5297

14-O-1474

(Do Not Write Above This Line) #5297

First Reading

Committee CD/HR
Date 9/23/14
Chair
Referred To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd Readings
☐ Consent ☐ V Vote ☐ RC Vote

AN ORDINANCE

BY COMMUNITY DEVELOPMENT/ HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA TREE PROTECTION ORDINANCE, SET FORTH IN ATLANTA CODE OF ORDINANCES CHAPTER 158 (VEGETATION), ARTICLE II (TREE PROTECTION), CODE SECTIONS 158-26 THROUGH 158-110, FOR THE PURPOSE OF REORGANIZING, CLARIFYING AND UPDATING THE SAME; AND SPECIFICALLY TO DELETE CODE SECTIONS 158-26 THROUGH 158-110 IN THEIR ENTIRETY AND REPLACE THEM AS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

CERTIFIED

☑ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1ST ADOPT 2ND READ & REFER
☐ PERSONAL PAPER REFER

Date Referred 10/6/14
Referred To: CD/HR

Date Referred
Referred To:

Date Referred:

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Committee	Committee
Date	Date
Chair	Chair
Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

MAYOR'S ACTION

14-O-1474

#5297

AN ORDINANCE

BY COMMUNITY DEVELOPMENT/ HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA TREE PROTECTION ORDINANCE, SET FORTH IN ATLANTA CODE OF ORDINANCES CHAPTER 158 (VEGETATION), ARTICLE II (TREE PROTECTION), CODE SECTIONS 158-26 THROUGH 158-110, FOR THE PURPOSE OF REORGANIZING, CLARIFYING AND UPDATING THE SAME; AND SPECIFICALLY TO DELETE CODE SECTIONS 158-26 THROUGH 158-110 IN THEIR ENTIRETY AND REPLACE THEM AS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

WHEREAS, Atlanta's Tree Protection Ordinance (hereinafter the "**Tree Ordinance**") is an environmentally important law which protects the City's tree canopy and sustains its urban forest for the benefit of residents, visitors and the Atlanta ecosystem; and

WHEREAS, Wallace, Roberts, and Todd ("**WRT**") is a firm comprised of city and regional planners, urban designers, landscape architects and architects, which describes its mission as "improving the quality of the natural and built environments in the planning and design of buildings, landscapes, cities, and regions"; and

WHEREAS, the City OF Atlanta (the "**City**") contracted with WRT to evaluate the Tree Ordinance and identify potential improvements thereto. At the conclusion of its evaluation, WRT recommended reorganization and a number of refinements; and

WHEREAS, WRT worked with stakeholders and City staff to update the Tree Ordinance's organization, language and substantive provisions to make it more user-friendly and consistent with current arboricultural standards.

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

SECTION 1. City of Atlanta Code of Ordinances Chapter 158 (entitled "Vegetation") shall be amended by deleting in its entirety Article II (entitled "Tree Protection"), comprised of Code Sections 158-26 through 158-110, and replacing it with the following:

"ARTICLE II. TREE PROTECTION

DIVISION I. GENERAL PROVISIONS

Section 158-26. Authority
This Article is enacted pursuant to the City's planning authority granted by the constitution of the State, including but not limited to Ga. Const. Art. IX, § II, paragraphs 3 and 4; the City's general police power; Appendix I of the City Charter, paragraphs 15, 21, 25, 30, 31, 47 and 57; and all other state and local laws applicable to this Article.

Section 158-27. Policy, purpose, and intent
It is the policy of the City that there shall be no net loss of trees and tree canopy within the boundaries of the city. It is the intent of the City to protect mature trees to the extent feasible and to ensure that when trees must be removed, trees that will yield the same quality of canopy shall be replanted wherever conditions permit. 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:

(A) Establish, maintain, and protect the maximum amount of tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this Article;

(B) Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices, establishing and revising standards for tree planting and maintenance as necessary;

(C) Maintain trees in the public right-of-way to minimize hazards and damage to streets and sidewalks and to minimize cost of public right-of-way maintenance;

(D) Provide for the identification and designation and protection of Historic, Landmark, and specimen trees;

(E) Promote efficient and cost-effective management of the urban forest through the development of a comprehensive long-range Urban Forest Master Plan for the purposes of: a) enhancing the visual quality of the city and its neighborhoods; b) mitigating air pollution and the incidence of flooding; c) strengthening environmental protection through reduction of the heat island effect, natural management of stormwater, maintenance of stream buffers, and protection of habitats; d) strengthening the city's economic base by increasing property values; and e) enhancing quality of life for Atlanta's residents, businesses, and visitors.

(F) Provide latitude in the interpretation and application of City administrative rules, standards, and guidelines when reasonable and necessary to minimize the destruction of trees and to provide for public safety.

Section 158-28. Scope

(A) *Applicability: Property.*

The terms and provisions of this Article shall apply to all private property; all City-owned property; and all other public property subject to City regulation, including public school property, Atlanta Public Housing Authority property, and easements granted to private or public entities including public utilities except where superseded by franchise agreements.

(B) *Applicability: Trees.*

This ordinance shall apply to the following:

(1) All trees on public property, as described in Subsection (A) above;

(2) Pine trees 12 inches diameter at breast height (DBH) or greater and all other trees six inches DBH or greater on private property.

(C) *Exemptions.*

(1) *Nurseries and tree farms.* All licensed plant or tree nurseries and tree farms shall be exempt from the terms and provisions of this Article only in relation to those trees which are planted and are being grown for sale or intended sale to the general public, or for some other public purpose.

(2) *Tree museums and botanical gardens.* All non-specimen trees in licensed tree museums or public botanical gardens which meet the following conditions shall be exempt from the terms of this Article:

(a) The museum or botanical garden employs a full-time arborist or horticulturist;

(b) The museum or botanical garden is located upon property owned by the City and leased to said tree museum or botanical garden; and

(c) Trees were planted for the sole purpose of display or public education.

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

Section 158-29. 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. Any person seeking approval to take action under this Article.

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

Boundary tree. A tree with a critical root zone that crosses a property line.

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

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

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

City. The City of Atlanta.

City arboricultural standards. The arboricultural specifications and standards of practice prepared by the City Arborist, which must be consistent with this Article and with the American National Standards Institute, Inc. (ANSI) A300 standards for tree care management.

City Arborist. An employee of the City who is responsible for administering and enforcing this Article. City Arborists in the Department of Planning and Community Development (DPCD), also referred to as Buildings Arborists, are responsible for enforcing this Article regarding trees on private property as well as Atlanta Public Housing Authority (AHA) and Atlanta Public Schools (APS) property. City Arborists in the Department of Parks and Recreation (DPR), also referred to as Parks Arborists, are responsible for administering and enforcing this Article regarding trees on City-owned and public property, excluding AHA and APS property. References herein to City Arborist shall be interpreted based upon type of property at issue.

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

Commission. The City of Atlanta Tree Conservation Commission.

Critical root zone (CRZ). The minimum volume of roots necessary for tree health and stability (from American National Standards Institute, Inc. [ANSI] A300 Part 5-2011 proposed revision). For the purposes of this Article, for a free standing tree with no apparent root restrictions, the critical root zone shall consist of a circle having a radius of one foot for each one inch of diameter at breast height (DBH) of the tree. Adjustments to the CRZ may be made by the City Arborist if justified by specific documented site conditions which indicate an irregularly shaped root zone based on obstructions such as buildings, retaining walls, or streets.

Destroy. To perform or knowingly allow to be performed any act/failure to act for which there is a scientific finding that the conduct will more likely than not cause the tree to die within a period of five years. Examples of such conduct include without limitation: 1) failing to protect 100% of a tree's structural root plate during construction; 2) failing to protect 80% of a tree's critical root zone during construction or 67% of the critical root zone with a prescription approved by the City Arborist prior to construction; 3) damaging more than 20% of a tree's critical root zone by trenching or by performing grade changes (including lowering or filling the grade of soil); 4) cutting, girdling, or inflicting other severe mechanical injury to the trunk, structural root plate, roots, or other vital sections of a tree; 5) removing in excess of 20% of the live crown of a tree within two growing cycles; 6) damaging the critical root zone of a tree by applying toxic substances (including without limitation solvents, oils, gasoline and diesel fuel), operating heavy machinery and/or storing heavy materials thereon; 7) burning a tree; 8) topping, tipping, flush cutting, or utilizing any similar improper pruning practices upon a tree. In determining whether a tree is destroyed, the City Arborist will evaluate all conduct regarding the tree within a two-year period.

Diameter at breast height (DBH). The diameter of the main stem of a tree as measured 4.5 feet above the natural grade at the base. Multi-stemmed trees shall be measured at 4.5 feet above natural grade by adding the diameter of the largest stem and one-half the diameter of each additional stem. The top diameter of a stump less than 4.5 feet tall shall be considered the DBH of an illegally destroyed tree for the purpose of calculating recompense.

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

DPCD. The City of Atlanta Department of Planning and Community Development.

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

Dying tree. A tree that is diseased, injured, or in terminal decline to the extent that death is more likely than not within two years, or a tree which is determined by the City Arborist to be in imminent danger of falling, based upon a visual inspection and evaluation of canopy, leaves (if present), trunk, structural integrity, buttress roots, and other factors.

Enforcement authority. The City entities with authority to enforce this Article, namely the Office of Parks, Office of Buildings, Atlanta Police Department, Tree Conservation Commission, and Atlanta Municipal Court.

Environmentally sensitive areas. Areas of a property that include important environmental features eligible for special protection under City, State, or Federal regulations based upon their ecological value, including without limitation wetlands, floodplains, permanent and intermittent streams, riparian buffers, stands of specimen trees, critical wildlife habitat, and other significant aspects of the natural environment on site.

Established recompense value. The dollar value assigned by the City to compensate for the removal or destruction of a healthy tree. This figure shall be evaluated periodically and adjusted as needed by amendment to this ordinance.

Fair or better condition. A tree that has a structurally sound and solid root, trunk, and canopy structure and no major insect infestation or other pathological problem, as determined by the City Arborist, per American National Standards Institute, Inc. (ANSI) 61 standards.

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.

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

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

Hazardous tree. A tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the City Arborist.

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

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

Historic tree. A tree that has been designated by resolution of 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's arboricultural specifications and standards of practice. A complete listing of the location of all designated Historic trees within the City of Atlanta is maintained by the Tree Conservation Commission and registered with the Municipal Clerk.

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

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

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

Landmark tree. A tree that has been designated by resolution of the Tree Conservation Commission, upon application by a City Arborist or any other interested person, to be of notable value because the tree contributes to a significant view or spatial structure of a setting, the tree is an exemplary representative of a particular genus or species, or the tree possesses exceptional aesthetic quality in accordance with the City's arboricultural specifications and standards of practice. A complete listing of the location of all landmark trees within the City of Atlanta is maintained by the Tree Conservation Commission and registered with the Municipal Clerk.

Landscaping permit. Permit issued for removal of a healthy, non-hazardous tree for reasons unrelated to a building permit.

Live stake. A dormant cutting of a live tree that will readily sprout roots and grow when driven into soil. Per Subsection 158-75(B)(6), live stakes may be installed on public land by the Department of Watershed Management as a component of a federal Consent Decree for stream bank erosion control or stabilization projects, and for stream or wetland restoration projects. Live stakes must have a minimum diameter of three quarters (0.75) of an inch and a minimum length of 24 inches. Live stake species may include the following species or other species native to the Piedmont region: black willow (*Salix nigra*), Streamco willow (*Salix purpurea*),Tag alder (*Alnus serrulata*), red chokeberry (*Aronia arbutifolia*), wither rod (*Viburnum cassinoides*) Southern arrow-wood (*Viburnum dentatum*), yellow-root (*Xanthorhiza simplicissima*), Virginia (*Itea virginica*), buttonbush (*Cephalanthus occidentalis*), alternate leaf dogwood (*Cornus alternifolia*), silky dogwood (*Cornus amomum*), stiff dogwood (*Cornus foemina*), and silky willow (*Salix sericea*).

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

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

Minimum tree density. A minimum number of trees or DBH and caliper-inches of trees required on a site after permitted removal activities. Minimum requirements are based upon zoning district classification (see Section 158-44).

MSA. Metropolitan Statistical Area.

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

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

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

Ornamental tree. A small tree grown for display purposes, typically an understory tree.

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

Pine. A tree that is a member of the genus Pinus in the family Pinacea. This does not include other needled trees in the family commonly known as cedar, fir, spruce, and hemlock.

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

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

Private property. Property located within the City of Atlanta that is not owned or leased by a governmental entity, except that property in the City of Atlanta that is owned or leased by the Atlanta Housing Authority or Atlanta Public Schools shall be deemed private property for purposes of this Article only.

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

Pruning. The selective removal of plant parts performed. For the purposes of this Article, proper pruning may not include the removal of more than 20% of the live crown of a tree within a two-year period, and cuts must be made in accordance with the American National Standards Institute, Inc. (ANSI) A300 standards for tree care management.

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

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

Recommended Tree Planting List. A list of preferred species for planting and replacement trees in the City of Atlanta. The list includes information about the estimated size of trees at maturity.

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

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

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

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

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

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

Saved tree. Any tree that, under the terms of this Article, is to be protected from injury or destruction during construction.

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

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

Shearing. Cutting stems to an indiscriminate length.

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

Specimen tree. A tree meeting the following criteria:

(1) Overstory hardwoods (e.g., most oaks, elms, poplars, hickories, etc., per the City of Atlanta Recommended Planting List specifications) in fair or better condition with a DBH equal to or greater than 28 inches;
(2) Overstory softwoods (e.g. pine species) in fair or better condition with a DBH equal to or greater than 30 inches;
(3) Mid-story hardwoods (e.g., maples, hornbeams, black gum, some oaks, etc. per the City of Atlanta Recommended Planting List specifications) in fair or better condition with a DBH equal to or greater than 15 inches;
(4) Smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc. per the City of Atlanta Recommended Planting List specifications) in fair or better condition with a DBH equal to or greater than 8 inches; or
(5) Lesser-sized trees of rare species, exceptional aesthetic quality, or historical significance as designated by the Tree Conservation Commission.

Spiking. The use of metal spurs or gaffs to climb live trees, which is prohibited by this Article.

Structural root plate or compression plate. The circumferential area around a tree within which roots provide stability against windthrow. The radius of the root plate is a function of a tree's DBH. The table below provides guidelines for estimating root plate radii for upright trees without restricted roots.

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

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

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

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

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

Technically destroyed tree (prescription eligible tree). Any tree suffering injury or destruction of more than 20%, but not more than 33%, of its critical root zone. As long as the structural root plate of the tree remains 100% protected and a silvicultural prescription is provided prior to construction in accordance with the provisions of this Article [Subsection 158-48(G)], a "technically destroyed" tree may be restored to "saved" tree status.
Tipping. The cutting of a lateral limb of a tree in such a manner as to leave a prominent stub extending beyond a branch node or the trunk, which is prohibited by this Article.

Topping. Reduction of tree size using internodal cuts without regard to tree health or structural integrity, which is prohibited by this Article. For the purposes of this Article, topping refers to the cutting of a single leader trunk or cutting a co-dominant leader in such manner as to leave a prominent stub extending beyond the node (crotch) of another leader trunk or major branch that may become a leader trunk.

Tree. Any self-supporting woody, perennial plant that has a trunk diameter of 2.5 inches or more when measured at a point six inches above ground level and which normally attains an overall height of at least 15 feet at maturity, usually with a single main stem or trunk and many branches.

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

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

Tree trust fund. Includes monies collected from recompense to be spent on tree installation, maintenance, and urban forestry-related environmental education.

Tree well. The defined area surrounding a tree that contains soil to support the growth of the tree; typically bordered by impervious structures such as curbs, sidewalks, and streets.

