

STATE OF GEORGIA  
COUNTY OF FULTON

**TO ADOPT AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 9, TREE  
CONSERVATION, OF THE SANDY SPRINGS CODE OF ORDINANCES TO CLARIFY**

**WHEREAS**, the Mayor and City Council recognize the importance of trees to the environment within the city for the purposes of health and welfare, beauty, safety, history, and general well-being; and

**WHEREAS**, the Mayor and City Council desires to enhance the protection of trees as well as ensure that the tree canopy in Sandy Springs continues to thrive; and

**WHEREAS**, the Mayor and City Council find that from time to time it is necessary to amend sections of the Code to correct, clarify, and update the provisions of the Ordinance; and

**WHEREAS**, an ordinance amendment is necessary to set enhanced requirements for the protection of the existing trees and the tree canopy and the replacement of trees and the tree canopy under certain conditions.

**NOW, THEREFORE**, to accomplish the foregoing, the City Council of the City of Sandy Springs, Georgia, pursuant to their authority, do hereby adopt the following Ordinance:

**1.**

ARTICLE VII, *TREE CONSERVATION*, of the Sandy Springs Zoning Ordinance is hereby deleted in its entirety and inserted in lieu thereof shall be the text attached hereto as Exhibit A.

**2.**

All ordinances, parts of ordinances, or regulations in conflict with this Ordinance are repealed.

**3.**

*Severability.* Should any court of competent jurisdiction declare any section of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

**4.**

*Repeal of Conflicting Provisions.* It is the intention of the Mayor and City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Sandy Springs, Georgia and the sections of the adopted Ordinance may be renumbered to accomplish such intention.

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### ARTICLE VII. - TREE CONSERVATION ORDINANCE

#### Sec. 109-361. - Purpose.

- (a) The purpose of this Article is to recognize the importance of Trees to the environment within the City for the purposes of health and welfare, beauty, safety, history, and general well-being, and to promote:
- (1) Tree conservation;
  - (2) The increase, renewal, and proliferation of Trees and the Tree Canopy; and
  - (3) The protection of existing Trees.

This Article is designed to provide reasonable minimum standards regarding the preservation, planting, protection and maintenance of Trees within the City. The provisions and regulations contained herein, along with the *Administrative Standards and Best Management Practices for Sandy Spring's Urban Forest*, will guide practices to accomplish said purpose.

- (b) The City further recognizes benefits derived from the conservation, proliferation, and renewal of Trees and increased Tree Canopy including but not limited to:
- (1) The improvement of air quality by providing filtration of dust and fumes;
  - (2) The conservation of energy and mitigation of the urban heat island effect through shading and transpiration;
  - (3) The reduction of stormwater runoff and flooding by dissipating rainfall and absorbing moisture;
  - (4) The reduction of soil erosion, and improved water quality;
  - (5) The improvement of habitat for desirable wildlife by providing diversity for food, shelter, and nesting sites;
  - (6) The reduction of health risks to residents due to improved environmental conditions;
  - (7) The improvement of community aesthetics and quality of life by having a diverse environment;
  - (8) The reduction of ambient noise levels;
  - (9) The mitigation of conditions in areas of vehicular use by providing buffering and shading; and
  - (10) The general enhancement of economic value to properties.
- (c) The requirement of a high level of quality in the maintenance and development of land is consistent with community standards and the economic necessity of maintaining the City as a desirable place to live and conduct business.

(Ord. No. 2007-02-10, § 1, 2-6-2007)

#### Sec. 109-362. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Administrative Standards* means the *Administrative Standards and Best Management Practices*, prepared in conjunction with this Article and which, as they exist and may be amended from time to time, is incorporated herein, and a copy of which is maintained in the office of the City Clerk. If any term of the

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Administrative Standards and Best Management Practices is deemed to conflict with the terms of this Article, the terms of this Article is controlling.

*Boundary Tree* means a Tree 10 inches DBH or larger located on a property adjacent to a permitting property whose Critical Root Zone or canopy extends into that permitting property.

*Buildable Area* means the area of a lot within a given zoning district located outside the minimum required yards/setbacks of any property.

*Caliper* means the trunk diameter measurement of nursery stock Trees measured at six inches above the ground for Trees with a trunk diameter up to four inches and measured at 12 inches above the ground for Trees with a trunk diameter of greater than four inches.

*Canopy Mitigation* means any Tree used to meet the minimum Canopy Requirement or Mitigation for Landmark Trees. Trees used for Canopy Mitigation shall be a minimum of 2 ½ inches in diameter.

