

## ARTICLE IX. PRESERVATION OF TREES

### Sec. 34-400. Title of the article and intent.

- (a) This article shall be known as the Preservation of Trees Ordinance of the City of Chamblee, Georgia.
- (b) It is the intent of this article to provide standards for the preservation and/or replacement of the city's trees because of their contribution to:
  - (1) The health of its citizens in improved air and water quality;
  - (2) The control of flooding, noise, glare, and soil erosion;
  - (3) The protection of urban wildlife;
  - (4) The maintaining and increasing of property values; and
  - (5) The beauty of the city.

(Ord. No. 462, § 1, 10-20-98)

### Sec. 34-401. Definitions.

*Building or site development permit:* Official authorization issued by the city allowing defoliation or alteration of a site, a change which may result in soil erosion or alteration of site vegetative cover, or the commencement of any construction activities.

*City engineer:* The city engineer of the City of Chamblee, Georgia, or his/her designee.

*City planner:* The designated city planner of the City of Chamblee, Georgia, or his/her designee

*Cover area:* That area which falls within the drip line of any tree.

*Developed property:* Property upon which a building, structure, pavement, or other improvements have been placed.

*Drip line:* A vertical line extending from the outermost portion of a tree canopy to the ground.

*Hazardous tree:* A tree certified by a horticultural professional as having a major structural fault that could lead to catastrophic loss and could injure or damage property or human targets. Major structural faults may include, but not be limited to, large vertical cracks, decayed areas or columns, including bark areas, forks, dead wood/branches, hollows, significant leans, openings to the inner portions and mechanically damaged areas. Minor faults (correctable faults requiring care) may include things such as pavement buckles, surface roots, small dead wood, tree litter, animal/insect activities, entrapment, face-level branches, and destruction of surrounding property. As a rule-of-thumb, one complex set of major structural faults or three minor structural faults that are socially, economically or biologically impossible to repair or adjust, may initiate application for tree removal.

*Landscape plan:* A plan indicating the location, size, quantity and species of replacement trees.

*Major development:* Any alteration of the natural environment which requires the approval of a development or site plan and issuance of a building permit. By way of illustration, but not limitation, major development shall also include the removal or destruction of trees incidental to the development of land or to the marketing of land for development, the removal or destruction of trees in conjunction with any grading activity, including the removal or filling (stockpiling) of soil or the removal of trees not in conjunction with an ongoing forest management program. Nothing in this definition shall be deemed to require or authorize the issuance of a permit for any activity described herein.

*Minor development:* Any alteration of the natural environment, which may or may not require development, site plan approval or issuance of a building permit, but which would possibly cause the removal or destruction of any tree(s). Any removal of trees that constitutes major development as that term is herein defined shall not constitute minor development.

*Park:* All publicly maintained parks having individual names.

*Permits and inspections director:* The permits and inspections director of the City of Chamblee, Georgia, or his/her designee.

*Planting strip:* That part of a public street or highway, not covered by sidewalk or other paving, lying between the property line of adjoining property and that portion of the street or highway used or intended to be used for vehicular traffic.

*Public:* The term "public," when used as a modifier for such words as building, park, right-of-way, and similar words, shall mean "government-owner" or "government-operated."

*Public places:* All grounds other than parks which are owned by the city.

*Public tree:* Any tree which exists on publicly owned or controlled property or right-of-way.

*Specimen tree or specimen tree stand:* Any tree or group of trees within the protected zone which has been determined to be of high value because of its species, size, age or other definable criteria and so designated by the city tree consultant.

*Protected zone:* All lands which fall outside the buildable area of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as yards, buffers or landscaped areas according to provisions of the city zoning ordinance or conditions of zoning or variance approval.

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

*Undeveloped property:* Property upon which no building, structure, pavement or other improvements have been placed.

*Yard area:* An open space on the same lot with a building, the space being unoccupied and unobstructed from the ground upward, with the exception of trees and other natural vegetation.

