

COMMITTEE AMENDMENT FORM

Date: Tuesday, March 9, 2021

Committee: Community Development/Human Services **PAGE #'S:** _____

Ordinance # 21-O-0063 **SECTION(S):** _____

Resolution # _____ **PARAGRAPH** _____

The amendment attaches Exhibit B (the fee study), adds a reference to it in Section 2, and renumbers all following sections accordingly.

**AN ORDINANCE
BY COUNCILMEMBER J. P. MATZIGKEIT
AS AMENDED BY COMMUNITY DEVELOPMENT/HUMAN SERVICES
COMMITTEE**

AN ORDINANCE TO AMEND THE ATLANTA CITY CODE PART II (GENERAL ORDINANCES), CHAPTER 158 (VEGETATION), ARTICLE II (TREE PROTECTION), TO ADOPT A NEW TREE PROTECTION ORDINANCE FOR THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.

WHEREAS, trees and their canopy have long been recognized as improving the livability, aesthetics, and land values in cities; and

WHEREAS, recent scientific studies have expanded the understanding of the benefits of urban forests. These studies have shown that urban forests provide ecosystem services that benefit all residents, such as mitigating air pollution, lowering ambient temperatures resulting in reduced energy use for cooling buildings, reducing stormwater runoff volumes and pollutants, reducing erosion and soil loss, and providing habitat to sustain populations of urban wildlife; and

WHEREAS, studies also show that living near urban trees provides numerous physical, mental, and social health benefits such as higher infant birth weights, lower adult and child obesity rates, lower levels of depression, increased attention, increased social cohesion, and reduced levels of domestic violence and other crimes; and

WHEREAS, the City of Atlanta's (the "City's") tree canopy is a well-recognized integral part of the City's identity, and the City is frequently described as the "City in the Forest"; and

WHEREAS, the City Council adopted the *Atlanta City Design* in 2017, a plan for the growth of Atlanta over the next generation. One of the five principals for Atlanta's growth was the value of nature and the importance of protecting and highlighting the City's natural systems while guiding and accommodating anticipated population growth; and

WHEREAS, a subsequent study, *Atlanta City Design: Nature*, assessed the ecological conditions within the City and provided recommendations for ecological protection and enhancement. One recommendation was to update and strengthen the City's tree protection ordinance while rooting it in the ecological conditions of the City; and

WHEREAS, public engagement and recurrent stakeholder discussions were a significant component and driver of both the *Atlanta City Design: Nature* study and the development of this new tree protection ordinance; and

WHEREAS, due to historic development patterns and historic building techniques in the City, pockets of remnant old growth forest and high biodiversity remain within the City's older residential neighborhoods; and

WHEREAS, the City commissioned detailed city-wide tree canopy coverage studies dating back to 2008 that show a decline in the City's tree canopy over time; and

WHEREAS, the greatest loss of tree canopy between 2008 and 2014 was due to the redevelopment of single-family residential homes, according to the *Atlanta City Design: Nature* study; and

WHEREAS, the current tree protection ordinance has not prevented tree canopy loss and does not reflect the latest advances in arboriculture science that, if implemented, would allow for healthier, longer lived trees that will provide greater services to the City; and

WHEREAS, the current tree protection ordinance contains conflicts with other City regulations, has sections that are unclear or unable to be uniformly applied, and undervalues trees which discourages their preservation during development; and

WHEREAS, this new tree protection ordinance encourages site design that accommodates the natural features of the site while also creating new tools within the ordinance to provide design flexibility that the current regulations do not allow; and

WHEREAS, additional amendments to the Atlanta City Code, including amendments to the Atlanta Zoning Ordinance, may be necessary to ensure the effectiveness this new tree protection ordinance and such amendments are encouraged; and

WHEREAS, the new tree protection ordinance values and protects trees based on their environmental contribution to the City to maximize the benefits of preservation. Further, the tree valuation, tree preservation, and tree replacement standards in the ordinance are specifically tailored to the City's ecosystem to preserve this ecosystem for all the City's residents; and

WHEREAS, the new tree protection ordinance provides assistance to residents in managing trees on their property while allowing homeowners to periodically remove lower value trees; and

WHEREAS, changes to the ordinance support the City's goals for affordable housing, more efficient transportation, and equity for underserved populations; and

WHEREAS, the Atlanta City Council finds this amendment to the City's tree protection ordinance will serve the public health, safety, and general welfare of the community.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

Section 1: Every section of Part II (Code of Ordinances - General Ordinances), Chapter 158 (Vegetation), Article II (Tree Protection) is hereby repealed and replaced with the language included in "Exhibit A".

Section 2: The Fee Study Report for the Tree Protection Ordinance is attached here as "Exhibit B".

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.

Exhibit A: City of Atlanta Tree Protection Ordinance

Division 1- General Provisions and Definitions

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 Effective Date: TBD

158-28 Goals and Purpose.

- (a) The goal of this article is to protect, maintain, and advance a high-quality urban forest within the boundaries of the City and reverse canopy loss over time so that current and future citizens of the City of Atlanta can 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 assure 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 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 heritage 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 if these goals are met, this article will be reevaluated five years after adoption. Thereafter, subsequent re-evaluations will occur after updated urban tree canopy assessments are performed, or as needed.

158-29 Relationship to Other Laws, Regulations, and Ordinances.

- (a) No permit or approvals 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 any other federal, state, or local laws or regulations including, but not limited to, the Atlanta Building Code, the Atlanta Zoning Ordinance, the ordinances enforced by the Department of Watershed

Management in Chapter 74 of the Atlanta City Code, and any other required permits or approvals.

158-30 Wherever the requirements of this article are at a variance with the requirements of any other governmentally adopted statute, rule, regulations, ordinance or code, the most restrictive or that imposing the higher standard shall govern.

158-31 On-going Compliance

- (a) This article requires that obligations imposed on an owner of property pursuant to the enforcement of this article (excluding fines and Recompense for the illegal Destruction of Trees) shall become the responsibility of subsequent owners, until such time as those obligations are fulfilled. Before any transfer of property, owners should disclose these obligations to the purchaser or recipient of the affected property.

158-32 Interpretation.

- (a) 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.

158-33 Severability.

- (a) 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.

158-34 Jurisdiction and Enforcement.

- (a) The Department of City Planning will have authority over the implementation and enforcement of this ordinance including permit authority for all projects on public and private property that include the protection, removal, and replanting of trees as part of a Land Disturbance, building, demolition, landscaping, or City infrastructure projects. The Department of City Planning will also have authority over enforcement of illegal tree Impacts or Destruction on Public and private property.
- (b) The Department of Parks and Recreation will have the responsibility for the maintenance, Pruning, and removal of all Right-of-Way trees, including responding to maintenance requests unassociated with planned public or private construction activity.
- (c) The Department of Parks and Recreation, the Department of City Planning, the Atlanta Police Department, the Tree Conservation Commission, and the Atlanta Municipal Court shall be charged with the enforcement of this article. Employees of the Department of Parks and Recreation and the Department of City Planning Arborist Divisions shall have police power to perform all acts necessary for enforcement. In instances in which an individual or firm is found cutting or otherwise destroying a tree without a permit to do so in their possession, the Atlanta Police Department shall require such person or persons to cease such operations until a permit is obtained.

158-35 Registration of Arborists, Foresters and Tree Companies Required.

- (a) All arborists, foresters and tree service companies that wish to do business within the City of Atlanta, or submit or sign documents that are included in a tree permit application, are required to register with the Arborist Division prior to conducting business. While registered with the City, these arborists, foresters, and tree companies shall be Registered Tree Professionals for the purpose of this article.

- (1) All arborists operating in the City must hold current ISA (International Society of Arboriculture) or Registered Consulting Arborist (RCA) certification and provide documentation at time of registration.
- (2) All foresters operating in the City must be currently licensed with the State of Georgia and provide documentation at time of registration.
- (3) All tree service companies operating in the City must have a certified ISA or RCA arborist on staff who shall provide documentation of current certification at the time of registration.
- (4) Registration shall, at the minimum, require the arborists, foresters, and tree service companies to sign an affidavit acknowledging that they are aware of, and agree to abide by, this Tree Protection Ordinance
- (5) Registration shall be valid until the end of every calendar year.
- (6) There shall be no fee charged for the registration of arborists, foresters, and tree service companies.
- (7) Violations of this article or repeated, significant errors or omissions on plan submittals by registered arborists or registered tree companies, will cause the Registered Tree Professional to be removed from the City's registry for a period of time as specified below, after which they may register again.
 - a. Penalties for violations:
 1. The first violation will result in a written warning.
 2. The second violation will result in a one month suspension of Registered Tree Professional status.
 3. The third violation will result in a six month suspension of Registered Tree Professional status.
 4. Violations beyond the third will result in a year long suspension of Registered Tree Professional status.
- (8) Work performed by unregistered arborists, foresters, or tree companies in the City shall be punishable as a violation of this article.

158-36 Definitions.

- **Alternate Maximum Disturbance Area (AMDA).** For Single Family Residential Development projects that cannot meet or are ineligible to meet the Priority Tree preservation standard explained in section 158-57(b), the Alternate Maximum Disturbance Area is the maximum area of Land Disturbance that will be allowed on the site, including but not limited to site access, grading, building and hardscape construction, utility installation, stormwater management facilities, staging and material storage.
- **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.
- **Arborist Division.** The division within the Department of City Planning, Office of Buildings in which the City Arborists review and approve or deny tree removal permits.
- **Arboricultural Prescription.** A written directive developed by a Registered Tree Professional for a site or individual tree for the purpose of preserving a tree(s). Prescriptions must include: (1) the Registered Tree Professional's name, signature, qualifications, and contact information; (2) the site address and individually identified tree(s) at issue; (3) the current condition of the tree(s); (4) tree protection provisions to be implemented during and after construction or site

disturbance such as a watering regime, mulching, fencing, physical barriers, and other methods to prevent soil compaction or damage; (5) a soil and foliar analysis; 6) a five-year survivability assessment; and (7) a schedule of recommended treatment, including any recommended soil amendments, fertilizer application, pesticide application, or pruning. Specifications for pruning, soil modification, and fertilization in the prescription shall be written in accordance with requirements of this article and provisions of the ANSI A300 series of standards. A report of treatment actions, an assessment of the condition of the tree at the end of treatment, and an estimate of the survivability of the tree shall be provided to the City.

- **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, wholly or in part on adjacent property, with a Critical Root Zone that crosses a property line.
- **Building.** A structure with a roof intended for shelter, or enclosure and constructed or erected with a fixed location in or on the ground or attached to something having a fixed location in or on the ground.
- **Caliper.** The trunk diameter measured in inches at 6 inches above the soil for trees less than 4.5 inches caliper, and 12 inches above ground for trees larger than 4.5 inches as measured 6 inches above the soil, of smaller nursery-sized trees that are readily transplanted.
- **City Arborist.** An employee of the City who is responsible for administering and enforcing this article. City Arborists are in the Department of City Planning or Department of Parks and Recreation, as applicable.
- **City.** The City of Atlanta.
- **Commercial Development.** For the purposes of this article, all development that does not meet the definition of Single Family Residential Development
- **Commission.** See Tree Conservation Commission
- **Conservation Area.** A portion of a Commercial Site left undisturbed and protected from Development in perpetuity, further described in section 158-64.
- **Conservation Credit.** Credits awarded for trees protected within a Conservation Area that reduce the Replacement and Recompense requirements due to trees Destroyed during development.
- **Critical Root Zone (CRZ).** The minimum undisturbed soil and rooting area necessary for tree health and stability (from the most current revision of the ANSI A300 Part 5). For the purposes of this article, for a free-standing tree with no apparent root restrictions, the CRZ shall consist of a circle centered on the tree having a radius of one foot for each one inch of DBH of the tree. For example, for a 10-inch DBH tree, the CRZ is a circle centered on the tree with a radius of 10 feet. Adjustments to the CRZ, called Net CRZ, may be made by the City Arborist if justified by specific documented site conditions which indicate an irregularly shaped root zone based on obstructions such as buildings, retaining walls, or streets.
- **Dead, Dying, or Hazardous (DDH) Tree.** A tree that has been determined by the City Arborist to be dead, or to meet the definition of a Dead, Dying, or Hazardous Tree.
- **Dead Tree-** Tree has skeletal remains with no live twigs, lack of foliage or total browning of foliage during growing season. During dormancy, dead trees are characterized by peeling or sloughing bark, lack of buds, and dry and brittle twigs.

- **Destroy.** To perform or knowingly allow to be performed any act, or failure to act, for which the conduct will more likely than not cause the tree to die within a period of five years as determined by the City Arborist or City Forester. Examples of such conduct include without limitation: (1) failing to protect 100% of a tree's Structural Root Plate during construction; (2) failing to protect 80% of a tree's Critical Root Zone during construction or 67% of the Critical Root Zone with a prescription approved by the City Arborist prior to construction; (3) damaging more than 20% of a tree's Critical Root Zone by trenching or by performing grade changes (including lowering or filling the grade of soil); (4) cutting, girdling, or inflicting other severe Mechanical Injury to the trunk, Structural Root Plate, roots, or other vital sections of a tree; (5) removing in excess of 20% of the live crown of a tree within two growing cycles; (6) damaging the Critical Root Zone of a tree by applying toxic substances (including without limitation solvents, oils, gasoline and diesel fuel), operating heavy machinery or storing heavy materials on the Critical Root Zone; (7) burning a tree; or (8) topping, tipping, flush cutting, or utilizing any similar improper pruning practices upon a tree.
- **Development.** See Land Disturbance
- **Diameter at Breast Height (DBH).** The diameter of the main stem of a tree as measured in inches 4.5 feet above the natural grade at the base. Multi-stemmed trees shall be measured at 4.5 feet above natural grade by adding the diameter of the largest stem and one-half the diameter of each additional stem. A stump, less than 4.5 feet tall, shall be measured across the top and be considered the DBH of an illegally destroyed tree for the purpose of calculating Recompense. The DBH of a crepe myrtle shall be measured by adding the largest three canes together.
- **Disease.** Any fungal, bacterial, or viral infection that will likely result in structural failure or death of the tree within two years and where treatment will not prevent the death of the tree, as determined by the City Arborist.
- **Dying Tree.** A tree that is diseased, injured, or in terminal decline to the extent that death is more likely than not within two years based upon a visual inspection and evaluation of canopy, leaves (if present), trunk, buttress roots, and other factors.
- **Established Recompense Value.** The dollar value assigned by the City to compensate for the removal or destruction of a healthy tree. The Established Recompense Value shall be expressed as a certain number of dollars per caliper inch of Replacement Trees owed. This figure shall be reevaluated every two years and the value posted on the webpage of the Arborist Division.
- **Excellent Condition (of a tree).** A tree that has no apparent problems with its root, trunk, scaffold branches, twigs, or foliage. Insect infestation or other pathological problem may be present, but are minor. Overall color or shoot growth is normal or above normal for the species. Canopy foliage is full. There is no epicormic sprouting.
- **Fair Condition (of a tree).** A tree that has major problems with its root, trunk, major branches, twigs, or foliage. Insect infestation or other pathological problems, if present, may be severe. Overall color or shoot growth is below normal for the species. Less than 30% loss of live canopy. Depending on species, epicormic sprouting may be present along scaffold limbs and the trunk.
- **Floodplain.** An area of land adjacent to a stream or river that has a 1% annual chance of flooding during periods of high discharge. The presence and boundaries of a floodplain are determined through a flood study performed by an engineer or by the delineation on the Federal Emergency Management Agency's 100-year floodplain map.