*Canopy Requirements* means the percentage of Tree Canopy coverage as set forth in the Canopy Requirements table contained in Exhibit A of this Article and included herein as Section 109-375. For the purposes of this Article, the canopy percentage on any property is the square footage of the total existing Tree Canopy on a property, divided by the total square footage of the permitting property.

*Canopy Tree* means a large or medium Tree with a crown size and shape that will typically provide at maturity significant shade and beneficial effects on temperature, air quality, water quality, and other environmental conditions. A Canopy Tree is also referred to as a "shade Tree."

*Certified Arborist* means an arborist certified by the International Society of Arboriculture as possessing the minimum level of competency required to practice arboriculture.

*City Arborist* means the individual authorized by the director of the Department of Community Development to administer and enforce the requirements and standards as set forth in this Article.

*Critical Root Zone* means the minimum rooting volume of a Tree necessary to sustain the Tree's life, generally defined by the Tree's drip line or 1.25 feet for every inch DBH, whichever is greater. The Critical Root Zone depth shall be three (3) feet.

*Damaged Tree* means a Tree that has 25% or more of the Critical Root Zone disturbed.

*Destroyed Tree* means a Tree which has damage to any of its parts causing, as determined by the City Arborist, the Tree's survival beyond three (3) growing seasons to be unlikely.

*Diameter at Breast Height (DBH)* means the diameter of a Tree's trunk measured at 4.5 feet above the ground. For multitrunk Trees, the diameter is measured at the narrowest point beneath the point of attachment of the multiple trunks.

*Ecological Compatibility* means the suitability and functionality of a given Tree species for its growing site based on its potential size, slope, exposure, soil, and drainage preferences; growth and structural characteristics; and use in the landscape.

*Hazardous Tree* means a Tree that is at risk for failure because it is dead or structurally defective, and where that failure could result in personal injury or property damage.

*Land Disturbance Permit* means a permit issued by the Department of Community Development that authorizes the commencement of a given tract of land or the commencement of any land disturbing activity.

*Landmark Tree* means:

- (1) Hardwood Tree 27 inches DBH or larger;
- (2) Pine Tree 30 inches DBH or larger, provided that said pine Tree is not located within 30 feet of any structure; or

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(3) Dogwood or redbud Tree ten inches DBH or larger being in fair or better condition.

*Protected Tree* means a Tree 18" inches DBH or larger, other than a Landmark Tree or Setback Tree, in fair or better condition.

*Qualified Professional* means any individual possessing a degree in forestry, urban forestry, landscape architecture, or horticulture, trained in the implementation of this Article, and Tree Protection in building construction. The City Arborist shall certify and maintain a list of Qualified Professionals.

*Sandy Springs Tree Bank* means the account established by the City for fines and penalties associated with loss of or damage to the Tree Canopy.

(1) Tree Bank funding shall be restricted to the planting of Trees and preservation of the Sandy Springs Tree Canopy.

*Setback Tree* means a Tree 18 inches DBH or larger located in the minimum required yards/setbacks of any property.

*Site/Tree Conservation Plan (STCP)* means a plan as required in Section 109-366 of this Article.

*Tree* means a self-supporting woody plant material capable of reaching a minimum DBH of six (6) inches and a height of fifteen (15) feet.

*Tree Canopy* means the square footage of the aggregate of the canopy of all Trees 18" DBH or larger contained on a property.

*Tree Removal Permit* means a permit as required pursuant to this Article issued by the City Arborist for land disturbance or the removal of Trees.

(Ord. No. 2007-02-10, § 2, 2-6-2007)

Sec. 109-363. - Tree Removal Permit—Required for Tree Removal or Destruction.

- (a) Any Boundary, Setback, or Landmark Tree that has 25% or more of the Critical Root Zone disturbed is considered to be damaged or destroyed. Disturbance of 25% or more of the Critical Root Zone requires a Tree Removal Permit that meets the standards of this Article.
- (b) Any land disturbing activity or construction activity, including, but not limited to, grading, digging, soil disturbance or other activity which could result in damage to root structure within the Critical Root Zone of any Boundary Tree, shall require a Tree Removal Permit pursuant to Section 109-364(b) of this division.
- (c) The removal or destruction of any Landmark Tree, Protected Tree or Setback Tree on residential property devoted to single-family or duplex residential use shall require compliance with Section 109-365.
- (d) The removal or destruction of:
  - (1) Any Protected Tree on property devoted to other than single-family or duplex residential use; or
  - (2) Any Landmark Tree, Protected Tree or Setback Tree in conjunction with activity requiring the issuance of a building permit (other than a building permit for a deck, open air patio, fence, or interior renovations), demolition permit, Land Disturbance Permit, or erosion and grading permit by the City; shall require a Tree Removal Permit in compliance with Section 109-366.
- (e) All permit requirements as set forth herein is deemed cumulative with the most restrictive being operative regarding any particular application.
- (f) A Hazardous Tree may be removed without a Tree Removal Permit; provided, however, should the Hazardous Tree otherwise meet the requirements of being a Tree protected under the terms of this

