

Sec. 14-39. Tree protection.

(a)

Statement of purpose.

(1)

The purpose of these standards is to facilitate the preservation and/or replacement of trees as a part of land development in the county.

(2)

The DeKalb County Board of Commissioners hereby finds that the preservation of existing trees is a public purpose that protects the public health, safety, general welfare and aesthetics of DeKalb County and all its citizens.

(3)

The citizens of the county and their many communities enjoy many benefits that can be directly attributed to our trees.

a.

Trees produce oxygen, which is essential to the well being of all animal life, including humans.

b.

Trees help to reduce the amounts of airborne pollutants. For example, trees remove carbon dioxide, that is a major environmental concern due to its current high levels.

c.

Trees and their foliage intercept dust and particulate matter, thereby helping to purify our air and limiting health risks.

d.

Trees and their root systems reduce soil erosion and storm water runoff. This decreases sedimentation problems and improves water quality.

e.

Trees provide food and shelter for desirable urban wildlife.

f.

Trees provide screening, which in turns aids in the reduction of noise and glare.

g.

Trees help moderate our air temperature to provide us with a comfortable environment.

h.

Trees provide scenic amenities to soften the harshness of city buildings and streets. They are aesthetically pleasing to all that view them.

i.

Trees may affect property values and can have a positive impact upon the economy of an area.

j.

Trees can enhance the natural functions of streams and related buffers.

(4)

Protect specimen and historical trees in a manner consistent with the DeKalb County Tree Protection Administrative Standards which shall be promulgated by the director. The director shall maintain a list and map of these trees in the office of the director through the assistance of the following offices:

a.

DeKalb County Board of Education.

b.

DeKalb County Extension Service.

c.

Fernbank Science Center.

d.

DeKalb Chapter, Georgia Conservancy.

e.

Georgia Forestry Commission.

(5)

Provide standards for the preservation of trees as part of the land development process.

(6)

Prevent clear-cutting and mass grading of land that results in the loss of mature trees, and to ensure appropriate replanting when tree loss does occur.

(7)

Protect trees during construction to enhance the quality of life in DeKalb County.

(8)

Protect trees in construction of public facilities and utilities.

(b)

General applicability.

(1)

The terms and provisions of the tree protection ordinance shall apply to all real property in DeKalb County except as otherwise provided in this [section 14-39](#)

(2)

The terms and provisions of the tree protection ordinance shall further apply to any residential or non-residential development which requires the issuance of a land disturbance permit, development permit, or building permit, except as otherwise provided in this [section 14-39](#)

(3)

The terms and provisions of the tree protection ordinance shall also apply to development on any county-owned property, including property owned by county agencies, boards, and authorities, except as otherwise provided in this [section 14-39](#)

(c)

Exemptions.

(1)

a.

The removal of five (5) or fewer trees, other than specimen trees, on any single-family residential property, within a single calendar year.

b.

The removal of more than five (5) trees, other than specimen trees, from an owner-occupied, single-family lot may be approved by the county arborist if the owner must remove trees in order to build a newly permitted structure, or to build an addition to or make improvements to an existing structure, or to improve the health of other trees in the landscape.

(2)

Zonings conditioned to a specific site plan prior to adoption of the tree protection ordinance on February 9, 1999, provided that said zoning contains specific conditions for both tree preservation and tree replacement.

(3)

The removal of trees found to be diseased or insect infested by the county extension service, the state forestry commission, a certified arborist, the county arborist or urban forester.

(4)

Grandfathered projects:

a.

[Section 14-39](#) shall not apply to any portion of a property included within the limits of a valid and complete application for a land

disturbance permit or preliminary plat approval where said application has proceeded through and completed first round red line review by the development department nor to commercial site plans that have been reviewed and red lined by the development department and which were received by the director prior February 9, 1999, provided that all time constraints relating to the permit issued shall be observed.

b.

The requirements of this [section 14-39](#) may be waived by the director for a land disturbance permit which is to proceed with development of a larger project, at least seventy-five (75) percent of the land area of which has already received a permit or permits initiating clearing or grading activities prior to February 9, 1999.

c.

In no event shall any grandfathered project be extended for a greater time period than twelve (12) months from February 9, 1999.

d.

The board of commissioners may grandfather a project not specifically covered under the foregoing subsections upon application of an applicant or owner of property, provided that an applicant can demonstrate that: 1) failure to grandfather the applicant's project will cause the applicant substantial economic hardship; 2) the proposed development activity will not substantially harm the public health, safety, aesthetics and welfare of the citizens of DeKalb County; 3) the proposed development activity is otherwise consistent with all pertinent development standards and is compatible with surrounding land uses; and 4) applicant has on file with the county on the effective date of this article an application for a building permit, land disturbance permit or preliminary plat review or has submitted construction plans for development department review. Incomplete applications shall not be processed for hearing before the board of commissioners. Any application by an applicant for whom the department of public works did not have on file an application for a building permit, land disturbance permit preliminary plat review or construction plans on February 9, 1999, shall not be processed for hearing before the board. Such applications shall stand automatically denied.

e.

