

ARTICLE II. TREES*

***Editor's note:** Ord. No. 02-04, § 1, adopted March 12, 2002, revised art. II of this chapter in its entirety. Prior to revision, art. II, §§ 98-31--98-45, pertained to similar subject matter and derived from the 1968 Code, App. 7, §§ 1--15. Diagrams and illustrations within Ord. No. 02-04 and the administrative guidelines for tree conservation and planting have not been included herein, but may be found attached to Ord. No. 02-04, on file in the office of the city clerk.

Sec. 98-31. Findings.

The city is blessed with a diversity and abundance of trees and shrubs on public and private lands. Such trees and shrubs are of economic value to the city and make it a desirable place for both residents and visitors. The appearance of the city to passersby along city streets contributes to the economic prosperity of the city. Trees are proven producers of oxygen, a necessary element to the survival of man, and appreciably reduce carbon dioxide content in the air. Trees collect dust and other particulate airborne pollutants. They transpire considerable amounts of water each day. Their root systems stabilize the ground water. Trees play an important part in community-wide soil conservation and erosion control, and reduce stormwater runoff. They contribute food and shelter for wildlife in urban and suburban environments. They provide shade and reduce the ground temperature in wooded areas, plus provide windbreaks, visual and sound barriers. Trees have an economic and aesthetic value to the city. Trees increase property values, can positively affect an area economically, and beautify the landscape. Furthermore, certain streets have historically constituted significant and attractive tree-lined corridors, which have contributed to a realization of increased property values and general improvement of corresponding neighborhoods.

The age of the city's urban forest, coupled with new growth and development in the city, often necessitates the removal of trees, shrubs, and soils, thereby contributing to urban forest depletion. It is necessary to protect and manage trees and their habitat in order to protect the health, safety, and welfare of the citizens of the city.

(Ord. No. 02-04, § 1(1), 3-12-2002)

Sec. 98-32. Purpose and intent.

The purpose of this article is to protect, through proper care and policy, the existing urban forest in the city, by regulating and controlling the planting, conservation, and replacement of trees and shrubbery on public lands within the city, thereby maintaining and enhancing the quality of life for which the city is noted; to reconfirm that the public lands of this city and all trees and other woody vegetation thereon are and shall remain the sole and exclusive property of all of the citizens of this community for their use and enjoyment; to conserve and protect said public lands and vegetation from destruction, damage, conversion or abuse for the benefit of ourselves and future generations; to encourage the citizens of the community to conserve and respect our urban forests; to protect and enhance the city's tree lined corridors, and to encourage the replacement of

trees on public and private lands in order to maintain this valuable resource as an integral part of this community's environment.
(Ord. No. 02-04, § 1(2), 3-12-2002)

Sec. 98-33. Definitions and rules of construction.

(a) As used in this article, the following words and phrases shall have the meanings as defined in this article. Terms not defined herein shall have the same meanings as found in most dictionaries, where consistent with the context. The terms *must*, *will*, and *shall* are mandatory in nature, indicating that an action has to be done. The term *may* is permissive and allows discretion regarding an action. When consistent with the context, words used in the singular number include the plural, and those used in the plural number include singular. Words used in the present tense include the future. The word *developer* includes a firm, corporation, partnership, association, institution, or person. The word *lot* includes the words *plot* and *parcel*. The word *building* includes the word *structure*. The words *used* or *occupied* as applied to any land or building include the words intended, arranged, or designed, to be used or occupied.

(b) For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

Administrative guidelines means a written guideline incorporated into this article by reference, as may be adopted, amended, altered or revised hereafter which constitutes detailed standards and rules for implementation of this article.

Buffer means an area reserved from development or other use to achieve a visual barrier between the use on the lot and adjacent lots and uses. This area may consist of trees, shrubs, grass, fences, or some combination thereof, and may be combined with stream buffers.

Caliper means a standard trunk diameter measurement for trees taken six inches above the ground for up to and including four-inch caliper measurements, and 12 inches above the ground for larger size trees.

City arborist means professional tree expert retained, contracted for or employed by the city. No provision hereof shall be deemed unenforceable due to the absence of a city arborist.

Clump means A cluster of trees, generally with stems or trunks located not more than five feet apart, which is to remain undisturbed by a proposed development, and may be so designated on plans submitted for approval.

Critical root zone (CRZ) means a circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained for the tree's survival. The critical root zone is one foot of the radial distance for every inch of the tree's DBH.

Diameter breast height (DBH) means the diameter of the tree at 4 1/2 feet above average grade.

