

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO COMMUNITY TREE MANAGEMENT; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Title 8, entitled "Planning," of the Code of Athens-Clarke County is hereby amended by adding a new Chapter 8-7, entitled "Community Tree Management," thereto as follows:

**Chapter 8-7. Community Tree Management**

**Sec. 8-7-1. Title**

This Chapter shall be known as the "Community Tree Management Ordinance of Athens-Clarke County, Georgia".

**Sec. 8-7-2. Purpose**

Community trees provide many environmental, social, and economic benefits. A summary of the results of research on the benefits of trees entitled "Benefits of Urban Trees, Urban and Community Forestry: Improving Our Quality Of Life", also known as Forestry Report R8-FR 71, published in September 2003 by the United States Department of Agriculture, Southern Region, states that "Beyond aesthetics and emotional well-being, trees perform important functions that protect and enhance city dwellers' health and property. Trees literally clean the air by absorbing air pollutants and releasing oxygen. They reduce stormwater runoff and erosion; they temper climate; they can save energy; they create wildlife habitat; they can improve health, serve as screens, and strengthen community. They can even help contribute to a community's economy and way of life." Large maturing trees are particularly effective in providing these benefits.

Therefore, the purpose of this ordinance is to sustain and enhance the functions and benefits of trees and the community forest for the citizens of Athens-Clarke County and to utilize trees for their value and positive effects on air quality, water quality, stormwater runoff, local climate, environmental health, property values, business revenues, scenic quality, urban design, human health and well-being, outdoor recreation, forest products, and wildlife.

**Sec. 8-7-3. Intent**

The intent of this Chapter is to regulate the quantity, quality, and distribution of trees within Athens-Clarke County, within each zoning district, and on individual sites as prescribed herein. Further, the intent of this Chapter is to regulate the quantity of trees through the establishment of minimum requirements for conserved and planted tree canopy, to regulate the quality of trees through adoption of technical standards for species selection, tree planting, tree maintenance, and tree protection, and to regulate the distribution of trees so that their function is maximized.

**Sec. 8-7-4. Applicability and Exemptions**

Unless otherwise stated herein, this Chapter applies to all land in Athens-Clarke County.

**Sec. 8-7-5. Administration**

Unless otherwise stated herein, the Landscape Management Division of the Central Services Department shall be the Administrator of this Chapter.

**Sec. 8-7-6. Definitions**

The terms listed below are hereby defined for the purpose of administering this Chapter. All other terms shall have their meaning as defined in other parts of the Athens-Clarke County Code of Ordinances, or their common meaning if undefined in the Code.

*Arborist.* A professional certified by the International Society of Arboriculture who possesses the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants in the residential, commercial, and public landscape.

*Athens-Clarke County Arborist.* A staff position within the Planning Department and the official responsible for plans review and site inspections.

*Athens-Clarke County tree.* Any tree whose trunk is growing wholly or partially on land owned by Athens-Clarke County, including, but not limited to, public street rights-of-way, parks, and building and facility yards.

*Athens-Clarke County Tree Species List.* A list of trees approved and adopted by the mayor and commission that includes tree species approved for planting in Athens-Clarke County to satisfy the requirements of this Chapter and information on their characteristics of size, form, habit, and growing requirements.

*Branch.* A secondary shoot or stem arising from one of the main axes (i.e., trunk or leader) of a tree or woody plant.

*Caliper.* The diameter of a tree trunk measured at 6 inches above the ground up to and including 4 inches caliper size, and 12 inches above the ground for larger trees. Used for nursery stock and newly planted trees, and not for established trees.

*Canopy tree.* A large or medium tree with a crown size and shape that will typically provide significant shade and beneficial effects on temperature, air quality, water quality, and other environmental conditions, at maturity. Synonymous with “shade tree.”

*Champion tree.* A tree of sufficient points—given for the total of the circumference of the trunk in inches at 4.5 feet above the ground plus the total vertical height in feet plus the average crown spread in feet—to qualify as the largest tree of its species within Athens-Clarke County, the State of Georgia, or the United States.

*Community forest.* The collection of individual trees and forest stands within Athens-Clarke County, including trees on both public and private property.

*Community forester.* A staff position within the Landscape Management Division of the Central Services Department and the official responsible for the coordination of the Community Tree Program.

*Community tree.* Any tree growing within Athens-Clarke County, whether on public or private property.

*Community Tree Program.* A program approved and adopted by the mayor and commission with the purpose of pro-actively managing the public tree resource and supporting the conservation and management of the private tree resource.

*Community Tree Council, Council, CTC.* The Athens-Clarke County Community Tree Council, a citizen advisory group established by this Chapter.

*Conservable tree.* A healthy tree at least 2 inches dbh that can and will be protected in accordance with the technical standards set forth in this Chapter.

