the appeal shall include the address of a business or property within the City of Atlanta owned by the appellant. The appeal also shall include a statement of the decision being appealed, the address of the subject property and, if known, the name of the person(s) who filed a permit application for the property about which the appeal is being made. If the tree(s) at issue are located on public property, the appeal shall state whether the appellant is an Atlanta resident or owner of property or a business within the City of Atlanta, or a member of the civic association located in the NPU in which the tree(s) at issue are located.
  - (4) *Basis of appeal must be stated.* The appeal shall specify, at a minimum: the section(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/or any facts material to the administrative officer's decision that the appellant believes were inaccurate or missing from the tree removal application or which were misinterpreted or misunderstood.
  - (5) *Appeal application for only one property or project.* An appeal application shall be submitted for one parcel only. If multiple parcels are involved, an application shall be made for each additional parcel.
- (d) Stay of activity after appeal is filed.
- (1) *Appeal by a non-applicant challenging issuance of preliminary approval.* If an appeal is filed by a non-applicant challenging the City Arborist's decision to provide preliminary approval for tree removal(s), the preliminarily approved activities, including tree removal and related land disturbance, shall be stayed automatically. The City Arborist shall not grant final approval, and no permit may be issued until the appeal is resolved.
  - (2) *Appeal of recompense or replacement requirements.* If an appeal is filed challenging only the recompense or tree planting 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, or the financial equivalent, if on private

property, of the replacement requirement as determined by the City Arborist. The applicant will be reimbursed if directed by the Tree Conservation Commission. The appeal shall not stay the preliminarily approved activities and shall not prevent the City Arborist from giving final arborist approval.

(e) *Submission of evidence.*

(1) *Evidence.* At least two weeks prior to the hearing, the appellant and each additional party shall submit to the secretary of the Tree Conservation Commission a written summary of their argument and a copy of all documentary evidence supporting their argument. Evidence may include, but is not limited to, photographs, tree maintenance records, and reports from registered tree professional or other subject matter experts. The appellant must describe how the decision or action of the City Arborist erred in applying the relevant standards or review factors prescribed in this Article.

(2) *Rebuttal evidence.* The parties shall submit to the Tree Conservation Commission and the other parties of interest all rebuttal arguments and rebuttal documentary evidence at least one week prior to the hearing. Submissions of new evidence at the appeal hearing will not be accepted or considered by the Commission unless a showing can be made and the Commission finds that the evidence was not available one week prior to the hearing.

(f) *Notice of hearing.* The Tree Conservation 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 secretary of the Commission in such a manner as shall be provided for in the rules for appeals adopted by the Commission and shall be given at least fifteen calendar days before the date of the hearing.

(g) *The appeal hearing.*

(1) *Representation at appeal.* At the hearing, the appellant, property owner, or other concerned parties shall appear in person or may be represented by an agent or by an attorney.

(2) *Quorum.* Three members constitute a quorum of the Tree Conservation 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.

(h) *Appeal of decision.* The Tree Conservation Commission shall decide the appeal within a reasonable time. All appeals to the Tree Conservation Commission must be concluded or resolved within two months of the initial hearing. If the appeal is not resolved within that time, the Commission will issue an "appeal approved" or "appeal denied" final ruling no later than the two-month deadline.

(i) Tree Conservation Commission's ruling.

(1) Appeals of City Arborist decision relating to a permit application.

a. The Tree Conservation Commission shall grant an appeal upon an express finding that the City Arborist's decision was based upon an erroneous finding of a material fact or upon an erroneous application of law. The Chair of the Commission, or the member of the Commission making the motion to grant the appeal, shall state on the record the nature of the City Arborist's erroneous finding of material fact or erroneous application of law. If no such finding is made, the Commission shall deny the appeal.

b. 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 tree removal permit, provided that all requirements imposed by this article and all other applicable laws are met.

- (2) Appeals of a City Arborist's decision relating to recompense and fines for illegally destroyed trees.
  - a. When a party appeals the assessment of recompense and fines for unpermitted removal or destruction of trees, the Tree Conservation Commission may grant an appeal on a finding that the party did not destroy the trees or based upon the facts and circumstances of the case.
  - b. The Commission shall have the authority to reverse, affirm, wholly or partly, or modify the City Arborist's decision being appealed and shall have the power to reduce the recompense and fines.
- (j) *Financial hardship.* The Tree Conservation Commission shall establish written guidelines for determining the existence of financial hardship and shall apply the guidelines uniformly. Where an appeal of recompense, fines, or the filing fee amount is premised on a claim of financial hardship, the Commission shall decide the appeal based upon the application of these guidelines and issue a written decision stating the basis for the decision.
- (k) *Appeal of decision of Tree Conservation Commission.* Any person aggrieved by a decision of the Tree Conservation Commission, or any City official, office, department, or board affected by such decision, may appeal the decision through a writ of certiorari to the Superior Court of Fulton County, pursuant to the procedures set forth by Georgia law.
- (l) *Lifting of stay.* Any person desiring to appeal a decision of the Tree Conservation Commission to the Fulton County Superior Court shall notify the secretary of the Commission, in writing, of such intent within six business days of the date of the written decision of the Commission. Any preliminarily approved activities, including tree removal and related land disturbance, shall be stayed until the appeal is resolved. Barring such notice of intent, the stay shall be lifted, and the Commission's decision shall take effect.

#### 158-76 Variances and exceptions.

- (a) The Commission is also authorized to hear requests for variances from and exceptions to the requirements of the tree protection ordinance for a specific project based on a hardship. Variances and exceptions may only be requested by the property owner or their agent, following the appeals procedures described in this section, with an explanation of hardship submitted in place of the basis for appeal.

### **Division 15- Tree Conservation Commission**

#### 158-77 Establishment, functions, powers, and duties.

- (a) *Commission established.* The City of Atlanta has established the Tree Conservation Commission.
- (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 or other City official 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 financial hardship;
  - (3) Hearing and ruling upon requests for exceptions to or variances from the requirements of this article due to a hardship;

- (4) Reviewing and approving the City arboricultural specifications and standards of practice promulgated by the City Arborist and required pursuant to this article;
- (5) Serving as a citizen advisory panel for administration and enforcement procedures of this article;
- (6) Designating and maintaining a written record of historic trees and other unique environmentally and culturally significant trees within the City;
- (7) Establishing educational and other programs to encourage proper management and maintenance of trees on private and public property and encouraging support for and compliance with this article; and
- (8) Providing review and recommendations to the Atlanta City Council regarding expenditures of the Tree Trust Fund.

158-78 Appointment of members and commission composition.

The Commission shall consist of 15 members, eight of which shall be appointed by the Mayor and seven by the City Council. All members shall be confirmed by the City Council pursuant to the process set forth in Atlanta City Code section 2-1855. Each of the members shall have specialized knowledge about trees, the tree protection ordinance, or the impact of construction activities on trees. No appointee, nor affiliated organization of the appointee, may have received a correction notice or fine for failure to comply with this Article within the past five years.