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

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

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

DIVISION II. PLANNING AND CONSERVATION

Section 158-30. Urban Forest Master Plan

(A) *Purpose.* The City shall develop an Urban Forest Master Plan to guide long-term management of Atlanta's tree canopy, equally and equitably throughout the city.

(B) *Plan objectives.* The Urban Forest Master Plan shall include policies and strategies which will ensure that:

(1) Members of the public and City officials and employees are familiar with the public benefits of a mature tree canopy.

(2) Data are available for evaluating trends in the urban forest and can be used to inform tree planting and management decisions.

(3) Residents, tree professionals, and commercial and residential builders have a working knowledge of best management practices for tree care and protection.

(4) Atlanta's Tree Protection Ordinance is effective, easy to understand, and fairly administered.

(C) *Plan development.* The City Arborist and the Tree Conservation Commission shall be responsible for the development of the Urban Forest Master Plan.

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

Section 158-31. Access agreements for private property planting by City

The City is hereby 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 within 30 feet of the public right-of-way or public property line provided the private property owner pays no fee for the tree planting thereof. No additional legislation shall be required to authorize said agreements. 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.

Section 158-32. Historic, Landmark, and specimen trees

Historic, Landmark, and specimen trees are elements of the City's tree canopy that deserve special protections under this Article due to their exceptional characteristics.

(A) *Designation of Historic and Landmark trees.*

(1) Authority to designate Historic and Landmark tree. Pursuant to Section 158-66 of this Article, the Tree Conservation Commission has the authority to designate a Historic or Landmark tree.

(2) Register of Historic and Landmark trees established. The City shall maintain a Register of Historic and Landmark Trees within the corporate boundary recognized as having notable historic value and other qualities that contribute to Atlanta's urban forest and aesthetic character.

(3) Designation criteria. A tree may be included in the Register of Historic and Landmark Trees if it meets the following criteria:

(a) At least three of the following:

(i) The tree is associated with a historic location, event, or person;
(ii) The tree is at least 50 years old;
(iii)The tree is a landmark tree as defined in Section 158-29;
(iv)The tree is a specimen tree as defined in Section 158-29.; and

(b) All of the following:
(i) The tree is free from uncorrectable disease, pests, or severe mechanical injury;
(ii) The tree has a life expectancy of at least ten years, as determined by a certified arborist; and
(iii)The tree is free from structural defects that present a hazard to the public or surrounding property.

(4) *Nomination for inclusion on the Register of Historic and Landmark Trees.* The City Arborist or any interested person residing or owning property or operating a business within the City of Atlanta may nominate a tree for inclusion on the Register of Historic and Landmark Trees.
(a) *Nomination requirements.* Nominations must be submitted to the Tree Conservation Commission in a form prescribed by the Commission.
(b) *Property owner consent not required.* Property owner consent shall not be required for the nomination, and the absence of property owner consent shall not factor into the Tree Conservation Commission's designation decision.

(5) *Designation approval.*
(a) *Inspection required.* Upon receipt of a completed nomination form, the City Arborist shall inspect the nominated tree to verify the information submitted in the nomination.
(b) *Advisory review of nomination.* If the nominated tree is located on a historic property or within a historic or conservation district, the nomination also shall be forwarded to the Atlanta Urban Design Commission. If the nominated tree is on private property, notice shall be provided to the property owner.
(c) *Tree Conservation Commission review.* The Tree Conservation Commission shall review all material submitted with the nomination, including any letters of endorsement and any advisory comments submitted by the City Arborist and Atlanta Urban Design Commission. If the tree is found to meet at least two of the criteria identified in Subsection 158-32(A)(3)(a) and all of the criteria identified in Subsection 158-32(A)(3)(b), the Commission shall approve inclusion of the tree on the Register of Historic and Landmark Trees.
(d) *Record of designation.* Approved trees shall be added to the Register of Historic and Landmark Trees.

(B) *Effect of special status.* If a tree is approved for inclusion on the Register of Historic and Landmark Trees or is identified as a specimen tree as defined in Section 158-29, the following specifications shall apply.
(1) *Designation of special status trees on site plan.* Any site plan or tree replacement plan submitted under this Article or another section of the City Code shall identify the special status of the tree.
(2) *Removal of special status trees.* All applicants for a permit to remove a specimen tree or a tree on the Register of Historic and Landmark Trees shall be encouraged to present to the Arborist alternative plans that will preserve the tree. However, a permit may not be denied solely on the basis of the tree's special status.
(3) *Recompense for special status trees.* Removal of a tree on the Register of Historic and Landmark Trees and/or removal of specimen tree(s) shall result in special recompense requirements as detailed in Division IV of this Article (Subsection 158-52(B)).
(4) *Penalties for removal of special status trees.* A violation of this Article that involves a specimen tree or a tree on the Register of Historic and Landmark Trees will incur special penalties under Subsection 158-52(B).

Section 158-33. Quarterly reports to Tree Conservation Commission

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

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

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

DIVISION III. REMOVAL OF DEAD, DYING, AND HAZARDOUS TREES

Section 158-34. Removal of dead, dying, or hazardous trees

(A) *Permit to remove dead, dying, or hazardous tree.*

(1) *Submittal requirements and procedure.* Applications to remove dead, dying, or hazardous trees may be submitted to the Arborist Division by e-mail, phone, fax, or other means. Each application shall include the address of the property and the owner's name, phone, email address, and fax number, as available. If applicable, it shall also include the name, phone, email, and fax number of the tree service engaged to conduct the work. Each tree shall be identified by species, DBH, location, and any identifying characteristics or added markings. Permits to remove dead, dying, and hazardous trees shall be approved at the determination of the City Arborist.

(2) *No posting or preliminary approval required.* Removal of dead, dying, and hazardous trees does not require preliminary approval as set forth in Section 158-36 or posting as set forth in Subsection 158-36(D).

(3) *Replacement and recompense.* Removal of dead, dying, and hazardous trees are not subject to the replacement or recompense requirements of Section 158-46 and 158-47 except as follows:
a. Parking lot trees as set forth in Section 158-57;
b. Illegally destroyed trees pursuant to Section 158-61.

(4) *Right of Appeal.* The applicant for a dead, dying, and hazardous tree removal permit regarding a tree on private property and non-City-owned public property may appeal a notice of denial to the Tree Conservation Commission as provided in Section 158-71 of this Article. Only a property owner or agent of the owner may appeal the denial of a DDH permit for a tree on private property. Appeals must be filed within six months of the date of the City Arborist's written decision. A City Arborist's approval of a dead, dying and hazardous tree removal permit, where the tree is located on City property, is not subject to appeal.

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

(6) *Permits available for public inspection.* All dead, dying, and hazardous tree removal permits shall be available for public inspection on the activity site.

(B) *Permit to remove dead, dying, and hazardous trees posing an imminent danger on private property and non-City-owned public property over which the City has jurisdiction.*

(1) *Authorization for immediate removal.* When an applicant believes and can demonstrate that a tree on private property or on non-City-owned public property over which the City has jurisdiction, poses imminent danger to the health, safety and welfare of persons or property, the applicant may request a permit for immediate removal by contacting the City Arborist by phone or email to request verbal approval for the removal. Examples of imminent danger include without limitation: sudden change of pitch of the main stem; cracked or heaved soil opposite the tree's lean; visibly raised root plate; and cracks or breaks in the main stem or large leader. Should the Arborist deny the permit, the tree shall

not be deemed imminently dangerous. If the applicant is unable to reach the City Arborist, he/she may remove the tree without approval. Within five working days of said removal, the applicant shall apply for post-approval by submitting to the City Arborist a tree removal application and photos demonstrating that the tree at issue was imminently dangerous, and any other information reasonably requested by the City Arborist.

(2) *City Arborist Findings.* Where the Arborist finds that the applicant did not follow the procedures of this Subsection 158-34(B) and/or failed to demonstrate an imminent danger, the City may charge the responsible party applicable recompense, replacement, and fines per Section 158-62.

(3) *Right of appeal.* No one other than the applicant or property owner shall have the right to appeal a decision by the City Arborist regarding imminent danger and/or tree removal associated therewith. Appeals must be filed within 15 calendar days of the applicant's/owner's receipt of the City Arborist's written decision, and shall meet the requirements of Section 158-71 of this Article.

(C) *Reporting public property trees posing imminent danger.* Any person who believes that a tree on City-owned property is imminently dangerous may notify the City by calling 911.

Section 158-35. Removal of nuisance trees

(A) *Generally.* When at least two City Arborists (one from the Office of Planning and one from the Office of Parks) inspect and determine that a tree located on private property, or public property over which the City has jurisdiction, constitutes a nuisance, as defined in Section 158-29, they shall follow the procedures set forth in Atlanta Code of Ordinances, Section 17-9013.

(B) *Emergency Abatement of nuisance trees posing imminent danger.* Where at least two City Arborists (one from the Office of Planning and one from the Office of Parks) inspect and determine that a nuisance tree poses imminent danger to public property, the Director of the Office of Code Enforcement shall have the right, but not the obligation, to enter the property or direct an agent to enter the property to abate the nuisance. The reasonable costs of such work shall be documented by the Office of Code Enforcement, and the City shall have the authority to obtain reimbursement from the property owner.

DIVISION IV. PROTECTION OF HEALTHY, NON-HAZARDOUS TREES: PROCEDURE FOR OBTAINING REMOVAL PERMIT

Section 158-36. Policy; general requirement

(A) *Policy.* It is the policy of the City of Atlanta to encourage the preservation of existing healthy trees.

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

(1) Healthy, non-hazardous trees located on public property;

(2) Healthy, non-hazardous pine trees located on private property that are 12 inches DBH or greater; and

(3) Healthy, non-hazardous trees, other than pine trees, located on private property, that are six inches DBH or greater.

(C) *Minimal damage to trees.* Each applicant for a permit to remove or destroy a healthy, non-hazardous tree shall be required to minimize the damage to trees on the site to the maximum extent feasible.

(D) *Permit on site.* All tree removal permits shall be available for public inspection on the activity site.

Section 158-37. Reasons for removal and destruction of healthy, non-hazardous trees

Healthy, non-hazardous trees may be permitted for removal or destruction only for the following purposes, as further described in the Sections referenced, provided that the requirements of this Article are met.

(A) *Construction and/or demolition* (See Section 158-38)

(B) *Landscaping* (See Section 158-38)

(C) *Undesirable species of trees* (See Section 158-39)

(D) *Special removal permit based upon tree's proximity to dwelling* (See Section 158-40)

(E) *Public safety emergency* (See Section 158-41)

(F) *Department of Watershed Management's court-mandated infrastructure projects* (Division X)

Section 158-38. Removal and destruction of healthy, non-hazardous trees for the purposes of

construction, demolition, and landscaping

(A) *Applicability of this section.* The contents of this section apply only to healthy, non-hazardous trees on private and public property.

(1) *Permits for tree removal based on construction and demolition.* A permit may be issued by the City Arborist to remove or destroy a tree in order to accommodate construction and/or demolition of a property improvement for which a building permit is required, or to accommodate installation of infrastructure associated with the improvement, including without limitation dwellings, garages, free-standing buildings, pools, patios, driveways, retaining walls and utility lines. When the permit authorizes demolition, the City Arborist may require certain areas of proposed demolition to be deferred until a building permit is issued, where such deferral may preserve trees. For purposes of this Section 158-38, construction shall refer to both construction and demolition work and/or permits (as applicable) unless specifically stated otherwise.

(2) *Permits for tree removal based on landscaping improvements.* A permit may be issued by the City Arborist to remove or destroy a tree in order to accommodate landscaping projects.

(B) *Application for tree removal permit.*

(1) *Tree removal based on construction.* Any person or entity performing a construction project which may require the removal, destruction, or incursion into the critical root zone of a tree must submit a tree protection plan to the Office of Buildings along with the building permit application. The plan shall be in a form prescribed by the City Arborist, as further described in Section 158-42, and shall include without limitation, a depiction of all trees, including boundary trees, which are potentially damaged by the construction, as determined by the City Arborist.

(2) *Tree removal based on landscaping.* Any person or entity performing a landscaping project which may require the removal or destruction of a tree, or incursion into greater than 20% of a tree's critical root zone must submit a complete application to the City Arborist. The application shall be subject to the requirements of Subsection 158-38(C)2 and shall meet landscaping plan requirements as described in Section 158-43.

(C) *Review of application by City Arborist.*

(1) *Review of construction-related tree removal applications.*

(a) *No trees impacted.* The City Arborist shall first determine if any trees will be removed or destroyed. If no tree removal or destruction will occur, the City Arborist may approve or deny the plan consistent with the terms of this Article II, and no posting shall be required.

(b) *Requirements for issuing permit.* In order to issue a tree removal permit, the City Arborist must determine that the following conditions exist:

(i) The construction necessitates destruction of the tree;

(ii) No setback or boundary trees are removed or destroyed, except in the circumstances described in letter (e) below; and

(iii) The improvement cannot reasonably be positioned to maximize tree protection.

(c) *Environmentally sensitive areas.* In addition to (i) through (iii) above, for any property containing an Environmentally Sensitive Area, the City Arborist also must find that the following conditions are met:

(i) Where the property is one acre or larger, land disturbance shall be confined to the portion of the lot outside of the Environmentally Sensitive Area.

(ii) Where the property is smaller than one acre, land disturbance in the Environmentally Sensitive Area shall be allowed only to implement hydrologic and erosion control measures, to provide access corridors to streets and utility connections, and to meet the requirements of other applicable laws and codes.

(iii) On a property of any size that contains designated wetland, 100-year floodplain, or a riparian buffer as defined by Code, a maximum of 10% of the trees in said Environmentally Sensitive Area on the property may be approved for removal or destruction.

(d) *Tree protection.* The factors that shall be considered in determining whether tree protection is maximized shall include without limitation:

(i) Whether the quantity of trees saved is maximized;

(ii) Whether the total DBH inches saved is maximized;

(iii) Whether setback and boundary trees are protected; and

(iv) Whether Landmark, Historic, and specimen trees are protected.

(e) *Setback trees.* Where removal of setback trees results in maximization of on-site and boundary tree protection, or where improvements permissible under the Code may not otherwise reasonably be accommodated, the City Arborist may permit removal of setback trees. Setback trees may be removed for driveway and underground utility construction only when such construction cannot reasonably be accomplished in another manner.

(2) *Review of landscaping-related tree removal applications.* In order to issue a landscaping-related tree removal permit, the City Arborist must determine that the following conditions exist:

(a) The property meets the minimum tree density standards set forth in Table 158-44 prior to and after the proposed removal or destruction of the tree(s) at issue. For purposes of this subsection, where the applicant calculates tree density based upon the quantity of trees on the property pursuant to Table 158-44, only trees of six inches DBH or greater may be counted;

(b) The tree is located in the buildable area;

(c) The tree is not an Historic, Landmark or specimen tree; and

(d) The tree is not located in an Environmentally Sensitive Area.

(3) *Notice of City Arborist decision.* The City Arborist shall give a notice of preliminary approval or denial consistent with the terms of this Article. The notice shall include the approved tree replacement and/or monetary recompense requirements associated with the removals, as described in Sections 158-45, 46, 47 below.

(4) *Conditions of approval and preliminary approval.* The City Arborist may require tree-protection measures consistent with this Article as a condition of the issuance of preliminary approval.

(5) *Re-submission.* An applicant may submit a new application at any time after receiving a notice of denial.

(6) *Appeals of denial of application.* A notice of denial may be appealed to the Tree Conservation Commission by the applicant only.

(D) *Posting.*

(1) *Applicability of this subsection.* The posting criteria set forth below in this subsection apply to construction-related and landscaping-related tree removal permits only.

