

**AN ORDINANCE BY COUNCILMEMBER MICHAEL JULIAN BOND AS  
SUBSTITUTED BY COMMUNITY DEVELOPMENT/HUMAN SERVICES  
COMMITTEE 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**, a tree protection ordinance is a critical element of a comprehensive planning framework that addresses land use, impervious surface impacts, urban hydrology, water and air quality, infrastructure costs, access to nature, and wildlife habitat preservation; and

**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 usage and utility costs, reducing risk of flooding reducing stormwater runoff volumes and pollutants, reducing erosion and soil loss, and providing noise mitigation; and

**WHEREAS**, the loss of tree cover significantly contributes to increased soil erosion and sedimentation in both developed and developing areas; and

**WHEREAS**, high-growth regions experiencing the decline of natural green spaces are more susceptible to harmful vehicular and industrial emissions, resulting in degraded air quality; and

**WHEREAS**, integrated urban tree canopies can reduce the maintenance costs associated with nearby infrastructure systems; and

**WHEREAS**, well-managed urban forests provide increasing value over time and deliver measurable benefits to the community, including improved air and water quality, enhanced stormwater management, moderated urban temperatures, aesthetic enhancement, and a higher overall quality of life; and

**WHEREAS**, these environmental and public health benefits are essential to the long-term health, safety, and welfare of the community's residents; and

**WHEREAS**, the conversion of urban tree canopy to high-intensity land uses imposes substantial costs on public infrastructure, which are borne by the entire community; and

**WHEREAS**, urban and community forests function as vital components of public infrastructure, comparable in importance to streets, utilities, stormwater systems, and sewers; and

**WHEREAS**, healthy community forests are proven to increase both commercial and residential property values; 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 tree canopy in the City of Atlanta (“City”) 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**, pursuant to Resolution 23-R-3338, adopted by Atlanta City Council on April 17, 2023 and approved per City Charter 2-403 on April 26, 2023, the Atlanta City Council formally adopted the goal of achieving and maintaining 50% average tree canopy cover within the City of Atlanta; and

**WHEREAS**, setting a City goal for 50% tree canopy cover will provide a clear aspirational but achievable target to guide the development of tree-related policies and programs, and to monitor the success of these policies and programs; 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 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**, 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.

**NOW THEREFORE 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 amended with deleted language in ~~strikethrough~~ and new language underlined:

## **ARTICLE II. TREE PROTECTION<sup>(1)</sup>**

### **DIVISION 1. GENERALLY**

#### **Sec. 158-26. Definitions.**

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

*Applicant* means any person seeking approval to take action under this article.

*Arborist division* means the division within the department of city planning, office of buildings in which the city arborists reside.

*Boundary tree* means a tree on adjacent property whose root save area intrudes across the property line of the site under consideration.

*Buildable area* means that area of the lot available for the construction of a dwelling and permissible accessory uses after having provided the required front, side, rear and any other special yards required by part 15 or part 16 of the city code.

*Business day* means a weekday that is not a government holiday and in which the arborist division is open for a full day of business.

*City* shall mean City of Atlanta.

*City arboricultural standards* means the arboricultural specifications and standards of practice, prepared by the city forester and city arborist and approved by the tree conservation commission, which are adopted pursuant to this article.

*City arborist* shall mean an agent of the department of city planning responsible for administering this article regarding private property, or an agent of the department of parks and recreation responsible for administering this article regarding public property.

*City forester* means an agent of the department of parks and recreation responsible for preparing and regularly maintaining the arboricultural specifications and standards of practice, for preparing and administering the master plan and for regulating and conserving trees on public land.

*Cover area* means that area which falls within the drip line of any tree.

*Critical root zone* shall mean root save area, as defined below.

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

*Diameter at breast height (DBH)* means the diameter of the main stem of a tree or the combined diameters of a multi-stemmed tree as measured 4.5 feet above the natural grade at the base. The top diameter of a stump less than 4.5 feet tall shall be considered the "DBH" of an illegally destroyed tree for the purpose of calculating recompense.

*Disease* means any fungal, bacterial, or viral infection that will result in the death of the tree, as determined by the city forester or city arborist. Disease shall also mean any fungal, bacterial or viral infection that has progressed to the point where treatment will not prevent the death of the tree, as determined by the city forester or city arborist. In order for the city forester or city arborist to deem that a tree has a disease, the person requesting such determination must present a lab report identifying and presenting the etiology (the cause and origin) of the fungal, bacterial or viral infection.

*Established recompense value* means the dollar value to the city of a tree on private or public property used for the purpose of calculating cash recompense for removal or destruction. The established recompense value as of January 2003 is \$100.00 per tree and \$30.00 per diameter inch. This figure shall be evaluated and adjusted periodically by amendment to this ordinance, as proposed by the tree conservation commission in consultation with the city arborist.

*Fair or better condition* means that the tree has a relatively sound and solid root, trunk, and canopy structure, no major insect infestation or other pathological problem, and a life expectancy greater than 15 years as determined by the city arborist or city forester.

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

*Fully stocked* means a site occupied by trees at a density of 1,000 inches DBH/acre (e.g., 40 trees averaging 25 inches DBH on a one-acre site).

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

*Hazard tree* means a tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the city arborist or city forester.

*Heat island* means 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 a site, including but not limited to public streets. An internal heat island is one situated within a site, including but not limited to patios, driveways and other vehicular maneuvering and/or parking areas. Recreational areas including but not limited to swimming pools and game courts are excluded from this definition.

*Historic tree* means a tree that has been designated by the tree conservation commission, upon application by the city arborist or any other interested person, to be of notable historic value and interest because of its age, size

~~or historic association, in accordance with the city arboricultural specifications and standards of practice. Such designation may occur only by resolution of the commission, and the city arborist shall maintain and file with the municipal clerk a complete listing of the location of each historic tree.~~

~~*Illegally removed tree* means any tree that is removed or destroyed without a permit.~~

~~*Impacted tree* means a tree that will suffer injury or destruction of more than 20 percent but not more than 33 percent of its root save area.~~

~~*Incursion* means any occasion of prohibited activity within an area protected by a tree protection fence.~~

~~*Injure* means any intentional or negligent act, including various tree climbing practices, spiking, trimming, flush cutting, incursion into a designated root save area, and the use of climbing spurs or gaffs on trees not subject to removal that exposes the cambium of a tree to insects or decay organisms.~~

~~*Live stake* means a dormant cutting installed as a component of a City of Atlanta stream bank erosion control or stabilization, or of a City of Atlanta stream or wetland restoration project, that is of at least three quarters inches in diameter and at least 24 inches in length and cut from a live tree species that will readily sprout roots and grow when driven into the soil. Live stakes include, but are not limited to the following species: *Salix x cottetii* (Banker's Willow), *Salix exigua* (Sandbar Willow), *Salix nigra* (Black Willow), and *Salix purpurea* (Streamco Willow).~~

~~*Lost tree* means any tree whose root save area will suffer injury or destruction in excess of 33 percent or is otherwise not protected according to the provisions of this article.~~

~~*Master plan* means the comprehensive urban forest master plan.~~

~~*Mid-canopy tree* means a tree that normally attains a DBH of ten—25 inches and a height of 30—60 feet at maturity. Examples include Southern sugar maple, "October Glory" Red maple, River birch, Deodar cedar, Persimmon, Ginkgo, American holly, Foster holly, Eastern Red cedar, Blackgum, Sourwood, Chinese pistache, Nuttall oak, Chinese elm, European hornbeam.~~

~~*New lot of record* means a tract of land that has been newly subdivided and so recorded as a separate property of record with the county land registrars office.~~

~~*Overstory tree* means 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*), 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* means only a member of the genus *Pinus*, and does not include other needled trees commonly known as cedar, fir, spruce, hemlock, or any other members of the family Pinaceae.~~

~~*Private arborist* means any person who is not employed by the City of Atlanta, and who is a Georgia Registered Forester, or at a minimum, certified by the International Society of Arboriculture (ISA) as an arborist and a member in good standing of the ISA.~~

~~*Private arborist report* means a typed report that is submitted and signed by a private arborist, as defined above, and that at a minimum clearly states the arborist's name, contact information and qualifications, and identifies the site address and each individual tree to be considered by the city forester or city arborist.~~

~~*Private property tree* means for purposes of this article, where reference is made to a tree being on "private property", the tree shall be deemed to be on private property where more than 50 percent of the flair of the tree, where the tree interfaces with the earth, is located on private property.~~

~~*Protective pruning* means pruning to elevate branches/limbs that are likely to be damaged by construction activities. Pruning must not exceed 20 percent of the live crown. Protective pruning is not an ISA term.~~

~~*Pruning* means that definition of the term as set forth in both the most recent International Society of Arboricultural pruning standards and guidelines and American National Safety Institute 300.33. At no time shall trimming, topping, tipping or flush cutting of trees be deemed a form of "pruning."~~

~~*Public property tree* means for purposes of this article, where reference is made to a tree being on "public property", the tree shall be deemed to be on public property where at least 50 percent of the flair of the tree, where the tree interfaces with the earth, is located on public property.~~

~~*Public utility* means any publicly, privately or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, steam, clay, waste, storm water not connected with highway drainage and other similar services and commodities, including publicly owned fire and police and traffic signals and lighting systems, which directly or indirectly service the public or any part thereof.~~

~~*Required yard area* means the open space on a lot not occupied by a structure.~~

~~*Root chase* means a continuous soil trench created with culvert or piping material under pavement that allows tree roots to connect with nearby open space. A root chase is typically used in parking lots and for street tree plantings to provide more rooting area for trees.~~

~~*Root save area* means the area surrounding a tree that is essential to that tree's health and survival. For a free-standing tree with no apparent root restrictions the root save area shall consist of a circle having a radius of one foot for each one inch of diameter at breast height of the tree. Adjustments to the root save area may be made by the city arborist if justified by specific documented site conditions.~~

~~*Sampling* means the employment of recognized statistical survey methods to count and measure existing trees on a site.~~

~~*Saved tree* means any tree that is to be protected and not destroyed or injured during construction as required by this article.~~

~~*Severe mechanical injury* means a wound or combination of wounds, measured at its or their widest extent, that expose or destroy the cambium layer of 30 percent or more of the circumference of the tree, measured at the top of the wounded area.~~

~~*Silvicultural prescription* means any typed site or individual tree prescription developed by a private arborist, as defined above, that is aimed at preserving a tree. Prescriptions must include without limitation: the private arborist's name, signature, and contact information; the site address and individually identified trees at issue; a harvesting or stand improvement plan, soil and foliar analysis/treatment, schedule of treatment, fertilizer application, soil amendments, pesticide application with a copy of the pesticide labeling, and pruning. Trimming, topping, tipping or flush cutting of trees will not be accepted as a part of any silvicultural prescription.~~

~~*Soil cell* means 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.~~

~~*Specimen tree* means a tree that meets the following criteria:~~

- ~~(1) Large hardwoods (eg. oaks, elms, poplars, etc.) and softwoods (eg. pine sp.) in fair or better condition with a DBH equal to or greater than 30 inches;~~
- ~~(2) Smaller understory trees (dogwoods, redbuds, sourwoods, persimmons, etc.) in fair or better condition with a DBH equal to or greater than ten inches; and~~
- ~~(3) Lesser-sized trees of rare species, exceptional aesthetic quality, or historical significance as designated by the tree conservation commission.~~

~~*Spiking* means the use of metal spurs or gaffs to climb live trees for any purpose other than tree removal or human rescue.~~

~~*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* means the zone of rapid root taper that provides the tree stability against windthrow. The radius of the root plate is proportional to the stem diameter (DBH) of a tree. The table below provides examples of root plate radii for upright trees without restricted roots.~~

<del>DBH (inches)</del>	<del>8</del>	<del>16</del>	<del>32</del>	<del>48</del>
<del>Root plate (feet)</del>	<del>5.5</del>	<del>8</del>	<del>10.5</del>	<del>12</del>

~~*Subdivision* means a tract of land that has been newly subdivided in accordance with the Subdivision Ordinance and so recorded as a separate property of record with the county land registrars office.~~

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

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

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

~~*Tree conservation commission* means the commission established pursuant to section 158-61.~~

~~*Tree replacement plan* means a drawing which depicts the location, size and species of existing and replacement trees on the lot for which a permit is sought, and a table detailing, by species and DBH, the existing trees to be saved, lost or destroyed, and, by species and caliper, the replacement trees to be planted.~~

~~*Tree structure* means branch and trunk architecture that result in a canopy structure that resists failure.~~

~~*Trimming* means cutting a stem to an indiscriminate length, as determined by the city forester or city arborist. While trimming is unacceptable, pruning the act of cutting stems at nodes is permissible.~~

~~*Undesirable (tree) species* means a tree that has demonstrated sufficient negative qualities as to be detrimental to the long term health of the City of Atlanta's urban forest. Those qualities include without limitation: weak branch structure, chronic pest or disease problems, and invasive tendencies. A current list of undesirable tree species is maintained by and available from the arborist division. Examples of undesirable tree species include Leyland cypress (*Cupressus x leylandii*) and Lombardy poplar (*Populus nigra*).~~

~~*Understory tree* means a tree that normally attains a DBH of less than ten inches and a height of less than 30 feet at maturity. Examples include Trident maple, Serviceberry, American hornbeam, Redbud, Fringetree, Dogwood, Smoketree, Burford holly, Nellie R. Stevens holly, treeform Crape myrtle, Little gem magnolia, Golden raintree, cherry sp.~~

~~*Vacant lot* means a property of record that has not had a structure on it in the past five years.~~

### **~~Sec. 158-27. 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; appendix I of the City Charter, paragraphs 15, 21, 25, 30, 31, 47 and 57; and all other state and local laws applicable to this article.~~

### **~~Sec. 158-28. Policy, purpose and intent.~~**

~~It is the policy of the city that there shall be no net loss of trees within the boundaries of the city. The purpose of this article is to establish the standards necessary to assure that this policy will be realized and that the city will continue to enjoy the benefits provided by its urban forest. The provisions of this article are enacted to:~~

- ~~(1) Establish and maintain the maximum amount of tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article;~~
- ~~(2) Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices;~~
- ~~(3) Establish and revise as necessary standards for the planting and maintenance of trees so as to improve the economic base of the city by improving property values, to enhance the visual quality of the city and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding;~~
- ~~(4) Minimize hazards and damage to streets and sidewalks and lessen public rights-of-way maintenance costs;~~
- ~~(5) Provide for the designation of historic and specimen trees; and~~
- ~~(6) Promote efficient and cost effective management of the urban forest through the development of a comprehensive long-range urban forest master plan.~~
- ~~(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.~~

### **~~Sec. 158-29. Scope.~~**

~~The terms and provisions of this article shall apply to all private property and all public property subject to city regulation, including all public school property, public housing property, parks, rights-of-way, and easements granted to other private or public entities, including public utilities, except where superseded by franchise agreements.~~

### **~~Sec. 158-30. Parking lot requirements.~~**

#### **~~(a) Applicability.~~**

- ~~(1) All new parking lots, and those being expanded or undergoing renovation that involves removal of paving, 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.~~



- (2) ~~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 or retained so that there is one tree for every eight parking spaces and no parking space is further than 45 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 or newly planted trees on the perimeter must be no more than ten feet from the edge of the parking lot and within the same development project.~~
- (2) ~~All trees used to meet the parking lot planting requirement shall be overstory or mid-story trees, with at least 50 percent of the total number of trees being overstory species, and at least 50 percent of the trees planted in the in the interiors of parking lots also being overstory species.~~
- (3) ~~Understory trees may be approved for use in parking lots below overhead utilities, or after the minimum planting requirements described in section 158-30(b)(1) and (2) have been satisfied.~~
- (4) ~~Barrier curbs and wheel stops. Where the end of a parking space abuts a landscaped area where trees are planted, barrier curbs or wheel stops shall be installed in the parking space at a minimum of two feet from the landscaped area. The two-foot area may 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.~~
- (5) ~~Ground cover of landscaped areas. Landscaped areas shall contain one or more of the following types of ground cover in order to protect tree roots and prevent erosion; shrubs, non-invasive herbaceous plants, organic mulch, pine straw, or other similar landscaping materials. Ground cover shall be maintained at all times and mulch shall not exceed three inches in depth. Shrubs shall be maintained at a maximum height of 2.5 feet, except where such shrubs screen the parking surface from an adjacent property. Plants shall not be planted within the structural root plate of trees; plantings within the critical root zone of trees shall be dug by hand.~~
- (6) ~~Tree plantings adjacent to sidewalks and other rights-of-way.~~
- a. ~~Where a lot 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 158-103(j).~~
- (8) ~~Replacement of trees. All trees planted to meet these current or previous parking lot planting requirement must be maintained as necessary to keep the tree s healthy for the life of the parking lot, and any tree that is dying, dead, or missing 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 158-30(b).~~

### **~~Sec. 158-31. Easements to plant trees on private property.~~**

~~The mayor is hereby authorized to enter into agreements with the owners of private property located within the city for the purpose of acquiring easements to plant trees on such property, in consideration for which such private property owner shall acquire ownership of such trees as the city may plant. Provided, however, that any such agreement shall limit the duration of the easement to a time period of two years and shall limit the property interest acquired by the city to that distance sufficient to allow the planting of trees, in no case to exceed a maximum of a 15-foot setback from the property line or right-of-way held by the city. Provided further, that under such agreement the private property owner shall agree to maintain the trees planted thereon and shall also agree to hold the city harmless for any liability attributable to the planting or presence of the trees on the private property.~~

### **~~Sec. 158-32. Conservation easements and fee simple donations.~~**

~~The mayor is hereby authorized, but is not required to accept conservation easements created pursuant to the provisions of the Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1 et seq., as amended from time to time, or any successor provision of law, the purpose of which easements are to preserve land in its natural scenic landscape or in a forest use. Such easements must be perpetual in duration and shall contain such other terms and provisions as the mayor or her/his designee shall deem appropriate. In addition, the mayor is authorized, but not required, to accept fee simple donations of land, the purpose of which is to preserve the land in its natural scenic landscape or in a forest use. Such donation shall contain the terms and provisions deemed appropriate by the mayor or her/his designee.~~

### **~~Sec. 158-33. Enforcement.~~**

~~The bureau of parks and the bureau of buildings shall be charged with the enforcement of this article. The city forester and the city arborist have police power to do all acts necessary to ensure that the provisions of this article are not violated, including, but not limited to, the issuance of citations for the violation of any provision of this article. 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.~~

### **~~Sec. 158-34. Variations.~~**

~~The city arborist may allow modest variations 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. A modest variation may not grant permission to remove a tree not otherwise authorized for removal, nor allow greater than 33 percent impact to the CRZ of a preserved tree. When variations are granted, a written explanation of the variation(s), and rationale for granting them, shall be included in the appropriate project record and available to the public through quarterly reports.~~

### **~~Sec. 158-35. Penalties.~~**

- (a) ~~Legal.~~ Any person violating any of the provisions of this article, and which results in the illegal injury or destruction of a tree, 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. The tree conservation commission shall have the authority to determine when a person has violated any of the provisions of this article and shall have the authority to impose and enforce the fines described herein. Where the tree conservation commission is able to determine the exact number of trees upon which a tree protection ordinance violation occurred, a fine imposed for the first violation shall be no less than \$500.00, and the fine imposed for each subsequent violation shall be \$1,000.00. Each tree upon which a violation occurred shall be deemed a separate violation of the tree protection ordinance. Where the tree conservation commission is unable to determine the exact number of trees upon which a tree protection ordinance violation occurred, the commission shall assume a density of 1,000 inches DBH of trees per acre, and specifically shall assume that the lot contains 60 trees of 16.67 inches DBH per acre, and shall impose a fine of \$60,000.00 per acre of land where the offense(s) occurred. Where the subject property is smaller than one acre, the fine shall be pro-rated. Each day's continuance of a violation may be considered a separate offense. The owner of any building, structure or site, or part thereof, where anything in violation of this article exists, and any architect, builder, contractor or agent of the owner, or any tenant who commits or assists in the commission of any violation of this article shall be guilty of a separate offense.
- (b) In addition to paying the penalties set forth in subsection (a) above, any tree of six inches or larger DBH except pines, or any pine tree of 12 inches DBH or larger, that is removed or destroyed in violation of this article shall be replaced or recompensed by the violator, as set forth in section 158-103.
- (c) ~~Tree protection.~~ Fences surrounding root save areas must be erected before the commencement of any land disturbance, demolition or construction. Fences must comply with City of Atlanta arboricultural standards and must be constructed of chain link, wood, or substantial mesh material, with a minimum height of four feet. Chain link or substantial wood fencing must be used in the following circumstances:
- (1) All commercial, multi-family residential, and mixed-use development projects;
  - (2) Protection of trees in the front yards of single-family residential properties;
  - (3) Protection of trees that have been approved for CRZ impacts greater than 20 percent;
  - (4) Protection of trees for which an appeal of the tree's destruction was appealed to, and upheld by, the tree conservation commission; or
  - (5) Any other situation where the city arborist finds a significant risk of damage to a saved tree's critical root zone. The city arborist may require these measures at any time, including after commencement of site disturbance.
- No activity, including construction material storage, shall occur in areas protected by tree fences. Tree protection fences must remain in place and upright until such time as final landscaping of a site requires their removal. The arborist may assess recompense against the violator if, in the arborist's opinion, the incursion has converted trees from the status of saved trees to the status of injured, lost, or destroyed trees, as set forth in this section above.
- (d) Other violations during construction that do not result in destruction or injury to a tree.
- (1) During the course of construction, where the city arborist is able to determine the responsible party is not abiding by the city arborist approved plans for tree protection (e.g., failing to maintain a tree construction fence), the first violation will result in a correction notice or stop work order. The second violation within the same development project will result in a correction notice or stop work order and a fine of \$500.00, all subsequent violations shall result in a fine of \$1000.00.
  - (2) Each day's continuance of a violation may be considered a separate offense.

- (e) ~~Additional actions and penalties.~~ In addition to all other actions and penalties authorized in this section, 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 section.

**~~Sec. 158-36. Site selection for city facilities.~~**

~~City arborist to be consulted on site selection for city facilities. Prior to any land purchase or development of site plans, the department of enterprise asset management shall consult with the city arborist on the appropriateness of potential sites for city facilities and other city sponsored or constructed capital projects, other than linear infrastructure. If the proposed site for the capital project has significant trees or tree cover as determined by the city arborist, alternative sites that meet the proposed facility's requirements shall be considered, particularly previously developed lots.~~

**~~Secs. 158-37—158-60. Reserved.~~**

**~~*DIVISION 2. TREE CONSERVATION COMMISSION*~~<sup>[2]</sup>**

**~~Sec. 158-61. Establishment; appointment of members.~~**

~~There is established a tree conservation commission of the city, referred to in this article as the commission. The commission shall consist of 15 members, eight of which shall be appointed by the mayor and seven by the council. All members shall be confirmed by the city council. Each of the members shall contain specialized knowledge about trees, the Tree Protection Ordinance, and/or the impact of construction activities on trees. The membership shall consist of the following:~~

- ~~(1) One member shall be appointed by the mayor who is a registered landscape architect.~~
- ~~(2) One member shall be appointed by the mayor who is either a botanist, forester, horticulturist or nursery worker.~~
- ~~(3) One member shall be appointed by the mayor who is a registered architect.~~
- ~~(4) One member shall be appointed by the mayor who is a member of an environmental organization.~~
- ~~(5) One member shall be appointed by the mayor who is a real estate professional.~~
- ~~(6) One member shall be appointed by the mayor who is a private arborist.~~
- ~~(7) Two members shall be lay citizens appointed by the mayor interested in environmental protection.~~
- ~~(8) One member shall be appointed by the council who is a residential builder.~~
- ~~(9) One member shall be appointed by the council who is a residential developer.~~
- ~~(10) One member shall be appointed by the council who is a commercial or industrial developer.~~
- ~~(11) Three members shall be citizens appointed by the paired districts in consultation with the at-large council member.~~

- (12) One member shall be an urban planner or an environmental resource planner appointed by the president of council.