*Conserved tree canopy cover.* That portion of the tree canopy cover represented by natural cover of individual conservable trees, forested areas, forest regeneration areas, and/or future forest areas.

*Critical root zone.* A more or less circular area above and extending 24 inches below the ground around the trunk of a tree with a radius equivalent to the distance to the dripline, or 1.25 feet for every 1 inch in dbh, whichever is greater. The critical root zone increases in size as a tree grows larger.

*Crown.* The leaves and branches of a tree or shrub; the upper portion of a tree from the lowest branch on the trunk to the top.

*Decay.* Degradation of woody tissue caused by biological organisms.

*Diameter breast height (dbh).* The outside diameter of the trunk of a tree, measured 4.5 feet above ground level. For trees with co-dominant (forked) stems, the trunk is measured below the fork and

above the trunk flare, at the point of the smallest diameter. For multi-stemmed trees, the diameter is considered to be the sum of the diameters of all of the stems that contribute significantly to the crown.

*Dripline.* A line extending down to the ground from the greatest horizontal extent of a tree's branches, more or less forming a cylinder around the tree.

*Establishment period.* The length of time it takes to successfully establish a tree in the landscape, generally considered to be 3 years from the time of planting.

*Flush cut.* An improper cut made into the stem or parent branch of a limb or branch being removed during pruning, instead of outside the branch collar.

*Forest management.* A class of agriculture that includes management of land, forested areas, and trees for timber production, wildlife, recreation, or other purposes.

*Forest regeneration area.* A specified area where native seedlings, saplings, or larger trees are replanted to recreate natural forest conditions and functions to the greatest extent possible.

*Forested area.* An area which contains more than 100 trees of greater than 6 inches dbh per acre, and which is more than seventy percent 70 percent covered in tree canopy at full leaf-out.

*Future forest area.* An area currently devoid of trees but permanently set aside for natural forest succession to take place over time.

*Future tree canopy cover.* A standardized amount of future mature tree canopy cover credited to a particular species based upon its mature size category—large, medium, small, or very small—and the typical shape of its crown. The amount credited to each species is found in the *Athens-Clarke County Tree Species List*.

*Hazard tree.* A tree or any part thereof, that is at risk for failure and threatens the health, safety, or general welfare of a person(s) or property.

*Healthy tree.* As determined by the Community Forester or Athens-Clarke County Arborist, a tree that is vigorous as indicated by leaf color and annual shoot extension, with a relatively symmetrical form typical of the species, with 1/3 or more of its height in live crown (live crown ratio of 33 percent or more), with roots, trunk, and crown absent of extensive and significant signs of insect or disease infection, wounds or other mechanical damage, decay and structural defects. For pine trees the live crown ratio may be less than 30 percent and the tree still otherwise considered healthy.

*Included bark.* Bark that is caught between co-dominant stems, or a stem and a branch, and/or within narrow branch angles, creating a structural weakness.

*Inspector.* The Community Forester, Athens-Clarke County Arborist, or other individual designated by the Manager to enforce the provisions of this Chapter.

*International Society of Arboriculture, ISA.* A worldwide professional organization dedicated to fostering a greater appreciation for trees and to promoting research, technology, and the professional practice of arboriculture. Administers certification programs for arborists, tree workers, utility arborists, and municipal arborists.

*Landmark tree.* Individual trees, groups of trees, or forested areas that meets one or more criteria for age, size, species, form, character, history, location, or association with an historic event, person, or landmark, and which is officially designated by the Landscape Management Division.

*Landscape Management Division.* A division of the Central Services Department charged with the administration of the Community Tree Program, as well as the care of the public landscape, among other responsibilities.

*Large canopy tree.* A tree with a canopy that covers at least 1,600 square feet at maturity under urban conditions, with crown diameter of at least 45 feet.

*Lateral.* A branch or twig growing from a parent branch or stem.

*Leader.* A dominant upright stem, usually the main trunk. There can be several leaders in one tree.

*Limb.* Same as “branch” but larger and more prominent.

*Live crown ratio.* The vertical extent of a tree’s live crown as compared to its total height and expressed as a fraction or percent.

*Medium canopy tree.* A tree with a canopy that covers at least 900 square feet at maturity but less than 1,600 square feet under urban conditions, with a crown diameter of at least 35 feet.

*Mulch.* Organic matter composed of pine straw, leaves, aged wood chips, compost, pine bark, or a combination thereof, that is applied in a layer on the ground over the roots of a tree to retain soil moisture, improve soil texture, cover and suppress the growth of unwanted vegetation, increase soil nutrients, and provide a favorable habitat for beneficial soil organisms.

*Native tree.* A tree species that naturally occurs within Athens-Clarke County or the Piedmont area of Georgia in which Athens-Clarke County is located. See the *Athens-Clarke County Tree Species List* for information on which species are considered native.