(a) Eight Mayoral appointees:

- (1) One registered architect or architectural designer;
- (2) One registered landscape architect;
- (3) One attorney with experience in land use, environmental protection, or related practice;
- (4) One residential, commercial, or industrial builder;
- (5) One urban or environmental planner or ecologist;
- (6) One ISA-certified arborist who may be active or inactive;
- (7) Two members shall be lay citizens interested in environmental protection.

(b) Seven City Council appointees:

- (1) One residential, commercial, or industrial builder or developer appointed by the full City Council;
- (2) Two members of community organizations interested in environmental protection appointed by the full Council;
- (3) Three members appointed by the paired districts in consultation with the at-large City Council member in the following manner: One representative of Districts 1, 2, 3, and 4 and at-large post 1. One representative of Districts 5, 6, 7, and 8 and at-large post 2. One representative of Districts 9, 10, 11, and 12 and at-large post 3.
- (4) One member of an environmental or community organization and appointed by the President of the City Council.

158-79 Terms; vacancies; and compensation.

- (a) *Terms of members.* All appointments to the Commission shall be for a term of two years. Members may be appointed for a maximum of four full terms or eight years, whichever is greater, pursuant to Atlanta City Code section 2-1854.
- (b) *Chairperson selection and term.* The Commission shall select from its members a chairperson who will serve for a one-year term. The chairperson shall record the members present, votes taken, and decisions made.

- (c) *Temporary appointment for vacant position.* If a Commission position becomes vacant and a permanent member is not appointed within six months, the Tree Conservation 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, or the impact of construction activities on trees.
- (d) *Compensation of members.* Each member shall receive a \$75.00 per month honorarium, for months during which they attend at least two meetings, whether hearings or business meetings.
- (e) *Removal and replacement of members.* The mayor, or the Commission by majority vote of all members, may remove a Commission member for non-performance of duty or failure to meet the attendance requirements established by the Commission.

158-80 Meetings, staff, and quarterly reports.

- (a) *Administrative meetings and hearings.* The Commission shall hold regular business meetings and appeal hearings and shall adopt procedural rules for each.
- (b) *Secretary of the Commission.* The commissioner of the Department of City Planning shall designate an employee of the department as secretary to the Tree Conservation Commission who shall be responsible for the administration of the appeals process established in section 158-75 including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The secretary shall send notices required by the Commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the Commission in such matters. The secretary shall also be responsible for the maintenance and preservation of all records of the Commission.
- (c) Every hearing of the Commission shall be recorded. This may be accomplished through video recording or use of a court reporter. Proceeds from the Tree Trust Fund may be used to pay for the services of a court reporter.
- (d) Quarterly reports to the Tree Conservation Commission.
  - (1) The City Arborists for the Department of City Planning and Department of Park and Recreation shall each prepare quarterly report containing the items listed in subsection (2) below, and shall provide the report to the Tree Conservation Commission; the Department of City Planning Arborist's report shall pertain to all trees on private property that were destroyed or planted as a result of an authorized tree removal permit as well as trees destroyed through illegal activity. The Department of Parks and Recreation arborist shall report on public trees destroyed and planted as a result of an authorized tree removal permit, as well as maintenance activities, and use of Tree Trust Funds.
  - (2) *Report contents.* Each report shall include the following information for public and private trees, as applicable:
    - a. Total number of permits, number of trees and DBH of trees destroyed or removed; and the total number and caliper inches of trees replanted during the reporting period in each of the following categories: DDH tree removals; invasive tree removals; undesirable tree removals; priority and non-priority removals for construction, demolition, or land disturbance; and non-priority tree removals under a landscape permit.
    - b. Total number of incidents of illegal tree destruction and removal, total number of trees identified as having been destroyed, and total DBH of trees illegally destroyed.

- c. Acreage of any newly-created deed-restricted or easement-restricted conservation areas and the number and total DBH of trees saved therein.
- d. Report on collection and use of tree recompense funds,

**Division 16 - Tree Trust Fund**

158-81 Establishment and Purpose

- (a) *Establishment.* The City of Atlanta has established and shall maintain a Tree Trust Fund for the protection, maintenance, and regeneration of trees and other forest resources.
- (b) *Purpose.* The purposes of the Tree Trust Fund are to:
  - (1) Ensure the regeneration of tree canopy in the City by planting trees when healthy trees are removed and cannot be replaced on site in accordance with the provisions of this article;
  - (2) Maintain the health of existing trees on public property;
  - (3) Protect forested land in perpetuity through land purchases; and
  - (4) Supporting data collection, analysis, and public education to facilitate successful and cost-effective urban forest management.
  - (5) Contributions to the Tree Trust Fund may occur through a number of means, including but not limited to: monies collected for recompense pursuant to this article; payment of civil penalties, or civil remedies resulting from public tree enforcement actions; and voluntary contribution.

158-82 Management of the Tree Trust Fund.

- (a) The Tree Trust Fund shall be managed by the Department of City Planning, which will have approval authority over all expenditures from the fund.
- (b) Tree Trust Fund accounts.
  - (1) Contributions to the Tree Trust Fund shall be placed in the following City accounts:

General range of revenue accounts:	
CATEGORY ACCOUNT	RANGE
LICENSES AND PERMITS	3200000 : 3249999
CHARGES FOR SERVICES	3400000 : 3459999
FINE AND FORFEITURES	3510000 : 3519999
PRIVATE CONTRIBUTIONS AND DONATIONS	3710000 : 3710003

3413901	FEES, TREE APPEALS
3519002	PENALTIES AND FINES
3413913	RECOMPENSE
3413919	FEES, REINSPECTION FEE

General range of expense accounts:	
CATEGORY ACCOUNT	RANGE
PERSONNEL SERVICES AND EMPLOYEE BENEFITS	5110000 : 5129999
PURCHASED / CONTRACTED SERVICE	5210000 : 5239999
SUPPLIES	5310000 : 5319999
CAPITAL OUTLAYS	5410000 : 5429999
INTERFUND / INTERDEPARTMENTAL CHARGES	5510000 : 5519999
OTHER COSTS	5710000 : 5739999
OTHER FINANCING USES	6110000 : 6119999

158-83 Authorized expenditures.

The Tree Trust Fund may be used for the following program expenses:

- (a) *Tree planting.* The fund may be used to pay for tree planting projects on public and private property.
  - (1) *Record of location.* The location of trees planted and maintained utilizing Tree Trust Funds shall be recorded by the City or its agent.
  - (2) *Replacement.* The City shall require a minimum two-year replacement guarantee for all trees planted utilizing Tree Trust Funds.
  - (3) *Monitoring.* The City Arborist shall inspect all trees planted using Tree Trust Funds at least once between 12 and 24 months after planting, during the growing season to assess the condition and survival of the trees and shall notify the responsible party of any corrections or replacements that are needed.
- (b) *Rights of entry.*
  - (1) The City is authorized but not required to enter into agreements with private property owners within the City of Atlanta, upon the consent of said property owners, for the purpose of planting trees on private property within 30 feet of the public-right-of-way. No additional legislation shall be required to authorize said agreements. 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.
- (c) *Management of city-owned forests.* Management may include, but is not limited to invasive species control; treatment or management of insect infestation or diseases; vegetation monitoring, and the planting of native trees, shrubs, and herbaceous plants for purposes of habitat enhancement or restoration.
- (d) *Maintenance of public trees.* As recommended and prescribed by the City Arborist, Tree Trust Funds may be used for the maintenance of public trees, including but not limited to pruning, mulching, fertilizing, treating for pests, cabling, bracing, and advanced diagnostic testing.