**~~Sec. 158-62. Terms; vacancies; compensation.~~**

- (a) ~~The initial tree conservation commission membership shall contain three members appointed for a term of one year and four members appointed for a term of two years. Thereafter, all subsequent appointments shall be for a term of two years. Members of the tree conservation commission may be appointed for consecutive terms consistent with general laws regulating service on city boards and commissions. The mayor may recommend removal and replacement of a member of the commission for nonperformance of duty. Each member shall receive a \$75.00 per month honorarium, but only if the member attends at least two of the hearings and/or business meetings (or at least one of each) per month. The commission shall select from its members a chairperson to serve for a one year term.~~
- (b) ~~The council shall appoint seven of the 15 tree conservation commission members as described in subsection 158-61. With regard to the citizens appointed by the paired districts, pursuant to subsection 158-61(11), the council shall appoint the three members in the following manner:~~
- ~~(1) Districts 1, 2, 3 and 4 and at large post 1.~~
  - ~~(2) Districts 5, 6, 7 and 8 and at large post 2.~~
  - ~~(3) Districts 9, 10, 11 and 12 and at large post 3.~~
- (c) ~~In the event that an appointment to fill vacancies by the mayor or council is not made within 60 days of the mayor's or council's request, the president of council can proceed to nominate a person for the position, and the nomination shall be forwarded to the committee on council.~~
- (d) ~~If a tree conservation commission board position becomes vacant and a member is not appointed pursuant to section 158-61 within six months, the tree conservation commission, by a majority vote of the remaining members, may temporarily appoint someone to the missing category until such time that a permanent board member is appointed as described in section 158-61. The person appointed by the tree conservation commission need not meet the specific requirements of the vacant position, but must contain specialized knowledge about trees, the tree protection ordinance, and/or the impact of construction activities on trees.~~
- (e) ~~The executive branch shall provide such staff as is required for the efficient operation of the board.~~

**~~Sec. 158-63. Functions; powers; duties.~~**

~~The functions, powers and duties of the tree conservation commission shall be as follows:~~

- ~~(1) Assisting the city arborist in establishing and maintaining a record of historic trees, specimen trees and other unique environmentally significant trees within the city.~~
- ~~(2) Hearing and deciding appeals of decisions of administrative officials as provided in section 158-65.~~
- ~~(3) Establishing educational and other programs to encourage proper management and maintenance of trees on private property in the city.~~
- ~~(4) Reviewing and approving the city arboricultural specifications and standards of practice promulgated by the city arborist and city forester and required pursuant to this article.~~

- (5) ~~Providing consultation and assistance to the city forester in the preparation of the master plan required pursuant to this article.~~

#### **~~Sec. 158-64. Meetings; clerk; court reporter; rules of procedure.~~**

~~The tree conservation commission shall establish a regular meeting schedule, and all meetings of the commission shall be open to the public. The commission shall have a clerk, designated by the commissioner of the department of planning, development and neighborhood conservation, who shall be a full-time employee of the department. The clerk shall serve as secretary to the commission and shall be responsible for the clerical administration of the appeals process, 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 clerk shall also direct and supervise the giving of 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 clerk shall also be responsible for the maintenance and preservation of all records of the commission. The meetings of the tree conservation commission shall be recorded by a court reporter contracted for by the city and paid for by the city from the proceeds of the tree trust fund. The commission shall adopt rules of procedure for the conduct of meetings, hearings and attendance requirements for members.~~

#### **~~Sec. 158-65. Appeals.~~**

##### ~~(a) Appeals from the decisions of administrative officials.~~

##### ~~(1) Who may appeal.~~

- a. ~~For a decision by a city administrative official based on the tree protection ordinance regarding tree(s) on private property, an appeal may be made by any person and who resides or owns property or a business either within 500 feet or within the NPU of the property on which the tree(s) at issue are located, except that appeals may not be made for decisions made by the city arborist pursuant to subsection 158-101(h) of this article. The appeal may be made only if the appellant is able to identify on the notice of appeal (as described in subsection 158-65(3)c.) the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and/or any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.~~
- b. ~~For a decision by a city administrative official based on the tree protection ordinance regarding tree(s) on public property, an appeal may be made by any citizen of Atlanta, any owner of property or a business in Atlanta, and/or any civic association in the neighborhood planning unit in which the tree(s) at issue are located, except that appeals may not be made for decisions made by the city arborist pursuant to subsection 158-101(h) of this article. The appeal may be made only if the appellant is able to identify on the notice of appeal (as described in subsection 158-65(3)c.) the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and/or any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.~~

##### ~~(2) Timing of appeal.~~

- a. ~~Appeals regarding tree(s) on private property must be filed within seven business days of the on-site posting of the city arborist's preliminary decision regarding the tree(s) at issue. At the time~~

that a permit application is filed with the city arborist regarding tree(s) on private property, the city arborist shall pre-post the property on which the tree(s) are located for a minimum of ten business days prior to making a preliminary decision. The pre-posting shall indicate to the public that a permit application has been filed. If and when the city arborist grants preliminary approval of the permit application, s/he shall post the property for seven business days with a final posting, indicating to the public that preliminary approval has been granted.

- b. Appeals regarding tree(s) on public property must be filed within 15 calendar days of the posting of the city arborist's preliminary decision regarding the tree(s) at issue.

~~(3) Appeal requirements.~~

- a. All appeals must be filed with the clerk of the tree conservation commission.
- b. An appeal shall not be deemed filed until the clerk receives a completed notice of appeal, along with either a \$75.00 administrative fee used to help defray the administrative costs of the appeal or a hardship letter. The hardship letter must explain in detail why the appellant is unable to pay the fee and must be signed by the appellant. At its earliest convenience, but in no event later than at the appeal hearing, the tree conservation commission shall determine whether to waive the \$75.00 fee.
- c. 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 an Atlanta citizen; if the tree(s) at issue are located on public property and the appellant is not an Atlanta citizen, whether the appellant owns property or a business in Atlanta, and if so, the address; if the tree(s) at issue are located on public property, whether the appellant is a civic association in the neighborhood planning unit in which the tree(s) at issue are located; if the tree(s) at issue are located on private property, whether the appellant owns and/or resides on property or owns a business on property located within 500 feet from the property on which the tree(s) at issue are located; the date of the decision being appealed; the name of the person(s) who filed the permit application about which the appeal is made; the address of the subject property; the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.
- d. An appeal may challenge the decisions regarding one property only.

~~(4) After the appeal is filed.~~

- a. Once an appeal is filed, any activity authorized by the decision appealed shall be stayed automatically. Despite the authorization given by the decision appealed, no permits shall be issued, no trees cut, nor earth disturbed.
- b. The tree conservation commission shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as prompt notice in writing to the parties in interest. Public notice shall be given by the clerk of the tree conservation commission in such a manner as shall be provided for in the rules for appeals adopted by the tree conservation commission, but in no event shall such notice be given less than 15 calendar days before the date of the hearing.
- c. At least two weeks prior to the appeal hearing, each party shall submit to the clerk of the tree conservation commission and the other parties in interest a written summary of their argument and a copy of all documentary evidence supporting their argument. This requirement shall apply to any property owner or resident, on which the subject tree(s) is located, that is not a party to the

~~appeal, and any other person wishing to present evidence at the hearing. The parties shall submit to the tree conservation commission and the other parties in interest all rebuttal arguments and rebuttal documentary evidence at least one week prior to the hearing. Submissions of new evidence at the appeal hearing will not be accepted or considered by the tree conservation commission unless a showing can be made and the tree conservation commission finds that the evidence was not available one week prior to the hearing.~~

~~(5) The appeal hearing.~~

- ~~a. At the hearing, any party may appear in person or by an agent or by an attorney.~~
- ~~b. At least three members of the tree conservation commission must preside over each hearing. The decision on any appeal shall be determined by a majority vote of the tree conservation commission members present and voting on the particular appeal.~~
- ~~c. 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.~~

~~(6) Tree conservation commission's ruling.~~

- ~~a. The tree conservation commission shall sustain an appeal upon an express finding that the administrative official's action was based upon an erroneous finding of a material fact or upon an erroneous application of law. If no such finding is made, the tree conservation commission shall deny the appeal. The tree conservation commission shall have the authority to reverse, affirm, wholly or partly, or modify the administrative official's decision being appealed, and to that end shall have all of the powers of the administrative official. These powers shall include, where applicable, the power to direct the issuance of a permit, provided that all requirements imposed by this article and all other applicable laws are met.~~
- ~~b. In the event that the tree conservation commission rules that recompense and/or a fine should be assessed, but also finds that the amount of recompense owed or fine assessed cannot be paid as a result of financial hardship, the commission shall have the authority to reduce the fine or recompense. The commission shall create written guidelines by which to determine whether and to what extent financial hardship exists. These guidelines shall include a requirement that the person requesting a finding of financial hardship make a written request and provide documentary evidence of such hardship. The specific documents to be provided shall be determined by the commission and listed in the guidelines. The commission shall apply these guidelines consistently any time that a hardship request is made. Where the commission finds, based upon the hardship request, the supporting documentation, and the guidelines, that a financial hardship exists, the commission shall have the authority to reduce or completely eliminate the amount of recompense and/or fine owed, as long as said decision is consistent with the guidelines. The commission shall issue a written decision regarding the financial hardship request and shall provide in writing the basis for that decision.~~
- ~~c. Any person desiring to appeal a decision of the tree conservation commission under subsection 158-65(b) shall notify the clerk of the commission, in writing, of such intent within six working days of the date of the written decision of the commission. Barring such notice of intent, the stay on the activity that was the basis for the decision appealed shall be lifted, within the constraints imposed by the commission's ruling.~~



- (b) ~~*Appeals from decisions of the tree conservation commission.*~~ 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. The filing of an appeal in the superior court from any decision of the commission shall not ipso facto act as a supersedes, but the city shall abide by any supersedes granted by Fulton County Superior Court.
- (c) ~~*Frivolous appeals.*~~ An appeal may be dismissed as frivolous by a vote of the commission in advance of the time that would be set for hearing. In such instances, the members of the commission may be polled without meeting. An appeal is frivolous if it clearly appears from the face of the notice of the appeal and the justification set forth, that no facts could be brought forth at a hearing that could sustain such an appeal as a matter of law. In the event that an appeal is dismissed as frivolous, all parties shall be notified in writing by the clerk, and the clerk shall also give immediate notice by telephone, e-mail, or facsimile transmission to the appellant, advising the appellant of his or her right to appeal. Any person desiring to appeal a decision of the commission under subsection 158-65(c) shall notify the clerk of the commission in writing of such intent within three working days of the written decision of the commission. Barring such notice of intent the stay on the activity appealed from shall be lifted.
- (d) ~~*Appeals of cash recompense.*~~ An appeal whose sole purpose is to request an adjustment in cash recompense shall not prohibit the issuance of the arborist's final approval of a plan if the appellant submits with the appeal, a bank certified check, or a money order payable to the City of Atlanta in the amount of the calculated recompense that occasions the appeal. The check or money order shall be retained by the clerk of the tree conservation commission until such time as the appeal is decided. If recompense relief is granted and the arborist has receipt of recompense paid to the City of Atlanta in the recompense amount determined by the appeal, the clerk shall surrender the check or money order to the appellant.

#### **~~Sec. 158-66. Tree trust fund.~~**

- (a) ~~*Establishment and administration.*~~ The tree conservation commission shall establish a tree trust fund for the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta. During any given fiscal year, five percent of the funds received by the tree trust fund during the immediately preceding fiscal year or \$100,000.00, whichever is greater, shall be placed into a tree trust fund education outreach account ("education account"), and such monies shall be used for educational materials, educational programs, and educational outreach. Any amount not utilized in the given fiscal year shall remain in the account to be utilized in future years. A maximum of \$60,000.00 per year of the fund may be used to pay for the annual salary and benefits of a Tree Commission administrative analyst whose primary responsibility shall be education. In the event that the cost of the salary and benefits exceeds \$60,000.00, the remainder of the cost shall be paid for from the education account. A maximum of \$50,000.00 per year of the fund may be used for costs arising directly from administering and enforcing the tree protection ordinance that would not have arisen in the absence of the tree protection ordinance, including but not limited to the cost of posting trees to be removed, the cost of advertising tree commission hearings, and the cost of court reporter services at tree commission hearings. The honoraria for tree conservation commission members, as described in subsection 158-62(a), may also be paid from the fund.
- (b) ~~*Management of the tree trust fund.*~~
  - (1) The tree trust fund shall be managed by the department of city planning, which will have approval authority over all expenditures from the fund.
  - (2) Tree trust fund accounts.

- a. Contributions to the tree trust fund shall be placed in the following city accounts:

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

Specific account numbers:		
3413901	FEES, TREE APPEALS	FEE
3519002	PENALTIES AND FINES	FINE
3413913	RECOMPENSE FEES	FEE
3413919	FEES, REINSPECTION FEE	FEE

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

- (3) Quarterly reports of funds dispersed from the fund, approved expenditures for new projects, and current balance of unallocated funds shall be submitted to the tree conservation commission and made available to the public.
- (c) A maximum of \$200,000.00 per year, with no carryover, of the tree trust fund may be used to financially assist low-income homeowners with the pruning of hazardous tree branches or the removal and replacement of dead, dying, and hazardous trees on their property.
- (1) 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 overstory or mid-canopy tree for every tree removed.
- (2) The standards to qualify for this low-income homeowner assistance program will be established by the department of city planning.
- (3) Each occurrence of assistance shall be documented, and this information made available to the public.

A maximum of \$75,000.00 per year of the fund may be used to pay for the annual salary and benefits of an office of parks arborist senior position. The person in this position shall act as a project manager for the various projects on city owned property being paid for by the tree fund, namely new tree plantings, tree maintenance work,

removal of invasive species, and fulfillment of ongoing tree maintenance work orders. The position may also be utilized to prepare for future projects that are paid for by the Tree Fund, such as preparation of RFP's, evaluation of proposals, and performance of research regarding the same. The specific responsibilities of this position shall be determined by the Commissioner of the Department of Parks and Recreation or her/his designee, after consultation with the Tree Conservation Commission.

A maximum of \$110,000.00 per year of the fund may be used to fund the annual salary and benefits of the two arborist positions. In the event that the costs of the salary and benefits positions exceeds \$110,000.00, the remainder of the cost shall be assumed by the general fund budget in the department of city planning.

A maximum of \$200,000.00 per year of the fund may be used to pay for the annual salary and benefits of an office of parks tree trimming crew. The tree trimming crew shall be comprised of one forestry crew supervisor, one tree trimmer senior, and one tree trimmer. The members of this crew will be responsible for providing services that maintain and enhance the health of the city's tree canopy, including trimming, pruning, and limbing trees that are located in city owned parks and rights of way.

(d) *Procurement of forested property.* As set forth in subsection 158-66(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 percent 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 initial, short-term tree restoration and stabilization related to the protection, preservation and regeneration of trees on the property. This includes the removal of dead, dying or hazardous trees or invasive species that present a significant threat to the health of the trees, and staff or contractors to administer such services. This initial stabilization, clean-up and maintenance period shall not exceed three years from the purchase date of the property. Any expenses beyond three years after the purchase date shall be considered long-term maintenance costs and shall not be funded from the tree trust fund but rather from the operations and maintenance budget of the department of parks and recreation or a source other than the tree trust fund. 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.

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 lots that may be suitable for acquisition as forested property. An ordinance authorizing procurement of forested property, as described in subsection 158-66(d)(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) ~~The department of parks commissioner and the department of city planning commissioner shall jointly provide a report to the community development/human resources committee each time a privately-owned afforested property procured by the city, which shall include the amount appropriated from the tree recompense fund and the acreage of the property.~~
- (e) *Recompense for illegal removal or destruction.* ~~Developers, builders, contractors, homeowners and others who violate the criteria for removal or destruction of section 158-102 shall contribute to the fund the replacement value of the trees illegally removed or destroyed according to the recompense formulas of section 158-35.~~
- (f) *Recompense for permitted removal or destruction.* ~~Developers, builders, contractors, homeowners and others who are unable to meet the standards for tree replacement and afforestation of section 158-103 shall contribute to the fund the replacement value of the trees removed in excess of the trees replaced in the course of new construction, landscaping, or other permitted activities according to the recompense formulas of subsections 158-103(b) and (c).~~
- (g) ~~(Reserved.)~~

**~~Secs. 158-67—158-100. Reserved.~~**

### ***~~DIVISION 3. REMOVAL AND RELOCATION~~***

**~~Sec. 158-101. Permit to remove, destroy, or injure.~~**

- (a) *Required.* ~~No person shall directly or indirectly remove or destroy or injure any tree located on public property that is subject to the provisions of this article, or any tree having a diameter at breast height (DBH) of six inches or more which is located on private property subject to the provisions of this article, without obtaining a permit as provided in this section.~~
- (1) ~~The city arborist shall provide a list of undesirable and invasive tree species, invasive flora, and recommended replacement tree species to the tree conservation commission at a public meeting for approval by the commission. The proposed list or lists shall be made available to the public prior to that tree conservation commission meeting. All updates to the aforementioned species lists shall follow the same process for approval by the tree conservation commission.~~

- (b) ~~Permits for construction, renovation, demolition.~~ Permits to remove, destroy, or injure trees for construction, renovation or demolition shall be obtained by making application in a form prescribed by the city to the director of the bureau of buildings.
- (c) ~~Other permits.~~ Permits to remove, destroy, or injure trees for safety, landscaping, silvicultural or other purposes shall be obtained by making application to the city arborist. All permits shall be posted for public inspection on site.
- (1) ~~Applications to remove dead, dying, diseased, or hazardous trees may be made by phone, fax, mail, or other means.~~ Each application shall include the address of the property and the owner's name, phone, and fax number. If applicable, it shall also include the name, phone, and fax number of the tree service proposing to do the work. Each tree shall be identified as to its species, its diameter within two inches of the actual diameter, location and identifying characteristics or added markings. ~~Permits to remove dead, dying, diseased, or hazardous trees shall be approved at the determination of the city arborist. Such permits are not subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(1), the recompense formulas of subsection 158-103(b), or to public appeal. Applicants may appeal a notice of denial to the tree conservation commission as provided in this article. The permit shall be valid for six months from the date of its issuance, though the city arborist may extend the expiration date of the permit by no more than six additional months based upon extenuating circumstances, as determined by the city arborist.~~
- (2) ~~Invasive and undesirable tree species.~~ The arborist division shall maintain a list of undesirable and invasive tree species that is available to the public.
- a. ~~Invasive tree species.~~ Invasive, non-native trees pose a threat to Atlanta's native ecosystems. Removal of invasive trees six inches DBH or greater requires a permit from the city arborist but is exempt from the posting, public appeal, replacement, and recompense portions of this article.
1. The city arborist may update the list of invasive trees periodically, based on the list of invasive species published by the Georgia exotic pest plant council (<https://www.gaeppe.org/list/>), scholarly research and consultation with professional arborists, ecologists, and foresters. All updates shall be approved by the tree conservation commission.
- b. ~~Undesirable tree species.~~ Certain tree species are found by the city arborist to have undesirable qualities, which may include, but are not limited to, poor form at maturity, significant disease or pest problems, and low ecological benefits.
1. The removal of undesirable tree species six inches DBH or greater requires a permit from the city arborist but is exempt from the posting and recompense requirements of this article.
2. The removal of undesirable species is also exempt from the replacement requirement of this article, except in the following circumstance:
- (a) When the removal of five or more trees of an undesirable species from a single property is not associated with a building, land disturbance, or demolition permit, the owner must either obtain city arborist approval of a landscape plan showing tree for tree replacement of the undesirable species with trees from the city arborist's recommended tree list or demonstrate that the site meets the afforestation requirement of section 158-103(g) of this article.
3. The city arborist may update the list of undesirable species periodically based on evidence of plant performance, best arboricultural and ecological practices, and approval of the Tree Conservation Commission at a public meeting.

- c. ~~Applications to remove or destroy trees of an invasive and undesirable species shall be made to the arborist division and must contain the following:~~
  - 1. ~~At least two pictures of the tree at issue that identify the species of tree; and~~
  - 2. ~~A site plan showing the appropriate zoning information of the property; and~~
  - 3. ~~Where five or more trees of an undesirable or invasive species are proposed to be removed, a tree survey including, but not limited to location, quantity, types and DBH, prepared by an ISA-certified arborist or a landscape architect.~~
- (2) ~~Applications to remove, destroy, or injure trees for landscaping improvements or other purposes shall be accompanied by a tree replacement plan meeting all of the requirements of section 158-103. The work prescribed by an approved tree replacement plan shall be completed within one calendar year. Replacement tree plantings shall be inspected by the city arborist and verified by the dated signature of the city arborist on the approved plan. Applications to remove, destroy, or injure trees for landscaping and other purposes shall be subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(a), and the recompense formulas of subsection 158-103(b). Applicants may appeal a notice of denial to the tree conservation commission as provided in this article.~~
- (3) ~~Applications to remove, destroy, or injure trees for thinning or other silvicultural prescription for forest stand improvement shall be approved at the determination of the city arborist, with or without requirement for tree replacement. Each application shall include a silvicultural prescription that is prepared by a private arborist. Payment of recompense for tree(s) on private property, and tree replacement for tree(s) on public property, is required for trees included in any silvicultural prescription that includes timber harvesting or stand improvement, except in cases where the intended harvesting or stand improvement is to reduce or prevent the spread of pests or disease. Applications to remove, destroy, or injure trees for silvicultural purposes shall be subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(a), if applicable, and the recompense formulas of subsection 158-103(b). Applicants may appeal a notice of denial to the tree conservation commission as provided in this article.~~
- (d) ~~*Application review; notice of preliminary approval or denial of permit to remove, destroy, or injure trees.* Upon receipt of a complete application by the city to remove, destroy, or injure trees for construction, renovation, demolition, landscaping, silviculture, or other non-safety related purposes, the city arborist shall review the application pursuant to the requirements of this article. The city arborist shall either give a notice of preliminary approval of the application if the application meets the requirements of this article, or shall give a notice of denial of the application if the application fails to meet the requirements of this article. The city arborist shall submit copies of such notices promptly to the clerk. The city arborist may impose conditions to the issuance of the permit consistent with this article. An applicant may submit a new application at any time after a notice of denial of an application under this chapter. An applicant may appeal the notice of denial to the tree conservation commission as provided in this article. Appeals of the notice of preliminary approval may also be filed with the tree conservation commission pursuant to the procedures outlined in section 158-65.~~
- (e) ~~*Posting.*~~
  - (1) ~~For trees located on private property, two postings shall be required. The first posting shall be in the form of a sign not less than six square feet in size posted prominently on the property and shall remain for a minimum of ten business days and shall notify the public that an application to remove the designated tree(s) was filed with the city. The city will not accept any appeals filed within this ten day notice period. The second posting, providing notice of preliminary approval, shall be made if and when~~

- ~~the city issues preliminary approval of the application to remove the designated tree(s) from private property. This second posting shall not begin until after the first posting is removed. The second posting shall remain in place for seven business days, during which time the city will accept appeals.~~
- (2) ~~For trees located on public property, only one posting shall be required. The posting shall indicate the issuance of a notice of preliminary approval of the designated public property tree(s), and shall remain in place for 15 calendar days, during which time the city will accept appeals.~~
  - (3) ~~Immediately after an applicant receives preliminary approval for removal of a tree on public or private property, s/he shall mark all trees to be removed, destroyed, or injured with a large painted orange "X" on the street-facing side of the tree trunk.~~
  - (4) ~~The notice of preliminary approval for both public and private property trees, shall be posted in the office of the city arborist that is ruling on the removal permit (either the office of planning or the office of parks), on the City of Atlanta website ([www.atlantaga.gov](http://www.atlantaga.gov)), and in a prominent manner upon the property affected so that it may be seen and read by passers-by. The notice of preliminary approval shall be in the form of a sign not less than six 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. The commission] may provide further additional rules regarding the manner and method of posting to the extent that such rule is consistent with the requirements of this section.~~
    - a. ~~The city arborist may require all signs to be of a standard design available from the arborist division.~~
  - (5) ~~Upon visiting and inspecting the site to post the preliminary approval, if the city arborist discovers significant errors or omissions on the tree survey or site plan or finds that the trees approved for removal have not been marked properly, the site shall not be posted, and the applicant shall be issued a notice to correct the errors or omissions. The city arborist shall reinspect the site and post the sign after preliminary approval has been given or trees have been properly marked and the applicant informs the city that the errors have been corrected. If uncorrected errors or omissions prevent the city arborist from posting the sign a second time, the applicant shall be charged a reinspection fee of \$50.00 (as authorized in Section 104.2(c) of the Atlanta building code) for every subsequent reinspection.~~
  - (f) ~~*Time limits.* For tree(s) on public property, if no appeal is filed within 15 calendar days from the date of posting of a notice of preliminary approval upon the affected property, then the permit shall be issued in accordance with the terms of said notice of preliminary approval. For tree(s) on private property, if no appeal is filed within seven business days from the date of posting of a notice of preliminary approval upon the affected property, then the permit shall be issued in accordance with the terms of said notice of preliminary approval. In the event that an appeal is filed within 15 calendar days for tree(s) on public property, or seven business days for tree(s) on private property, from the date of posting of a notice of preliminary approval upon the affected property, no permit shall be issued until the sixth business day after the date of the tree conservation commission's written decision on the appeal, or until the appeal is voluntarily dismissed, whichever is earlier. At that time, the stay shall expire, unless a notice of intent to appeal the tree conservation commission's decision (if any) to the superior court is filed with the clerk of the tree conservation commission pursuant to subsection 158-65(a).~~
  - (g) ~~*Finality.* Once a permit has been issued in accordance with the procedures set forth in this section there can be no further appeal of the arborist's decision, except as provided in subsection 158-65(b) of this article pertaining to appeals to superior court.~~

- (h) ~~Minor amendments.~~ After the time for appeals has expired with respect to any notice of preliminary approval, the city arborist may approve minor amendments to the permit without there being any new right of appeal from such approval, provided that the arborist, in connection with such approval, shall certify in writing to the following, which certification shall be attached to the permitted amendments:
- (1) That the amendments do not alter or amend any rulings of the tree conservation commission made in connection with the particular case; and
  - (2) That the amendments do not affect any trees on the property in question which are eligible under this article to be designated historic or specimen trees; and
  - (3) That the amendments in the aggregate do not increase by more than ten percent either the total number or the total DBH of the trees permitted for removal or destruction.
- (i) ~~Permit for tree removal based upon location to house.~~ The provisions set forth in subsections 158-101(b) through 158-101(h) shall not apply to permits issued pursuant to this subsection 158-101(i). The provisions provided below in this subsection shall pertain to this subsection 158-101(i) only. The city arborist may issue a permit to remove any tree located on private property within five feet of the structural foundation of an existing single family residential dwelling structure or duplex located on property subject to the provisions of this article, subject to the following:
- (1) The owner of the property on which the subject tree is located has submitted an application to the city arborist in a form prescribed by the city arborist.
  - (2) The application is not for the removal of a boundary tree unless the adjoining property owner is a co-applicant for the permit.
  - (3) The application is not for the removal of a right-of-way tree or any other public tree. For the purpose of this section a right-of-way tree is a tree deemed by the arborist to have majority of its root system in the public right-of-way.
  - (4) There has been no removal of a tree pursuant to this subsection 158-101(i) for five years from the date of an application previously approved pursuant to this subsection, unless the tree(s) previously permitted and removed was leaning by greater than 20 degrees, as measured at breast height of the tree, toward an existing single family residential dwelling structure or duplex located on the subject property. The five year time period between a previously approved application and a new application shall apply to the property and shall not be affected by any change of ownership or reconfiguration of the property boundaries. Any property which is combined with any part of any other property which has already removed a tree pursuant to this subsection within the five year time period shall not be eligible for removal under this subsection. In the event that a lot with reconfigured property lines has received more than one approval under this subsection, the latest approved application shall be considered for deciding when a new application may be received.
  - (5) No lot of record which is not developed with a single family residential structure or duplex within its property lines shall be granted a permit to remove a tree pursuant to this subsection regardless of whether the zoning of the property will only allow the development of single family residences or duplexes on the property.
  - (6) When determining the distance of the tree from the structure, the tree shall be measured at the base of the tree, where the trunk of the tree meets the ground, on the side of the tree that is closest to the structure at issue.
  - (7) When determining the location of the foundation of the structure at issue, any portion of the structure constructed on piers or pilings shall not be deemed to be part of the foundation.



