

April 7, 2014 Amended Ordinance.

O-14-AA
AN ORDINANCE
AMENDING THE TEXT
OF THE
DECATUR CITY CODE
SECTION 86 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

WHEREAS, the City of Decatur City Commission has proposed amendments to the text of the Decatur City Code regulating tree preservation in the City of Decatur; and

WHEREAS, the proposed amendments have been made for the purpose of promoting the health, safety, morals, convenience, order, prosperity and the general welfare of present and future inhabitants of the City of Decatur, Georgia; to preserve the city's tree canopy; to reduce flooding and other stormwater impacts; and other public necessities; and

WHEREAS, the proposed amendments have also been made under the direction of the 2010 Strategic Plan with reasonable consideration among other things to the character of the community and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, conserving the value of buildings, and encouraging the most appropriate use of land, buildings and other structures throughout the City of Decatur; and

WHEREAS, the Decatur City Commission wishes to approve the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Decatur, Georgia, and it is hereby ordained by authority of the same, that Chapter 86, of the Code of the City of Decatur, Georgia, is amended as follows:

Section 86, Article III, Section 86-76 through 86-86 shall be removed in its entirety and replaced with a new Article III, Section 86-76 through 86-96 that shall read as follows:

“ARTICLE III: City of Decatur Tree Canopy Conservation Ordinance

Sec. 86-76. Intent of article.

These regulations shall be known as the *City of Decatur Tree Canopy Conservation Ordinance*, and are hereinafter referred to as the tree ordinance.

The purposes of these regulations are to encourage the conservation of existing tree canopy and provide minimum requirements for the protection, maintenance and renewal of tree canopy cover across the city. The city believes that trees are an essential part of the community's infrastructure and recognizes that they provide measurable and valuable services and benefits to our community. These services and benefits include:

1. Improved health of Decatur's citizens and visitors
2. Improved air quality
3. Improved water quality
4. Improved soil quality
5. Stormwater control
6. Energy conservation
7. Increased property values

April 7, 2014 Amended Ordinance.

8. Habitat for desirable wildlife
9. Noise and glare buffering
10. Privacy screening
11. Increased community aesthetics and quality of life
12. Increased shade for active living activities like walking, and biking

~~These regulations are intended to provide a basic framework for maintaining and increasing tree canopy cover across the city. Regulation of tree cover is only one of several approaches being used by the city to manage the community forest and conserve and plant trees to meet community tree canopy cover goals.~~

~~The city's goal is to have 55 percent of the geographic area within the city limits covered by tree canopy by 2039.~~

~~The city's tree canopy cover will be measured every 5 years. Previous measurements of tree canopy showed 45.7 percent tree canopy cover in 2005 and 45.1 percent tree canopy cover in 2010. The next measurement will be made in 2016 of the 2015 tree canopy cover, and then every 5 years thereafter of the previous year's cover.~~

The city recognizes that trees and tree canopy are a community resource that requires active conservation and replanting efforts. The purpose of these regulations is to provide a basic framework for maintaining, conserving and increasing tree canopy cover across the city. The city's tree canopy cover will be measured every 5 years. Previous measurements of tree canopy showed 45.7 percent tree canopy cover in 2005 and 45.1 percent tree canopy cover in 2010. The next measurement will be made in 2016 of the 2015 tree canopy cover, and then every 5 years thereafter of the previous year's cover.

Sec. 86-77. Definitions.

<i>Administrative standards</i>	A set of standards for administering the tree ordinance that are a part of the tree ordinance by reference
<i>Administrator</i>	The City Manager or his/her designee
<i>ANSI</i>	American National Standards Institute; organization that publishes national standards for tree care maintenance operations, safety standards, and nursery stock
<i>Boundary tree</i>	A tree growing on a property boundary line between two lots resulting in joint ownership by the adjacent property owners when the trunk exists on each property, or a tree that has 20 percent or more of its critical root zone extending across a property boundary and into an adjacent property
<i>Caliper</i>	The diameter of the trunk of nursery stock measured in inches at 6 inches above the ground for up to and including 4 inch caliper size, and 12 inches above the ground for larger sizes