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Article, including but not limited to a Landmark Tree, Setback Tree, Boundary Tree, or Protected Tree, the owner of the property shall immediately notify the City Arborist of the removal of the Tree and provide documentation that the removed Tree was a Hazardous Tree as defined herein. Should it be determined that any Tree so removed was not a Hazardous Tree, the provisions of this Article are applied regarding the removal of such Tree.

- (g) Nothing in this Article shall prohibit or restrict normal Tree maintenance (including the removal of dead wood and branches or limbs which endanger life or property); provided, however, that no Tree protected herein is limbed, topped or pruned in a manner so as to deprive the Tree of continued viability.

(Ord. No. 2007-02-10, § 3, 2-6-2007)

Sec. 109-364. Tree Removal Permit —Landmark Tree-or Boundary Tree.

(a) *Landmark Trees.*

- (1) A Tree Removal Permit allowing the destruction or removal of a Landmark Tree pursuant to this Section is permitted only if the City Arborist determines that the removal of said Landmark Tree is warranted based upon:
- a. The size and configuration of the property;
  - b. The physical condition of the Landmark Tree;
  - c. The Tree Canopy of common areas appurtenant to the property;
  - d. A Tree assessment by an International Society of Arboriculture certified arborist indicating that the Tree is dead, dying or hazardous; or
  - e. Other factors creating undue hardship for the applicant including but not limited to: pedestrian or vehicle traffic on or adjacent to the property; the configuration of buildings, structures and utilities on or adjacent to the property; cost effectiveness of potential alternatives to Tree removal; whether the Tree contributes to meeting any of the requirements set forth in this article or other requirements set forth by the city; or generally recognized good forestry practices.
- (2) All Landmark Trees removed pursuant to Subsection (a)(1) of this Section shall be replaced by the planting of new Trees on the property of a comparable species and with a canopy potential of 150 percent of the canopy of the Landmark Tree to foster the enhancement of the Tree Canopy. Canopy Mitigation shall be computed using the actual measured canopy. If, however, the City Arborist determines that replacement is not practical based upon the factors set forth in Subsection (a)(1) of this Section, payment may be made into the Sandy Springs Tree Bank in lieu of replacement planting. The compensation for the lost Tree Canopy is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Exhibit A, Section 109-375.
- (3) A Tree Removal Permit shall not be issued hereunder until both:
- a. Payment of any required amounts into the Sandy Springs Tree Bank, and
  - b. The City has been provided adequate assurances of any required canopy replacement.

(b) *Boundary Trees.*

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- (1) No land disturbing activity or construction activity, including, but not limited to, grading, digging, soil disturbance or other activity within the Critical Root Zone of any Boundary Tree, is permitted that will deprive the Boundary Tree of continued viability.
- (2) Should the City Arborist determine that it is uncertain whether the proposed land disturbance or construction activity will deprive the Boundary Tree of continued viability, and that there is not a sufficient basis to prohibit the activity under Subsection (b)(1) of this Section, a Tree Removal Permit allowing the activity is issued only after compliance with Section 109-367.
- (3) Should the City Arborist determine that the proposed land disturbance or construction activity will deprive the Boundary Tree of continued viability, a Tree Removal Permit is issued.

(Ord. No. 2007-02-10, § 4, 2-6-2007)

Sec. 109-365. Tree Removal Permit - Single family or Duplex Residential Use Not Associated with Building or Land Disturbing Activities.