- **Flush cutting.** The improper removal of limbs by cutting immediately adjacent to the trunk, destroying the protective branch collar.
- **Good Condition (of a tree).** A tree that has minor problems with its root, trunk, major branches, twigs, or foliage. Insect infestation or other pathological problem may be present but not severe. Overall color or shoot growth is normal for the species. Canopy foliage is full and may have an insignificant amount of decline. Depending on species, minor epicormic sprouting may be present along scaffold limbs and the trunk.
- **Green Infrastructure.** For the purposes of this ordinance, 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.
- **Green Roof.** A building roof that is partially or completely covered with vegetation and a growing media over a waterproof membrane used to manage stormwater runoff and provide some of the environmental benefits provided by trees. A Green Roof 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.
- **Growing Season.** The portion of the year in which weather conditions and day length are most conducive to the growth of trees and other vegetation. In Atlanta the growing season is typically March through September.
- **Hazardous Tree.** A tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the City Arborist using the standards established by the most recent revision of the ANSI A300-Part 9.
- **Heat island.** A ground area covered by an impervious surface that retains solar or other heat energy and thereby contributes to an increase in the average temperature of the ecosystem. An external heat island is one situated outside the boundaries of a site plan, including but not limited to public streets. An internal heat island is one found within a designated site, including but not limited to rooftops, patios, driveways, and other vehicular maneuvering or parking areas.
- **Heritage Tree.** A tree that has been designated, 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's arboricultural specifications and standards of practice. Also, a Heritage Tree is one that has been designated upon application by a City Arborist or any other interested person, to be of notable value because the tree contributes to a significant view or spatial structure of a setting, the tree is an exemplary representative of a particular genus or species, or the tree possesses exceptional aesthetic quality. A complete listing of the location of all designated Heritage trees within the City of Atlanta is maintained by the Tree Conservation Commission and maintained on file with the Office of the Municipal Clerk.
- **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.

- **Impervious Surface.** A surface that does not allow for infiltration or penetration of liquids, typically created by roads, sidewalks, driveways, buildings, and other hard surfaces.
- **International Society of Arboriculture (ISA).** A non-profit organization serving arborists, the tree care industry, and consumers as a scientific and educational organization.
- **Invasive species.** A non-native tree, plant, insect, or other organism likely to spread, disrupting the natural balance of an ecosystem. A list of invasive tree and vine species is included on the list of Undesirable Tree Species maintained and available from the Arborist Division.
- **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.
- **Landscape Project.** For the purposes of this article, a project that proposes to remove Regulated Trees for which no other City of Atlanta construction permit is required besides a tree removal permit.
- **Mechanical Injury.** A wound caused by a tool, machine or motorized equipment which exposes or destroys the cambium layer of a tree.
- **Mid-story Tree.** A tree that normally attains a DBH of 10 to 25 inches, a height of 30 to 60 feet. Examples include Georgia oak (*Quercus georgiana*), Chinquapin oak (*Quercus muehlenbergii*), Persimmon (*Diospyros virginiana*), American yellowwood (*Cladrastis kentukea*), American hornbeam (*Carpinus caroliniana*), American hophornbeam (*Ostrya virginiana*), Blackgum (*Nyssa sylvatica*), and others on the City's Recommended Tree List.
- **Modified Project Area.** For Commercial projects that disturb a small portion of a large site, the Modified Project Area is a portion of the site, defined by logical internal site features such as driveways, project phase boundaries, parking lots, streams and other natural features, that may be allowed to be used to determine Priority Tree preservation, Replacement, and Recompense; Use of the Modified Project Area alleviates the need for the applicant to provide a survey of the entire site.
- **Native Tree.** A tree species that has evolved to grow in a geographic area without having been introduced through human intervention.
- **Non-Priority Tree.** All Regulated Trees that are not DDH, Nuisance Trees, Undesirable Species, and do not meet the definition of Priority Tree.
- **Nuisance Tree.** A tree with uncorrectable defects severe enough to pose a danger to people or buildings on public property under normal conditions, as determined by the City Arborist.
- **Overstory Tree.** A tree that normally attains a DBH in excess of 25 inches and a height in excess of 60 feet. Examples include White oak (*Quercus alba*), Overcup oak (*Quercus lyrata*), Nuttall oak (*Quercus nuttalli*), Post oak (*Quercus stellata*), Tulip poplar (*Liriodendron tulipifera*), Pignut hickory (*Carya glabra*), Mockernut hickory (*Carya tomentosa*), American beech (*Fagus grandifolia*), and others on the City's Recommended Tree List.
- **Pine.** A tree that is a member of the genus *Pinus* in the family Pinacea. This does not include other needled trees in species commonly known as cedar, fir, spruce, and hemlock.
- **Planting Season.** The portion of the year most favorable for planting trees, ideally when trees are dormant and weather conditions are cool. Typically October to March in Atlanta

- **Priority Tree.** A tree that provides the highest level of ecosystem services to the City of Atlanta. Priority Trees are those trees that are in Good or Better Condition that meet the size and species criteria listed in the Priority Tree Table in Table TPO-1 located in section 158-54.
- **Private Tree.** For purposes of this article, a tree for which more than 50% of the flare of the tree, where the tree interfaces with the earth, is located on private property.
- **Pruning.** The selective removal of plant parts. For the purposes of this article, 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 the ANSI A300 series of standards for tree care management.
- **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 Tree.** For purposes of this article, a tree for which at least 50% of the trunk flare, found at the bottom of the tree where the tree interfaces with the earth, is located on public property.
- **Public Property.** All property owned by the City, including without limitation City parks, Atlanta Beltline, streets, sidewalks and other rights-of-way, and all other governmental property for which the City has jurisdiction.
- **Recommended Tree List.** A list of preferred species for planting and Replacement Trees in the City of Atlanta.
- **Recompense.** Monetary compensation assessed to recoup lost public value of healthy trees that are removed or destroyed. Recompense is required when tree replacement is not feasible and is calculated in accordance with the formulas contained in this article.
- **Registered Consulting Arborist (RCA).** A professional certification for arborists from the American Society of Consulting Arborists.
- **Registered Tree Professional.** Any person who is a Georgia Registered Forester or ISA Certified Arborist, or an American Society of Consulting Arborists (ASCA) Registered Consulting Arborist and who is currently registered with the City of Atlanta Arborist Division per section 158-35
- **Regulated Tree.** Any tree other than a Pine with a DBH equal to or greater than six inches, or a Pine with a DBH equal to or greater than 12 inches DBH.
- **Replacement Tree.** Planting new trees to restore the lost public value of healthy trees that are removed or destroyed according to the requirements of this article. Replacement Trees are expressed as a certain number of 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 injured, Destroyed or damaged in violation of this article, there may be more than one Responsible Party. A Responsible Party may include without limitation: the owner of the property on which a tree of concern is located; an agent of the owner; a tree removal company; a builder; and a landscaper.
- **Right-of-Way Tree.** A tree growing within a transportation right-of-way that is Public Property.
- **Root Chase.** A continuous soil trench created with culvert or piping material under pavement that allows tree roots to connect with nearby open space. Typically used in parking lots and for street tree plantings to provide more rooting area for trees.

- **Single Family Residential Development.** For the purposes of this article, development or redevelopment of a lot containing a single or two-family dwelling or duplex as the primary structure.
- **Site Density.** The 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. Site Density may be met through newly planted trees, Priority or Non-Priority Trees preserved on site, or a combination of the two.
- **Site Plan.** A drawing submitted with an application for a tree removal permit, depicting the existing and proposed site conditions, including a full survey of all Regulated Trees and all other information required under section 158-56.
- **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.
- **Spiking.** The use of metal spurs or gaffs to climb live trees, which is prohibited by this article.
- **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 play activities.
- **Standard Replacement.** The unmodified Replacement Tree requirement: required Replacement inches equals .75 X DBH of Priority Tree and .5 X DBH of a Non-Priority Tree
- **Stream Buffer.** For the purposes of this article, 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.
- **Street Tree.** A tree growing on public or private property whose trunk is within 15 feet of a public or private roadway, public sidewalk, or public paved multi-use trail.
- **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 street lights.
- **Structural Root Plate (SRP).** The circumferential area around a tree within which roots provide stability against windthrow. The radius of the root plate is a function of a tree's DBH.

| Size of Structural Root Plate by DBH of Trees | | | | | | | | | | |
|---|----|------|-------|--------|--------|--------|--------|-------|--------|--------|
| DBH (inches) | 7" | 8" | 9-11" | 12-14" | 15-19" | 20-24" | 25-31" | 32" | 33-38" | 39-48" |
| SRP distance (radius') | 5' | 5.5' | 6' | 7' | 8' | 9' | 10' | 10.5' | 11" | 12' |

- **Suspended Paving or Suspended Pavement.** Any technology that supports the weight of paving and associated pedestrian or vehicle loads over a void space that can be filled with uncompacted soil that allow free root growth for trees planted within hardscaped areas.
- **Swimming Pool.** For the purposes of this section a swimming pool is defined to be a pool, tank or reservoir constructed and adapted for 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 Site Density, up to 20 feet of hard surfaced deck surrounding the pool may be included in the pool area.

- **Tipping.** The cutting of a limb of a tree in such a manner as to leave a prominent stub extending beyond a branch node or the trunk, which is prohibited by this article.
- **Topping.** Reduction of tree size using internodal cuts without regard to tree health or structural integrity, which is prohibited by this article. For the purposes of this article, topping refers to the cutting of a single leader trunk or cutting a co-dominant leader in such 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 Conservation Commission.** A citizen board, appointed by the Mayor and City Council Members to assist in the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta. The Commission hears and decides appeals of decisions of administrative officials related to trees.
- **Tree Impact Statement.** A standard form, available from the Arborist Division, that the applicant completes for a building, demolition, or land disturbance permit. This form shall only be used in lieu of a tree survey to prove there are no trees on the property.
- **Tree Replacement Plan.** A drawing which contains the following: a plan showing the location, size, and species of existing and Replacement Trees on the property for which a permit is sought; a table detailing by species and the replacement trees to be planted; the minimum Site Density and other provisions as required by the City Arborist. The information on a Tree Replacement Plan may be included on a Site Plan if it can be done clearly, making a separate Tree Replacement Plan unnecessary.
- **Tree Trust Fund.** A municipal fund that includes monies collected from Recompense and fines to be spent on tree installation, maintenance, urban forestry-related environmental education, and other efforts supportive of urban forest management in the City.
- **Understory Tree.** A tree that normally attains a DBH of less than 10 inches and a height of less than 30 feet. Examples include Pagoda dogwood (*Cornus alternifolia*), Redbud (*Cercis canadensis*), Sassafras (*Sassafras albidum*), Serviceberry (*Amelanchier arborea*), Fringe tree (*Chionanthus virginicus*), and others included on the City's Recommended Tree List.
- **Undesirable Tree Species.** Undesirable species can be native or non-native trees that have demonstrated sufficient negative qualities as to be detrimental to the long-term health of the City of Atlanta's urban forest. Those qualities include without limitation: weak branch structure, chronic pest or disease problems, invasive tendencies, and over-population. A current list of undesirable tree species is maintained by and available from the Arborist Division.
- **Wetland Buffer.** For the purposes of this article, 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 2- Applicability and Exemptions

158-37 Applicability. This ordinance shall apply to the following:

- (a) All trees on City-owned property.
- (b) All Regulated Trees on private property.

158-38 Exemptions and Variations.

- (a) 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.
- (b) Arboreta and botanical gardens. All Non-Priority trees in arboreta or licensed tree museums or public botanical gardens which meet the following conditions shall be exempt from the terms of this article:
 - (1) The arboretum or botanical garden employs a full-time arborist or horticulturist;
 - (2) The arboretum or botanical garden is located upon property owned by the City or the Atlanta Development Authority d/b/a Invest Atlanta; and
 - (3) Trees were planted for the sole purpose of display or public education and are accessible to the public.
- (c) Environmental restoration or mitigation projects with the sole purpose of restoring ecological function to a degraded natural system or remediating environmental contamination shall be exempt.
- (d) The City Arborist may allow modest variations or special exceptions to any portion of this article in the case where the strict application of a particular regulation or regulations is not necessary for the accomplishment of public purposes or the provision of public protection, at the time or in the future.
 - (1) When such variations or exceptions are granted, a written explanation of the variation(s) or exception(s), and rational for granting them, shall be included in the appropriate project record and available to the public.

158-39 Emergencies.

- (a) During and immediately after a declared public emergency, such as a tornado, ice storm, flood, or any other act of nature, the requirements of this article may be waived temporarily by the Mayor or the Mayor's designee.
- (b) Requirements and conditions for removal and destruction of trees for public safety emergency are below:
 - (1) A public safety emergency exists, and removal of the subject tree(s) will be reasonably likely to abate the emergency;
 - (2) A public safety emergency existed, and the removal of the subject tree(s) abated the emergency; or
 - (3) A public safety emergency existed, and it appeared reasonably likely that the removal of the trees would abate the emergency.

Division 3- General Standards for Public and Private Trees

158-40 Damage and Destruction of Trees.

- (a) Private Trees. No person may Destroy, remove, or Impact a Regulated Tree on private property without a permit from the Arborist Division.
- (b) Public Trees. No person shall damage, prune, remove, maintain, plant, or otherwise affect any tree of any size in any public right-of-way, park, or other City property without having first obtained a permit or other authorization from the City.

- (c) 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 Department of City Planning.

- (1) Replacement or Recompense will be required based on the DBH of the tree, but shall be no less than one Replacement tree for every tree Destroyed or removed.

158-41 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.
- (c) To avoid inadvertently damaging trees, it is recommended that pruning and maintenance of trees on private property should be done according to ISA best practices or guidance provided by the Arborist Division or the University of Georgia Cooperative Extension Service.

158-42 Protection of the Public Right-of-Way Clearance, Traffic Safety, and Nuisance Trees.