Upon submission of a written application by the applicant or owner for a hardship waiver to the director, the board of commissioners shall,

within twenty-one (21) days of receipt of such application, schedule a public hearing. At said public hearing, the applicant or owner and any other interested parties shall have the opportunity to be heard with regard to the application, and the board of commissioners shall render its decision either granting, with or without conditions, or denying the application prior to the succeeding regularly scheduled meeting of the board of commissioners.

f.

In the event a hardship waiver is granted by the board, the applicant shall be required to comply with the vegetation protection ordinance in effect immediately prior to February 9, 1999.

(5)

The removal of trees from horticultural properties, such as farms, nurseries or orchards. This exemption shall not include tree harvesting.

(6)

The removal of any tree which has become, or threatens to become, a danger to human life or property.

(7)

Agricultural activities on land zoned R-200.

(8)

Approved utility construction within permanent utility easements.

(9)

Construction, expansion, and operation of county landfills.

(10)

Building permits that do not require or authorize land disturbance.

(d)

Definitions. See [section 14-1](#)

(e)

Procedures.

(1)

Application requirements.

a.

Pre-application conference. Prior to submission of an application for development, the applicant is encouraged to meet with the county arborist to discuss the tree protection ordinance as it relates to the applicant's property. The purpose of the pre-application conference is to clarify the provisions and procedures of the tree protection ordinance and review applicable standards and guidelines for the

submittal of documents and required tree protection, replacement, and maintenance measures.

b.

Tree survey. Except as provided elsewhere in this section, a tree survey shall be required as part of any application for a land disturbance permit, development permit, building permit or preliminary subdivision plat. Except as provided elsewhere in this section, all trees eighteen (18) inches (DBH) and larger shall be identified. Specimen trees shall be identified by size, species and location. Trees larger than two (2) inches (DBH) may be identified and counted for unit credit on the tree protection plan. Single residential lots on which the applicant intends to reside may be exempted from the tree survey requirements at the discretion of the director. With the prior approval of the county arborist sampling methods may be used to determine tree densities for forested areas.

(2)

Tree protection plan. A tree protection plan shall be submitted with other permit drawings as part of the development permits process. This plan may either be a separate drawing, or part of a landscape plan, and shall include the following information:

a.

Definition of spatial limits:

1.

Limits of land disturbance, clearing, grading, and trenching;

2.

Tree save areas;

3.

Specimen trees; and

4.

Areas of revegetation.

b.

Detailed drawings of tree protection measures and their location:

1.

Location, species and size (DBH) of existing significant trees and an indication of which significant trees would remain on the site.

2.

Tree fences;

3.

4. Erosion control fences;
 5. Tree protection signs;
 6. Tree wells;
 7. Aeration systems;
 8. Transplanting specifications;
 9. Staking specifications; and
- c. Other applicable drawings as determined by the director.
- The tree protection plan shall show all utility lines existing and proposed, including irrigation and electric lighting lines. The applicant shall coordinate the location of these utility lines with the utility companies in order to prevent root damage within the critical root zones of protected trees, and to minimize damage to trees located in protected zones.
- d. Procedures and schedules for the implementation, installation, and maintenance of tree protection measures.
- e. Calculations of tree density proposed on site per subsection (g), tree preservation and replacement requirements.
- f. Tree protection inspection. Following the receipt of a complete application, the county arborist shall schedule and conduct an inspection of the proposed development site. The applicant or applicant's designee shall be advised as to the date and time of the inspection and given an opportunity to participate.
- g. Following inspection said plans shall be reviewed by the director for conformance with applicable zoning conditions, the tree protection ordinance, and any applicable administrative guidelines, and will either be approved or denied. Reasons for denial shall be noted on the tree protection plan or otherwise stated in writing.
- h.

No development or building permit shall be issued until the tree protection plan has been approved by the county arborist.

i.

All tree protection measures shall be installed prior to land disturbance.

j.

Single lots in platted residential subdivisions on which the applicant intends to reside may be exempted from the tree protection plan requirements at the discretion of the director.

(3)

Final inspection. No certificate of occupancy shall be issued by the director with respect to any permit subject to this [section 14-39](#) unless and until the county arborist shall have inspected the site and confirmed that all existing trees to remain are in healthy condition and all replacement trees have been planted in accordance with this section.

(4)

Issuance of a building or land development permit shall be conditioned on the approved tree protection plan and conformance to the provisions of these regulations. Any permit may be voided if its terms are violated.

(f)

Fees. (Reserved)

(g)

Tree preservation and replacement requirements. The following tree preservation and replacement requirements are hereby established:

(1)

If significant trees exist on a tract of land for which a permit subject to this section is sought, either one hundred twenty (120) inches (DBH) per acre or twenty-five (25) percent of existing significant trees per acre of such significant trees, whichever is less, shall be preserved on the site. Except for zoned C-1, C-2, M, or M-2 sites, trees and tree save areas counting toward this requirement shall not be located in required buffer zones. Trees and tree save areas counting toward this requirement on sites zoned C-1, C-2, M or M-2 may be located in stream buffers and state buffer zones, transitional buffer zones and designated floodplains.