*Open soil surface area.* The minimum area around a planted tree that shall remain in a permeable condition as specified in the Athens-Clarke County Tree Species List.

*Parent branch or stem.* The tree trunk; or a large limb from which lateral branches grow.

*Planted tree.* A new tree, native or non-native, planted on a site outside of a tree conservation area, forested area, forest regeneration area, or future forest area.

*Protected trees.* Trees planted or conserved to meet the requirements of this Chapter, Athens-Clarke County trees, and designated Landmark Trees.

*Pruning.* Removal of woody plant parts.

*Roots.* Woody and fibrous (or “feeder”) structures extending from the base of the tree trunk and contained primarily within the soil that function to anchor the tree, store food, and absorb water and nutrients. A tree’s root system extends out from the trunk generally 2 to 3 times the width of the crown.

*Scaffold limbs.* The large, main limbs that diverge from the trunk of a tree and that support the remainder of the branches and leaves.

*Shade tree.* See “canopy tree”.

*Small canopy tree.* A tree with a canopy that covers at least 400 square feet at maturity but less than 900 square feet under urban conditions, with a crown diameter of at least 25 feet.

*Stub.* An undesirable short length of a branch remaining after a break or an incorrect, internodal pruning cut is made.

*Topping, top (heading, lopping, tipping).* An improper method of pruning that involves cutting a currently growing or one-year-old shoot back to a bud, or cutting an older branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role.

*Tree.* A woody perennial plant that has the potential to attain a height of 15 feet or greater and a dbh of three 3 inches or greater.

*Tree canopy cover.* The land area covered by a tree crown or crowns, as measured in square feet. For a site or lot it may be expressed as the percent of the land area covered by tree canopy and is calculated by dividing the tree canopy cover in square feet by the total land area of the site or lot.

*Tree conservation.* The conservation of specified areas on a site or lot where existing, noninvasive, healthy trees, groups of trees, and/or forested areas will remain.

*Tree establishment.* The activities associated with installing a tree in the landscape, including tree selection, tree placement (site selection), soil preparation, planting, and new tree maintenance.

*Tree-planting season.* The time of year most suitable for planting trees, while they are dormant, considered to be December through March in Athens-Clarke County.

*Tree protection zone (TPZ).* A more or less cylindrical area surrounding a tree (planted or conserved) and including the critical root zone and extending up to the top of the tallest branch and out from the trunk to the dripline of the tree or the critical root zone, whichever is greater. This area includes the trunk, crown, and that portion of the tree's roots within the critical root zone. For a group of trees, it includes the area within the group and extending out to the critical root zones of the trees located along the entire perimeter of the group. The tree protection zone increases in size as a tree grows.

*Trunk.* The main stem(s) of a tree, located above ground, extending up from the root system, and supporting the crown. The trunk is responsible for water, nutrient, and carbohydrate transport within the tree and the storage of carbohydrates for future use.

*Unhealthy tree.* As determined by the Community Forester or Athens-Clarke County Arborist, a tree demonstrating one or more signs of loss of vigor and decline, as indicated by atypical leaf color, recurring short annual shoot extension, or less than 1/3 live crown ratio, or severe insect or disease infestation, or with damage or structural defects that may include, but are not limited to: severed or damaged roots greater than 2 inches in diameter within the critical root zone; signs of previous topping or other improper pruning practices resulting in decay or a structural defect; longitudinal cracks in the trunk; wounds that encompass greater than 1/3 of the circumference of the trunk; trunk cavities equal to or greater than 2/3 of the trunk diameter at the point of the cavity; cracks, wounds, or cavities of one or more of the scaffold limbs resulting in a structural defect that cannot be corrected to ensure a safe or healthy condition; and any other defect that cannot be corrected through standard arboricultural practices.

*Vegetation management.* All planned work activities relating to landscape and roadside development on the right-of-way. These activities may include the removal and/or pruning of trees or other vegetation, landscape planting, construction and any maintenance management of their related features (i.e., mowing, chemical control and pruning and tree removal).

*Very small canopy tree.* A tree with a canopy that covers at least 150 square feet at maturity but less than 400 square feet under urban conditions, with a crown diameter of at least 15 feet.

*Wound.* The opening that is created any time the tree's protective bark covering is penetrated, cut, or removed, injuring or destroying living tissue.

#### **Sec. 8-7-7. Community Forester**

The staff position of Community Forester is hereby established within the Landscape Management Division of the Central Services Department. The Community Forester shall report to the Landscape Management Administrator and shall coordinate the Community Tree Program. The Community Forester shall provide technical assistance to the Administrators, Athens-Clarke County Arborist, and Athens-Clarke County staff in the administration of this Chapter, in addition to other duties and responsibilities as described herein and as may be assigned by the Manager.