(2) *Posting of private property trees.* For trees located on private property, two postings shall be required and shall be placed by the City Arborist.

(a) *Notice of tree destruction or removal request.* The first posting shall notify the public that an application to destroy or remove tree(s) was filed with the City. The posting shall remain for a minimum of ten calendar days and shall remain in place until the second posting, described immediately below, occurs or the plan is withdrawn.

(b) *Notice of Preliminary Approval.* The second posting shall notify the public that the City Arborist has given preliminary approval to the application to remove one or more designated trees, and that appeals of such decision may be submitted. The posting will be made only if the City Arborist has made such decision, and will not be placed on the property until after the first posting requirement has been met. The second posting shall remain in place for five business days, during which time the City will accept appeals.

(3) *Posting of public property trees.* 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.

(4) *Tree marking.* Immediately after an applicant receives preliminary approval of a tree protection plan or removal application, s/he shall mark all trees preliminarily approved for removal or destruction with an orange "x". The "x" must be visible from the road unless the tree's location or site conditions make compliance with this requirement unreasonable, as determined by the City Arborist.

(5) *Posting location.* Property postings shall be placed in a prominent location on the affected property so that the posting sign(s) are clearly visible, and so that the sign(s) may be seen and read by passers-by. Where the affected property has frontage on more than one road, at least one sign shall be placed on each side of the property with road frontage. If the notice of preliminary approval is not posted as required by this section, no permit shall be issued. The City Arborist also shall add the posting information to the City of Atlanta website (www.atlantaga.gov).

(6) *Content of postings.* Postings providing notice of the issuance of preliminary approval shall inform the reader that an appeal may be filed with the Tree Conservation Commission, and shall indicate the deadline by which the appeal must be filed. The posting shall further indicate that appeal rights will be forfeited upon failure to appeal within the designated time period.

(E) *Appeals of preliminary approval to destroy or remove healthy, non-hazardous trees.*

(1) *Applicability of this subsection.* The appeal criteria set forth below in this subsection apply to construction-related and landscaping-related tree removal permits only.

(2) *Who may appeal.*

(a) *Appeals regarding private property trees.* Appeals of a City Arborist's decision regarding a healthy, non-hazardous tree on private property may be filed by any person who is aggrieved by the decision and who resides or owns property or a business either within 500 feet or within the NPU of the property on which the tree(s) at issue are located.

(b) *Appeals regarding public property trees.* Appeals of a City Arborist's decision regarding a healthy, non-hazardous tree on public property may be filed by any aggrieved party who is: 1) an individual who resides or owns property or a business in the City of Atlanta; and/or 2) a civic association in the NPU in which the tree(s) at issue are located.

(3) *Timing of appeal.*

(a) *Timing of appeal for private property trees.* Appeals regarding trees on private property must be filed within five calendar days of the posting of the City Arborist's preliminary decision regarding the tree(s) at issue, per posting requirements described in Section 158-38(D).

(b) *Timing of appeal for public property trees.* Appeals regarding tree(s) on public property must be filed within 15 calendar days of the posting of the City Arborist's preliminary decision regarding the tree(s) at issue, per posting requirements described in Section 158-38(D).

(4) *Appeal requirements.* All appeals shall meet the requirements of Section 158-71.

(5) *After the appeal is filed/stay of activity.*

(a) *Appeal by non-applicant challenging issuance of Preliminary Approval.* If an appeal is filed by a non-applicant challenging the City Arborist's decision to issue preliminary approval of tree removal(s), the preliminarily approved activities, including tree removal and related earth disturbance, shall be stayed automatically. The City Arborist shall not grant final approval until the City appeal is resolved.

(b) *Appeal by applicant challenging denial of Preliminary Approval.* Where the City Arborist preliminarily approves certain portions of a tree removal application and denies other portions, an appeal filed by the applicant shall not stay the preliminarily approved activities nor prevent the City Arborist from issuing a final permit for those activities.

(c) *Appeal of recompense and /or replacement requirements.* If an appeal is filed challenging only the recompense and/or replacement requirements associated with a Notice of Preliminary Approval, the Applicant may receive a permit before resolution of the appeal by paying the recompense amount required by the Preliminary Approval, or the financial equivalent of the replacement requirement as determined by the City Arborist pursuant to Section 158-50 of this Article. The City shall place these funds in an escrow or other similar account so that the applicant may be reimbursed if so directed on appeal. The appeal shall not stay the preliminarily approved activities and shall not prevent the City Arborist from issuing a final permit.

(F) *Issuance of permit where no timely appeal filed.* If no appeal is filed within the time frames prescribed above, the permit shall be issued in accordance with the terms of said Notice of Preliminary Approval.

(G) *Minor amendments.* After the time for appeals has expired with respect to any Notice of Preliminary Approval, the City Arborist may approve minor amendments to the permit without there being any new right of appeal from such approval, provided that the City Arborist, in connection with such approval, shall certify in writing to the following, which certification shall be attached to the permitted amendments:

(1) That the amendments do not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case; and

(2) That the amendments do not affect any trees on the property in question which are eligible under this article to be designated Historic, Landmark, or specimen trees; and

(3) That the amendments in the aggregate do not increase by more than 10% either the total number or the total DBH of the trees permitted for removal or destruction.

(H) *Permits available for public inspection.* All tree removal permits shall be available for public inspection on the activity site.

Section 158-39. Removal and destruction of healthy, non-hazardous trees that are of an undesirable species

(A) *Undesirable species defined.* The following species of trees are deemed to be undesirable: Bradford Pear (*Pyrus calleryana*); Carolina cherry laurel (*Prunus caroliniana*); Chinaberry (*Meliaazederach*); Eastern arborvitae (*Thuja occidentalis*); Mimosa (*Albizia julibrissin*); Princess tree (*Paulownia tomentosa*); Leyland cypress (*Cupressocyparis leylandii*); Paper mulberry (*Broussonetia papyrifera*); Privets (*Ligustrum species*); Red Tip (*Photinia x fraseri*); Tree of heaven (*Ailanthus altissima*); and White mulberry (*Morus alba*).

(B) *Permit required.* Prior to removal or destruction of an undesirable species tree, a permit must be received from the City Arborist.

(C) *Permitting removal of undesirable species trees from private property.* The permitting process for removal of healthy, non-hazardous undesirable species trees located on private property shall differ from the removal permitting of other healthy, non-hazardous, private property trees described in Section 158-39, as follows:

(1) *Application.*

(a) Where a permit application is for removal of fewer than six trees of an undesirable species, the property owner may either submit to the City Arborist an application with at least two photographs showing each undesirable tree, or may request a site inspection by a City Arborist who may issue a removal permit based solely on the site inspection.

(b) Where a permit application is for removal of six or more undesirable species trees, the applicant shall submit to the City Arborist: at least two pictures of each tree at issue which are sufficient to allow the City Arborist to identify the species of the tree; a tree construction plan or landscaping plan as applicable, meeting the requirements set forth in Section 158-43 below; and a statement of the zoning category of the property at issue.

(2) *Posting.* No posting of an undesirable species tree is required in order to obtain a removal permit.

(3) *Recompense.* No recompense, as described in Section 158-45, shall be assessed for removal of an undesirable species tree.

(4) *Replacement.* Tree replacement requirements, set forth in Section 158-46, shall be applied for removal of an undesirable species tree only if the property at issue does not meet the site density requirements of Table 158-44 after the undesirable tree(s) is removed. Where replacement is needed, the applicant must satisfy only the minimum tree quantity requirements of Table 158-44; the minimum DBH requirements of said table need not be met. The requirements of this subsection notwithstanding, in no event shall the applicant be required to plant more replacement trees than the quantity of undesirable trees removed.

(D) *Appeals.* Only the property owner shall have appeal rights associated with a permit for undesirable species removal from private property. Appeals must be filed within 15 calendar days of the owner's receipt of the City Arborist's written decision, and shall meet the requirements of Section 158-71 of this Article.

Section 158-40. Removal and destruction of healthy, non-hazardous trees based on proximity to dwelling

(A) *Description of special removal permit for tree proximity to dwelling.* The City Arborist may issue a permit to remove any private property tree located within five feet of the structural foundation of an existing single family residential dwelling or duplex (pursuant to the criteria set forth in this section).

(B) *Permit required.* Prior to removal or destruction of tree based upon its proximity to a dwelling, a permit must be received from the City Arborist.

(C) *Permitting process for special removal permits.* The permitting process for a special removal permit differs from the removal permitting of other healthy, non-hazardous private property trees described in Section 158-36, as follows:

(1) *Application.* The owner of the property on which the tree is located must submit a special removal application to the City Arborist in a format prescribed by the City Arborist.

(2) *Review of application by City Arborist.* In order to issue a special removal permit, the City Arborist must determine that the following conditions exist:

(a) The application is for a private property tree;

(b) The tree is not a boundary tree, unless the conditions of Subsection (c) immediately below are met;
(c) If the tree is a boundary tree, the adjoining property owner is a co-applicant for the special removal permit;
(d) The tree is located within five feet of the structural foundation of an existing single family residential dwelling or duplex.
(i) To determine 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. The trunk of the tree is the main stem of the tree and does not include the tree's structural root plate or root flare.
(ii) To determine 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.
(e) There has been no removal of a tree pursuant to a special removal application for at least five years prior to the submission date of the current application. 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.
(f) The property on which the tree is located has not been the subject of a violation of this Article within one year prior of the filing of the special removal permit application.
(3) *Posting.* No posting of the property is required to receive a special removal permit.
(4) *Recompense.* No recompense, as described in Section 158-45, shall be required to obtain a special removal permit.
(5) *Replacement.* Tree replacement shall not be required to obtain a special removal permit, unless the property at issue will not meet the site density requirements of Table 158-44 after the tree is removed. Where replacement is needed, the applicant shall be required to replant one tree only.

(D) *Appeals.* Only the property owner shall have appeal rights associated with a special removal permit. Appeals must be filed within 15 calendar days of the owner's receipt of the City Arborist's written decision, and shall meet the requirements of Section 158-65 of this Article.

(E) *Unlawful removal.* Where a tree located within five feet of the structural foundation of an existing single family residential dwelling or duplex is removed without a permit, recompense and fines shall be calculated and owed as prescribed throughout this Article, even if the property would have been eligible for a special removal permit pursuant to this Subsection 158-40.

Section 158-41. Removal and destruction of healthy, non-hazardous trees for public safety emergency

(A) *Description of removal permit based on public safety emergency.* A condition that has a substantial likelihood of causing significant personal injury or significant harm to property shall be deemed a public safety emergency. The City Arborist may issue a tree removal permit for a healthy, non-hazardous tree on public or private property where the City Arborist determines that removal will abate the public safety emergency.

(B) *Permitting process for removal based on public safety emergency.* The permitting process for tree removal based upon a public safety emergency shall be exempt from the process for removal of healthy, non-hazardous trees set forth in Section 158-36, and instead shall be implemented as described in this section.

(C) *Application.*
(1) Where abatement of a public safety emergency requires removal of a healthy tree within less than 24 hours, an applicant may request approval for immediate removal by contacting the City Arborist by phone and providing the City Arborist with the information about the emergency circumstances and necessity of removing the tree.
(2) If the applicant is unable to reach the City Arborist, he/she may remove the tree without approval. Within five working days of the removal, the applicant shall apply for retroactive approval by submitting to the City Arborist: a tree removal application; photos and written descriptions that demonstrate the public safety hazard and the need to remove the tree to abate the emergency; and any other information reasonably requested by the City Arborist.

(D) *Review of application by City Arborist.* To determine whether to issue a tree removal permit based on a public safety emergency, including whether to issue a retroactive permit, the City Arborist, in consultation

with the director of any City department with purview over the type of emergency alleged, must find at least one of the following conditions to be met:

(1) A public safety emergency exists, and removal of the subject tree(s) will be reasonably likely to abate the emergency; and/or

(2) A public safety emergency existed and the removal of the subject tree(s) abated the emergency; and/or

(3) A public safety emergency existed and it appeared reasonably likely that the removal of the trees would abate the emergency.

(E) *Posting.* No posting of the property is required for a removal permit based on public safety emergency.

(F) *Replanting and Recompense.* No replanting or recompense, as described in Section 158-45, shall be required to obtain a removal permit based on public safety emergency.

(G) *Denial.* Where an applicant requests tree removal pursuant to this Section 158-41 and the City Arborist denies the permit, the tree may not be removed pursuant to this section.

(H) *City Arborist findings.* Where the City Arborist finds that the applicant did not follow procedures of this section and/or failed to demonstrate that the tree removal was required to abate a public emergency, the Arborist may charge the responsible party applicable recompense, replacement, and fines pursuant to Sections 158-45 and 158-61.

(I) *Right of appeal.* No one other than the applicant or property owner on which the tree was located shall have the right to appeal a decision by the City Arborist made pursuant to this Section 158-41. Appeals must be filed within 15 calendar days of an applicant's/owner's receipt of the City Arborist's written decision, and shall meet the requirements of Section 158-65 of this Article.

DIVISION V. REMOVAL OF HEALTHY NON-HAZARDOUS TREES: REQUIREMENTS FOR SITE PLAN, TREE REPLACEMENT, AND RECOMPENSE

Section 158-42. Applicability of Division V to healthy non-hazardous trees only

The provisions of this Division V shall pertain to healthy non-hazardous trees only on both public and private property.

Section 158-43. Requirements for site plans

All requests for the removal, destruction, or incursion into the critical root zone of a tree must include a tree protection plan or a site plan pursuant to Section 158-42 above. For purposes of this Division V, "site plan" and "tree protection plan" are synonymous.

(A) *General requirements.* Any site plan required under this Article 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 requiring cut and fill of earth. Single family lots of record may be exempt from the requirement of the topographic survey provided that no grading or cut or fill-of-earth or other changes in topography will occur. The survey and tree replacement plan shall be signed or stamped by an ISA-certified arborist, landscape architect, architect, engineer, or professional surveyor. Minor site plans and landscape plans may be hand-drawn to scale by the applicant, subject to approval by the City Arborist.

(B) *Tree survey.* The site plan shall include an inventory of existing trees, identifying the size, species, and location of all private property trees having a DBH of six inches or greater and public property trees having a DBH of 2.5 inches or greater.

(1) *Boundary trees.* Boundary trees shall be included in the site plan. The portion of the critical root zone of all boundary trees that overlaps the work limit area shall be enclosed in a tree protection fence according to established arboricultural standards. In consultation with a boundary tree's owner or his or her agent, the City Arborist may prescribe and the applicant shall institute additional protective measures to limit damage to a boundary tree during construction, including but not limited to watering regimes, root treatments, mulching, deadwood removal, and protective pruning.

(2) *Historic, Landmark, and specimen trees.* The site plan shall identify which (if any) trees on the site plan are Historic, Landmark, or specimen trees.

(C) *Construction limits line.* 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, only trees with a critical root zone entirely outside the work limit shall be exempt from the site plan.

(D) *Environmentally sensitive areas.* The site plan shall identify any environmentally sensitive areas, noting the specific designation, including without limitation stream-buffers, wetlands and 100-year floodplains. Any requested disturbance of an environmentally sensitive area shall be detailed on the plan.

(E) *Identification of trees to be saved or removed.* The site plan shall denote each private property hardwood tree six inches DBH or larger, each private property pine tree 12 inches DBH or greater, and each public property tree 2.5 inches or greater to be saved or destroyed and the percentage of critical root zone that will be damaged. If the site plan shows no trees will be damaged, the property owner or contractor must submit at least two photos clearly depicting the area affected by proposed construction and a signed statement attesting to this fact.