<i>Canopy tree</i>	A large or medium tree with a crown size and shape that will typically provide at maturity significant shade, substantial environmental services, and measurable benefits on temperature, air quality, water quality, and other environmental conditions; sometimes referred to as a shade tree
<i>Certified arborist</i>	An arborist certified by the International Society of Arboriculture as possessing a minimum level of competency required to practice arboriculture
<i>Critical root zone</i>	The minimum rooting area of a tree necessary to sustain the tree's life, generally defined by the tree's dripline or the area within a radius around the trunk of 1.25 feet for every 1 inch DBH, whichever is greater, and extending to a depth of 3 feet below the surface; for a newly planted tree the critical root zone is a minimum 6 foot radius around the tree
<i>Crown</i>	The scaffold limbs, branches, twigs, buds and leaves of a tree
<i>Damage</i>	Harmful injury to a tree or any of its parts, including the roots, trunk, scaffold limbs, branches, twigs, buds or leaves; to cause such injury
<i>DBH</i>	Diameter at breast height; the diameter in inches of the trunk of an existing tree measured at 4.5 feet above the ground line for single-trunked tree that is not forked below 4.5 feet; measured at the smallest diameter of the trunk below a fork located below 4.5 feet; the diameter of the largest stem of a multi-stemmed tree measured as described above for non-forked and forked trunks
<i>Destroy</i>	To remove a tree without a required permit or damage a tree to the point where the tree's survival beyond 3 full growing seasons is questionable as determined by the city arborist
<i>Ecological compatibility</i>	The suitability and functionality of a given tree species for its intended growing site based on its potential size, structural characteristics, growth rate and growing site attributes such as slope, exposure, soil type and drainage
<i>Establishment period</i>	The first 3 growing seasons after a tree is planted. The establishment period typically applies to trees planted as part of a tree conservation plan.
<i>City Arborist</i>	An individual authorized by the City Manager to act as the city arborist; to advise the city on the administration of the tree ordinance; to advise the city in the management of public trees; and, to develop and implement programs for community forest management

<i>Healthy tree</i>	A tree in fair or better condition with a life expectancy of at least 15 years; a relatively sound and solid trunk with no extensive decay or hollow; less than 20 percent radial trunk dieback; no more than one major and several minor dead limbs; and no major insect or pathological problems
<i>ISA</i>	International Society of Arboriculture; an organization that promotes the professional practice of arboriculture and fosters an awareness of the benefits of trees through research, technology and education
<i>Land development</i>	Any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover
<i>Land disturbance</i>	Any land or vegetation change including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, and transporting and filling of land, and that does not include construction, paving or any other installation of impervious cover
<i>Mature canopy size</i>	The potential amount of canopy that can be expected for a species at maturity, categorized as very small, small, medium and large
<i>Mature tree height</i>	The potential height that a species can be expected to achieve at maturity, categorized as small, medium and large
<i>Protected tree</i>	Any tree that is 6 inches DBH or greater that is healthy and structurally sound; any tree that has been conserved or planted to meet tree ordinance requirements regardless of size; any tree growing on any public property
<i>Public property</i>	Property which is owned, leased or controlled by the city, county, or state or any public board, commission, or authority
<i>Public tree</i>	Any tree whose trunk is located either wholly or partially on public property
<i>Qualified professional</i>	An individual possessing a degree in forestry, urban forestry, landscape architecture or horticulture and certified or registered by the state or a professional board, or a certified arborist
<i>Roots</i>	The system of large, woody structural roots that physically support a tree and fine, fibrous feeder roots that absorb water and nutrients for tree growth and survival
<i>Scaffold limbs</i>	The main structural limbs that support the remainder of the tree's crown
<i>Site development permit</i>	Any permit issued for land disturbance or land development