- ~~(8) No posting of the property is required prior to the issuance of a permit.~~
- ~~(9) Only the property owner shall have appeal rights associated with the permit. such appeal rights shall be as set forth in section 158-65 of this article.~~
- ~~(10) Where a permit is issued, the property owner shall not be required to replace the tree or pay recompense, except that where removal of the tree will result in the loss of ten percent or more of the tree canopy on the subject property, as determined by the city arborist, issuance of the permit shall be contingent upon the property owner's planting a replacement tree(s) on the subject property pursuant to the criteria set forth in this article.~~
- ~~(11) Where a tree is removed without a permit, recompense and fines shall be calculated and owed as prescribed throughout the tree protection ordinance, even if the property would have been eligible for a tree removal permit pursuant to this subsection 158-101(i).~~
- ~~(12) The city arborist shall not issue a permit if the tree at issue is located on property that was the subject of a violation of the tree protection ordinance within one year of the filing of the permit application.~~
- ~~(j) *Permit for tree removal based upon compliance with federal consent decrees.* The provisions set forth in subsections 158-101(b) through 158-101(i) shall not apply to permits issued pursuant to this subsection 158-101(j). The provisions provided below in this subsection shall pertain to this subsection 158-101(j) only.~~
  - ~~(1) The city arborist in the department of city planning may issue a permit to the department of watershed management to remove, destroy, or injure any private property tree, including without limitation trees located on city easements over private property, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia), and/or with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia) (for purposes of this subsection (j), collectively the "decrees" or the "consent decrees"); provided that the following requirements are met:~~
    - ~~a. The city's department of watershed management has submitted an application to the city arborist in the department of city planning in a form prescribed by said city arborist.~~
    - ~~b. For trees located within a city easement that are not boundary trees, the department of watershed management may destroy, remove and/or injure trees as prescribed in section 158-103(c)(6) of this tree protection ordinance, except that the number of trees to be destroyed, removed and/or injured may be determined by acre rather than by tree per tree or sampling techniques, and except that specimen trees need not be identified. A maximum shall be set on recompense at \$5,000.00 per acre, prorated. A site plan drawn to scale shall be required for these trees showing locations impacted by acre, but not showing individually impacted trees. No survey shall be required. For purposes of this section 158-101(j), the city shall be deemed to have an easement on land above city sewer lines.~~
    - ~~c. The department of watershed management shall submit a site plan that meets the standards set forth in 158-105 of the tree protection ordinance for: 1) destruction or removal of or injury to a boundary tree located on a city easement whose subject boundary abuts private property or public property; or 2) destruction or removal of or injury to a boundary tree whose structural root plate extends from private property or public property into the city easement; and 3) destruction or removal of or injury to all other private property trees. This site plan must include each tree's critical root zone, structural root plate, whether it's a boundary tree, silvicultural prescriptions to be used if applicable, and the construction methodology to be utilized by location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be~~

performed by GPS coordinates, via a sketch describing each tree and showing its DBH. The sketch need not be performed by a registered surveyor or landscape architect. The application shall include recompense calculations, and proposed plantings of new trees. The city shall give recompense credit to the department of watershed management for newly planted trees only if the replanting requirements set forth in the tree protection ordinance are met (other than those requirements set forth in subsections 158-101(b) through 158-101(i)), but shall not give any recompense credit for new trees planted within the city's easement. The department of watershed management shall not be required to replant trees within a city easement.

- d. Except for trees located within a city easement that are not boundary trees, the department of watershed management's site plan must designate all specimen trees. The department of city planning's city arborist may discuss with the department of watershed management alternative routes for the work to be performed that may allow the specimen tree to survive, though the city arborist may not deny the removal/destruction application in the event that the department of watershed management does not agree upon an alternative route.
  - e. In the event that a public property tree, as defined in section 158-26 above, is located in part on a city easement or other private property, the permitting decision shall be made by the city arborist in the department of parks and recreation.
- (2) The city arborist in the department of parks, recreation, and cultural affairs may issue a permit to the department of watershed management to remove, destroy, and/or injure any public property tree, including without limitation trees located on city parks, streets, sidewalks, and other property owned by the City of Atlanta, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the consent decrees, provided that the following requirements are met:
- a. The city's department of watershed management has submitted an application to the city arborist in the department of parks, recreation, and cultural affairs in a form prescribed by said city arborist, provided that applications may be made by projects, as defined in the consent decrees. Applications may be made on a quarterly basis provided that the application for each tree to be removed is submitted and approved prior to the tree's removal.
  - b. For destruction or removal of or injury to a public property tree, the department of watershed management shall submit a site plan drawn to scale that meets the standards set forth in 158-105 of the tree protection ordinance. This site plan must include each tree's critical root zone, structural root plate, size, species, silvicultural prescriptions to be used if applicable, and the construction methodology to be utilized by location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS coordinates, via a sketch describing each tree and showing its DBH. The sketch need not be performed by a registered surveyor or landscape architect. The application shall include tree DBH inches removed, and proposed plantings of new trees.
  - c. The department of watershed management's site plan for public property trees must designate all specimen trees. The office of parks' city arborist may discuss with the department of watershed management alternative routes for the work to be performed that may allow the specimen tree to survive, though the city arborist may not deny the removal/destruction application in the event that the department of watershed management does not agree upon an alternative route.
  - d. In the event that a private property tree, as defined in section 158-26 above, is located in part on city owned property, the permitting decision shall be made by the city arborist in the department of city planning.

- e. The department of watershed management must replace all public property trees that it destroys, removes, or injures on public property owned by the City of Atlanta, such that the DBH of the replacement trees is equal to or greater than the cumulative DBH of the trees removed, destroyed, and/or injured. The city shall give credit to the department of watershed management for newly planted trees only if the replanting requirements set forth in the tree protection ordinance are met (other than those requirements set forth in subsections 158-101(b) through 158-101(i)), with the following exceptions:
- i. The replacement trees need not be located within the same NPU district or within one mile of the NPU boundary from which the tree was removed, destroyed or injured, as prescribed by section 158-103. For purposes of this section, the city arborist shall consider the entire city for purposes of eligible areas for replanting.
  - ii. The city arborist in the department of parks, recreation, and cultural affairs need not approve a tree replacement plan prior to issuing a tree removal permit, provided that:
    - (a) The commissioner of the department of watershed management or her/his designee, working in good faith cooperation with the director of the office of parks or her/his designee, is unable to identify locations in which to plant the requisite number of replacement trees at the time of granting the tree removal permit.
    - (b) The director of the office of parks, or her/his designee, calculates the number of caliper inches of trees that must be replanted in order to satisfy the tree protection ordinance's inch per inch replacement requirement. S/he shall communicate that number in writing to the commissioner of the department of watershed management or her/his designee.
    - (c) The department of watershed management agrees to plant, at its own expense, the requisite number of trees, as calculated by caliper inch, within the time frame described in the immediately following subsection (d). It shall be the responsibility of the department of watershed management to identify potential sites for replanting, but upon request, the director of the office of parks, or her/his designee, shall make a good faith attempt to assist the department of watershed management with this task. The exact location of the replacement trees, the type of trees, and the size of each tree must be approved by the director of the office of parks or her/his designee prior to the trees being planted. The director of the office of parks shall forward this replanting information to the impacted councilmember for review. The department of watershed management shall guarantee the life of each replacement tree for two years from the time of planting.
    - (d) The commissioner of the department of watershed management and the commissioner of the department of parks, recreation, and cultural affairs enter a letter of understanding that accompanies each decree tree removal permit (as defined below). The letter of understanding must set forth those replacement inches for which locations have already been identified, and additionally the number of caliper inches that the department of watershed management must and agrees to plant by a date certain but for which locations have not yet been located. The date certain shall be no greater than one year after the effective date of the decree tree removal permit, except that under extenuating circumstances, the commissioner or her/his designee may approve an extension.

~~The letter of understanding shall also include the requirements set forth in subsection (c) immediately preceding this subsection (d).~~

- (e) ~~The department of watershed management prepares an annual report showing, for each project for which a letter of understanding was executed, the number of trees planted, the size by caliper inch of each tree planted, the type of each tree planted, the approximate date of planting, and the remaining balance of trees for each application. This report shall be submitted to the director of the office of parks by no later than May 1 of each year.~~
- iii. ~~The city arborist need not require the replacement trees to meet the descriptions set forth in section 158-103, but rather may give replacement tree credit as follows:~~
  - (a) ~~For replacement trees that meet the requirements of section 158-103, the replacement credit shall be the DBH of the replacement tree.~~
            - (b) ~~The department of watershed management may plant understory trees on public property for the purpose of restoring stream banks or other environmentally sensitive areas. The replacement credit shall be the DBH of the replacement tree.~~
            - (c) ~~The department of watershed management may be given replacement credit for planting a live stake on public property for the purpose of stream bank erosion control, stream bank stabilization, or stream or wetland restoration. The replacement credit shall be the DBH of the live stake, except that a live stake with a DBH that is less than one caliper inch shall be credited as one caliper inch.~~
            - (d) ~~The department of watershed management may be given replacement credit for removal of invasive species from trees on public property where the species threatens the life of the tree. The replacement credit shall be the DBH of the tree saved.~~
- (3) ~~The following provisions shall apply to the issuance of tree removal permits by the city arborist in the department of city planning and in the department of parks, recreation, and cultural affairs, where the removal or destruction of a tree is performed as a result of City of Atlanta compliance with the consent decrees ("decree tree removal permit"):~~
  - a. ~~Sections 158-101(j)(1) and (2) above notwithstanding, no city arborist shall require the department of watershed management, as part of its decree tree removal permit application, to produce evidence of consent by a private property owner regarding removal or destruction of a tree that impacts said private property owner's property. Impact of tree removal from privately owned property will be addressed directly by the department of watershed management.~~
            - b. ~~No posting of the property is required prior to the issuance of a decree tree removal permit.~~
            - c. ~~There is no appeal right associated with a decree tree removal permit. The tree conservation commission shall not have the authority to hear or in any other way consider an appeal regarding the granting or denial of such permit.~~
            - d. ~~The department of watershed management may not remove, destroy, or injure any private property tree or public property tree in order to comply with the consent decrees prior to being issued a decree tree removal permit by the city arborist in the department of city planning, or in the department of parks, recreation, and cultural affairs respectively.~~

- e. ~~Where a tree is removed, destroyed, or injured without a decree tree removal permit during work related to the decrees, the department of watershed management must report the removal, destruction, or injury to a city arborist by the close of the following business day. In such instance, the appropriate city arborist shall calculate the recompense due and/or tree replacement required. Where a city arborist learns of a decree-related tree removal or destruction caused and not timely reported by the department of watershed management or its contractor/subcontractor, the appropriate city arborist shall issue penalties pursuant to section 158-34 above, and shall also require that recompense be paid and/or replacement be performed.~~

#### **~~Sec. 158-102. Criteria for removal, destruction or injury.~~**

- (a) ~~No permit shall be issued for the removal, destruction, or injury of any living, healthy, and non-hazardous tree unless:~~
  - (1) ~~A site plan and tree replacement plan meeting the requirements of section 158-105 has been approved;~~
    - a. ~~The city arborist has reviewed the application and determines the following:~~
      - 1. ~~The application and plans submitted to the city are accurate;~~
      - 2. ~~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;~~
      - 3. ~~All reasonable efforts have been made to plan the construction or demolition methods and site access with protection of trees as a priority;~~
      - 4. ~~The site plan shows 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:~~
        - i. ~~Reuse of cleared, paved, or previously developed areas including, but not limited to driveways, parking lots, former building footprints, and lawns;~~
        - ii. ~~Directional boring instead of open trenching for utility installation;~~
        - iii. ~~Root bridging for sidewalks, driveways, and other hardscapes;~~
        - iv. ~~Retaining walls and use of pier and beam foundations to reduce tree impacts from site grading;~~
        - v. ~~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~~
        - vi. ~~Any other methods, materials, or techniques that meet with current arboricultural industry standards and are approved by the city arborist.~~
  - (2) ~~All other requirements of this article are met; and~~
  - (3) ~~One of the following conditions exists:~~

- a. ~~The tree is located within the buildable area of the lot and the applicant has been granted a building, landscaping, or other permit to make improvements otherwise permissible under all applicable ordinances of the city;~~
- b. ~~The tree is located in that portion of the setback or required yard area of the lot that must be used for vehicular ingress and egress or for the installation of utilities that cannot be accomplished in a manner allowing preservation of the tree;~~
- c. ~~The tree is of an undesirable or invasive species;~~
- d. ~~The tree removal qualifies for a permit pursuant to section 158-101(i) or section 158-101(j).~~

### **~~Sec. 158-103. Standards for tree replacement and afforestation.~~**

- (a) ~~*Minimal impact on trees; replacement trees.* Each applicant for a permit to remove, destroy or injure trees shall, to the maximum extent feasible, minimize the impact on the trees on the site. The applicant shall plant replacement trees on site that equal the total number of trees being removed, destroyed, or injured, provided that where the removed, destroyed or injured trees were located on public property, the cumulative DBH of the replacement trees shall be equal to or greater than the cumulative DBH of the trees removed, destroyed and/or injured. Where construction of improvements or existing dense tree cover precludes the planting of the total number of replacement trees required on the site, the city arborist may approve a plan which results in the planting of the number of trees on the site which can reasonably be expected to be accommodated in a manner which will allow mature growth of the replacement trees. The remainder of the total number of trees may be planted in a local park, on public lands, or along right of ways, subject to approval of the City of Atlanta Parks Department, provided such plantings are within the same NPU district or within one mile of the NPU boundary.~~
  - (1) ~~Where appropriate site conditions exist, replacement trees shall be overstory or mid-canopy species. Understory trees shall be permitted where site conditions do not allow the planting of overstory or mid-canopy trees. Overstory trees shall be planted at no less than 25-foot spacings if planted in a single row. When planted with other overstory or mid-canopy trees on three sides or more, the overstory trees must be spaced no less than 30 feet apart. Mid-canopy trees shall be planted at a minimum of 20 feet on center. Understory trees shall be planted at a minimum of 15 feet on center.~~
  - (2) ~~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.~~
  - (3) ~~Replacement credit may not be given for columnar or fastigate species or cultivars unless approved by the city arborist based upon site conditions that would not be appropriate for a broad canopy. If replacement credit is given, then each columnar or fastigate tree will receive only half credit.~~
- (b) ~~*Recompense.* The difference between the number of trees removed, destroyed or injured (Nrem) and the number of trees replaced (Nrep) on a site times the established recompense value shall be calculated as partial recompense to the tree trust fund. In addition, the difference between the total diameter at breast height of the trees removed or destroyed (TDBHrem) and the total caliper inches of the trees replaced on site (TCIrep), as indicated on the approved tree replacement plan, shall be calculated as partial recompense to the tree trust fund. Total recompense(R) shall be calculated according to the formula:~~

$$R = \$100.00 (Nrem - Nrep) + \$30.00 (TDBHrem - TCIrep), C \geq 0$$
- (c) ~~*Limits and adjustments.*~~

- (1) For recompense purposes of this section, all trees except pines with a minimum DBH of six inches shall be included in the formula. Pines with a minimum DBH of 12 inches shall be included in the formula.
- (2) For new subdivisions, new lots of record, and vacant lots, a maximum shall be set on recompense at a pro-rated per acre basis by zoning classification as tabulated below, provided that no less than the specified minimum of existing trees, by total DBH inches, are retained on a site. Credit based on the established recompense value formula will be given for trees planted. This credit may be subtracted from maximum recompense per acre, provided trees are spaced at no more than one tree per 400 square feet.

Table 158-103

Zoning	Minimum Trees Retained (Total DBH Inches)	Maximum Recompense Per Acre
R-1	45%	\$10,000.00
R-2	40%	\$10,000.00
R-2A	40%	\$7,500.00
R-3, R-3A	35%	\$7,500.00
R-4, R-4A, R-G, R-LC	30%	\$5,000.00
RG-4, RG-5	10%/20%*	\$10,000.00
R-4B	10%/20%*	\$5,000.00
R-5	10%/30%*	\$5,000.00
O & I, C (1-5), I (1&2)	10%	\$10,000.00
PD, PD-H, PD-MU, PD-OC, PD-BP, SPI Districts, Landmark Districts, and other special zoning categories**	Treat according to underlying zoning categories	Treat according to underlying zoning categories

\*Vacant lots shall be based upon the lower Minimum Trees Retained total DBH inches, new subdivisions and new lots of record shall be based upon the higher Minimum Trees Retained total DBH inches.

\*\*Where an underlying zoning category does not apply, the Minimum Trees Retained (MTR) for planned developments shall be derived by multiplying the required percentage of the site required to be retained in pervious area by a factor of .60 which will establish the Minimum Trees Retained percentage (MTR%). This amount shall be calculated according to the formula:

$$\text{Required Pervious Area (K)} \times .60 = \text{MTR\%}$$

$$\text{Maximum Recompense Per Acre} = \$10,000.00$$

- (3) Provided that no less than the specified minimum of existing trees, by total DBH, are retained on a site in accordance with Table 158-103 then the maximum recompense per acre may be further reduced by the replanting of new trees. Adjusted maximum recompense per acre (AMRPA) shall be calculated according to the formula:

$$\text{Reduction from MRPA} = \$100.00 (\text{Nrep}) + \$30.00 (\text{TCIrep})$$

$$\text{AMRPA} = \text{MRPA} - \text{Reduction from MRPA}$$

- (4) For sales housing units which have a pro-forma sales price equal to or less than 1.5 times median family income as defined by the United States Department of Housing and Urban Development, the percent of

- minimum trees retained may be reduced to 50 percent of the above percentage values in order to qualify for maximum recompense per acre.
- (5) For sales housing units which have a pro-forma sales price greater than one and one-half times median family income but not exceeding two and one-half times median family income as defined by the United States Department of Housing and Urban Development, the percent of minimum trees retained may be reduced to 75 percent of the above percentage values in order to qualify for maximum recompense per acre.
  - (6) For trees removed in the required construction of streets and related infrastructure in new subdivisions or other planned developments, a maximum shall be set on recompense at \$5,000.00 per acre, pro-rated. Credit based on the established recompense value formula shall be given for trees planted. This credit may be subtracted from maximum recompense per acre, provided trees are spaced at no more than one tree per 400 square feet. For infrastructure development that requires disturbance of one acre or more, a recognized sampling technique performed and certified by a registered forester may be substituted for an actual count of the trees to be removed. All specimen trees must be identified by species and location regardless of the counting procedure adopted.
  - (7) Conservation easements [and fee simple donations] (section 158-32) that result in the preservation of wooded lands, or newly created wooded parkland afforested to 100 inches DBH per acre, and that are perpetual in duration shall receive a credit of \$20,000.00 per acre, pro-rated, against recompense fees. Natural water detention areas established in lieu of the construction of detention ponds shall qualify as conservation easements if so deeded as a conservation easement. In addition, a fee simple donation of land that is afforested to 100 inches DBH per acre, and that is accepted by the city, will receive a credit of \$20,000.00 per acre, pro-rated, against recompense fees, but only if the city dedicates the land for a use that will preserve the land in its natural scenic landscape or in a forest use.
  - (8) For rental housing units that have at least 20 percent of the total number of residential units constructed being within the ability to pay of those households whose annual incomes do not exceed 60 percent of the median family income for the Atlanta metropolitan statistical area, the percent of minimum trees retained may be reduced to 50 percent of the above percentage values in order to qualify for maximum recompense per acre.
- (d) An impacted tree will not be considered destroyed and will not be charged recompense only if all the following are met:
    - (1) Tree save fencing is established and maintained to protect at least 67 percent of the root save area, and the structural root plate is not disturbed.
    - (2) An ISA certified arborist or registered forester 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.
    - (3) The prescription of the retained arborist is approved by the city arborist or city forester in advance of construction.
    - (4) A report on the effectiveness of the prescribed measures is submitted by the retained arborist to the city arborist or city forester prior to issuance of a certificate of occupancy.
  - (e) A lost tree shall be charged recompense regardless of whether or not it is removed from the site.
  - (f) The city arborist shall prepare a quarterly report to be presented to the tree conservation commission. The report shall include the total number and DBH of trees removed and/or the total number and DBH of trees replanted during the preceding quarter in each of the following categories: maximum recompense per acre, dead/dying/diseased/hazardous removal, landscaping permit, silvicultural removal, buildable area removal,



parking lots, illegal removal, off-site planting, or any other permit or penalty category not listed. The report shall also include acreage, total number of trees and total DBH for any newly created conservation easements or newly created parklands.

- (g) ~~Minimum tree cover.~~ In any request for a permit for construction in which no trees are proposed to be removed, or in cases where trees are being removed but the total tree cover on the lot is less than the minimum tree cover per zoning district, the city arborist shall require an afforestation standard such that the minimum tree cover per zoning district is satisfied, provided that all such trees so planted can reasonably be expected to be accommodated in a manner which will allow mature growth of the new trees.

