



ATLANTA'S TREE PROTECTION ORDINANCE

GUIDE TO SIGNIFICANT PROPOSED CHANGES

NOVEMBER 2020

The Department of City Planning (DCP) released a draft of a rewritten Tree Protection Ordinance (TPO) in March 2020. This release followed a study of Atlanta's urban ecology. Below are proposed topics of importance or significant changes from the existing ordinance shown for all draft iterations.

A CONNECTION TO ATLANTA CITY DESIGN

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
Tree preservation and planting standards aren't aligned to the Atlanta City Design vision for our city's growth.	Tree preservation and planting standards tied to the Atlanta City Design vision for the best scenario for growth in the City, with emphasis on tree preservation in Conservation areas and emphasis on strategic and impactful replanting in Growth areas. Read more in our Position Paper.	Same as Version 1

AFFORDABILITY

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
Concerns about tree ordinance increasing costs of housing or burdensome to homeowners.	<p>Affordable housing projects: Recompense fees for trees unable to be planted on site shall be reduced by the percentage of affordable units available to individuals earning up to 80% of AMI. For mixed use developments, the recompense fee shall be reduced by a percentage equal to the percentage of the development's total floor area dedicated to affordable housing.</p> <p>Recompense cap: Recompense will not exceed 50% of the assessed land value of the property determined by its respective County.</p> <p>Ability to appeal for financial hardship.</p>	<p>Affordable housing, rental: Developments with more than 10 units that provide affordable housing at the levels listed below will be eligible for a 50% reduction in required Replanting and Recompense:</p> <p>10% of units must be offered at rental rates affordable at 60% AMI, Or 15% of units must be offered at rental rates affordable at 80% AMI</p> <p>Affordable housing, for-sale: - Condominium developments with more than 10 units that provide 10% of units for sale at a mixture of prices affordable at 80% and 120% AMI are eligible for a 50% discount on Replanting and Recompense. - Single family or duplex developments that have a sale price affordable at 120% of AMI are eligible for a 50% discount on Replanting and Recompense.</p> <p>Recompense Cap: Recompense will not exceed 50% of the assessed land value of the property determined by its respective County for owner-occupied permit approvals.</p> <p>Ability to appeal for financial hardship.</p>



TREE VALUATION

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>The current code does not distinguish between the more environmentally contributing trees and thus protect the more valuable trees.</p>	<p>The ordinance values native and mature trees more highly as well as trees growing in stream buffers, flood plains, along streets, on steep slopes, and in groves. It establishes 5 Significance Categories to which trees are allotted (5 being the highest and 1 the lowest) based on ecological factor and size. Replacement and/or recompense is required based on Significance Category.</p> <p>Size determinants: 6-8, 9-14, 15-20, 21-27, 28+</p> <p>Ecological factors: Native or nonnative (Yes or No) Steep slopes (15-25%, over 25%) Floodplain (within 100-year) Riparian buffers Grove (number of trees, age and size of tree) Street tree Specimen/Heritage Tree</p>	<p>Healthy trees will be placed in two value categories based on species, size, and condition:</p> <p>Priority Trees- Highest value with highest tree replacement and recompense requirements.</p> <p>Non-priority Trees- All other healthy, non-invasive trees over 6” DBH or 12” for pines</p> <p>Examples of Priority Tree sizes:</p> <p><u>18” DBH and larger</u> Oaks (other than Water and Willow Oaks) Hickories Beech All non-invasive street trees</p> <p><u>24” DBH and larger</u> Water and Willow Oaks Sweet Gum Tulip Poplar Pines</p> <p><u>32” DBH and up</u> All other non-invasive trees</p> <p><u>12” DBH and Larger</u> (when larger Priority Trees not Present) Dogwood Redbud Musclewood</p>

HERITAGE TREES

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Historic trees are recognized, but aren’t given any additional protection in the current ordinance.</p>	<p>New category of Heritage trees will be created to allow trees to be nominated for special protection status based on historical or cultural significance. Heritage trees cannot be removed without authorization from the Tree Conservation Commission.</p>	<p>Same as Draft 1 with the following added: City will provide periodic inspections and arboricultural advice. Heritage trees may only be nominated with the property owner’s permission.</p>