<i>Standard tree canopy value</i>	A dollar value per square foot of tree canopy cover established in the fee schedule adopted by the City Commission for use in calculating payments to the Decatur tree bank
<i>Tree</i>	A woody plant, usually single-stemmed (but may be multi-stemmed), with the potential to grow to a mature size of at least 3 inches DBH and 15 feet in height
<i>Tree canopy cover</i>	The amount of ground area directly beneath a tree's crown or the combined crowns of a stand of trees, measured in square feet
<i>Tree conservation plan</i>	<p>A plan submitted with any application for a tree disturbance or site development permit which shall include all information appropriate to the situation and as described in the administrative standards.</p> <p>A plan may include but is not limited to; documenting the location of all protected trees, existing and proposed structures and utility infrastructure, site grading and construction proposals, methods of tree protection, tree canopy cover including proposed conserved and planted trees, and associated details as required by the tree ordinance</p>
<i>Tree disturbance</i>	Any land disturbance activity that has the potential to change the characteristics of the soil, vegetation, growing space or environment within a tree protection zone or any activity that has the potential to damage a protected tree's roots, trunk or crown
<i>Tree disturbance permit</i>	A permit granted to disturb the soil, vegetation, growing space or environment within the tree protection zone or damage a tree's roots, trunk or crown
<i>Tree impact</i>	Any tree disturbance that proposes or has the potential to affect 20 percent or more of the tree protection zone
<i>Tree information permit</i>	An informational permit that is filed with the city when an individual tree is removed from residential property. The informational permit will track the reason for removal and the amount of tree canopy removed.
<i>Tree protection zone</i>	The area encompassing the entirety of a protected tree, including the soil to a depth of 3 feet within the critical root zone and the tree's trunk and crown
<i>Tree removal permit</i>	A permit required to remove a protected tree
<i>Trunk</i>	The woody stem of a tree that extends from the root flare into the crown, supports the crown, and functions in the transport of water and nutrients to the limbs and leaves

April 7, 2014 Amended Ordinance.

Sec. 86-78. Applicability and Exemptions.

This tree ordinance applies to any and all real property within the city limits, including all public and private property and all zoning districts and to all protected trees growing within the city limits.

No protected tree shall be intentionally removed, destroyed, or disturbed without the written consent of the city arborist in the form of an approved tree conservation plan, tree disturbance permit, tree removal **permit or tree information permit** as shown in Table 1.

Table 1. Applicability of Plan and Permit Requirements by Property Type and Activity

Property Type	Activity	Plan/Permit Required
Commercial (all zoning districts EXCEPT R60, R85 & HDSF)	Tree Removal	Tree Conservation Plan & Tree Removal Permit Tree Replacement (unless site has 45 percent tree canopy cover after removal) Tree bank may not be used
	Tree Disturbance	Tree Conservation Plan & Tree Disturbance Permit If the site has less than 45 percent canopy coverage after tree removals: Tree Replacement to no net loss level if increase in impervious cover or floor area is less than 15 percent Tree Replacement to 45 percent level if increase in impervious cover or gross floor area is 15 percent or more Tree bank may be used for up to 75 percent of tree planting requirement
	No tree impact but project increases impervious cover or gross floor area by 15 percent or more	Tree Conservation Plan Entire site must achieve 45 percent tree canopy cover Tree bank may be used for up to 75 percent of tree planting requirement
	No tree impact and project does not increase impervious cover or gross floor area by 15 percent or more	No requirements

Table 1. Applicability of Plan and Permit Requirements by Property Type and Activity

Property Type	Activity	Plan/Permit Required
Residential (R60, R85, & HDSF zoning districts)	<p>Tree Removal</p> <p>A. Diseased, Dead or trees with a moderate to high risk rating</p> <p>B. Up to 3 healthy, protected trees within an 18 month period</p>	<p>Tree Information Permit</p> <p>A. Certified Arborists must be used to classify a tree as dead, diseased or hazardous.</p> <p>B. Dead, diseased or hazardous trees do NOT count towards the allowable tree removal within the 18 month period</p>
	<p>Tree Removal</p> <p>A. The fourth or greater healthy, protected tree within an 18 month period</p>	<p>Tree Removal Permit</p> <p>Tree Replacement: No Net Loss of the site's canopy cover at the time of tree removal</p> <p>Up to 50% of the canopy replacement requirement may be paid into the Tree Bank</p>
	Tree Disturbance	<p>Tree Conservation Plan & Tree Disturbance Permit</p> <p>Tree Replacement: No Net Loss of the site's canopy cover at the time of tree removal</p> <p>Tree bank may be used for up to 50 percent of tree planting requirement</p>
	No tree impact	No requirements

The following activities and trees are exempt from compliance with the tree ordinance:

1. Activities or trees included in approved community forest management plans, annual work plans, memoranda of understanding or other plans and agreements