~~Tree replacements per zoning district and the minimum required tree coverage (TDBH + TCI) on a site, regardless of any loss of trees, are as follows:~~

~~R-5, R-4-A and R-4-B districts: 35 inches per acre~~

~~R-3, R-3-A and R-4 districts: 40 inches per acre~~

~~R-2 and R-2-A districts: 100 inches per acre~~

~~R-1 districts: 150 inches per acre~~

~~RG, PD and all other districts: 90 inches per acre~~

- (h) ~~A healthy tree preserved on-site may not be counted towards the minimum tree coverage requirement if it has invasive vines such as English Ivy, Chinese Wisteria, or similar species 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) A site will not pass the final arborist inspection for a certificate of occupancy until invasive vines on healthy trees are killed by severing the vines at the ground and removing a four-foot vertical section of the vine from the tree trunk.~~
- ~~(2) Invasive vines must be removed or killed in a manner that does not cut or damage the bark, poison or otherwise harm the tree. Vines should not be pulled from the upper parts of a tree because this can damage the tree.~~
- ~~(3) A list of invasive vines is included on the list of undesirable and invasive species, maintained by, and available from, the arborist division.~~

~~Replacement trees shall typically be a minimum of two and one-half inches in caliper. Regardless of caliper or diameter at breast height, trees planted as a requirement of this article or trees planted using tree trust funds shall not subsequently be removed or destroyed without a permit from the city arborist.~~

- ~~(4) The city arborist may approve, pursuant to the conditions set forth in section 158-34(a), 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 planted trees will be awarded replacement credit based on the size in caliper inches of the tree.~~

- (i) ~~Species of replacement trees.~~

- ~~(1) Species of acceptable replacement trees are listed on the city's recommended tree list which is available from the arborist division. 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.~~

- a. ~~Prohibited replacement trees.~~ No tree on the list of undesirable and invasive species may be planted to meet tree replacement and afforestation requirements. Recompense credit will not be given for planting undesirable or invasive species.
- (2) ~~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.
  - a. ~~When four to 10 trees are proposed to be planted, no more than 50 percent of the replacement trees shall be of a single species.~~
  - b. ~~When 11 to 20 trees are proposed to be planted, no more than 33 percent of the replacement trees shall be of a single species.~~
  - c. ~~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 percent shall be of the same genus.~~
  - d. ~~When 51 or more trees are proposed to be planted, no more than 20 percent of overall trees planted shall be of the same species, and no more than 30 percent shall be of the same genus, with the exception of the genus Quercus (Oaks) which may make up 50 percent of the trees planted.~~
  - e. ~~Approximately 75 percent of replacement trees planted on any project should be species native to the Piedmont region of Georgia.~~
  - f. ~~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.~~
- (3) ~~Mixture of mature tree sizes.~~ Where appropriate site conditions exist, afforestation and replacement tree plantings shall be overstory and mid-canopy trees. Understory trees shall be permitted by the city arborist where site conditions do not allow the planting of overstory or mid-canopy trees. Where understory trees are allowed, they should generally make up no more than 25 percent of the required plantings.
- (j) ~~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 areas and utilize uncompacted, high quality native or amended planting soil per the city's technical planting specifications and must be approved by the city arborist.
  - a. ~~Overstory trees: 400 square feet.~~
  - b. ~~Mid-canopy trees: 250 square feet.~~
  - c. ~~Understory trees: 100 square feet.~~
  - d. ~~When trees are planted together in a single planting area, the required soil area for each tree within the shared planting area may be reduced by 25 percent.~~
  - e. ~~The minimum dimension of a tree island or other constrained planting shall be five feet in width for understory and mid-canopy trees and eight feet in width for overstory trees. The city arborist may allow less than the minimum widths when the city arborist allows the reuse of existing~~

~~planting wells or where space between an existing building and street does not allow for the minimum tree island width and sidewalk or streetscape components required by the property's zoning. When a new building is being constructed, the minimum widths shall be required.~~

- f. ~~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 constrained 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-canopy 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 percent.~~
      - e. ~~The minimum depth of soil in a suspended pavement system or planter is two feet and the maximum depth is four feet.~~
      - f. ~~In suspended pavements, understory and mid-canopy trees must be provided a minimum of five-foot by five foot non-paved open soil area around the tree trunk. Overstory trees must be provided a minimum of eight foot by eight 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.~~
- (k) ~~Street trees required.~~
  - (1) ~~All sites, residential and commercial, must have trees planted along any public or private road at a maximum spacing of 40 feet, with allowances for driveways, and within ten 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, other than those planted during infill development on single-family residential lots, must be overstory or mid-canopy species, with at least half of the trees being overstory species.~~
    - a. ~~Where overhead utilities are present, the city arborist may approve understory trees to be used.~~
    - b. ~~Zoning-mandated streetscape tree planting requirements supersede the 40-foot spacing requirements for public street frontages.~~
    - c. ~~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.~~

- ~~(3) Residential subdivisions in which public infrastructure is installed 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.~~
  - ~~a. All public and private streets within a subdivision must meet the street tree planting requirements described in this section.~~
  - ~~b. Trees shown on the tree replacement plan 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 new individual lots, upon which they shall be planted as a requirement to obtain the final certificate of occupancy.~~
- ~~(4) *Planting priority.* The location of tree plantings required by this section normally shall be prioritized as follows:~~
  - ~~(1) *Heat islands.* Streets and other external heat islands shall be shaded by new or existing trees at a spacing not to exceed 35 feet on center on average, with a minimum of two trees per lot when feasible. Street trees shall be planted as close to the street as is practicable. Internal heat islands shall be shaded at a minimum rate of one tree per 750 square feet of heat island area.~~
  - ~~(2) *Soil stabilization.* Replacement trees shall next be planted on steep slopes and other erodible areas and on the banks of wetlands and waterways.~~
  - ~~(3) Following satisfaction of priorities (1) and (2), the applicant shall have discretion to satisfy additional tree planting requirements either by planting on the subject site, on another location approved by the city arborist, or by contributing the appropriate amount to the tree trust fund.~~

#### **~~Sec. 158-104. Protection of trees.~~**

- ~~(a) The city arborist shall require that improvements be located so as to result the protection of the trees on the site. It is the specific intent of this section to require that damage to trees located within the setback and required yard areas and to trees located on abutting properties owned by others be minimized to the greatest degree possible under the particular circumstances, as determined by the city arborist according to the following guidelines:~~
  - ~~(1) On lots and subdivisions of one acre or more, the applicant shall identify environmentally sensitive areas as part of the site plan required in section 158-105 below. Such areas shall include wetlands, floodplains, permanent and intermittent streams, stands of trees and other significant aspects of the natural environment on site. Limits of disturbance to these areas shall be established and detailed on the site plan. In order to protect the more environmentally sensitive areas, development shall be confined to the portion of the lot required for the intended construction.~~
  - ~~(2) On lots and subdivisions of less than one acre, root save areas shall be established in the setback and required yard areas to preserve trees in those areas. Grading, trenching, or other land disturbance in these areas shall be limited to necessary hydrologic and erosion control measures and access corridors to streets, utility connections, or other features required by code. In order to protect the trees in the setback and required yard areas, building shall be confined to the portion of the lot required for the intended construction.~~
  - ~~(3) A maximum of ten percent of the trees in a designated wetland or 100-year floodplain may be approved for removal or destruction.~~

#### **~~Sec. 158-105. Site plan required.~~**

- (a) *General requirements.* ~~The site plan shall include a tree survey identifying the size, species and location of all trees having a diameter at breast height (DBH) of six inches or greater. Such site plan shall contain topographic information at two foot contour intervals and shall show all existing and proposed buildings and structures, driveways and parking areas, drainage structures, water detention areas, utilities, construction material staging grounds and all areas of required cut and fill. Single family lots of record may be exempt from the requirement of the topographic survey provided that no grading or cut or fill or other changes in topography will occur. Such plan shall denote each tree to be saved, lost or destroyed, the percentage of root save area that will be impacted, the required tree protection fences for trees to be saved, and the proposed tree replacement plan. The proposed tree replacement plan shall set forth the manner in which the newly planted trees will be watered, for example, manually, drip irrigation, Gator bags, etc. In addition, the proposed tree replacement plan shall have attached a copy of a paid maintenance contract if applicable. Pines of less than 12 inches DBH are exempted from being denoted on the tree survey. A construction limit line shall be delineated on each site plan submitted for a building permit. Within the construction limit line, the tree replacement requirements of this article shall be shown. Outside this limit line, no tree survey shall be required, and the applicant shall be required to leave undisturbed all areas of trees.~~
- (b) *Boundary trees.* ~~Boundary trees shall be included in the site plan. The on-site portion of the root save area of a boundary tree shall be enclosed in a tree protection fence according to established arboricultural standards. In consultation with the owner or owner's representative of a boundary tree, the city arborist may prescribe and the applicant shall institute additional protective measures to limit impact on the tree during construction, including but not limited to watering regimes, root treatments, mulching, deadwood removal and protective pruning.~~

#### **~~Sec. 158-106. Preconstruction conference.~~**

~~Upon approval of any permit for grading, demolition or construction, no work shall commence, no grading shall be undertaken and no trees shall be removed prior to a preconstruction conference on the site between the city arborist and the applicant or their designees. The city arborist shall inspect the site to assure the accuracy of permit application data and shall inspect tree protection fences and other protective devices which have been installed to protect trees. After the inspection is complete, the city arborist shall notify the director, and thereupon demolition, grading and construction may proceed. It is further provided that for any permit for an addition to a one-family or two-family residence, the city arborist may rely on data submitted in the application and certified by the applicant for the building permit in lieu of a preconstruction conference on the site.~~

#### **~~Sec. 158-107. Certificates of occupancy.~~**

~~No certificate of occupancy shall be issued by the director, bureau of buildings with respect to any permit unless and until the city arborist shall have inspected such site and confirmed that all replacement trees have been planted in accordance with this article.~~

#### **~~Sec. 158-108. Maintenance of trees.~~**

~~The owner shall be responsible for maintaining the health of all replacement trees for a period of two years from the date of planting. The owner shall replace any tree which dies during this time period.~~

In addition to guaranteeing newly planted trees through the two year long establishment period, the owner or their successor shall maintain all trees planted on commercial, multi-family residential, or mixed-use projects as a requirement of this article, with the exception of street trees or other trees planted on city property, for the duration of the development's existence, and shall replace any dead or dying tree with one new tree of a similar type during the next planting season.

#### **Sec. 158-109. Exemptions.**

The following are exempted from the terms of this article:

- (1) ~~When the parks arboricultural manager or city arborist finds any tree to present hazard or danger to the health, safety and welfare of the public, such tree may be removed immediately by the owner or the owner's agent upon verbal authorization by the parks arboricultural manager or city arborist. Any property owner or resident who reasonably believes and can demonstrate that a tree on her/his property presents imminent hazard or danger to the health, safety and welfare of the public, may contact the city arborist or her/his designee by phone to inform the city arborist of the emergency. Based upon the information provided by phone, the city arborist or her/his designee may give verbal approval of the tree's removal. Within five working days of said approval, the owner, resident, or her/his agent must provide to the department of city planning's arborist division photos of the tree at issue along with a tree removal application. Failure to follow these procedures may result in an assessment of recompense and fines. In addition, should the photos and application, and any other information obtained by the city arborist, cause the city arborist to find that the tree did not present imminent hazard or danger, the city arborist shall assess recompense and may impose a fine. Should the emergency be identified by the property owner or resident during non-working hours, s/he may remove the tree immediately, but must contact the city arborist or her/his designee during the next working day to discuss the emergency, and must submit the information described above within five working days of the tree's removal. The owner and/or resident may be subject to recompense and fines under the circumstances described above in this subsection. No permit is required.~~
- (2) ~~During the period of any emergency, such as a tornado, ice storm, flood or an other act of nature, the requirements of this article may be waived by the mayor and the mayor's designee.~~
- (3) ~~All licensed plant or tree nurseries and tree farms shall be exempt from the terms and provisions of this article only in relation to those trees which are planted and are being grown for sale or intended sale to the general public in the ordinary course of business, or for some public purpose. All licensed tree museums or public botanical gardens which employ a full time arborist or horticulturist, and which are located upon property owned by the city and leased to such tree museums or botanical gardens and are growing for display to the public in furtherance of the museums and botanical gardens, or for some other public purpose.~~

#### **Sec. 158-110. Dead or diseased trees; nuisances.**

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

- (1) ~~*Generally.* Any dead or diseased tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree or part thereof were live or not diseased, fell or blow such tree or part thereof onto public ways or public property, off of the property of the owner of such tree, and thereby imperil life or property or impede traffic. When a dead or diseased tree which is alleged to constitute a nuisance is brought to the attention of the parks arboricultural manager or city arborist,~~

~~the parks arboricultural manager or city arborist, in their discretion, may submit through the director, bureau of parks a written opinion to the director, bureau of buildings. Upon receiving a written opinion from the director, bureau of parks that any tree or part thereof is a nuisance as defined in this section, the director, bureau of buildings shall commence nuisance abatement proceedings.~~

- ~~(2) *Notice to owner to remedy conditions; failure to comply.* The director, bureau of buildings shall give written notice to the owner or the person in possession, charge or control of the property where a tree nuisance as defined in this section exists, stating that in the city arborist's opinion the tree or part of a tree does constitute a nuisance that shall be removed, and requesting that such removal be done within a reasonable time to be specified in such notice. In no event shall such reasonable time exceed ten working days. Such notice shall further state that unless the tree or part thereof is voluntarily removed within the time specified, the director may cause summons to be issued requiring the party notified to appear in the municipal court to have there determined whether the tree or part of a tree involved constitute a nuisance and should be abated. If the tree is not removed within the time specified by the director, the director may cause the owner of such tree, or the person in possession, charge or control thereof, to be summoned to appear before the judge of the municipal court to determine whether or not the tree or part of a tree involved constitutes a nuisance.~~
- ~~(3) *Hearing; failure to comply with order to abate.* If upon such a hearing as provided for before the judge of the municipal court, the judge shall find that the tree or part of a tree constitutes a nuisance and orders the defendant to abate the same within a specified time, then each ten days that the conditions adjudicated to be a nuisance by the judge are maintained subsequent to the expiration of the time fixed in the judgment of the judge the same to be abated shall constitute an offense.~~
- ~~(4) *Emergencies.* Such nuisance trees 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 director of the office of parks shall have the right, but not the obligation, to enter the property and abate the nuisance, and the reasonable costs of such work, as documented by the office of parks, shall be reimbursed by the department of city planning. The department of city planning shall have the authority to obtain reimbursement from the property owner.~~

## **ARTICLE II – TREE PROTECTION**

### **Division 1- Definitions**

#### 158-26      Definitions

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

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

*Applicant.* Any person seeking approval to take action under this article.

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

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

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

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

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

*City.* City of Atlanta.

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

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

*Commission.* See Tree Conservation Commission

*Commercial development.* For the purposes of this article, all development, public and private, that does not meet the definition of single-family residential development is referred to as “commercial development.”

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

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

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

*CRZ.* See critical root zone.

*DBH.* See diameter at breast height.

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

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



*Diameter at breast height (DBH).* The diameter of the main stem(s) of a tree measured at 4.5 feet above the natural grade at the base of the tree, typically measured in inches. For a tree with three or more stems, the DBH shall be calculated as the diameter of the largest stem plus one-half of each additional stem. The diameter of the top of a stump less than 4.5 feet tall shall be considered the "DBH" of an illegally destroyed tree for the purpose of calculating recompense.

*Disease.* Any fungal, bacterial, or viral infection that will result in the death of the tree, as determined by the City Arborist. Disease shall also mean any fungal, bacterial or viral infection that has progressed to the point where treatment will not prevent the death of the tree, as determined by the City Arborist.

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

*Environmentally sensitive area.* Area(s) of a property that includes important environmental features eligible for special protection under City, State, or Federal regulations based upon its ecological value, including without limitation wetlands, floodplains, permanent and intermittent streams, riparian buffers, stands of trees, historic trees, and other significant aspects of the natural environment on site.

*Established recompense value.* The dollar amount established to compensate for the removal or destruction of a healthy tree. The amount shall be expressed as the cost per caliper-inch of replacement trees owed. The rate will be reassessed annually by the Department of City Planning based on the annual rate of inflation for the Atlanta-Sandy Springs-Roswell, GA Metropolitan Statistical Area (MSA), as published by the United States Bureau of Labor Statistics (Consumer Price Index for All Urban Consumers – CPI-U).

*Floodplain.* Area(s) of land with natural or constructed contours of elevation at or below the base flood elevation shown on the flood hazard district maps adopted as a part of part 16 of city code and those areas of land which are not so shown in the flood hazard district maps where inundation is likely to occur during a base flood as determined by engineering studies to determine the probable depth of such floodwaters according to section 16-21.003.

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

*Forested site.* Any site that meets the following conditions: i) 80% or more canopy cover; ii) a minimum of 1,000 DBH inches per acre; and/or iii) 50 or more mature trees per acre.

*Good condition (of a tree).* A tree that has minor or no problems with its root, trunk, major branches, twigs, or foliage is in good condition. Minor pathological problems may be present but may not be severe. Overall color and shoot growth are typical for the species, and canopy foliage has not significantly declined.

*Green infrastructure.* Green infrastructure means an engineered stormwater management facility designed to mimic natural hydrologic functions and processes through the use of plants and special soil media to slow, filter, evapotranspire, and infiltrate stormwater. The 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.

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

*Hazardous tree.* A tree with uncorrectable defects severe enough to pose a present danger to high value targets such as people or buildings under normal conditions within a two-year time period, as determined

by the City Arborist, or a tree which is determined by the City Arborist to be in imminent likelihood of failure is considered to be hazardous.

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

*Heat island.* A heat island, or urban heat island, is 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 an area situated outside a specific site, such as a public or private street. An internal heat island refers to an area within a site, including but not limited to patio, driveway, vehicular maneuvering areas, or parking area. Recreational areas including but not limited to swimming pools and game courts are excluded from this definition.

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

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

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

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

*Injury.* See impact.

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

*Land disturbance.* For purposes of this article, land disturbance refers to 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.

Low-income. Income level, as defined by Housing and Urban Development (HUD) income limits for the current year for Atlanta-Sandy Springs-Marietta, Georgia HUD Metro area.

Mature tree. A mature tree is defined as a tree that has reached a significant portion of the maximum potential height for the species. This stage is typically marked by the cessation of height growth and reduced shoot elongation, while the diameter growth of stems, branches, and roots, continues, contributing to the tree's overall size and strength. Mature trees also develop the ability to reproduce, marked by the production of flowers, fruits, or nuts. The onset and duration of the mature stage varies by species. For example, oaks and other slower growing trees may reach maturity after 25 to 40 years and continue to produce acorns for centuries. In contrast, the timescale for faster growing species may reach maturity in a shorter timescale.

Midstory tree. A midstory tree in Atlanta's ecosystem normally attains a DBH of 10 to 25 inches, a height of 30 to 60 feet, and approximately 900 square feet of canopy at maturity. Examples include Common Persimmon (*Diospyros virginiana*), Eastern Red Cedar (*Juniperus virginiana*), American Linden (*Tilia americana*), Winged Elm (*Ulmus alata*), Southern Sugar Maple (*Acer floridanum*), and others on the City's Recommended List.

New lot of record. A tract of land that has been newly subdivided and so recorded as a separate property of record.

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

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

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

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

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

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

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

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

Recompense. See standard recompense.

Registered tree professional. Any professional arborist, forester, landscape architect, or tree service company that is currently registered with the City Arborist per section 158-33.

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

Regulated tree (public property). All trees on public property are regulated and removal requires approval of the City Arborist per provisions of this article. For tree removal on public property associated with plan review by the Department of Parks and Recreation, only trees three inches or greater in diameter are required to be included on the site plan.

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

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

Saved tree. A saved tree for the purposes of this article is a tree that is to be protected and not destroyed during construction in the manner specified by this article.

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

Single-family residential development. For the purposes of this article, development or redevelopment on a single lot on land zoned for single-family residential development, (zones R1-R5, per the zoning code at the time of the adoption of this article).

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.'

SRP. See structural root plate.

Standard replacement. The replacement tree requirement is measured in caliper inches. The required replacement is equal to one caliper inch per DBH of each tree destroyed.

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

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

Streetscape. For the purposes of this article, streetscape refers to a zoning mandated street frontage treatment beginning at the back of curb that includes a sidewalk/walk area/clear zone and at least one of

the following: a street furniture/tree planting zone, amenity zone, or a supplemental area. Streetscapes typically also have requirements for trees or streetlights.

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

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

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

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

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

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

Tree density. The minimum tree coverage required to be growing on a site prior to the issuance of the certificate of occupancy or completion of permitted work is referred to as tree density. For single-family zoned properties, tree density is measured by the number of trees per acre on a site. For commercially zoned properties and all other properties that do not have a single-family zoning designation, tree density is measured by the total DBH inches of trees on a site. Tree density requirements may be met through trees preserved on site, newly planted trees, or a combination of the two, in accordance with the requirements of this article.

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

Understory tree. An understory tree in Atlanta's ecosystem normally attains a DBH of less than ten inches and a height of less than 30 feet, and a canopy of approximately 400 square feet at maturity. Examples include Eastern Redbud (*Cercis canadensis*), Flowering Dogwood (*Cornus florida*), White

Fringetree (*Chionanthus virginicus*), American hornbeam (*Carpinus caroliniana*), American Hophornbeam (*Ostrya virginiana*) and others on the City's Recommended List.

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

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

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

Vacant lot. A property of record that has not had a structure on it in the past five years.

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

## **Division 2 - General provisions**

158-27 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.

158-28 Goals and purpose

- (a) Goals. The goals of this article are to protect, maintain, and advance a high-quality, biodiverse, and healthy urban forest within the boundaries of the City, so that:
  - (1) High-value trees and urban forests will be preserved, and sufficient trees will be planted to replace those that are removed so the City of Atlanta may reach its goal of achieving and maintaining 50% average tree canopy coverage within the boundaries of the city; and
  - (2) Tree canopy cover will be sufficient throughout the City to maximize critical environmental protections including: reduction of air and water pollution; mitigation of the urban heat island effect; effective stormwater runoff management to decrease flooding; erosion control; and reduced stress on the City's stormwater infrastructure; and
  - (3) Residents will benefit from the well-documented physical and mental health benefits of trees including a stronger immune system and reduced stress; and
  - (4) Shade and lower ambient temperatures will reduce heat-related morbidity and mortality, which disproportionately affects children, the elderly, outdoor workers, and other vulnerable populations; and
  - (5) Current and future citizens of the City of Atlanta will have equal access to the health, safety, and welfare benefits provided by trees.
- (b) Purpose. The purpose of this article is to establish the standards necessary to ensure that these goals will be realized; therefore, this article is enacted to:
  - (1) Establish and maintain an extensive high quality and sustainable tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article;

- (2) Establish necessary standards for the planting and maintenance of trees to improve the economic base of the city by improving property values, maintain functioning ecosystems within the city, improve sustainability through energy use reduction and carbon sequestration, enhance the livability of the city and its neighborhoods, and improve public health by lessening air and water pollution, stormwater hazards, urban heat island effects, and the incidence of flooding.
  - (3) Allow for the maintenance of public trees and forests in the city through professionally accepted arboricultural and urban forestry practices;
  - (4) Promote the acquisition of new public forest land within the city;
  - (5) Minimize hazards on streets and sidewalks;
  - (6) Provide for the designation of historic trees; and
  - (7) Provide latitude in the interpretation and application of City administrative rules, standards and guidelines when reasonable and necessary to minimize the destruction of trees, account for changes in arboricultural science and practices, and follow the guidelines and principles of Atlanta City Design and the findings of Atlanta City Design: Nature and other ecology and urban forest studies.
- (c) Canopy analysis. To determine progress towards these goals, this article will be reevaluated two years after adoption. Thereafter, subsequent re-evaluations will occur after updated urban tree canopy assessments are performed, and as needed.
- 158-29 Applicability and exemptions.
- (a) Applicability. This article applies to the following trees:
    - (1) All trees on public property subject to City of Atlanta regulation, including all public school property, public housing property, parks, rights-of-way, and easements granted to other private or public entities, including public utilities, except where superseded by state or federal law.
    - (2) All regulated trees on private property, which are all trees other than pines with a diameter-at-breast height ('DBH') equal to or greater than six inches, and pines with a DBH equal to or greater than 12 inches.
  - (b) Exemptions and variations
    - (1) Nurseries and tree farms. All licensed plant or tree nurseries and tree farms shall be exempt from the terms and provisions of this article only in relation to those trees which are planted and are being grown for sale, or for some other public purpose.
    - (2) Botanical gardens. All arboreta or licensed tree museums or public botanical gardens which meet the following conditions shall be exempt from the terms of this article:
      - a. The botanical garden employs a full-time arborist or horticulturist;
      - b. The botanical garden is located upon property owned by the City and leased to tree museums or botanical gardens; and trees are growing for public display in furtherance of the museum or botanical garden's purpose.
    - (3) The City Arborist may allow modest variations to any portion of this article when the strict application of a particular regulation is not necessary for the accomplishment of public purposes or the provision of public protection or compliance with other Codes and ordinances of the City of Atlanta. Such modest variations may not allow greater than 33 percent impact to the critical root zone ("CRZ") of a saved tree.
      - a. When variations are granted, a written explanation of the variations, and the rationale for granting them, shall be included in the appropriate project record and shall be available to the public.

- (c) Waiver during an emergency. During and immediately after a declared public emergency, such as a tornado, ice storm, flood, or other act of nature, the requirements of this article may be waived temporarily by the mayor or the mayor's designee.

158-30 Relationship to other laws, regulations, and ordinances.

- (a) Comply with applicable laws. No permit or approval granted under this article shall remove an applicant's or adjacent property owner's obligation to comply in all respects with the provisions of applicable federal, state, or local laws and regulations including, but not limited to, the Atlanta building code, the Atlanta zoning ordinance, and ordinances enforced by the Department of Watershed Management in chapter 74 of the Atlanta city code.
- (b) Most restrictive standard. Wherever the requirements of this article conflict with the requirements of any other governmentally adopted statute, rule, regulation, ordinance or code, the most restrictive or that imposing the higher standard for tree protection shall govern.
- (c) On-going compliance. This article requires that obligations imposed on an owner of property pursuant to the enforcement of this article shall become the responsibility of subsequent owners, until such time as those obligations are fulfilled.
- (d) Interpretation. When interpreting and applying the provisions of this ordinance, such provisions shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.
- (e) Severability. If any section, paragraph, sentence, clause, or phrase of this article is found to be invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remaining portions of this chapter.

**Division 3 - Jurisdiction, authorization of easements, and registration**

158-31 Jurisdiction.

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

158-32 Authorization of conservation easements and fee simple donations

The mayor is hereby authorized, but is not required to accept conservation easements created pursuant to the provisions of the Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1 et seq., as amended from time to time, or any successor provision of law, the purpose of which easements are to preserve land in its natural scenic landscape or in a forest use. Such easements must be perpetual in duration and shall contain such other terms and provisions as the mayor or her/his designee shall deem appropriate. In addition, the mayor is authorized, but not required, to accept fee simple donations of land, the purpose of which is to preserve the land in its natural scenic landscape or in a forest use. Such donation shall contain the terms and provisions deemed appropriate by the mayor or her/his designee.

158-33 Registration of arborists, foresters, landscape architects, and tree service companies is required.



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

#### **Division 4 - General Standards for public and private trees**

158-34 Damage and destruction of trees.

- (a) Private trees. No person shall destroy, remove, or impact a regulated tree on private property without a permit from the City Arborist.
- (b) Public trees. No person shall damage, prune, remove, or otherwise affect any tree of any size in a public right-of-way, park, or on other public property without first obtaining a permit or other authorization from the City.
- (c) 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 with the use of Tree Trust Funds without a permit from the City Arborist. If replacement trees are approved for removal, replantings or recompense shall be required based on the DBH of the destroyed or removed tree but shall be no less than one replacement tree for every tree destroyed or removed.

158-35 Tree planting and maintenance standards.

- (a) Planting standards. Trees planted on public property, 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 all other provisions of this article.
- (b) Pruning standards. All tree pruning and maintenance activities in the public right-of-way or on other City property must comply with the most current versions of the ANSI A300 standard and ISA best management practices, and the provisions of this article.

158-36 Permits for removal and destruction of regulated trees

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

<u>Permit type</u>	<u>Applicable section</u>
<u>Dead, dying, and hazardous trees</u>	<u>158-43</u>
<u>Invasive/undesirable species</u>	<u>158-47</u>
<u>Construction, demolition, land disturbance</u>	<u>158-51</u>
<u>Landscape permit and silvicultural prescription</u>	<u>158-51</u>
<u>Tree removal based upon compliance with federal consent decrees</u>	<u>158-87</u>

158-37 Site selection for City facilities.