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Current code requires saving trees in setbacks and within the site to the maximum extent feasible. It does not provide guidance on how to account for root disturbance of setback trees outside of the setback, making the restriction somewhat unenforceable. Preserving all setback trees on the smallest lots is particularly challenging. No clear provision to prevent clear-cutting of residential lots and developments.</p>	<p>All trees no matter where they exist on site are subject to protection based on their Significance Category. There are incentives for preservations, but no mandatory preservations.</p> <p>Administrative variances to zoning setbacks will be allowed if they enable the preservation of trees. This allows builders flexibility to avoid trees without having to wade through the somewhat involved traditional zoning variance process.</p> <p>Clear cutting prohibited for all lots with more than 3 trees. City Arborist recommends to the Tree Conservation Commission for final decision.</p>	<p>Tree preservation uncoupled from zoning setbacks and based on lot sizes, with increasing preservation requirements for larger lots.</p> <p>Two preservation options for Single Family/Duplex Development:</p> <ol style="list-style-type: none"> 1. Preserve a certain percentage of the Priority Trees growing on site. Percentage is based on lot size. If this standard is met, Replacement planting and Recompense is reduced by 50%. <ul style="list-style-type: none"> 5000 sqft or less: preserve 50% of Priority Trees 5001-15,000 sqft: preserve 60% of Priority Trees 15,001 sqft and larger: preserve 75% of Priority Trees <p><i>If 1st standard is not possible due to site conditions or development program, the following standard is available, though without Replacement/Recompense reduction.</i></p> 2. The development will be allowed a limited area of site disturbance, roughly equivalent to currently allowed maximum lot coverage. <p>Commercial and Non-residential developments: No required preservation of trees, but Priority Trees preserved on site will lower the required Site Density.</p>