- (a) Pruning for clearance and traffic safety.
 - (1) Private Trees along roadways, sidewalks, and multi-use trails shall be maintained to provide a minimum clearance of eight feet over sidewalks and trails; and clearance of 14 feet over the paved portion of streets.
 - (2) Any owner of property abutting a public street, sidewalk, or multi-use trail, shall prune any tree or other vegetation on the owner's property so that no tree or other vegetation shall obstruct or interfere with the view to oncoming traffic or pedestrians, the view of traffic signs or signals, the view in the "visibility triangle" as defined in section 16-28.008(9), nor obstruct or interfere with free passage of pedestrians on any sidewalk or trail or the free passage of vehicles on the paved portion of any street or with the extension or maintenance of wires for electric street lights.
 - (3) When the City Arborist is made aware of and confirms with the Department of Transportation that a tree on private property obstructs passage or views as described in section 158-42(a)(2), the City Arborist's office shall commence abatement procedures.
- (b) Nuisance Trees
 - (1) Any dead, diseased, or damaged tree or part of a tree is a nuisance when natural forces may 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 nuisance tree is brought to the attention of and confirmed by the City Arborist, the Office of Buildings shall commence abatement proceedings.
- (c) Abatement procedures: Notice to owner to remedy conditions; failure to comply. 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;, the City Arborist shall give written notice to the owner or the person in possession, charge or control of the property , that

assessment of the tree and that the tree shall be pruned or removed, or infested wood removed, as determined by the City Arborist. The notice shall state that such work be done by the property owner within 30 calendar days. Such notice shall further state that unless the tree or part thereof is not voluntarily removed within the time specified, the City Arborist may issue a citation requiring the party notified to appear in the municipal court to determine whether the tree or part of a tree involved create an obstruction, constitute a nuisance, or is contagiously diseased or infested and should be abated to prevent the spread of the disease or infestation.

- (1) Hearing; failure to comply with order to abate. 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. Each 10 day period that passes without the nuisance being abated shall constitute an offense.
- (2) Emergencies. Such nuisance trees may pose immediate hazards and, because of the imminence of danger, are too great a risk to leave standing while standard procedures for giving notice take place. In such cases where danger to the public is imminent, the City of Atlanta may to enter the property and abate the nuisance. The City shall have the authority to obtain reimbursement from the property owner for the reasonable costs of such work.
 - a. Work within the public Right of Way. 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.

158-43 Minimum Tree Protection Standards; During Construction, Demolition or any other Land Disturbing Activities.

- (a) Pre-construction Meeting. The City Arborist may require an on-site pre-construction meeting for any project, due to its individual circumstances.
- (b) An on-site pre-construction or pre-demolition meeting with the City Arborist is required for projects meeting the following descriptions:
 - (1) Demolition projects;
 - (2) Any project in which an Arboriculture Prescription is required for a tree due to approved CRZ impacts of greater than 20%, per section 158-43; or
 - (3) Any project for which the arborists preliminary approval is appealed to the Tree Conservation Commission.
- (c) When a pre-demolition or pre-construction meeting is required, no land-disturbing activities other than installation of erosion control and tree protection measures can proceed 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.
- (d) A minimum of 80% of the CRZ must be protected and preserved at natural grade, with natural ground cover.
 - (1) 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 158-44.
- (e) No cut, fill, or Land Disturbance of any kind is allowed within the Structural Root Plate area.

- (1) 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.
 - (f) 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.
 - (g) Fencing must be erected at the perimeter of each CRZ and the limits of site disturbance as shown on the approved plans or as directed by the City Arborist. Fences must comply with section 158-56(e). Tree protection fences must remain in place and upright until such time as the construction activities have ceased or the final landscaping of a site requires their removal. At no time is tilling or other ground disturbance is allowed within the protected portion of a tree's CRZ as depicted on the project plans.
 - (h) Trees which must be Pruned to allow for clearance on construction sites must be pruned according to ANSI standards for pruning.
 - (i) No materials storage or vehicle parking may occur within the protected portion of the CRZ of all trees that are to be protected and preserved on site.
 - (j) 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.
 - (k) 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.
- 158-44 Greater Impacts Allowed.
- (a) The criteria in section 158-43 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 and a surety bond as described below.
 - (1) 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) The Prescription written by the Registered Tree Professional is 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; and
 - (3) Surety bonds required.
 - a. Where a tree on private property has been required by the City Arborist to have an Arboricultural Prescription, a surety bond shall also be posted by the applicant. The performance bond shall be issued by a bonding company licensed and registered in Georgia. The bond shall include:
 - 1. The Standard Recompense value of the tree;
 - 2. \$1,000 per tree;

3. An estimated amount for the removal of the tree; and
 4. If a Single Family Residential project qualifies for the Priority Tree preservation incentive described in section 158-58(b), and if one or more of the bonded trees are Priority Trees that, if Destroyed, would have make the project ineligible for the Priority Tree preservation incentive, the bond must include the value of the Priority Tree incentive as a separate line item.
- b. The bond document must contain the address and permit number of the project, as well as a list of all bonded trees that includes their species and size in DBH.
 - c. The terms of the bond shall extend from the beginning of the project until three full Growing Seasons after the issuance of the certificate of occupancy or last treatment of the Arboriculture Prescription, whichever is greater. The bond may not be released until the City Arborist's inspection and determination of the tree's health at the end of the bonding period. Final bond inspection must take place before the trees have lost their leaves at the end of the Growing Season.
 - d. The surety bond shall be written to the benefit of the City and shall obligate the bonding company to pay the City the full bond amount for each tree that is not in the same condition, Excellent, Good, or Fair, as documented prior to construction, or as determined by the City Arborist.
 - e. Failure to maintain or renew the surety bond, should it expire prior to the City Arborist's final sign-off and release of the bond, shall be a violation of this article.
 - f. At the end of the bonding period, the City Arborist shall inspect the bonded tree. If the tree is determined to be dead or dying, the bond will be redeemed by the City and applicant notified. If the tree is determined to be healthy, the applicant shall be informed in writing that the bond may be cancelled.

Division 4- Removal of Dead, Dying, or Hazardous Trees, and Undesirable Tree Species

158-45 Dead, Dying or Hazardous (DDH) Trees.

Any tree regulated by this article that is in a DDH condition due to structural or vitality failures or insect and disease infestations, and any tree which is causing severe damage to structures or infrastructure, as described in the City Arborist's standard operating procedures for DDH trees, may be removed after obtaining a permit.

158-46 Permit to Remove Dead, Dying, or Hazardous tree; Generally.

- (a) Applications to remove DDH trees may only be submitted by the owner of the property on which the subject tree is growing, or their agent.
- (b) Applications to remove DDH trees must be submitted separately from construction, demolition, or landscaping related tree-removal permits.
- (c) Applications for DDH trees may be submitted to the Arborist Division by e-mail, online, or other means. Each application shall include the address of the property and the owner's name, phone, and email address, as available. If applicable, it shall also include the name, phone, and email of the tree service engaged to conduct the work. Each tree shall be identified by species (if known, or at least listed as Pine or other, DBH, location, and any identifying characteristics or added markings. Applicants are encouraged 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. Results shall indicate if the tree was approved, denied, or Additional Information Required as determined by the City Arborist.

- (1) For DDH permit applications involving numerous trees, the City Arborist may require the submittal of a tree condition assessment by a Registered Tree Professional.
- (d) The Arborist Division shall maintain standard operating procedures for DDH trees, which include assessment criteria for determining whether a tree is DDH. 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.
 - (1) The City Arborist shall make the final determination of whether a tree is DDH, and shall approve or deny, or request additional information, based on the information submitted with the application and physical inspection of the tree, as necessary.
- (e) No posting or preliminary approval required. Removal of DDH trees does not require preliminary approval as set forth in section 158-52(d)(4) or notification and posting as set forth in section 158-71.
- (f) Replacement and Recompense. Removal of DDH trees are not subject to the Replacement or Recompense requirements of sections 158-69 and 158-70 except as follows:
 - (1) Illegally destroyed trees pursuant to section 158-46(j)(2); or
 - (2) Trees planted as a requirement of this article on commercial projects pursuant to section 158-68(f)(3.)
- (g) Right of Appeal. No appeal may be filed for a notice of approval for a DDH tree. Only the applicant or their agent may appeal a notice of denial for a DDH removal permit to the Tree Conservation Commission as provided in section 158-72(3) of this article. ,
- (h) Permit approval and expiration. Permits to remove DDH trees shall be valid for one year from the date of issuance, though the City Arborist may extend the expiration date of the permit by up to six additional months.
- (i) Permits available for public inspection. All DDH tree removal permits shall be available for public inspection on the Arborist Division's website.
- (j) Permit to remove DDH trees; imminent danger.
 - (1) Authorization for immediate removal. When an applicant believes and can demonstrate that a tree on their property poses imminent 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 imminent danger 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. Should the City Arborist deny the permit, the tree shall not be deemed imminently dangerous. If the applicant is unable to reach the City Arborist, they may remove the tree without approval. Within five working days of said removal, the applicant shall apply for retroactive approval by submitting to the City Arborist a tree removal application and photos demonstrating that the tree at issue was imminently dangerous, and any other information reasonably requested by the City Arborist.
 - (2) City Arborist Findings. Where the Arborist finds that the applicant did not follow the procedures of this subsection or failed to demonstrate an imminent danger, the City may require Replacement planting or charge the Responsible Party applicable Recompense and fines per section 158-81.

- (3) Right of appeal. No one other than the applicant or property owner shall have the right to appeal a decision by the City Arborist regarding imminent danger or tree removal associated therewith. Appeals must be filed within 30 days of the applicant's/owner's receipt of the City Arborist's written decision and shall meet the requirements of section 158-72(c).

(k) Dead, Dying and Hazardous Public Trees

- (1) Reporting public property trees in DDH condition. Any person who believes that a tree on City-owned property is in DDH condition may request an inspection of the tree by calling the Department of Parks and Recreation or the ATL311 system and providing the nearest street address to the tree.
 - a. Suspected DDH Trees on Public Property that would be removed or impacted as part of a development project should not be reported to the Department of Parks and Recreation. Instead, applications for DDH permits for trees on public property associated with a construction permit should be submitted to the Arborist Division in the Office of Buildings.
- (2) Reporting public property trees posing imminent danger. 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.
- (3) City Arborist Determination. The City Arborist will determine the tree's condition, assign a response priority, and prescribe appropriate action as needed.

158-47 Removal of Undesirable Tree Species.

- (a) The list of Undesirable Tree Species, which includes Invasive tree and vine species, is maintained by, and available from, the Arborist Division.
- (b) Undesirable Species on Public Property. At the City Arborist's discretion, Undesirable Species may be removed from public property. A permit for removal is required, though no posting, Replacement, Recompense, or option to appeal are required.
- (c) Undesirable Species on Private Property.
 - (1) Permit Required. Applications to remove Undesirable Species may only be submitted by the owner of the property on which the subject tree is growing, or their agent. Prior to removal or Destruction of an invasive or Undesirable Species tree, a permit must be approved from the City Arborist
 - (2) Application. Permit submittal requirements and procedures are the same as those for DDH trees.
 - (3) Replacement. Where more than 10 Undesirable Tree Species are removed on a single property, replanting may be required if the property at issue does not meet the Site Density requirement after the Undesirable Tree(s) Species is removed. The requirements of this subsection notwithstanding, in no event shall the applicant be required to plant more trees than the quantity of undesirable trees removed. Replacement tree planting requirements may be waived or modified by the City Arborist based on the Site Density, site conditions, and the nature and intent of the project.
 - (4) Posting. No notification or posting is required to obtain a removal permit.
 - (5) Recompense. No Recompense shall be assessed for removal of an Undesirable Tree Species unless the tree was removed illegally.

- (6) Appeals. Only the property owner or applicant may appeal a notice of denial to the Tree Conservation Commission. Appeals must be filed within 15 business days of the applicant's/owner's receipt of the City Arborist's written decision and shall meet the requirements of section 158-72(c).
- (d) Applications to remove DDH Trees or Undesirable Tree Species within a Stream or Wetland Buffer.
 - (1) Dead, Dying, or Hazardous Trees or a tree of an Undesirable Tree Species within a Stream Buffer, as described in Atlanta City Code section 74-303, may be removed as part of permitted development or land disturbing activities within the Stream or Wetland Buffer if a buffer encroachment has been authorized per Atlanta City Code section 74-306.
 - (2) An application to remove DDH trees or Undesirable Tree Species within a Stream or Wetland Buffer may also be submitted for hazard mitigation, forest management, or Stream or Wetland Buffer enhancement activities that are not associated with permitted development or land disturbance activity.
 - a. The applicant is responsible for being aware of the presence of the Stream or Wetland Buffer and for ensuring that the proposed project is in accordance with state and local buffer regulations.
 - 1. DDH trees or trees of an Undesirable Species must be removed from the buffer without land disturbance. Trees shall be cut at the base and stumps shall remain.
 - 2. Creation of roads or other disturbance is prohibited without an authorized buffer encroachment from the City.
 - 3. Buffer may not be denuded. Removal of a significant portion of the vegetation within a Stream Buffer, even if Invasive or Undesirable, may be a violation of State and local buffer regulations. Questions about the scale of allowable vegetation removal should be directed to the Department of Watershed Management's Office of Site Development.
 - b. Appeals. A tree removal permit for a DDH tree or a tree of an Undesirable Species that is denied because the method of tree removal or the scale of removal of Undesirable Species is not in compliance with the City or state Stream or Wetland Buffer regulations may not be appealed to the Tree Conservation Commission.

Division 5- Procedures for Obtaining a Tree Removal Permit, Generally

158-48 General requirements.

- (a) Permit required. No person shall directly or indirectly remove or Destroy a Regulated Tree without first obtaining a permit from the City Arborist, except as otherwise set forth in this article.
- (b) Replanting or Recompense required. Any person removing or destroying a Regulated Tree must replace one or more trees 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 are available for public inspection on the City's online permitting system.

158-49 Reasons for removal and destruction of Regulated Trees.

- (a) Trees on public or private property may be permitted for removal or destruction only for the following purposes, provided that the requirements of this article are met.
 - (1) Removal of DDH trees. See section 158-45;

- (2) Removal or mitigation of Nuisance Trees. See section 158-42(b);
- (3) Removal of Undesirable Species. See section 158-47;
- (4) Public Safety Emergencies. See section 158-39;
- (5) Construction, demolition, or Land Disturbance that requires a construction, demolition, or land disturbance permit; or
- (6) Landscaping that otherwise requires no construction, demolition, or land disturbance permit.

158-50 Site Selection for City Facilities.

- (a) The City Arborist should be consulted during site selection to review land purchase or acquisition and concept plans for City facilities and other City sponsored or constructed capital projects, other than linear infrastructure, prior to the final land purchase or acquisition. If the proposed site for the capital project has significant trees or tree cover, alternative sites should be considered, particularly grayfields or previously developed parcels.

158-51 Removal and Destruction of Regulated Trees for the Purposes of Construction, Demolition, and Landscaping, General Procedures.

- (a) For purposes of this section, construction shall refer to both construction, demolition, Land Disturbance, and landscaping work on both public and private property unless specifically stated otherwise.
- (b) 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 158-54.
- (c) Preservation Goal. This ordinance establishes two standards for Priority Tree preservation on Single Family Residential projects. All Single Family Projects must comply with one of the two standards. Refer to section 158-57.
- (d) Site Density requirement. All projects other than demolition, Public Linear Infrastructure Projects, and the infrastructure phase of Single Family Residential subdivisions have a required minimum number of trees, referred to as Site Density, that must be growing on the property at the time of project completion. Site Density may be met through Priority and Non-Priority Trees preserved on site, trees planted on site, or a combination of the two. All projects must meet the required Site Density unless otherwise exempted in this ordinance.
- (e) Replacement Tree planting and Recompense. In addition to meeting the Site 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. If the required trees, per the tree Replacement calculations in section 158-69, are not planted on or off-site, a payment to the Tree Trust Fund may be made in lieu of planting trees after the Site Density requirement is met. No payment to the Tree Trust Fund may be made in lieu of meeting the Site Density requirement.