Drip line means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drop crotch pruning means the substantial reduction of a tree's crown volume by the selective removal of heavier branches.

Fine pruning means the removal of dead, dying, diseased, interfering, obstructing and weak branches, as well as selective thinning.

Ground cover means a prostrate plant growing less than two feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Many ground covers survive in poor soils, shade, and other adverse conditions.

Island means a raised planting area (in road and parking area designs), usually curbed, and placed to guide traffic, separate lanes, limit paving (impervious surface), conserve existing vegetation and/or increase aesthetic quality.

Permit means a written authorization or certificate approved/issued by the department of public works administration to allow an applicant to plant, cut, prune, or remove trees on public property (not to be confused with an occupation tax certificate or contractor's license).

Person means any person, partnership, firm, corporation or other legal entity including public entities other than the city or any department or agent thereof.

Planting plan means a site plan with drawings by the applicant or his/her agent with details of tree locations, tree removals, tree replanting, with each tree designated as to species or common name on each parcel for which work is proposed under this article. Plans shall comply with this tree ordinance and administrative guidelines.

Private lands means all real property lying within the city limits, less and except lands hereinafter designated and defined as "public lands."

Public lands means all real property owned by the city, including but not limited to, land lying between private property lines on either side of all streets, avenues or ways within the city. "Public lands" further includes all real property leased by the city or under the city's direct control, exclusive of utility easements on private property.

Pruning standards means generally accepted standards for pruning as defined in the current edition of pruning standards by the American Society of Consulting Arborists.

Regulated tree means a regulated tree shall be any self-supporting woody perennial plant, which has a DBH of two inches or more, and usually has one main stem or trunk. It may appear to have several stems or trunks as in some species of trees, but must have one defined main stem (trunk) of a DBH of two inches.

Replacement trees means trees which are planted pursuant to this article to replace trees which are removed for any reason. A replacement tree shall be the largest commonly available transplantable tree of the same species as the tree it replaces unless approval of a change of species is approved by the tree board.

Right-of-way means that property located within and adjoining the streets, roads and highways within the city, which rights-of-way are owned by the city, county or the state or are otherwise maintained by the city, county or the state.

Remove (including *removing* and *removal*) means the cutting down of any regulated tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a tree.

Shrub means a woody perennial plant differing from a perennial herb by its persistent and woody stem.

(1) *Large shrub* means an upright plant growing ten to 20 feet in height at maturity that is planted for ornamental or screening purposes.

(2) *Medium shrub* means a plant growing five to ten feet in height at maturity.

(3) *Small shrub* means a plant growing less than five feet at maturity.

Street tree/park tree means a tree planted or naturally grown on public right-of-way or in a park owned by the city.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Tree means a highly compartmented, perennial, woody, shedding plant that is usually tall, single-stemmed, and long-lived.

(1) *Deciduous* means those trees that annually lose their leaves.

(2) *Evergreen* means those trees that retain foliage throughout the year.

(3) *Ornamental tree* means a small to medium tree, growing 15 to 40 in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

(4) *Shade tree* means a large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide shade.

Tree board means the body established by this article for the purpose of oversight of the administration and enforcement of this article and providing recommendations to the city commission.

Tree protection means a barrier constructed around trees at construction sites sufficient to prevent damage or injury to tree trunks, limbs, and roots.

(Ord. No. 02-04, § 1(3), 3-12-2002)

Cross references: Definitions generally, § 1-2.

Sec. 98-34. City arborist.

(a) *Creation of position.* The position of city arborist is hereby created. The city arborist may be employed by the city on a full-time, part-time or contract basis or the city may designate by contract with another jurisdiction or private entity a person to serve as city arborist. The arborist shall operate under the department of public works administration and shall be provided the proper support and equipment necessary for the performance of the arborist's required duties by the department of public works administration.

(b) *Responsibilities.* The city arborist is responsible for the proper planting, removal, care and maintenance of trees and shrubs growing on city-owned property or city controlled right-of-way in accordance with this article and the administrative guidelines. The city arborist shall perform such other and additional duties as prescribed from time to time by the board of commissioners, tree board, and director of public works.

(c) *Qualifications.* The arborist shall possess a bachelor's degree in biology, botany, horticulture, or forestry or a minimum of three year's experience in arboriculture.