(F) *Protection of saved trees and tree fencing.* The site plan must demonstrate that the location of improvements will protect existing trees on the property and abutting properties unless the plan identifies the tree as being removed or destroyed. The site plan must further show that damage to trees during grading, construction, or demolition will be minimized to the greatest degree possible under the particular circumstances, as determined by the City Arborist. Protection must include, without limitation, tree fencing that is shown on the site plan and that meets the following requirements:

(1) *Location.* Tree fencing must be located so as to protect a minimum of 80% of a saved tree's critical root zone throughout construction. Where the City Arborist determines that this level of protection is not possible and pre-approves a silvicultural prescription as part of the site plan, the tree fencing must be located so as to protect at least 67% of the critical root zone and 100% of the structural root plate.

(2) *Material.* Tree fencing must be constructed of chain link or substantial mesh material that is erected around critical root zones of trees at a minimum height of four feet before the commencement of any land disturbance, demolition, or construction. The City Arborist may require more substantial wood or steel fencing and secured posts where s/he finds a significant risk of damage to the saved tree's critical root zone. The City Arborist may require these measures at any time, including after commencement of site disturbance.

(G) *Silvicultural prescriptions.* Where more than 20% and less than 33% of a tree's critical root zone is damaged (known as a "technically destroyed tree") the City Arborist will not consider the tree to be destroyed, and will not assess recompense or require replanting or posting, but only if the following conditions are included in the site plan and satisfied throughout the construction and/or landscaping project:

(1) Tree save fencing is established and maintained throughout the project to protect at least 67% of the tree's critical root zone;

(2) The tree's structural root plate is not disturbed;

(3) 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;

(4) The prescription of the retained arborist is approved by the City Arborist in advance of construction and a paid-in-full receipt or the equivalent for implementation is provided; and

(5) A report on the effectiveness of the prescribed measures is submitted by the retained arborist to the City Arborist prior to issuance of a Certificate of Occupancy or completion of the landscaping project as applicable.

(H) *Tree replacement plan and recompense calculations.* The site plan shall contain a proposed tree replacement plan and recompense calculations that meet all of the specifications set forth below in Division VI.

Section 158-44. Tree density standards

(A) *Minimum tree density standards by zoning district.* When trees are removed from private and non-City-owned public property, sites must meet a minimum tree density standard, based on the zoning designation of the property as shown in Table 158-44 below. The minimum density standards require satisfaction of either the minimum number of trees or the minimum DBH provided in Table 158-44, and may be met by

retention of existing trees and/or replanting of new trees. Minimum density must be satisfied after the tree removal unless otherwise set forth in this Article, and may be met through the replanting of new trees on site as described in Section 158-45 below. For purposes of determining existing tree density prior to replanting, only trees of six inches DBH or larger may be counted.

Table 158-44. Tree density standards by zoning category

Minimum Tree Density Standards by Zoning Category for Private Property* ***And including Atlanta Housing Authority and Atlanta Public Schools**				
Description of Property			**Requirement*** (At least one minimum must be met)	
Zoning District	**Minimum Lot Size in Acres (per Atlanta Zoning Ord.)**	**Minimum Area Available for Planting** (Percentage/Square Feet)**	**Minimum DBH of Mid-Story and Overstory Trees Required per Lot**	**Minimum Number of Mid-Story and Overstory Trees Required per Lot**
R-1	2	75%/65,430 sf	1140" DBH	57
R-2	1	65%/28,314 sf	500" DBH	25
R-2A	0.69	65%/19,500 sf	340" DBH	17
R-2B	0.64	65%/16,800 sf	300" DBH	15
R-3	0.41	60%/10,800 sf	190" DBH	9
R-3A	0.31	55%/7,425 sf	120" DBH	6
R-4	0.21	50%/4,500 sf	80" DBH	4
R-4A	0.17	45%/3,375 sf	40" DBH	2: 1 front/1 rear
R-4B	0.06	15%/420 sf	20" DBH	1
R-5	0.17	45%/3,375 sf	40" DBH	2: 1 front/1 rear
R-G & non-residential districts	NA	15%/1,125 sf (est.)	90" DBH *per acre*	25 *per acre*

* For purposes of determining existing tree density prior to replanting, only trees of 6 inches DBH or larger may be counted
**Minimum impervious area per lot, as identified in the City of Atlanta Zoning Ordinance.

(B) *Trees in required front yard area.* A minimum of ten percent of the total DBH of trees required for a lot in each zoning district under Table 158-44 or one tree, whichever is greater, must be located in the required front yard area for a lot within that zoning district. Where applicable, there shall be at least one tree for every fifty linear feet of street frontage on any given property.

(C) *Density requirements applied to all building permit applicants.* Where an applicant for a construction permit on private and non-city-owned public property requests a building permit for construction that will not require tree removal or destruction and the anticipated cost of the construction is less than $20,000, the tree density requirements of this section shall be waived.

(D) *Density requirements for Atlanta Housing Authority properties.* AHA shall be subject to underlying zoning requirements.

(E) *Density requirements for Atlanta Public Schools.* On APS properties one tree shall be planted for every 1,215 square feet of open space which is not required for buildings, driveways, playing fields or other necessary structures. Overstory and midstory trees shall be planted where conditions permit, in accordance with spacing standards of Section 158-46(F). Parking areas are subject to the parking standards described in Section 158-57. In no case shall density be less than 90 inches DBH per acre.

(F) *Exceptions to minimum tree density and front yard tree planting standard for private property.* Replacement trees planted to satisfy the standards of Table 158-44 must have the potential to reach mature growth based upon the species planted. Where the City Arborist determines that the site conditions (e.g., overhead utilities or the potential for tree overcrowding) will not allow for mature growth of all necessary replacement trees, the Arborist will modify the minimum standards consistent with the constraints of the site.

Section 158-45. Replacement and/or recompense required

The following requirements shall apply unless otherwise exempted by this Article:

(A) *Minimum density after tree removal.* Any property from which a tree is removed must meet the minimum density standards set forth in Table 158-44. Tree replacement shall be required where needed to meet these minimum standards.

(B) *Replacement or recompense for private property trees required.* Any person removing or destroying a private property tree as described in Section 158-36, must replace the tree and/or pay recompense pursuant to the rules set forth in this Article. The City Arborist may allow payment of recompense to offset the Value of Trees Removed only after minimum density standards have been met on the subject property.

(C) *Replacement for public property trees required.* Any person removing or destroying a public property tree as described in Section 158-36, must replace the tree, and the cumulative DBH of the replacement trees planted shall be equal to or greater than the cumulative DBH of the tree(s) removed or destroyed and meet requirements of Section 158-55. The City Arborist may not allow payment of recompense in lieu of replanting.

(D) *Replacement and recompense for destroyed trees.* Replacement and recompense shall be required for a destroyed tree regardless of whether it is removed from the site.

(E) *Right of appeal.* The applicant or property owner shall have the right to appeal a decision by the City Arborist regarding tree removal or destruction. Appeals must be filed within 15 calendar days of the applicant's/owner's receipt of the City Arborist's written decision, and shall meet the requirements of Section 158-71 of this Article.

Section 158-46. Replacement tree specifications

(A) *Replacement tree type and on-site planting requirements.*

Where tree replacement is required, the applicant must plant overstory and/or mid-story trees on-site. This rule notwithstanding, where the City Arborist determines that these requirements cannot feasibly be met due to site conditions (ex. overhead lines or likely overcrowding of trees), the Arborist may allow one or more of the following alternatives, or a combination thereof:

(1) Planting understory trees on-site;

(2) Planting of overstory and/or mid-story trees off-site; and

(3) Payment of recompense.

(B) *Off-site replacement locations.* Where off-site replanting is permitted, the City Arborist may approve planting in a City park or other City-owned property or along a right-of-way, provided that such plantings are within the same NPU district or within one mile of the NPU boundary, or at locations identified by the City's tree canopy study as a permissible planting area, and provided that the plans are approved by the City Commissioner with jurisdiction over the planting site.

(C) *Size and quality of replacement trees.* Replacement trees shall be a minimum of 2.5 inches in caliper and must be of nursery stock quality.

(D) *Species of replacement trees.*

(1) *Recommended Tree List.* The species of acceptable replacement trees are listed on the City's Recommended Tree List. Where the City Arborist finds the presence of extenuating circumstances, s/he may approve a species not on the Recommended Tree List.

(2) *Prohibited replacement trees.* The following species of trees may not be used as replacement trees: Bradford Pear (*Pyrus calleryana*); Carolina cherry laurel (*Prunus caroliniana*); Chinaberry (*Melia azederach*); Eastern arborvitae (*Thuja occidentalis*); Mimosa (*Albizia julibrissin*); Princess tree (*Paulownia tomentosa*); Leyland cypress (*Cupressocyparis leylandii*); Honey locust (*Gleditsia triacanthos*); Paper mulberry (*Broussonetia papyrifera*); Privet (*Ligustrum vulgare*); Red Tip (*Photinia x fraseri*); Tree of heaven (*Ailanthus altissima*); and White mulberry (*Morus alba*). This list may be amended, as appropriate, in the Arborist Division's Standards and Practices documents.

(3) *Species diversity required.* If more than 15 but fewer than 50 replacement trees are being planted on a site, a single species shall comprise no more than 35% of all replantings. If 50 or more replacement trees are being planted on a site, no more than 30% of all replacement trees shall be of the same species. If 100 or more replacement trees are being planted on a site, no more than 10% of all replacement trees shall be of the same species, no more than 20% shall be of the same genus, and no more than 30% shall be of the same family. New streetscape design for a continuous corridor may be exempted at the discretion of the City Arborist.

(E) *Planting priority.* Where consistent with the relocation requirements of this Article, trees shall be replanted in the following locations where feasible:

(1) *Heat islands.* Replacement trees shall be located to shade streets and other external heat islands, including front-yard or right-of-way plantings. Street trees shall be planted as close to the street as is practicable to accommodate the growth of the tree and minimize conflict with power lines, etc. Internal heat islands shall be shaded with a minimum of one tree per 750 square feet of heat island area. 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 where feasible.

(2) *Soil stabilization of slopes.* Replacement trees may be planted on slopes with a grade between 2:1 and 3:1, other erodible areas, and on the banks of wetlands and waterways. Where site conditions on such slopes and stream buffers necessitate, the City Arborist may accept replacement trees of one inch in caliper and may determine appropriate spacing requirements based on site conditions and shall credit recompense proportionally. Replacement trees less than 2.5 inches in caliper shall not be credited in the calculation of site density requirements.

(3) *Stormwater management.* Replacement trees shall be used to meet the requirements of the Post-development Stormwater Ordinance (Section 74, Article X) where feasible.

(F) *Spacing standards.* Replacement trees shall meet the following spacing standards:

(1) Overstory trees shall be planted at a minimum of 35 feet apart on center.

(2) Mid-story trees shall be planted at a minimum of 25 feet apart on center.

(3) Understory trees shall be planted at a minimum of 15 feet apart on center.

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

(H) *Maintenance.*

(1) *Replacement trees must live for a minimum of two years.* The owner and his or her successor(s) in title shall be responsible for maintaining the health of all replacement trees for a minimum of two years from the date of planting or the date of issuance of the certificate of occupancy (where applicable), whichever is later. The owner or his or her successor shall replace within six months any tree which dies during this time period.

(2) *Inspection required.* The City Arborist shall inspect the condition of replacement trees between 18 and 24 months after planting and shall notify the responsible party of any required replacements.

Section 158-47. Recompense to address tree losses

(A) *Application and intent.* Recompense is applicable to private property trees only and is assessed to recoup some of the public value lost in the removal or destruction of the trees.

(B) *Conditions for assessment of recompense.* An applicant who has obtained a permit for tree removal or destruction under this Article and has met the tree density standards set out in Table 158-44 may pay recompense in lieu of tree replacement if approved by the City Arborist.

(C) *Recompense calculation.* Recompense shall be calculated as set forth in Division VI below. Recompense shall be paid into the Tree Trust Fund described in Section 158-73.

DIVISION VI. REMOVAL OF HEALTHY NON-HAZARDOUS TREES: TREE REPLACEMENT AND CALCULATION OF RECOMPENSE

Section 158-48. Applicability of this Division VI to healthy non-hazardous trees only

The provisions of this Division VI shall pertain to healthy non-hazardous trees only.

Section 158-49. Replacement and/or recompense required

Any person removing or destroying a tree as described in Subsection 158-36(B) must replace the tree and/or pay recompense pursuant to the rules set forth in this Article, unless otherwise exempted by this Article.

Section 158-50. Replacement requirements and calculation of recompense for trees on private property

Applicability. This Section 158-50 shall apply to private property trees only.

(A) *Calculation required on site plan.* The applicant's site plan shall include a calculation of the Value of Trees Removed, the Value of Replacement Trees and recompense owed, and shall use formulas and criteria set forth in this Division VI. The City Arborist shall confirm the accuracy of these calculations and shall require corrections as needed prior to granting preliminary approval.

(B) *Value of Trees Removed.* The property owner must compensate the City for the value of trees removed by planting replacement trees and/or by paying recompense. The dollar value of a tree removed shall be determined by assigning a value of $100.00 for each tree and a value of $30.00 for each DBH inch removed.

Value of Trees Removed = (number of trees removed x $100) + (DBH inches removed x $30)

(1) A cap on the Value of Trees Removed, based upon a per acre calculation, may apply for vacant lots, vacant new lots of record, new streets and infrastructure, and affordable housing meeting the criteria described in Section 158-51 below).

(2) The Value of Trees Removed will be increased for destruction of Historic, Landmark, and specimen trees, as described in Section 158-52 below.

(C) *Minimum density required.* The site plan shall indicate whether the property from which the tree is removed will meet the minimum tree density standards described in Table 158-44 above after tree removal. The plan shall show the minimum number of replacement trees required (if any) to meet minimum density standards. If site conditions preclude planting a quantity of trees sufficient to meet minimum density standards, the deficit shall be noted on the plan for review by the City Arborist.

(D) *Value of Trees Replaced.* The dollar value of replacement trees shall be determined by utilizing the same formula set forth in Subsection (B) above, except that the size of the replacement trees shall be measured in caliper inches rather than DBH.

Value of Trees Replaced = (number of trees replaced x $100) + (caliper inches replaced x $30)

(1) The Value of Trees Replaced may be increased or decreased depending upon the projected size of the replacement tree species at maturity, as described in Section 158-53.

(2) The Value of Trees Replaced may be increased for use of innovative building techniques and adjustment to construction plans resulting in preservation of trees, as set forth in Section 158-53.

(E) *Recompense owed.* The site plan shall show recompense owed (if any) by deducting the Value of Trees replaced from the Value of Trees Removed, as set forth in Subsections (D) and (B) respectively above. The remaining dollar amount shall be owed by the property owner as tree recompense.

Recompense= Value of Trees Removed (-) Value of Trees Replaced

Section 158-51. Adjustments to recompense: cap on Value of Trees Removed

The applicable formula for the calculation of recompense is:

Recompense= Value of Trees Removed (-) Value of Trees Replaced

The adjustments below place a maximum value on "Trees Removed," but shall not be applied where the removal or destruction occurs prior to receiving a permit issued by the City Arborist in accordance with the requirements of this Article.

(A) *Vacant lots, vacant new lots of record, and vacant new subdivisions: cap on Value of Trees Removed.*

(1) The Value of Trees Removed, as defined in Section 158-49(a) above, may be determined on a per-acre basis, pro-rated, based on the total acreage of the lot, provided the following two conditions are met.

(a) The trees are destroyed or removed from a property for the purpose of building a new subdivision, for building on an existing vacant lot, or for building on a vacant new lot of record; and

(b) A minimum percentage of DBH inches or a minimum number of DBH inches (whichever is less) of trees on the lot, as set forth in Table 158-51 below, is retained on the property.