- approved by the city arborist or executed between the city and government entities, utility companies, public authorities, boards or commissions.
2. Activities or trees described in a waiver issued by the city manager or his/her designee during and immediately after the period of an emergency such as a flood, ice storm, thunderstorm, windstorm, tornado, or any other disastrous act of nature.
 3. Activities or trees on any portion of a property included within the limits of a valid site development permit issued prior to the effective date of the tree ordinance, provided that all time constraints relating to the permit are observed.
 4. In a case where a tree has been determined by a certified arborist to be at moderate to high risk of failure or to have a high or extreme risk rating that cannot otherwise be mitigated or to be in such a dangerous condition that it is threatening public health, safety or welfare or threatens to cause imminent harm to a building or other infrastructure and requires immediate removal, then verbal authorization may be given by the city arborist for the tree to be removed; a **tree information permit** is required to be submitted within 72 hours of the removal.
 5. Trees grown specifically for sale, such as Christmas trees and nursery stock.

Sec. 86-79. Administrative Standards.

Administrative standards that provide detailed information on how the tree ordinance shall be administered and implemented are hereby established and included in a supplemental document made a part of the tree ordinance by reference. The city arborist may waive or modify administrative standards based on site or tree conditions, property owner circumstances, or for the incorporation of alternative green technologies on a site.

Sec. 86-80. City of Decatur Tree Species List.

There is hereby established a *City of Decatur Tree Species List* that is included in the administrative standards and is hereinafter referred to as the tree species list.

Sec. 86-81. Tree Canopy Cover Requirements.

A minimum amount of **45** percent tree canopy cover shall be required on public and private commercial properties within parking lots and within and extending over impervious surfaces and as a condition of protected tree removal or disturbance as further defined in the tree ordinance.

Tree canopy cover provided by existing protected trees at the time of adoption of the tree ordinance shall be conserved on a property to the greatest extent possible. On residential property no less than 25% of the existing canopy cover must be conserved. The establishment of additional tree canopy cover shall not be required unless as a condition of protected tree removal or tree disturbance as further defined in the tree ordinance.

Tree canopy cover conserved or planted to meet the requirements of the tree ordinance shall be conserved on the site in perpetuity. Required tree canopy cover lost over time shall be replaced during the first planting season after the loss occurs.

Sec. 86-82. Parking Lots.

Parking lots shall maintain **45** percent tree canopy cover and a minimum of 10 percent of the interior of the parking lot in landscaped area. A minimum of 1 large or medium canopy tree

shall be required for every 8 parking spaces. All landscape islands shall include at least one canopy tree. Only those species approved for parking lots as listed in the tree species list shall be planted within parking lots, unless other species are approved by the city arborist on a case by case basis.

The tree canopy cover of existing boundary trees and other protected trees that projects over the parking lot may be counted for meeting tree canopy cover requirements. Additionally, trees planted outside but within 3 to 10 feet of the perimeter of a parking lot shall receive one-half of the standard tree canopy cover credit as shown in the tree species list for the purpose of meeting the 45 percent requirement.

Sec. 86-83. Tree Canopy Cover Credit.

All existing healthy trees greater than 4 inches DBH, with the exception of invasive and non-native, flowering ornamental species, shall be eligible for tree canopy cover credit. Invasive species and non-native, flowering ornamental species are identified in the tree species list.

The amount of tree canopy cover on a site shall be measured in percent of the lot area that is covered by tree canopy, including canopy that projects over buildings and impervious surfaces. The canopy projected over and onto the applicant's property by a tree growing on a neighboring property or on the boundary between properties or on public property may be included in the measurement of total tree canopy cover existing on a site.

The amount of tree canopy cover credited to individual or group of existing trees shall be the actual projection of the combined crowns onto the ground measured in square feet as described in the administrative standards.

New trees shall receive credit at the time of planting based on the tree canopy cover potential for the species at maturity as listed in Table 2 and the tree species list.

Table 2. Tree Canopy Cover Credit by Mature Canopy Size

Mature Canopy Size Category	Amount of Tree Canopy Cover Credit
Large	1,600 square feet
Medium	900 square feet
Small	400 square feet
Very Small	150 square feet

Sec. 86-84 Tree Information Permit

Property owners in residential zoning districts are allowed to remove up to 3 healthy, protected trees during an 18 month period. A tree information permit shall be filed with the City to track the reasons for the tree removal, the amount of tree canopy removed and a plan for replanting if applicable. No recompense or replanting is required if only 3 trees are removed within the 18 month period.