Experience must be accompanied by certification through the International Society of Arboriculture (ISA), or if employed without certification, it must be obtained within two years of employment. Familiarity with proper pruning procedures, fertilization practices, soil properties, diagnosis and treatment for insect pests and diseases, cabling and general tree biology is essential. A current pesticide applicator's license is required and must be maintained. Knowledge of modern instrumentation and computer generated programs for the management of urban forests is desirable.

(d) *Reports.* The arborist shall make written reports to the tree board as necessary for the deliberations and decisions of the board. Reports will be incorporated as part of the official minutes of the board.

(Ord. No. 02-04, § 1(4), 3-12-2002)

Sec. 98-35. Tree board.

(a) *Establishment.* The tree board for the city is hereby established. The tree board shall consist of 11 members: the president of Plant the Future, Inc., or a designee from that organization; a city commissioner appointed annually by the commission; a certified arborist; a landscape architect; and seven citizens. Each commissioner shall select a citizen residing within their respective election district for the citizen member positions. Members of the tree board shall serve without compensation. The city's arborist shall serve as staff to the tree board.

(b) *Duties and responsibilities.* The tree board shall review and propose revisions to this article, shall periodically review the administrative guidelines, shall aid in providing community education related to tree conservation, plan Arbor Day activities and provide public forums for citizens concerned about community trees. The tree board shall examine plans for work on public lands pursuant to the administrative guidelines and monitor compliance therewith. The tree board shall approve the removal and/or pruning of trees planted on public lands and the removal and/or pruning of trees on private property to the extent such activities are regulated by the city ordinances and regulations. The tree board, when requested by the city commission, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

(c) *Operation.* The tree board shall elect a chairperson, vice-chairperson, and a secretary. Officers shall serve a term of one year. Elections shall be held in March of each year with newly elected officers taking office at the end of that meeting. The secretary shall maintain official minutes of all meetings and proceedings. The board shall meet monthly on a day and time agreed upon by the board. Meetings shall be called and conducted in accordance with the state Open Meetings Act. A majority of its members present shall constitute a quorum for the transaction of business

(Ord. No. 02-04, § 1(5), 3-12-2002; Ord. No. 06-01, § 1, 4-11-2006; Ord. No. 06-02, § 1, 6-13-2006)

Sec. 98-36. Administrative guidelines.

(a) The tree board shall draft or recommend administrative guidelines for tree conservation and planting within the city. Additional changes to the administrative guidelines may be drafted and recommended as needed. The guidelines shall be submitted to the board of commissioners for its approval. These guidelines, when approved as provided for herein, shall continue in force and effect until modified or repealed, and shall be considered as a part of this article and are enforceable as such.

(b) The administrative guidelines shall provide for the conservation and planting of trees on public lands within the city and all matters relating thereto including, but not limited to, the requirements for planting and maintaining trees within the city, limitations on paving public lands for driveways or parking, use of pesticides, applications for grading, building and change of use, permitting, development, and similar matters affecting the city's urban forest.

(Ord. No. 02-04, § 1(6), 3-12-2002)

Editor's note: New administrative guidelines for tree conservation and planting, recommended by the tree board, were adopted pursuant to Ordinance Number 02-04, adopted March 12, 2002. A copy of the guidelines is on file in the office of the city clerk.

Sec. 98-37. Applicability.

The terms and provisions of this article shall apply to all public lands. The provisions of this article shall not limit the applicability of the buffering provisions of the city zoning ordinance. The terms and provisions of this article shall be supplemental to any requirements imposed by state law.

(Ord. No. 02-04, § 1(7), 3-12-2002)

Sec. 98-38. Permits.

(a) Before any person removes, destroys, cuts, sprays, prunes or plants any tree or shrub on public lands or performs any work or function which results in disturbing, digging into, compacting or displacing property, or contracts with another person or corporation to perform such acts on public lands, a written permit shall be obtained from the director of public works or his designee. Such permit shall be in addition to all other permits, authorizations and procedures required by law for work within or along public rights-of-way, including the state highway system or on other public property.

(b) Application for a permit shall be made to the director of public works on such forms as have been approved for such purpose. All applications shall be accompanied by a full set of plans indicating the scope of the work to be performed and showing such detail as is necessary to determine compliance with this article and the administrative guidelines. All applications for permit shall be submitted at least 14 days prior to the date of the proposed activity. The director of public works may designate the city arborist or other staff to review such applications and make a recommendation on issuance.

(c) All applications meeting the standards of this article, city plans and the administrative guidelines shall be approved. In the event that the application or plans submitted in support thereof fail to comply with the provisions of this article, city plans or the administrative guidelines, then the director of public works shall deny the permit in writing, notifying the applicant of the reasons for denial. In the event that the application for permit covers activity differing from approved guidelines and plans but appearing in the sole discretion of the director of public works to be beneficial to the city, the director of public works may, in lieu of denial, refer the application to the tree board for consideration.