(2) The per-acre value shall be capped as set forth in Table 158-51 below.

(3) Where the Value of Trees Removed is determined by using a per-acre calculation, the applicant will be credited only for replacement trees spaced no closer than one tree per 400 square feet.

(4) In calculating the recompense owed pursuant to Section 158-50 above, the applicant may utilize either the per-acre calculation of Value of Trees Removed (per Table 158-55) or the standard calculation of Value of Trees Removed (per Section 158-50(A)).

(B) *New streets and infrastructure: cap on Value of Trees Removed.*

(1) The Value of Trees Removed, as defined in Section 158-45(a) above, may be determined on a per-acre basis, pro-rated, provided the following three conditions are met:

(a) The trees are removed to accommodate construction of streets and related infrastructure in planned developments;

(b) Mid-story and overstory trees are replanted along the newly-constructed streets in planting strips which measure a minimum of four feet in width by 25 feet in length, and with trees planted at a minimum of one tree per 50 linear feet. These trees may be credited as "Trees Replaced" when calculating the recompense owed; and

(c) The ratio of graded slopes is less than two feet of horizontal change for each one foot of vertical elevation.

(2) The per-acre calculation shall be capped as set forth in Table 158-51 below. In calculating the recompense owed pursuant to Subsection 158-50 above, the applicant may utilize either the per-acre calculation of Value of Trees Removed or the standard calculation of Value of Trees Removed.

(3) Where using the standard calculation of Value of Trees Removed for property that is one acre or larger, the calculation may be made by using a recognized sampling technique performed by an ISA-certified arborist rather than counting damaged trees. This option notwithstanding, all Historic, Landmark, and specimen trees must be identified by species and location on the site plan and must be counted separately in the Value of Trees Removed; such trees may not be included in the sampling calculation.

(C) *Affordable housing development: cap on Value of Trees Removed.*

(1) The Value of Trees Removed, as defined in Section 158-45(a) above, may be determined on a reduced per-acre basis, pro-rated, where trees are removed or destroyed to accommodate the building of one or more affordable housing units as follows:

(a) The maximum per-acre amount shall be capped at 75% of the value shown on Table 158-51 below if:

(i) The sale cost of the unit does not exceed 80% of the Atlanta metropolitan statistical area (MSA) median sales price; and

(ii) The unit is available for purchase only by a household with an annual income that is greater than 50% and not more than 80% of the median family income (as defined by the United States Department of Housing and Urban Development (HUD)) in the Atlanta MSA.

(b) The maximum per-acre amount shall be capped at 50% of the value shown on Table 158-51 below if:

(i) The sale cost of the unit does not exceed 80% of the Atlanta MSA median sales price; and

(ii) The unit is available for purchase only by a household with an annual income that does not exceed 50% of the median family income (as defined by HUD) in the Atlanta MSA.

(c) For rental housing units, the maximum per-acre amount shall be capped at 50% of the value shown on Table 158-51 below if the unit is available for rent only by a household with an annual income that does not exceed 80% of the median family income (as defined by HUD) in the Atlanta MSA.

(2) Where the affordable housing unit described in Subsection 158-51(C)(1) above is part of a complex of units, the per-acre calculation may be used and the percentage reduction may be applied only if at least 20% of the total number of residential units constructed are affordable housing, as defined in Subsection (C)(1) above.

(3) The per-acre calculation and percentage reduction described in Subsection 158-51(C)(1) above may be implemented only if a minimum percentage of DBH inches or a minimum number of DBH inches (whichever is less) of trees, as set forth in Table 158-51 below, is retained on the property.

(4) Where the property qualifies for a cap on the Value of Trees Removed under this Subsection 158-51(C) and under Subsection 158-51(A), the cap set forth in this Subsection 158-51(C) shall be applied. As with Subsection 158-51(A), the Applicant will be credited only for Replacement Trees spaced no closer than one tree per 400 square feet.

(5) In calculating the recompense owed pursuant to this Subsection 158-51(C), the Applicant may utilize either the reduced per-acre calculation of Value of Trees Removed or the standard calculation of Value of Trees Removed.

TABLE 158-51. Summary Table for Cap on Value of Trees Removed: for vacant lots, vacant new lots of record, vacant new subdivisions, new streets and infrastructure, and affordable housing.

Tree Retention Requirements for Eligibility for Cap on Value of Trees Removed *As explained per Section 158-50*		
Zoning District	**Minimum Requirement for Retained Trees on Property** *Total DBH inches or % Total DBH inches remaining (each retained tree must be 6" DBH or greater)*	**Value of Trees Removed:** *(maximum per acre)*
R-1	1140" DBH or 50%	$20,000.00
R-2	500" DBH or 45%	$20,000.00
R-2A	340" DBH or 45%	$20,000.00
R-2B	300" DBH or 45%	$20,000.00
R-3	190" DBH or 40%	$20,000.00
R-3A	120" DBH or 40%	$20,000.00
R-4	80" DBH or 35%	$20,000.00
R-4A	40" DBH or 25%	$20,000.00
R-4B	33"DBH or 25%	$20,000.00

R-5	40" DBH or 25%	$20,000.00
R-LC , RG(1-5), and RG-C(1-5)	25%	$30,000.00
O & I, C (1-5), I (1&2)	20%	$30,000.00
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

*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 0.60 which will establish the Minimum Trees Retained percentage (MTR%). This amount shall be calculated according to the formula: **Required Pervious Area (K) x .60 = MTR%; Maximum Recompense Per Acre = $20,000.00.**

Section 158-52. Adjustments to recompense: increase in Value of Trees Removed for Historic, Landmark, and specimen trees

The applicable formulas for the calculations of recompense and Value of Trees Removed below are:

Recompense = Value of Trees Removed (-) Value of Trees Replaced

Value of Trees Removed = (number of trees removed x $100) + (DBH inches removed x $30)

The adjustments below pertain to the Value of Trees Removed.

(A) *Historic and Landmark trees.* Where the tree removed is a Historic or Landmark tree, the "DBH inches" utilized in the Value of Trees Removed formula shall be double the measured DBH inches of the tree.

(B) *Specimen trees.* Where the tree removed is a specimen tree, the "DBH inches" utilized in the Value of Trees Removed formula shall be double the measured DBH inches of the tree, except that this adjustment shall not be applied where the removal is required for construction of a dwelling.

Section 158-53. Adjustments to recompense: Value of Trees Replaced

The applicable formulas for the calculations of recompense and Value of Trees Replaced below are:

Recompense = Value of Trees Removed (-) Value of Trees Replaced

Value of Trees Replaced = (number of trees replaced x $100) + (caliper inches replaced x $30)

The adjustments below pertain to the Value of Trees Replaced.

(A) *Type of replacement tree.*

(1) *Overstory and mid-story replacement trees.* Where the Replacement Tree is an overstory or mid-canopy tree, the Value of Trees Replaced shall be doubled.

(2) *Screening trees.* Where the Property Owner elects to plant trees for the purpose of screening, and the trees do not meet the spacing requirements set forth in Subsection 158-46(F), the City Arborist may count the trees as Replacement Trees where s/he determines that the trees are a species with a narrow growth habit, but shall use the following formula adjustments:

(a) Number of trees replaced shall be calculated by measuring the linear distance over which the trees are planted and dividing the total linear feet by 25.

(b) Number of caliper inches per tree shall be limited to 2.5.

(B) *Credit for certain trees saved.*

(1) *Innovative building techniques.* Where the City Arborist determines that a property owner is saving an overstory or mid-story tree through use of innovative building techniques, including without limitation, building on piers, cantilevering, limited grading with retaining walls, and underground utilities, and that the tree meets the requirements of a "Replacement Tree" as set forth in Subsections 158-46(C) and (D), the following adjustment shall be made to the Value of Trees Replaced:

(a) The saved tree shall be counted as a Replacement Tree for purposes of calculating recompense.

(b) Where the saved tree is a Historic, Landmark, or specimen tree, it shall be counted as a Replacement Tree for purposes of calculating Recompense, and the "value of tree replaced" shall be doubled.

(2) *Construction adjustments.* Where the City Arborist determines that a property owner has adjusted building plans in order to save an overstory or mid-story tree, and that the tree meets the requirements of a "replacement tree" as set forth in Subsections 158-46(C) and (D), the following adjustment shall be made to the Value of Trees Replaced:

(a) The saved tree shall be counted as a replacement tree for purposes of calculating recompense.

(b) Where the saved tree is a Historic, Landmark or specimen tree, it shall be counted as a replacement tree for purposes of calculating recompense, and the Value of the Tree Replaced shall be doubled.

Section 158-54. Adjustments to recompense: land donations and easements

The applicable formulas for the calculations below are:

Recompense = Value of Trees Removed (-) Value of Trees Replaced

(A) *Recompense reduction for fee simple land donation.* Where a property owner donates land to the City in fee simple, the City Arborist may reduce recompense owed at a rate of $20,000 per acre of donated land, pro-rated for partial acres, where the donated land meets the following criteria:

(1) The property is no less than one acre in size and has a tree density of at least 100 inches DBH per acre;

(2) The property is accepted by the City through duly enacted legislation (the City may, but is not required to, accept the donation); and

(3) Through duly enacted legislation, the City dedicates the land for a purpose which preserves the land's natural scenic or forest landscape in perpetuity.

(B) *Recompense reduction for conservation easements with a tree density of 100 inches DBH per acre.* Where a property owner donates a conservation easement to the City, the City Arborist may reduce recompense owed at a rate of $20,000 per acre, pro-rated for partial acres, where the land meets the following criteria:

(1) The conservation easement property is no less than one acre in size and has a tree density of at 100 inches DBH per acre;

(2) The conservation easement is accepted by the City through duly enacted legislation (the City may, but is not required to, accept the donation); and

(3) The conservation easement preserves the property's natural scenic or forest landscape in perpetuity.

(C) *Recompense reduction for conservation easements with a tree density of 500 inches DBH per acre.* Where a property owner donates a conservation easement to the City, the City Arborist may reduce recompense owed at a rate of $30,000 per acre, pro-rated for partial acres, where the land meets the following criteria:

(1) The conservation easement property is no less than one acre in size and has a tree density of at least 500 inches DBH per acre;

(2) The conservation easement is accepted by the City through duly enacted legislation (the City may, but is not required to, accept the donation); and

(3) The conservation easement preserves the property's natural scenic or forest landscape in perpetuity.

(D) *Recompense reduction for additional natural features.* Where the fee simple land donation or conservation easement donated by the property owner is accepted as described above in this Section 158-53, the City Arborist may give additional recompense reduction of $5,000 per acre, prorated for partial acres, may be provided for every five Historic, Landmark, and specimen trees as defined in this Article.

Section 158-55. Replacement requirements for removal or destruction of trees on public property

Applicability. This Section 158-55 shall apply to Public Property Trees only.

(A) *Replacement of public property trees.* Any person removing or destroying a public property tree must replace the tree(s) pursuant to the rules set forth in this Article, unless otherwise exempted by this Article.

(B) *Inch-per-caliper-inch replacement required.* Trees destroyed or removed from public property must be replaced such that the total DBH of replacement trees is equal to or greater than the cumulative DBH of the trees removed or destroyed. Replacement trees shall be planted in accordance with the tree replacement plan requirements set forth in this Article.

(C) *Exceptions and adjustments to inch-for-inch requirements.*

(1) Department of Watershed Management exemptions per Section 158-75 for Consent Decree projects supersede the general requirement.

(2) For Department of Watershed Management and Department of Public Works projects, inch-for-inch planting requirements may be adjusted for the following green infrastructure improvements, which support the health of trees, in accordance with the requirements listed below:

(a) Eligible infrastructure improvements which are installed in association with tree planting and preservation include tree wells, structural soils, bioswales, and rain gardens meeting specifications listed in Table 158-55 below.

(b) The applicant's site plan shall include a detailed description of infrastructure improvements and a summary of caliper-inch credits proposed.

(c) Eligible improvements must be located within the same NPU district or within one mile of the NPU boundary from which the tree was removed or destroyed.

(d) Proposed infrastructure improvements may not be otherwise required by Code and must be approved by the City Arborist.

(e) A minimum of 50% of the total replacement caliper inches required must be met by planting of replacement trees.

Table 158-55
Green Infrastructure Improvement on Public Property
Tree Planting Credits

Improvement	***Specs***	***Caliper inches credit***
Tree well *Tree planted without use of structural soil with min. depth of three feet.*	*up to 100 sq ft of soil	No additional credit
	101-125 sq ft of soil	.5" additional credit
	126-150 sq ft of soil	1" additional credit
	151-175 sq ft of soil	1.5" additional credit
	176-200 sq ft of soil	2" additional credit
	201-225 sq ft of soil	2.5" additional credit
	226-250 sq ft of soil	3" additional credit
	251-275 sq ft of soil	3.5" additional credit
	276-300 sq ft of soil	4" additional credit
	301-325 sq ft of soil	4.5" additional credit
	326-350 sq ft of soil	5" additional credit
	351-375 sq ft of soil	5.5" additional credit
	376-400 sq ft of soil	6" additional credit
	400+ sq ft of soil	6.5" additional credit
Tree well *Tree planted with use of structural soil, min. depth of three feet, and min. surface soil width as specified. (Amsterdam or Cornell mixes or high quality topsoil under reinforced concrete may be used with inspection and approval by City Arborist).*	up to 300 cubic ft of soil	No additional credit
	301-375cf; min width 6ft	.5" additional credit
	376-450cf; min width 6ft	1" additional credit
	451-525cf; min width 6ft	1.5" additional credit
	526-600cf; min width 6ft	2" additional credit
	601-675cf; min. width 8ft	2.5" additional credit
	676-750cf; min. width 8ft	3" additional credit
	751-825cf; min. width 8ft	3.5" additional credit
	826-900cf; min. width 8ft	4" additional credit
	901-975cf; min. width 8ft	4.5" additional credit
	976-1050cf; min. width 8ft	5" additional credit

	1051-1125cf; min. width 8ft	5.5" additional credit
	1126-1200cf; min. width 9ft	6" additional credit
	>1200cf; min width 9ft	6.5" additional credit
Permeable concrete or pervious pavers	Installed adjacent to tree well.	.01 caliper inch of credit for each square foot, up to 675 square feet per tree (or 6.75 inches).
Bioswales	5,000 sf drainage area; loading ratio of 10 to 1; within 10 feet of tree.	2.5 inches additional credit
Rain gardens	Min. 5,000 sf drainage area; rain garden within 10 feet of the tree (s).	2.5 inches additional credit

Section 158-56. Appeal of recompense and replanting requirements

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

(B) *Finding of hardship may reduce recompense owed.* The Commission shall create written guidelines by which to determine whether and to what extent hardship exists. In the event that the Tree Conservation Commission decides that recompense should be assessed, but finds that the amount of recompense owed constitutes a financial hardship, the Commission shall have the authority to reduce or eliminate the recompense amount owed, provided that said decision is consistent with the guidelines. The guidelines shall include a requirement that the person requesting a finding of financial hardship make a written request and provide documentary evidence of such hardship. The specific documents to be provided shall be determined by the Commission. The Commission shall apply these guidelines consistently for all hardship requests and shall issue a written decision regarding hardship and the basis for the decision.

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

Section 158-57. Parking lot landscaping and tree planting requirements

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

(A) *Landscaping requirements for parking lots.*

(1) *Minimum landscaped area.* Surface parking lots shall have a minimum interior landscaped area within the parking lot equal to at least ten percent of the paved area of such lot.

(2) *Landscaped areas adjacent to sidewalks and other rights-of-way.* Continuous landscaped areas of at least five 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.