If the county arborist determines that special constraints of a site result in an inability to build or develop without removing significant trees on a site, where there are only one hundred twenty (120) inches (DBH) per acre or less of existing significant trees, the arborist may permit the removal of one or more significant trees. Trees removed pursuant to this section must be replaced with trees one (1.0) times the diameter inches of those removed.

(2)

There shall be at least two (2) two-inch (DBH) over story trees in every front yard of properties zoned R-200, R-150, R-30,000, R-20,000, R-100, R-85, and R-75. There shall be at least one (1) two-inch (DBH) over story tree in every front yard of properties zoned R-A5, R-50, R-A8 and RDT.

(3)

The applicant shall landscape the areas with trees and other plant materials in accordance with the following standards:

a.

Residential developments: All residential subdivisions shall have an average density of fifteen (15) density units per acre. Required trees may be located on individual lots or in subdivisions in which there is commonly owned property may be located on such commonly owned property.

b.

Non-residential and multifamily developments: The quantity of total existing/replacement trees on site must be sufficient so as to produce a total site density factor of no less than thirty (30) density units per acre.

c.

With the exception of C-1, C-2, M, or M-2 zoned property, the total tree density units required for a parcel or lot shall be computed based on the area of the parcel or lot, excluding all area within the 100-year floodplain. Total tree density units required for C-1, C-2, M, or M-2 zoned property shall be computed based on the area of the parcel or lot, including all area within the one hundred-year floodplain.

(4)

Procedures for calculating the required tree density are provided in Charts 1, 2 and 3 of this [Section 14-39](#). Tree unit values are assigned as follows:

CHART 1.

Conversion From Diameter To Density Factor Units For Existing Deciduous Trees To Remain On Site

DBH	Units	DBH	Units	DBH	Units
2 to 3	.8	25	6.8	<u>38</u>	15.8

4 to 6	1.6	26	7.4	<u>39</u>	16.6
7 to 9	2.4	27	8.0	<u>40</u>	17.4
10 to 12	3.2	28	8.6	<u>41</u>	18.4
13 to 15	4.0	29	9.2	42	19.2
16 to 18	4.8	30	9.8	43	<u>20.2</u>
19 to 21	5.4	<u>31</u>	10.4	<u>44</u>	21.2
22 to 24	6.0	<u>32</u>	<u>11.2</u>	<u>45</u>	22.0
		<u>33</u>	11.8	<u>46</u>	23.0
		<u>34</u>	12.6	<u>47</u>	24.0
		<u>35</u>	13.4	48	25.2
		36	14.2	49	26.2
		37	15.0	50	27.2

CHART 2.
Conversion From Diameter To Density Factor Units For Evergreens And Conifers

DBH	
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2 to 9	.2 less unit than deciduous trees
10 to 15	.1 less unit than deciduous trees
All others	Same as deciduous trees

CHART 3.
Conversion From Caliper Diameter To Density Factor Units For Deciduous Replacement
Trees.

Caliper inches	Units
0.0 to 0.9	Not allowed
1.0 to 1.9 no replants under 2 caliper inches	Not allowed
2.0 to 2.9	.4
3.0 to 3.9	.5
4.0 to 4.9	.7
5.0 to 5.9	.8
6.0 to 6.9	1.0
7.0 to 7.9	1.1
8.0 to 8.9	1.2

9.0 to 9.9	1.3
10.0 to 10.9	<u>1.5</u>
11.0 to 11.9	1.6
12 inches or greater	2.0

Container-grown pine trees are given replacement value as follows:

Size	Units
7-gallon	.05

- (5) The use of one- and three-gallon pines will be permitted only with prior approval. There will be no replacement value given for such trees.
- (6) Nothing in these regulations shall be construed to allow the removal of any tree or vegetation in a required stream buffer, transitional buffer zone or state buffer zone except buffer improvements as authorized by the director.
- (7) Tree relocation and credit for existing trees replacement units will be granted to trees relocated on site. Tree relocation is subject to approval of the county arborist. Existing trees between two (2) caliper inches and seven and nine-tenths (7.9) caliper inches may be used for credit on the tree replacement plan.
- (8) Understory vegetation. Tree preservation areas shall leave intact the naturally occurring groundcover and understory vegetation except where directed otherwise by the county arborist in order to allow the removal of undesirable groundcover or understory vegetation.

Specimen trees.

a.

Specimen trees shall be identified by the county arborist, and shall be located on the tree protection plan.

b.

Standards for the identification, preservation, and protection of specimen trees shall be as follows: Any tree in fair or better condition which equals or exceeds the following diameter sizes:

1.

Large hardwoods, i.e. oaks, hickories, yellow poplars, and similar species: Thirty (30) inches DBH.

2.