#### **Sec. 8-7-8. Athens-Clarke County Arborist**

The staff position of Athens-Clarke County Arborist is hereby established within the Planning Department. The Athens-Clarke County Arborist shall report to Planning Director and shall provide technical assistance and site inspections to the Planning Director and the development community for the purpose of satisfying the provisions of this Chapter related to development, in addition to other duties and responsibilities as described herein and as may be assigned by the Manager.

#### **Sec. 8-7-9. Community Tree Program**

There is established by the Mayor and Commission a Community Tree Program for the purpose of proactively conserving and professionally managing the public tree resource, and actively supporting the quality conservation and management of the private tree resource for public health and safety, environmental health, and the enhancement of the quality of life in Athens-Clarke County.

(a) *Administration.* The Landscape Management Division of the Central Services Department shall administer the Community Tree Program. The Community Forester shall be responsible for coordinating the Community Tree Program.

(b) *Program components.* The Community Tree Program shall include administration of the community tree ordinance, maintenance of the *Athens-Clarke County Tree Species List*, public tree establishment, maintenance, and record keeping, tree care education and outreach, and maintenance of a Community Tree Program calendar.

### **Sec. 8-7-10. Community Tree Council**

There is established an Athens-Clarke County Community Tree Council, which shall be known as the Community Tree Council and the CTC.

(a) *Membership.* The council shall consist of 15 members, appointed by the mayor and commission. 11 members shall be selected to represent each of the 10 Athens-Clarke County Commission districts plus 1 member shall be selected to represent the mayor. 3 additional members shall be at large and shall be representative of tree-related and/or development-related professions. The Community Forester shall be a member and shall serve as Athens-Clarke County's official liaison and council secretary.

(b) *Ex-officio members.* There may be up to 10 ex-officio members of the council. One representative from each of the following may be included:

- (1) Athens Area Utility Coordinating Committee
- (2) Athens Area Homebuilders Association
- (3) Athens-Clarke County Cooperative Extension Service
- (4) Athens Garden Club Council
- (5) Clarke County School District
- (6) Federation of Neighborhood and Community Associations
- (7) Georgia Forestry Commission
- (8) Keep Athens-Clarke County Beautiful
- (9) Oconee Rivers Greenway Commission

Other organizations may be asked to send representatives as appropriate but the total number of ex-officio members shall not exceed 10.

(c) *Term of office.* The term of office of the members of the council shall be 6 years except that the term of 5 of the members appointed to the first council shall be 2 years and the term of 5 members of the first council shall be 4 years.

(d) *Assistance from Athens-Clarke County departments.* Athens-Clarke County departments are hereby authorized to offer assistance to the council as deemed appropriate by the manager.

(e) *Rules and regulations.* The council is hereby authorized to adopt by-laws for its own administration and to recommend rules and regulations affecting trees located on public and private property.

(f) *Responsibility and authority.* The council shall be advisory in nature and shall, in all matters related to trees:

- (1) Provide information, long-range planning, and community forest evaluation to Athens-Clarke County staff.
- (2) Provide tree-related information and education to the public and private sectors.
- (3) Seek federal, state, and private funds for the operation of the council and its programs.

- (4) Hear appeals for applications for Landmark Tree designation.
- (5) Develop networks and coordination among community tree management partners.
- (6) Attend training available through state, federal or private agencies to further the education of the council members.
- (7) Provide guidance and recommendations on community tree policy and procedures.
- (8) Serve as a partner to the Central Services Department, Landscape Management Division in its implementation of the Community Tree Program.

(g) *Budgetary authority and accountability.* The council is hereby authorized to develop and maintain an annual budget to cover the costs of operation and shall account to the mayor and commission for the expenditure of funds.

(h) *Reports.* The council shall make an annual report to the mayor and commission in conjunction with Arbor Day each year and other such reports as may be requested.

**Sec. 8-7-11. Athens-Clarke County Tree Species List**

The official *Athens-Clarke County Tree Species List* as adopted by the Mayor and Commission on August 3, 2004 and referred to in various sections of this Chapter and Title 9 of the Athens-Clarke County Code is incorporated herein by reference. The Community Forester shall be responsible for making recommendations from time to time to the Mayor and Commission on the contents of the list. The original of said *Athens-Clarke County Tree Species List* shall be on file and available for public inspection in the Office of the Clerk of Commission at City Hall, 301 College Avenue, Athens, Georgia. Copies of the *Athens-Clarke County Tree Species List* may also be maintained for public inspection in the Landscape Management Division office and the Planning Department office.

**Sec. 8-7-12. Landmark Trees**

A classification of trees known as “Landmark Trees” is hereby established, along with a program to designate trees as Landmark Trees. The Landscape Management Division shall administer the Landmark Tree program.