- (e) *Planting enhancements.* The fund may be used to fund site preparation for tree planting in highly urbanized areas, including but not limited to concrete removal and installation, installation of soil cells or suspended pavement systems, creation of planting islands, amended or structural soils.
- (f) *Procurement of forested property.* As set forth in section 158-81 above, "protection, maintenance, and regeneration of the trees and other forest resources of Atlanta" shall include procurement of privately-owned forested property. The Tree Trust Fund may be utilized to purchase forested property provided that the following minimum criteria are satisfied:
  - (1) The property must contain one or more of the following, as determined by or at the direction of the Department of Parks and Recreation commissioner and the Department of City Planning commissioner: i) 80% or more canopy cover; ii) minimum forestation standards of 1,000 DBH inches; and/or iii) 50 mature trees per acre.
  - (2) The purchase of the forested property must be authorized by a duly enacted City ordinance, and said ordinance shall include the following:
    - a. The property must explicitly be dedicated and preserved in perpetuity as forested land;
    - b. The property must be available for public use without cost (subject to Atlanta's park rules and other applicable city ordinances);
    - c. Use of the property must be restricted to passive recreational activities with minimal environmental impact, as determined and established in writing by the Department of Parks and Recreation commissioner based on the characteristics of the property; and
    - d. The Department of Parks and Recreation commissioner shall provide a property cleanup, restoration, and management plan as an attachment to the ordinance. The plan will describe what initial property clean-up, forest restoration, and ongoing forest management will be needed at the property, will estimate the property's initial clean-up, forest restoration, and ongoing forest management costs and will identify the source(s) of funding for the estimated restoration and annual maintenance cost. With the exception of forest restoration and management, the Tree Trust Fund shall only be used for the initial clean-up of the property, including the removal of trash, existing structures, and mitigation of conditions on the property that may pose a safety hazard to visitors. Long term forest management activities solely to ensure the health, perpetual regeneration, and ecological integrity of all City owned forests, including newly purchased ones, is an authorized expenditure from the Tree Trust Fund.
      - 1. No funds from the Tree Trust Fund may be used for the development or maintenance of permanent infrastructure, including but not limited to roads, parking lots, trails, buildings, or similar infrastructure on the property.
      - 2. Any allocation of maintenance funds from the Tree Trust Fund for any of these specified uses must be authorized as a separate procurement or expenditure, in a manner consistent with applicable City ordinances.
  - (3) The Department of Parks and Recreation commissioner and the Department of City Planning commissioner shall jointly develop a written list of factors and a process for evaluating parcels that may be suitable for acquisition as forested property. An ordinance authorizing procurement of forested property, as described in subsection 158-83(f)(2) above, shall include as attachments an affidavit from each of the two commissioners providing her/his recommendation regarding the procurement based upon these factors.

- (4) Department of Parks and Recreation commissioner and the Department of City Planning commissioner shall jointly report to the Community Development/Human Services committee each time a privately-owned afforested property procured by the City, which shall include the amount appropriated from the Tree Trust Fund and the acreage of the property.
- (g) *Administration of tree protection ordinance.* A maximum of \$100,000 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 Tree Conservation Commission members.
- (h) *Educational expenditures.* During any given fiscal year, the lesser of five percent of the funds received by the Tree Trust Fund during the immediately preceding fiscal year or \$200,000, may be placed into a Tree Trust Fund education outreach account, and such monies shall be used for educational materials, educational programs, and educational outreach. Any amount not expended in the given fiscal year shall remain in the account to be utilized in future years.
- (i) *Low-income homeowner assistance.* A maximum of \$200,000 of the Tree Trust Fund may be used to financially assist low-income homeowners with the assessment, removal, and replacement of DDH trees on their property.
- a. All trees removed using financial assistance from the Tree Trust Fund must be replaced on the same property from which they were removed with no less than one new tree for every tree removed.
- (2) The standards to qualify for this low-income homeowner assistance program will be determined by the Department of City Planning.
  - (3) Each occurrence of assistance shall be documented, and this information made available to the public.
- (j) *Salary expenditures.* Tree Trust Funds shall fund the salary and benefits of the positions as described below;
- (1) *Secretary of the Commission*, salary grade GE 07, in the Department of City Planning.
  - (2) *Arborist division project manager*, salary grade GE 13, in the Department of City Planning, whose primary responsibility shall be education, outreach, data collection and analysis; preparation and updates to the urban forest master plan.
  - (3) *Eight arborist positions*, salary grade GE 09, in the Department of City Planning, whose specific responsibilities shall be determined by the Commissioner of City Planning.
  - (4) *Three senior arborist positions*, salary grade GE 10, in the Department of City Planning.
  - (5) *One senior arborist*, salary grade GE10, in the Department of Parks and Recreation, who shall act as a project manager for projects on City-owned property funded by the Tree Trust Fund, including tree plantings, tree maintenance and invasive species removal.
  - (6) Two arborist positions, salary grade GE 09, in the Department of Parks and Recreation, whose specific responsibilities shall be determined by the Commissioner of Parks and Recreation
  - (7) Tree trimming crew. Tree Trust Funds may be used to pay for the annual salary and benefits of a tree trimming crew in the Department of Parks and Recreation. The tree trimming crew shall be comprised of one forestry crew supervisor, salary grade GE 09, one Tree Trimmer III, salary grade GE 06, one Tree Trimmer II, grade GE 05, and one Tree Trimmer, salary grade GE 03. The members of this crew will be responsible for providing services that

maintain and enhance the health of the City's tree canopy, including trimming, pruning, and limbing-up trees that are located in City-owned parks and rights-of-way.

- (k) *Urban forest master plan.* Tree Trust Funds may be expended on activities associated with the creation and updating of the City's urban forest master plan.
- (l) *Tree canopy studies.* Tree Trust Funds may be expended to update tree canopy imagery and analyses on a five-year update cycle, as needed.