SITE DENSITY REQUIREMENTS

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:																																												
<p>Current minimum numbers of trees required on all lots after development is too low to insure regeneration of canopy.</p>	<p>Site density minimums have been raised and categorized by number of trees rather than inches per acre to ensure successful replanting on sites is possible.</p>	<p>Site Density is the number of trees that must be growing on site at the end of the project. This is a combination of trees preserved and trees planted on site.</p>																																												
<table border="1"> <thead> <tr> <th>ZONE:</th> <th>SITE DENSITY, # OF IN/ACRE</th> </tr> </thead> <tbody> <tr> <td>R-1</td> <td>150</td> </tr> <tr> <td>R-2, R-2A</td> <td>100</td> </tr> <tr> <td>R-3, R-3A, R-4</td> <td>40</td> </tr> <tr> <td>R-4A, R-4B, R-5</td> <td>35</td> </tr> <tr> <td>All other</td> <td>90</td> </tr> </tbody> </table>	ZONE:	SITE DENSITY, # OF IN/ACRE	R-1	150	R-2, R-2A	100	R-3, R-3A, R-4	40	R-4A, R-4B, R-5	35	All other	90	<table border="1"> <thead> <tr> <th>ZONE:</th> <th>MIN DENSITY, # OF TREES/ACRE</th> </tr> </thead> <tbody> <tr> <td>R-1</td> <td>27</td> </tr> <tr> <td>R-2, R-2A</td> <td>23</td> </tr> <tr> <td>R-2B, R-3</td> <td>21</td> </tr> <tr> <td>R-3A</td> <td>20</td> </tr> <tr> <td>R-4</td> <td>18</td> </tr> <tr> <td>R-4A, R-5</td> <td>16</td> </tr> <tr> <td>R-4B</td> <td>6</td> </tr> <tr> <td>All other</td> <td>27</td> </tr> </tbody> </table>	ZONE:	MIN DENSITY, # OF TREES/ACRE	R-1	27	R-2, R-2A	23	R-2B, R-3	21	R-3A	20	R-4	18	R-4A, R-5	16	R-4B	6	All other	27	<p>Single Family/Duplex Development:</p> <table border="1"> <thead> <tr> <th>LOT SIZE (SQFT)</th> <th>SITE DENSITY, # OF TREES/ACRE</th> </tr> </thead> <tbody> <tr> <td>5,000 or less</td> <td>2 per lot</td> </tr> <tr> <td>5,001-8,500</td> <td>20</td> </tr> <tr> <td>8,501-15,000</td> <td>21</td> </tr> <tr> <td>15,001-30,000</td> <td>22</td> </tr> <tr> <td>30,001-50,000</td> <td>25</td> </tr> <tr> <td>50,001+</td> <td>28</td> </tr> </tbody> </table> <p>Commercial and Non-Residential Development: Site Density for commercial projects can be met through a combination of plantings on site, plantings in the adjacent right-of-way (street trees), and installation of green (vegetated) roofs. Site Density will be based on the area of the lot not occupied by buildings, with a minimum density for all lots regardless of building coverage.</p>	LOT SIZE (SQFT)	SITE DENSITY, # OF TREES/ACRE	5,000 or less	2 per lot	5,001-8,500	20	8,501-15,000	21	15,001-30,000	22	30,001-50,000	25	50,001+	28
ZONE:	SITE DENSITY, # OF IN/ACRE																																													
R-1	150																																													
R-2, R-2A	100																																													
R-3, R-3A, R-4	40																																													
R-4A, R-4B, R-5	35																																													
All other	90																																													
ZONE:	MIN DENSITY, # OF TREES/ACRE																																													
R-1	27																																													
R-2, R-2A	23																																													
R-2B, R-3	21																																													
R-3A	20																																													
R-4	18																																													
R-4A, R-5	16																																													
R-4B	6																																													
All other	27																																													
LOT SIZE (SQFT)	SITE DENSITY, # OF TREES/ACRE																																													
5,000 or less	2 per lot																																													
5,001-8,500	20																																													
8,501-15,000	21																																													
15,001-30,000	22																																													
30,001-50,000	25																																													
50,001+	28																																													

REPLACEMENT TREE SPACINGS

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Current tree planting standards require trees to be planted further apart than necessary and are inflexible.</p> <p>Overstory: min of 35' apart Mid-story: min of 25' apart Understory: min of 15' apart</p>	<p>New planting standards allow tighter spacing of trees and allow the arborist flexibility to approve non-standards spacings</p> <p>Overstory trees: minimum of 25 feet apart on center Mid-story trees: minimum of 20 feet apart on center Understory trees: minimum of 15 feet apart on center</p> <p>The City arborist may approve planting distances less than the standard spacing as appropriate for the project type and site conditions.</p>	<p>Same as Draft 1 with the addition to allow overstory to be 25' to 30' apart depending on conditions.</p>

TREE REPLACEMENT AND RECOMPENSE FEES

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Current fees charged by the City do not match the current cost to the City for planting trees. Additionally, the low fees make it cheaper to pay into the Tree Trust Fund rather than plant replacement trees on site.</p> <p>Recompense= \$100 per tree + \$30*(DBH of tree)</p> <p>Per acre funding caps exist for infrastructure, subdivision, lots of record, and vacant lot developments.</p>	<p>Recompense fees raised to match market value of tree planting. This fee will be reassessed every two years to keep up with inflation. Tree recompense fees are intentionally set slightly higher than the cost of planting to encourage replanting rather than paying recompense.</p> <p>R= (((caliper inches owed - caliper inches planted) x 1.33] x Established Recompense Value).</p> <p>Note: \$200 per DBH is the estimated “Established Recompense Value”. This number is tentative until verified by a fee study.</p>	<p>Priority Trees: Replacement: .75 x diameter of trunk in inches (DBH) <i>Example: A 20” Priority tree would require 15 inches of new trees to be planted (.75 X 20”= 15”)</i></p> <p>Non-priority Trees: Replacement: .5 x diameter of trunk in inches (DBH) <i>Example: A 16” Non-priority tree would require 8 inches of new trees to be planted (.5 X 16”= 8”)</i></p> <p>Incentive to plant trees: All trees planted will be credited at 1.25 their size, thus allowing planting trees to be cheaper than paying recompense. <i>Example: Two 3” diameter trees (6” total) planted would be credited as 7.5 inches planted (6” x 1.25=7.5”)</i></p> <p>Recompense fees: If space does not allow, recompense may be paid for all unplanted trees. The estimated recompense fee will be \$200 per inch. This number is tentative until verified by a fee study.</p>