(d) The board of commissioners hereby establishes a permit fee in accordance with the schedule attached to Ordinance Number 02-04 as Exhibit A and incorporated herein by reference for issuance of tree permits; provided, however, no permit fee shall be charged for permits issued to not-for-profit conservation organizations.

(e) The director of public works shall make a monthly report to the tree board of all permit applications and permits issued or denied under this article. Once trees have been planted, removed, cut, sprayed or pruned, pursuant to a permit, such action shall also be reported to the tree board at its next meeting.

(f) Permits shall not be required for the city, other licensed public and private utilities or the state department of transportation as long as such entities adopt and adhere to the conservation and protection requirements contained in this article and the administrative

guidelines. Public and private utilities including CATV, water, sewer, etc. shall be responsible for proper pruning and cutting of trees, including roots, according to this article and the administrative guidelines.

(Ord. No. 02-04, § 1(8), 3-12-2002)

Editor's note: Exhibit A, referred to in subsection 98-38(d) above has not been included within this Code, but may be found attached to Ord. No. 02-04, adopted March 12, 2002, on file in the office of the city clerk.

Sec. 98-39. Standards for protection of trees on public lands.

(a) *Public tree care.*

(1) The city shall have the right to plant, prune, maintain and remove trees, shrubs, and other plants within the right-of-way of all streets, alleys, avenues, lanes, on all public lands, and on all city utility easements, as may be necessary to insure public safety, to conserve or enhance the symmetry and beauty of the city, or to further the intent of this article.

(2) The tree board may remove or cause or order to be removed, any tree, shrub or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest.

(3) The planting of shade trees by adjacent property owners on public rights-of-way is allowable provided that the selection and location of trees is in accordance with the provisions of this article and the administrative guidelines, is otherwise in conformity with city plans, and poses no risk to existing utility facilities. Planting of trees and/or shrubs on public lands other than rights-of-way adjacent to a property owner's property, may be permitted by the director of public works where such planting conforms to specific planting plans previously adopted by the city or on a case by case basis in the discretion of the tree board, upon proper application, and upon a finding by the tree board that such planting would be in accordance with the city's overall plans for development and use of the property at issue, would not pose a hazard to any existing trees, shrubbery, utility infrastructure or buildings and that the proposed planting is in the best interest of the city and is consistent with the aims of this article.

(b) *Tree topping/cutting/tree attachments.* It shall be unlawful as a normal practice for any person, to top any street tree, park tree, or other tree on public lands. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this article at the determination of the tree board and topped or cut by city employees or city designated contractors. Likewise, it shall be a violation of this article for any person to attach to any tree on public lands any rope, wire, chain, sign, or other devices whatsoever, other than devices approved by the city arborist for the protection of newly planted trees.

(c) *Tree pruning.*

(1) Pruning of trees on public lands shall be limited to city employees and city engaged contractors and shall be done in accordance with the administrative guidelines.

(2) Pruning specifications are as follows:

a. *Fine pruning.* Fine pruning is appropriate for trees with minor root damage (less than or equal to 20 percent of the critical root zone disturbed), and/or for the maintenance of health, appearance, and safety of non-disturbed trees.

b. *Drop crotch pruning.* This practice is to be undertaken only where moderate to severe root damage has occurred, when necessary.

(d) *Trimming responsibility for trees and other vegetation.*

(1) The owner or occupant of property adjacent to public rights-of-way or other public lands, upon whose property trees, shrubs, flowers, or vines are located that have branches, limbs, trunks, or other parts projecting into the public rights-of-way or onto other public lands, shall be responsible for pruning such branches, limbs, trunks or other projecting parts so they do not interfere with the free and safe passage along the public rights-of-way by pedestrians and vehicular traffic.

(2) If the owner of private property does not keep the tree growth, limbs and shrubbery from projecting into or on public lands, then the city arborist shall have the authority to order removal of such projecting growth. The order shall be acted upon by the owner within 15 days from the time of the receipt of the notice, which shall be hand delivered or sent by registered mail, return receipt requested. If, after 15 days, the owner has not responded or acted to remove the projecting growth, then the public works director or his designee shall have the authority to enter upon the owner's property to perform the work and the cost of such work shall constitute a lien on the owner's property. Provided that where dead, injured or diseased trees or projections therefrom pose an imminent threat to the public safety, the city may enter onto private property and trim or remove such trees or portions thereof as to secure the public from harm, providing such notice to the owner as practicable.