(a) *Criteria for designation.* Landmark Trees shall be healthy trees that meet one or more of the following criteria:

- (1) Age greater than 50 years as determined by planting records or the written opinion of an arborist, the Athens-Clarke County Arborist, or the Community Forester.
- (2) Large canopy trees greater than 36 inches dbh, medium canopy trees greater than 24 inches dbh, and small canopy trees greater than 12 inches dbh.
- (3) National, State, or Athens-Clarke County champion trees.
- (4) Unique or rare species.
- (5) Association with a documented historic event, person, or community landmark.
- (6) Trees planted for Arbor Day celebrations and other community-wide public celebrations.
- (7) Trees planted in honor or memory of an individual or an event.
- (8) Trees belonging to a significant cross-property or neighborhood-wide planting that affect the greater landscape beyond the property on which they grow.

(b) *Application.* Only the owner may apply for Landmark Tree status for a tree growing on their property. Applications shall be available from the Landscape Management Division office. The Community Forester shall review each application, conduct an inspection of the tree, and either approve or deny the application.

(c) *Landmark Tree official record.* The Community Forester shall keep an official record of the location and description of all designated Landmark Trees. Such record shall be maintained in the office of the Landscape Management Division for public inspection. In addition the location of a designated Landmark Tree shall be entered into a Landmark Tree GIS layer and maintained by the GIS/Graphics Division of the Planning Department.

(d) *Appeal of denial of Landmark Tree designation.* An appeal to approve an application for Landmark Tree designation that has been denied may be made to the Community Tree Council in writing. A copy of the original application for Landmark Tree designation shall accompany the letter of appeal. The Community Tree Council shall act upon the request for approval for the Landmark Tree application at its next regularly scheduled meeting.

(e) *Maintenance of Landmark Trees.* The pruning, maintenance, and protection of Landmark Trees shall be done in accordance with the technical standards set forth in Sec. 8-7-19. Failure to comply with these technical standards may result in the revocation of Landmark Tree status by the Community Forester. An appeal to reinstate a Landmark Tree designation may be made by the tree owner to the Community Tree Council in writing. The Community Tree Council shall act upon the request for reinstatement at its next regularly scheduled meeting. Landmark Tree owners are encouraged to hire professional certified arborists experienced in the care of mature and special trees to assist in maintaining Landmark Trees.

**Sec. 8-7-13. Reserved.**

**Sec. 8-7-14. Athens-Clarke County Trees**

All trees growing on Athens-Clarke County property, including the public street rights-of-way, Athens-Clarke County offices and facilities, parks and recreation areas, and all other public areas, shall be protected trees. The Landscape Management Division shall be responsible for the administration of requirements of this Chapter related to Athens-Clarke County trees.

(a) *Damage or destruction of Athens-Clarke County trees.* It shall be unlawful to damage or cause the death of any Athens-Clarke County tree, or to engage in the prohibited activities listed in Sec. 8-7-19(h)(1) or to exceed the limitations set forth in Sec. 8-7-19(h)(2) within the tree protection zone of any such tree.

(b) *Athens-Clarke County right-of-way encroachment permit required.* An Athens-Clarke County right-of-way encroachment permit issued by the Transportation and Public Works Department shall be required for any activity that occurs both on the public right-of-way and within the tree protection zone of an Athens-Clarke County tree. A right-of-way encroachment permit is not required for utility vegetation maintenance activities performed on public rights-of-way.

(1) *Tree protection required.* When encroachment occurs within the tree protection zone of an Athens-Clarke County tree as described in Sec. 8-7-14(b), the tree shall be protected from damage or destruction in accordance with the tree protection standards set forth in Sec. 8-7-19(h).

(2) *Site inspection.* When proposed right-of-way encroachment meets the criteria set forth in Sec. 8-7-14(b) a copy of the approved right-of-way encroachment permit shall be forwarded from the Transportation and Public Works Department to the Community Forester for monitoring of encroachment activities to ensure tree protection standards as set forth in Sec. 8-7-19(h) are met.

(c) *Annual Vegetation Management Schedule required from utility companies.* All utility companies having wires, cable lines, pipe, or other facilities within Athens-Clarke County right-of-way shall submit an annual Vegetation Management Schedule no later than January 1 of each year to perform any vegetative maintenance activities on any Athens-Clarke County tree or public right-of-way. Vegetation maintenance activities shall include 1) mowing; 2) chemical control; and 3) pruning and tree removal. For non-routine projects not included on the annual Vegetation Management Schedule, notification is not required but is preferred. In no event shall the requirements of this Chapter be more restrictive with respect to utility companies affected thereby

than are equivalent regulations promulgated by the Georgia Department of Transportation with respect to utilities on the state highway system under the authority of O.C.G.A. Sec. 32-6-174. The Annual Vegetation Management Schedule requirements include:

- (1) One Vegetation Management Schedule shall be submitted for each maintenance activity, annually for all of the sites within Athens-Clarke County.
- (2) One schedule for all 3 maintenance activities may be submitted, or up to 3 separate schedules.
- (3) The name and contact information of the utility company representative shall be included with the schedule.
- (4) The Vegetation Management Schedule shall be submitted to the Landscape Management Division office.
- (5) The utility company shall have 1 year to perform the maintenance activities described in the Vegetation Management Schedule.
- (6) A minimum of 5 working days notification of any changes to the Vegetation Management Schedule shall be provided by the utility company to the Landscape Management Division office. Vegetation maintenance activities shall conform to the standards set forth in Sec. 8-7-14(d) below.