*Zoning ordinance:* The zoning ordinance and land use and development regulations adopted for use within the city.

(Ord. No. 462, § 1, 10-20-98; Ord. No. 517, pt. I, 4-16-02)

**Sec. 34-402. Appointment and qualifications of the city tree consultant.**

- (a) The city manager shall appoint a consultant on trees, subject to the approval of the city council. This consultant on trees shall be a person skilled and trained in the arts and sciences of municipal arboriculture, ornamental horticulture, urban forestry, landscape architecture, or other related field.
- (b) The city tree consultant shall be called upon to advise the city regarding the specifications and standards of practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees in public areas. The city tree consultant shall also review permit requests and site development plans submitted to the city and make recommendations concerning them to the city. The city tree consultant shall conduct follow-up and final inspections as appropriate to insure compliance with this article.
- (c) The city tree consultant shall identify and maintain a record of specimen trees and tree stands based on the following criteria:
  - (1) A stand with purity of species composition or of a rare and unusual nature;
  - (2) A tree or stand of historical significance;
  - (3) A tree or stand with exceptional aesthetic quality.

(Ord. No. 462, § 1, 10-20-98)

**Sec. 34-403. General rules and regulations; city property.**

- (a) Utility companies, private contractors, outside governments, and individuals must apply for and procure a permit, comply with tree protection and replacement administrative guidelines to this article to protect and preserve city properties in any modification of their landscape. Written plans outlining purpose, proposed operations, and approximate dates shall be submitted to the permits and inspections director for approval.
- (b) Wherever it is necessary to remove a tree or trees from a planting strip in connection with paving of a sidewalk, or the paving or widening of a street or highway used for vehicular traffic, the City shall replant such trees or replace them; provided that if conditions prevent planting on planting strip, this requirement will be satisfied if an equivalent number of trees of the same potential size and species are planted in an attractive manner on adjoining property or other public property.
- (c) No person shall deposit, place, store or maintain on any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the permit and inspections department.

(Ord. No. 462, § 1, 10-20-98)

**Sec. 34-404. Applicability.**

- (a) The terms and provisions of this article shall apply to any activity on real property, including any activity which requires the issuance of a building or soil erosion and

sedimentation control permit, which affects the following:

- (1) The covered area of specimen trees or stands;
  - (2) All undeveloped property;
  - (3) The yard areas of all developed property;
  - (4) Public rights-of-way and parks.
- (b) Exemptions. The following shall be exempt from compliance with this article:
- (1) All privately-owned developed property, including yard areas, designated single-family residential areas by the city zoning ordinance and developed with single-family or two-family residential uses; however, this exemption shall not apply for new structures or expansion of existing structures on designated single-family or two-family residential uses.
  - (2) Construction and maintenance of public streets, highways, and rights-of-way by local, state, and federal governments and public authorities.
  - (3) During the period of an emergency, such as a tornado, ice storm, or other act of nature, the requirements of this article may be waived by the city manager or his/her designee.

(Ord. No. 462, § 1, 10-20-98; Ord. No. 517, pt. I, 4-16-02; Ord. No. 534, pt. I, 5-18-04)

### **Sec. 34-405. Permitting process.**

- (a) No person, firm, organization, public agency or society shall directly or indirectly destroy or remove any trees situated on property described in section 34-404 of this article without obtaining a permit as provided herein, except for property and activities exempted in section 34-404(b).
- (b) Permits shall be obtained by making application to the permits and inspections department, and the application shall thereafter be referred to the city tree consultant. The permit fee shall be as fixed from time to time by the mayor and city council and shall be in the amounts as specified in the Tree Preservation Ordinance administrative guidelines. The application, when made in conjunction with an application for a building permit or a soil erosion control permit, shall also include a landscaping plan, a plan for protection of trees during construction, and any other documentation required for all areas of the parcel within the protected zone. The applicant may be required to submit a tree replacement plan if, at the discretion of the city tree consultant, replacement is deemed reasonable and suitable. Methods and standards for tree protection and replacement shall be established from time to time and set forth in the Tree Preservation Ordinance administrative guidelines and shall be effective upon approval by the city council.