STORMWATER MANAGEMENT, GREEN INFRASTRUCTURE, AND TREES

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Many residents concerned that trees are being removed on residential lots just to install dry wells or other stormwater management devices. Additionally, many designers of commercial stormwater facilities shy away from using trees in vegetated “Green Infrastructure” which provide more benefits than underground or non-vegetated facilities.</p>	<p>New limits placed on tree removal for stormwater facilities on single family residential lots.</p> <p>Trees planted in a vegetated green stormwater infrastructure facility will be counted as two trees of the size planted for Replacement and Recompense requirements.</p>	<p>Same as Draft 1</p>

PARKING LOT PLANTING REQUIREMENTS

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Parking lots and other large expanses of pavement create unnaturally hot air temperatures to heat islands causing human health issues. Current parking lot tree planting standards require too few trees to shade parking lots and allow very constrained planting areas that reduce trees mature size and lifespan. Reference Sec. 158-30 of existing ordinance.</p>	<p>New parking lot standards require more shading of parking lots and require planting areas large enough to support healthy, mature trees. Reference Division XI.</p>	<p>Tree planting area and soil volume requirements apply to all trees planted in confined areas, such as tree wells in parking lots, plazas, or streetscapes.</p> <p>Every parking space has to be within 40' of any tree. If the lot is for bus or truck parking, 1 tree per 5,000 sqft of paving is required.</p>

PERMITTING OF PUBLIC AND PRIVATE TREES

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Removal of public and private trees have different replanting standards and plan review and permitting is managed by two different departments: City Planning and Parks. City sponsored projects (impacting public trees) often hit roadblocks meeting replanting requirements.</p>	<p>All standards will apply the same for both public and private trees. Plan reviewing and permitting for all will be managed by the Department of City Planning.</p> <p>Relief for Public Linear Infrastructure projects (sewer, roads, etc.) includes simpler permitting and a cap on recompense that is tied to total cost of construction.</p>	<p>Same as Draft 1</p>

PERIODIC REMOVAL OF HEALTHY TREES

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Property owners looking to remove tree(s) unassociated with a building permit find the process unnecessarily burdensome.</p>	<p>One (1) tree or 5% of the total DBH on the site, whichever is greater, may be removed per parcel every three years with no required replanting or recompense as long as the site meets or exceeds 150% of the minimum site density requirements before and after the removal. No Category 4 or Category 5 trees can be removed under this provision and may not be associated with any tree removal permit within three years.</p>	<p>All homeowners will be allowed to remove 1 non-priority tree of any size, or 2 trees with a combined DBH of 18" or less every 3 years with no required replanting.</p> <p>Property must have a minimum number of trees growing on it (known as Site Density) to be eligible.</p>

POSTINGS

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Two phase posting uses valuable arborist time that could be spent on other enforcement activity and there are concerns with visibility of notices in relation to submitting appeals. Posting processes for both private and public arborist review are incongruent.</p> <p>Private Application to remove trees – On site for 10 days, no appeals accepted Preliminary Approval – On site for 5 days, appeals accepted</p> <p>Public Preliminary Approval – On site for 15 days, appeals accepted</p>	<p>Based on significance category. Mostly, two postings remain, however the 1st posting for preliminary arborist approval will be available online only without having to visit the site. The 2nd posting for final approval will be posted on site and online. All postings will follow the same process no matter if on private or public property.</p> <p>Application to remove trees: Online for 10 days, no appeals accepted</p> <p>Preliminary Approval: On site and online for 5 days, appeals accepted</p>	<p>Two postings remain, however 1st posting for preliminary arborist approval will be available online only. The 2nd posting after preliminary approval will be posted on site and online. All postings will follow the same process no matter if on private or public property.</p> <p>Application to remove trees: Online for 10 business days, no appeals accepted</p> <p>Preliminary Approval: On site and online for 5 business days, appeals accepted.</p> <p>Single Family Residential Projects that meet the highest tree preservation standard would not be subject to public appeal.</p>