Large softwoods, e.g. pines, evergreens, and similar species: Thirty (30) inches DBH.

3.

Small trees, e.g. dogwoods, redbuds, sourwoods, and similar species: Ten (10) inches DBH.

c.

A tree in fair or better condition should meet the following minimum standards:

1.

A life expectancy of greater than fifteen (15) years.

2.

A relatively sound and solid trunk with no extensive decay or hollow, and less than twenty (20) percent radial trunk dieback.

3.

No major insect or pathological problem.

d.

A lesser-sized tree can be considered a specimen if:

1.

It is a rare or unusual species or of historical significance.

2.

It is specifically used by a builder, developer, or design professional as a focal point in a project or landscape.

3.

It is a tree with exceptional aesthetic quality.

e.

The county arborist may identify and require the preservation of a tree stand if it contains one (1) or more specimen trees and the

specimen trees are interlocked with other members of the stand in such a way as to imperil the specimen tree if other members of the stand were to be removed.

f.

It shall be prohibited to cut specimen trees existing on a tract of land that is the subject of a land disturbance permit, development permit or building permit without a special exception granted by the zoning board of appeals if removal of the specimen tree has not been approved by the county arborist.

g.

Any specimen tree removed from a parcel shall be replaced by one and five-tenths (1.5) times the equivalent inches (DBH) of replacement trees or existing trees in excess of the requirements of subsection (g), tree preservation and replacement requirements, using species with potentials for comparable size and quality at maturity.

(9)

Protection of trees during construction. Methods and standards for tree protection shall be established in administrative guidelines to this [section 14-39](#)

a.

Trees identified to be preserved and counted as credit for meeting required unit density shall have four-foot orange tree protection fencing installed at the critical root zones.

b.

No person engaged in the construction of any structure(s) or improvement (s) or any activity shall encroach or place solvents, material, construction machinery or temporary soil deposits within six (6) feet of the area outside the critical root zone as defined herein, or any existing significant tree within a tree save area, transitional buffer zone, stream buffer, or state buffer zone.

c.

All tree protection devices must remain in functioning condition until completion of the project or until the certificate of occupancy is issued.

d.

Any tree, designated in the plan to be saved, which is negligently damaged during construction or as a result of negligent construction, as determined by the arborist, shall be treated according to accepted National Arborists Association standards. If fatally damaged, trees

shall be replaced with four-inch caliper trees equal to the unit value of the tree removed. However, any specimen tree negligently damaged as described above shall be replaced with four-inch caliper trees equal to one and five-tenths (1.5) times the equivalent inches (DBH) of the tree removed or damaged.

(10)

Removal of trees from floodplain not permitted. Trees shall not be cut or removed from the floodplain, except as follows:

a.

Those trees found to be diseased or insect infested by the county extension service, the Georgia Forestry Commission, a certified arborist, or a certified forester.

b.

As necessary for construction, repair or maintenance of public roads, utilities or stormwater management facilities.

c.

As part of an approved wetland mitigation plan.

d.

Trees in the one hundred-year floodplain or required stream buffer may not be cut nor shall they be counted, except as otherwise provided in subsection (g), tree preservation and replacement requirements, for C-1, C-2, M, and M-2 zoned property, to accomplish requirements of the tree protection ordinance.

(11)

The county arborist shall be responsible for distribution of appropriate public educational materials concerning the procedures of the tree protection ordinance, the value of maintaining existing trees, and proper methods of tree planting, preservation, and care.

(h)

Tree replacement standards.

(1)

The tree protection plan shall include planting schedules with proposed tree names (botanical and common), quantity, size spacing, and any special planting notes. Trees used for credit on the tree replacement plan must be chosen from the preferred list attached hereto as Appendix A to this [section 14-39](#). At least fifty (50) percent of replacement trees must be overstory trees; no more than twenty-five (25) percent may be of any single species, and no more than twenty-five (25) percent may be of evergreen species.

(2)

Unless otherwise approved by the county arborist, trees selected for replanting must meet the minimum standards as provided in the American Standard for Nursery Stock (ANSI Z60.1, 1980) and must be on the tree species selection list found in Appendix A to this [section 14-39](#). Trees selected must be free of injury, pests, disease, nutritional disorders or root defects, and must be in good vigor to assure a reasonable expectation of survival. Standards for transplanting shall be in keeping with those established in the International Society of Arboriculture publication Tree and Shrub Planting Manual or a similar publication.

(3)

It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. When practical, the replanted trees shall be of the same or similar species as those removed.

(4)

Replacement trees shall be planted in manner that provides adequate space for nourishment, light, and maturation as recommended by the county arborist.

(5)

Planting and staking details are addressed in the administrative guidelines and shall be specified in the required tree protection plan.

(i)

Buffers.

(1)

Stream buffers. Stream buffers shall be consistent with the requirements of [section 14-42](#)

(2)

Land use transition buffers. Buffers shall be provided between dissimilar districts or uses in accordance with the provisions of the zoning ordinance or as a condition of zoning, special land use permit or variance approval.

a.