A Tree Removal Permit pursuant to this Section is issued only upon compliance with the following:

- (1) *Required documentation.* In conjunction with an application pursuant to this Section, the applicant shall submit to the City Arborist documentation (e.g., photographs, drawings, or similar documentation deemed acceptable by the City Arborist) showing the location of all existing Trees on the property. Such documentation shall show the location, species, and approximate caliper size of all existing Trees noting with specificity the Landmark Trees, Protected Trees and Buffer Trees which are proposed to be removed pursuant to this Section.
- (2) *Landmark Trees.* The removal of Landmark Trees pursuant to the Section is in accordance with Section 109-364(a)(1) and (2).
- (3) *Protected Trees.*
  1. The applicant shall submit the documentation required by subsection (1) of this Section to the City Arborist not less than two business days prior to the proposed removal of Protected Trees; and
  2. A Tree Removal Permit is required for the removal of Protected Trees.

For the removal or destruction of Protected Trees on property not meeting the Canopy Requirements

, or property on which the removal or destruction of the Protected Tree, in conjunction with all Tree removal being conducted, will cause the Tree Canopy to fall below the Canopy Requirements, the applicant shall be required to:

    1. Pay into the Tree Bank for the deficient canopy as set forth in the canopy and cost assignment table contained in Exhibit A to the ordinance from which this Article is derived and which is included herein as Section 109-375; and
    2. Install Trees of a similar species to bring the site into compliance with the minimum Canopy Requirements.
- (4) *Setback Trees.*
  - a. The removal or destruction of Setback Trees is permitted only if the City Arborist determines that the removal of said Setback Tree is warranted based upon:
    1. The size and configuration of the property;
    2. The physical condition of the Setback Tree;

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3. The total Tree Canopy on the property; or
  4. Other factors creating undue hardship for the applicant including but not limited to:
    - (i) Pedestrian or vehicle traffic on or adjacent to the property;
    - (ii) The configuration of buildings, structures and utilities on or adjacent to the property;
    - (iii) Cost effectiveness of potential alternatives to Tree removal; whether the Tree contributes to meeting any of the requirements set forth in this Article or other requirements set forth by the City; or
    - (iv) Generally recognized good forestry practices.
  - b. For removal or destruction of Setback Trees that will not cause the Tree Canopy to fall below the Canopy Requirements, a Tree Removal Permit shall be issued.
  - c. For removal or destruction of Setback Trees on property not meeting the Canopy Requirements, or that will cause the Tree Canopy to fall below the Canopy Requirements, the applicant shall, at its election, provide for mitigation of all lost Tree Canopy below the Canopy Requirements by:
    1. Replacing the lost Tree Canopy through planting Trees on the property of comparable species and canopy potential, or
    2. Payment into the Sandy Springs Tree Bank for the lost Tree Canopy. The compensation for the lost Tree Canopy is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Exhibit A, Section 109-375.
- (5) *Payment/assurances required.* A Tree Removal Permit shall not be issued hereunder until both:
- a. Payment of any required amounts have been received by the City Tree Bank; and
  - b. The City has been provided adequate assurances of any Required Canopy replacement.

(Ord. No. 2007-02-10, § 5, 2-6-2007)

### Sec. 109-366. Tree Removal Permit Associated with Building or Land-Disturbance Activity.

A Tree Removal Permit pursuant to this Section shall only be issued upon compliance with the following:

(1) *Site/Tree Conservation Plan (STCP) required.*

- a. In conjunction with an application pursuant to this Section, the applicant shall submit a STCP prepared by a Qualified Professional for review by the City Arborist. Approval of the STCP by the Department of Community Development is required prior to the issuance of a Tree Removal Permit pursuant to this Section.
- b. The STCP shall document: the species, DBH, Critical Root Zone and location of all existing Trees and existing Tree Canopy on the property; the location, species, and caliper size of all proposed mitigation Planting Trees; and the location of all proposed building construction and land development activities, including grading, drainage, proposed utility locations and all proposed Tree Protection measures.
- c. The STCP shall document all Trees proposed for removal.
- d. The STCP shall document the calculation of the Tree Canopy on the property prior to and following the implementation of the Tree removal/replacement activity as set forth in the

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STCP. If the proposed construction causes the canopy to fall below the minimum Canopy Requirement, the applicant shall be required to:

- (1). Pay into the Tree Bank for the deficient canopy as set forth in the canopy and cost assignment table contained in Exhibit A included herein as Section 109-375; and
  - (2). Install Trees of a similar species to bring the site into compliance with the minimum Canopy Requirement.
- e. The STCP shall document compliance with:
- When meeting Canopy Requirements with replanted Trees, each large Canopy Tree planted along the street frontage shall receive 1.25 square feet of mitigation credit for each foot of canopy planted.
- When meeting Canopy Requirements with replanted Trees, each large Canopy Tree planted between 50 feet to 75 feet of a stream buffer shall receive 1.25 square feet of mitigation credit for each foot of canopy planted.
- f. The STCP shall document standard details for Tree Protection and Tree Planting in compliance with the Administrative Standards and Best Management Practices.
- g. The STCP shall document compliance with the parking and landscape requirements in compliance with the Administrative Standards and Best Management Practices.
- (2) *Landmark Trees.* – There is a 1.25 percent incentive for preservation of Landmark Trees in side, front and rear yards.