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

158-38 Procedures for boundary and co-owned trees.

- (a) Co-owned trees. The location of the tree shall be measured at the base of the tree, where the trunk of the tree meets the ground, excluding the root flare. If a tree trunk straddles one or more property lines, the tree is a co-owned tree, owned jointly by the property owners.
    - (1) Any applicant wishing to impact more than 15% of the CRZ of a boundary or co-owned tree must present a boundary tree agreement, signed by all owners of the tree, authorizing the additional impacts. The structural root plate of a co-owned or boundary tree must be fully protected.
      - a. Unless a valid boundary agreement is provided, the City Arborist may not issue a permit to remove or destroy a boundary tree on a lot zoned for or developed as a single-family residence unless an appeal to the Tree Conservation Commission has resulted in the finding that denial of a permit to remove such a tree constitutes a hardship, after which the City Arborist shall approve removal of the tree.
      - b. This provision shall not apply to trees growing in the public right-of-way but shall apply to trees on all other public property.
    - (2) The City Arborist may approve removal of a co-owned tree only if the removal is permissible under all other requirements of this article and a valid boundary tree agreement is submitted.
- 158-39 Removal of trees within a stream or wetland buffer or floodplain.
- (a) Tree removal as part of permitted development. The City Arborist may not approve removal or destruction of trees within a stream or wetland buffer, as described in Atlanta city code section 74-303, unless the tree(s) are located in the portion of the buffer where development or land disturbing activities have been authorized by a buffer encroachment per Atlanta city code section 74-306 and removal is necessary for completing the authorized construction. No more than 10 percent of the diameter inches of trees within a stream buffer, wetland buffer, waters of the State buffer, or floodplain may be approved for removal.
  - (b) Tree removal that is not as part of permitted development. The City Arborist may permit the removal of dead, dying, hazardous (DDH) trees and undesirable or invasive trees within a stream or wetland buffer unassociated with a buffer encroachment for the purposes of hazard mitigation, forest management, or stream or wetland buffer enhancement activities, subject to the conditions below:
    - (1) The applicant is responsible for identifying the location of the stream or wetland buffer and for ensuring that the proposed project complies with state and local buffer regulations.
    - (2) DDH, invasive, and undesirable trees removed from the buffer must be removed without any appreciable land disturbance. Machinery that causes scouring or compacting of the earth is prohibited within the buffer. Trees shall be cut at the base and stumps shall remain.
    - (3) Creation of roads and other land disturbance within the stream or wetland buffer is prohibited without an authorized buffer encroachment from the City.

## **Division 5 - Public Right-of-Way Clearance and Safety**

### 158-40 Nuisance trees.

- (a) Nuisance trees. Any dead, diseased, or damaged tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree were live or not diseased or damaged, fell or blow such tree or part thereof onto public ways or public property and thereby imperil life or property or impede traffic. When a tree or any part of a tree is confirmed by the City Arborist to be a nuisance, the City shall commence abatement proceedings.
- (b) Right to inspect. The City shall have the right to inspect any private tree which may impact the public right of way. Private trees which are a nuisance as defined under this article shall be

removed by the property owner upon receipt of notice to abate and a DDH tree removal permit, if applicable.

- (c) Nuisance limbs or debris. If the nuisance pertains only to a part of a tree, the City Arborist shall not issue a removal permit but shall issue a letter requiring only abatement of the nuisance.
- (d) Permit for removal of nuisance tree. If the nuisance pertains to the entire tree, the City Arborist shall issue a permit to the property owner authorizing them to remove the tree, along with a letter requiring abatement through tree removal.
- (e) Posting. No posting is required for the removal of nuisance trees.
- (f) Emergencies & notification. Where a nuisance tree poses an immediate hazard to the public, the City Arborist may deem the risk of the process of giving notice too great for the circumstances and may abate the nuisance without first notifying the property owner. Likewise, if the obstruction or nuisance tree can be abated by removing only the portion of the tree that extends into the public right of way, the City may abate the obstruction or nuisance without notifying the owner of the tree.

158-41 Abatement procedures.

- (a) When abatement required. Abatement may be ordered where a private property tree interferes with safety or free passage along a public street, sidewalk, or multi-use trail; or is deemed a nuisance as defined in this section.
- (b) Notice. When the City Arborist determines that a private tree requires abatement, he or she shall give written notice to the owner of the property. The notice shall contain:
  - (1) A clear and concise statement that in the City's opinion the tree or part of a tree interferes with safety or free passage along a public street, sidewalk, or multi-use trail and/or constitutes a nuisance;
  - (2) The specific actions that the owner must take to mitigate the nuisance; and
  - (3) A statement that if the work is not done by the property owner within 30 calendar days from the date of the notice, the City may issue a citation to appear in municipal court.
  - (4) Each 30-day period that passes without the nuisance being abated shall constitute an offense.
- (c) Summons may be issued. If the tree is not removed within the time specified by the City Arborist, the City Arborist may cause the owner of such tree, or the person in possession, charge or control thereof, to be summoned to appear before the judge of the municipal court to determine whether or not the tree or part of a tree involved constitutes a nuisance.
- (d) Municipal court proceeding. If a municipal court judge finds that the tree or part of a tree constitutes an obstruction or nuisance and orders the defendant to abate the same within a specified time, then the judge shall set a date by when the nuisance must be abated.
- (e) Right of City to abate. If the private property owner does not abate the nuisance, the City shall have the right, but not the obligation, to enter the property upon which such tree is located and abate the nuisance.
- (f) Reimbursement. Where the City takes action to abate the nuisance because the property owner failed to, or the City determined an emergency existed, the City shall have the authority to obtain reimbursement from the property owner for the reasonable costs of such work, or the City may choose to cover the cost of such work as appropriate from the Tree Trust Fund in cases where the homeowner has been determined to be financially unable to abate the nuisance.

**Division 6 - Tree valuation**

- 158-42 Healthy, non-invasive trees contribute the greatest environmental services to Atlanta's residents and visitors and are therefore regulated differently than invasive, undesirable, and dead, dying, or hazardous (DDH) trees.
- (a) Replacement required. Healthy, non-invasive trees require replacement and/or recompense when destroyed or removed.
  - (b) DDH trees are those that have been determined by the City Arborist to meet the criteria for removal as dead, dying, or hazardous. DDH trees do not require replacement and/or recompense when removed unless after their removal from the site no longer meets the minimum density requirements described in section 158-50 and 158-60.
  - (c) Invasive and undesirable tree species are those that have demonstrated traits that are detrimental to the long-term health of the City's urban forest. The City Arborist maintains a list of invasive and undesirable tree species. These species generally do not require replacement and/or recompense when removed unless after their removal the site no longer meets the minimum density requirements described in section 158-50 and 158-60

**Division 7 - Requirements for the removal of dead, dying, and hazardous (DDH), invasive, and undesirable trees.**

- 158-43 Standard operating procedures for issuing dead, dying, or hazardous (DDH) tree removal permits.
- (a) DDH criteria. The City Arborist shall maintain and publish standard operating procedures describing the criteria for determining whether a tree is DDH and the issuance of permits to remove DDH trees. The criteria contained in the standard operating procedures shall be followed by the City Arborist and registered tree professionals when assessing trees pursuant to a removal permit.
  - (b) DDH updates. The City Arborist may update the standard operating procedures for issuing DDH permits upon approval by a vote of the Tree Conservation Commission.
- 158-44 Permits to remove dead, dying, or hazardous trees on private property.
- (a) Jurisdiction. The City Arborist for the Department of City Planning has permit authority for the removal of DDH trees on private property.
  - (b) Applicants. Applications to remove DDH trees may be submitted only by the owner of the property on which the subject tree is growing, or the owner's agent, such as a tree service company designated to make an application on behalf of the property owner.
  - (c) Multiple trees. For DDH permit applications involving seven or more trees, the City Arborist shall require an assessment of the trees to be submitted by a registered tree professional.
  - (d) Requirements of application. Applications to remove dead, dying, or hazardous trees with a DBH of six inches or greater for trees other than pines and a DBH of 12 inches or greater for pines shall be submitted to the City Arborist in a manner prescribed by the City, and contain, at a minimum, the following information:
    - (1) The address of the property and the owner's name, phone, and email address if applicable;
    - (2) The contact information of any tree service engaged to conduct the work;
    - (3) The name and certification number of the registered tree professional, if applicable;
    - (4) Each tree for which the permit is requested should be identified by species (if known), DBH, location, and any identifying characteristics, or markings.
    - (5) Applicants are required to provide one or more photos of the tree in question. DDH inspection results shall be sent to the applicant via email or USPS mail.
  - (e) City review and findings.

- (1) By submitting an application for removal of a DDH tree, an applicant grants permission for the City Arborist to enter the property and inspect the tree(s) and shall make entrance possible by removing any obstacles to inspecting the tree.
  - (2) The City Arborist shall use the standard operating procedures for DDH evaluations when assessing trees in response to a request for a removal permit.
  - (3) The City Arborist shall make the final determination of whether a tree meets the criteria for a DDH permit. The City Arborist shall approve or deny, based on the information submitted with the application and physical inspection of the tree or request additional information as necessary.
  - (4) A written report of the City Arborist's findings and decision, including any supporting documentation, shall be made in the project record and shall be available to the public online.
  - (f) Expiration of permit. Permits to remove DDH trees shall be valid for six months from the date of issuance. The City Arborist may extend the permit for up to six months upon request.
  - (g) No posting or preliminary approval required. Removal of DDH trees does not require public notification and posting as set forth in section 158-75.
  - (h) Replacement and recompense. Removal of DDH trees is not subject to tree replacement or recompense requirements except as follows:
    - (1) Illegally destroyed trees pursuant to section 158-86(b);
    - (2) Trees planted as a requirement of this article on commercial projects pursuant to section 158-68(f)(3); and
    - (3) Sites not meeting minimum tree density per section 158-50 and 158-60, which may require replanting.
  - (i) Right of appeal. No appeal may be filed for a notice of approval for a DDH tree. An applicant or their agent may appeal a notice of denial for a DDH removal permit to the Tree Conservation Commission as provided in section 158-77 of this article.
  - (j) Permits available for public inspection. All DDH tree removal permits shall be readily accessible for public inspection online.
- 158-45 Emergency removals for trees with imminent likelihood of failure.
- (a) Authorization for immediate removal. When an applicant believes and can demonstrate the imminent likelihood of failure for a tree on their property and that the tree poses an immediate danger to the health, safety and welfare of persons or property, the applicant may request a permit for immediate removal by contacting the City Arborist by phone or email to request verbal or written approval for the removal. Examples of trees with an imminent likelihood of failure include: a tree with a sudden change of pitch of the main stem; cracked or heaved soil opposite the tree's lean; a visibly raised root plate; and cracks or breaks in the tree's main stem or in a large leader.
  - (b) Alternative authorization. If the person is unable to reach the City Arborist, the person may remove the tree without approval. Within five business days of said removal, the person shall apply for retroactive approval by submitting to the City Arborist a tree removal application and photos demonstrating that the tree presented an imminent likelihood of failure, and any other information reasonably requested by the City Arborist.
  - (c) Failure to follow procedures. Where the City Arborist finds that the applicant did not follow the procedures of this subsection or failed to demonstrate an imminent likelihood of failure, the City

Arborist may require replacement planting and charge the responsible party applicable recompense and fines per section 158-86(b).

- (d) Right of appeal. The person or their agent may appeal a decision by the City Arborist regarding imminent likelihood of failure or tree removal associated therewith. Appeals must be filed with the Tree Conservation Commission within 15 days of the applicant's/owner's receipt of the City Arborist's written decision.

158-46 Permits to remove dead, dying, and hazardous trees on public property

- (a) Jurisdiction. The City Arborist for the Department of Parks and Recreation has the authority to issue permits for the removal of DDH trees on public property.
- (b) Reporting public property trees in DDH condition. Any person who believes that a tree on City-owned rights-of-way or park property is in DDH condition may request an inspection of the tree by calling the Department of Parks and Recreation or the ATL311 system to request a tree inspection to be completed by the City Arborist.
- (c) Reporting public property trees posing imminent likelihood of failure. Any person who believes that a tree on city-owned property or in the right-of-way is imminently dangerous may notify the City by calling 911.
- (d) City Arborist determination. The City Arborist will determine the tree's condition, assign a response priority, and prescribe appropriate action as needed.
- (e) Right of appeal. No appeal may be filed for a DDH tree on public property.

158-47 Permit required for removal of invasive and undesirable trees on private property.

- (a) Minimum size. A permit is required to remove an invasive or undesirable tree with a DBH of six inches or greater.
- (b) Invasive and undesirable species. The list of invasive and undesirable tree species is maintained by, and available from, the City Arborist. The City Arborist may update the list of invasive trees periodically, based on guidance by the Georgia Invasive Species Council, scholarly research, and consultation with professional arborists, ecologists, and foresters. All updates shall be approved by the Tree Conservation Commission.
- (c) Applications. Applications to remove an invasive and undesirable tree may be submitted only by the owner of the property on which the subject tree is growing or the owner's agent.
- (d) Format. Applications should be made to the City Arborist in a format prescribed by the department and should contain the following:
  - (1) At least two pictures of the tree at issue that identify the species of tree; and
  - (2) If seven or more invasive and undesirable trees are proposed to be removed, a tree survey including the quantity, species and DBH of each tree, prepared by an ISA or ASCI certified arborist or a landscape architect, in good standing with the City as a registered tree professional.
- (e) City review and findings.
  - (1) By submitting an application for removal of an invasive or undesirable tree, an applicant grants permission for the City Arborist to enter the property and inspect the tree(s) and shall make entrance possible by removing any obstacles to inspecting the tree.
  - (2) The City Arborist shall make the final determination of the species of the tree based on the information submitted with the application and physical inspection of the tree and may issue a removal permit for any tree of a species on the list of invasive and undesirable tree species. The City Arborist's findings and decision will be made available to the public online.

- (3) Permits to remove an invasive or undesirable tree shall be valid for six months from date of issuance. The City Arborist may extend the permit for up to six months upon request.
  - (f) No posting or preliminary approval required. Removal of invasive and undesirable trees does not require notification and posting as set forth in section 158-75.
  - (g) Replacement and Recompense. Removal of invasive and undesirable trees is not subject to the replacement or recompense requirements except when the removal of seven or more undesirable trees from a single property is not associated with a building, land disturbance, or demolition permit. When seven or more invasive and/or undesirable trees are approved for removal and not associated with a building permit, the owner must either obtain City Arborist approval of a landscape plan showing tree for tree replacement of the undesirable trees with trees from the City Arborist's recommended tree list or demonstrate that the site meets the tree density requirement for the site, either per Table TPO-1 for single-family residential properties or per section 158-50 for other properties.
- 158-48 Invasive or undesirable trees on public property. At the City Arborist's discretion, invasive or undesirable trees may be removed from public property. A permit or other authorization for removal is required, though no posting, replacement, or option to appeal are required.

**Division 8 - Requirements for preservation and permits for removal of healthy trees, excluding invasive and undesirable species.**

- 158-49 Permits required.
- (a) No unpermitted removal of regulated trees. No person shall directly or indirectly remove or destroy a regulated tree on public or private property without first obtaining a permit from the City Arborist, except as otherwise set forth in this article.
  - (b) Replacement or recompense required. Any person removing or destroying a regulated tree must replant tree(s), pay recompense, or both, 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 available to public. Permits shall be available for public inspection on the City's website.
- 158-50 General requirements.
- (a) Tree density requirement. The applicable tree density requirements shall be met at the time of project completion with the exception of demolition, public linear infrastructure projects, and the infrastructure phase of single-family residential subdivisions and planned developments. Tree density may be met by saving trees on site, planting trees on site, or a combination of the two. All projects must meet all tree preservation requirements and minimum tree density requirements of this article unless otherwise exempted in this ordinance.
  - (b) Replacement tree planting and recompense. In addition to meeting the tree density requirement, additional trees may be required to be planted on or off-site as replacement for the trees that were removed from the site.
    - (1) For private property trees, a recompense payment may be made in lieu of planting replacement trees off-site, provided that the on-site tree density requirement is met and replacement trees have been planted to the degree that site conditions allow. A recompense payment may not be made in lieu of meeting the tree density requirement.
    - (2) For public property trees, all trees removed shall be replaced on public property per section 158-70.
  - (c) Removal of invasive vines from saved trees. Non-native invasive vines must be removed or severed in a manner approved by the City Arborist.



- (1) No site will pass final arborist inspection until invasive vines such as English ivy, Chinese wisteria, and kudzu growing on trees have been severed or killed in a manner that does not harm the tree. Instruction for safe removal of invasive vines are available from the City Arborist.
- (2) Removal of invasive vines from the ground around trees to prevent reinfestation is strongly encouraged.
- (3) A list of invasive vines is included on the City's list of invasive species, maintained by and available from, the City Arborist.
- (4) Native vines should not be removed.

158-51 Permits for the removal of healthy trees.

- (a) Permits for tree removal based on permitted construction. Approval may be granted by the City Arborist, as part of the City's permitting process, to remove or destroy a healthy, non-invasive tree to accommodate construction or demolition of a property improvement for which a building, demolition, or land disturbance permit is required.
- (b) Permits for tree removal based on permitted demolition. Tree removal for demolition will be permitted only when the City Arborist determines it is unfeasible to perform the demolition without destruction or removal of trees. The City Arborist may require specialized demolition methods or require certain areas of proposed demolition to be deferred until a building permit is issued if such measures may preserve trees.
- (c) Permits for tree removal based on landscaping improvements. A permit may be issued by the City Arborist to remove or destroy a tree to accommodate landscaping projects and other activities for which a construction permit is not otherwise required, provided the tree is not located in a setback and the project cannot be performed in a manner that does not destroy the tree.
- (d) Permits for tree removal associated with silvicultural prescriptions. Permits for tree removal for forest stand improvement may be approved at the determination of the City Arborist. Each application shall include a silvicultural plan that is prepared by an arborist or forester in good standing with the City as a registered tree professional. Replacement and/or recompense is required unless the City Arborist determines that the removal of trees is necessary to reduce or prevent the spread of pests or disease or improve forest health.
- (e) Permit for tree removal based upon compliance with federal consent decrees. Specific provisions for issuance of permits to the Department of Watershed Management for the removal of trees associated with work performed as a result of the City of Atlanta's compliance with the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia), and/or with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia) can be found in section 158-87.
- (f) Pre-application conference. For all projects that propose to remove or destroy trees, a pre-application conference with the City Arborist office is highly recommended to ensure that the design is consistent with the requirements of this article. Plans will be reviewed again when submitted for a construction or other permit.

158-52 Applications for a permit to remove healthy trees.

- (a) Site plan submittal. Any person or entity applying for a construction, demolition, or land disturbance permit; or a landscape-related tree removal permit, must submit a site plan for review by the City Arborist along with the permit application. The plan shall be prepared to meet the

minimum requirements described in section 158-53 and shall include a survey of all regulated trees unless otherwise exempted by this article. All boundary trees must also be shown and labeled.

- (b) Allowed impacts to trees. A saved tree is one with at least 80% of its CRZ protected and preserved at natural grade provided the tree's structural root plate is also fully protected. The City Arborist may allow the exceptions below:
- (1) The City Arborist may approve impacts up to 33% of the CRZ and still consider the tree saved only if an arboricultural prescription to mitigate impact to the CRZ is provided and approved as described in section 158-64.
  - (2) No cut, fill, or land disturbance of any kind is allowed within the structural root plate of any saved tree, though the City Arborist may, upon the express finding that the stability of the tree will not be affected, allow for minor disturbances, such as the installation of a post, within the structural root plate.
- (c) Criteria for impacts to healthy trees; arborist review. The City Arborist shall not issue a permit for the destruction, removal, or injury of any healthy tree unless:
- (1) The application and plans submitted to the City are accurate;
  - (2) The design is appropriate to the site conditions and minimizes the impacts to trees on site to the maximum extent practicable;
  - (3) No trees are being removed unnecessarily, and the improvements cannot reasonably be designed or positioned to further increase tree protection;
  - (4) No trees are being removed solely for the construction of green infrastructure required by Department of Watershed Management;
  - (5) All reasonable efforts have been made to plan the construction or demolition methods and site access with protection of trees as a priority;
  - (6) The tree is located within the buildable area of the lot and the applicant has been granted a building, landscaping, or other permit to make improvements otherwise permissible under all applicable ordinances of the city;
  - (7) No tree located in the portion of the setback or required yard area is being removed for vehicular ingress and egress or for the installation of utilities unless access and utility installation cannot be accomplished in a manner allowing for the preservation of the tree;
  - (8) The tree is of an undesirable or invasive species;
  - (9) The applicant has submitted a boundary tree agreement signed by the adjacent property owners for any impact to the CRZ of a boundary tree over 15%;
  - (10) For all projects, the minimum tree preservation, replanting, recompense, tree density, and other requirements and standards in this article are met.
- (d) Modifications. The City Arborist may require reasonable modifications to the site plan to protect trees, stands of trees, and environmentally sensitive areas, or may require construction methods and products to reduce impacts to the trees on site, including, but not limited to:
- (1) Reuse of cleared, paved, or previously developed areas including, but not limited to driveways, parking lots, former building footprints, and lawns;
  - (2) Directional boring instead of open trenching for utility installation;
  - (3) Root bridging for sidewalks, driveways, and other hardscapes;
  - (4) Retaining walls and use of pier and beam foundations to reduce tree impacts from site grading;

- (5) Use of mulch, gravel, plywood, geotextiles, swamp/access mats, and temporary decking, alone or in combination per standards established by the City Arborist to prevent soil compaction from vehicular traffic and material storage; and
  - (6) Any other methods, materials, or techniques that meet with current arboricultural industry standards and are approved by the City Arborist.
  - (e) Notice of City Arborist's preliminary approval.
    - (1) Upon receipt of a complete application to remove, destroy, or impact trees for construction, demolition, landscaping, silviculture, or other allowed purposes, the City Arborist shall review the application. The City Arborist may give notice of preliminary approval upon finding that the site plan complies with all requirements of this article including receipt of any required boundary tree agreements and paid receipts for arboricultural prescriptions. The City Arborist shall give notice of denial of the application if the application does not meet the requirements.
    - (2) The notice of preliminary approval shall include the approved tree replacement and monetary recompense requirements associated with the tree removals as provided in sections 158-69 through 158-73.
  - (f) Denial of application.
    - (1) A notice of denial may be appealed to the Tree Conservation Commission by the applicant or applicant's agent only; and
    - (2) An applicant may submit a new or revised tree protection plan at any time after receiving a notice of denial.
  - (g) Public posting. Following preliminary approval of tree removal, public notice shall be made following the procedures in section 158-75.
  - (h) Notice of City Arborist decision of final approval. Upon completion of the posting period if no appeal is filed, or after the resolution of an appeal, the City Arborist shall provide notice of final approval or denial consistent with the terms of this article.
- 158-53 Site plans required under this article shall be drawn to scale and submitted in a format specified by the City and shall provide a tree survey and other information about existing site conditions and plans for the proposed development, including measures to protect trees during construction. At a minimum, site plans shall provide the following information:
- (a) Tree survey. The site plan shall include a survey identifying the size in DBH, species, and location of all regulated trees on the site. Identification of tree species and measurement of DBH must be provided. A survey of the location of the trees must be provided by a licensed land surveyor.
    - (1) Trees represented on site plan. The site plan shall identify all existing regulated trees on the site. The site plan must include each tree's critical root zone, structural root plate, whether the tree is a boundary tree, and whether an arboricultural prescription is being implemented.
    - (2) DDH trees, invasive trees, and undesirable trees. Site plans shall include existing trees for which a DDH permit has been issued and shall list the permit number. Invasive and undesirable trees shall also be clearly identified on the tree survey and permitting their removal should follow procedures described in sections 158-43 through 158-48.
    - (3) Boundary trees. Boundary and co-owned trees shall be shown on the tree survey.
    - (4) No trees on site. If there are no regulated trees on the site, the applicant must submit at least two photos showing the total area affected by proposed construction plus fifty feet beyond the

- limit of construction and a signed tree impact statement attesting there are no existing trees on site.
- (5) *Sampling accepted.* For non-residential lots that are one acre or more in size, a recognized sampling technique performed and certified by a registered forester may be substituted for an actual count of the trees to be removed. All specimen trees must be identified by species. The sampling method must be representative of the species distribution on the site and must be approved by the City Arborist prior to conducting the survey.
- (b) *Existing conditions and development plans.* All existing condition surveys must be prepared and certified by a surveyor licensed in the state of Georgia. Site plans shall include, at a minimum, the information listed below.
- (1) Existing and proposed topographic information at no less than two-foot contour intervals. A topographic survey is not required for single-family residential projects if no cut of fill or other changes in topography are proposed.
  - (2) Existing and proposed property lines, existing street names, zoning setbacks, transitional yards, easements, streams, stream and wetland buffers, and floodplain limits.
  - (3) Existing and proposed buildings and other structures, driveways and paved areas, retaining walls, and utilities.
  - (4) Proposed limits of disturbance, areas of cut and fill, construction access, staging, and storage areas.
- (c) *Tree replacement plan and tree replacement/recompense calculations.*
- (1) The site plan shall contain or be accompanied by a tree replacement plan that shows the location of proposed trees labeled by species and size in caliper inches. Trees planted within parking lots or other constrained areas must delineate and label the planting area or soil volume provided, as described in section 158-68(d).
  - (2) The tree replacement plan must contain planting details and specifications, including soil specifications when soil cells are used.
  - (3) The tree replacement plan shall also show proposed tree plantings and recompense calculations that meet the requirements set forth in section 158-68.
- (d) *Identification of trees to be saved or removed.* The site plan shall depict the CRZ of each tree that will be impacted and the percentage of any CRZ impact. Trees to be destroyed or removed should be clearly marked with an “X” on the plan. All trees with a CRZ impacted by construction or disturbance must show the extent of the structural root plate to demonstrate that the structural root plate is 100% protected from disturbance.
- (1) Trees on private property that are destroyed, but not removed from the site, require replacement and/or recompense payment.
  - (2) Trees on public property that are destroyed must be removed from the site and require replacement and/or recompense payment.
- (e) *Protection of saved trees.* The site plan must show the location of fencing and other appropriate measures that will protect saved trees on the subject property and adjacent properties. For all trees with CRZ impact of 15% or more, the plan must include a notation of the distance from the fence to the tree at the closest point, stated to the nearest one-half foot. The distance from the tree shall be measured at the point where the tree meets the ground, excluding the root flare.
- (1) *Tree protection fencing.* Tree protection fencing must be located to protect a minimum of 80% of a saved tree’s CRZ and 100% of its SRP throughout construction. Where the City Arborist determines that this level of protection is not possible and pre-approves an

- arboricultural prescription as part of a site plan, the tree fencing must be located so as to protect 100% of the SRP and at least 67% of the CRZ.
- (2) Boundary and co-owned trees. For all boundary trees and co-owned trees on residential properties tree protection fencing must protect at least 85% of the CRZ.
  - (3) Construction methods to minimize tree impacts. The site plan should clearly identify by location any specific construction techniques or materials used to reduce impacts to trees, such as those listed in section 158-52(d).
  - (f) Survey not required for tree removals related to landscape improvements. Applications for tree removals necessary for landscape improvements that do not require a building or land disturbance permit must provide a site plan with the location, species, and DBH of all trees, as identified by a registered tree professional. The plan may be hand drawn and does not require preparation by a surveyor, provided that the plan is accurate, drawn to scale, and contains all of the information required on the City Arborist's checklist for landscape projects.