Buffer planting shall meet the minimum width requirements contained in [Chapter 27](#) of the DeKalb County Code of Ordinances, except as authorized to be reduced by a condition of zoning, special land use permit or variance approval.

b.

Disturbance or encroachments.

1.

Ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities, and any associated easements, shall not encroach into a buffer

except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes) may encroach into the buffer as near to perpendicular as practical.

2.

Supplemental plantings or replantings of vegetation or authorized non-vegetative screening devices shall be authorized to encroach into a buffer provided there is minimal disturbance of any existing vegetation.

3.

Dying, diseased or dead vegetation may be removed from a buffer provided minimal disturbance occurs. Vegetation thus removed shall be replaced where necessary to meet the screening requirements contained herein.

c.

Protection during land disturbing activities.

1.

During authorized land disturbing activities, transitional buffer zones, stream buffers, and state buffer zones shall be clearly demarcated and protected prior to commencement of, and during, construction.

2.

The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the arborist.

(j)

Parking lot landscaping.

(1)

Off-street parking lots which contain more than twenty (20) off-street parking spaces on any single lot shall contain landscaping and plantings as provided in [Chapter 27](#) of the DeKalb County Code of Ordinances.

(2)

Variations to reduce required parking spaces may be granted by the zoning board of appeals when necessary to preserve a significant tree(s) that otherwise would be lost if the parking requirements were strictly applied. Such variance may only be granted if the arborist certifies to the zoning board of appeals that such tree(s) will be lost either by necessary removal for construction of the parking lot or as a consequence of construction having an adverse impact on the survivability of the tree by virtue of damage to the root system of the tree(s).

(3)

Any variance granted under the provisions of this section shall include a condition that should the subject tree(s) die as a consequence, direct or indirect, of construction, despite granting of the variance, the tree or trees shall be replaced at the property owner's or applicant's expense, in accordance with a tree replacement plan approved by the arborist.

(4)

The maximum variance allowed under this provision shall be four (4) parking spaces, or ten (10) percent of the total number of parking spaces required by the zoning ordinance, whichever is greater.

(k)

Street trees. Street trees and continuous landscape strips shall be provided, in conformance with the design requirements specified in [Chapter 27](#) of the DeKalb County Code of Ordinances, along newly constructed streets, and along existing streets which are widened or realigned subsequent to the adoption of this ordinance, in all office, commercial, and industrial developments and along newly constructed streets of residential developments with a net residential density exceeding three (3) dwelling units per acre or as otherwise directed by conditions of zoning or special land use permits.

(l)

Maintenance. Trees which are used to meet the density requirements for this [section 14-39](#), except on single family residential lots, shall be maintained for two (2) growing seasons after the date of final inspection. The property owner shall maintain required tree density. The applicant or builder will be responsible for identifying newly planted trees to the homeowner and to inform the homeowner as to their proper maintenance.

(m)

Alternative compliance. The county arborist must review and approve all requests for alternative compliance. In no instance shall one hundred (100) percent of the required site density be met through alternative compliance. Where the county arborist has determined that special constraints of a site result in an inability to provide the required tree density, the number of trees will be determined by the county arborist based on site review. Such site review shall require the developer to re-landscape each parcel using a density calculated as the maximum number of trees that can be sustained on the parcel less the impervious area of that parcel. The balance of trees shall be provided in common areas. If common areas are not sufficient, any remaining balance of trees may be provided for plantings on public grounds. Tree bank arrangements can be made through the director. The minimum size of trees replanted through the tree bank shall be two (2) caliper inches and shall be planted in accordance with the species list attached as appendix a hereto and in accordance with the requirements in subsection (h), tree replacement standards.

(1)

Common area planting. If trees are to be planted at another location, the following note must appear on the approved tree protection plan: "A tree protection plan addendum for this project shall be submitted to the county arborist at least thirty (30) days prior to requesting a final inspection. This plan shall include the species, size and location of trees to be planted off-site to meet the tree density deficit shown. Issuance of a certificate of occupancy is subject to approval of this plan, as well as verification of the installation of the trees."

(2)

Tree banking. If trees can not be planted on site and there is insufficient common area for replanting, the balance of trees will be accepted by the director for tree banking within unincorporated DeKalb County. Participants in the tree banking program administered by the director, including the signing of an off-site reforestation agreement.

(n)

Tree harvesting. Selective tree harvesting may be permitted upon authorization by the zoning board of appeals in consultation with the arborist. Permits authorizing tree harvesting shall be in accordance with the following standards:

(1)

A seventy-five-foot undisturbed buffer shall be provided and maintained along the entire perimeter of the property, including road frontages, during the land disturbing activity, except for authorized access crossings.

(2)

Notwithstanding the other provisions of this section, no property owner shall be required to preserve an undisturbed buffer that covers more than twenty-five (25) percent of the total land area of the property, excluding area inside the one hundred-year floodplain. In any such case, an alternative buffer width shall be provided, as determined by the zoning board of appeals pursuant to its review of the application for a tree harvesting permit.

