CITY COUNCIL
ATLANTA, GEORGIA

A SUBSTITUTE ORDINANCE **06-O-0205**

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**BY COMMUNITY DEVELOPMENT/
HUMAN RESOURCES COMMITTEE**

AN ORDINANCE AMENDING THE TREE PROTECTION ORDINANCE TO ALLOW CERTAIN INVASIVE EXOTIC SPECIES OF TREES TO BE REMOVED; TO PROVIDE THAT INVASIVE EXOTIC SPECIES OF TREES MAY NOT BE USED AS REPLACEMENT TREES; TO REMOVE THE REQUIRED PAYMENT OF MULTIPLES OF TREE RECOMPENSE; TO REQUIRE REPLACEMENT OF PINE TREES ONLY IF THE TREE IS LARGER THAN TWELVE INCHES DBH; TO CLARIFY THAT ANY AGENT OF BOTH THE DEPARTMENT OF PARKS, RECREATION AND CULTURAL AFFAIRS AND THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MAY ENFORCE THE TREE PROTECTION ORDINANCE; TO CLARIFY WHEN A TREE IS ON PUBLIC VERSUS PRIVATE PROPERTY; TO CLARIFY THAT TREES REMOVED FROM PUBLIC PROPERTY MUST BE REPLACED ON AN INCH PER CALIPER INCH REPLACEMENT BASIS; AND FOR OTHER PURPOSES.

WHEREAS, the most recent Tree Protection Ordinance was approved by the Atlanta City Council on January 6, 2003 and signed by the Mayor on January 13, 2003; and

WHEREAS, during the past two years, the enforcement of the Tree Protection Ordinance by the Office of Buildings, Office of Parks and the Tree Conservation Commission has revealed areas of the ordinance that may be improved; and

WHEREAS, in June 2005, the Atlanta City Council passed a resolution, 05-R-1086, establishing a Tree Ordinance Task Force that would be responsible for evaluating the current Tree Protection Ordinance and making necessary revisions thereto; and

WHEREAS, the Tree Ordinance Task Force has met and has evaluated the current Tree Protection Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, AS FOLLOWS:

Section 1: The Tree Protection Ordinance hereinafter shall treat certain non-indigenous species of trees (non-indigenous to the Piedmont region of the Atlanta area) differently from other species. These non-indigenous species of trees were selected on the basis of their invasion into natural areas, hazardous qualities, or their limited contribution to the urban canopy. Accordingly, the following changes are hereby made to the Code of Ordinances:

Code of Ordinances section 158-102, shall be amended as follows:

The first sentence of that section shall be prefaced with the letter (a). Therefore, the first sentence shall read:

> "(a) No permit shall be issued for the removal or destruction of any living and non-hazardous tree unless:"

In addition, Code of Ordinances section 158-102 shall be amended by adding a new section (b) that shall read as follows:

(b) The following species of trees, if twelve inches or smaller DBH and located on private property, are exempt from the posting, replacement, and recompense portions of this article, and from section 158-102(a)(3) of this article whereby a property owner may remove the tree located on her/his property without posting, replacing the tree or paying recompense: Mimosa - Albizia julibrissin; Tree of heaven - Ailanthus altissima; White mulberry - Morus alba; Paper mulberry - Broussonetia papyrifera; Chinaberry - Melia azederach; Princess tree - Paulownia tomentosa; Carolina cherry laurel - Prunus caroliniana; Bradford Pear - Pyrus calleryana; Leyland cypress -x Cupressocyparis leylandii. Where such species of tree is larger than twelve inches DBH and located on private property, the property owner need not post the tree, and need only replace the tree or pay recompense if the tree cover on the lot from which the tree is removed is less than the minimum tree cover per zoning district, as set forth in section 158-103(g). Removal of trees of one of the above-listed species, where the tree is 6 inches DBH or larger, requires the homeowner to apply for and receive a permit from the Office of Buildings, and said application must include:

(1) at least two pictures of the tree at issue that identify the species of tree; and
(2) a site plan showing the appropriate zoning information of the property; and
(3) a tree survey including but not limited to location, quantity, types and DBH, prepared by ISA certified arborists or landscape architects.