### **Division 9 - Tree preservation and planting standards for single-family development**

#### **158-54 General provisions.**

- (a) Policy. Single-family developments should be designed to maximize tree preservation and minimize the impacts to existing trees, with a special focus on the preservation of environmentally sensitive areas.
- (b) Applicability. This section applies to:
  - (1) All development on individual single-family lots, collectively referred to as 'single-family projects' or 'developments' with or without accessory dwelling units, on existing lots of record; and
  - (2) New lots of record created in subdivisions that do not include the construction of new streets or shared stormwater infrastructure.

#### **158-55 All single-family developments must demonstrate that the site will meet the tree preservation standards below.**

- (a) Tree preservation standards described in Division 7 and planting requirements described below.

#### **158-56 Tree density and other planting requirements for single-family projects.**

- (a) Minimum tree density tree required. In addition to meeting tree preservation requirements of this article, all single-family lots must meet the minimum tree density standards listed in Table TPO-1 prior to the issuance of a certificate of occupancy. Tree density requirements apply to all sites, regardless of whether and how many trees are removed or destroyed, except as specifically exempted in these regulations.
  - (1) When calculating tree density, all quantities shall be rounded up to the nearest whole number of trees. Tree density requirements for single-family developments are found in table TPO-1.
  - (2) Front yard trees required. All single-family lots must have trees planted in the front yard at a maximum spacing of 40 feet, with allowances for driveways, and within 20 feet of the public right-of-way. The City Arborist may require trees to be planted in half-depth front yards on corner lots if space is sufficient.
  - (3) Trees planted to achieve tree density count towards meeting tree replacement requirements, but achieving tree density on site is a minimum requirement and does not relieve the applicant from meeting the front yard tree requirement or additional replacement planting or recompense payments necessary to offset trees removed or destroyed.

- (b) Tree density exception. Single-family residential projects meeting the following conditions may be exempt from meeting tree density requirements.
- (1) The tree survey for the project shows that no trees are present within 50 feet of any land disturbance associated with the project;
  - (2) No trees are removed or destroyed; and
  - (3) The cost of construction and/or disturbed area is below the current thresholds established by and available from the City Arborist.

*Table TPO-1*

<b><u>Single-family Minimum Tree Density Requirements by Zoning</u></b> <b><u>(Total trees planted)</u></b>	
<b><u>R-4B</u></b>	<b><u>2 trees per lot</u></b>
<b><u>R-5, R-4, and R-4A districts</u></b>	<b><u>21 trees per acre</u></b>
<b><u>R-3 and R-3A districts</u></b>	<b><u>22 trees per acre</u></b>
<b><u>R-2 and R2A districts</u></b>	<b><u>25 trees per acre</u></b>
<b><u>R-1 districts</u></b>	<b><u>28 trees per acre</u></b>
<b><u>RG, PD, and all other districts</u></b>	<b><u>20 trees per acre</u></b>

## **Division 10 - Tree preservation and planting standards for residential subdivisions and planned developments**

158-57 Tree preservation and planting standards for residential subdivisions and planned developments.

- (a) Applicability. This section applies to all new single-family subdivisions and planned developments that require installation of shared roads and stormwater management facilities.
- (b) Tree preservation. Single-family subdivisions and planned developments shall be delineated so as to maximize the preservation of individual trees, stands of trees, and the protection of environmentally sensitive areas.
- (c) Tree density. Tree plantings may be required to meet the applicable tree density requirements on the common areas and on the residential lots during later home construction.
- (d) Replacement and recompense. Replacement plantings and/or recompense payments will be required for trees removed under a land disturbance permit.
- (e) Conservation easements and fee simple donations. Credit for trees preserved in conservation easements shall be provided as described further in section 158-72(c)(3).
- (f) Preservation on a lot level.
  - (1) Tree removal under a land disturbance permit for a single-family subdivision shall be limited to only the disturbance required to install the roads, site utilities, and required stormwater management facilities on common property, as determined by the City Arborist. Trees removed or destroyed under a land disturbance permit require replacement plantings or payment of recompense as described in sections 158-69 through 158-73.

- (2) Prior to the construction of individual houses per issued building permits, the individual residential lots may not be disturbed beyond the area approved by the City Arborist per the issued land disturbance permit.
- (3) Individual residential lots may then be developed under separate permits and must adhere to the single-family residential tree preservation, tree density, tree replacement, and tree recompense requirements.
- (4) Residential subdivisions in which public infrastructure is installed must submit a tree replacement plan showing proposed tree plantings on common property for the entire development, including streets, to obtain final arborist approval for any land disturbance permits.
  - a. All public and private streets within a subdivision must meet the street tree planting requirements described in section 158-60.
  - b. Trees shown on the tree replacement plan 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 new individual lots, upon which they shall be planted as a requirement to obtain the final certificate of occupancy.

158-58 Tree replacement plan required.

- (a) Tree replacement plan required. All single-family residential subdivisions and planned developments must submit a tree replacement plan showing proposed tree plantings on common property for the entire development, including public and private streets.
  - (1) Tree density requirements for common areas in single-family residential subdivisions and planned developments shall meet commercial tree density requirements described in section 158-60.
  - (2) Street trees or front yard trees are required along all public and private streets in residential subdivisions at a minimum of 40-foot spacings.

**Division 11 - Tree preservation and planting standards for commercial development and parking lots**

158-59 General provisions.

- (a) Applicability. All projects, other than single-family, subdivisions, and planned developments are classified as commercial developments for the purposes of this article and shall be subject to the tree density requirements described in this division.
- (b) Criteria for impacts to healthy trees; arborist review. The City Arborist shall not issue a permit for the destruction, removal, or injury of any healthy tree unless:
  - (1) The application and plans submitted to the City are accurate;
  - (2) The design is appropriate to the site conditions and minimizes the impacts to trees on site to the maximum extent practicable;
  - (3) No trees are being removed unnecessarily, and the improvements cannot reasonably be designed or positioned to further increase tree protection;
  - (4) No trees are being removed solely for the construction of green infrastructure required by Department of Watershed Management.
  - (5) All reasonable efforts have been made to plan the construction or demolition methods and site access with protection of trees as a priority;

- (6) The tree is located within the buildable area of the lot and the applicant has been granted a building, landscaping, or other permit to make improvements otherwise permissible under all applicable ordinances of the city;
- (7) No tree located in the portion of the setback, transitional yard, or required yard area is being removed for vehicular ingress and egress or for the installation of utilities unless access and utility installation cannot be accomplished in a manner allowing for the preservation of the tree;
- (8) All requirements of section 158-52(c) are met;
- (9) The tree is of an undesirable or invasive species;
- (10) The applicant has submitted a boundary tree agreement signed by the adjacent property owners for any impact to the CRZ of a boundary tree over 15%; and
- (11) For all projects, the minimum tree preservation, replanting, recompense, tree density, and other requirements and standards in this article are met.

158-60 Tree density on commercial sites.

- (a) Minimum tree density. The tree density requirement sets a minimum number of diameter inches of trees required after development, both to provide benefits for the individuals who use the site and to ensure that the site contributes to the City's overall canopy and the benefits it provides to all residents and visitors.
  - (1) After meeting the other requirements of this article, all commercial developments must meet a tree density standard of 90 DBH inches per acre prior to the issuance of a certificate of occupancy, unless otherwise exempted in this article.
  - (2) Tree density requirements may be met with trees saved on site, newly planted trees, or a combination of the two. Tree density requirements apply to all sites, regardless of whether and how many trees are removed or destroyed, except as specifically exempted in these regulations.
  - (3) When calculating tree density, all quantities shall be rounded up to the nearest whole number of trees.
  - (4) Trees planted to achieve tree density count toward meeting replacement requirements, but meeting tree density on site is a minimum requirement and does not relieve the applicant from meeting the parking lot planting requirements, street tree requirements, and any additional tree replacement or recompense payments required to offset trees removed or destroyed.
- (b) Street trees required.
  - (1) On all commercial sites, trees must be planted along all public and private streets at a maximum spacing of 40 feet, with allowances for driveways, and within 20 feet of the back of curb, or back of sidewalk if the distance between the sidewalk and curb is insufficient for planting trees.
  - (2) All street trees must be overstory or midstory species, and at least half of the trees must be overstory species.
    - a. Zoning-mandated streetscape tree planting requirements supersede the 40-foot maximum spacing requirements for public street frontages, but do not alter the required minimum planting areas/soil volumes described in section 158-68(d).



- b. The City Arborist may waive or alter the street tree planting or spacing requirement if there are sufficient trees growing along the street frontage of the property, whether at regular or irregular spacing, or if site conditions prevent planting.

158-61 Parking lot planting requirements

(a) Applicability.

- (1) All new parking lots, and those being expanded or undergoing renovation that involves excavation or alteration of the grade, with a total of 16 or more parking spaces, shall meet the landscaping and tree planting requirements set forth in this section.
- (2) Parking lots that are being sealed, restriped, or resurfaced by overlayment on existing impervious paved surfaces are exempt from this requirement. Owners are responsible for any damage to public or private trees caused by these maintenance and improvement activities.

(b) Tree planting requirements for parking lots.

- (1) Trees must be planted so that no parking space is further than 45 feet from a tree, as measured from the tree trunk to any portion of the parking space. Trees contributing to this standard may be planted or growing on the perimeter or within the interior of the parking lot. Existing trees on the perimeter must be no more than 10 feet from the edge of the parking lot and on the same lot.
- (2) All trees used to meet the parking lot planting requirement shall be overstory or midstory trees, with at least 50 percent of the total number of trees being overstory species, and at least 50 percent of the trees planted in the interiors of parking lots also being overstory species.
- (3) Understory trees may be approved for use in parking lots below overhead utilities, or after the minimum planting requirements described in subsections (1) and (2) above have been satisfied.
- (4) *Barrier curbs and wheel stops.* Where the end of a parking space abuts a landscaped area in which trees are planted, barrier curbs or wheel stops shall be installed in the parking space at a minimum of two feet from the landscaped area. The two-foot area may consist of a pervious material. Barrier curbs and wheel stops shall be a minimum of six inches high and six inches wide and must be constructed of concrete, stone, or other durable material which may have openings that allow drainage from the pavement to enter and percolate through the landscaped areas.
- (5) *Ground cover of landscaped areas.* Landscaped areas shall contain one or more of the following types of ground cover in order to protect tree roots and prevent erosion: shrubs, non-invasive herbaceous plants, organic mulch, pine straw, or other similar landscaping materials. Ground cover shall be maintained at all times and mulch shall not exceed three inches in depth. Shrubs shall be maintained at a maximum height of 2.5 feet, except where such shrubs screen the parking surface from an adjacent property. Plants shall not be planted within the structural root plate of trees; plantings within the critical root zone of trees shall be dug by hand.
- (6) *Tree plantings adjacent to sidewalks and other rights-of-way.* Where a lot does not have zoning related streetscape or screening requirements, landscaped areas of at least six feet in width shall be constructed and maintained along sidewalks and public rights-of-way that are adjacent to the surface parking lot, except at points of a facility's ingress and egress. Trees planted in this area may count toward the requirements of this article.
- (7) *Minimum soil area and volumes.* Trees planted in parking lots must meet or exceed the planting soil area or soil volume requirements in section 158-68(d).

- (8) Replacement of trees. All trees planted to meet these current or previous parking lot planting requirements must be maintained as necessary to keep the trees healthy for the life of the parking lot, and any tree that is dying or dead must be replaced with one new tree of a similar type during the next planting season.
- (c) Bus and truck lots, including warehouse and shipping facilities, are required to plant one tree for every 4,000 square feet of paving, excluding driveways. Trees should be planted on the perimeter and in landscaped areas within the lot. Bus and truck lots must also meet requirements of subsections (2) through (8) in this section 158-61.

## **Division 12 - Pre-construction and tree protection through construction and certificate of occupancy**

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

- (a) Pre-construction inspection required. Upon approval of any permit for grading, demolition, or construction, no land-disturbing activities other than installation of erosion control and tree protection measures may occur without approval by the City Arborist. Tree fencing and other protection measures must be in place at the time of the pre-demolition or pre-construction inspection. Once tree fencing is in place the applicant must notify the City to schedule the inspection. Failure to do so may result in fines Section 158-86.
- (b) Compliance with conditions of permit. The City Arborist shall inspect the site to ensure the accuracy of the permit application data, site plan, and placement and efficacy of tree protection fences and other tree protection devices required by the site plan.
- (c) Exception. For any permit for an addition to a one-family or two-family residence, the City Arborist may elect to rely on data submitted in the application and certified by the applicant for the building permit in lieu of an on-site pre-construction inspection.

158-63 Minimum tree protection standards during construction.

- (a) Protection for saved trees.
- (1) A saved tree must have a minimum of 80% of its CRZ protected and preserved at natural grade, and the tree's SRP must remain fully protected.
  - (2) The City Arborist may approve impacts to the CRZ between 20% and 33%, only upon approval of an arboricultural prescription to mitigate the CRZ impacts as described in section 158-64.
  - (3) No cut, fill, or land disturbance of any kind is allowed within the structural root plate area; however, the City Arborist may, upon the express finding that the stability of the tree will not be affected, allow for minor disturbances such as the installation of a post within the structural root plate.
  - (4) No toxic substances such as herbicides, gas, brine water, oil, or other substances deleterious to tree health shall be allowed to come in contact with soil within the CRZ.
  - (5) Trees which must be pruned to allow for clearance on construction sites must be pruned according to ANSI A300 standards and ISA best management practices standards for pruning.
- (b) Tree protection fencing required. Tree protection fencing must be installed on site per the site plan and maintained in place until the arborist's final inspection. Final landscaping of the tree save areas must be completed without use of heavy equipment, and with tree protection fencing in place. Tree protection fencing must meet the following requirements:

- (1) Location. Tree fencing must be located at the perimeter of the tree save area(s) as shown on the plan throughout construction.  
the City Arborist may allow an opening or gate in the tree protection fencing for pedestrian access only, if it is necessary to implement arboricultural prescriptions or other tree care and final landscaping. Openings or gates may be no wider than 4 feet and must be shown on the site plan.
  - (2) Material. Fences must comply with City of Atlanta arboricultural standards and must be constructed of chain link, wood, or substantial mesh material, with a minimum height of four feet. Chain link or substantial wood fencing must be used in the following circumstances unless the City Arborist finds that other materials are sufficient for the circumstances and the approved fencing is noted on the site plan:
    - a. Protection of trees on all commercial projects;
    - b. Protection of trees in the front yards of single-family residential projects;
    - c. Protection of trees that have been approved for CRZ impacts greater than 20 percent;
    - d. Protection of trees to be saved based on a decision by the Tree Conservation Commission; and
    - e. Any other situation where the City Arborist finds a significant risk of damage to a saved tree's critical root zone.
  - (c) Protection of soil from compaction. If the City Arborist has approved use of a portion of the tree save area for construction access or staging, approved measures such as mulch, gravel, plywood, geotextiles, swamp/access mats, and temporary decking must be installed per approved plans and maintained until final landscaping of the site requires their removal.
  - (d) No activity within tree save area. Unless shown on the site plan or specifically authorized by the City Arborist in writing, no activity of any kind is allowed within tree save or conservation areas.
  - (e) Prescriptive care. 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. The City Arborist may approve a prescription to save a tree that sustains mechanical or other injuries during construction if the damage, specific circumstances of disturbance, or condition of the tree warrant a prescription.
  - (f) Plan adjustments. These criteria are enforced in the field as well as on the plan. Plan adjustments made during construction must be reviewed by the City Arborist through submittal as a site plan revision, site plan correction, or tree permit.
- 158-64 Arboricultural prescriptions, care, and responsibility for impacted trees.
- (a) Prescription criteria. The criteria in section 158-63 represent minimum standards for protecting trees. Critical root zone impacts of up to 33% of the CRZ (known as a “technically destroyed tree”) may be allowed by the City Arborist, who will not consider the tree destroyed, and will not require replacement or recompense, only if the applicant proposes and performs acceptable mitigation in the form of an arboricultural prescription, as described below:
    - (1) A certified arborist who is a registered tree professional shall be retained to prescribe and oversee the implementation of protective measures to ensure the survival of the tree. These measures may include, but are not limited to root pruning, canopy pruning, mulching, watering, fertilization, and enhanced protective fencing;
    - (2) Prescriptions must include:

- a. The registered tree professional's name, company affiliation, signature, qualifications, and contact information;
  - b. The site address and individually identified tree(s) at issue including the DBH of each tree;
  - c. The current condition of the tree(s);
  - d. Tree protection provisions to be implemented during and after construction and site disturbance including placement of mulch, fencing, physical barriers, and other methods to prevent soil compaction or damage to the tree or the trees' CRZ;
  - e. If a prescriptive care is occurring during construction, a written or graphic depiction of required tree fencing must be included per section 158-63(b);
  - f. A soil and foliar analysis if application of fertilizer is being prescribed;
  - g. A five-year survivability assessment;
  - h. Description of a watering regime;
  - i. A schedule of recommended treatment, including any recommended soil amendments, fertilizer application, pesticide application, or pruning; and,
  - j. Specifications and the schedule for any prescribed pruning, soil modification, or fertilization.
- (3) The prescription written by the registered tree professional must be approved by the City Arborist in advance of the permit issuance, and a signed, paid-in-full receipt or the equivalent for implementation must be provided.
- a. A report of treatment actions, documented with at least two photos, shall be submitted to the City Arborists at least once per quarter or for the period of prescriptive care; and
  - b. An assessment of the condition of the tree at the end of treatment, and an estimate of the survivability of the tree shall be provided to the City prior to the arborist's final inspection. The assessment may be submitted up to 30 days prior to the inspection.
- 158-65 Arborist final inspection required prior to issuance of certificate of occupancy/completion.
- (a) Requirement before issuance of certificate of occupancy. No certificate of occupancy/completion shall be issued with respect to any permit unless and until the City Arborist has inspected the site and confirmed that, at a minimum, the following conditions have been met:
- (1) All replacement trees have been planted in accordance with this article;
  - (2) All trees shown to be saved on the City Arborist-approved site plan have been saved in accordance with the provisions of this article;
  - (3) All fines, or recompense associated with preservation, illegal destruction, or removal of trees have been paid in full;
  - (4) Planted trees are in good or better condition, are the correct size, and meet the requirements of the planting plan and the planting specifications in sections 158-67 and 158-68;
  - (5) The report on prescriptive measures for trees on site has been received by the City Arborist; and,
  - (6) All trees preserved have been cleared of invasive vines consistent with section 158-50(c).

### **Division 13 - Tree planting specifications**

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

- (a) Specifications for replacement trees. Replacement trees and trees planted to meet tree density and replacement requirements shall be a minimum of 2.5 caliper inches and must meet appropriate ANSI Z60.1 nursery standards and be of high quality with appropriate branch structure for the

species and intended use, free of trunk and branch damage, without insect or disease infestation, and in good vigor. Installed trees must be allowed to grow to their natural size and shape and not be pruned in conflict with ANSI A300 standards. The City Arborist can reject or disapprove the use of sub-standard trees. Replacement trees planted within public rights-of-way must be single stem.

- (1) The City Arborist may approve the planting of trees smaller or larger than 2.5 caliper inches as appropriate for the project type and site conditions. Smaller trees may be allowed or encouraged for environmental restoration, slope plantings, reforestation, or similar projects.
- (2) Similarly, understory tree species that are unavailable from nurseries in a 2.5 caliper inch size may be approved for planting at a smaller size. All trees will be awarded replacement credit based on the size in caliper inches of the tree but shall be credited at no less than one-quarter (1/4) inch caliper.
- (3) Larger trees may be encouraged or required where smaller trees would block businesses or signage, impede pedestrian or vehicular access, or lines of sight under section 158-41 of this article.

158-67 Species of replacement trees.

- (a) *Recommended tree list.* Species acceptable for credit as replacement trees are listed on the City's recommended tree list which is available from the City Arborist. The City Arborist may approve species that are not on the list if he or she deems it an appropriate species and suitable for site conditions.
  - (1) *Prohibited replacement trees.* The City Arborist maintains a list of undesirable and invasive tree species that may not be planted to meet tree density or replacement tree requirements.
  - (2) No fastigate species or cultivars. Replacement credit may not be given for columnar, or fastigate species, or cultivars unless approved by the City Arborist based upon site conditions that would not be appropriate for a broad canopy. If replacement credit is given, then each columnar or fastigate tree will receive only half credit.
- (b) *Species diversity required.* Species diversity creates resilience in the urban forest and reduces the impacts of pests and disease. To ensure continued resilience, a diversity of tree species is required on each site. The species of planted trees should adhere to the following diversity guidelines, unless the trees saved on site, coupled with the replacement trees, offer a comparable diversity of species and genera:
  - (1) When four to 10 trees are proposed to be planted, no more than 50% of the replacement trees shall be of a single species.
  - (2) When 11 to 20 trees are proposed to be planted, no more than 33% of the replacement trees shall be of a single species.
  - (3) When 21 to 50 trees are proposed to be planted, no more than 20% of overall trees planted shall be of the same species, and 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 all trees planted shall be of the same species, and no more than 30% shall be of the same genus, with the exception of the genus Quercus (Oaks) which may make up 50% of the trees planted.
  - (5) At least 75% of replacement trees planted on any project shall be a species native to the Piedmont region of Georgia.
  - (6) The City Arborist may adjust or waive species diversity standards for streetscapes or on other highly urbanized sites, as well as for arboreta, botanical gardens, and orchard plantings.

(c) Mixture of mature tree sizes.

- (1) Where appropriate site conditions exist, tree density and replacement tree plantings shall be overstory and midstory trees.
- (2) Understory trees shall be permitted by the City Arborist where site conditions do not allow the planting of overstory or midstory trees. Where understory trees are allowed, they should generally make up no more than 25% of the required plantings if feasible.

158-68 Planting specifications.

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

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

#### **Division 14 - Calculation of recompense**

158-69. Replacement tree and monetary recompense requirements for the removal of public and private trees.

- (a) **Tree replacement required.** The DBH of all healthy trees approved for removal by the City Arborist must be replaced by planting an equivalent number of caliper-inches on or off-site, herein referred to as standard replacement, unless otherwise excepted or adjusted by this article. Payment of monetary recompense may be made in lieu of planting replacement trees only if all requirements outlined in this section are met.
- (b) **Monetary recompense.** The dollar amount established to compensate for the removal or destruction of a healthy tree.
  - (1) The established recompense value is \$140.00, effective January 1, 2026.
    - a. Annual adjustment for inflation. Beginning January 1, 2027 and continuing on an annual basis, the established recompense shall be adjusted to reflect the annual rate of inflation for the Atlanta-Sandy Springs-Roswell, GA Metropolitan Statistical Area (MSA) as published by the United States Bureau of Labor Statistics (Consumer Price Index for All Urban Consumers – CPI-U). The adjusted recompense shall be rounded to the nearest whole dollar.
    - b. Publication of adjusted rate. The Department of City Planning shall publish and make publicly available the annually adjusted established recompense by January 15 of each calendar year.
  - (2) The formula for calculating the recompense payment is as follows:  
**(caliper inches owed – credited caliper inches planted) x established recompense value = monetary recompense**
  - (3) Credits. Credits listed below may be applied to the total standard replacement to determine the modified replacement requirement. These credits apply to both public and private tree plantings.
    - a. Replacement tree incentive. To encourage applicants to plant replacement trees rather than making recompense payments to the Tree Trust Fund, trees planted to meet replacement requirements shall be credited at 1.25 times the planted tree's caliper inches. This credit applies to all replacement trees planted on and off-site.
    - b. 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).  
Replacement and recompense incentives and credits do not change the tree density, parking lot, or street tree planting requirements, but will reduce the number of replacement trees planted or monetary recompense paid after the tree density, parking lot, and street tree planting requirements are met.
  - (4) Maximum recompense. For new subdivisions, new lots of record, and vacant lots, a maximum shall be set on recompense at a pro rated per acre basis by zoning classification as tabulated below, provided that no less than the specified minimum existing DBH inches, are retained on a site.