(3)

The property shall be required to meet a tree density standard of thirty (30) units per acre, not including the seventy-five-foot buffer, upon completion of authorized land disturbing activities.

(4)

The owner/applicant shall utilize the recommended best management practices as established by the Georgia Forestry Commission.

(5)

No tree harvesting shall be allowed within the county except after approval of a special exception by the zoning board of appeals as is provided in Article V,

Division 4 of [Chapter 27](#) of the DeKalb County Code of Ordinances. Further, subsequent to such approval of a special exception, no such tree harvesting shall be undertaken on any nonresidential parcel of land unless the transitional buffer zones required by the zoning regulations of the district in which located, are preserved in a natural and undisturbed state.

(6)

Once tree harvesting takes place in conformity with the above regulations, no development of the property shall be permitted that would require the cutting of trees preserved under subsection (n)(3) and (n)(5) for a period of five (5) years following authorization of tree harvesting.

(o)

Utility company and public works guidelines.

(1)

All utility companies shall be required to obtain an annual permit issued by the director. All applications for an annual permit shall include a list of subcontractors with names, addresses, and county business license numbers.

(2)

Periodic work schedules are to be submitted to the arborist showing the proposed location and extent of tree work to be performed.

a.

All tree trimming and pruning to be performed by public utilities, public agencies, and their subcontractors on trees growing on private or public rights-of-way shall be done according to the National Arborist Association Standards for Pruning of Shade Trees.

b.

The routing of public and private utility easements shall be subject to review and comment by the county arborist.

(p)

Enforcement. It shall be the duty of the director to enforce this tree protection ordinance. The director shall have the authority to, and the county arborist may recommend that, the director revoke, suspend or void any land disturbance permit, development permit or building permit or suspend all work on a site or portion thereof in order to effect compliance with this section.

(1)

Violation and penalty. Any person, firm or corporation violating any of the provisions of this section, after having been first issued a warning, shall be deemed guilty of an offense and upon conviction in recorder's court shall be punished as is provided in [section 1-10](#) of the Code of DeKalb County. Each tree removed or killed in violation of this [section 14-39](#) shall be considered a

separate offense. 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.

(2)

Any trees eight (8) inches (DBH) and over which have been removed in violation of this section shall be replaced by the violator with four-inch caliper replacement trees equal to the unit value of the trees removed. However, any specimen tree removed from a parcel shall be replaced with four-inch caliper trees one and five-tenths (1.5) times the equivalent inches (DBH) of replacement trees or existing trees in excess of the requirements of subsection (g), tree preservation and replacement requirements, using species with potentials for comparable size and quality at maturity.

(3)

Additional legal remedies. In addition to all other actions and penalties authorized in this section, the department of law is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this section.

(4)

Appeals; power and duty of the board to hear appeals of decisions of administrative officials. The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by an aggrieved party that there is error in any final order, requirement, or decision made by the director based on or made in the enforcement of the tree protection ordinance. all such appeals shall be heard and decided following the notice requirements, criteria and procedural requirements in [Chapter 27](#) of the DeKalb County Code of Ordinances.

(5)

Administrative variances. Front, side and rear yard setbacks and parking requirements may be reduced by an amount not to exceed fifty (50) percent where it is determined by the county arborist to be necessary in order to preserve existing specimen or significant trees. Appropriate conditions to said administrative variances shall be imposed so as to ensure the continued health of said trees following the granting of such variances, including mandatory replacement requirements. Such administrative variances shall be considered and decided consistent with the procedures and criteria contained in [Chapter 27](#) of the DeKalb County Code of Ordinances. Appeals of final

decisions regarding administrative variances may be taken as provided in subsection (p)(4) above.

(6)

Special exception. The zoning board of appeals is authorized to consider requests for special exception for the removal of an unauthorized specimen tree. All such requests shall be filed, notice given, and all procedures shall be as is required in the zoning ordinance. No such special exception for the unauthorized removal of a specimen tree shall be granted by the zoning board of appeals unless the applicant has demonstrated and the board has found that the property is not capable of earning a reasonable economic return absent the grant of the special exception. In making this determination the board shall consider the following factors:

a.

Value of the trees in question, considering their age, size, health, and significance;

b.

The current level of economic return on the property;

c.

The marketability of the property; and the unfeasibility of alternate design or uses. Appeals from final decisions of the board shall be as provided for in [Chapter 27](#) of the DeKalb County Code of Ordinances.