(e) *Removal of stumps.* All stumps of trees on public lands shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The site shall be immediately filled and the surface cover replaced with hay and seed to dress up the right-of-way or other land. All persons performing stump removal on public lands shall be responsible for compliance with the Georgia Utility Facility Protection Act, O.C.G.A. § 25-9-1 et seq.

(f) *Tree conservation and care during construction.* Existing public trees and shrubs shall be conserved. A tree conservation plan shall be submitted for review and approval prior to any development of public lands to show that there will be no disturbance in the critical root zone (CRZ) of existing trees protected by this article. A disturbance is considered to include but not be limited to, trenching, placing, backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint or other materials detrimental to plant health in the close proximity of the tree(s). Standards for identification of trees during development shall be as prescribed in the city development ordinance. Should any tree or shrub designated for conservation in the tree conservation plan die within two years of planting, the permit holder shall replace sufficient landscaping to meet the tree conservation plan. Replacement trees shall be a minimum of 2.5 inches in caliper for a shade tree and a minimum of eight feet in height for an ornamental tree (eight feet from the top of root ball to top of tree) at the time of planting. (Ord. No. 02-04, § 1(9), 3-12-2002)

Sec. 98-40. Hazardous trees.

(a) It shall be the duty of the owner of the property wherein or whereupon a public hazard exists due to dead or diseased trees or limbs thereof, obstruction of vision from vegetation at streets or driveways, or interference of vegetation with city utility

structures, to abate the hazard by removing or trimming the offending vegetation. Trees on private property whose roots may damage sidewalks, curbs or public streets by causing them to buckle or break or whose roots may enter into public sewers or water mains shall also be public hazards. Such trees shall be trimmed or removed as deemed necessary by the public works director or his or her designee for protection of the public utility systems.

(b) If the owner of property, after being notified of the existence of a public hazard on his or her property, fails to abate the hazard within 15 days, the public works director or his or her designee, shall have the hazard abated and assess the exact cost to the owner as provided by subsection 98-39(d)(2).

(c) In the event that any tree is determined to be in a hazardous condition in such degree as to constitute an immediate danger to the public or to the continuity of public service the director of public works shall require immediate removal of the tree without delay, utilizing such professional criteria and technical assistance as deemed necessary, and the tree(s) may be removed without obtaining a written permit as otherwise herein required. (Ord. No. 02-04, § 1(10), 3-12-2002)

Sec. 98-41. Appeals.

In the event any person is dissatisfied with a decision of the tree board or any order of the director of public works or city arborist involving the application or interpretation of this article, such person may make a written request through the director of public works to the tree board for review by the city manager. Such application for review shall be filed in writing within ten calendar days of the determination from which review is sought. The matter shall be set for hearing within 30 days of request. The city manager shall hear evidence and shall render a decision on the appeal within ten business days of completion of the hearing. The decision of the city manager shall be a final decision of the city, reviewable only by writ of certiorari to superior court.

(Ord. No. 02-04, § 1(11), 3-12-2002)

Sec. 98-42. Emergencies.

In the event of a public emergency resulting from tornado, wind storm, flood or other extreme environmental conditions or civil disorder, the public works director may request the emergency suspension of one or more provisions of this article. Such request shall be submitted to the board of commissioners which may pass an emergency ordinance modifying the provisions of this article with respect to specific requirements and for a designated period of time.

(Ord. No. 02-04, § 1(12), 3-12-2002)

Sec. 98-43. Penalties and violations.

(a) The director of public works shall be charged with enforcement of the provisions of this article and may cite any person for violation of this article, requiring such person to appear in the municipal court and answer such charge of violation. Each tree or shrub affected by any person purported to have violated this article shall constitute a separate violation for purposes of enforcing this article, and a separate citation or notice shall be prepared for each such tree or shrub. Upon conviction or acceptance of a plea of guilty or nolo contendere, the judge of the municipal court may impose penalties to the maximum

extent allowable under the City Charter and, in addition, may order restitution to the city for violations involving loss of or damage to trees on public lands.

(b) In addition to penalties provided by the municipal court for criminal violation of this article, the director of public works, upon approval by the city commission, may seek civil damages in any court of competent jurisdiction for loss of or damage to trees on public lands and may further bring actions for injunction or other equitable relief to prevent further violation.

(Ord. No. 02-04, § 1(13), 3-12-2002)