<u>Zoning</u>	<u>Minimum Trees Retained (Total DBH Inches)</u>	<u>Maximum Recompense per Acre</u>
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<u>R-1</u>	<u>65%</u>	<u>\$35,000</u>
<u>R-2</u>	<u>50%</u>	<u>\$35,000</u>
<u>R-2A</u>	<u>50%</u>	<u>\$25,000</u>
<u>R-3, R-3A</u>	<u>40%</u>	<u>\$25,000</u>
<u>R-4, R-4A, R-G, R-LC</u>	<u>35%</u>	<u>\$15,000</u>
<u>RG-4, RG-5</u>	<u>10%/20%*</u>	<u>\$22,500</u>
<u>R-4B</u>	<u>10%/20%*</u>	<u>\$12,500</u>
<u>R-5</u>	<u>10%/30%*</u>	<u>\$15,000</u>
<u>MR, MRC, I-MIX</u>	<u>10%</u>	<u>\$25,000</u>
<u>O&amp;I, C(1-5), I(1&amp;2)</u>	<u>25%</u>	<u>\$35,000</u>
<u>PD, PD-H, PD-MU, PD-OC, PD-BP, SPI Districts, Historic and Landmark Districts, and other special zoning categories**</u>	<u>Treat according to underlying zoning categories</u>	<u>Treat according to underlying zoning categories</u>

\*Vacant lots shall be based upon the lower Minimum Trees Retained total DBH inches, new subdivisions and new lots of record shall be based upon the higher Minimum Trees Retained total DBH inches.

\*\*Where an underlying zoning category does not apply, the Minimum Trees Retained (MTR) for planned developments shall be derived by multiplying the required percentage of the site required to be retained in pervious area by a factor of .60 which will establish the Minimum Trees Retained percentage (MTR%). This amount shall be calculated according to the formula:

$$\text{Required Pervious Area (K) x .60 = MTR\%}$$

$$\text{Maximum Recompense Per Acre = \$35,000.00}$$

#### 158-70 Public property tree replacement and monetary recompense.

All trees destroyed or removed from public property require the equivalent of inch-for-inch replacement. The City's preference is that, at a minimum, each public project should replace one tree for every tree removed, whether on-site or off-site. If the applicant demonstrates that planting the total caliper inches owed, or meeting the tree-for-tree planting minimum cannot be met with a combination of on-site and off-site planting, the City's second preference is that the applicant complete on-site urban forestry projects to offset the tree loss. Such projects may be implemented where the loss occurred or in other locations where urban forestry improvement projects are being implemented by the applicant. The City Arborist shall approve a combination of planting and contributions of equivalent value to urban forestry enhancements or payment of monetary recompense according to the requirements below:

- (a) Public property tree replacement. All trees destroyed or removed from public property must be replaced in a location approved by the City Arborist, with preference for onsite planting. If the City Arborist determines that space or conditions on-site are not sufficient for planting under section 158-68(d), the City Arborist may approve off-site plantings. No less than one tree should be planted for each healthy tree removed, whether on-site or off-site unless planting is demonstrated to be infeasible based upon site conditions and the soil volume requirements of section 158-68(d).

- (b) Urban forestry project incentive. To encourage applicants to implement urban forestry initiatives rather than making recompense payments to the Tree Trust Fund, the City Arborist shall approve urban forestry projects to be implemented by the permit applicant and credited at 1.25 times their documented cost. Urban forestry projects may only be accepted for credit after at least one tree for every healthy tree removed has been replaced, unless an exception is granted due to the infeasibility of planting.

- (1) Calculation of replacement credit for urban forest projects shall be determined based on the equation below.

$$\frac{(\text{Urban forestry project cost} \times \text{urban forestry project credit})}{\text{established recompense value}} = \text{replacement inch credit}$$

**Example:** An approved urban forestry project with a cost of \$10,000 would reduce the required replacement planting by 48 inches.

$$(\$10,000 \times 1.25) / \$140 = 89 \text{ inches of replacement credit.}$$

- (2) Accepted projects include:

- a. Enhanced infrastructure for tree planting. Infrastructure improvements to support sustainable tree planting and urban heat island reduction, such as concrete removal, soil cell installation, and utility relocation for the purpose of installing trees in the right-of-way and hardscaped public areas;
- b. Enhanced infrastructure for tree preservation. Infrastructure improvements to improve tree health or preserve trees such as the installation of pervious pavers, root bridging, floating curbs, or other materials or techniques that meet current arboricultural industry standards approved by the City Arborist;
- c. Tree regeneration projects. Implementation of invasive plant control projects based upon a DPR-approved ecological restoration plan; and
- d. Forest preservation. Purchase of land or acquisition of conservation easements for the purpose of preserving or planting trees.

- (c) Public property monetary recompense. The City Arborist may approve payment of monetary recompense for remaining caliper-inches owed after at least one tree is planted for each tree removed, unless an exception is granted due to the infeasibility of planting, based upon the calculations for established recompense pursuant to section 158-69(b). Payment shall be deposited into an account in the Tree Trust Fund dedicated to the following:

- (1) Tree planting on public property;
- (2) Enhanced infrastructure improvements to support sustainable tree planting and reduce urban heat islands, such as concrete removal, soil cell installation, and utility relocation for the express purpose of installing trees in the right-of-way and hardscaped public areas; and
- (3) Forest land acquisition as prescribed in section 158-83.

158-71 Department of Watershed Management.

Specific provisions for public and private tree replacement and recompense for Department of Watershed Management work related to complying with the federal CSO Consent decrees can be found in section 158-87.

158-72 Private property replacement and recompense.

- (a) Private property tree replacement. The following types of plantings may be used to fulfill standard replacement for healthy trees removed from private property:

- (1) Trees planted on site to meet tree density;
  - (2) Trees planted on site in addition to those required to meet minimum tree density;
  - (3) Trees planted off site on public property as approved by the City Arborist;
  - (4) Trees planted off site on private property, conditioned upon submission of a planting plan, a signed right-of-entry agreement granting approval for the applicant to plant and maintain the trees for the duration of the guarantee period, and an agreement granting permission for the City Arborist or designee to enter the property to inspect the trees throughout the warranty period.
- (b) Private property monetary recompense. Recompense payment for removal of private trees may be allowed when the required number of replacement trees cannot be planted on site. Recompense payment may not be made in lieu of meeting tree density requirements.
- (c) Credits and incentives. Credits and incentives described below may be applied to the total standard replacement to determine the modified replacement requirement.
- (1) Replacement tree incentive. Credits for planting may be applied to the total standard replacement to determine the modified replacement requirement and are credited at 1.25 times the planted tree's caliper inches to encourage applicants to plant replacement trees rather than making recompense payments to the Tree Trust Fund, per section 158-69.
  - (2) Credits for meeting City priorities. Significant recompense reductions are offered for projects that meet the affordable housing goals of sections 158-88 and 158-89.
  - (3) Conservation easements and fee simple donations. Easements and donations that result in the preservation of forests, woodlands, or newly created wooded parkland with a minimum of 1,000 inches DBH per acre, and that are perpetual in duration may receive a credit of \$20,000.00 per acre, prorated against recompense fees. Natural water detention areas established in lieu of the construction of detention ponds shall qualify as conservation easements if so deeded as a conservation easement. In addition, a fee simple donation of land that is forested with at least 1,000 inches DBH per acre, and that is accepted by the City, will receive a credit of \$20,000.00 acre, prorated, against recompense fees, but only if the City dedicates the land for a use that will preserve the land in its natural scenic landscape or as a forest.

158-73 Sites with private and public trees.

Applicants shall calculate and show replacement of public and private trees separately within individual projects that propose to remove both private and public or right-of-way trees.

## **Division 15 - Public notice, posting, appeals, and minor amendments**

158-74 Electronic submittals and other documents; public access to information.

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

158-75 Notifications and posting.

- (a) Applicability. The notification and posting criteria set forth below apply to tree removal permits for trees unless otherwise exempted by this article.
- (b) Exemptions. Projects performed by the Department of Watershed Management to fulfill the City's obligations under the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia) and with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia), or for any other consent decrees that the City might enter into, are exempt from posting and appeals.
- (c) Sign postings required. Public notice must be posted on each site where trees are proposed to be removed. The notice must be posted on sign(s) at least six square feet in size in a format designated by the City Arborist. The sign(s) must be posted prominently and visibly along at least every 100 feet of street frontage on the subject property.
  - (1) Sign postings on private property. Before issuance of a permit to remove healthy tree(s) from private property, two sign postings shall be required. The first posting shall notify the public that an application to remove tree(s) was filed with the City. The sign shall remain posted for a minimum of ten business days and until the City Arborist has issued preliminary approval of the plan to remove tree(s). The second sign posting shall provide public notice when and if the City Arborist issues preliminary approval of the application to remove tree(s) and shall notify the public of the right to appeal. The second posting shall remain in place for seven business days, during which time the City will accept appeals.
  - (2) Sign postings on public property. A single sign posting is required prior to issuing a permit to remove healthy tree(s) from public property. The posting shall provide notice of the City Arborist's issuance of preliminary approval of a plan to remove the designated public property tree(s), and shall remain in place for 15 calendar days, during which time the City will accept appeals.
  - (3) Sign postings on site with both public and private trees. If removal of both public and private trees are proposed within the same application, two postings shall be required as set forth in section 158-75(c)(1) above and the posting and appeal schedule for the public trees shall match the schedule for the private trees.
- (d) Marking of trees. Immediately after an applicant receives preliminary approval for removal of a tree on public or private property, the applicant shall mark all trees to be removed or destroyed with a large orange "X" painted on the street-facing side of the tree trunk.
  - (1) Site inspection before posting. Upon inspecting the site to post the preliminary approval, if the City Arborist discovers significant errors or omissions on the tree survey or site plan or finds that the trees approved for removal have not been marked properly, the site shall not be posted, and the applicant shall be issued a notice to correct the errors or omissions. The City Arborist shall reinspect the site and shall post the sign only after any survey and site plan errors have been corrected, resubmitted, and given preliminary approval by the City Arborist and trees have been properly marked and the applicant informs the City that the errors have been corrected. If uncorrected errors or omissions prevent the City Arborist from posting the sign a second time, the applicant shall be charged a reinspection fee for any subsequent inspection, as authorized in section 104.2(c) of the Atlanta Building Code.
- (e) Electronic posting. The notice of preliminary approval for removal of public trees and private trees shall be posted on the subject site as well as the website of the department with permitting authority. The notice of preliminary approval shall inform any reader that an appeal may be filed

with the secretary of the Tree Conservation Commission and shall indicate the deadline by which the appeal must be filed. The notice shall further indicate that failure to appeal within the designated timeframe will result in the issuance of the removal permit without further right of appeal. If the notice of preliminary approval is not posted as required by this article, no permit shall be issued.

158-76 *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 regarding such approval, provided any trees which are approved for removal are not counter to the guidelines below:

- (a) The amendments must not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case;
- (b) The amendments must not increase impact to boundary trees or allow the removal or destruction of any trees designated as historic;
- (c) The amendments in the aggregate must not increase the total number of trees or total DBH permitted for removal or destruction by more than ten percent, with a maximum of 10 additional trees allowed to be removed under this provision;
- (d) On single-family developments, the amendments must not alter the tree preservation standard approved in the permit, described in section 158-55, or cause the plan to be non-compliant with the preservation standard approved by the City Arborist; and
- (e) If all of the above guidelines cannot be met, the amendment cannot be approved and a new tree removal permit must be applied for and posted accordingly.

158-77 *Appeals.*

- (a) *Who may appeal.* Appeal rights are set forth throughout this article, and as further described below:
  - (1) *Appeals regarding impact to trees on private property associated with construction, demolition, and landscaping.* Appeals of a City Arborist's decision regarding tree(s) impacted by private development may be filed by any person who resides or owns property or a business within the same NPU as the subject property or anyone who resides or owns property within 500 feet of the property, regardless of NPU boundaries.
  - (2) *Appeals regarding impact to trees on public property associated with construction, demolition, or landscaping.* Appeals of a City Arborist's decision regarding tree(s) on public property may be filed by any party who resides or owns property or a business in the City of Atlanta; or any member of a civic association in the NPU where the subject tree(s) are located.
  - (3) *Appeals regarding DDH permits.* Appeals of denial or approval of DDH permits may be filed only by the property owner or their agent.
  - (4) *Appeals related to insurance.* The Arborist Division will provide guidance to property owners who request tree removal related to homeowner's insurance.
  - (5) *Appeals regarding undesirable species.* Appeals of denial of a permit to remove an undesirable species may be filed only by the property owner or their agent.
  - (6) *Appeals of fines and recompense.* Appeals regarding assessed recompense and fines for the illegal removal of trees may be filed by any responsible party assessed recompense and fines.
  - (7) *Appeals of suspension.* Registered tree professionals may appeal decisions related to their registration status.

- (8) Appeals of citations. Citations are subject to the jurisdiction of the rules of the Atlanta Municipal Court. Citations may not be appealed to the Tree Conservation Commission. If the Municipal Court finds the defendant in violation of this article, it shall order that the action required by the City Arborist to obtain compliance with this article be implemented and shall assess fines or other penalties pursuant to Section 1-8 of the City Code. Any recompense and fines recovered pursuant to this section, excluding court costs, shall be deposited into the Tree Trust Fund.
- (b) Timing of appeal.
- (1) For trees on private property, appeals of preliminary approval must be filed within seven business days of the on-site posting of the notice of preliminary approval.
  - (2) For trees on public property, appeals of preliminary approval must be filed within 15 calendar days of the on-site posting of the notice of preliminary approval. However, sites where both public and private trees are proposed for removal shall follow the timeline and posting requirements for private property trees as described herein.
  - (3) Appeals of recompense and fines for illegal tree destruction must be filed within 30 calendar days of receipt of the fine letter and invoice.
- (c) Appeal requirements.
- (1) Submission of appeals. All appeals must be filed with the secretary of the Tree Conservation Commission.
  - (2) Filing fee. A \$75.00 filing fee is required to defray the administrative costs of the appeal unless the Tree Conservation Commission waives the fee on the basis of hardship. Where a financial hardship is requested, the appellant must submit a letter explaining in detail why they are unable to pay the fee. The Commission shall determine whether to waive the filing fee at the time of the appeal hearing.
  - (3) Appeal content. The notice of appeal shall state, at a minimum, the name, address, phone number, and email address if applicable, of the appellant. For appeals of preliminary approval of a plan, if the appellant is not an Atlanta resident, the appeal shall include the address of a business or property within the City of Atlanta owned by the appellant. The appeal also shall include a statement of the decision being appealed and the address of the subject property. If the tree(s) at issue are located on public property, the appeal shall state whether the appellant is an Atlanta resident or owner of property or a business within the City of Atlanta, or a member of the civic association in the NPU in which the tree(s) at issue are located.
  - (4) Basis of appeal must be stated. The appeal shall specify, at a minimum: the section(s) of this article that the appellant believes were misinterpreted or misapplied by the administrative officer; the way in which the appellant believes the section should be interpreted or applied; and/or any facts material to the administrative officer's decision that the appellant believes were inaccurate or missing from the tree removal application or which were misinterpreted or misunderstood.
  - (5) Appeal application for only one property or project. An appeal application shall be submitted for one lot only. If multiple lots are involved, an application shall be made for each additional lot.
- (d) Stay of activity after appeal is filed.
- (1) Appeal by a non-applicant challenging issuance of preliminary approval. If an appeal is filed by a non-applicant challenging the City Arborist's decision to provide preliminary approval

- for tree removal(s), the preliminarily approved activities, including tree removal and related land disturbance, shall be stayed automatically. The City Arborist shall not grant final approval, and no permit may be issued until the appeal is resolved.
- (2) *Appeal of recompense.* If an appeal is filed by a permit applicant challenging only recompense associated with a notice of preliminary approval, the applicant may receive a permit before resolution of the appeal by paying the recompense. The applicant will be reimbursed if directed by the Tree Conservation Commission. The appeal shall not stay the preliminarily approved activities and shall not prevent the City Arborist from issuing final arborist approval.
- (e) *Submission of evidence.*
- (1) *Evidence.* At least two weeks prior to the hearing, the appellant and each additional party shall submit to the secretary of the Tree Conservation Commission a written summary of their argument and a copy of any documentary evidence supporting their argument. Evidence may include, but is not limited to, photographs, tree maintenance records, and reports from registered tree professional or other subject matter experts. The appellant must describe how the decision or action of the City Arborist erred in applying the relevant standards or review factors prescribed in this Article.
- (2) *Rebuttal evidence.* The parties shall submit to the Tree Conservation Commission and the other parties of interest all rebuttal arguments, rebuttal documentary evidence, and supplemental information, at least one week prior to the hearing. Submissions of new evidence at the appeal hearing will not be accepted or considered by the Commission unless a showing can be made and the Commission finds that the evidence was not available one week prior to the hearing.
- (f) *Notice of hearing.* The Tree Conservation Commission shall give public notice of an appeal hearing as well as prompt written notice to the parties to the appeal. Public notice shall be given by the secretary of the Commission in such a manner as shall be provided for in the rules for appeals adopted by the Commission and shall be given at least fifteen calendar days before the date of the hearing.
- (g) *The appeal hearing.*
- (1) *Representation at appeal.* At the hearing, the appellant, property owner, or other concerned parties shall appear in person or may be represented by an agent or by an attorney.
- (2) *Quorum.* Three members constitute a quorum of the Tree Conservation Commission for an appeal hearing. The decision on any appeal shall be determined by a majority vote of the Commission members present and voting on the appeal.
- (h) *Appeal of decision.* The Tree Conservation Commission shall decide the appeal within a reasonable time. All appeals to the Tree Conservation Commission must be concluded or resolved within two months of the initial hearing. If the appeal is not resolved within that time, the Commission will issue an "appeal approved" or "appeal denied" final ruling no later than the two-month deadline.
- (i) *Tree Conservation Commission's ruling.*
- (1) *Appeals of City Arborist decision relating to a permit application.*
- a. The Tree Conservation Commission shall grant an appeal upon an express finding that the City Arborist's decision was based upon an erroneous finding of a material fact or upon an erroneous application of law. The Chair of the Commission, or the member of

the Commission making the motion to grant the appeal, shall state on the record the nature of the City Arborist's erroneous finding of material fact or erroneous application of law. If no such finding is made, the Commission shall deny the appeal.

- b. The Commission shall have the authority to reverse, affirm, wholly or partly, or modify the City Arborist's decision being appealed, and to that end shall have all of the powers of the City Arborist. These powers shall include, where applicable, the power to direct the issuance of a tree removal permit, provided that all requirements imposed by this article and all other applicable laws are met.
- (2) Appeals of a City Arborist's decision relating to recompense and fines for illegally destroyed trees.
- a. When a party appeals the assessment of recompense and fines for unpermitted removal or destruction of trees, the Tree Conservation Commission may grant an appeal on a finding that the party did not destroy the trees or based upon the facts and circumstances of the case.
  - b. The Commission shall have the authority to reverse, affirm, wholly or partly, or modify the City Arborist's decision being appealed and shall have the power to reduce the recompense and fines.
- (j) *Financial hardship.* The Tree Conservation Commission shall establish written guidelines for determining the existence of financial hardship and shall apply the guidelines uniformly. Where an appeal of recompense, fines, or the filing fee amount is premised on a claim of financial hardship, the Commission shall decide the appeal based upon the application of these guidelines and issue a written decision stating the basis for the decision.
- (k) *Appeal of decision of Tree Conservation Commission.* Any person aggrieved by a decision of the Tree Conservation Commission, or any City official, office, department, or board affected by such decision, may appeal the decision through a writ of certiorari to the Superior Court of Fulton County, pursuant to the procedures set forth by Georgia law.
- (l) *Lifting of stay.* Any person desiring to appeal a decision of the Tree Conservation Commission to the Fulton County Superior Court shall notify the secretary of the Commission, in writing, of such intent within six business days of the date of the written decision of the Commission. Any preliminarily approved activities, including tree removal and related land disturbance, shall be stayed until the appeal is resolved. Barring such notice of intent, the stay shall be lifted, and the Commission's decision shall take effect.
- 158-78 Variances and exceptions.
- (a) The Commission is also authorized to hear requests for variances from and exceptions to the requirements of the tree protection ordinance for a specific project based on a hardship. Variances and exceptions may only be requested by the property owner or their agent, following the appeals procedures described in this section, with an explanation of hardship submitted in place of the basis for appeal.

## **Division 16 - Tree Conservation Commission**

158-79 Establishment, functions, powers, and duties.

- (a) *Commission established.* The City of Atlanta has established the Tree Conservation Commission.
- (b) *Commission authority.* The Commission's functions, powers and duties shall be as follows:



- (1) Hearing and ruling upon appeals of decisions made by a City Arborist or other City official regarding application of this article;
- (2) Hearing and ruling upon requests for waivers and reductions of fees, recompense and fines based upon a claim of financial hardship;
- (3) Hearing and ruling upon requests for exceptions to or variances from the requirements of this article due to a hardship;
- (4) Reviewing and approving the City arboricultural specifications and standards of practice promulgated by the City Arborist and required pursuant to this article;
- (5) Serving as a citizen advisory panel for administration and enforcement procedures of this article;
- (6) Designating and maintaining a written record of historic trees and other unique environmentally and culturally significant trees within the City;
- (7) Establishing educational and other programs to encourage proper management and maintenance of trees on private and public property and encouraging support for and compliance with this article;
- (8) Writing, implementing, and updating the Urban Forest Master Plan in consultation with the Department of Parks and Recreation and the Department of City Planning; and
- (9) Providing review and recommendations to the Atlanta City Council regarding expenditures of the Tree Trust Fund.

158-80 Appointment of members and commission composition.

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

(a) Eight Mayoral appointees:

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

(b) Seven City Council appointees:

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

158-81 Terms; vacancies; and compensation.

- (a) Terms of members. All appointments to the Commission shall be for a term of two years. Members may be appointed for a maximum of four full terms or eight years, whichever is greater, pursuant to Atlanta City Code section 2-1854.
- (b) Chairperson selection and term. The Commission shall select from its members a chairperson who will serve for a one-year term. The chairperson shall record the members present, votes taken, and decisions made.
- (c) Temporary appointment for vacant position. If a Commission position becomes vacant and a permanent member is not appointed within six months, the Tree Conservation Commission, by a majority vote of the remaining members, may appoint a temporary member to the missing category until such time that a permanent member is appointed. The temporary appointee need not meet the specific requirements of the vacant position, but must have specialized knowledge about trees, this article, or the impact of construction activities on trees.
- (d) Compensation of members. Each member shall receive a \$75.00 per month honorarium, for months during which they attend at least two meetings, whether hearings or business meetings.
- (e) Removal and replacement of members. The mayor, or the Commission by majority vote of all members, may remove a Commission member for non-performance of duty or failure to meet the attendance requirements established by the Commission.

158-82 Meetings, staff, and quarterly reports.

- (a) Administrative meetings and hearings. The Commission shall hold regular business meetings and appeal hearings and shall adopt procedural rules for each.
- (b) Secretary of the Commission. The commissioner of the Department of City Planning shall designate an employee of the department as secretary to the Tree Conservation Commission who shall be responsible for the administration of the appeals process established in section 158-77 including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The secretary shall send notices required by the Commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the Commission in such matters. The secretary shall also be responsible for the maintenance and preservation of all records of the Commission.
- (c) Meeting recorded. Every hearing of the Commission shall be recorded. This may be accomplished through video recording or use of a court reporter. Proceeds from the Tree Trust Fund may be used to pay for the services of a court reporter.
- (d) Quarterly reports to the Tree Conservation Commission.
  - (1) The City Arborists for the Department of City Planning and Department of Park and Recreation shall each prepare quarterly reports containing the items listed in subsection (2) below, and shall provide the report to the Tree Conservation Commission; the Department of City Planning Arborist's report shall pertain to all trees on private property that were destroyed or planted as a result of an authorized tree removal permit as well as trees destroyed through illegal activity. The Department of Parks and Recreation arborist shall report on public trees destroyed and planted as a result of an authorized tree removal permit, as well as maintenance activities, and use of Tree Trust Funds.
  - (2) Report contents. Each report shall include the following information for public and private trees, as applicable:

- a. Total number of permits, number of trees and DBH of trees destroyed or removed; and the total number and caliper inches of trees replanted during the reporting period in each of the following categories: DDH tree removals; invasive tree removals; undesirable tree removals; tree removals for construction, demolition, or land disturbance; and landscape permit.
- b. Total number of incidents of illegal tree destruction and removal, total number of trees identified as having been destroyed, and total DBH of trees illegally destroyed.
- c. Report on collection and use of tree recompense funds.