(d) *Vegetation maintenance standards.* All vegetation maintenance activities performed by utility companies and their agents on Athens-Clarke County right-of-way, including mowing, chemical control, and tree pruning and removal shall conform to the following minimum standards as required by the Georgia Department of Transportation with respect to utilities on the state highway system under the authority of O.C.G.A. Sec. 32-6-174.

- (1) Tree removal, tree pruning, mowing, and chemical control may be performed at any time.
- (2) Chemical control shall meet all State and Federal regulations.
- (3) Aerial applications of chemicals are prohibited.
- (4) The utility company shall repair any damage that results from the mishandling or misuse of materials at the utility's expense and to the satisfaction of Athens-Clarke County.
- (5) All pruning and removal activities shall be performed under the supervision of an ISA Certified Arborist.
- (6) All trimming and pruning activities shall be in accordance with the most current ISA tree trimming and pruning guidelines.
- (7) Crown reduction of pine tree is limited to lateral limbs.
- (8) Cutting the leader of mature wood constitutes topping and is prohibited.
- (9) Pruning which removes more than 1/3 of the canopy of a tree and/or leaves the tree with unnatural symmetry is prohibited. If this type of activity is contemplated, removal should be considered.
- (10) Within right-of-way mowable areas, tree stumps and roots projecting through or appearing on the surface of the ground shall be removed to a depth of 6 inches below the average contour of the ground surface. Removal shall be accomplished by means of stump grinding equipment designed for this purpose, or by hand.
- (11) Holes or voids created by the removal of stumps shall be filled, graded, and compacted with acceptable fill material. In areas where stumps are adjacent to grass areas, sod shall be used to repair the bare spots created by the stump removal, areas damaged by equipment and/or currently exposed on site.

(12) In non-mowable areas stumps may remain at a maximum of 4 inches above the ground line.

(13) All work shall be done without damage to native trees and shrubs that are to remain in the vegetation management zone or are adjacent to the vegetation management zone. All work shall be done without damage to existing site conditions.

(14) All waste and debris shall be properly disposed of and the site left in an acceptable condition on a daily basis. When completed, the work site must be clean of all litter and debris created by the utility company and, if a mowable area, acceptable for mowing by conventional mowing equipment.

(15) Cut trees, limbs, and shrubs must be removed in their entirety from the site, unless other arrangements have been made.

(16) Woody and leafy debris shall not be discarded onto adjacent property without permission of the landowner.

(17) Maintenance activities that do not conform to these standards shall be deemed unsatisfactory and shall promptly be corrected by the utility company within 15 working days after notification by the Landscape Management Division office.

(18) Maintenance activities that result in a safety hazard or cause erosion shall be deemed unsatisfactory and shall be halted and corrected immediately, within 8 hours, to the satisfaction of the Landscape Management Division Administrator.

(19) If necessary, the Landscape Management Division will correct unsatisfactory work and its cost reimbursed by the utility company.

#### **Sec. 8-7-15. Tree Canopy Cover**

It is the goal of Athens-Clarke County to achieve and maintain an actual tree canopy cover of at least 45 percent and to promote the functional distribution of that canopy throughout and within the established zoning districts as development occurs through goals and requirements for tree canopy cover.

(a) *Minimum total tree canopy cover requirements.* New developments and existing developments adding structural or site improvements as defined in Sec. 9-25-2 and developments requiring preliminary plats as defined in Sec. 9-26-2, and developments for which a land development/land disturbance activity permit is required, shall contribute at least a minimum amount of tree canopy cover to Athens-Clarke County's overall total. Existing single-family residential lots that appear on a preliminary plat approved prior to the adoption of this Chapter are exempt.

(b) *Distribution of tree canopy cover.* The tree canopy cover shall be distributed throughout the site or lot, in parking lots, within the adjoining street rights-of-way, and within the side, front, and rear yards of the lot.