158-52 Procedure for Obtaining a Tree Removal Permit for 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 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 tree in order to accommodate landscaping projects and other activities for which a construction permit is not otherwise required.
- (c) Pre-Application Conference
 - (1) A pre-application conference with the City Arborist office is highly recommended for all projects that propose to remove or Destroy trees in order to insure that the design is in line with this article. Plans will be reviewed again when submitted to the Office of Buildings for a construction permit.
- (d) Application for a Tree Removal Permit.
 - (1) Site Plan submittal. Any person or entity applying for a construction, demolition, or Land Disturbance permit; or a person applying for 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 158-56 and shall include a survey of all Regulated Trees. All Boundary Trees are also required to be shown and labeled.
 - a. Tree survey exceptions.
 - 1. For sites that are three or more acres and are densely forested, in lieu of a tree survey of the entire property, the City Arborist may allow a Registered Tree Professional to provide an estimate of the number of Priority Trees, other trees, the species composition and their typical size based on an assessment of sample plots across the site, following a methodology approved by the City Arborist.
 - 2. For projects impacting a small portion of a site, the survey need only show those trees whose CRZ extends into or within 10 feet of the limits of disturbance. Additional trees shall be surveyed to the degree necessary to prove that minimum Site Density requirements and Priority Tree preservation standards are met.
 - 3. For large Commercial projects developing only a portion of the site, a survey of the entire site will not be required if the City Arborist approves the use of a Modified Project Area as described in section 158-63(i).
 - (2) Review and requirements for issuing a construction, demolition, or landscaping related tree removal permit.
 - a. To issue a tree removal permit, the City Arborist must review the application and determine the following:
 - 1. The application and plans submitted to the City are accurate;
 - 2. Applicant has submitted a letter of agreement from the adjacent property owner for all properties from which Boundary Trees are proposed for removal or Destruction, the CRZ of the Boundary Tree is impacted between 20-33%, or applicant has submitted proof of notification of the project to abutting neighbors as required for projects not subject to public appeal as described in section 158-59(a);

3. The design is appropriate to the site conditions, 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 in accordance with section 158-56(e);
 5. For a Single Family Residential Development, one of the tree preservation goals described in section 158-57 are met;
 6. For landscaping projects, no Priority Trees are proposed to be Destroyed or removed; and
 7. For all projects other than demolition and the infrastructure phase of Single Family subdivisions and Public Linear Infrastructure Projects, the minimum Site Density, Replacement and Recompense, and other requirements and standards in this article are met.
- (3) Protection for trees in City of Atlanta Stream and Wetland Buffers and Floodplains.
- a. No Priority or Non-Priority Tree growing within a Stream Buffer or Wetland Buffer may be removed or destroyed unless a Stream or Wetland Buffer encroachment has been authorized per section 74-306 of the Atlanta City Code.
 - b. A maximum of 10% of the number of Priority or Non-Priority Trees growing on any one parcel and within a 100-year Floodplain, may be approved for removal or destruction.
- (4) Notice of City Arborist Decision of Preliminary Approval.
- a. The City Arborist shall give a notice of preliminary approval or denial consistent with the terms of this article. The notice of preliminary approval shall include the approved tree Replacement or monetary Recompense requirements associated with the removals as provided in sections 158-69 and 158-70 , and tree bonding requirements, as provided section 158-44(3).
- (5) Appeals of Denial of Application or Re-Submission.
- a. A notice of denial may be appealed to the Tree Conservation Commission by the applicant or applicant's agent only; or
 - b. An applicant may submit a new application at any time after receiving a notice of denial.
- (e) 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 Prescriptions, submittal of Boundary Tree agreements or proof of neighbor notification per section 158-59(a), and, as necessary, proof of bonding.

Division 6- Tree Valuation and Plan Submittals

158-53 Purpose and Applicability.

- (a) Purpose. Trees are valued differently based on species/genus, size, and condition to identify and prioritize the preservation of those trees that contribute the greatest environmental services to Atlanta's residents and visitors.

- (b) Applicability. The provisions of this Section shall pertain to all Regulated Trees on public and private property.

158-54 Tree valuation by Size, Species, and Condition.

- (a) Priority Trees. As defined in section 158-36, a tree that provides the highest level of ecosystem services to the City of Atlanta. Priority Trees are those trees that are in Good or Better Condition that meet the size and species criteria listed in the Table TPO-1 in section 158-54.
- (1) Non-Priority Trees. All Regulated Trees that do not meet the size or condition requirements to be designated Priority Trees, and are not DDH, Nuisance Trees, or of an Undesirable Species, are classified as Non-Priority Trees.
- (b) Site conditions. Trees may not be defined as Priority Trees if they are threatened by site conditions that will likely lead to the death or failure of the tree, such as growing on an undercut and severely eroding stream bank; or growing in or against structures that cannot be removed or repaired without destroying the tree, such as a tree growing in an above-ground planter or a root flare growing over a public street.
- (1) The City Arborist shall make final determination on designation of Priority trees.

Table TPO-1: Priority Trees

| Group 1: 18 inches DBH and greater | |
|---|--|
| Common Name | Botanica Name |
| American Holly | <i>Ilex opaca</i> |
| Basswood | <i>Tilia spp.</i> |
| Beech | <i>Fagus grandifolia</i> |
| Black Gum | <i>Nyssa sylvatica</i> |
| Cypress, Bald and Pond | <i>Taxodium distichum and ascendens</i> |
| Elms, American, Slippery, and Winged | <i>Ulmus americana, rubra, and alata</i> |
| Hickories (<i>Carya</i>) other than pecan | <i>Carya spp.</i> |
| Maples - Box Elder (<i>Acer saccharinum</i> and <i>negundo</i>) | <i>Acer negundo</i> |
| Oaks (all native oaks other than <i>Q. nigra</i> , <i>Q. phellos</i> , and non-native oaks such as Chinese Evergreen) | <i>Quercus spp.</i> |
| Red Mulberry | <i>Morus rubra</i> |
| Virginia Red Cedar | <i>Juniperus virginiana</i> |
| Walnut | <i>Juglans nigra</i> |
| All midstory native species not listed elsewhere | |
| All street trees (other than undesirable and invasive species) | |

Table TPO-1. continued: Priority Trees

| Group 2: 24 inches DBH and greater | |
|--|--|
| Common Name | Botanica Name |
| Ash | <i>Fraxinus spp.</i> |
| Black Cherry | <i>Prunus serotina</i> |
| Catalpa | <i>Catalpa bignonioides</i> |
| Hackberry/Sugarberry | <i>Celtis spp.</i> |
| Maples, Silver, and Box Elder | <i>Acer saccharinum and negundo</i> |
| Oaks, Water, Willow, and *English | <i>Quercus nigra, phellos, *robur</i> |
| Pecan | <i>Carya illinoensis</i> |
| Pines | <i>Pinus spp.</i> |
| River Birch | <i>Betulus nigra</i> |
| Sweetgum | <i>Liquidamber</i> |
| Sycamore | <i>Platanus occidentalis</i> |
| Tulip Poplar | <i>Liriodendron tulipifera</i> |
| *Cypress, Bald | <i>*Taxodium distichum</i> |
| *Cypress, Pond | <i>*Taxodium asendens</i> |
| *Dawn Redwood | <i>*Metasequoia glyptostroboides</i> |
| *Magnolia, Sweetbay | <i>*Magnolia virginiana</i> |
| *Osage Orange | <i>*Maclura pomifera</i> |
| All overstory native species not listed elsewhere | <i>*species not Native to Georgia piedmont</i> |
| Group 3: (only when no other Priority trees present): 10" inches DBH and greater | |
| Dogwood | <i>Cornus florida</i> |
| Hophornbeam | <i>Osrya virginiana</i> |
| Magnolia, native, deciduous | <i>M. acuminata, macrophylla, tripetala</i> |
| Musclewood | <i>Carpinus caroliniana</i> |
| Persimmon | <i>Diospyros virginiana</i> |
| Redbud | <i>Cercis canadensis</i> |
| Seviceberry | <i>Amelanchier spp.</i> |
| Sourwood | <i>Oxydendrum arboreum</i> |
| All understory native species not listed elsewhere | |
| Group 4: 32 inches DBH and greater | |
| Common Name | Botanica Name |
| *Deodor Cedar | <i>*Cedrus deodora</i> |
| *Ginkgo | <i>*Ginkgo biloba</i> |
| *Magnolia, Southern | <i>*Magnolia grandiflora</i> |
| | <i>*species not Native to Georgia piedmont</i> |

158-55 Heritage Trees.

- (a) Heritage Trees are elements of the City's tree canopy that deserve special protections under this article due to their exceptional characteristics.
- (b) Register of Heritage Trees established.
 - (1) The City shall maintain a register of Heritage Trees within the corporate boundary recognized as having notable historic value and other qualities that contribute to Atlanta's urban forest and aesthetic character.

- (2) A tree may be included in the register of Heritage Trees if it meets at least three of the following:
 - a. The tree is associated with a historic location, event, or person;
 - b. The tree is estimated to be at least 50 years old, as certified by a Registered Tree Professional;
 - c. The tree contributes to a significant view or spatial structure of a setting;
 - d. The tree is an exemplary representative of a particular genus or species;
 - e. The tree possesses exceptional aesthetic quality; or
 - f. The tree is in Good or Better Condition.
- (c) Nomination for inclusion on the register of Heritage Trees. The City Arborist or any interested person residing or owning property or operating a business within the City of Atlanta may nominate a tree on public or private property for inclusion on the register of Heritage Trees.
 - (1) Nominations must be submitted to the Tree Conservation Commission in a form prescribed by the Commission.
 - (2) Property owner consent shall be required for the nomination. No nomination for Heritage status may be considered by the Tree Conservation Commission without written consent from owner of the tree.
- (d) Designation approval.
 - (1) Inspection required. Upon receipt of a completed nomination form, the City Arborist shall inspect the nominated tree to verify the information submitted in the nomination.

Tree Conservation Commission review. The Tree Conservation Commission shall review all material submitted with the nomination, including any letters of endorsement and any advisory comments submitted by the City Arborist if the tree is found to meet the criteria identified in section 158-55(b)(2), the Commission may approve inclusion of the tree on the register of Heritage Trees.
- (e) Effect of placement on registry.
 - (1) Healthy, non-hazardous Heritage Trees may not be approved for removal or Destruction without authorization from the Tree Conservation Commission.
 - (2) Heritage Trees, regardless of size or species, shall be considered Priority Trees for the purpose of calculating Priority Tree preservation standard, as described in section 158-57
- (f) To preserve and protect a Heritage Tree, the City will provide at no cost to the property owner:
 - (1) Recommendations regarding the proper care and maintenance of a Heritage Tree from a City Arborist;
 - (2) An inspection of each Heritage Tree every four years. The inspection shall be conducted by City arborist staff using ISA standards with findings provided to the owner;
 - (3) An identifying plaque would be provided for the owner for optional display to promote public awareness. The plaque would identify the special designation type, tree species, date of designation, reference number, and other information as may be determined by the Commission.

158-56 Site Plans and Other Submittals.

- (a) Applicability

- (1) All land development, regardless of whether trees are proposed to be removed or destroyed, and all applications for tree removal permits associated with land disturbance, construction, demolition, and landscaping are required to adhere to the requirements of this section.
- (b) Requirements for Site Plans:
 - (1) General requirements. Any Site Plan required under this article shall be drawn to scale and contain topographic information at no less than two-foot contour intervals and shall show all existing and proposed property lines, zoning setbacks, easements, buildings and structures, driveways and paved areas, extent of footings for retaining walls, stormwater management facilities, streams and Stream Buffers, wetlands and Wetland Buffers, existing and proposed utilities, construction material staging grounds and all areas of proposed cut and fill of earth, and the limits of land disturbing activity.
 - a. Projects on Single Family Residential lots may be exempt from the requirement of the topographic survey provided that no cut or fill or other changes in topography will occur.
 - (2) Tree survey. The Site Plan shall include a tree survey identifying the size in DBH, species, condition, and location of all Regulated Trees, which are all trees other than Pines having a DBH of six inches or more and Pines with a DBH of twelve inches or more.
 - a. All Boundary trees shall be shown on the Site Plan.
 - b. Heritage trees. The Site Plan shall identify which (if any) trees on the Site Plan are Heritage trees and provide species, size, and condition information.
 - (3) Registered Tree Professional required. The identification of the species and assessment of tree condition may be made only by the City Arborist, or a Registered Tree Professional whose signature or stamp is on the Site Plan.
 - a. Applications for tree removals due to landscape improvements that do not require a building or land disturbance permit must have all tree species, size, and condition, as identified by a Registered Tree Professional, shown on the Site Plan, but the plan may be hand drawn and does not require a surveyor or other professional to prepare it, provided that the plan is accurate, drawn to scale, and contains all of the information required on the City Arborist Division's checklist for Landscape Projects.
 1. City Arborist assistance to homeowners. The City Arborist may provide free assistance to homeowners with limited financial resources when preparing Landscape Project related tree removal applications. The City Arborist will note the location of trees on the Site Plan and identify tree species and condition for up to 12 trees. To qualify for this assistance, the project must occur on the homeowner's primary residence. Standards regarding what constitutes a financial hardship will be determined by the Department of City Planning.
- (c) Priority Trees.
 - (1) The Site Plan shall identify all existing trees that meet the definition of Priority Trees. Priority Trees shall be depicted on the site plan with a graphic symbol that is different from Non-Priority Trees.

- (2) The Site Plan shall identify all Priority Trees that were removed or Destroyed in the previous 10 years under an authorized tree permit or due to illegal destruction. No Priority Tree that was removed prior to the adoption of this article shall be shown on the Site Plan.
 - a. Past permits and plans are available from the City's online permitting system, which may be used by the applicant to identify Priority Trees removed within the previous 10 years. The 10 years shall be measured from the date of the issuance of the Certificate of Occupancy for building permits, the date of permit approval for all other permits, and the date on invoice of the fine for illegally removed or Destroyed trees.
- (3) Priority and Non-Priority Trees Impacted or Destroyed for Public Linear Infrastructure Projects, regardless of species and size, shall be designated Non-Priority trees.
- (d) Identification of trees to be saved or removed. The Site Plan shall depict the location and extent of each tree's CRZ which is impacted and the percentage of any CRZ that will be damaged. Trees to be Destroyed or removed should be clearly marked with an "X" on the plan. All trees with CRZs 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 may only be impacted or Destroyed to allow grading, construction, or demolition that is required to construct or prepare the site for the proposed structures or improvements, as determined by the City Arborist. Trees may not be removed or Destroyed from portions of the site not otherwise impacted by construction.
 - (2) The City Arborist may require reasonable modifications to the site plan to protect Priority Trees or stands of trees, or to reduce impacts to the trees on site, including the use of measures described in section 158-56(e)(2).
 - (3) If no trees exist on the site, the applicant must submit at least two photos clearly depicting the area affected by proposed construction and a signed Tree Impact Statement attesting to this fact.
 - (4) Trees which are Destroyed, but not removed from site, will require Replacement or Recompense payment.
- (e) Protection for saved trees. The Site Plan must show the location of fencing and other appropriate measures which will protect existing trees on the property and abutting properties unless the plan identifies the tree as being removed or Destroyed.
 - (1) Tree protection fencing. Protection must include tree fencing that is shown on the Site Plan and meets the following requirements:
 - a. Location. Tree fencing must be located to protect a minimum of 80% of a saved tree's CRZ 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 at least 67% of the CRZ and 100% of the SRP.
 - b. Material. Tree fencing must be constructed of chain link or substantial mesh material that is erected around the CRZs of trees with a minimum height of four feet before the commencement of any land disturbance, demolition, or construction. Chain link fencing must be used for trees in the front yards of residential properties and other locations as prescribed by the City Arborist. The City Arborist may also require more substantial

wood or steel fencing and secured posts where they find a significant risk of damage to the saved tree's CRZ. The City Arborist may require these measures at any time, including after commencement of site disturbance.