## **Division 17 - Tree Trust Fund**

### **158-83 Establishment and Purpose**

- (a) Establishment. The City of Atlanta has established and shall maintain a Tree Trust Fund for the protection, maintenance, and regeneration of trees and other forest resources.
- (b) Purpose. The purposes of the Tree Trust Fund are to:
  - (1) Ensure the regeneration of tree canopy in the City by planting trees when healthy trees are removed and cannot be replaced on site in accordance with the provisions of this article;
  - (2) Maintain the health of existing trees on public property, pursuant to section 158-85(d);
  - (3) Protect forested land in perpetuity through land purchases; and
  - (4) Support data collection, analysis, and public education to facilitate successful and cost-effective urban forest management.
  - (5) Contributions to the Tree Trust Fund may occur through a number of means, including but not limited to: monies collected for recompense pursuant to this article; payment of civil penalties, or civil remedies resulting from public tree enforcement actions; and voluntary contribution.

### **158-84 Management of the Tree Trust Fund.**

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

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

<u>3413901</u>	<u>FEES, TREE APPEALS</u>
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<u>3519002</u>	<u>PENALTIES AND FINES</u>
<u>3413913</u>	<u>RECOMPENSE</u>
<u>3413919</u>	<u>FEES, REINSPECTION FEE</u>

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

158-85 Authorized expenditures.

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

- (a) Tree planting. The fund may be used to pay for tree planting projects on public and private property.
  - (1) Record of location. The location of trees planted and maintained utilizing Tree Trust Funds shall be recorded by the City or its agent.
  - (2) Replacement. The City shall require a minimum two-year replacement guarantee for all trees planted utilizing Tree Trust Funds.
  - (3) Monitoring. The City Arborist shall inspect all trees planted using Tree Trust Funds at least once between 12 and 24 months after planting, and during the growing season to assess the condition and survival of the trees; the City Arborist shall notify the responsible party of any corrections or replacements that are needed.
- (b) Rights of entry.
  - (1) To the extent permissible by state law, the City is authorized but not required to enter into agreements with private property owners within the City of Atlanta, upon the consent of said property owners, for the purpose of planting trees on private property within 30 feet of the public-right-of-way. 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 treatment or management of insect infestation or diseases; preparation of ecological restoration plans; and the planting of native trees, shrubs, and herbaceous plants, and invasive plant species control that follows a documented City-approved ecological restoration plan.
- (d) Maintenance of public trees. As recommended and prescribed by the City Arborist, Tree Trust Funds may be used for the maintenance of public trees, including but not limited to pruning, mulching, fertilizing, treating for pests, cabling, bracing, and advanced diagnostic testing.
- (e) Planting enhancements. The fund may be used to fund site preparation for tree planting in highly urbanized areas, including but not limited to concrete removal and installation, installation of soil cells or suspended pavement systems, creation of planting islands, amended or structural soils.
- (f) Procurement of forested property. As set forth in section 158-83 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 de minimus environmental impact, as determined and established in writing by the Department of Parks and Recreation commissioner based on the characteristics of the property; and
    - d. The Department of Parks and Recreation commissioner shall provide a property cleanup, restoration, and management plan as an attachment to the ordinance. The plan shall describe any initial property clean-up, forest restoration, and ongoing forest management needed at the property. The plan shall also include an estimate of the cost for the property's initial clean-up and the first three years of forest restoration, and ongoing forest management as well as identifying the source(s) of funding for the estimated restoration and annual maintenance cost. Use of Tree Trust Fund shall be limited to the first three years of forest restoration and management, which may include the removal of trash, existing structures, and mitigation of conditions on the property that may pose a safety hazard to visitors.
    - e. Any expenses beyond three years after the purchase date shall be considered long-term maintenance costs and shall not be funded from the Tree Trust Fund but rather from the operations and maintenance budget of the department of parks and recreation or a source other than the Tree Trust Fund. Authorized expenses for long-term forest management activities must be solely for the purpose of ensuring the health, perpetual regeneration, and ecological integrity of City owned forests, including newly purchased ones.

1. No funds from the Tree Trust Fund may be used for the development or maintenance of permanent infrastructure, including but not limited to roads, parking lots, trails, buildings, or similar infrastructure on the property.
  2. Any allocation of maintenance funds from the Tree Trust Fund for any of these specified uses must be authorized as a separate procurement or expenditure, in a manner consistent with applicable City ordinances.
- (3) The Department of Parks and Recreation commissioner and the Department of City Planning commissioner shall jointly develop a written list of factors and a process for evaluating lots that may be suitable for acquisition as forested property. An ordinance authorizing procurement of forested property, as described in subsection 158-85(f)(2) above, shall include as attachments an affidavit from each of the two commissioners providing her/his recommendation regarding the procurement based upon these factors.
- (4) The Department of Parks and Recreation commissioner and the Department of City Planning commissioner shall jointly report to the Community Development/Human Services committee each time a privately-owned forested property procured by the City, which shall include the amount appropriated from the Tree Trust Fund and the acreage of the property.
- (g) *Administration of tree protection ordinance.* A maximum of \$100,000 per fiscal year of the fund monies may be used for costs arising directly from administering and enforcing this article. These costs include, but are not limited to, the cost of posting trees to be removed, the cost of supplies and field equipment, the cost of court reporter services at Tree Conservation Commission hearings, and honoraria for Tree Conservation Commission members.
- (h) *Educational expenditures.* During any given fiscal year, the lesser of five percent of the funds received by the Tree Trust Fund during the immediately preceding fiscal year or \$200,000, may be placed into a Tree Trust Fund education outreach account, and such monies shall be used for educational materials, educational programs, and educational outreach overseen by the Tree Conservation Commission. Any amount not expended in the given fiscal year shall remain in the account to be utilized in future years.
- (i) *Low-income senior homeowner assistance.* A maximum of \$400,000 annually of the Tree Trust Fund may be used pursuant to a donation agreement with a 501(c)(3) entity to provide assistance to low-income senior citizen homeowners with the assessment, pruning, removal, and replacement of DDH trees on their property.
- (1) All trees removed using financial assistance from the Tree Trust Fund must be replaced on the same property from which the trees were removed with no less than one overstory or mid-story new tree for every overstory or mid-story tree removed.
  - (2) The standards to qualify for this low-income homeowner assistance program will be established and published by the Department of City Planning.
  - (3) Each occurrence of assistance shall be documented and made available to the public.
- (j) *Salary expenditures.* The Tree Trust Fund shall fund staff positions as described below:
- (1) The Tree Trust Fund shall fund half the salary and benefits of the following positions in the Department of City Planning with the remaining half funded by the general fund:
    - a. *Three senior arborists;* and
    - b. *Six field arborists.*
  - (2) Tree Trust Funds shall fund the salary and benefits of the following staff positions in the Department of City Planning:

- a. Secretary of the Commission;
  - b. Tree Conservation Commission Project Manager;
  - c. Ecologist and;
  - d. Two field arborists.
- (3) Tree Trust Fund shall fund the salary and benefits of the following staff positions in the Department of Parks and Recreation:
- a. Two senior arborist positions; and
  - b. Tree trimming crew with three members: one forestry crew supervisor, one tree trimmer II, and one tree trimmer I, who will be responsible for providing services that maintain and enhance the health of the City's canopy, including trimming, pruning, and limbing-up located on City-owned parks and rights-of-way.
- (k) Urban forest master plan. Tree Trust Funds may be expended on activities associated with the creation and updating of the City's urban forest master plan.
- (l) Tree canopy studies. Tree Trust Funds may be expended to update tree canopy imagery and analyses on a five-year update cycle, as needed.

## **Division 18 - Violations, Penalties, and Enforcement**

### **158-86 Violations**

- (a) In general. Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-8 of the Atlanta Code of Ordinances.
- (b) Specific violations, associated fines, and recompense for illegal tree removal.
- (1) Illegal tree destruction. If the City Arborist determines that a violation has resulted in the destruction of a tree, as defined in this article, the following penalties shall apply:
- a. A minimum fine of \$500 shall be imposed for the first violation.
  - b. A fine of \$1,000 shall be imposed for each subsequent violation.
  - c. Each tree destroyed in violation of the tree protection ordinance shall be considered a separate offense. Any violation that occurs within two years of a previous violation shall be treated as a subsequent violation.
- (2) In addition to paying the penalties set forth in subsection 158-86(b) above, the responsible party shall be required to plant replacement trees and/or pay recompense as described in sections 158-69 through 158-73. The area making up the CRZ of the destroyed tree(s) shall be retained as a tree save area for replanting, and required replacement tree(s) shall be placed in the tree save area to the extent feasible.
- a. The City Arborist shall determine the illegally destroyed tree's size in DBH and assess the replacement plantings for public property and/or recompense for private property accordingly.
  - b. Unless the City Arborist can determine that the tree was DDH prior to its illegal destruction, illegal recompense shall be calculated based on the DBH of the tree.
- (3) Where the City Arborist is able to determine the exact number of trees removed or destroyed in violation of this article, but not able to determine the DBH, the fine shall be calculated based on the number of trees destroyed. Recompense payment will assume each tree was a 16.67 DBH inch tree.

- a. Where the City Arborist is not able to determine the exact number of trees removed or destroyed in violation of this article, the fine shall be calculated based on the illegal destruction of 60 trees per acre, prorated, and shall impose a fine of \$200,000.00 per acre of land where the offense(s) occur.
  - b. Where the City Arborist is unable to determine the DBH inches of trees removed or the quantity of trees removed, replacement and recompense calculations shall assume the existence of 1,000 DBH inches of trees per acre, and specifically shall assume that the property contains 60 trees per acre, each tree 16.67 inches DBH, and the City Arborist shall calculate the replacement and recompense based on the measured area of land from which the trees were illegally removed.
- (4) Illegally destroyed trees on public property will be assessed a fine as described above and replacement plantings for the trees destroyed will be required.
- (c) Violations during construction other than illegal tree destruction.
  - (1) During the course of construction, where the City Arborist is able to determine the responsible party is not abiding by the City Arborist approved plans for tree protection (e.g. failing to maintain a tree construction fence), the first violation will result in a recorded correction notice and stop work order unless the violation occurred on a construction or demolition site that failed to request and complete a pre-demolition/pre-construction inspection. In this case, the violation will be treated as a second offense.
  - (2) The second violation within the same development project will result in a correction notice or stop work order and a fine of \$500.00, all subsequent violations shall result in a fine of \$1000.00. Each day's continuance of a violation may be considered a separate offense. The penalty assessed for each such violation shall be at the discretion of the City Arborist, but not to exceed \$1,000.
- (d) Submitting false information. It shall be a violation of this article to knowingly submit to the City materially false or materially inaccurate information on a tree removal application or the supporting documentation.
- (e) Repeated, significant errors or omissions on plan submittals by registered tree professionals may result in suspension of registration status per section 158-33.
- (f) Appeal rights. Eligibility to appeal a City Arborist decision made pursuant to this article to the Tree Conservation Commission is set forth in section 158-77.
- (g) Depositing funds. Any recompense and fines recovered pursuant to this section, excluding court costs, shall be deposited into the Tree Trust Fund.
- (h) Stop work orders.
  - (1) The City Arborist is authorized to issue stop work orders to enforce this article.
  - (2) 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.
- (i) Citation. The City Arborist may issue a citation to the property owner or other responsible party for a violation of this article.
  - (1) Citations are subject to the jurisdiction and rules of the Atlanta Municipal Court. Citations may not be appealed to the Tree Conservation Commission.
  - (2) 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.
- (j) *Prescriptive measures.* Where the City Arborist finds that despite the violation, the tree may be saved, they may require performance of specific tree-saving measures, including but not limited to application of arboricultural prescriptions, and shall establish a timeframe for performing such measures. The City Arborist may require that the responsible party obtain an assessment of the condition of the tree(s) prior to deciding whether the tree can be saved. Where the City Arborist requires tree-saving measures, replacement and recompense shall not be assessed. If the assessment indicates that the tree cannot be saved, or if the responsible party fails to implement the tree-saving measures within the established timeframe, replacement and recompense will be owed. In addition, failure to implement the required tree saving measures within the established time frame shall be deemed an additional violation of this article.
- (1) *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.
- (2) *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.
- (k) *Responsible parties.* 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.
- (l) *Cease and desist orders.* Any person removing or destroying a regulated tree for safety, landscaping, silvicultural or other purposes shall post the permit for public inspection on site or have, in their possession, an electronic or paper copy of the permit. The Atlanta Police Department shall have the authority to respond to a report of suspected illegal removal or destruction of trees. If an officer determines that a stop work order is warranted, including without limitation because a tree is being removed or destroyed, the Atlanta Police Department may issue a cease-and-desist order that terminates at the conclusion of two business days from the date of issuance. The City Arborist shall assess the alleged illegal activity and determine what, if any, corrective action is needed, including without limitation issuance of a stop work order. The City Arborist shall have the authority to lift the cease-and-desist order prior to its natural expiration.
- (m) *Additional legal remedies.* In addition to all other actions and penalties authorized in this article, the City Attorney is authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this article.

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

158-87 Permit for tree removal based upon compliance with federal consent decrees.

- (a) Applicability. The provisions set forth in subsections 158-52(e) through (h), 158-54 through 158-61 and 158-74 through 158-78 shall not apply to permits issued pursuant to this section, 158-87. The provisions provided below in this subsection shall pertain to this section 158-87 only.
- (b) The City Arborist in the Department Of City Planning may issue a permit to the Department of Watershed Management to remove, destroy, or impact any private property tree, as defined in Division 7 including without limitation trees located on city easements over private property, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia), and/or with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia) or for any other consent decrees that the City might enter into in the future (for purposes of this section 158-87, collectively the "decrees" or the "consent decrees").
- (1) The Department of Watershed Management shall submit a site plan that meets the requirements of section 158-53 and includes a description of the construction methodology to be utilized at each location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS and drafted via a sketch showing each tree's location and showing its DBH and species. The sketch need not be performed by a registered surveyor or landscape architect. The site plan shall include replacement tree and recompense calculations per section 158-69 through 158-73, and proposed plantings of new trees. The City shall give replacement tree credit to the Department of Watershed Management for newly planted trees only if the planting specifications set forth in sections 158-66 to 68 of this article are met but shall not give any replacement credit for new trees planted within the City's easement. The Department of Watershed Management shall not be required to replant trees within a City easement.
  - (2) The Department of Watershed Management may pay standard inf for private replacement trees not planted per section 158-73.
  - (3) The Department of Watershed Management's site plan must identify all non pine trees six inches in diameter or larger and pines twelve inches in diameter or larger for plans submitted to the Department of City Planning, and identify all regulated trees on plans submitted to the Department of Parks and Recreation. The Department of City Planning's City Arborist may discuss with the Department of Watershed Management alternative routes for the work to be performed that may save trees, though the City Arborist may not deny the application in the event that the Department of Watershed Management does not agree upon an alternative route.
- (c) The City Arborist in the Department of Parks and Recreation may issue a permit to the Department of Watershed Management to remove, destroy, and/or impact any public property tree, as defined in Division 7 including without limitation trees located on City parks, streets, sidewalks, and other property owned by the City of Atlanta, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the consent decrees, provided that the following requirements are met:
- (1) The Department of Watershed Management has submitted an application to the City Arborist in the Department of Parks and Recreation in a form prescribed by said City

Arborist, provided that applications may be made by projects, as defined in the consent decrees. Applications may be made on a quarterly basis provided that the application for each tree to be removed is submitted and approved prior to the tree's removal.

- (2) For destruction or removal of or injury to a public property tree, the Department of Watershed Management shall submit a site plan drawn to scale that meets the standards set forth in section 158-53 and include a description of the construction methodology to be utilized by location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS and drafted via a sketch showing each tree's location and showing its DBH and species. The sketch need not be performed by a registered surveyor or landscape architect. The application shall include replacement tree calculations and show replacement inches owed.
- (3) The Department of Watershed Management's site plan for public property trees must identify all non pine trees six inches in diameter or larger and pines twelve inches in diameter or larger. The City Arborist in the Department of City Planning may discuss with the Department of Watershed Management alternative routes for the work to be performed that may allow the protected tree to survive, though the City Arborist may not deny the removal/destruction application in the event that the Department of Watershed Management does not agree upon an alternative route.
- (4) The Department of Watershed Management must replace all public property trees that it destroys per the requirements of section 158-70. The City Arborist shall give credit to the Department of Watershed Management for newly planted trees only if the replanting requirements set forth in in section 158-66 through 158-68 of this article are met, with the following exceptions:
  - a. The City Arborist in the Department of Parks and Recreation need not approve a tree replacement plan prior to issuing a tree removal permit, provided that:
    1. The Department of Watershed Management agrees to plant, at its own expense, the requisite number of trees, as calculated by caliper inch, within the time frame described in the immediately following subsection (d). It shall be the responsibility of the Department of Watershed Management to identify potential sites for replanting, but upon request, the Director of the Office of Parks, or her/his designee, shall make a good faith attempt to assist the Department of Watershed Management with this task. The exact location of the replacement trees, the type of trees, and the size of each tree must be approved by the Director of the Office of Parks or her/his designee prior to the trees being planted. The Director of the Office of Parks shall forward this replanting information to the impacted councilmember for review. The Department of Watershed Management shall guarantee the life of each replacement tree for two years from the time of planting.
    2. The commissioner of the Department of Watershed Management and the commissioner of the Department of Parks and Recreation enter a letter of understanding that accompanies each decree tree removal permit (as defined below). The letter of understanding must set forth those replacement inches for which locations have already been identified, and additionally the number of caliper inches that the Department of Watershed Management must and agrees to plant by a date

- certain but for which locations have not yet been located. The date certain shall be no greater than one year after the effective date of the decree tree removal permit, except that under extenuating circumstances, the commissioner or her/his designee may approve an extension. The letter of understanding shall also include the requirements set forth in subsection (1) immediately preceding this subsection (2).
3. The Department of Watershed Management prepares an annual report showing, for each project for which a letter of understanding was executed, the number of trees planted, the size by caliper inch of each tree planted, the type of each tree planted, the approximate date of planting, and the remaining balance of trees for each application. This report shall be submitted to the Director of the Office of Parks no later than May 1 of each year.
- (d) The City Arborist need not require the replacement trees to meet the descriptions set forth in section 158-70 but rather may give replacement tree credits or offsets as described in section 158-70.
- (1) The following provisions shall apply to the issuance of tree removal permits by the City Arborist in the Department of City Planning and in the Department of Parks, and Recreation, where the removal or destruction of a tree is performed as a result of City of Atlanta compliance with the consent decrees ("decree tree removal permit"):
- a. Sections 158-87 (b) and (c) above notwithstanding, the City Arborist may not require the Department of Watershed Management, as part of its decree tree removal permit application, to produce evidence of consent by a private property owner regarding removal or destruction of a tree that impacts said private property owner's property. Impact of tree removal from privately owned property will be addressed directly by the Department of Watershed Management.
  - b. No posting of the property is required prior to the issuance of a decree tree removal permit.
  - c. There is no appeal right associated with a decree tree removal permit required to conduct work to comply with the CSO Consent Decree.
  - d. The Department of Watershed Management may not remove, destroy, or impact any private property tree or public property tree in order to comply with the consent decrees prior to being issued a decree tree removal permit by the City Arborist in the Department of City Planning, or in the Department of Parks and Recreation, respectively.
  - e. Where a tree is removed, destroyed, or impacted without a decree tree removal permit during work related to the decrees, the Department of Watershed Management must report the removal, destruction, or injury to a City Arborist by the close of the following business day. In such instance, the Department of Watershed Management shall submit site plans to the appropriate City Arborist and shall include the calculations for recompense due and/or tree replacement required. Where a City Arborist learns of a decree-related tree removal or destruction caused and not timely reported by the Department of Watershed Management or its contractor/subcontractor, the appropriate City Arborist shall issue penalties pursuant to section 158-86(b)(1) and shall also require that recompense be paid and/or replacement be performed.

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

158-88 Reduction of tree recompense payment for affordable rental units.

- (a) Single-family and multi-family affordable-for-rent housing. Single-family and multi-family development projects that provide a minimum number of units at affordable rental rates are eligible for a reduction or waiver of required tree recompense based on the number of affordable units offered as described in Table TPO-2, provided they meet the following conditions:
1. The site meets all requirements set forth in this ordinance;
  2. One of the affordability conditions in Table TPO-2 is satisfied;
  3. The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit; 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;
  4. 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.
  5. The applicant must provide documentation that the development will provide the required affordable housing. The forms of acceptable documentation shall be established and verified by the Department of City Planning; and
  6. No temporary or final certificate of occupancy shall be issued until a Land Use Restrictive Agreement (LURA), land use declaration, or other applicable instrument, in the form provided by the City, is recorded in the county real estate records where the property lies and a recorded copy is affixed to the application for certificate of occupancy.

Table TPO-2

<b><u>Recompense Reductions for Affordable Rental Housing</u></b>		
<b><u>Depth of Affordability</u></b> <i>Area Medium Income (AMI)</i>	<b><u>Percentage of Affordability<sup>1</sup></u></b> <i>Percent affordable units offered (or percent of SF dedicated to affordable residences in mixed use developments)</i>	<b><u>Recompense Reduction<sup>2</sup></u></b> <i>Percent</i>
<b><i>Multi-family or single-family residential (rental units)</i></b>		

<u>80% AMI</u>	<u>15%</u>	<u>70%</u>
	<u>20% or more</u>	<u>80%</u>
<u>60% AMI</u>	<u>10%</u>	<u>80%</u>
	<u>20% or more</u>	<u>90%</u>
<u>50% AMI or lower</u>	<u>10% or more</u>	<u>100%</u>

<sup>1</sup> In each instance, no fewer than one unit shall be affordable

<sup>2</sup> Cumulative recompense reduction shall not exceed 100%

158-89 Reduction of required tree recompense for affordable for-sale units.

(a) Multi-family for-sale housing and single-family for-sale subdivisions or planned unit development. Multi-family development projects and single-family subdivisions (per Section 158-56) that provide a minimum number of affordable units for sale are eligible for a reduction of required recompense based on the number of affordable units offered, as described in Table TPO-3, provided they meet the following conditions:

1. The site meets all requirements as set forth in this ordinance;
2. One of the affordability conditions in Table TPO-3 is satisfied;
3. The maximum sales price cannot exceed the Workforce Owner Housing Maximums established by the City of Atlanta Office of Housing and Community Development (based on 80% and 120% of the HUD AMI, respectively), adjusted by household size;
4. The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit;
5. Income-restricted affordable units shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the higher or market rate units, and shall not be in isolated areas in the development but shall be interspersed among market rate units. The number of bedrooms in the affordable units (e.g. one bedroom, two-bedroom, three-bedroom, four bedroom or greater) shall be proportionate to the number of bedrooms in the market rate units;
6. The applicant must provide documentation that the development will provide the required affordable housing. The forms of acceptable documentation shall be established and verified by the Department of City Planning; and
7. The developer will ensure that affordable units used to establish eligibility for relief under this section shall be made available for sale to Qualified Administrators following the procedure set forth in section 16-41.004(b);
8. No temporary or final certificate of occupancy shall be issued until a LURA, land use declaration, or other applicable instrument, in the form provided by the City, is recorded in the county real estate records where the property lies and a recorded copy is affixed to the application for certificate of occupancy.

(b) Individual single-family, for-sale developments are eligible for a reduction for a waiver of required tree recompense, subject to the following conditions:

1. The site meets all the requirements as set forth in this ordinance;

2. One of the affordability conditions in Table TPO-3 is satisfied;
3. Single-family homes are sold to households having an income, as certified by the buyer or buyer's lender, that does not exceed 120% of AMI, adjusted for household size, for the Atlanta-Sandy Springs-Marietta Metropolitan Statistical Area published annually by the United States' Department of Housing and Urban Development ("HUD AMI");
4. 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;
5. The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit;
6. The developer will ensure that affordable units used to establish eligibility for relief under this section shall be made available for sale to Qualified Administrators following the procedure set forth in section 16-41.004(b); and
7. No temporary or final certificate of occupancy shall be issued until a LURA, land use declaration, or other applicable instrument, in the form provided by the City, is recorded in the county real estate records where the property lies and a recorded copy is affixed to the application for certificate of occupancy.

Table TPO-3

<b>Recompense Reductions for Affordable For-Sale Housing</b>		
<b>Depth of Affordability</b> <i>Area Medium Income (AMI)</i>	<b>Percentage of Affordability<sup>1</sup></b> <i>Percent affordable units offered (or percent of SF dedicated to affordable residences in mixed use developments)</i>	<b>Recompense Reduction<sup>2</sup></b> <i>Percent</i>
<b><i>Multi-family or single-family residential (for sale units)</i></b>		
120% AMI	10%	70%
	20%	80%
	30% or more	90%
80% AMI	10%	80%
	20%	90%
	30% or more	100%

<sup>1</sup> In each instance, no fewer than one unit shall be affordable. Individual, for-sale units shall be considered 100% affordable at the given depth of affordability.

<sup>2</sup> Cumulative recompense reduction shall not exceed 100%

158-90 Tree replacement and recompense for public land development that delivers affordable housing.

(a) For the purposes of tree replacement and monetary recompense requirements, the provisions of Section 158-72 shall apply to developments on public property that involve the construction of affordable and mixed income housing, provided that:

1. The site meets all requirements as set forth in this article;
2. One of the affordability conditions in Table TPO-3 is satisfied; and
3. The property is owned by a public entity including, but not limited to, City of Atlanta, the Housing Authority of the City of Atlanta (AHA), Atlanta Beltline, Inc. (ABI), Invest Atlanta (IA), the Metropolitan Atlanta Rapid Transit Authority (MARTA), Atlanta Urban Development (AUD), Metro Atlanta Land Bank (MALB), and their subsidiaries.

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

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