(c) *Tree canopy cover required by zoning district.* The amount of tree canopy cover required is measured in percent of total gross acreage of the site or lot and varies by zoning district. Table 1 contains the minimum tree canopy cover required according to the zoning district. On new single-family residential subdivisions, tree canopy cover is required for the overall site, as well as for each individual lot. Tree canopy cover required for each lot may be counted toward the tree canopy cover required for the entire site. The tree canopy cover located in the adjacent public right-of-way may be applied to the individual lot and overall tree canopy cover requirements.

(d) *Maintenance of tree canopy cover; Certificate of occupancy.*

(1) Requirements for Certificate of Occupancy. Compliance with the provisions of this chapter is required for issuance of a certificate of occupancy.

(2) Requirements after issuance of Certificate of Occupancy. For single-family residential lots, tree canopy cover requirements and protected-tree status requirements do not apply after the issuance of a certificate of occupancy. For all other lots, including open-space areas within single-family residential subdivisions, the required amount of total tree canopy, conserved and planted, shall be maintained in perpetuity. All trees planted or conserved to meet the requirements of this Chapter are protected trees and shall conform with the technical standards of Section 8-7-19.

**Table 1. Tree Canopy Cover Requirements by Zoning District**

<b>Land Use Zone</b>	<b>Total Tree Canopy Cover, Conserved and Planted</b>	<b>Conserved Tree Canopy Cover Component of Total (lots greater than or equal to 12,500 sq ft.)</b>
<b>AR</b>	0%	0%
<b>IN</b>	40%	10%
<b>RS-40 Site</b>	60%	40%
Each Lot	50%	30%
<b>RS-25 Site</b>	60%	40%
Each Lot	50%	30%
<b>RS-15 Site</b>	60%	30%
Each Lot	50%	20%
<b>RS-8 Site</b>	45%	15%
Each Lot	35%	0%
<b>RS-5 Site</b>	40%	15%
Each Lot	35%	0%
<b>RM-1</b>	55%	35%
<b>RM-2</b>	50%	25%
<b>RM-3</b>	45%	15%
<b>G</b>	See footnote (1)	See footnote (1)
<b>P</b>	N/A, See footnote (2)	N/A, See footnote (2)
<b>C-G</b>	40%	10%
<b>C-D</b>	0%	0%
<b>C-O</b>	50%	25%
<b>C-N</b>	45%	15%
<b>C-R</b>	60%	30%
<b>E-O</b>	40%	15%
<b>E-I</b>	40%	5%
<b>I</b>	20%	0%

(1) The minimum conserved and planted tree canopy cover for a G (Government) zone property shall be that of the most compatible non-Government zoning classification for the principal use of the property as determined by the Planning Director.

(2) Existing and conserved canopy and related standards of the Community Tree Management Ordinance for Athens-Clarke County parks shall be determined by the Mayor and Commission in conjunction with the approval of all park master plans.

(e) *Minimum conserved tree canopy cover requirement.* On lots equal to or greater than 12,500 square feet in gross acreage a minimum amount of the tree canopy cover shall originate from tree conservation as listed in Table 1. Trees within forested areas, open space, forested buffers, side, rear, and front yard buffers, 100-foot or 75-foot riparian buffers identified on the Environmental Areas Map, state-mandated 25-foot riparian buffers, stormwater retention and detention areas and facilities, parks and open areas, passive recreation space, the 100-year floodplain, jurisdictional wetlands, and other such forested areas shall count toward the minimum conserved tree canopy cover requirement if they meet the definition of a conservable tree or trees and/or forested area. All tree conservation shall be accomplished in accordance with the tree conservation standards set forth in Sec. 8-7-19(d) and (e).

(f) *Administrative waiver of tree conservation.* An applicant may request in writing an administrative waiver from all or part of the tree conservation requirement prior to the submittal of a site plan, preliminary plat, or building permit, however existing trees must be conserved to the greatest extent possible. In the event a waiver is granted, an alternative compliance method must be substituted for tree conservation in accordance with the criteria set forth in Sec. 8-7-15(g) below. The request for a waiver shall include an explanation of why tree conservation cannot be fully achieved and shall be accompanied by a tree management plan which illustrates the extent to which tree conservation can be achieved and the alternative compliance method(s) proposed as a substitute. The tree management plan must otherwise meet all requirements for a tree management plan as required in Sec. 8-7-17.

(g) *Criteria for substituting alternative compliance methods.* Substitution of an alternative compliance method for tree conservation shall be accomplished as follows.

(1) When tree conservation requirements cannot be partially or wholly met due to zoning requirements, utility construction standards, street construction standards, other Athens-Clarke County code requirements, or extraordinary or exceptional conditions pertaining to the site because of its size, shape, character, topography, or the amount or distribution of existing trees, then a forest regeneration area or future forest area may be substituted for all or part of the tree conservation area. Forest regeneration areas and future forest areas shall be established in accordance with the standards set forth in Sec. 8-7-19(f) and (g).