- (2) Construction methods to minimize tree impacts. In consultation with the City Arborist, the Site Plan must further show that damage to trees during grading, construction, demolition, or utility installation will be minimized by using construction methods and products proven to protect existing trees. Construction methods and protection measures may be required by the City Arborist and must be indicated on the Site Plans. These methods and measures may include but are not limited to:
 - a. Directional boring instead of open trenching for utility installation;
 - b. Root bridging for sidewalks, driveways, and other hardscapes;
 - c. Retaining walls and use of pier and beam foundations to reduce tree impacts from site grading;
 - d. Use of mulch, gravel, plywood, geotextiles, swamp/access mats, and temporary decking, alone or in combination per City of Atlanta Arborist standards to prevent soil compaction from vehicular traffic and material storage; and
 - e. Any other methods, materials, or techniques that meet with current arboricultural industry standards and are approved by the City Arborist.
- (f) Tree Replacement plan and Recompense calculations. The Site Plan shall contain or be accompanied by a Tree Replacement Plan.
 - (1) The Tree Replacement Plan shall show the locations of all proposed trees labelled with their species and size in Caliper inches. Trees planted within parking lots or other constrained areas bordered by paving must also delineate and label the planting area or soil volume provided.
 - (2) The Tree Replacement Plan shall also show the tree Replacement and Recompense calculations that meet the requirements set forth in sections 158-69 and 158-70.
- (g) 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.

Division 7- Tree Preservation and Planting Standards for Single Family Residential Development

158-57 Single-Family Developments should be designed specifically to maximize tree preservation and minimize the impacts to trees growing on the site, with a special focus on the preservation of Priority Trees. All projects must demonstrate that the site will meet one of the two following tree preservation requirements:

- (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 Priority Trees that must be preserved on site. To meet this standard, Priority Trees may be removed or Destroyed to accommodate the proposed development, provided that the percentage of preserved Priority Trees meets or exceeds the Priority Tree preservation standard for the appropriate lot size, as shown in Table TPO-1. Projects that meet the Priority Tree preservation standard are eligible for the incentives in section 158-59.

- (2) If there are no Priority Trees growing on site, preservation of 50% of the total number of Priority or Non-Priority Trees growing on site will satisfy the Priority Tree preservation standard and be eligible for the incentives in section 158-59 except on lots that are 5,000 square feet or smaller, which will not be subject to this requirement if it can be demonstrated to the City Arborist that this is unfeasible.
 - a. Projects on lots less than 5,000 square feet that have no Priority Trees growing on site will not be required to use the Alternate Maximum Disturbance Area described below if the City Arborist determines that it is impossible to preserve 50% of all Priority or Non-Priority trees on site. These projects will not be eligible for the incentives in 158-59.
- (b) Alternate preservation standard. When the Priority Tree preservation standard cannot be met on the site due to site conditions or project requirements, the total area of disturbance on site shall be limited to the Alternate Maximum Disturbance Area. Alternate Maximum Disturbance Area is the maximum area of Land Disturbance that will be allowed on the site, including but not limited to site access, grading, building and hardscape construction, utility installation, stormwater management facilities, staging and material storage.
 - (1) Alternate Maximum Disturbance Areas are shown in Table TPO-2 below.
 - a. The City Arborist may allow portions of the site that are not subject to Land Disturbance and 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, to be used for site access, staging, and material storage without being considered disturbed for the purposes of calculating the AMDA.
 - (2) The AMDA should be delineated so as to minimize impacts to and Destruction of trees, with particular attention to the preservation of Priority Trees. Reuse of impervious surfaces and other previously developed portions of the site shall be prioritized.
 - (3) Projects using the AMDA are not eligible for the incentives described in section 158-59.
 - (4) Exceptions to the AMDA that allow more disturbance may be granted by the City Arborist under the following circumstances.
 - a. Septic fields. The City Arborist may allow for site disturbance larger than the AMDA for 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 exception unless the primary field has failed.
 - b. Retrofits to create Americans with Disabilities Act (ADA) compliant access routes and facilities.
- (c) Application of preservation requirements for small projects for Single Family Residential Developments.
 - (1) For projects that develop only a portion of the property, such as additions, garages, decks, pools, or landscape improvements, and do not include the construction or reconstruction of a new home, the application of the Priority Tree preservation standard may not be used unless the permit for the construction or reconstruction of the principal structure was submitted and approved after the date of adoption of this article.

- (2) For projects ineligible for the Priority Tree preservation standard, the Alternate Maximum Disturbance Area standard shall apply if any Priority Trees are proposed to be Destroyed or removed.
 - a. Single-Family properties using the AMDA that have an existing principal structure that is not to be removed and replaced shall count the area of existing impervious surface as site disturbance for the purposes of calculating the AMDA.
 1. Example: 20,000 sf site has an AMDA of 40% of the lot area, or 8,000 sf. The site has 6,000 sf of existing impervious surface. If the new project is not eligible for or could not meet the Priority Tree preservation standard, it would be allowed 2,000 sf of new disturbance.
- (d) Priority Tree Destruction tracking for 10 years.
 - (1) Any Priority Tree that is removed for a construction or landscape project, or removed illegally, will be counted as a Destroyed Priority Tree for the calculations of the Priority Tree preservation standard for all subsequent tree removal permits on that property for 10 years following the Destruction of the tree.
 - (2) Any Priority Tree Destroyed in the previous 10 years, as shown on the approved arborist stamped plans, or as recorded in the Illegal Removal BA record must be shown and labeled as a "Previously Destroyed Priority Tree" on all site plans that are submitted to the City for a tree removal permit.
 - (3) The calculation of the 10 years shall be measured from the date of issuance of the certificate of occupancy for tree Destruction associated with building permits, the date of approval for other tree removal permits, or the date on invoice for the fine for illegally Destroyed trees.
 - (4) No Priority Tree removed or Destroyed prior to the effective date of this article shall be required to be shown on the site plan.
 - a. Electronic copies of all tree removal permits and plans issued since the effective date of this article are available from the City of Atlanta's online permitting system.
- (e) Removal and Destruction of Priority or Non-Priority Trees based upon stormwater management requirements for Single Family homes.
 - (1) The City Arborist may not approve permits for tree removals solely for the construction of stormwater retention on Single Family Residential properties unless the applicant can show that no other method is feasible, including but not limited to bioretention, pervious paving, green roofs, infiltration under driveway, rain harvesting and reuse, or treatment train of separated best management practices.

158-58 Site Density.

- (a) All Single Family lots have a minimum number of trees, referred to herein as Site Density, that are required to be growing on site prior to the issuance of a certificate of occupancy. Site Density requirements may be met with Priority or Non-Priority Trees preserved on site, newly planted trees, or a combination of the two. Site 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 site density, all quantities shall be rounded up to the nearest whole number of trees. Site Density requirements for Single Family Developments are found in Table TPO-2 below
 - (b) Removal of Invasive vines from preserved trees. No Priority or Non-Priority Tree preserved on site may be counted towards the Site Density requirement if it has Invasive vines growing in the crown or on the trunk of the tree that may impact the health of the tree now or in the future.
 - (1) The final arborist inspection for a certificate of occupancy will not be passed until invasive vines on Priority and Non-Priority Trees are killed by severing and removing a several foot section of the vine from the tree trunk.
 - (2) The vines must be removed or killed in a manner that does not cut, poison, or otherwise harm the tree.
 - (3) A list of Invasive vines is included on the list of Undesirable Species, maintained by, and available from, the Arborist Division.
 - (c) Trees planted to achieve Site Density count towards meeting tree Replacement requirements, but achieving Site Density on site is a minimum requirement and does not relieve the applicant from additional Replacement planting or Recompense payments necessary to offset trees removed or Destroyed, per sections 158-69 and 158-70.
 - (d) Small project exception. Single Family Residential projects meeting the following conditions are exempt from meeting Site Density requirements.
 - (1) No Priority Trees are removed or Destroyed; and
 - (2) Project disturbs less than 1,000 square feet of land.
- 158-59 Incentives for Preserving Priority Trees on Single Family Residential Lots.
- (a) Public appeals exemption. If a Single Family Residential project meets the Priority Tree preservation standard, it will be exempt from posting and appeals by anyone other than the applicant or their agent, or the owner or agent of an abutting property who may only appeal the appeal the accuracy of the tree survey or the project's impacts to Boundary Trees on their property or co-owned trees. Abutting neighbors shall have 15 calendar days from the postmark date on the notice to file an appeal.
 - (1) If a tree removal application that meets the Priority Tree preservation standard receives preliminary approval, the applicant must send notice to the property owners of all properties that abut the subject property. Notice to neighbors shall be sent via certified mail, return receipt requested and shall contain the following information:
 - a. Property address of the proposed project;
 - b. Full-sized site plan showing proposed work and tree survey showing tree impacts;
 - c. Scope of proposed project;
 - d. That preliminary approval has been granted by the City Arborist for tree removals;
 - e. That Boundary Trees may be impacted, if applicable;
 - f. That abutting neighbors have the right to appeal the accuracy of the tree survey or to appeal impacts to Boundary Trees on their property;
 - g. Building or tree removal permit number;
 - h. The contact information and website address of the Arborist Division; and
 - i. Instructions, and timeframe, for appeals to be filed.

- (b) Replacement and Recompense reduction. If a project meets the Priority Tree preservation standard, the number of inches of required Replacement and Recompense for trees removed or Destroyed on the project site are reduced by 50%.
- (c) Replacement and Recompense reductions in this section do not change the Site Density requirements, only the number of Caliper inches of trees required to be Replaced or the Recompense payment required to offset the trees removed or Destroyed by the project.
- (d) City Arborist shall conduct a site inspection for all projects that are exempt from the full public appeal, as described in section 158-59(b), prior to issuing preliminary approval.

158-60 Allowance for Periodic Tree Removal by Homeowners.

- (a) Residential property owners are allowed to remove a single healthy Non-Priority Tree of any size, or two healthy Non-Priority Trees with a combined DBH equal to or less than 18 inches, every three years for any reason, with no Recompense owed and no Replanting required, under the following conditions:
 - (1) The property is the owner's primary residence, evidenced by the fact that the owner receives a homestead exemption from the Fulton County or DeKalb County tax assessor on the property;
 - (2) The property will meet the Site Density requirements after the tree or trees are removed;
 - (3) No Priority or Non-Priority Trees have been removed or Destroyed on the site, legally or illegally, during the prior three years;
 - (4) The tree removal is not associated with a construction or demolition permit; and
 - (5) A tree removal permit is applied for and approved, following the standards for a Landscaping-related tree removal permit described in section 158-52(b).

Table TPO-2

| Single Family Residential Tree Preservation standards, Alternate Maximum Disturbance Areas, and Site Density | |
|---|-----------------------|
| Very Small Lots (<5000 sf) | |
| Priority Tree Preservation standard | 50% of Priority trees |
| Alternate Maximum Disturbance Area | 80% of site area |
| Site Density | 2 trees per lot |
| Small Lots (5001-8500sf) | |
| Priority Tree Preservation standard | 60% of Priority trees |
| Alternate Maximum Disturbance Area | 55% of of site area |
| Site Density | 20 trees/acre |
| Med Lots (8501- 15000 sf) | |
| Priority Tree Preservation standard | 60% of Priority trees |
| Alternate Maximum Disturbance Area | 50% of of site area |
| Site Density | 21 trees/acre |
| Large Lots (15001- 30,000 sf) | |
| Priority Tree Preservation standard | 75% of Priority trees |
| Alternate Maximum Disturbance Area | 40% of of site area |
| Site Density | 22 trees/acre |
| Large Lots (30,001- 50,000 sf) | |
| Priority Tree Preservation standard | 75% of Priority trees |
| Alternate Maximum Disturbance Area | 35% of of site area |
| Site Density | 25 trees/acre |
| Very Large Lots (>50,000 sf) | |
| Priority Tree Preservation standard | 75% of Priority trees |
| Alternate Maximum Disturbance Area | 25% of of site area |
| Site Density | 28 trees/acre |

Division 8- Tree Preservation and Planting Standards for Commercial Development Projects

158-61 Applicability.

- (a) All projects, other than those that occur on Single-Family Residential lots or residential subdivision developments, are classified as Commercial Developments and shall use the Site Density requirements described in this division.

158-62 Tree Preservation on Commercial Projects.

- (a) All Commercial Development are strongly encouraged to preserve Priority Trees growing on the site during construction. While there are no requirements for tree preservation, all Priority Trees that are preserved on site will reduce the Site Density requirement.

158-63 Site Density on Commercial Sites.

- (a) All Commercial properties have a minimum number of trees per acre, referred to herein as Site Density, that are required to be growing on site prior to the issuance of a certificate of occupancy unless otherwise exempted in this article. Site Density requirements may be met with Priority and Non-Priority Trees preserved on site, newly planted trees, or a combination of the two. Site 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 Site Density, all quantities shall be rounded up to the nearest whole number of trees.
- (b) The required Site Density for all Commercial properties on private and Public Property is 12 trees per acre plus one tree for every 3000 square feet of site area that is not occupied by a Building, multi-story parking structure, Sports Field, Sports Court, Swimming Pool, electrical substation or other open-air electrical power equipment yard owned or operated by a public utility, pond, or other perennially wet body of water.
- (c) Preservation of Priority Trees reduces Site Density on Commercial sites.
 - (1) Every Priority Tree preserved on a Commercial Site will count as 2 trees for the calculation of Site Density.
- (d) Trees planted to achieve Site Density count towards meeting Replacement requirements, but achieving Site Density on site is a minimum requirement and does not relieve the applicant from any additional Replacement or Recompense payments required to offset trees removed or Destroyed, per sections 158-69 and 158-70.
- (e) Site Density requirements on Commercial Development may be met through one or more of the measures listed below, in order of priority. All planting locations must be approved by the City Arborist and meet the requirements of section 158-66 et al.
 - (1) Existing Priority and Non-Priority Trees preserved on site;
 - (2) Existing Right-of-Way Trees preserved on site, if the trees are growing in an improved Streetscape required by the property's zoning;
 - (3) New trees planted on site;
 - (4) Street trees planted within the public right-of-way or required Streetscape; or
 - (5) Green Roof on site:
 - a. Green Roofs may be used when space on site does not allow for planting the number of trees needed to meet Site Density.