APPENDIX A

DeKalb County Overstory Trees Acceptable for Replanting Credits

Scientific Name	Common Name	Recommended	Leaf Habit
Acer rubrum	Red Maple	October Glory, Red Sunset	Deciduous
Betula nigra	Riverbirch	Duraheat	Deciduous
Carpinus betuls	European Hornbeam		Deciduous
Carya aquatica	Water Hickory	Availability	Deciduous

<i>Carya cordiformis</i>	Bittemut Hickory	Availability	Deciduous
<i>Carya glabra</i>	Pignut Hickory	Availability	Deciduous
<i>Carya illinoensis</i>	Pecan		Deciduous
<i>Carya tomentosa</i>	Mockernut Hickory	Availability	Deciduous
<i>Cedrus atlantica</i>	Atlas Cedar		Evergreen
<i>Cedrus libani</i>	Cedar of Lebanon		Evergreen
<i>Cedrus deodara</i>	Deodar Cedar		Evergreen
<i>Cryptomeria japonica</i>	Japanese Cryptomeria		Evergreen
<i>Fagus grandifolia</i>	American Beech		Deciduous
<i>Fraxinus tomentosa</i>	Pumpkin Ash		Deciduous
<i>Ginkgo biloba</i>	Ginkgo	Plant male only. Autumn Bold, Fairmont	Deciduous
<i>Ilex opaca</i>	American Holly		Evergreen
<i>Juniperus virginiana</i>	Red Cedar	Brodie	Evergreen
<i>Liquidambar styraciflua</i>	Sweetgum	Limited Use-Rotundiloba (Avail.)	Deciduous
<i>Liriodendron tulipifera</i>	Tulip Poplar	Limited Use	Deciduous

<i>Magnolia acuminata</i>	Cucumbertree		Deciduous
<i>Magnolia grandiflora</i>	Southern Magnolia	Bracken's Brown Beauty, Greenback	Evergreen
<i>Magnolia virginiana</i>	Sweetbay Magnolia		Deciduous
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	Limited Use	Deciduous
<i>Nyssa sylvatica</i>	Black Gum		Deciduous
<i>Pinus echinata</i>	Shortleaf Pine		Evergreen
<i>Pinus taeda</i>	Loblolly Pine		Evergreen
<i>Platanus occidentalis</i>	Sycamore		Deciduous
<i>Quercus acutissima</i>	Sawtooth Oak		Deciduous
<i>Quercus alba</i>	White Oak		Deciduous
<i>Quercus bicolor</i>	Swamp White Oak		
<i>Quercus coccinea</i>	Scarlet Oak		Deciduous
<i>Quercus falcata</i>	Southern Red Oak		Deciduous
<i>Quercus georgiana</i>	Georgia Oak		Deciduous
<i>Quercus imbricaria</i>	Shingle Oak		Deciduous

Quercus lyrata	Overcup Oak		Deciduous
Quercus laurifolia	Laurel Oak		Deciduous
Quercus michauxii	Swamp Chestnut Oak		Deciduous
Quercus macrocarpa	Bur Oak		Deciduous
Quercus nigra	Water Oak		Deciduous
Quercus nuttalli	Nuttall Oak		Deciduous
Quercus phellos	Willow Oak		Deciduous
Quercus prinus	Chestnut Oak	Availability	Deciduous
Quercus rubra	Northern Red Oak		Deciduous
Quercus shumardii	Shumard Red Oak		Deciduous
Quercus stellata	Post Oak		Deciduous
Quercus velutina	Black Oak		Deciduous
Taxodium distichum	Bald Cypress	Shawnee Brave	Deciduous
Tilia spp.	Linden		Deciduous
Thuja × 'Green Giant'	Arborvitae	'Green Giant'	Evergreen

Thuja plicata	Giant (Western) Arborvitae		Evergreen
Ulmus americana	merican Elm	Princeton and other resistant varieties	Deciduous
Ulmus parviflora	Lacebark Elm	Allee, Athena, Bosque	Deciduous
Zelkova serrata	Japanese Zelkova	Green Vase	Deciduous

DeKalb County Understory and Other Small Trees Acceptable for Replanting Credits

Scientific Name	Common Name	Recommended	Leaf Habit
Acer barbatum	Florida Maple		Deciduous
Acer buergeranum	Trident Maple	Street Wise	Deciduous
Acer campestre	Hedge Maple		Deciduous
Acer leucoderme	Chalk Maple		Deciduous
Acer palmatum	Japanese Maple		Deciduous
Acer saccharum	Sugar Maple		Deciduous
Aesculus pavia	Red Buckeye		Deciduous
Alnus serrulata	Alder		Deciduous

Amelanchier × grandiflora	Serviceberry	Princess Diana, Autumn Brilliance	Deciduous
Aralia spinosa	Devils Walking Stick		Deciduous
Betula nigra	River Birch	Little King	Deciduous
Carpinus caroliniana	American Hornbeam		Deciduous
Castanea pumila	Chinkapin		Deciduous
Celtis tenuifolia	Georgia Hackberry		Deciduous
Celtis laevigata	Sugarberry		Deciduous
Cercidiphyllum japonicum	Katsura Tree		Deciduous
Cercis canadensis	Eastern Redbud		Deciduous
Cercis reniformis	Redbud	Oklahoma	
Chioanthus retusus	Chinese Fringetree		Deciduous
Chioanthus virginicus	White Fringetree		Deciduous
Cladrastis kentukea	Yellowwood		Deciduous
Cornus spp.	Dogwood	Florida and Kousa crosses	Deciduous
Cornus florida	Flowering Dogwood	Aurora	Deciduous