Residential zoned properties that are pending real estate sale or title transfer, have been sold or title transferred in the past 18 months, are pending demolition or have had a dwelling on the site that has been demolished in the past 18 months are subject to the tree removal permit requirements and must comply with the tree conservation plan requirements.

Sec. 86-85. Tree Removal Permit.

A tree removal permit shall be required to remove any standing protected tree within the city. A tree removal permit application shall be prepared by a certified arborist.

The reasons for requiring a permit for the removal of a protected tree include:

- To provide an opportunity for tree owner education on tree condition, risk management, maintenance options, tree care standards and best management practices, and the functions, benefits and value of trees
- To provide tree risk management and mitigation options
- To encourage the conservation of existing trees
- To promote tree replacement and no net loss of tree canopy cover
- To promote the planting of additional trees and increases in tree canopy cover

The city arborist is responsible for reviewing all tree removal permit applications. When reviewing an application for tree removal, the city arborist shall consider the following factors, as applicable:

1. Reason for removal
2. Intended use of site where tree is located
3. Tree species, size and condition
4. Impact of planned activities on tree health and stability
5. Function and value of tree
6. Current tree canopy cover on the site
7. Impact of removal to the site
8. Impact of removal to the environment
9. Impact of tree on value of property
10. Potential for replacement of tree canopy elsewhere on the site
11. Potential for replacement of tree canopy on the public street right-of-way or other nearby public property

A tree removal permit shall be issued under one or more of the following circumstances:

1. Tree is dead

April 7, 2014 Amended Ordinance.

2. Tree has a high or extreme risk of failure that cannot otherwise be mitigated
3. The commercial site has **45** percent tree canopy cover after the proposed removal.
4. Unavoidable site modifications resulting from land disturbance or land development activities will require the removal or result in the destruction of the tree
5. Site plan modifications or the use of alternative designs to prevent removal or irreparable damage to the tree are impossible or not practical, based on a cost and benefit analysis
6. Intended use of property cannot be achieved without tree removal
7. Tree replacement to mitigate the removal of the protected tree and maintain no net loss of tree canopy is possible

Sec. 86-86. Tree Disturbance Permit.

A tree disturbance permit shall be required before any land disturbance or site development activities causing impact to a protected tree can occur. Tree impact is any tree disturbance that proposes or has the potential to affect 20% or more of a tree protection zone. A tree conservation plan shall be submitted with all tree disturbance permit applications.

The reasons for requiring permits for tree disturbance include:

- To provide the opportunity for tree owner education on tree function, the location of tree roots and the tree protection zone, tree protection methods, and tree care standards and best management practices
- To determine and discuss with the tree owner how to minimize the impact of the land disturbance and site development
- To encourage the conservation of existing tree canopy
- To provide tree risk management and mitigation options
- To promote the planting of additional trees and increases in tree canopy cover

The city arborist is responsible for reviewing all tree disturbance permit applications. When reviewing an application for tree disturbance, the city arborist shall consider the following factors, as applicable:

1. Tree species, size and condition
2. Alternatives to tree impact
3. Type of land disturbance
4. Extent of land disturbance
5. Percent of tree protection zone to be disturbed
6. Tree protection methods to be employed
7. Impact of planned activities on tree health and stability
8. Long-term use of site where tree is located
9. Function and value of tree
10. Current tree canopy cover on the site
11. Potential for replacement of tree canopy elsewhere on the site should the impact result in tree decline and the need for removal
12. Potential for replacement of tree canopy on the public street right-of-way or other nearby public property should the impact result in tree decline and the need for removal

A tree disturbance permit shall be issued if all of the following conditions occur:

April 7, 2014 Amended Ordinance.

1. It is impossible or impractical to move tree disturbance activities to another location on site
2. Tree replacement to maintain no net loss of tree canopy is possible should disturbance activities result in tree decline and the need for removal

If tree disturbance results in the death or loss of health of a protected tree within 3 years after project completion, the removal of the dead or declining tree and replacement of two (2) times the tree canopy cover removed shall be required.

Sec. 86-87. Utility Company Requirements.

All utility companies shall be required to submit an annual work plan to the city arborist by December 1 each year for the following calendar year showing the proposed location, extent and type of work to be performed, type of tree disturbance that will occur and tree protection measures to be installed to minimize tree impact. The annual work plan shall include a list of sub-contractors with names, address and city business license numbers. No work within the tree protection zone shall be performed until the annual work plan has been received by the city arborist.