## **Division 17- Violations, Penalties, and Enforcement**

### 158-84 Violations

- (a) In general.
  - (1) Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-8 of the Atlanta Code of Ordinances.
- (b) Specific violations, associated fines, and illegal recompense.
  - (1) Illegal tree destruction.
    - a. Where the City Arborist finds that the violation has resulted in the destruction of a tree, as defined in this article, the responsible party shall have a fine imposed for the first violation shall be no less than \$500.00, and the fine imposed for each subsequent violation shall be \$1,000.00. Each tree upon which a violation occurred shall be deemed a separate violation of the tree protection ordinance.
    - b. In addition to paying the penalties set forth in subsection (1)(a) above, the responsible party shall be required to plant replacement trees and/or pay recompense as described in sections 158-69 and 70.
      - 1. The City Arborist shall determine, based on the illegally destroyed tree's species and size in DBH, if the tree was a priority or non-priority tree and assess the replacement plantings for public property and/or recompense for private property accordingly.
      - 2. Unless the City Arborist can determine that the tree was DDH prior to its illegal destruction, all trees that meet the species and size requirement for priority trees shall be considered priority trees for purpose of replacement and recompense calculations.
      - 3. Where the City Arborist is unable to determine the species of the tree removed, all illegally destroyed trees that are six inches DBH and larger shall be considered priority trees for the purpose of replacement and recompense calculations.
    - c. Where the City Arborist is able to determine the exact number of trees removed or destroyed in violation of this article, but not able to determine the DBH, the fine shall be calculated based on the number of trees destroyed. Recompense payment will assume each tree was a 16.67 DBH inch priority tree.
      - 1. Where the City Arborist is not able to determine the exact number of trees removed or destroyed in violation of this article, the fine shall be calculated based on the illegal destruction of 60 trees per acre, prorated, and shall impose a fine of \$60,000 per acre of land where the offense(s) occur.
      - 2. Where the City Arborist is unable to determine the DBH inches of trees removed or the quantity of trees removed, replacement and recompense calculations shall assume the existence of 1,000 DBH inches of priority trees per acre, and specifically shall assume that the property contains 60 priority trees per acre, each tree 16.67 inches



- DBH, and the City Arborist shall calculate the replacement and recompense based on the measured area of land from which the trees were illegally removed.
- d. Illegally destroyed trees on public property will be assessed a fine as described above and replacement plantings for the trees destroyed will be required.
- (2) Violations during construction other than illegal tree destruction.
    - a. During the course of construction, where the City Arborist is able to determine the responsible party is not abiding by the City Arborist approved plans for tree protection (e.g., failing to maintain a tree construction fence), the first violation will result in a correction notice or stop work order. The second violation within the same development project will result in a correction notice or stop work order and a fine of \$500.00, all subsequent violations shall result in a fine of \$1000.00. Each day's continuance of a violation may be considered a separate offense. The penalty assessed for each such violation shall be at the discretion of the City Arborist, but not to exceed \$1,000.
  - (3) *Submitting false information.* It shall be a violation of this article to knowingly submit to the City materially false or materially inaccurate information on a tree removal application or the supporting documentation.
  - (4) Repeated, significant errors or omissions on plan submittals by registered tree professionals may result in suspension of registration status per section 158-31.
  - (5) *Appeal rights.* Eligibility to appeal a City Arborist decision made pursuant to this article to the Tree Conservation Commission is set forth in section 158-75.
  - (6) *Depositing funds.* Any recompense and fines recovered pursuant to this section, excluding court costs, shall be deposited into the Tree Trust Fund.
  - (7) Stop work orders.
    - a. The City Arborist is authorized to issue stop work orders to enforce this article.
    - b. When a stop work order is issued by the City Arborist, it shall be effective immediately and shall apply to all activity on the site except for necessary corrective action or mitigation and shall be in effect until such corrective action or mitigation has occurred and the stop work order lifted.
  - (8) *Citation.* The City Arborist may issue a citation to the property owner or other responsible party for a violation of this article.
    - a. Citations are subject to the jurisdiction and rules of the Atlanta Municipal Court and may be appealed thereto. Citations may not be appealed to the Tree Conservation Commission.
    - b. If the Municipal Court finds the defendant in violation of this article, it shall order that the actions required by the City Arborist to obtain compliance with this article be implemented, including the planting of replacement trees and payment of recompense and shall assess fines or other penalties pursuant to Atlanta City Code section 1-8.
  - (9) *Prescriptive measures.* Where the City Arborist finds that despite the violation, the tree may be saved, they may require performance of specific tree-saving measures, including but not limited to application of arboricultural prescriptions, and shall establish a timeframe for performing such measures. The City Arborist may require that the responsible party obtain an assessment of the condition of the tree(s) prior to deciding whether the tree can be saved. Where the City Arborist requires tree-saving measures, replacement and recompense shall not be assessed. If the assessment indicates that the tree cannot be saved, or if the responsible party fails to implement the tree-saving measures within the established timeframe, replacement and recompense will be owed. In addition, failure to implement the required tree

saving measures within the established time frame shall be deemed an additional violation of this article.

- a. *Cost of assessment.* Where the City Arborist requires the responsible party to obtain an assessment of the tree's condition and the assessment reveals that the tree cannot be saved, the documented cost of the assessment, up to \$500, may be deducted from the recompense owed by the responsible party.
  - b. *Cap on assessment and tree-saving costs.* The City shall not require assessments and tree saving measures for which combined costs exceed the recompense that would be owed if the tree were destroyed.
- (10) Both the owner of any building, structure, site, or part thereof where any violation of this article exists, and any agent of the owner, tenant, or agent of the tenant who commits or assists in the commission of any violation of this article may be deemed guilty of the offense. Either party may correct the violation, be subject to individual fines, or be subject to individual citations. However, if recompense is charged only one party should pay the recompense. The owner of any building, structure, site, or part thereof is ultimately responsible for any violations occurring on the property.
- (11) *Cease and desist orders.* Any person removing or destroying a regulated tree for safety, landscaping, silvicultural or other purposes shall post the permit for public inspection on site or have, in their possession, an electronic or paper copy of the permit. The Atlanta Police Department shall have the authority to respond to a report of suspected illegal removal or destruction of trees. If an officer determines that a stop work order is warranted, including without limitation because a tree is being removed or destroyed, the Atlanta Police Department may issue a cease-and-desist order that terminates at the conclusion of two business days from the date of issuance. The City Arborist shall assess the alleged illegal activity and determine what, if any, corrective action is needed, including without limitation issuance of a stop work order. The City Arborist shall have the authority to lift the cease-and-desist order prior to its natural expiration.
- (12) *Additional legal remedies.* In addition to all other actions and penalties authorized in this article, the City Attorney is authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this article.

## **Division 18- Definitions**

### 158-85 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 United States 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.

*Arboreta.* A botanical collection of trees and shrubs that is ArbNet accredited.

*Arboricultural prescription.* A written directive developed by an ISA or RCA certified arborist for a site or individual tree for the purpose of preserving a tree(s).

*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.

*Boundary tree.* A tree on adjacent property with a critical root zone that intrudes across the property line of the site under consideration.

*Caliper.* The trunk diameter of replacement trees measured in inches at 6 inches above the soil for those trees that are less than 4.5 inches caliper. For trees greater than or equal to 4.5 inches in diameter at 6 inches above soil, caliper is measured at 12 inches above the soil.

*City.* City of Atlanta.