(3) *Landscaped areas between parking spaces.* A landscaped area shall be installed after every group of 20 contiguous parking spaces. The area shall be a minimum of six feet in width and 20 feet in length unless adjacent to a compact car space and reduced to fit, per City Arborist's approval.

(4) *Landscaped areas in large lots.* For lots of 30 or more spaces with two or more parking rows, every other parking row shall be divided by a landscaped area at least nine feet in width unless the conditions do not permit and the requirement is exempted by the City Arborist.

(5) *Barrier curbs and wheel stops.* Where the end of a parking space abuts a landscaped area, barrier curbs or wheel stops shall be installed in the parking space at a minimum of two feet from the landscaped area. The two-foot area may be comprised of a pervious material. Barrier curbs and wheel stops shall be a minimum of six inches high and eight inches wide. The barrier curbs and wheel stops must be constructed of concrete, stone or other durable material, and may have openings that allow drainage from the pavement to enter and percolate through the landscaped areas.

(6) *Ground cover of landscaped areas.* Landscaped areas shall contain one or more of the following types of ground cover in order to protect tree roots and prevent erosion: shrubs, organic mulch, pine straw, or other similar landscaping materials. Ground cover shall be maintained at all times and mulch shall not exceed three inches in depth. Shrubs shall be maintained at a maximum height of 2.5 feet, except where such shrubs screen the parking surface from an adjacent property. Plants shall not be planted within the structural root plate of trees; plantings within the critical root zone of trees shall be dug by hand.

(B) *Tree planting requirements for parking lots.* In evaluating the tree plan for parking lots, the City Arborist shall require that trees be planted in a location and manner that facilitates survival and growth of the tree(s).

(1) *Number and type of trees.* A minimum of one tree per eight parking spaces shall be planted in and/or on the perimeter of the parking lot. Newly planted trees shall meet the following requirements:

(a) Trees shall be a minimum of 2.5 inches in caliper as measured at a height six inches above ground level and shall meet nursery standards per ANSI Z-60, 1-2004.

(b) Trees shall have an anticipated mature height of at least 40 feet (except under utility lines).

(c) Trees shall have a minimum limb clearance of 4.5 feet.

(d) Trees shall be drought-tolerant.

(e) Trees shall be broad-leaved overstory or mid-story shade trees.

(f) Trees shall be on the City's Recommended Planting List and approved by the City Arborist.

(2) *Credit for trees retained.* For the purpose of satisfying the tree-planting requirement, credit shall be given for retention of each existing healthy tree with a critical root zone within five feet of the parking lot which meets the criteria of Subsection (B)(1) above and the criteria of soil surface set forth in Subsection (B)(3) and (B)(5) below. A maximum credit of five trees may be given per each retained three with a critical root zone that reaches within five feet of the parking lot; credit will equal one replacement tree per each 2.5 inches DBH of inches retained.

(3) *Soil surface area without use of structural soil.* Except as set forth in Subsection (B)(4) immediately below, each tree must must meet the following soil surface dimensions and utilize high quality native or amended quality soil, per specifications:

(a) Large canopy (overstory) trees: 400 square feet with one dimension of at least nine feet.

(b) Medium canopy (mid-story) trees: 225 square feet with one dimension of at least nine feet.

(c) Small canopy (understory) trees: 100 square feet with one dimension of at least nine feet.

(4) *Soil volume with use of structural soil or suspended concrete over high quality topsoil.* For landscaped areas containing one or more trees where total soil surface area requirements cannot be met, trees may be planted if the criteria below are met.

(a) Minimum soil volume must be as follows:

(1) Large canopy (overstory) trees: 1,200 cubic feet; minimum soil depth of three feet; minimum width of nine feet.

(2) Medium canopy (midstory) trees: 675 cubic feet; minimum soil depth of three feet; minimum width of eight feet.

(3) Small canopy (understory) trees: 300 cubic feet; minimum soil depth of three feet; minimum width of six feet.

(b) Structural soils such as Amsterdam or Cornell mixes or an equivalent system, or use of high quality soil under reinforced concrete/cells that is approved by the City Arborist must be utilized. Installation and inspection requirements described in the Standards of Practice must be followed.

(c) The City Arborist may require that pervious pavers or pervious pavement be used in a manner that increases water retention by the structural soils if the Arborist determines that these improvements are needed to ensure that the tree will flourish and have a reasonable life expectancy.

(5) *Spacing.* Trees must be planted no less than 42.5 feet apart (as measured on center). The base of the tree closest to the edge of the paved parking lot must be no more than ten feet and no closer than five feet from the pavement. Trees shall be planted a minimum of 30 inches from any barrier curb so as to prevent injury to trees from vehicle bumpers.

(6) *Maintenance.* Maintenance of trees planted pursuant to this Article shall meet the requirements of Replacement Tree maintenance set forth in Section 158-57(B)(5) above and when trees fail shall be replaced within one year by the current owner.

(7) *Credits for green infrastructure, double-sided landscape areas, and overstory trees.*

(a) *Green infrastructure credit.* When trees are incorporated in bioretention areas e utilized in the design of the parking lot, and such practices meet the design standards of the City Code, Chapter 74 Article X, entitled City of Atlanta Post-Development Stormwater Management Ordinance the City Arborist may give double credit for each tree, not to exceed five inches per tree.

(b) *Landscape area between parking rows.* Where a parking lot has a two rows of parking that are separated by one continuous Landscaping Area, and where trees are planted in the landscaping area consistent with the requirements of this Article, each mid-story and overstory tree shall be credited as two trees.

(c) *Overstory trees.* Where overstory trees are planted in parking areas in lcoations in addition to the landscape area described in Subsection (B)(7)(b) above and meet the planting requirements of this Article, each tree shall be credited as two trees,

(d) *Cap on credits.* Credits described in the Subsection (B)(7) shall not result in a total number of trees of less than one tree per 16 parking spaces.

(8) *Existing parking lots.*

(a) If it is determined by the City Arborist that implementation of these regulations will result in the loss of parking spaces in an existing lot, the Director of the Office of Buildings or her/his designee may increase the allowable percentage of compact car spaces from 25% up to 35% to minimize the loss of parking spaces.

(b) For existing parking lots with fewer than 30 spaces, no more than three percent of parking spaces may be required to be lost to meet the requirements of this subsection. For existing parking lots with 30 or more spaces, no more than ten percent of parking spaces may be required to be lost, provided that the minimum number of spaces required by Code are retained.

(9) *Administrative variances authorized.* The Director of the Office of Buildings is authorized to grant administrative variances to the requirements of this parking lot subsection upon written application by any person subject to this Article. A variance shall be granted only if all of the following findings can be made:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, subsurface conditions, and/or overhead structures; and

(b) Such conditions are peculiar to the particular piece of property involved; and

(c) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Article and of Part 16 (Zoning) of the Code.

Section 158-58. Requirements for construction and issuance of certificate of occupancy

(A) *Preconstruction conference required.* Upon approval of any permit for grading, demolition, or construction, no work shall commence, no grading shall be undertaken, and no trees shall be removed prior

to a preconstruction conference on the site between the City Arborist and the applicant or his/her designee. The City Arborist shall inspect the site to assure the accuracy of permit application data and shall inspect tree protection fences and other protective devices which have been installed to protect trees. After the inspection is complete, the City Arborist shall document inspection results. Demolition, grading, or construction may proceed only upon City Arborist approval.

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

(B) *Site inspection required during construction.* A site inspection shall be conducted at least once during land disturbance, construction, or demolition activities to verify that the site work is proceeding in accordance with the approved site plan and all requirements of this Article.

(C) *Fencing during construction.* No activity, including construction material storage, shall occur in areas protected by tree fences. Tree protection fences must remain upright and in place as shown on the site plan at all times after land disturbance, construction or demolition begins. Fences must comply with all provisions of this Article, stamped site plans, and any permit conditions at all times throughout land disturbance, construction, or demolition activities. Fencing must remain in place until such time as construction is complete and final landscaping of a site requires its removal. Until the final Certificate of Occupancy is issued, the protected area within tree fencing shall contain two to four inches of organic mulch; no sod or turf shall be placed in this area.

(D) *Site inspection required prior to issuance of Certificate of Occupancy.* No Certificate of Occupancy shall be issued by the Director of the Office of Buildings or a designee with respect to any permit unless and until the City Arborist has inspected such site and confirmed that all replacement trees have been planted in accordance with this Article, all trees shown to be saved on the City Arborist-approved site plan have been saved in accordance with the provisions of this Article, and all fines and fees associated with illegal destruction or removal of trees have been paid in full.

DIVISION VII. VIOLATIONS AND ENFORCEMENT

Section 158-59. Enforcement Authority

The Office of Parks, Office of Buildings, Atlanta Police Department, Tree Conservation Commission and Atlanta Municipal Court shall be charged with the enforcement of this Article. Employees of the Office of Parks and Office of Buildings Arborist Divisions shall have police power to perform all acts necessary for enforcement.

Section 158-60. Finding of violation- notification to responsible party

Where a person with enforcement authority finds that a violation of this Article has been committed, s/he shall provide written notice of said finding to the responsible party/parties by issuance of a Warning, a Notice of Violation or a Citation. Violations of this Article include without limitation failure to perform remedial acts required by the City Arborist, and failure to pay recompense or fines assessed pursuant to this Article.

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

(1) *Warning.* A warning may be issued by the City Arborist where: a) none of the responsible parties has been charged previously with a violation of this Article (including receipt of a warning); and b) the City Arborist finds that the violation has not caused any apparent harm to the tree, including without limitation any part of the tree's critical root zone. A warning may be issued verbally first, but must be documented and issued to the responsible party in writing within seven working days thereafter. Where the responsible party is issued a warning only, s/he shall not be charged penalties pursuant to Code Section 1-8.

(2) *Notice of Violation.* Any person with enforcement authority of this Article, as described herein above, may issue a notice of violation to a responsible party or parties for an alleged violation of this Article. Notices of Violation are subject to the jurisdiction and rules of the Tree Conservation Commission and may be appealed thereto. The Code Section 1-8 penalties applied pursuant to a Notice of Violation shall be limited to monetary fines.

(3) *Citation.* Any person with enforcement authority of this Article, as described herein above, may issue a citation to a responsible party for an alleged violation of this Article.

(a) Citations are subject to the jurisdiction and rules of the Atlanta Municipal Court and may be appealed thereto. Citations may not be appealed to the Tree Conservation Commission.

(b) If the Municipal Court finds the defendant in violation of this Article, it shall order that the actions required by the City Arborist to obtain compliance with this Article be implemented, and shall assess fines or other penalties pursuant to Code Section 1-8.

(E) *Specification of violations and remedial acts required.* Notices of Violation, Citations, and the written documentation of warnings shall state with specificity the actions or failures to act that are the basis of the charges and the Code sections that have been violated. The City Arborist shall identify the remedial actions required in order to comply with this Article.

(C) *Penalties.* Where a Notice of Violation or Citation is issued, all responsible parties may be subject to the penalties set forth in this Article and in Code Section 1-8.

(D) *Depositing funds.* Any recompense and fines recovered pursuant to this Section 158-73, excluding court costs, shall be deposited into the Tree Trust Fund.

Section 158-61. Remedial actions required for compliance with Article after violation

(A) *Remedial actions.* If the City Arborist reasonably determines that someone has violated the terms of this Article, s/he shall determine the replacement and recompense owed if the tree is destroyed, or may require alternatives to replacement and recompense where the tree may be saved ("remedial actions"). Where more than one responsible party exists, only one shall be required to perform the remedial actions. The City Arborist shall have authority to require remedial actions by a responsible party whose specific actions or inaction violated the Article; however, the property owner shall be the party ultimately responsible for performing such remedial actions.

(1) *No apparent harm to tree.* Where the City Arborist finds that the violation has not caused any apparent harm to the tree, including without limitation any part of its critical root zone, s/he shall identify the acts needed to comply with the Article and shall require that the responsible party perform said remedial actions within a set period of time. No recompense shall be charged.

(2) *Tree is destroyed or removed: replacement and recompense.* Where the City Arborist finds that the violation has resulted in the destruction of the tree, as defined in this Article, the City Arborist shall assess the replacement and recompense owed. The density requirements for the property, as set forth in Table 158-44 above, must be met. The responsible party shall be required to replant and/or pay recompense as described in Division VI above. Where the City Arborist is unable to determine the DBH inches of trees removed and/or the quantity of trees removed, replacement and recompense calculations shall assume the existence of 1,000 inches of DBH per acre, and shall impose a fine of $60,000 per acre of land where the offenses occurred, prorated for property less than one acre in size.

(3) *Tree may be saved: prescriptive measures.* Where the City Arborist finds that despite the violation, the tree may be saved, s/he may require performance of specific tree-saving measures, including without limitation application of a silvicultural prescription, and shall establish a time-frame for performing such measures. The City Arborist may require that the responsible party obtain an assessment of the condition of 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 time-frame, replacement and/or recompense will be owed. In addition, failure to implement the required tree saving measures within the established time-frame shall be deemed an additional violation of this Article.

(a) *Cost of assessment.* Where the City Arborist requires the responsible party to obtain an assessment of the tree's condition and the assessment reveals that the tree cannot be saved, the reasonable, documented cost of the assessment shall be deducted from the recompense owed by the responsible party.

(b) *Cap on assessment and tree saving costs.* The City shall not require assessments and tree saving measures for which combined costs exceed the recompense that would be owed if the tree were destroyed.

(B) *Appeal rights.* Any party aggrieved by a City Arborist decision made pursuant to this Section 158-61 may appeal the decision to the Tree Conservation Commission as set forth in Section 158-65 below.

Section 158-62. Penalties

(A) *Violations.* In addition to the violations described above, for which a Notice of Violation or Citation is issued, the following shall be deemed violations of this Article and the Responsible Party shall be issued a Notice of Violation or Citation:

(1) 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, including without limitation a tree replacement plan, site plan, and photographs.

(2) It shall be a violation of this Article to fail to abide by the material conditions set forth in a tree removal permit issued by the City.

(B) *Penalties.* Any person who is issued a Notice of Violation or a Citation, and who is found in violation of any of the provisions of this Article shall be deemed guilty of an offense and shall be subject to the penalties set forth in Code Section 1-8. These penalties shall be in addition to the remedial actions required of the violator.

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

(1) Where the Enforcement Authority is able to determine the exact number of trees removed or destroyed in violation of this Article, the responsible party shall be fined no less than $500.00 for the first tree violation. The fine for all subsequent tree removal or destruction violations by the responsible party shall be $1,000, regardless of whether the violations occur on separate properties. If the first violation is for destruction of a Historic, Landmark, or specimen tree, the fine shall be $1,000. Each tree upon which a violation occurred may be deemed a separate violation of this Article.

(2) Where the Enforcement Authority is unable to determine the exact number of trees upon which a violation of this Article occurred, the assessed fine shall assume a density of 1,000 inches DBH and 60 trees per acre, and shall impose a fine of $60,000 per acre of land where the offenses occurred. Where the subject area is smaller than one acre, the fine shall be prorated.

(3) A fine of $1,000 shall be imposed for each violation of a stop work order issued pursuant to this Article.

(4) 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 Enforcement Authority, and no minimum amount shall apply.

(5) 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 a separate offense.

Section 158-63. Suspension or revocation of tree removal permit

Where the City Arborist reasonably finds that the material terms of a permit issued pursuant to this Article are not being met, the City Arborist may suspend or revoke the permit via written notification to the permittee(s).

(A) *Contents of notice of suspension or revocation.* Notice of suspension or revocation must be provided in writing to the property owner, and shall include without limitation the basis for the action, the evidence supporting the determination, and the right to appeal the decision to the Tree Conservation Commission.