When changes are required to the annual work plan, notice shall be submitted to the city arborist in writing prior to the changes taking place for the arborist's approval. These changes may include, but are not limited to, utility infrastructure installation, repair, and tree removal or disturbance not described in the annual work plan.

All work to be performed on or around protected trees shall be done in accordance with current *ANSI A300 Standards for Tree Care Operations*, *ANSI Z133 Safety Standards*, industry best management practices and the administrative standards that accompany the tree ordinance.

All tree pruning shall be supervised by a certified arborist. Pruning cuts shall be made in accordance with ANSI standards. Topping, tipping or heading cuts, flush cuts and stub cuts shall be prohibited. No climbing spurs or spikes shall be used in trees except when trees are to be removed or in cases of a public safety emergency, natural disaster or aerial rescue of personnel.

Sec. 86-88. Tree Protection Requirements.

Tree disturbance activities shall be prohibited within the tree protection zone as described in the tree ordinance, except that encroachment of less than 20 percent of the tree protection zone shall be allowed without an approved tree disturbance permit or tree conservation plan.

Damage to be avoided within the tree protection zone shall include, but not be limited to:

- Soil compaction
- Gas, liquid or solid contamination of the soil
- Application of toxic chemicals to tree roots, trunk or crown
- Crushing or cutting of tree roots
- Attachment of ropes, wires, chains, nails, screws, advertising, posters or any other objects to tree trunks or scaffold limbs of public trees
- Wounding of tree roots, trunk and scaffold limbs
- Improper pruning, including topping
- Excessive heat or desiccation causing bark, wood, limb, or large-scale bud or leaf injury

April 7, 2014 Amended Ordinance.

During land disturbance and land development, active protection shall be required for protected trees and shall be in accordance with current *ANSI A300 Standards for Tree Care Operations*, *ANSI Z133 Safety Standards*, industry best management practices and administrative standards that accompany the tree ordinance.

Active tree protection measures, at a minimum, shall consist of the erection of tree protection fencing around the outer limits of the critical root zone, posting of tree protection area signs in both English and Spanish, and avoidance of any land disturbance or land development activities within the tree protection zone.

The city arborist may require the expansion of the critical root zone up to 20 percent or approve encroachment of up to 20 percent by land disturbance activities. In no case shall land disturbance activities be approved within 10 feet of the trunk of a protected tree.

All tree protection measures shall be installed prior to land disturbance and shall be maintained until after final inspection. The city arborist shall be contacted for an on-site conference after tree protection measures are installed and prior to land disturbance.

When the city arborist determines that significant damage has occurred to any protected tree due to either permitted or non-permitted land disturbance activities, the city arborist may require that the tree be treated according to professional standards to mitigate the damage.

If the city arborist determines that the tree is irreparably damaged due to permitted land disturbance activities, the city arborist may require that the tree be removed and the tree canopy cover replaced to maintain no net loss, or that the entire site be brought into compliance with the **45** percent canopy goal depending on the scale of the project and existing canopy coverage. If the city arborist determines that the tree is irreparably damaged due to non-permitted land disturbance activities, the city arborist may require that the tree be removed and two (2) times the tree canopy cover of the removed tree be replaced.

Sec. 86-89. Tree Conservation Plan.

A tree conservation plan shall be submitted as part of an application for a tree disturbance permit. The plan shall be prepared and certified by a registered forester, registered landscape architect, or certified arborist. No tree disturbance permit shall be issued without an approved tree conservation plan.

The plan shall include all information appropriate to the situation and as described in the administrative standards.

Applicants for a tree disturbance or site development permit may request a pre-submittal conference with the city arborist to discuss tree ordinance and tree conservation plan requirements.

Upon submittal, the tree conservation plan shall be reviewed by the city arborist and either approved or returned with comments explaining the changes necessary for compliance with the tree ordinance. Corrections to be made or reasons for denial shall be noted on the plan, or otherwise stated in writing to the applicant.

Full compliance with an approved tree conservation plan and tree protection measures shall be required and maintained during all phases of construction and prior to the issuance of a certificate of occupancy.

April 7, 2014 Amended Ordinance.

Sec. 86-90. Tree Canopy Replacement Requirements.

For commercial sites that have **45** percent or *greater* tree canopy cover after the permitted removal of a protected tree, tree canopy replacement shall not be required. Tree canopy replacement shall not be required as a condition of a tree disturbance permit on commercial sites that have **45** percent or *greater* tree canopy cover.