*City arboricultural standards.* The arboricultural specifications and standards of practice, prepared by the City Arborist and approved by the Tree Conservation Commission, which are adopted pursuant to this article and with ANSI A300 series of standards for tree care management.

*City Arborist.* An agent of the Department of City Planning responsible for administering this article regarding private property, or an agent of the Department of Parks and Recreation responsible for administering this article regarding public property.

*Commission.* See Tree Conservation Commission

*Commercial development.* For the purposes of this article, all development, public and private, that does not meet the definition of single-family residential development.

*Conservation area.* A portion of a site left undisturbed and protected from development in perpetuity.

*Co-owned tree.* A tree growing on two or more different properties, as measured where the trunk of the tree meets the ground, excluding the root flare. The tree is jointly owned by all property owners.

*Critical root zone (CRZ).* The area surrounding a tree that is essential to the tree's health and survival. For a free-standing tree with no apparent root restrictions, the root save area shall consist of a circle having a radius of one foot for each one inch of diameter at breast height of the tree. Adjustments to the assumed CRZ may be made by the City Arborist if justified by specific documented site conditions.

*CRZ.* See critical root zone.

*DBH.* See diameter at breast height.

*Dead tree.* Characterized by skeletal remains with no live twigs, lack of foliage or total browning of foliage during the growing season. During dormancy, dead trees are characterized by peeling or sloughing bark, lack of buds, and dry and brittle twigs.

*Destroy.* Any intentional or negligent act or lack of protection that is more likely than not to cause a tree to die within a period of five years, as determined by the City Arborist. Such acts include, but are not limited to: performing grade changes (including lowering or filling the grade) that affects more than 20 percent of the root save area; trenching of roots; cutting, girdling or inflicting other severe mechanical injury to the trunk, roots or other vital sections of the tree; removing in excess of 20 percent of the live crown of the tree; inflicting damage upon the root system of a tree by the application of toxic substances, including solvents, oils, gasoline and diesel fuel; causing damage by the operation of heavy machinery; causing damage by the storage of materials; and/or deliberately or negligently burning or setting fire to a

tree. In addition, topping, tipping, or any similar improper pruning practices will be deemed as destruction of a tree.

*Diameter at breast height (DBH).* The diameter of the main stem(s) of a tree measured at 4.5 feet above the natural grade at the base of the tree. For a tree with three or more stems, the diameter shall be calculated as the diameter of the largest stem plus one-half of each additional stem. The diameter of the top 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 result in the death of the tree, as determined by the City Arborist. Disease shall also mean any fungal, bacterial or viral infection that has progressed to the point where treatment will not prevent the death of the tree, as determined by the City Arborist.

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

*Established recompense amount.* The dollar amount established to compensate for the removal or destruction of a healthy tree. The amount shall be expressed as the cost per caliper-inch of replacement trees owed. The amount is based on the City's cost to plant replacement trees. The market rate will be reassessed by the Department of City Planning every five years based on the average cost of City-contracted plantings.

*Flush cutting.* The removal of limbs by cutting immediately adjacent to the trunk, destroying the protective branch collar and exposing the trunk to decay organisms.

*Good condition (of a tree).* A tree that does not have any problems with its root, trunk, major branches, twigs, or foliage. Insect infestation or other pathological problems are not present. Overall color and shoot growth are typical for the species, and canopy foliage is full.

*Green infrastructure.* Green infrastructure means an engineered stormwater management facility designed to mimic natural hydrologic functions and processes through the use of plants and special soil media to slow, filter, evapotranspire, and infiltrate stormwater. Facility must meet the standards for, and be used to fully or partially satisfy the requirements of the post development stormwater management requirements, in Atlanta City Code section 75-501, et al.

*Greenfield site.* Any site that is at least five acres in size and meets one or both of the following conditions: i) 80% or more canopy cover; ii) minimum forestation standards of 1,000 DBH inches per acre.

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

*Hazardous tree.* A tree with uncorrectable defects severe enough to pose a present danger to high value targets such as people or buildings under normal conditions within a two-year time period, as determined by the City Arborist, or a tree which is determined by the City Arborist to be in imminent likelihood of failure.

*Healthy tree.* For the purposes of this article, all trees that have not been issued a dead, dying, or hazardous removal permit are considered to be healthy.

*Heat island.* 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 a site, including but not limited to public streets. An internal heat island is one

situated within a site, including but not limited to patios, driveways and other vehicular maneuvering and/or parking areas. Recreational areas including but not limited to swimming pools and game courts are excluded from this definition.

*Historic tree.* A tree that has been designated by the Tree Conservation Commission, upon application by the City Arborist or any other interested person, to be of notable historic value and interest because of its age, size, or historic association, in accordance with the City arboricultural specifications and standards of practice. Such designation may occur only by resolution of the Commission, and the secretary to the Commission shall maintain and file with the Municipal Clerk a complete listing of the location of each historic tree.

*Illegally removed tree.* Any tree that is removed or destroyed without a permit.

*Imminent likelihood of failure.* Tree failure has started or is most likely to occur in the near future, even if there is no significant wind or increased load. This is an infrequent occurrence and may require immediate action to protect people from harm. Examples of imminent likelihood of failure include without limitation: sudden change of pitch of the main stem; cracked or heaved soil opposite the tree's lean; visibly raised root plate; and cracks or breaks in the main stem or large leader.

*Impact.* Any legal or illegal action that damages a tree. Damage may result from, but is not limited to, grading, filling, soil compaction or other land disturbance within a tree's critical root zone; mechanical injury to any part of a tree; spiking; vandalism; improper or excessive pruning; and allowing toxic substances such as herbicides, gas, brine water, oil, liquid dye, or other substances deleterious to tree health to come in contact with soil within the critical root zone.

*Injury.* See impact.

*Invasive tree.* Non-native tree species that pose a threat to Atlanta's native ecosystems. A current list of invasive trees is maintained by and available from the City Arborist. The City Arborist may update the list of invasive trees periodically, based on the list of invasive species published by the Georgia Invasive Species Council, scholarly research, and consultation with professional arborists, ecologists, and foresters. All updates shall be approved by the Tree Conservation Commission. Examples of invasive trees include Callery Pear (*Pyrus calleryana*), Chinese Holly (*Ilex cornuta*), and Tree of Heaven (*Ailanthus altissima*).

*Land disturbance.* For purposes of this article, any human-made change to improved or unimproved property that includes, but is not limited to, construction of buildings or other structures, soil compaction, filling, clearing and grubbing, grading, paving, installation of impervious cover, excavation or drilling, storage of equipment or materials, or any other construction activity.

*Midstory 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 Common Persimmon (*Diospyros virginiana*), Eastern Red Cedar (*Juniperus virginiana*), American Linden (*Tilia americana*), Winged Elm (*Ulmus alata*), Southern Sugar Maple (*Acer floridanum*), and others on the City's Recommended List.

*Non-priority tree.* Trees that do not meet the size or species requirements to be designated as priority trees and are not designated as dead, dying, hazardous, invasive, or undesirable.