The preservation of Landmark Trees in the side, front and rear yards shall receive 1.25 square feet of Mitigation credit for each lot of canopy planted.

- a. The destruction or removal of Landmark Trees pursuant to this Section is permitted only if said Landmark Tree is located:
1. Within the building footprint of the proposed construction as permitted by the City; or
  2. Outside of the permitted building footprint, and the Sandy Springs Arborist determines that the permitted land disturbance or construction activity will require the removal of said Landmark Tree based on Section 109-368.
- b. All Landmark Trees removed pursuant to subsection (2)a of this Section shall be replaced by the planting of new Trees on the property of a comparable species and with a canopy potential of 150 percent of the canopy of the Landmark Tree to foster the enhancement of the Tree Canopy. If, however, the City Arborist determines that replacement is not practical based upon:
1. The size and configuration of the property;
  2. The Tree Canopy of common areas appurtenant to the property; or
  3. Other factors creating undue hardship for the applicant including but not limited to: pedestrian or vehicle traffic on and adjacent to the property; the configuration of buildings, structures and utilities on or adjacent to the property; cost effectiveness of potential replacement; whether the Tree contributes to meeting any of the requirements set forth in this Article or other requirements set forth by the City; or generally recognized good forestry practices; payment may be made into the Sandy Springs Tree

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Bank in lieu of replacement planting. The compensation for the lost Tree Canopy is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Exhibit A, Section 109-375.

(3) *Boundary Trees.* The STCP shall document the protection of Boundary Trees in accordance with Section 109-364(b).

(4) *Protected Trees.*

- a. The removal or destruction of Protected Trees will not cause the Tree Canopy to fall below the Canopy Requirements, is permitted.
- b. The removal or destruction of Protected Trees on property not meeting the Canopy Requirements, or that will cause the Tree Canopy to fall below the Canopy Requirements, is permitted only if said Protected Trees are:
  1. Located within the building footprint of the proposed construction as permitted by the City; or
  2. Outside of the permitted building footprint, and the City Arborist determines that the permitted land disturbance or construction activity will require the removal of said Protected Tree based on Section 109-368.
- c. All Trees removed pursuant to Subsection (4)b of this Section shall be replaced by the planting of new Trees on the property of a comparable species and canopy potential. If, however, the City Arborist determines that replacement is not practical based upon:
  1. The size and configuration of the property;
  2. The Tree Canopy of common areas appurtenant to the property; or
  3. Other factors creating undue hardship for the applicant including but not limited to: pedestrian or vehicle traffic on and adjacent to the property; the configuration of buildings, structures and utilities on or adjacent to the property; cost effectiveness of potential replacement; whether the Tree contributes to meeting any of the requirements set forth in this division or other requirements set forth by the City; or generally recognized good forestry practices; payment may be made into the Sandy Springs Tree Bank in lieu of replacement planting. The compensation for the lost Tree Canopy below the Canopy Requirements is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Exhibit A Section 109-375.

(5) *Setback Trees.*

- a. The removal or destruction of Setback Trees is permitted only if the City Arborist determines that the removal of said Setback Tree is warranted based upon:
  1. The size and configuration of the property;
  2. The condition of the Setback Tree;
  3. The Tree Canopy of common areas appurtenant to the property; or
  4. Other factors creating undue hardship for the applicant including but not limited to: pedestrian or vehicle traffic on or adjacent to the property; the configuration of buildings, structures and utilities on or adjacent to the property; cost effectiveness of potential alternatives to Tree removal; whether the Tree contributes to meeting any of the requirements set forth in this division or other requirements set forth by the City; or generally recognized good forestry practices.