(B) *Term of suspension or revocation.* The permit suspension or revocation shall remain in effect until the City Arborist finds that the permittee has come into compliance with the material permit terms and conditions and any related provisions of this Article.

Section 158-64. Stop work orders

Any person with enforcement authority of this Article may issue a stop work order to a property owner or other responsible party for an alleged violation of this Article where the immediate cessation of work is needed to address, prevent, or assess harmful actions or damage associated with the alleged violation, including without limitation to stop the unpermitted removal or destruction of a healthy non-hazardous tree.

(A) *Applicability.* The stop work Order may apply to any location where and/or activity for which the immediate cessation is needed as described above.

(B) *Activity permitted after receipt of order.* In a location that is subject to a stop work order, only activities needed to correct the violation and/or prevent or eliminate hazardous conditions are permitted.

(C) *Term of order.* A stop work order will be lifted upon a finding by the City Arborist that the necessary corrective actions or remedial measures have been implemented as required.

(D) *Penalties for violating order provisions.* Violating the provisions of a stop work Order constitutes an offense subject to the penalties set forth in Code Section 1-8. Penalties shall be cumulative.

(E) *Relation to other enforcement actions.* The issuance of a stop work order does not preclude the City from proceeding with any other enforcement actions authorized by this Article.

(F) *Cease and desist orders.* The Atlanta Police Department shall have the authority to respond to a report of suspected illegal removal or destruction of trees. If an officer determines that a stop work order is warranted, including without limitation because a tree is being removed or destroyed and no tree-removal permit is on the premises, the Atlanta Police Department may issue a cease and desist order that terminates at the conclusion of two business days from the date of issuance. The City Arborist shall assess the alleged illegal activity and determine what, if any, corrective action is needed, including without limitation issuance of a stop work order. The City Arborist shall have the authority to lift the cease and desist order prior to its natural expiration.

Section 158-65. Appeal of penalties

Where a penalty citation indicates that a hearing will be held in the Atlanta Municipal Court, the aggrieved party shall not have the right to appeal to the Tree Conservation Commission. All other aggrieved parties may appeal the penalties set forth in this Division pursuant to the procedures established by Section 158-71.

DIVISION VIII. TREE CONSERVATION COMMISSION

Section 158-66. Establishment; function, powers, duties

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

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

(1) Hearing and ruling upon appeals of decisions made by a City Arborist regarding application of this Article.

(2) Hearing and ruling upon requests for waivers and reductions of fees, recompense and fines based upon a claim of hardship as provided in Section 158-56.

(3) Serving as a citizen advisory panel for administration and enforcement procedures of this Article.

(4) Reviewing and advising on arboricultural specifications and standards of practice implemented by the City Arborist.

(5) Providing consultation and assistance regarding the preparation and implementation of an Urban Forestry Master Plan.

(6) Designating and maintaining a written record of Historic and Landmark Trees.

(7) Providing review of and recommendations to the Atlanta City Council regarding expenditures from the Tree Trust Fund.

(8) Establishing educational and other programs to encourage proper management and maintenance of trees on private and public property in the City.

Section 158-67. Appointment of members and Commission composition

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

(A) *Mayoral appointees.*

(1) One ISA-certified private arborist;

(2) One registered architect;

(3) One landscape architect;
(4) One botanist, forester, horticulturist, nursery worker, or arborist;
(5) One member of an environmental organization; and
(6) One lay citizen interested in environmental protection.

(B) *City Council appointees.*
(1) One residential or commercial builder or developer appointed by the full City Council;
(2) One urban planner or environmental resource planner appointed by the President of the City Council; and
(3) Three citizens appointed by the paired districts in consultation with the at-large City Council member.

(C) *Manner of appointment for members from paired Council districts.* The Council shall appoint the three members in the following manner:
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.

Section 158-68. Terms; vacancies; 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 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.

(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, and/or the impact of construction activities on trees.

(D) *Compensation of members.* Each Commission member shall receive a $75.00 per month honorarium, but only if the member attends at least two of the hearings and/or business meetings per month.

(E) *Removal and replacement of members.* The Mayor, or the Commission by majority vote of all members, may remove a Commission member for nonperformance of duty or failure to meet the attendance requirements established by the Commission.

Section 158-69. Administrative meetings and hearings

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

Section 158-70. Staff; administrative analyst; court reporter

(A) *Clerk to Commission.* The Commissioner of the Department of Planning and Community Development shall designate an employee of the department as clerk to the Tree Conservation Commission. The clerk also shall be responsible for the administration of the appeals process established in Section 158-71, 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 also shall 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.

(B) *Tree Conservation Commission staff.* The Commissioner of the Department of Planning and Community Development shall designate an additional employee of the department to serve as the Tree Commission's administrative analyst. The administrative analyst's primary responsibility shall be education, outreach, and policy development regarding tree maintenance and preservation, implementation of the Urban Forestry Master Plan, and other similar issues arising from this Article.

(C) *Court reporter.* The Commission's appeal hearings shall be recorded by a court reporter who is paid for from the proceeds of the Tree Trust Fund.

Section 158-71. Appeal of decisions of City Arborist

(A) *Authority to hear appeals.* The Tree Conservation Commission is authorized to hear and rule upon the following issues provided that the application for appeal meets all of the requirements of this Article:

(1) Appeals of decisions made by a City Arborist regarding application of this Article;

(2) Requests for waivers and reductions of fees, recompense and fines based upon a claim of hardship as provided in Section 158-56;

(3) Appeals of denial to remove an alleged dead, dying or hazardous tree on private property or on non-City-owned property, but only where the appeal is filed by the applicant. There shall be no right of appeal for trees on City-owned property or for non-applicants.

(4) Appeals regarding the removal of a dead, dying, and hazardous tree posing an imminent danger on private property and non-City-owned public property, but only where the appeal is filed by the applicant or property owner on which the tree is located.

(B) Who may appeal and timing of appeal.

Appeal rights are set forth throughout this Article, and specifically in the following locations:

(1) *Dead, dying and hazardous trees*

(a) In general: Subsection 158-71(C)

(b) Trees posing imminent danger: Subsection 158-32(B)(3)(c)

(c) Nuisance trees: Appeals subject to Atlanta Code Enforcement provisions, Code Section 17-9013(a)5.

(2) *Healthy non-hazardous trees.*

(a) Construction, demolition, and landscaping tree removals - application denial: Subsection 158-38(C)(6)

(b) Construction, demolition, and landscaping tree removals - application approval: Subsection 158-38(E)

(c) Undesirable species tree removals: Subsection 158-39(D)

(d) Proximity to dwelling tree removals: Subsection 158-40(I)

(e) Public safety tree removals: Subsection 158-41(I)

(f) Department of Watershed Management tree removals: see Section 158-74

(3) *Replanting and recompense requirements.* Section 158-45(E).

(4) *Penalties, including without limitation fine, permit suspensions, or revocations, and stop work orders.* See Division VII: Violations and Enforcement.

(C) *Appeal requirements.*

(1) *Submission of appeals.* All appeals must be filed with the clerk of the Tree Conservation Commission.

(2) *Filing fee.* An appeal shall not be deemed filed until the clerk receives a completed appeal package, along with either a $75.00 filing fee used to help defray the administrative costs of the appeal or a hardship letter requesting a fee waiver. Where a hardship letter is submitted, it must explain in detail why the appellant is unable to pay the fee. The Tree Conservation Commission shall determine whether to waive the filing fee at or before the time of the appeal hearing.

(3) *Appeal content.* The Notice of Appeal shall state, at a minimum, the name, address, phone number, and e-mail address (if any) of the appellant and whether the appellant is a resident of the City of Atlanta. If the appellant is not a resident of Atlanta, the address of a property or business owned by the appellant within the City of Atlanta shall be included. The appeal also shall include the address of the subject property and, if known and applicable, the name of the person(s) who filed a permit application for the property about which the appeal is being made.

(4) *Basis of appeal must be stated.* The Notice of Appeal Appeals shall specify, at a minimum: the appeal section(s) of this Article that the appellant believes was misinterpreted or misapplied by the administrative officer; the way in which the appellant believes the section should be interpreted or applied; and any facts material to the administrative officer's decision that the appellant believes were misinterpreted or misunderstood.

(5) *Appeal for only one property or project.* An appeal may challenge a decision(s) regarding one property or one project only.

(D) *Stay of activity after appeal is filed.* Filing an appeal shall result in a stay of activity only as set forth in Subsection 158-38(E)(5).

(E) *Notice of hearing.* The Commission shall give public notice of an appeal hearing as well as prompt written notice to the parties to the appeal. Public notice shall be given by the clerk of the Tree Conservation Commission in such a manner as shall be provided for in the rules for appeals adopted by the Tree

Conservation Commission, but in no event shall such notice be given less than ten calendar days before the date of the hearing.

(F) *Submission of evidence.* The property owner on which the subject tree is located and each additional party shall submit to the Commission Clerk all documentary evidence supporting his or her arguments at least one calendar week prior to the hearing except rebuttal evidence and evidence not available one week prior to the hearing.

(G) *The appeal hearing.*

(1) *Who may appeal.* At the hearing, the property owner and any party may appear in person or be represented by an agent or by an attorney.

(2) *Quorum.* Three members constitute a quorum of the Tree Conservation Commission for an appeal hearing. The decision on any appeal shall be determined by a majority vote of the Tree Conservation Commission members present and voting on the appeal.

(3) *Appeal of decision.* The Tree Conservation Commission shall issue a final decision at the hearing where the appeal is presented, except that the Commission may defer a decision if they find that additional evidence is required to render such decision. In such event, the Commission shall delineate the evidence needed and shall provide a reasonable time certain in which the evidence must be submitted. The Tree Conservation Commission may issue one additional deferral for a period not to exceed three weeks upon a finding that the parties have diligently attempted to obtain the additional evidence and need extra time. The Tree Conservation Commission shall issue a final decision on the appeal at the first hearing immediately following receipt of the additional evidence.

(H) *Tree Conservation Commission's ruling.*

(1) *Decision of Commission.* Except as described in Subsection (I)(2) and (I)(3) below, the Tree Conservation Commission shall sustain an appeal upon an express finding that the City Arborist's action was based upon a misinterpretation, erroneous finding of a material fact, or an erroneous application of law. If no such finding is made, the Commission shall deny the appeal. The Commission shall have the authority to reverse, affirm, wholly or partly, or modify the City Arborist's decision being appealed, and to that end shall have all of the powers of the City Arborist. These powers shall include, where applicable, the power to direct the issuance of a tree removal permit, provided that all requirements imposed by this Article and all other applicable laws are met.

(2) *Financial hardship.* The Tree Conservation Commission shall establish written guidelines for determining the existence of financial hardship and shall apply the guidelines uniformly. Where an appeal of recompense, fines and/or filing fee amount is premised on a claim of financial hardship, the Commission shall decide the appeal based upon the application of these guidelines. The Commission shall issue a written decision stating the basis for the hardship determination.

(3) *Unique or special conditions.* The Tree Conservation Commission shall have the authority to sustain an appeal based upon a finding of a unique or otherwise special existing condition not addressed by this Article. Any appellant requesting that an appeal be upheld on this ground must make the request on the initial appeal form and must provide documentary evidence of the unique or special condition. When the Commission finds that a special condition exists which justifies sustaining the appeal, the Commission shall have the authority to reduce or eliminate the amount owed if applicable. Where the Commission's decision is based upon a special or unique condition, its order shall be written and shall include the supporting findings and documentation.

(I) *Invalid appeals.* An appeal may be dismissed as invalid by a vote of the Commission in advance of the time that would be set for hearing. In such instances, the members may be polled without meeting. An appeal is invalid 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 invalid, the stay on the activity appealed shall be lifted immediately and all parties shall be notified in writing by the clerk.

Section 158-72. Appeal of decision of Tree Conservation Commission

(A) *Appeal of Tree Conservation Commission decision to Superior Court.* Any person aggrieved by a decision of the Tree Conservation Commission, or any 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.

(B) *Lifting of stay.* Any person desiring to appeal a decision of the Tree Conservation Commission shall notify the clerk of the Commission, in writing, of such intent within six business days of the date of the written decision of the Commission. Barring such notice of intent, the stay on the activity that was the basis for the decision appealed shall be lifted and the Commission's decision shall take effect. This six-day waiting period shall not apply to the circumstances described in Subsection 158-71(J) above, pursuant to which the stay shall be lifted immediately upon the ruling of the Commission.

DIVISION IX. TREE TRUST FUNDS

Section 158-73. Tree Trust Fund

(A) *Establishment and purpose.* The City of Atlanta shall maintain a Tree Trust Fund for the protection, maintenance, and regeneration of trees and other forest resources of Atlanta. It is the policy of the City of Atlanta to utilize the Tree Trust Fund to ensure the replanting and establishment of trees when healthy trees are removed from private property and trees cannot be replaced on site in accordance with the provisions of this Article.

(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 under the Tree Trust Fund at least once between 23 and 24 months after planting and shall notify responsible party of the number of required replacement trees.

(B) *Recompense to be paid to fund.* All monies collected pursuant to this Article shall be paid to the Tree Trust Fund.

(C) *Authorized expenditures.* In addition to paying for the planting of new trees and maintenance of existing trees, the Tree Trust Fund may be used for the following expenses:

(1) *Program expenditures.*

(a) *Forested land purchases.* Trust funds may be utilized to purchase land meeting minimum forestation standards of 1,000 DBH inches and/or 50 trees per acre, provided that 1) the Departments of Planning and Parks shall establish written criteria for selection of eligible land purchases; 2) the Commissioner of the Department of Parks and Recreation and the Commissioner of the Department of Planning and Community Development provide a recommendation regarding the proposed purchase; and 3) legislative approval of the purchase requires that the land be preserved in perpetuity as forested land.

(b) *Forested easement purchases.* Trust funds may be utilized to purchase easements on land meeting minimum forestation standards of 1,000 DBH inches and/or 50 trees per acre, provided that 1) the Commissioner of the Department of Parks and Recreation and the Commissioner of the Department of Planning and Community Development provide a recommendation regarding the proposed purchase; and 2) legislative approval of the purchase requires that the land be preserved in perpetuity as forested land.

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

(d) *Educational expenditures.* 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, whichever is greater, shall be placed into a Tree Trust Fund Education Outreach account, and such monies shall be used for educational materials, educational programs, and educational outreach. Any amount not expended in the given fiscal year shall remain in the account to be utilized in future years.

(e) *Park Pride matching program.* A tree planting matching program, administered by Park Pride, shall be funded in an amount not to exceed $100,000 per year. Each matching amount must be reviewed and

approved by the Commissioner of the Department of Parks and Recreation, or his designee, per Ordinance 04-0-2219.

(2) *Salary expenditures.*

(a) *Funds for City Arborist positions.* A maximum of $110,000 per year of the Tree Trust Fund may be used for the annual salary and benefits of two arborist positions in the Department of Planning and Community Development. In the event that the costs of the salary and benefits of these positions exceed $110,000.00, the remainder of the cost shall be assumed by the General Fund budget in the Department of Planning and Community Development.

(b) *Funds for Senior Arborist.* A maximum of $75,000 per fiscal year of the Tree Trust Fund may be used to pay for the annual salary and benefits of an Arborist Senior/Project Manager position. The person in this position shall act as a project manager for the various projects funded by Tree Trust Fund monies, namely new tree plantings, tree maintenance, removal of invasive plant species from forested areas, and master planning. All of the responsibilities of this position must be related to oversight of projects financed by the Tree Trust Fund, including planting and maintenance of trees within the City, research and identification of qualifications required for proposals for contractors that will perform tree maintenance and planting, and preparation of requests for proposals for contractors that will perform tree maintenance and planting.