- b. Green Roofs will count toward Site Density at a ratio of 800 square feet of Green Roof equaling one tree.
- (f) Green Roofs used to meet Site Density or other Replacement requirements are not required to be planted with trees, but must meet the design standards for Green Roofs maintained by the Department of Watershed Management and be approved by DWM as fulfilling part or all of the post-development stormwater management requirement described in section 74-502. Removal of Invasive vines from preserved trees. No Priority or Non-Priority Tree preserved on site may be counted towards the Site Density requirement if it has Invasive vines growing in the crown or on the trunk of the tree that may impact the health of the tree now or in the future.
 - (1) The final arborist inspection for a certificate of occupancy will not be passed until invasive vines on Priority and Non-Priority Trees are killed by severing and removing a several foot section of the vine from the tree trunk.
 - (2) The vines must be removed or killed in a manner that does not cut, poison, or otherwise harm the tree.
 - (3) A list of Invasive vines is included on the list of Undesirable Species, maintained by, and available from, the Arborist Division
- (g) Exemption for removal of trees for required Streetscape.
 - (1) If trees growing in the public right-of-way must be removed in order to construct Streetscape improvements that are required by the property's zoning, and all reasonable options for tree preservation, including variances to the Streetscape requirement, are investigated by the applicant and deemed infeasible by the applicant and the City Arborist, the trees removed for the construction of the streetscape will be excluded from all tree and site calculation and may be removed by the applicant without any required Replacement or Recompense payment.
- (h) Small project exemption from Site Density requirement.
 - (1) Projects meeting the following conditions are exempt from meeting Site Density requirements on the entire site. Replanting and Recompense requirements still apply.
 - 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 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 158-65 and section 158-63(j), respectively.
 - (3) This exemption does not apply if a Modified Project Area as described in section 158-62(i) is used.
- (i) 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 both Priority Tree preservation and required Site Density.
 - (1) Commercial projects that disturb less than 40% of the site may work with the City Arborist 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 the Priority Tree preservation and Site Density calculations.

- a. When using a Modified Site Area to calculate Site Density, the trees required to meet Site Density must be growing or planted within the boundaries of the Modified Project Area.

(j) Street Trees required.

- (1) All Commercial sites must have trees planted along any public or private road 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 Mid-story species, with at least half of the trees being Overstory species.
 - a. Zoning-mandated Streetscape Tree planting requirements supersede the 40 feet spacing requirements for public street frontages.
 - 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 conditions prevent planting on 40 foot spacings. The City Arborist may also allow other adjustments to the requirements, including allowing Understory species or a larger percentage of Mid-canopy species to address planting constraints outside of the applicant's control.

(k) Residential Subdivisions.

(1) Tree Replacement Plan Required

- a. All Single Family Residential subdivisions must submit a Tree Replacement Plan showing proposed tree plantings on common property for the entire development, including streets, in order to get final arborist approval for any land disturbance permits. The trees shown on the Tree Replacement Plan must also be shown on the final plat that is approved by the Office of Zoning and Development.
 - b. Site Density requirements for common areas in Single Family Residential subdivisions shall meet Commercial Site Density requirements described in section 158-63 and the Street Tree requirements described below in section 158-63(j). The individual residential lots will be subject to the Single Family tree preservation and Site Density requirements, as described in section 158-58(a) and listed in Table TPO-1, during subsequent building phases.
- (2) Trees removed or destroyed under a land disturbance permit solely for the construction of streets, stormwater management facilities, and related infrastructure in new subdivisions or planned developments will require Replacement or payment of Recompense as described in sections 158-69 and 158-70.
- a. Tree removal under a land disturbance permit for a Single Family subdivision will only be allowed if a new public or private road is constructed to access the new lots and tree

removals shall be limited to only what is required to install the roads and associated infrastructure.

- (3) Street Trees Required. All Public and private streets within a subdivision must meet the Street Tree planting requirements described in section 158-68 (j).
- (4) Tree Planting Options. Replacement Trees shown on the Tree Replacement Plan may be planted by the applicant under the land disturbance permit, or may be deferred to the subsequent phases of construction.
 - a. Option 1: Planting under land disturbance permit. Trees planted under the land disturbance permit will be given Replacement credit for that permit. These Replacement Trees must be inspected by the City Arborist prior to the approval of the final plat,
 - b. meet the planting requirements in section 158-66, and must be protected from all impacts during future home construction phases.
 - c. Option 2: Planting during subsequent building phases. Trees shown on the Tree Replacement Plan that are not planted under the land disturbance permit shall be planted during subsequent phases of construction. The City Arborist will work with the applicant to designate which of the trees shown on the Tree Replacement Plan are to be associated with a new individual lot, and shall be planted as a requirement to obtain the final certificate of occupancy.

158-64 Conservation Credits to Reduce Replacement and Recompense.

- (a) Forested areas or stands of trees preserved and undisturbed on site and protected in perpetuity through a conservation easement or deed restriction may be credited against the Replacement plantings required for trees removed or destroyed for the development of Commercial lots. These protected areas will be referred to herein as Conservation Areas.
- (b) Conservation Credit for Priority and Non-Priority Trees preserved in the Conservation Area shall be granted at twice the Standard Replacement:
 - (1) Priority Trees: 1.5 (one and one half) times the DBH.
 - (2) Non-Priority Trees: 1 (one) times the DBH.

Example: a 20 inch Priority Tree preserved in perpetuity would provide a credit of 30 Caliper inches of Replacement planting or Recompense (20" x 1.5= 30")
 - (3) Trees protected in perpetuity must be a healthy forest or stand of trees growing in a defined area that is conducive to tree health and must be at least 1,000 square feet in size with the average width being at least 30 feet in width, and the narrowest portion no less than 10 feet wide, unless the narrow part constitutes a tapering extremity of the area.
 - (4) The CRZ of all trees receiving credit for perpetual preservation must be entirely contained within the Conservation Area.
 - (5) No more than 50% of the trees that receive Conservation Credit may be growing within a Floodplain, or Stream Buffer or Wetland Buffer.
 - (6) The Conservation Area must be protected in perpetuity through a conservation easement or deed restrictions.
 - a. If protected through a conservation easement, the easement must be held by 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.).

- b. If protected through deed restriction, the property 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.
 - c. The conservation easement or deed restriction must contain standard language, available from the Arborist Division, that protects the Conservation Area in perpetuity from Land Disturbance and requires that it be maintained in a natural vegetated state.
- (7) The Conservation Area may be used for passive recreation, provided that after the creation of the conservation easement or recording of the deed restrictions that only improvements that require minimal or no land disturbance will be allowed. Possible improvements include but are not limited to soft-surface trails, boardwalks, benches, and signage.
- a. 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.
- (c) The City Arborist must approve the Conservation Area and 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 9- Parking Lot Tree Planting and Landscaping Requirements

158-65 Parking Lots.

- (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 40 feet from a tree, as measured from the tree trunk to any portion of the parking space. These trees 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 Mid-story trees, with at least 50% of the trees being Overstory trees.
 - a. The City Arborist may allow a lower percentage of Overstory Trees or the use of Understory Trees if overhead utilities or other site constraints beyond the control of the applicant preclude the planting of all Overstory and Mid-story Trees. Where Understory Trees are used, the City Arborist may require additional parking lot trees with closer spacings.
- (3) 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 be comprised 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.
- (4) 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.
- (5) Irrigation. Due to the harsh growing conditions created by parking lots, newly planted parking lot trees must receive regular watering during the establishment period, which is two years for trees under six Caliper inches, and five years for trees six Caliper inches and larger. Watering may be accomplished with hand watering or an automatic irrigation system installed at the time of construction.
- (6) Tree plantings adjacent to sidewalks and other rights-of-way.
 - a. 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.
 - a. Trees planted in parking lots must be provided planting soil area or soil volumes that meet or exceed the requirements in section 158-68(d)).
- (8) Replacement of trees. All trees planted to meet the parking lot planting requirement 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 section 158-65(b).

Division 10- Tree Planting Specifications

158-66 Size and Quality of Replacement Trees.

- (a) Replacement trees and trees planted to meet Site Density requirements shall be a minimum of 2.5 Caliper inches and must meet ANSI Z60.1 nursery standard 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.
 - (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 no less than 1 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 Arborist Division. The list is not comprehensive, and 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 Division maintains a list of Undesirable Tree Species that may not be planted to meet Site Density or Replacement Tree requirements.
- (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 preserved 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.
 - (5) Approximately 75% of replacement trees planted on any project should be species Native to the piedmont region of Georgia.

- (6) New tree planting in zoning-mandated Streetscapes or on other highly urbanized sites may have the species diversity standards adjusted or waived at the discretion of the City Arborist.
- (c) Mixture of mature tree sizes.
 - (1) Where appropriate site conditions exist, Site Density and Replacement Tree plantings shall be Overstory and Mid-story trees. Understory trees shall be permitted by the City Arborist where site conditions do not allow the planting of Overstory or Mid-story 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 Arborist Division. 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 (large canopy) shall be planted no less than 25 foot spacings if planted in a single row. When planted with other Overstory or Mid-story Trees on two sides or more, the Overstory trees must be spaced no less than 30 feet apart.
 - (2) Mid-story Trees (medium canopy) shall be planted no less than 20 feet apart.
 - (3) Understory Trees (small canopy) shall be planted no less than 15 feet apart.
 - (4) 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.
 - (5) No tree shall be planted closer than eighteen inches from a curb or sidewalk.
 - (6) No tree that is anticipated to reach a mature height of 25 feet or greater may be planted within 20 lateral feet of overhead utility lines.
 - (7) It is recommended that no tree be planted closer than 10 feet from a building.
 - (8) 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 and soil volumes. 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 techniques 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. Mid-story 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%.
 - e. When applicable, the City Arborist may allow alternative methods and materials to be used, such as engineered underground channels, or Root Chases, that direct root growth and allow tree roots to establish soil connections by having access to adjacent open space as a means of increasing available soil.
- (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 specifications maintained by the Arborist Division. Minimum soil volumes must be as follows:
- a. Overstory Trees: 800 cubic feet of soil.
 - b. Mid-story 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 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.
- (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 Site 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, 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 findings the Urban Forestry Master Plan, and 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 under six Caliper inches planted to meet the requirements of this ordinance throughout the establishment period, which is two full growing seasons after planting for trees less than six Caliper inches, and five full growing

seasons after planting for trees that are six or more Caliper inches. Any tree that dies or is assessed by the City Arborist to be in fair or worse condition during the guarantee period shall be replaced by the owner during the next planting season.

- (2) Inspection required. The City Arborist shall inspect the condition of Replacement Trees at the end of the second and fifth (as appropriate) full Growing Season after planting and shall notify the Responsible Party of any required replacements.
 - (3) Replacement required for life of Commercial development. In addition to guaranteeing newly planted trees through the establishment period, as described in section 158-68 (f)(1) above, the owner or their successor shall maintain all trees planted on Commercial projects as a requirement of this article, with the exception of Right-Of-Way 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. This maintenance and replacement requirement shall also apply to Green Roofs that are used to meet tree planting requirements.
- (g) No removals of Replacement Trees.
- (1) Any tree planted to meet Site Density or Replacement requirements may not be Destroyed or removed without a permit from the City Arborist, regardless of the tree's size. Replacement Trees or Site Density trees Destroyed or removed must be replaced with at least one tree.

Division 11- Calculation of Replacement Trees and Recompense Payment

158-69 Replacement Tree Requirements.

- (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.
 - (1) In instances where the full required Replacement is not possible on or off-site, paying a Recompense fee into the Tree Trust Fund in lieu of planting trees will be allowed only if the site in question meets the Site Density requirement.
- (b) Replacement Trees may consist of:
 - (1) Trees planted on site to meet Site Density;
 - (2) Trees planted on-site after the Site Density requirement has been met;
 - (3) Right-of-Way Trees for Commercial Projects.
 - (4) Green Roofs used on Commercial Projects as described in section 158-63(e)(5); or
 - (5) Trees planted off-site on public or private property as approved by the arborist.
 - a. 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 or Non-Priority trees, including Boundary trees, removed, or Destroyed shall be replaced at the following rates, herein referred to as Standard Replacement:
 - a. Priority Trees: replaced at a ratio of .75 Caliper inches 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, before any preservation discounts, would require 21 caliper inches of new trees to be replaced (28 inch DBH x .75 = 21 Caliper inches.)
 - (b) A 16 inch Non-Priority Tree, before any preservation discounts, would require 8 Caliper inches of trees to be replaced (16 inch DBH x .5 = eight Caliper inches.)
- (2) Incentives and credits should be applied to the total Standard Replacement, to determine the modified Replacement required.
 - a. Projects that meet the Priority Tree preservation standard on Single Family Residential Development projects may reduce the total required Replacement inches by 50% as described in section 158-59(b).
 - b. Projects that preserve trees in perpetuity through the establishment of a Conservation Area per section 158-64 may reduce their required Replacement plantings by the number of Caliper inches awarded as the Conservation Credit.
 - c. Replacement and Recompense incentives and credits do not change the Site Density, parking lot, or Street Tree planting requirements, but will reduce the number of Replacement Trees or Recompense paid after the Site Density, parking lot, and Street Tree planting requirements are met.
- (3) Credit for planting trees. In order to encourage applicants to plant the required Replacement Trees rather than making Recompense payments into the Tree Trust Fund, 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.
 - a. 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)
- (4) Additional Replacement credit for trees planted in vegetated Green Infrastructure facilities.
 - a. All trees planted in a Green Infrastructure facility, including but not limited to bioretention, stormwater planters, enhanced swales, and constructed wetlands, will be counted as two trees of the size planted. This credit will count towards Replacement Tree requirements but does not reduce or alter Site Density or the parking lot tree planting requirements.
 1. The Green Infrastructure facility must meet the design standards maintained by the Department of Watershed Management and be approved by DWM as fulfilling part

or all of the post-development stormwater management requirements described in section 74-502.