The removal of a protected tree without a valid tree removal permit shall require tree canopy cover replacement on site with trees of comparable or greater mature canopy size and species quality in the amount of two (2) times the tree canopy cover removed, regardless of the amount of tree canopy cover existing on the site after the removal.

For commercial sites that have *less* than **45** percent tree canopy cover after the permitted removal of a protected tree, the amount of tree canopy cover removed from the site shall be replaced on the site by trees of comparable or greater mature canopy size and species quality to maintain no net loss of tree canopy cover. For commercial sites payments in lieu of required replacement planting shall not be approved. For residential sites, removal of a protected tree, that requires a tree removal permit, shall require replanting to maintain no net loss. For residential sites payments in lieu of required replacement shall be allowed for up to 50% of the required canopy replacement amount. A tree planting design shall be submitted along with the tree removal permit application as described in the administrative standards.

On residential properties any projects requiring a land disturbance or land development permit will require no net loss of tree canopy. A tree conservation plan shall be required for such projects. If required replacement trees cannot be accommodated on the site as determined by the city arborist, then a payment in lieu of planting for up to 50 percent of the tree canopy cover requirement may be made to the tree bank.

On commercial properties with *less* than **45** percent tree canopy cover and a land disturbance or land development project proposes a **15** percent or more increase in impervious cover or gross floor area, then the planting of additional tree canopy cover to achieve **45** percent tree canopy cover across the site shall be required. A tree conservation plan shall be required for such projects. If required replacement trees cannot be accommodated on the site as determined by the city arborist, a payment in lieu of planting for up to 75 percent of the tree canopy cover requirement may be made to the tree bank.

All trees planted to meet tree canopy replacement requirements shall meet *ANSI Z60.1 Standards for Nursery Stock* and all planting shall be done in accordance with current *ANSI A300 Standards for Tree Care Operations*, *ANSI Z133 Safety Standards* and industry best management practices, as well as the administrative standards that accompany the tree ordinance.

Sec. 86-91. Tree Maintenance Requirements **During the Establishment Period for Trees Identified in an Approved Tree Conservation Plan.**

All protected trees shall be maintained in accordance with current *ANSI A300 Standards for Tree Care Operations*, *ANSI Z133 Safety Standards*, industry best management practices, and the administrative standards that accompany the tree ordinance.

Planted trees shall be maintained throughout the establishment period. Maintenance shall include, at a minimum, watering, mulching, training pruning, and if necessary, pest management.

Sec. 86-92. Decatur Tree Bank.

There is hereby established a Decatur Tree Bank that shall receive payments made by property owners in lieu of planting additional tree canopy cover as approved by the city arborist, in addition to forfeited bonds and forfeited escrow funds. Funds in the tree bank shall be administered by the City Manager or his/her designee.

Where it is determined by the city arborist that it is impractical or impossible to fully meet the tree canopy cover requirements for a site, the portion of the canopy that cannot be accommodated on the site may be satisfied by a payment into the tree bank that shall be made prior to the issuance of a tree removal or tree disturbance permit. The amount of the payment shall be calculated using the standard tree canopy value listed in the city's fee schedule.

The tree bank funds shall be available for use by the city for the establishment, maintenance, improvement and expansion of tree canopy cover on public property. The expenditure of tree bank funds shall be permitted for various activities related to tree conservation including, but not limited to:

- Purchase of trees
- Planting of trees
- Maintenance of trees during the establishment period
- Purchase of greenspace
- Funding tree care educational programs
- ~~City Arborist Position~~

Sec. 86-93. Tree Planting Bond and Escrow Account.

Tree removal and tree disturbance permit holders that are also required to have an approved tree conservation plan shall be required to furnish a 3-year tree planting bond or other financial security for trees planted to meet the requirements of the tree ordinance when determined by the City Arborist. The amount of the bond shall be equal to 125 percent of tree planting expenses, including materials and labor.

The city arborist shall inspect planted trees and assess their health at the end of the establishment period and shall provide a written report to the permit holder indicating what actions, if any, are required before the bond will be released. If trees are found to be dead, dying or not healthy at the time of the inspection then replacement tree planting shall be required and the bond for replacement trees shall be retained for an additional 3 years.