TREE TRUST FUND

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Lack of transparency into balance of the Tree Trust. Concerns with spending, expenses on non-forested land and maintenance of those lands.</p> <p>Reference Tree Trust Fund fact sheet.</p>	<p>This section was reorganized to more clearly define the policies associated with the Tree Trust Funds. Expenditures remain mostly the same, however, there is now an ability to use funds for Heritage tree maintenance and protection and any procured canopy studies.</p>	<p>To be noted in the Ordinance:</p> <ul style="list-style-type: none"> - Accounting streams/Names of accounts to delineate costs in Finance and reporting systems. - Updated authorized expenditures including staffing and other administrative expenses. - Dedicate funding annually to assist low income property owners remove unhealthy trees and plant new tree canopy. <p>Updated DCP Process:</p> <ul style="list-style-type: none"> - Clear spending approval processes for each Department with DCP as the main approver - Revised reporting scheduling on expenses and tree data. - Establishing/Reviewing the processes for uncollected funds with City of Atlanta Law Department.



EARLY REVIEW OF DEVELOPMENT RELATED TREE PLANS

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Historically, tree plans have been reviewed at the end of the permitting process, by which point most other aspects of the project have been approved. Late changes to the tree plan typically require changes to already approved building or infrastructure plans, often costing more time and money than if done earlier. In addition, the appeal timeline is opened at the end of the permitting process introducing uncertainty for the applicant.</p>	<p>The Concept Review Committee has been established to address site challenges at the entitlement stage. Have seen 104 projects since beginning in August of 2019.</p> <p>Other operational changes to the permitting process are being considered to move the Arborist’s review of plans prior to any reviews within the Office of Buildings to occur simultaneous with the site and zoning compliance review.</p>	<p>DCP is establishing a two-phased approach based on resources available and other ongoing efforts to streamline the overall development process. In Phase 1, Arborist plan review will be moved to the beginning of the plan review process for building and land disturbance permits. Even earlier, pre-application conferences with the Arborist will be encouraged to help owner understand preservation requirements and discuss options with the arborist. Early review may allow early posting and appeals.</p> <p>Phase 2 will involve reviewing and consolidating existing conceptual reviews to meet the needs of both the customer and City staff.</p>

RESIDENTIAL SUBDIVISIONS

THE ISSUE:	PROPOSED SOLUTION IN DRAFT 1:	PROPOSED SOLUTION IN DRAFT 2:
<p>Undeveloped properties large enough for traditional residential subdivisions are frequently well forested, and the layout of traditional subdivisions cause substantial tree loss due to disturbance caused by road and utility installation.</p>	<p>To incentivize the building of “Cluster” or “Conservation” subdivisions that allow for less site disturbance, we are proposing changes to zoning code for PD-H (Planned Development- Housing) and PD-CS (Planned Development, Conservation Subdivision) to allow an increase in number of units if significant forested portions of lots are permanently protected from development.</p> <p>Conservation easements and fee simple donations would remain as an option.</p>	<p>Same as Draft 1 with this addition: trees permanently preserved from development through a conservation easement or deed restriction will provide credit against trees removed for installation of infrastructure (roads, utilities) in subdivisions at a rate of 1” preserved gives credit for 1.5” removed. Credits are based on replacement value, so Priority Trees preserved provide more credit than Non-Priority Trees.</p>

QUESTIONS

Comments and feedback on the draft Tree Protection Ordinance can be sent to the project team at treeordinance@atlantaga.gov.