2. The Green Infrastructure facilities must meet the minimum soil volume requirements provided in 158-68(d)(2).
- (5) Additional Replacement credit for enhanced plantings in hardscape using Soil Cells or other Suspended Pavement system.
- a. Additional Replacement Tree credit shall be given for plantings within hardscape that use Soil Cells or other Suspended Pavement systems that use uncompacted topsoil, bioretention media, or other approved soil as the planting medium at the rate of 20 cubic feet of soil within the planting system equaling one Caliper inch of Replacement Trees. This credit will count towards Replacement Tree requirements but does not reduce or alter Site Density or the parking lot or Street Tree planting requirements. The tree plantings to meet Site Density, Street Trees, and parking lot planting requirements will be measured strictly by the actual number of trees planted.
 - b. The additional planting credit described in section 158-69(c)(3) shall not apply to enhanced plantings in hardscape.
- (6) Replacement credit for Green Roofs
- a. Replacement Tree credit, though not Site Density credit, shall be given for Green Roofs at a rate of 20 square feet of Green Roof equaling one Caliper inch of tree Replacement. The additional planting credit described in section 158-69-(c)(3) shall not apply to Green Roofs
- (7) Homeowner Replacement and Recompense cap based on land value.
1. Replacement and Recompense for homeowners will be capped at the equivalent of 50% of the assessed land value of the property, as determined by its respective County's property current tax assessment. If the tax records do not reflect the current owner or most recent sale, land value shall be determined by an appraisal by a licensed appraiser. To be eligible for this Recompense cap, the property must:
 - (a) be registered as the owner's primary residence and receive a homestead exemption from the Fulton County or DeKalb County tax assessor; and
 - (b) meet the Site Density requirements.
- (8) Replacement and Recompense reduction for development of affordable housing rental units
- a. Multi-family development projects with 10 or more units that provide a portion of the units at affordable rental rates are eligible for a 20% reduction in required Replacement and Recompense, subject to available replenishment funds from the City, if they meet the following conditions:
 1. The site meets the Site Density requirement;
 2. One of the following is satisfied;
 - (a) At least 15 % of the total residential rental units 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 AMI limits as published by the City of Atlanta Office of Housing and Community Development on an annual basis. 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 to ensure that tenant households at 80 percent of the AMI pay no more than 30% of their household's monthly gross income, adjusting for the number of bedrooms in the units; or

- (b) At least 10% of the total residential rental units 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 AMI limits as published by the City of Atlanta Office of Housing and Community Development on an annual basis. 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 to ensure that tenant households at 60 % of the AMI pay no more than 30% of their household's monthly gross income, adjusting for the number of bedrooms in the units.
- 3. The affordability requirement shall remain in effect for 10 years from the date of the issuance of the certificate of occupancy;
- 4. 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 City's Office of Housing and Community Development;
- 5. 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;
- 6. The 20% reduction in required Recompense is replenished by the City through a revenue source other than the Tree Trust Fund; and
- 7. For mixed use developments with a residential component that meets the affordability criteria in section 158-69(c)(8)(a)(2)(a and b), the 20% Replanting and Recompense reduction shall apply only to a portion of the required Replanting 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 fee reduction of 8% (40% residential area x 20% discount = 8% fee reduction).

(9) Replacement and Recompense reductions for the development of lower priced for-sale units.

- a. Multi-family development projects with 10 or more units that sell units per the rates below are eligible for a 20% reduction in required Replacement and Recompense, subject to available replenishment funds from the City, if they meet the following conditions:
 1. The site meets the Site Density requirement;
 2. The applicant will ensure that at least 10% of the total dwelling units shall be made available for sale to households having an income, as certified by the buyer or buyer's lender, that does not exceed either 80% of AMI or 120% of AMI, as applicable, 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"). 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. The percentage of units at 80% of AMI and the percentage of units at 120% of AMI shall be equal. In the event there is an odd number of required Affordable Workforce Home Ownership Units, the developer may choose whether the last unit will be at either 80% of AMI or at 120% of AMI.
 3. The lower-priced 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 lower priced 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;
 4. The affordability requirement shall remain in effect for 10 years from the date of the issuance of the certificate of occupancy.
 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 City's Office of Housing and Community Development.
 6. For mixed use developments with a residential component that meets the affordability criteria in subsection (a)(2) above, the 20% Replanting and Recompense reduction shall apply only to a portion of the required Replanting 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 fee reduction of 8% (40% residential area x 20% discount= 8% fee reduction)

- b. Single Family Developments that are sold to households having an income, as certified by the buyer or buyer's lender, that does not exceed 120% of AMI, as applicable, 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"). 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.
 - 1. The 20% reduction in Recompense fee, subject to available replenishment funds from the City, shall be provided to the applicant in the form of a rebate after the first sale of the property;
 - 2. To receive the rebate, the applicant must submit real-estate closing documents to the City Arborist showing that the sale price of the property meets the affordability requirement.
 - 3. All sites must meet Site Density requirements to be eligible for the Recompense rebate; and
 - 4. The 20% reduction in required Recompense is replenished by the City through a revenue source other than the Tree Trust Fund.

(10) Public Linear Infrastructure Projects

- a. For trees removed or Destroyed for the construction and maintenance of City-owned linear infrastructure, including but not limited to roadway and transportation projects and City-owned water, sewer, and other utility projects, the Replacement and Recompense standards described below shall apply. Non-linear infrastructure projects including, but not limited to pump-stations, vaults, and storage tanks that must, by their functional nature, be in close spatial proximity to the City-owned linear infrastructure projects shall also be subject to the following standards.
 - 1. All Public Linear Infrastructure Projects shall be required to minimize tree impacts wherever possible and shall be required to submit a Tree Protection and Replacement plan that meets the requirements of section 158-55 approved by the City Arborist.
 - 2. All trees removed or destroyed for Public Linear Infrastructure Projects shall be valued as Non-Priority Trees for purposes of permitting, Replacement and Recompense calculations.
 - 3. Public Linear Infrastructure Projects have no Site Density requirements.
 - 4. Replacement Trees shall be planted on the project site to the extent possible and reasonable, or as specified in applicable Streetscape requirements established by

zoning, or planting standards established by the City for the pertinent type of infrastructure project.

5. All Replacement Trees shall be planted per the standards in section 158-68.
6. Recompense payments for trees unable to be planted on the project site may be paid into the Tree Trust Fund. However, in no case shall the Replacement and Recompense value of any project exceed 5% of the total construction cost for the project.

158-70 Recompense Payments.

- (a) Recompense payment into the Tree Trust Fund will be allowed when the required number of Replacement Trees cannot be planted on or off-site. Recompense payment may not be made in lieu of meeting Site Density requirements.
- (b) The Recompense fee per caliper inch of Replacement Trees owed will be established based on the market rate to plant a 2.5 Caliper inch canopy tree and maintain it for two years. This cost will be established every two years by evaluating City and private sector costs for planting trees and will be posted on the Arborist Division's web page. This fee is the "Established Recompense Value".
- (c) The formula for Recompense payment is:
(Caliper inches owed – credited Caliper inches planted) x Established Recompense Value) = Recompense

Division 12- Posting and Appeals

158-71 Notifications and Posting.

- (a) Applicability. The notification and posting criteria set forth below apply to projects that receive a tree removal permit for Priority or Non-Priority Trees, unless otherwise exempted in this article.
 - (1) 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), 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) are exempt from posting and appeals.
 - (2) For trees located on public and private property, two notifications shall be required.
 - a. Notice of tree removal request. The first notification shall be made to the public that an application to remove a designated tree(s) was filed with the City. The notification will be placed on the City Arborist's webpage on www.atlantaga.gov and shall remain for a minimum of ten (10) business days. The City will not accept any appeals during this notice period.
 - b. Notice of preliminary approval. A second notification in the form of a physical posting shall notify the public that the City Arborist has given preliminary approval to an application to remove one or more trees, and that appeals of such decision may be submitted. This posting will be a physical sign visible to passers-by on the property where the tree removal is requested. A notification of preliminary approval shall also be placed on the Arborist Division's webpage. The second posting shall remain in place for five (5) business days, during which time the City will accept appeals.

- (3) Posting sign contents.
 - a. The notice of preliminary approval shall in the form of a sign or signs not less than six (6) square feet in size and shall inform any reader that an appeal may be filed with the clerk of the tree conservation commission and shall indicate the deadline by which the appeal must be filed. The notice shall further indicate that the failure to appeal within the designated time period 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 section, no permit shall be issued.
 - b. The City Arborist may require that the sign be of a standard design available from the Arborist Division.
- (4) Posting sign location. Only one sign posting per property will be required regardless of the number of trees requested for removal on a single permit application unless the affected property has frontage on more than one road, in which case one sign shall be placed on each side of the property with road frontage. Property postings shall be placed in a prominent location on the affected property so that the posting sign is clearly visible and may be seen and read by passers-by. If the notice of preliminary approval is not posted as required by this section, no permit shall be issued.
- (5) Tree marking. Immediately after an applicant receives preliminary approval of a tree protection plan or removal application, they shall mark all trees preliminarily approved for removal or destruction by painting an orange "X" on the tree facing the right-of-way.
- (6) Reinspection fee. A reinspection fee of \$50 will be charged if the City Arborist denies the second posting. The second posting may be denied for reasons including, but not limited to, an incorrect site survey or failure to mark trees correctly.
- (b) 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 the trees which are approved are not counter to the guidelines below.:
 - (1) The amendments do not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case;
 - (2) The amendments do not impact any additional Boundary trees or allow the removal or Destruction of any Priority Trees;
 - (3) For Single Family Residential projects that do not meet the Priority Tree preservation standards, the amendments does not increase the area of disturbance on site beyond the allowed AMDA other than those allowed under section 158-57(b)(4).
 - (4) The amendments in the aggregate do not increase the total number of trees permitted for removal or destruction by more than 10%, with a maximum of 10 additional trees allowed to be removed under this provision; and
 - (5) If the amendment would cause the site to no longer meet the Priority Tree preservation standard approved in the original permit, described in section 158-57(a)(2), the amendment cannot be approved and a new tree removal permit would need to be applied for.
- (c) Permits available for public inspection. All tree removal permits shall be available for public inspection on the City's online permitting system..

158-72 Appeals.

- (a) Who may appeal. Appeal rights are set forth throughout this article, and further:
 - (1) Appeals regarding trees impacted for private development, demolition, and landscaping projects. With the exception of Single Family Developments, which are not subject to public appeal per section 158-59(a), appeals of a City Arborist's decision regarding a tree or trees impacted by private development may be filed by any person who resides or owns property or a business either within the NPU or a one mile radius of the property on which the tree(s) at issue are located.
 - (2) Appeals regarding trees impacted by public projects. Appeals of a City Arborist's decision regarding tree or trees on Public Property may be filed by any party who is
 - a. an individual who resides or owns property or a business in the City of Atlanta; or
 - b. a civic association in the NPU in which the tree(s) at issue are located or within one mile radius of the site where the tree(s) at issue are located.
 - (3) Appeals regarding denial of permits for the removal of Undesirable species or DDH trees may only be filed by the permit applicant or their agent.
 - (4) Appeals regarding assessed Recompense and fines for the illegal removal of trees may be filed by the party, or parties, who were charged the Recompense and fines.
- (b) Timing of appeal.
 - (1) Appeals regarding approval of permits for impacts or Destruction of trees for private and public development must be filed within five business days of the date on the second sign posting after preliminary approval has been granted by the City Arborist, per posting requirements described in section 158-70.
 - (2) If an appeal is not filed within the timeframe prescribed above, the permit shall be issued in accordance with the notice of preliminary approval.
- (c) Appeal requirements.
 - (1) Submission of appeals. All appeals must be filed with the secretary of the Tree Conservation Commission.
 - (2) Filing fee. An appeal shall not be deemed filed until the secretary receives a completed appeal package, along with either a \$75.00 filing fee used to defray the administrative costs of the appeal, or a hardship letter requesting a fee waiver. Where a financial hardship letter is submitted, it must explain in detail why the appellant is unable to pay the fee. The Tree Conservation 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 any) of the appellant and whether the appellant is a resident of the City of Atlanta. If the appellant is not a resident of Atlanta, the address of a property or business owned by the appellant within the City of Atlanta shall be included. The appeal also shall include the address of the subject property and, if known, the name of the person(s) who filed a permit application for the property about which the appeal is being made.
 - (4) Basis of appeal must be stated. The appeal shall specify, at a minimum: the section(s) of this article that the appellant believes was misinterpreted or misapplied by the administrative

- officer; the way in which the appellant believes the section should be interpreted or applied; and any facts material to the administrative officer's decision that the appellant believes were inaccurate or missing from the tree removal application, 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 of 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 until the appeal is resolved.
- (2) Appeal of Recompense or Replacement requirements. If an appeal is filed challenging only the Recompense or Replacement requirements associated with a Notice of Preliminary Approval, the Applicant may receive a permit before resolution of the appeal by paying the Recompense amount required by the Preliminary Approval, or the financial equivalent of the Replacement requirement as determined by the City Arborist. The applicant will be reimbursed if so 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 which will allow the permit to be issued for construction.
- (e) Submission of evidence. The property owner on which the subject tree is located, and each additional party shall submit to the secretary of the Tree Conservation Commission all documentary evidence supporting their arguments at least one calendar week prior to the hearing except rebuttal evidence and evidence not available one week prior to the hearing. Evidence may include, but is not limited to, photographs, proof of tree maintenance records, a letter or report from a Registered Tree Professional or other professional with expertise in the issue. 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.
- (f) Notice of hearing. The Commission shall give public notice of an appeal hearing as well as prompt written notice to the parties to the appeal. Public notice shall be given by the secretary of the Tree Conservation Commission in such a manner as shall be provided for in the rules for appeals adopted by the Tree Conservation Commission, but in no event shall such notice be given less than fifteen calendar days before the date of the hearing.
- (g) The appeal hearing.
- (1) Representation at appeal. At the hearing, the property owner and any party shall appear in person or 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 Tree Conservation 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 concluded or resolved within that time, the Tree Conservation 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 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. However, 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 Arborist Decision Relating to Recompense and Fines for Illegally Destroyed Trees

- a. When a party appeals the assessment of Recompense and fines for the illegal removal of trees, the Tree Conservation Commission may grant an appeal on a finding that the party did not actually illegally Destroy the trees or based on 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 filing fee amount is premised on a claim of financial hardship, the Commission shall decide the appeal based upon the application of these guidelines. The Commission shall issue a written decision stating the basis for the hardship determination.

(k) Appeal of decision of Tree Conservation Commission

(1) Any person aggrieved by a decision of the Tree Conservation Commission, or any City official, bureau, office, department or board affected by such decision, may appeal such decision through a writ of certiorari to the Superior Court of Fulton County, pursuant to the procedures set forth by Georgia law.

(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. Barring such notice of intent, the stay shall be lifted, and the Commission's decision shall take effect.

158-73 Variances

(a) The Tree Conservation Commission shall have the power to hear, grant, or deny variances from the terms of this article when, due to special conditions, a literal enforcement of its provisions in

a particular case will result in unnecessary hardship, provided that the spirit of the article shall be observed and the public, health, safety, and welfare be protected.

(b) After an initial review by the City Arborist, but before preliminary approval is given, any applicant may apply for a variance to the Tree Conservation Commission. Variances granted under this article apply to only one permit application.

a. The Tree Conservation Commission may grant a variance to this article only upon making all of the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography or the restrictions in this article would not allow the proposed use which is otherwise permitted by law;
2. The application of this article to this particular piece of property would create an unnecessary hardship;
3. Such conditions are peculiar to the particular piece of property involved; and
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this article.

Division 13- Tree Conservation Commission

158-74 Establishment, Functions, Powers, and Duties.

(a) Commission established. There is established a Tree Conservation Commission of the City of Atlanta.

(b) Commission authority. The Commission's functions, powers and duties shall be as follows:

- (1) Hearing and ruling upon appeals of decisions made by a City Arborist regarding application of this article.
- (2) Hearing and ruling upon requests for waivers and reductions of fees, Recompense and fines based upon a claim of hardship.
- (3) Serving as a citizen advisory panel for administration and enforcement procedures of this article.
- (4) Designating and maintaining a written record of Heritage Trees.
- (5) Providing guidance to the Department of City Planning on educational and other programs to encourage proper management and maintenance of trees on private and public property in the City.

158-75 Appointment of Members and Commission Composition.