(Ord. No. 462, § 1, 10-20-98; Ord. No. 510, pt. I, 10-16-01; Ord. No. 517, pt. I, 4-16-02)

### **Sec. 34-406. Protection of trees.**

- (a) All trees on any street or other publicly owned property near an excavation or construction of any building, structure, or street work, shall be guarded with a good

substantial fence, frame, or box not less than four feet high and eight feet square, or at a minimum distance in feet from the tree equal to the diameter of the trunk, whichever is greater. Any barrier with lesser dimensions than those specified above shall be subject to approval by the city tree consultant. All building material, dirt, or other debris shall be kept outside the barrier.

- (b) No person shall excavate any ditches, tunnel, trenches, or lay any drive within a radius of ten feet from any public tree without first obtaining a written permit from the permits and inspections director.
- (c) Unless specifically authorized by the permits and inspections director, no person shall intentionally damage, cut, carve, transplant, or remove any public tree or shrub; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree or shrub; allow any gaseous liquid or solid substance which is harmful to such plants to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree or shrub.
- (d) It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct the vision of traffic signs, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten feet over sidewalks, and 12 feet over all streets except truck thoroughfares which shall have a clearance of 16 feet.

(Ord. No. 462, § 1, 10-20-98)

#### **Sec. 34-407. Planting of trees.**

In any instance where the cutting of any paved sidewalk in a right-of-way of the city is necessary for the planting of any shrub or tree, such work shall be supervised by the permits and inspections department or shall be done according to plans approved by and a permit issued by the permits and inspections director.

(Ord. No. 462, § 1, 10-20-98)

#### **Sec. 34-408. Easements to plant trees on private property.**

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 private 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 two 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.

(Ord. No. 462, § 1, 10-20-98)

#### **Sec. 34-409. Violation and penalty.**

Any person, firm or corporation violating any provision of this article shall be punished as described in section 1-6, general penalty, of this Code, and in addition thereto may be enjoined from continuing the violation. Each tree cut, damaged or poisoned shall constitute a separate offense and shall be subject to a fine of \$1000.00 per specimen tree and \$500.00 per nonspecimen tree as defined in the Tree Preservation Ordinance administrative guidelines. Any tree, specimen or nonspecimen, which is removed without the appropriate review and approval of the administrator must be replaced by trees with a total density equal to eight times the unit value of the tree(s) removed with a minimum four-inch tree caliper as specified in the Tree Preservation Ordinance administrative guidelines. The owner of any buildings or premises or parts thereof, where anything in violation of this section exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense and subject to the above stated penalties. The same penalties shall be assessed for trees damaged directly or indirectly on any existing residential or nonresidential property adjacent to a site under development or construction without having first obtained a tree removal permit and permission of the owner of such adjacent residential or nonresidential property.

(Ord. No. 462, § 1, 10-20-98; Ord. No. 517, pt. I, 4-16-02; Ord. No. 534, pt. I, 5-18-04)

#### **Sec. 34-410. Judicial review.**

All final decisions of the city, concerning denial, approval or conditional approval of a permit shall be reviewable in DeKalb County Superior Court. Based on these proceedings and the decision of the court, the city may, within the time specified by the court, elect to:

- (1) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
- (2) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the city.

(Ord. No. 462, § 1, 10-20-98)

#### **Sec. 34-411. Amendments and adoption of Tree Preservation Ordinance administrative guidelines.**

The provisions of this article may be amended from time to time as deemed necessary by the city council. The Tree Preservation Ordinance administrative guidelines as approved by the city council and maintained in the office of the city clerk and the office of the permits and inspections department are adopted as a part of this article IX and made a part hereof by reference.

(Ord. No. 462, § 1, 10-20-98; Ord. No. 517, pt. I, 4-16-02; Ord. No. 534, pt. I, 5-18-04)

Secs. 34-412--34-499. Reserved.