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- b. For removal or destruction of Setback Trees approved pursuant to Subsection (5)a of this Section will not cause the Tree Canopy to fall below the minimum Canopy Requirements, a Tree Removal Permit is issued.
  - c. For removal or destruction of Setback Trees approved pursuant to Subsection (5)a of this Section, on property not meeting the Canopy Requirements, which will cause the Tree Canopy to fall below the Canopy Requirements, all Setback Trees shall be replaced by the planting of a new Trees within the minimum required yards/setback of the property of a comparable species and canopy potential. If, however, the City Arborist determines that replacement is not practical based upon the factors set forth in Subsection (5)a of this Section, payment may be made into the Sandy Springs Tree Bank in lieu of replacement planting. The compensation for the lost Tree Canopy below the Canopy Requirements is calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Exhibit A, Section 109-375.
- (6) *Payment/Assurances Required.* A STCP approval shall not be issued hereunder until both:
- a. Payment of any required amounts have been received by the Sandy Springs Tree Bank; and
  - b. The City has been provided adequate assurances of any required canopy replacement.
- (7) *Permit Fee Incentive.* Any applicant required to submit and receive an approved STCP pursuant to this Section, who shall present a plan which increases the existing Tree Canopy on the property above the Tree Canopy existing at the time of the submission of the STCP where said increase of the Tree Canopy is not required pursuant to any provision of this division or other law or development standard, shall receive a credit against the permit fees required to be paid for the project defined in the STCP in an amount equal to one-third of the value of the increased Tree Canopy as calculated on a square foot lost/replaced basis as set forth in the canopy and cost assignment table contained in Exhibit A, Section 109-375. Such reduction of fees, however, shall not exceed 50 percent of the amount of the permit fees required for the project as defined in the STCP.
- (8) *Field Verification.*
- a. The Qualified Professional submitting the STCP shall field verify the accuracy of the STCP prior to submittal.
  - b. The Qualified Professional shall certify successful compliance with the terms of the approved STCP to the City prior to issuance of a certificate of occupancy for the permitted property.
  - c. The City Arborist shall validate submitted STCPs for field accuracy, and compliance as he deems appropriate.
  - d. In addition to all other provisions of this Article and where allowed by law, submission of an inaccurate STCP or inaccurate certification of compliance with an STCP shall cause the submitting Qualified Professional to be removed from the approved list maintained by the City Arborist for a period of not less than 90 days.

(Ord. No. 2007-02-10, § 6, 2-6-2007)

Sec. 109-367. - Boundary Tree Protection.

- (a) Prior to the issuance of a Tree Removal Permit for a Boundary Tree pursuant to this Section, the applicant shall provide funds for into an account established by the City in an amount determined by the City Arborist to be sufficient to offset the removal and replacement costs of the Boundary Tree.

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Notice shall be provided to the property owner whose property contains the Boundary Tree and shall include notice of the deposited funds and a copy of the Boundary Tree provisions of this Article.

- (b) In establishing the escrow amount required pursuant to subsection (a) of this Section, the proposed replacement Tree upon which payment is computed shall be a comparable species and size potential to the Boundary Tree, is ecologically compatible with the intended growing site, and at maturity shall fully mitigate the loss of the entire canopy area of the Boundary Tree.
- (c) For the purposes of the Article, credit will be granted to applicants for the entire Tree Canopy of a Boundary Tree protected as calculated pursuant to the Administrative Standards.
- (d) At any time prior to a determination authorizing the return of the Escrow Funds to the applicant pursuant to Subsection (e) of this Section, if the property owner whose property contains the Boundary Tree (petitioner) contends that the permitted activity has caused the Boundary Tree to fail to survive or be in a state of irreversible decline, the petitioner may petition the City Arborist for the payment of the Escrow Funds to be utilized for the removal and replacement of the Boundary Tree. Upon receipt of such petition, notice of the petition is provided to the applicant hereunder at the address provided at the time of the Tree Removal Permit application, or at any alternative address subsequently designated by the applicant to the City Arborist in writing, via first class and certified mail, within 30 days of mailing of the notice, the City Arborist shall make a determination as to whether the Boundary Tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Notice of the decision is provided to the petitioner and the applicant by certified and first class mail as set forth this Subsection. Either party may appeal the City Arborist's determination pursuant to Section 109-373. Should the City Arborist determine that the Boundary Tree failed to survive or is in a state of irreversible decline due to the permitted activity, and no appeal has been timely filed, or the applicant has fully exhausted his or her appellate rights, the Escrow Funds shall be paid to the petitioner to offset any costs incurred in removal and replacement of the Boundary Tree. The petitioner's rights pursuant to this Section may not be exercised more than one time in any 18-month period.
- (e) After three years from the date of the payment of the Escrow Funds, unless otherwise disbursed pursuant to Subsection (d) of this Section, the applicant shall have the right to petition the City Arborist for the return of all Escrow Funds held for the Boundary Tree. Should an applicant file a petition hereunder, notice of the applicant's petition is provided to the property owner whose property contains the Boundary Tree by first class and certified mail at the address of the property containing the Boundary Tree, and at the address set forth in the tax digest regarding the property. Within 30 days of mailing of the notice, the City Arborist shall make a determination as to whether the Boundary Tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Notice of the decision is provided to the applicant and the property owner by certified and first class mail as set forth above. Either party may appeal the City Arborist's determination pursuant to Section 109-373. Should the City Arborist determine that the Boundary Tree has not failed to survive or is not in a state of irreversible decline due to the permitted activity, and no appeal has been timely filed, or the property owner has fully exhausted his appellate rights, the escrow funds shall be paid to the applicant.
- (f) Any funds not collected by either an affected property owner or the applicant within a period of four years of the establishment of the Escrow Fund is deposited in the Sandy Springs Tree Bank and be utilized for the purposes as authorized thereunder.
- (g) No party hereunder is entitled to receive interest on any Escrow Funds required pursuant to this provisions of this Article.