The Commission shall consist of 11 members, six of which shall be appointed by the Mayor and five 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.

(a) Mayoral appointees.

- (1) One registered architect or civil engineer;
- (2) One registered landscape architect;
- (3) One ISA-certified private arborist or registered forester;
- (4) One lawyer with experience in real estate or environmental protection;

- (5) One residential or commercial builder nominated by a local professional organization; and
- (6) One member nominated by an environmental organization.

(b) City Council appointees.

- (1) One residential or commercial builder nominated by a local professional organization and appointed by the full City Council;
- (2) One member nominated by an environmental or community organization and appointed by the President of the City Council; and
- (3) Three citizens appointed by the paired districts in consultation with the at-large City Council member. Manner of appointment for members from paired Council districts. The Council shall appoint the three members 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.

158-76 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 cause accurate minutes of all proceedings to be maintained, such minutes shall include, at a minimum, a record of members present, a record of votes taken, and a record of decisions made. The chairperson shall certify the accuracy of the minutes of any hearing within 10 days after the date the hearing is held, and shall cause the minutes to be filed with the secretary of the Commission forthwith upon certification. Any member may challenge any portion or all of the minutes transcript at the next meeting of the board, whereupon the board shall, by majority vote, approve, modify or replace the challenged portion of the minutes.
- (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, but will be required to attend two hearings or a hearing and a business meeting per month.
- (e) Removal and replacement of members. The Mayor, or the Commission by majority vote of all members, may remove a Commission member for non-performance of duty or failure to meet the attendance requirements established by the Commission.
- (f) Administrative meetings and hearings. The Commission shall hold regular business meetings and appeal hearings and shall adopt procedural rules for each.
- (g) Staff
 - (1) Secretary to Commission. The Commissioner of the Department of City Planning shall designate an employee of the department as secretary to the Tree Conservation Commission. The secretary also shall be responsible for the administration of the appeals

process established in section 158-72 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 out 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. The secretary shall also be responsible for onboarding and offboarding commissioners, organizing and leading business meetings, training commissioners on the Tree Protection Ordinance and processes in the Arborist Division, writing and maintaining guidelines adopted by the Tree Conservation Commission, and other responsibilities as required.

- (h) Partnership with the education and outreach specialist. The dedicated education and outreach specialist in the Arborist Division shall work closely with the Tree Conservation Commission on education and outreach regarding tree planting, maintenance, and preservation, and other similar issues arising from this article.
- (i) Every meeting of the Commission shall be recorded. This may be accomplished through video recording or use of a court reporter.
- (j) Annual reports to Tree Conservation Commission
 - (1) Annual report required. The City Arborist and Parks Arborist shall each prepare an annual 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 and public property that were impacted by, or planted as a result of, an authorized tree removal permit associated with construction or other activity, and trees Destroyed through illegal activity associated with the permitted project. The Department of Parks and Recreation Arborist's report shall report on all other Public Trees.
 - (2) Report contents. At a minimum, the report shall include the following:
 - a. Total number and DBH of trees removed (Priority and Non-Priority) and the total number and Caliper inches of trees Replaced during the preceding year in each of the following categories: DDH tree removal permits; Landscape Project tree removal permits; construction removal permits; illegal removals; Public Linear Infrastructure; total number of trees planted in Green Infrastructure facilities; and any other permit or penalty category not listed.
 - b. Acreage of any newly-created deed or easement restricted Conservation Areas and the number and total DBH of trees preserved in them, and acreage of newly acquired forest lands.
 - c. Educational and outreach activities and achievements.
 - d. Other significant urban forest management activities and achievements.
- (k) Authority to hear appeal of decisions of City Arborist.
 - (1) The Tree Conservation Commission has the authority to hear appeals and variances as outlined in sections 158-72 and 158-73

Division 14- Tree Trust Fund

158-77 Establishment and Purpose.

The City of Atlanta shall maintain a Tree Trust Fund. It is the policy of the City of Atlanta to utilize the Tree Trust Fund for the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta when healthy trees are removed from private and Public Property and trees cannot be replaced on site in accordance with the provisions of this article.

158-78 Contributions.

(a) Contributions to the Tree Trust Fund may occur through a number of means, including but not limited to:

- (1) All monies collected for Recompense pursuant to this article payment of civil penalties, or civil remedies resulting from public tree enforcement actions;
- (2) Grant funds;
- (3) Sale of credits for carbon sequestration on City-owned forest land; or
- (4) Voluntary contributions.

158-79 Management of the Tree Trust Fund.

(a) The Tree Trust Fund shall be managed by the Department of City Planning, which will have final 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:

a. General range of revenue accounts:

| <u>CATEGORY ACCOUNT</u> | <u>RANGE</u> |
|-------------------------------------|-------------------|
| LICENSES AND PERMITS | 3200000 : 3249999 |
| CHARGES FOR SERVICES | 3400000 : 3459999 |
| FINE AND FORFEITURES | 3510000 : 3519999 |
| PRIVATE CONTRIBUTIONS AND DONATIONS | 3710000 : 3710003 |

b. Specific account numbers:

| <u>ACCOUNT</u> | <u>ACCOUNT DESCRIPTION</u> | <u>FEE OR FINE</u> |
|----------------|--------------------------------------|--------------------|
| 3413901 | FEES, TREE APPEALS | FEE |
| 3519002 | PENALTIES AND FINES | FINE |
| 3413915 | ARBORIST PRIVATE STANDARD RECOMPENSE | FEE |
| 3413916 | ARBORIST PUBLIC STANDARD RECOMPENSE | FEE |
| 3413917 | ILLEGAL TREE DESTRUCTION FINE | FINE |
| 3413918 | ILLEGAL PUBLIC RECOMPENSE | FEE |
| 3413919 | ILLEGAL PRIVATE RECOMPENSE | FEE |
| 3413920 | REINSPECTION FEE | FEE |
| 3413922 | BOND RECEIPT | FINE |

(c) Use of Tree Trust Funds by various City departments

(1) Any department within the City of Atlanta including, but not limited to, the Department of Parks and Recreation and the Department of Watershed Management, may use Tree Trust Funds for activities or projects authorized under section 158-80 provided that:

a. All expenses are approved by the Department of City Planning; and

- b. All data on plantings, tree maintenance, forest management and other activities shall be collected as required by section 158-80 and shared with the Department of City Planning for reporting purposes.

158-80 Authorized Expenditures.

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

- (a) Tree planting. The Fund may be used to fund 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. The agent shall provide those locations to the Department of City Planning at the end of the tree planting season, but no later than June 30th.
 - (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 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 . 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 support the purchase or installation of Soil Cells or other Suspended Pavement Systems used for planting trees in uncompacted soil below hardscapes for Street Tree plantings within 20 feet of the public right-of-way.
- (f) Procurement of forested property. As set forth in subsection 158-67(a) 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 restoration and maintenance plan as an attachment to the ordinance. The plan will describe the types of restoration and maintenance that may be needed at the property, will estimate the property's annual restoration and maintenance cost, and will identify the source(s) of funding for the estimated annual restoration and maintenance cost. To the extent that the commissioner identifies the Tree Trust Fund as one of the sources of funding, any specific allocation of dollars from the Tree Trust Fund shall only be used for the initial, 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. Longer term management efforts solely to insure 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. Management efforts may include, but are not limited to, invasive plant control, treatment of disease or pest infestation, reforestation, supplementary planting to improve habitat, and vegetation monitoring.
 1. No funds from the Tree Trust Fund may be used for permanent infrastructure, including but not limited to the development or maintenance of roads, parking lots, trails, buildings or similar infrastructure, on the property.
 2. Any allocation of maintenance dollars 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 158-80(b)(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 provide a 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, two percent of the funds received by the Tree Trust Fund during the immediately preceding fiscal year or \$100,000, whichever is greater, 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) Heritage Tree financial assistance. Monies from the tree trust fund may be allocated for the purchase of commemorative plaques for Heritage trees with property owner consent at the recommendation of the City Arborist and approval of the Commission.
- (j) Assistance for low-income homeowners.
 - (1) A maximum of four percent or \$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.
- (k) Salary expenditures. The salaries and benefits of the following positions are authorized to be paid from the Tree Trust Fund. Position salaries may be funded up to the mid-point of the pay range for the various positions.
 - (1) Department of City Planning
 - a. [specific information on the positions will be provided to Council in a substitute ordinance, based on tree trust fund revenue projections]
 - (2) Department of Parks and Recreation
 - a. [specific information on the positions will be provided to Council in a substitute ordinance, based on tree trust fund revenue projections]
- (l) Urban Forest Master Plan. Tree Trust Fund monies may be expended on activities associated with the creation and implementation of the City's Urban Forest Master Plan.
- (m) Tree canopy studies. Tree Trust Fund monies may be expended to update tree canopy imagery and analyses on a three to five-year update cycle, as needed.

Division 15- Violations, Penalties, and Enforcement

158-81 Violations

- (1) In General.

- a. 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.
- (2) Specific Violations, Associated Fines, and Illegal Recompense
- a. Illegal Tree Destruction.
 - 1. Where the City Arborist finds that the violation has resulted in the Destruction of the tree, as defined in this article, 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 and/or Recompense accordingly. The Responsible Party shall be required to plant Replacement Trees and pay Recompense as described in section 158-68.
 - (a) 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, and must be shown as an illegally destroyed Priority Trees on all tree removal permit applications for the property for the subsequent 10 years.
 - (b) Where the City Arborist is unable to determine the species of the tree removed, all illegally destroyed trees that are 18 inches DBH and larger shall be considered Priority Trees for purpose of Replacement and Recompense calculations, and must be shown as illegally destroyed Priority Trees on all tree removal permit applications for the property for the subsequent 10 years.
 - (c) 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 inches of DBH per acre, and specifically shall assume that the property contains 50 Priority Trees of 20 inches DBH per acre, and the City Arborist shall calculate the Replacement and Recompense based on the measured area of land from which the trees were illegally removed. The number of Priority Trees removed shall be estimated based on 50 trees per acre, prorated, and must be shown as illegally destroyed Priority Trees on all tree removal permit applications for the property for the subsequent 10 years.
 - 2. Fines.
 - (a) Where the City Arborist is able to determine the exact number of trees removed or destroyed in violation of this article, the Responsible Party shall be fined \$500.00 for the first tree violation. The fine for all subsequent tree removal or Destruction violations by the Responsible Party shall be \$1,000, regardless of whether the violations occur on separate properties or at other times. Each tree upon which a violation occurred may be deemed a separate violation of this article whether the violations occur on separate properties or at other times.
 - (b) 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 50 trees per acre, prorated. The Responsible

Party shall be fined \$500.00 for the first tree violation and \$1,000 for each additional violation.

b. Violations During Construction Other than Illegal Tree Destruction.

1. Where the City Arborist is able to determine the Responsible Party is not abiding by the City Arborist approved plans for tree protection the first violation will result in a correction notice or stop work order. The second and subsequent violations will result in a correction notice or stop work order and a minimum fine of \$100, but not to exceed \$1,000, regardless of whether the violations occur on separate properties or at other times.
2. 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) Appeal Rights.

- a. Eligibility to appeal a City Arborist decision made pursuant to this article to the Tree Conservation Commission is set forth in section 158-72

(4) Depositing funds. Any Recompense and fines recovered pursuant to this section, excluding court costs, shall be deposited into the Tree Trust Fund.

(5) 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. At the City Arborist's discretion, work on the interior of structures on site may be allowed to continue during the stop work order.

(6) 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.

(7) 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 timeframe 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.
- (8) 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.
- (9) Cease and desist orders. 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 and no tree-removal permit is on the premises, 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.
- (10) 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.

The updated City of Atlanta Tree Protection Ordinance requires the replanting of most healthy trees that are removed from private and public property in the City. If the replanting of all the required trees is not possible, the replanting requirement may be partly satisfied by paying a sum of money into the City's Tree Trust Fund that is equivalent to the value of the trees that were not planted. The value of the unplanted trees is defined in the tree ordinance as the "Established Recompense Value" and is based on the cost to the City of Atlanta to purchase and plant a tree that meets the minimum requirements of a "replacement tree" in the ordinance. The minimum requirements that have the most direct influence on the cost to plant the replacement tree are:

- All trees must be at least 2.5 inches in diameter (also referred to as 2.5 "caliper inches" in the ordinance), though smaller trees may be approved for planting under certain special circumstances;
- All Trees that are 2.5 inches in diameter must have a guarantee that they will survive for two full growing seasons after planting or they must be replaced.

To establish the cost to the City to plant a replacement tree, recent City contract prices for replacement tree planting were reviewed and analyzed. Most of these contracts were construction contracts that included tree planting, though one contract (FC-8832) was solely for tree planting and maintenance. Replacement tree prices for 17 contracts are listed below.

| Contract name | Contract No. | Cost/ tree | Dept. |
|--|--|------------|--------|
| Annual Sanitary Sewer Repair A | FC-8412A | \$240 | DWM |
| Collier Road Outfall Sewer Improvements Phase 1 & 2 | FC-1190031 | \$250 | DWM |
| Howell Mill Road Outfall Repair - Emergency | C-1051 | \$250 | DWM |
| Terrell Creek Trunk System Sewer Improvements | FC-10337 | \$350 | DWM |
| MLK Jr. Corridor Improvements, Fulton Ind. To Ollie St | FC-10213 | \$403 | DPW |
| Childress Drive Bridge Tree Replacement | PO-52105545, date: 12-21-20 | \$410 | ATLDOT |
| Annual Contract for Grn. Infrastructure and Landscape Services | FC-9187 | \$450 | DWM |
| Services Agreement for Urban Forestry | FC-8832 | \$570 | DPR |
| Oldfield Outfall Sewer Repair - Emergency | C-1051 | \$650 | DWM |
| Sewer Group Three - Small Diameter Rehabilitation - Contract B | FC-9216 | \$800 | DWM |
| Annual Sanitary Sewer Repair B | FC-8412B | \$1,000 | DWM |
| Annual Contracts For Stormwater Upgrade and Repair Services | FC-10244A & B | \$1,057 | DWM |
| Lenox Road Widening | FC-1190065-Group B, additional quote 7-20-20 | \$1,075 | ATLDOT |
| Sewer Group Three - Small Diameter Rehabilitation - Contract C | FC-9779 | \$1,260 | DWM |
| Sewer Group Three - Small Diameter Rehabilitation - Contract D | FC-10376 | \$1,908 | DWM |

For the purposes of this fee study, the contract price of \$1,908 (FC-10376) was determined to be an outlier which could artificially skew the analysis of the data, and was excluded. For balance, the lowest price (\$240, FC-8412A) was also excluded.

To determine the cost to the City for a replacement tree, the contract prices, excluding the highest and lowest, were averaged, with the mean cost being \$656 per tree. Taking into account this represents an increase in the previous recompense charged by the City and to account for other variables, the City proposes to reduce the mean and instead use \$600 as the cost of a 2.5 inch diameter replacement tree with a two year guarantee.

The “Established Recompense Value” is the cost, per inch, of replacement trees owed. Based on \$600/2.5 inch diameter tree, the **Established Recompense Value will be \$240 per inch.** (\$600 divided by 2.5).