Section 2: The Tree Protection Ordinance shall no longer permit certain trees that are non-indigenous to the Atlanta area, Piedmont region, to be utilized as replacement trees. Accordingly, the following changes are hereby made to the Code of Ordinances:

Code of Ordinances section 158-103 is hereby amended by creating a new section (a)(2) which shall read as follows:

(2) The following species of trees may not be used as replacement trees: Mimosa - Albizia julibrissin; Tree of heaven - Ailanthus altissima; White mulberry - Morus alba; Paper mulberry - Broussonetia papyrifera; Chinaberry - Melia azederach;

Princess tree - Paulownia tomentosa; Carolina cherry laurel - Prunus caroliniana; Bradford Pear - Pyrus calleryana; Leyland cypress -x Cupressocyparis leylandii. In addition, no recompense credit shall be provided for the planting of said species of trees.

Section 3: The Tree Protection Ordinance shall hereinafter not charge multiples of recompense for violations of the Ordinance. Future violators shall be required to pay recompense for the tree removed, and shall be required to pay a fine, as set forth in section 158-34(a). Accordingly, the following changes are hereby made to the Code of Ordinances:

Code of Ordinances section 158-34(b)(1) is hereby removed in its entirety.

Code of Ordinances section 158-34(b)(2) is hereby removed in its entirety.

Code of Ordinances section 158-34 (b) shall be deleted in its entirety and replaced with the following:

> "(b) In addition to paying the penalties set forth in subsection (a) above, any tree of six inches or larger DBH except pines, or any pine tree of 12 inches DBH or larger, that is removed or destroyed in violation of this article shall be replaced or recompensed by the violator, as set forth in section 158-103."

The last line of Code of Ordinances section 158-103(c) shall be amended by removing the word "additional". The line shall now read:

> "The arborist may assess recompense against the violator, if in the arborist's opinion, the incursion has converted trees from the status of saved trees to the status of injured, lost, or destroyed trees, as set forth in this section above."

Code of Ordinances section 158-104(a)(3) shall be amended by deleting the last sentence in its entirety.

Section 4: The Tree Protection Ordinance shall require replacement or recompense of pine trees only for those pine trees that are at least 12 inches DBH. However, a permit shall be required for pine trees that are 6 inches DBH or larger. Accordingly, the following changes are hereby made to the Code of Ordinances:

Code of Ordinances section 158-101(a) shall be amended by deleting the last sentence in its entirety.

Code of Ordinances section 258-105 shall be amended by removing the following sentence in its entirety

> "For new subdivisions, new lots of record, vacant lots, and vacant land tracts, pines of less than 12 inches DBH are exempted from being denoted on the tree survey."

and shall be replaced with the following:

> "Pines of less than 12 inches DBH are exempted from being denoted on the tree survey."

Section 5: It shall be clarified herein that the Tree Protection Ordinance shall be enforced by any agent of both the Department of Parks, Recreation, and Cultural Affairs for trees on public property, and by the Department of Planning for trees on private property. In addition, the definitions shall clarify when a tree is considered to be on public property versus private property. Accordingly, the following changes are hereby made to the Code of Ordinances:

Code of Ordinances section 158-26 shall be amended by striking the definition of "City arborist" in its entirety and replacing it with the following:

> "*City arborist* shall mean an agent of the department of planning development and neighborhood conservation responsible for administering this article regarding private property, or an agent of the department of parks, recreation and cultural affairs responsible for administering this article regarding public property."

In addition, Code of Ordinances section 158-26 shall be amended by modifying the definition of "City Forester" by changing "the agent" to "an agent".

Lastly, Code of Ordinances section 158-26 shall be amended by adding the following definitions:

"*Private Property Tree*: For purposes of this Article, where reference is made to a tree being on "private property", the tree shall be deemed to be on private property where more than 50% of the flair of the tree, where the tree interfaces with the earth, is located on private property."

"*Public Property Tree*: For purposes of this Article, where reference is made to a tree being on "public property", the tree shall be deemed to be on public property where at least 50% of the flair of the tree, where the tree interfaces with the earth, is located on public property."

Section 6: It shall be clarified herein that trees that are removed from public property shall be replaced on an inch per caliper inch basis. Accordingly, the following changes are hereby made to the Code of Ordinances:

City Code of Ordinances section 158-103(a) shall be amended by adding a new clause at the end of the second sentence, such that the second sentence shall read:

> "The applicant shall plant replacement trees on site that equal the total number of trees being removed or destroyed, provided that where the removed or destroyed trees were located on public property, the cumulative DBH of the replacement trees shall be equal to or greater than the cumulative DBH of the trees removed and/or destroyed."

Section 7: All ordinances and resolutions in conflict herewith are hereby repealed for purposes of this Ordinance only, and only to the extent of said conflict.

A true copy,
Rhonda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council Feb 08, 2006
APPROVED by the Mayor Feb 14, 2006