*Overstory tree.* A tree that normally attains a DBH in excess of 25 inches and a height in excess of 60 feet, and approximately 1,200 square feet of canopy at maturity. Examples include White Oak (*Quercus alba*), Southern Red Oak (*Quercus falcata*), Tulip Tree (*Liriodendron tulipifera*), Pignut Hickory (*Carya glabra*), American Beech (*Fagus grandifolia*), and others on the City's Recommended List,

*Pine.* Tree species that are a member of the genus *Pinus*; does not include other needled trees commonly known as cedar, fir, spruce, hemlock, or any other members of the family Pinaceae.

*Planned conservation development.* Residential housing development on property zoned Planned Development- Conservation subdivision (PD-CS).

*Priority tree.* Trees that provide the highest level of ecosystem services to the City of Atlanta and are defined by size and species as listed in table TPO-1.

*Private property tree.* For the purposes of this article, a tree shall be considered a private property tree if more than 50 percent of the trunk of the tree, excluding the root flare, is located on private property.

*Pruning.* The selective removal of plant parts. For the purposes of this article, proper pruning may not include the removal of more than 20% of the live crown of a tree within a two-year period, and cuts must be made in accordance with ANSI A300 series of standards for tree care management. At no time shall trimming, tipping, or flush cutting of trees be deemed a form of pruning.

*Public linear infrastructure project.* Construction or maintenance of City-owned infrastructure that is linear in form, including but not limited to public roadways, sidewalks, trails, and City-owned water lines, sewer lines, and other similar utility projects.

*Public property tree.* For the purposes of this article, a tree shall be considered a public property tree if at least 50 percent of the trunk of the tree, excluding the root flare, is located on public property.

*Recompense.* See standard recompense.

*Registered tree professional.* Any professional arborist, forester, landscape architect, or tree service company that is currently registered with the City Arborist per section 158-31.

*Regulated tree (private property).* Any tree other than a pine with a DBH of six inches or greater, or a pine with a DBH of 12 inches or greater.

*Regulated tree (public property).* Any tree with a DBH of three inches or greater.

*Replacement tree(s).* New trees planted to restore the lost public value of healthy trees that are removed or destroyed according to the requirements of this article. The size of replacement trees is expressed in caliper inches.

*Responsible party.* Any person(s) or entities whose actions or failures to act violate this article, including without limitation any person who knowingly allows his or her agent or contractor to violate this article. Where a tree is destroyed or impacted 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.

*Saved tree.* A tree that is to be protected and not destroyed during construction in the manner specified by this article.

*Severe mechanical injury.* A wound or combination of wounds, measured at their widest extent, that expose or destroy the cambium layer of 30 percent or more of the circumference of the tree.

*Single-family residential development.* For the purposes of this article, development or redevelopment on a single lot on land zoned for single-family or duplex residential development, zones R1-R5.

*Soil cell.* Manufactured structures, usually modular, that can support the weight of a paved surface and associated pedestrian or vehicular loads while containing uncompacted soil below the paving that allows free root growth for trees planted within hardscapes. Soil cells are a component of one type of suspended pavement system.’

*Sports court.* An area of hardscape primarily used for recreational or competitive sports. Sport courts contain appropriate equipment and markings, including but not limited to nets, baskets, striping, fencing, and lighting.

*Sports field.* A field used primarily for playing sports and used by an organized recreational league or an open field used for school or public park play activities.

*SRP.* See structural root plate.

*Standard replacement.* The replacement tree requirement measured in caliper inches. The required replacement is equal to one caliper inch per DBH of each priority tree destroyed and .5 caliper inch per DBH of each non-priority tree destroyed.

*Standard recompense.* The dollar amount that may be paid into the Tree Trust Fund in lieu of planting all of the required caliper inches of replacement trees. This amount is equal to the number of unplanted replacement tree caliper inches multiplied by the established recompense amount.

*Stream buffer.* The land and vegetation that is within 75 feet of a perennial or intermittent stream in which development is prohibited or restricted, per Atlanta City Code section 74-300.

*Streetscape.* For the purposes of this article, streetscape refers to a zoning mandated street frontage treatment beginning at the back of curb that includes a sidewalk/walk area/clear zone and at least one of the following: a street furniture/tree planting zone, amenity zone, or a supplemental area. Streetscapes typically also have requirements for trees or streetlights.

*Structural root plate (SRP).* The zone of rapid root taper that provides the tree stability against windthrow. The radius of the root plate is proportional to the stem diameter (DBH) of a tree, excluding the root flare. The table below provides the radius of the structural root plate as determined by the DBH of the tree for upright trees without restricted roots.. Adjustments to the assumed SRP may be made by the City Arborist if justified by specific documented site conditions.

Size of Structural Root Plate by DBH of Trees										
DBH (inches)	6-7"	8-10"	11-14"	19-23"	24-31"	32-43"	44-51"	44-51"	52-57"	58-61"
SRP distance (radius')	5'	6'	7'	8'	9'	10'	11'	12'	13"	14'
Size of Structural Root Plate by DBH of Trees cont.										
DBH (inches)	62-64"	65-67"	68-69"	70-71"	72-73"	74-75"	76-77"	78-79"	80-81"	82-83"
SRP distance (radius')	15'	16'	17'	18'	19'	20'	21'	22'	23"	24"

*Suspended paving or suspended pavement.* Any technology that supports the weight of paving and associated pedestrian or vehicle loads over a void space that is filled with uncompacted soil that allows free root growth for trees planted within hardscaped areas.

*Swimming pool.* For the purposes of this article, a swimming pool is a pool, tank, or reservoir constructed and adapted for community or public swimming, bathing, or water sports, and having a maximum depth of two feet or more. When measuring the area of a pool for the purposes of calculating tree density, up to 20 feet of hard surfaced deck surrounding the pool may be included in the pool area.

*Tipping.* The cutting of a lateral limb in such a manner as to leave a prominent stub extending beyond a branch node or the trunk.

*Topping.* The cutting of a leader trunk in such a manner as to leave a prominent stub extending beyond the node (crotch) of another leader trunk or major branch that may become a leader trunk.

*Tree.* A self-supporting woody, perennial plant that has a trunk diameter of two inches or more when measured at a point six inches above ground level and which normally attains an overall height of at least ten feet at maturity, usually with one main stem or trunk and many branches.

*Tree density.* The minimum number of trees required to be growing on a site prior to the issuance of the certificate of occupancy or completion of the permitted work. Tree density may be met through newly planted trees, priority or non-priority trees preserved on site, or a combination of the two.

*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.

*Understory tree.* A tree that normally attains a DBH of less than 10 inches and a height of less than 30 feet, and a canopy of approximately 400 square feet at maturity. Examples include Eastern Redbud (*Cercis canadensis*), Flowering Dogwood (*Cornus florida*), White Fringetree (*Chionanthus virginicus*), American hornbeam (*Carpinus caroliniana*), American Hophornbeam (*Ostrya virginiana*) and others on the City's Recommended List.