(Ord. No. 2007-02-10, § 7, 2-6-2007)

Sec. 109-368. - Tree Removal and Replacement in Conjunction with Tree Removal Permit.

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The removal or destruction of any Tree where approval is required pursuant to this Section shall only be approved by the City Arborist, if the following conditions are met:

- (1) Unavoidable site modifications resulting from grading, utility work, and construction activities will result in destruction or irreparable damage to the Tree; and
- (2) Site plan modifications to prevent destruction or irreparable damage to the Tree are impossible or unduly burdensome on the applicant.

(Ord. No. 2007-02-10, § 8, 2-6-2007)

### Sec. 109-369. - Potentially Damaged Trees; Escrow of Funds.

- (a) Where the City Arborist determines that due to approved construction or land disturbance activity an applicant may remove a Tree pursuant to the terms of this division, and the applicant is required to pay for the lost Tree Canopy of the removed Tree, the applicant may, at its election, propose alternative construction methods to attempt to preserve the continued viability of the Tree. Should the City Arborist determine that the proposed alternative construction methods shall reasonably result in the survival of the Tree, that portion of the funds required to pay for the lost Tree Canopy of the Tree pursuant to this Article shall be paid into an Escrow Fund maintained by the City.
- (b) After three years from the date of the payment of the Escrow Funds, the applicant shall have the right to petition the City Arborist for the return of all Escrow Funds held for the protection of the Tree. Within 30 days of the petition, the City Arborist shall make a determination as to whether the Tree has failed to survive or is in a state of irreversible decline due to the permitted activity. Should the City Arborist determine that the Tree has not failed to survive or is not in a state of irreversible decline, the funds shall be paid to the applicant. Should the City Arborist determine that the Tree has failed to survive or is in a state of irreversible decline, the escrow shall be transferred into the Sandy Springs Tree Bank.
- (c) Any funds not collected within a period of four years of the establishment of the Escrow Fund shall be deposited in the Sandy Springs Tree Bank and be utilized for the purposes as authorized thereunder.
- (d) No party hereunder is entitled to receive interest on any Escrow Funds required pursuant to this provision.

(Ord. No. 2007-02-10, § 9, 2-6-2007)

### Sec. 109-370. - Establishment of the Sandy Springs Tree Bank.

- (a) There is hereby established a Sandy Springs Tree Bank for the maintenance and disbursement of funds required to be paid pursuant to the terms of this Article.
- (b) Where it is determined by the City Arborist that payment into the Sandy Springs Tree Bank is required hereunder, the required funds shall be paid to the Sandy Springs Tree Bank prior to issuance of any related permit.
- (c) Funds maintained in the Sandy Springs Tree Bank are administered by the director of the Department of Community Development pursuant to the rules and regulations regarding said funds as established by the Sandy Springs City Council for the purposes of replacing Tree Canopy/Canopy Preservation.

(Ord. No. 2007-02-10, § 10, 2-6-2007)

### Sec. 109-371. - Enforcement.

- (a) The City Manager or his designee shall enforce the terms of this Article.