In the case of boundary trees an escrow account shall be established prior to final inspection to ensure the health and survival of conserved trees.

For boundary trees an escrow account shall be established in the amount totaling the estimated cost of removal plus the cost to replace the boundary tree's canopy cover calculated as described for the tree planting bond plus the standard tree canopy value.

In establishing the cost to replace the boundary tree's canopy cover, replacement trees shall be of comparable or greater mature canopy size and species quality to the boundary tree, shall be ecologically compatible with the intended growing site, and shall fully replace the canopy of the boundary tree.

Boundary tree health and potential for survival shall be determined by the city arborist after a maximum of 3 years after project completion, at which time the arborist shall either authorize the return of escrow funds to the permit holder or to the tree owner for the removal and

April 7, 2014 Amended Ordinance.

replacement of the boundary tree should the boundary tree die, be destroyed or be determined to be in irreversible decline as a result of the permit holder's disturbance activities. The city arborist may also require that the escrow account remain in place for up to an additional 2 years if signs of tree decline are evident but treatment options by the permit holder could be taken to improve tree health and longevity.

Neither the tree owner nor the permit holder shall be entitled to receive interest on any escrow funds required by this provision. Any funds not collected by either the boundary tree owner(s) or the permit holder within a period of 5 years shall be deposited in the tree bank.

Sec. 86-94. Standard Tree Canopy Value.

A standard value for each square foot of tree canopy shall be established by the city for the purpose of calculating payments to the tree bank. The standard tree canopy value for a protected tree shall be determined on a square foot basis for the actual tree canopy or tree canopy cover credit for the species, whichever is greater.

The standard tree canopy value shall be based on a general but reasonable estimate of the average cost for a tree that would provide comparable canopy and including shipping, labor, installation, and 3 years of maintenance.

The city arborist shall make a recommendation to the City Manager each year on the amount of the standard tree canopy value. The current standard tree canopy value shall be listed in the city's fee schedule.

Sec.86-95. Tree Planting Easements.

The city is hereby authorized to enter into agreements with the owners of private property located within the city for the purpose of acquiring easements to plant trees on such property, in consideration for which said property owner shall acquire ownership of such trees as the city may plant. Provided, however, that any such agreement shall limit the duration of the easement to a time period of 3 years and shall limit the property interest acquired by the city to that distance sufficient to allow the planting of trees. Provided, further, that under such agreement the private property owner shall agree to maintain the trees planted thereon and shall also agree to hold the city harmless for any liability attributable to the planting or presence of the trees on the private property.

Sec. 86-96. Violations and Penalties.

Violations of this tree ordinance may result in the withholding of a certificate of occupancy, revocation or revision of a permit, issuance of a stop work order, or issuance of a court citation. Examples of violations include, but are not limited to:

- Protected tree removal without a tree removal permit
- Land disturbance or land development without a tree disturbance permit or approved tree conservation plan
- Improperly installed or maintained tree protection
- Encroachment of 20 percent or more of a tree protection zone

When it is deemed necessary, the administrator may require sureties to ensure compliance with the provisions of the tree ordinance.

April 7, 2014 Amended Ordinance.

Any person guilty of a violation of this tree ordinance shall be punished as provided in section 1-12 of the Code of Ordinances. In addition to such penalties or in lieu thereof, the Municipal Court may require mitigation in the form of tree replacement or payments to the tree bank for replacement tree canopy cover.

Sec. 86-97. Appeals.

Any person aggrieved by a decision of the city arborist relating to the application of the tree ordinance may appeal in writing to the administrator. Such appeal shall be filed within 30 days of the date of the decision being appealed and shall specify the grounds for appeal. The administrator shall provide a decision, in writing, within 30 days of receipt of the written appeal. Any person aggrieved by the decision of the administrator may file an appeal in writing to the Board of Zoning Appeals and shall be entitled to a hearing before the Zoning Board of Appeals within 30 days of receipt of the written appeal, unless a later date is agreed to by the appellant. Such appeal shall be filed within 30 days of the date of the decision of the administrator and shall specify the grounds for appeal.

Any person aggrieved by the decision of the Board of Zoning Appeals may appeal within 30 days to the Superior Court of DeKalb County, Georgia, by writ of certiorari.

Approved this ____ day of _____, 2014.

Effective the _____ day of _____, 2014.

Attest: _____

Peggy Merriss
Acting City Clerk