*Undesirable tree.* A tree species that has demonstrated sufficient negative qualities as to be detrimental to the long-term health of the City of Atlanta's urban forest. Those qualities include weak branch structure, chronic pest or disease problems, and invasive tendencies. A current list of undesirable tree species is maintained by and available from the City Arborist. Examples of undesirable trees include Leyland cypress (*Cupressus x leylandii*), red tip (*Photinia x fraseri*), and Lombardy poplar (*Populus nigra*).

*Utility.* Service for water, sewer, natural gas, and electricity.

*Utility corridor.* An existing recorded public or private linear utility easement or a linear corridor containing shared utilities on private property. Utility corridor widths are defined by the width of the recorded easement or for shared, private underground utilities, the corridor is 10-feet wide.

*Wetland buffer.* The land and vegetation that is within 25 feet of a wetland in which development is prohibited or restricted, per Atlanta City Code section 74-300.

## **Division 19- Federal consent decree projects**

158-86 Permit for tree removal based upon compliance with federal consent decrees.

- (a) *Applicability.* The provisions set forth in subsections 158-42 through 58 and 158-72 through 75 shall not apply to permits issued pursuant to this section, 158-86. The provisions provided below in this subsection shall pertain to this section 158-86 only.



- (b) The City Arborist in the Department Of City Planning may issue a permit to the Department of Watershed Management to remove, destroy, or impact any private property tree, as defined in section 158-85, including without limitation trees located on city easements over private property, when such removal, destruction, or injury is 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) or for any other consent decrees that the City might enter into in the future (for purposes of this section 158-86, collectively the "decrees" or the "consent decrees").
- (1) The Department of Watershed Management shall submit a site plan that meets the requirements of section 158-51 and includes a description of the construction methodology to be utilized at each location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS and drafted via a sketch showing each tree's location and showing its DBH and species. The sketch need not be performed by a registered surveyor or landscape architect. The site plan shall include replacement tree and recompense calculations per section 158-69 and 70, and proposed plantings of new trees. The City shall give replacement tree credit to the Department of Watershed Management for newly planted trees only if the planting specifications set forth in sections 158-66 to 68 of this article are met but shall not give any replacement credit for new trees planted within the City's easement. The Department of Watershed Management shall not be required to replant trees within a City easement.
  - (2) The Department of Watershed Management may pay standard recompense for private replacement trees not planted per section 158-70.
  - (3) The Department of Watershed Management's site plan must identify all priority and non-priority trees. The Department of City Planning 's City Arborist may discuss with the Department of Watershed Management alternative routes for the work to be performed that may save trees, though the City Arborist may not deny the application in the event that the Department of Watershed Management does not agree upon an alternative route.
- (c) The City Arborist in the Department of Parks and Recreation may issue a permit to the Department of Watershed Management to remove, destroy, and/or impact any public property tree, as defined in section 158-85, including without limitation trees located on City parks, streets, sidewalks, and other property owned by the City of Atlanta, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the consent decrees, provided that the following requirements are met:
- (1) The Department of Watershed Management has submitted an application to the City Arborist in the Department of Parks and Recreation in a form prescribed by said City Arborist, provided that applications may be made by projects, as defined in the consent decrees. Applications 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.
  - (2) For destruction or removal of or injury to a public property tree, the Department of Watershed Management shall submit a site plan drawn to scale that meets the standards set forth in section 158-51 and include a description of the construction methodology to be utilized by location. It shall also provide a calculation of the percentage of impact on each

tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS and drafted via a sketch showing each tree's location and showing its DBH and species. The sketch need not be performed by a registered surveyor or landscape architect. The application shall include replacement tree calculations and show replacement inches owed.

- (3) The Department of Watershed Management's site plan for public property trees must identify all priority trees. The City Arborist in the Department of City Planning may discuss with the Department of Watershed Management alternative routes for the work to be performed that may allow the priority tree to survive, though the City Arborist may not deny the removal/destruction application in the event that the Department of Watershed Management does not agree upon an alternative route.
- (4) The Department of Watershed Management must replace all public property trees that it destroys per the requirements of section 158-69. The City Arborist shall give credit to the Department of Watershed Management for newly planted trees only if the replanting requirements set forth in in section 158-66 through 68 of this article are met, with the following exceptions:
  - a. The City Arborist in the Department of Parks and Recreation need not approve a tree replacement plan prior to issuing a tree removal permit, provided that:
    1. 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 the immediately following subsection (d). 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 her/his designee, shall make a good faith attempt to assist the Department of Watershed Management with this task. 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 her/his designee prior to the trees being planted. The Director of the Office of Parks shall forward this replanting information to the impacted council member for review. The Department of Watershed Management shall guarantee the life of each replacement tree for two years from the time of planting.
    2. The commissioner of the Department of Watershed Management and the commissioner of the Department of Parks and Recreation enter a letter of understanding that accompanies each decree tree removal permit (as defined below). The letter of understanding must set forth those replacement inches for which locations have already 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 her/his designee may approve an extension. The letter of understanding shall also include the requirements set forth in subsection (1) immediately preceding this subsection (2).
    3. The Department of Watershed Management prepares 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.

- (d) The City Arborist need not require the replacement trees to meet the descriptions set forth in section 158-69(b)(1) but rather may give replacement tree offsets and credits as described in section 158-71.
- (1) The following provisions shall apply to the issuance of tree removal permits by the City Arborist in the Department of City Planning and in the Department of Parks, and Recreation, where the removal or destruction of a tree is performed as a result of City of Atlanta compliance with the consent decrees ("decree tree removal permit"):
  - a. sections 158-86 (b) and (c) above notwithstanding, the City Arborist may not require the Department of Watershed Management, as part of its 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.
  - b. No posting of the property is required prior to the issuance of a decree tree removal permit.
  - c. There is no appeal right associated with a decree tree removal permit required to conduct work to comply with the CSO Consent Decree.
  - d. The Department of Watershed Management may not remove, destroy, or impact any private property tree or public property tree in order to comply with the consent decrees prior to being issued a decree tree removal permit by the City Arborist in the Department of City Planning, or in the Department of Parks and Recreation, respectively.
  - e. Where a tree is removed, destroyed, or impacted without a decree tree removal permit during work related to the decrees, the Department of Watershed Management must report the removal, destruction, or injury to a City Arborist by the close of the following business day. In such instance, the Department of Watershed Management shall submit site plans to the appropriate City Arborist and shall include the calculations for recompense due and/or tree replacement required. Where a City Arborist learns of a decree-related tree removal or destruction caused and not timely reported by the Department of Watershed Management or its contractor/subcontractor, the appropriate City Arborist shall issue penalties pursuant to section 158-84(b)(1) and shall also require that recompense be paid and/or replacement be performed.

#### **Division 20- Tree replacement and recompense reductions for affordable housing**

158-87 Reduction or waiver of tree replacement and recompense payment for affordable rental units.