(c) *Urban Forestry Crew.* A maximum of $200,000 per year of the fund may be used to pay for the annual salary and benefits of an Office of Parks Tree Pruning Crew. The Tree Pruning Crew shall be comprised of one Forestry Crew Supervisor, one Tree Trimmer Senior, and one Tree Trimmer. The members of this crew will be responsible for providing services that maintain and enhance the health of the City's tree canopy, including pruning and limbing trees that are located in City-owned parks and rights-of-way.

(d) *Administrative analyst.* A maximum of $60,000 per year of the Tree Trust Fund may be used to pay for the annual salary and benefits of the administrative analyst. In the event that the cost of the salary and benefits exceeds $60,000, the remainder of the cost may be paid for from the Tree Trust Fund's education account.

(3) *Urban Forest Master Plan.* Tree Trust Fund monies may be expended on activities associated with implementation of the City's Urban Forest Master Plan.

(4) *Tree canopy study.* Tree Trust Fund monies may be expended to update tree canopy imagery and analyses on a five- to seven-year update cycle.

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

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

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

Section 158-74. Special requirements for the Department of Watershed Management for tree removal based upon achieving compliance with federal Consent Decrees

(A) *Permit required for removal or destruction.* The Department of Watershed Management may only remove, destroy, or injure any tree in order to comply with the Consent Decrees if one of the following conditions is met:

(1) *Removal or destruction of private property tree.* Removal or destruction of any private property tree as defined in Section 158-29, including without limitation private property trees in City easements over private property and private property trees located in part on City-owned property, may occur when such action is required for compliance with the Consent Decrees and a removal permit has been obtained from the appropriate authority. Permit decisions for trees located wholly on private property or trees deemed private property trees shall be made by the City Arborist in the Department of Planning and Community Development.

(2) *Removal or destruction of public property tree.* Removal or destruction of any public property tree as defined in Section 158-29, including without limitation public property trees located in City parks, on streets, sidewalks, and other property owned by the City of Atlanta, may occur when such action is required for compliance with the Consent Decrees and a removal permit has been obtained from the appropriate permitting authority. Permit decisions for trees located wholly on public property or trees deemed public property trees shall be made by the Parks Arborist.

(B) *Submission of permit application.* The City's Department of Watershed Management must submit an application to the appropriate permitting authority in a form prescribed by said permitting authority. For public property trees, application may be made by projects, as defined in the Consent Decrees. Permit applications for public property trees may be made on a quarterly basis, provided that the application for each tree to be removed is submitted and approved prior to the tree's removal.

(1) *Site plan required.* The Department of Watershed Management shall submit a site plan drawn to scale that meets the standards set forth in Division V. This site plan must include each tree's critical root zone, structural root plate, identification of boundary trees (if any), silvicultural prescriptions to be used (if applicable), and the construction methodology to be utilized by location. It also shall provide the total DBH of all trees to be removed and a calculation of the percentage of damage on each tree that is not removed.

(2) *Tree survey required.* A survey shall be required showing all damaged trees that will not be removed, though the survey may be performed by GPS coordinates, via a sketch describing each tree and showing its DBH. The sketch need not be performed by a registered surveyor or landscape architect.

(3) *Identification of Historic, Landmark, and specimen trees required.* The Department of Watershed Management's site plan must designate all Historic, Landmark, and specimen trees, except for the special condition of a public health emergency as described in Section 158-41. The City Arborist may discuss with the Department of Watershed Management alternative routes for the work to be performed that may allow the Historic/Landmark/specimen tree to survive, though the City Arborist may not deny the removal/destruction permit in the event the Department of Watershed Management is unable to identify an alternative route.

(4) *Tree replacement plan required.* The proposed location of any replacement plantings required pursuant to Division V should be included in the application.

(a) *Exception.* The Parks Arborist need not approve a tree replacement plan prior to issuing a tree removal permit when the Commissioner of the Department of Watershed Management or his/her designee, working in good faith cooperation with the Director of the Office of Parks or his/her designee, is unable to identify locations in which to plant the number of requisite replacement trees at the time of granting the Consent Decree tree removal permit. Special replanting requirements detailed in Subsection 158-75 (B) and (C) shall apply to this circumstance.

(5) *Recompense calculation required.* If applicable, the amount of recompense owed pursuant to Section 158-50 shall be included in the application.

(6) *Special requirements for permit applications involving non-boundary trees in a City easement.* For trees located in a City easement that are not boundary trees, the Department of Watershed Management may destroy, remove, and/or injure trees as prescribed in Section 158-37 of this Article, except that the number of trees to be destroyed, removed, and/or injured may be determined by acre rather than by tree-per-tree or sampling techniques, and except that Historic, Landmark, and specimen trees need not

be identified. A site plan drawn to scale shall be required for these trees showing locations of damaged trees by acre, but not showing individually damaged trees. No survey shall be required.

(7) *Property owner consent not required.* The City Arborist shall not require the Department of Watershed Management, as part of its Consent Decree tree removal permit application, to produce evidence of consent by a private property owner regarding removal or destruction of a tree that impacts said private property owner's property. Impact of tree removal from privately-owned property will be addressed directly by the Department of Watershed Management.

(C) *Posting not required for Consent Decree tree removal permit application.* No posting of private or public property is required prior to the issuance of a Consent Decree tree removal permit.

(D) *Exemption from Preliminary Approval requirements.* Applications for a Consent Decree tree removal permit are not subject to the Preliminary Approval requirements of Subsection 158-38.

(E) *Replacement and recompense.* Any removal, destruction, or injury of a tree authorized by a Consent Decree tree removal permit shall be subject to special replacement and recompense requirements found in Section 158-45 and Section 158-46 of this Article.

(F) *No right of appeal for Consent Decree tree removal permit.* No right of appeal is associated with a Consent Decree tree removal permit. The Tree Conservation Commission shall not have the authority to hear or in any other way consider an appeal regarding the granting or denial of such permit.

(G) *Report of removal, destruction, or injury without permit required; penalties.* Where a tree is removed, destroyed, or injured without a Consent Decree tree removal permit by the Department of Watershed Management, its contractor, or any City employee or contractor during work related to the Consent Decrees, the Department of Watershed Management must report the removal, destruction, or injury to the appropriate permitting authority by the close of the following business day. In such instance, the permitting authority shall calculate the tree replacement required and/or recompense due. Where the City Arborist learns of a Consent Decree-related tree removal or destruction caused and not timely reported by the Department of Watershed Management or its contractor/subcontractor, the appropriate City authority shall institute enforcement actions pursuant to Section 158-59 of this Article, and also shall require that recompense be paid and/or replacement be performed pursuant to Sections 158-60 and 158-61.

Section 158-75. Tree replacement standards for tree removal based upon achieving compliance with federal Consent Decrees

(A) *Tree replacement required for federal Consent Decree work.* The Department of Watershed Management shall replace all public property trees that it destroys, removes, or injures on property owned by the City of Atlanta, such that the DBH of the replacement trees is equal to or greater than the cumulative DBH of the trees removed, destroyed, and/or injured. Replacement plantings should be in accordance with the tree replacement plan and exceptions described under Subsection (B) below.

(B) *Replacement tree requirements.* The City Arborist need not require the replacement trees to meet the descriptions set forth in Section 158-46, but rather may give replacement tree credit for newly planted trees to the Department of Watershed Management as follows:

(1) The replacement trees need not be located within the same NPU district or within one mile of the NPU boundary from which the tree was removed or destroyed.

(2) The Department of Watershed Management shall not be required to replant trees within a City easement.

(3) For replacement trees that meet the requirements of Section 158-46, the replacement credit shall be the DBH of the replacement tree.

(4) If more than 15 but fewer than 50 replacement trees are being planted on a site, a single species shall comprise no more than 35 percent of all replantings. If 50 or more replacement trees are being planted on a site, no more than 30 percent of all replacement trees shall be of the same species.

(5) The Department of Watershed Management may plant understory trees on public property for the purpose of restoring stream banks or other environmentally sensitive areas. The replacement credit shall be the DBH of the replacement tree.

(6) The Department of Watershed Management may receive replacement credit for planting a live stakes, as defined in Section 158-29, on public property for the purpose of stream bank erosion control, stream bank stabilization, or stream or wetland restoration. The replacement credit shall be the DBH of the

live stake, except that a live stake with a DBH that is less than one caliper inch shall be credited as one caliper inch.

(7) The Department of Watershed Management may receive replacement credit for removal of invasive species from trees on public property where the species threatens the life of the tree. The replacement credit shall be for the DBH of the saved tree as determined by the Parks Department.

(C) *Special replanting requirements in the event appropriate location cannot be found for required replacement trees at time of tree removal permit approval.* The Parks Arborist need not approve a tree replacement plan prior to issuing a Consent Decree tree removal permit, provided that all of the following conditions exist:

(1) The Director of the Office of Parks, or his/her designee, calculates the number of caliper inches of trees that must be replanted in order to satisfy the tree protection ordinance's inch-per-inch replacement requirement. He or she shall communicate that number in writing to the Commissioner of the Department of Watershed Management or his/her designee.

(2) The Department of Watershed Management agrees to plant, at its own expense, the requisite number of trees, as calculated by caliper inch, within the time frame described in (4) below. It shall be the responsibility of the Department of Watershed Management to identify potential sites for replanting, but upon request, the Director of the Office of Parks, or his/her designee, shall make a good faith attempt to assist the Department of Watershed Management with this task.

(3) The Commissioner of the Department of Watershed Management or his/her designee, working in good faith cooperation with the Director of the Office of Parks or his/her designee, is unable to identify locations in which to plant the number of requisite replacement trees at the time of granting the tree removal permit.

(4) The Commissioner of the Department of Watershed Management and the Commissioner of the Department of Parks and Recreation enter into a letter of understanding that accompanies each Consent Decree tree removal permit. The letter of understanding must set forth those replacement inches for which locations already have been identified, and additionally the number of caliper inches that the Department of Watershed Management must and agrees to plant by a date certain, but for which locations have not yet been located. The date certain shall be no greater than one year after the effective date of the decree tree removal permit, except that under extenuating circumstances, the Commissioner or his/her designee may approve an extension. The letter of understanding also shall include the requirements set forth in Subsection 158-74(B).

(5) The exact location of the replacement trees, the type of trees, and the size of each tree must be approved by the Director of the Office of Parks or his/her designee prior to the trees being planted. The Department of Watershed Management shall guarantee the life of each replacement tree for two years from the time of planting. The Director of the Office of Parks shall forward this replanting information to the impacted Councilmember for review.

(6) The Department of Watershed Management must prepare an annual report showing, for each project for which a Letter of Understanding was executed, the number of trees planted, the size by caliper inch of each tree planted, the type of each tree planted, the approximate date of planting, and the remaining balance of trees for each application. This report shall be submitted to the Director of the Office of Parks no later than May 1 of each year.

(7) The Department of Parks and Recreation shall inspect the trees between 18 and 24 months after planting and shall notify the Department of Watershed Management of any required replacement trees.

(D) *Replacement trees must live for a minimum of two years or additional replacement required.* The Department of Watershed Management shall be responsible for maintaining the health of all replacement trees for a period of two years from the date of planting. The Department of Watershed Management shall replace any replacement tree which dies during this time period.

Section 158-76. Recompense requirements for tree removal based upon achieving compliance with federal Consent Decrees

(A) *Recompense authorized for federal Consent Decree work.* Recompense may be assessed for trees removed as part of Department of Watershed Management work pursuant to Division VI.

(B) *Recompense calculation.* Recompense for federal Consent Decree work shall be calculated according to the formula contained in Division VI.

(C) *Cap on recompense for federal Consent Decree work affecting non-boundary trees in a City easement.* For trees removed as part of Department of Watershed Management work pursuant to 158-51, a maximum shall be set on recompense at $20,000.00 per acre, pro-rated.

(D) *Credit against recompense for replanting associated with federal Consent Decree work.* The City shall give recompense credit to the Department of Watershed Management for newly planted trees only if the applicable replanting requirements set forth in this Article are met, but shall not give any recompense credit for new trees planted within the City's easement.

Section 158-77- 158-110. Reserved."

Section 2. This ordinance shall become effective thirty (30) days following signature of the Mayor or approval by operation of law.

Section 3. All ordinances and parts of ordinances in conflict herewith are hereby waived for purposes of this ordinance only, and only to the extent of the conflict.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Finance Executive Committee

Caption: AN ORDINANCE

BY COMMUNITY DEVELOPMENT/ HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA TREE PROTECTION ORDINANCE, SET FORTH IN ATLANTA CODE OF ORDINANCES CHAPTER 158 (VEGETATION), ARTICLE II (TREE PROTECTION), CODE SECTIONS 158-26 THROUGH 158-110, FOR THE PURPOSE OF REORGANIZING, CLARIFYING AND UPDATING THE SAME; AND SPECIFICALLY TO DELETE CODE SECTIONS 158-26 THROUGH 158-110 IN THEIR ENTIRETY AND REPLACE THEM AS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

Council Meeting Date: October 6, 2014

Requesting Dept.: Department of Parks and Recreation

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

THE PURPOSE OF THIS LEGISLATION IS TO AMEND THE CITY OF ATLANTA TREE PROTECTION ORDINANCE, SET FORTH IN ATLANTA CODE OF ORDINANCES CHAPTER 158 (VEGETATION), ARTICLE II (TREE PROTECTION), CODE SECTIONS 158-26 THROUGH 158-110, FOR THE PURPOSE OF REORGANIZING, CLARIFYING AND UPDATING THE SAME; AND SPECIFICALLY TO DELETE CODE SECTIONS 158-26 THROUGH 158-110 IN THEIR ENTIRETY AND REPLACE THEM AS SET FORTH HEREIN.

2. Please provide background information regarding this legislation.

.3. **<u>If Applicable/Known:</u>**

(a) Contract Type:

(b) Source Selection:

(c) Proposals Due:

(d) Invitations Issued:

(e) Number of Bids/Proposals:

(f) Proposals Received:

(g) Proponents:

(h) Term of Contract:

4. Fund Account Center: n/a

5. Source of Funds:

6. Fiscal Impact: n/a

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By: Trina Horton, Departmental Contracting Officer

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE **ATTN: CANDACE L. BYRD**

Dept.'s Legislative Liaison: Trina Horton

Contact Number: 404-546-6795

Originating Department: Department of Parks and Recreation / Department of Planning and C.D.

Committee(s) of Purview: Community Development/Human Resources

Chief of Staff Deadline: September 5, 2014

Anticipated Committee Meeting Date(s): September 30, 2014 and October 14, 2014

Anticipated Full Council Date: October 20, 2014

Legislative Counsel's Signature:

Commissioner's Signature:

Chief Financial Officer: N/A

Chief Information Officer Signature (*for IT Procurements*) N/A

Chief Procurement Officer Signature: N/A

CAPTION

AN ORDINANCE

BY COMMUNITY DEVELOPMENT/ HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND THE CITY OF ATLANTA TREE PROTECTION ORDINANCE, SET FORTH IN ATLANTA CODE OF ORDINANCES CHAPTER 158 (VEGETATION), ARTICLE II (TREE PROTECTION), CODE SECTIONS 158-26 THROUGH 158-110, FOR THE PURPOSE OF REORGANIZING, CLARIFYING AND UPDATING THE SAME; AND SPECIFICALLY TO DELETE CODE SECTIONS 158-26 THROUGH 158-110 IN THEIR ENTIRETY AND REPLACE THEM AS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: (if any)

Mayor's Staff Only

Received by CPO: _____ (date) **Received by LC from CPO:** _____ (date)

Received by Mayor's Office: Janice Oei 9/5/14 (date) **Reviewed by:** _____ (date)

Submitted to Council: _____ (date)