<i>Cornus kousa</i>	Kousa Dogwood		Deciduous
<i>Crataegus</i> spp.	Hawthorn	Thornless cultivars	Deciduous
<i>Crataegus phaenopyrum</i>	Washington Hawthorn		Deciduous
<i>Diospyros virginiana</i>	Persimmon		Deciduous
<i>Halesia carolina</i>	Silverbell		Deciduous
<i>Halesia diptera</i>	Two Winged Silverbell		Deciduous
<i>Hamamelis virginiana</i>	Witch-hazel		Deciduous
<i>Ilex</i> spp.	Holly	Burford, Carolina #2, Foster, Neillie R. Stevens, Savannah, Yaupon	Evergreen
<i>Ilex decidua</i>	Possumhaw		Deciduous
<i>Juniperus virginiana</i>	Red Cedar		
<i>Koelreuteria paniculata</i>	Golden Raintree		Deciduous
<i>Lagerstromia indica</i> × <i>faurieri</i>	Crape Myrtle	Tree form cultivars disease resistant and hardy, eg. Choctaw, Natchez	Deciduous
<i>Magnolia grandiflora</i>	Southern Magnolia	Alta, Bracken's Brown Beauty, Greenback, Claudia Wannamaker	Evergreen
<i>Magnolia</i> × <i>loebneri</i>	Loebner Magnolia	Merrill	Deciduous

Magnolia macrophylla	Bigleaf Magnolia		Deciduous
Magnolia soulangiana	Saucer Magnolia		Deciduous
Magnolia stellata	Star Magnolia	Star Man	
Magnolia tripetala	Umbrella Magnolia		Deciduous
Magnolia virginiana	Sweetbay Magnolia		Evergreen
Malnus floribunda	Japanese Flowering Crabapple		Deciduous
Myrica cerifera	Waxmyrtle		Evergreen
Osmanthus americanus	Devilwood		Evergreen
Ostrya virginiana	Eastern Hophombeam		Deciduous
Oxydendrum arboreurn.	Sourwood		Deciduous
Pinus Virginiana	Virginia Pine	Slopes, Screen	Evergreen
Pistacia chinensis	Chinese Pistache		Deciduous
Prunus spp.		Okame, Autumnalis	Deciduous
Sassafras albidurn	Sassafras		Deciduous
Styrax americana	Snowbell		Deciduous

Ulmus alata	Winged Elm		Deciduous
Vaccinium arboreurn	Sparkleberry		Evergreen

DeKalb County Recommended Trees for Under Powerlines

Scientific Name	Common Name	Recommended
Acer buergeranum	Trident Maple	
Acer palmatum	Japanese Maple	
Cercis candensis	Redbud	
Chionanthus retusus	Chinese Fringetree	
Chionanthus virginicus	White Fringetree	
Cornus spp.	Dogwood	Florida and Kousa crosses
Cornus florida	Flowering Dogwood	Disease resistant varieties, Aurora
Cornus kousa	Kousa Dogwood	
Crataegus phaenopyrum	Washington Hawthorn	
Ilex spp.	Holly	Nellie R. Stevens, tree form Burford, Yaupon

Koelreuteria paniculata	Golden Raintree	
Magnolia x loebneri	Loebner Magnolia	Merrill
Magnolia soulangiana	Saucer Magnolia	
Magnolia stellata	Star Magnolia	Star Man
Oxydendrum arboreum	Sourwood	
Prunus spp.		Okame, Autumnalis

Recommended Trees for Parking Lots

Scientific Name	Common Name	Recommended
Acer buergeranum	Trident Maple	Street Wise
Acer rubrum	Red Maple	October Glory, Red Sunset
Betula nigra	River Birch	Duraheat
Chionanthus virginicus	Fringetree	
Cladrastis kentukea	Yellowwood	
Crataegus phaenopyrum	Washington Hawthorn	

Juniperus virginiana	Red Cedar	Brodie
Ilex spp.		Tree form Yaupon, Burford, Carolina #2
Lagerstromia indica × faurier	Crape Myrtle	Tree form cultivars, disease resistant and hardy, eg. Natchez, Choctaw
Nyssa sylvatica	Black Gum	
Pistacia chinensis	Chinese Pistache	
Quercus michauxii	Swamp Chestnut Oak	
Quercus nigra	Water Oak	
Quercus nuttalli	Nuttall Oak	
Quercus palustris	Pin Oak	
Quercus phellos	Willow Oak	
Quercus rubra	Northem Red Oak	
Taxodium distichum	Bald Cypress	Shawnee Brave
Ulmus parvifolia	Lacebark Elm	Athena
Zelkova serrata	Japanese Zelkova	Green Vase

(Ord. No. 85-00, Pt. I, 12-28-00; Mo. of 1-23-01; Ord. of 1-23-01, Pt. 1)