- (a) Multi-family development projects that provide at affordable rental rates are eligible for a 50% reduction of required tree replacement and recompense, provided they meet the following conditions:
  - (1) The site meets the tree density requirement set forth in section 158-58(d);
  - (2) One of the following is satisfied;
    - a. At least 15% of the total residential rental units, but no less than one unit, shall be actively marketed for lease to households having an income, as certified by the

- prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 80% of the area median income (AMI) limits as published by the City of Atlanta Office of Housing and Community Development on an annual basis; or
- b. At least 10% of the total residential rental units, but no less than one unit, shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 60% of the area median income (AMI) limits as published by the City of Atlanta Office of Housing and Community Development on an annual basis.
- (3) The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit;
  - (4) The AMI limits will account for household size based on AMI data for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall not exceed the limits published by the City of Atlanta Office of Housing and Community Development on an annual basis. The rental limits will be based on AMI data published periodically by HUD;
  - (5) The applicant must provide documentation that the development will provide the required affordable housing. The forms of acceptable documentation shall be established and verified by the Department of City Planning; and
  - (6) The affordable housing units shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market rate units, and shall not be in isolated areas in the development but shall be interspersed among market rate units. The number of bedrooms in the affordable units (e.g. one bedroom, two bedroom, three bedroom) shall be proportionate to the number of bedrooms in the market rate units.
  - (7) For mixed use developments with a residential component that meets the affordability criteria in this section, the replacement and recompense reduction shall apply only to a portion of the required replacement and recompense, based on the percentage of the development that is residential in nature. The residential portion of the site shall be calculated by dividing the floor area of the residential portion of the development by the development's total floor area. Thus, a mixed-use development that meets the criteria above, with 40% of its total floor area dedicated to residential use shall be eligible for a replacement and recompense reduction of 20% (40% of floor area times 50% reduction).
- (b) Multi-family residential development projects that provide at affordable rental rates are eligible for a full waiver of required tree replacement and recompense, provided they meet the following conditions:
- (1) The site meets the tree density requirement set forth in section 158-58(d);
  - (2) One of the following is satisfied:
    - a. At least 20% percent of the total residential rental units, but no less than one, shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does

not exceed 50% of the area median income (AMI) limits as published by the City of Atlanta Office of Housing and Community Development on an annual basis; or

- b. At least 40% of the total residential rental units, but no less than one, shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 60% of the area median income (AMI) limits as published by the City of Atlanta Office of Housing and Community Development on an annual basis.
- (3) The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit;
- (4) The AMI limits will account for household size based on AMI data for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall not exceed the limits published by the City of Atlanta Office of Housing and Community Development on an annual basis. The rental limits will be based on AMI data published periodically by HUD;
- (5) The applicant must provide documentation that the development will provide the required affordable housing. The forms of acceptable documentation shall be established and verified by the Department of City Planning; and
- (6) The affordable housing units shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market rate units, and shall not be in isolated areas in the development but shall be interspersed among market rate units. The number of bedrooms in the affordable units (e.g. one bedroom, two bedroom, three bedroom) shall be proportionate to the number of bedrooms in the market rate units.
- (7) For mixed use developments with a residential component that meets the affordability criteria in this section, the replacement and recompense waiver shall apply only to a portion of the required replacement and recompense, based on the percentage of the development that is residential in nature. The residential portion of the site shall be calculated by dividing the floor area of the residential portion of the development by the development's total floor area. Thus, a mixed-use development that meets the criteria above, with 40% of its total floor area dedicated to residential use shall be eligible for a replacement and recompense reduction of 40%.

158-88 Waiver of tree replacement and recompense for affordable for-sale units.

- (a) Multi-family development projects of for-sale units are eligible for a full waiver of required tree replacement and recompense, provided they meet the following conditions:
  - (1) The site meets the tree density requirement set forth in section 158-58(d);
  - (2) Both of the following are satisfied;
    - a. The applicant will ensure that at least 10% of the total dwelling units, but no less than one unit, shall be made available for sale to households having an income, as certified by the buyer or buyer's lender, that does not exceed 80% of area median income (AMI), adjusted for household size, as published by the City of Atlanta Office of Housing and Community Development on an annual basis; and

- b. The applicant will ensure that at least 10% of the total dwelling units, but no less than one unit, shall be made available for sale to households having an income, as certified by the buyer or buyer's lender, that does not exceed 120% of area median income (AMI), adjusted for household size, as published by the City of Atlanta Office of Housing and Community Development on an annual basis.
- (3) The maximum sales price cannot exceed the Workforce Owner Housing Maximums established by the City of Atlanta Office of Housing and Community Development (based on 80% and 120% of the HUD AMI, respectively), adjusted by household size;
  - (4) The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit;
  - (5) The developer will ensure that affordable units provided in accordance with 158-27(a)(2) shall be made available for sale to qualified administrators as defined in section 16-41.003, following the procedure set forth in section 16-41.004(b);
  - (6) Income-restricted affordable units shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the higher or market rate units, and shall not be in isolated areas in the development but shall be interspersed among market rate units. The number of bedrooms in the affordable units (e.g. one bedroom, two bedroom, three bedroom, four bedroom or greater) shall be proportionate to the number of bedrooms in the market rate units; and
  - (7) The applicant must provide documentation that the development will provide the required affordable housing. The forms of acceptable documentation shall be established and verified by the Department of City Planning;
  - (8) For mixed use developments with a residential component that meets the affordability criteria in subsection (a)(2) above, the replacement and recompense waiver shall apply only to a portion of the required replacement and recompense, based on the percentage of the development that is residential in nature. The residential portion of the site shall be calculated by dividing the floor area of the residential portion of the development by the development's total floor area. Thus, a mixed-use development that meets the affordability criteria, with 40% of its total floor area dedicated to residential use shall be eligible for a replacement and recompense reduction of 40%.
- (b) Single-family, for-sale developments are eligible for a full rebate of tree recompense, subject to the following conditions:
- (1) The site meets the required tree density requirement set forth in section 158-54;
  - (2) Single-family homes are sold to households having an income, as certified by the buyer or buyer's lender, that does not exceed 120% of AMI, adjusted for household size, for the Atlanta-Sandy Springs-Marietta Metropolitan Statistical Area published annually by the United States' Department of Housing and Urban Development ("HUD AMI");
  - (3) The maximum sales price cannot exceed the workforce owner housing maximums established by the City of Atlanta Office of Housing and Community Development (based on 120% of the HUD AMI), adjusted by household size;
  - (4) The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance

- of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit; and
- (5) The developer will ensure that affordable units provided in accordance with 158-27(a)(2) shall be made available for sale to qualified administrators as defined in section 16-41.003, following the procedure set forth in section 16-41.004(b).
  - (c) The rebate shall be provided to the applicant after the first sale of the property.
  - (d) To receive the rebate, the applicant must submit documentation showing that the purchaser of the property met the income requirements. The forms of acceptable documentation shall be established and verified by the Department of City Planning.

**Section 2:** That this ordinance shall become effective on January 1st, 2026.

**Section 3:** That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby waived to the extent of the conflict.