## EXHIBIT A

- (b) No certificate of occupancy shall be issued on any property without compliance with the terms of this Article.
- (c) Examples of violations shall include, but not be limited to:
  - (1) Land disturbance or building construction without a permit.
  - (2) Improperly installed or maintained Tree Protection.
  - (3) The removal of applicable Trees prior to the issuance of a permit.
  - (4) Non-approved encroachment of Tree Protection Zones.
  - (5) Other violations of the terms, provisions and standard of this Article established herein.
- (d) Notices of Violations, the issuance of Stop Work Orders and Citations are in accordance with this Ordinance.
- (e) Where it is deemed necessary, the director of the Department of Community Development shall require sureties to assure compliance to the terms, conditions and standards of this Article.  
(Ord. No. 2007-02-10, § 11, 2-6-2007)

### Sec. 109-372. - Fines and Penalties.

- (a) Any person, firm, corporation or other entity violating any of the provisions of this Article is guilty of a violation of this Ordinance. Each act of violation and each day upon which any act of violation shall occur shall constitute a separate violation of this Ordinance.
- (b) Each owner of any property wherein a violation exists are jointly and severally responsible for said violation.
- (c) Removal of a Tree protected under the terms of this Article without compliance with the terms hereof shall result in an assessment for the replacement of the lost Tree Canopy in the amount of three times the value of the lost Tree Canopy, calculated in accordance with the canopy and cost methodology contained in Exhibit A Section 109-375 of this Article.  
(Ord. No. 2007-02-10, § 12, 2-6-2007)

### Sec. 109-373. - Appeals.

- (a) Any applicant under this Article aggrieved by an action of the City Arborist, or any adjacent property owner directly impacted by a decision hereunder, may appeal and be heard by the Sandy Springs Board of Appeals in accordance with the rules and regulations as set forth by this Ordinance, and such board.
- (b) All appeals, pursuant to this Section, must be filed in writing with the Department of Community Development within thirty (30) days from the date of the decision or action from which the aggrieved party appeals. All appeals must be filed on forms which can be obtained at the Sandy Springs Department of Community Development.
- (c) Appeals shall only be granted for errors of interpretation, application, or where the unique natural features of the site are such that it is impractical or impossible to apply the terms, conditions or standards of these regulations resulting in an undue hardship to the property owner.
- (d) Any person aggrieved by an action of the Sandy Springs Board of Appeals as it relates to this Article may appeal within thirty (30) days to the County Superior Court by writ of certiorari.  
(Ord. No. 2007-02-10, § 13, 2-6-2007; Ord. No. 2009-03-12, § 11, 3-17-2009)

### Sec. 109-374. - Severability and Conflicts.

**EXHIBIT A**

In the event that one or more of the provisions contained herein, or in the Administrative Standards and Best Management Practices incorporated herein, for any reason, shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Article, but this Article is construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause the actions contemplated herein to be unreasonable.

(Ord. No. 2007-02-10, § 14, 2-6-2007)

Sec. 109-375. - Exhibit A.

TABLE 1.  
CANOPY REQUIREMENTS PER LAND USE

Land Use	Canopy Requirement (% of total lot area or subdivision area)
Residential	35
Nonresidential Other	40
Commercial	40
Industrial	40

**CANOPY AND COST ASSIGNMENT**

When Required Canopy replacement cannot be achieved by replanting on site. For the purposes of calculation required payment into the Sandy Springs Tree Bank, an assessed value of \$1,500 per 1,000 square feet of canopy shall be used.

Large Canopy Trees shall have a value of 1,000 ft<sup>2</sup>

Medium Canopy Trees shall have a value of 500 ft<sup>2</sup>

Small Canopy Trees shall have a value of 250 ft<sup>2</sup>

When proposed construction causes the canopy to fall below the minimum Canopy Requirement, as per Section 109-366 (1) d., an assessed value of \$300 per 1,000 square feet of canopy shall be used to determine the payment for the deficient canopy.

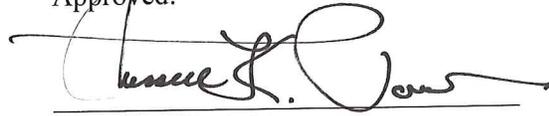
(Ord. No. 2007-02-10, exhibit. A, 2-6-2007)

5.

This Ordinance is effective April 7, 2015

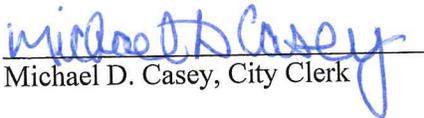
**APPROVED AND ADOPTED** this the 7<sup>th</sup> day of April, 2015.

Approved:



Russell K. Paul, Mayor

Attest:

  
Michael D. Casey, City Clerk

(Seal)