(2) When tree conservation requirements cannot be partially or wholly met for one of the reasons described in Sec. 8-7-15(g)(1) and the site is either surrounded by impervious surfaces or the amount of landscaped area available is not large enough to establish a forest regeneration area according to the standards set forth in Sec. 8-7-19(f), then additional planted trees may be substituted for all or part of the tree conservation area.

(h) *Criteria for substituting alternative compliance methods when no trees exist.* When no tree canopy cover exists prior to development then an administrative waiver is not required and any combination of a future forest area, forest regeneration area, and additional planted trees may be substituted for tree conservation to meet the total tree canopy cover requirement.

(i) *Planted tree canopy cover.* The remainder of the minimum total tree canopy cover requirement may be satisfied through the planting of trees after tree conservation requirements have been met. For trees to be eligible for any tree canopy cover credit, the required amount of open soil surface area must be present and protected around the tree. In addition, tree planting must meet the tree establishment standards set forth in Sec. 8-7-19(i), and trees must be protected in accordance with the tree protection standards set forth in Sec. 8-7-19(h) to be eligible for tree canopy cover credit. Individual trees planted in parking lots, along the street, in front, side, and rear yards, in village greens, in active recreation areas, or in any other unbuildable portion of the lot shall count for credit as planted trees and the overall tree canopy cover requirement.

(j) *Tree canopy cover in parking areas.* A minimum of 1 tree per 7 parking spaces is required. Parking areas shall be shaded by parking lot canopy trees as listed in the *Athens-Clarke County*

*Tree Species List.* Tree canopy cover and trees planted in parking areas shall conform to the following minimum requirements.

- (1) A ratio of one (1) parking lot canopy tree for each 7 parking spaces to create a canopy effect is required.
  - (2) Trees shall be selected from the parking lot canopy trees identified in the *Athens-Clarke County Tree Species List*.
  - (3) Required trees can be incorporated into the required 7 percent landscape area required in Sec. 9-25-8.
  - (4) To be considered a parking lot canopy tree, the tree shall not be planted any farther than 10 feet from, nor any closer than 3 feet to, the edge of the parking area pavement or curb.
  - (5) Required trees shall be a minimum of 2 inches in caliper for deciduous trees, a minimum of 8 feet in height for evergreen trees, and a minimum of 1 inch caliper per trunk for multi-trunk trees at the time of planting.
  - (6) A parking lot consisting of fewer than 10 spaces may incorporate the required parking lot trees around its perimeter.
  - (7) The tree species shall be selected from the Parking Lot Canopy Trees column in the *Athens-Clarke County Tree Species List*.
  - (8) Only large canopy trees shall be used for the perimeter planting areas. Large canopy trees shall be used for interior islands or peninsulas if adequate root area can be provided. For vehicle sales lots smaller tree species may be used.
  - (9) The landscaped area shall include the open soil surface area required for the canopy size tree selected in the *Athens-Clarke County Tree Species List*. However, 1 medium parking lot canopy tree may be planted in a landscape island or peninsula with a minimum dimension of 9 feet by 18 feet from outside of curb to outside of curb or 1 parking stall.
  - (10) Where double loaded parking is utilized, an island that is a minimum of 9 feet by 36 feet outside of curb to outside of curb may use either 1 large canopy tree or 2 medium canopy trees.
  - (11) Planting strips in the interior of a parking lot shall have a minimum width of 9 feet from outside of curb to outside of curb to accommodate trees.
  - (12) Perimeter planting strips along property lines shall have a minimum width of 7 feet measured from outside of curb to the property boundary to accommodate trees.
  - (13) In no case shall trees be planted in areas between any structure and the curb without a minimum of 12 feet planting width.
  - (14) Trees shall be evenly distributed throughout the parking areas and parking perimeter at the required ratio.
  - (15) No more than 14 contiguous parking spaces shall be allowed without a minimum of 1 landscape island or peninsula containing trees.
  - (16) Conservable trees may qualify for parking lot canopy trees with the approval of the Athens-Clarke County arborist.
- (k) *Streetscape trees.* Trees shall be required as part of the streetscape on either side of the front lot line in accordance with Sec. 9-14A-12, 9-15-2, 9-25-8, and 9-26-6. Tree establishment shall be done in accordance with the technical standards set forth in Sec. 8-7-19. Tree canopy cover along streets must meet the following minimum requirements.

(1) One street tree shall be planted for each 30 feet of frontage for that portion of the development fronting the street.

(2) Where feasible, existing healthy trees on the site or lot of greater than 2 inches dbh shall be incorporated into the required streetscape.

(3) Trees may be spaced at variable distances to conform to site selection standards set forth in Sec. 8-7-19(i)(1) and minimum distances in Table 2 of Sec. 8-7-19(i), however they must be more or less evenly distributed across the front lot line.

(4) Street trees shall be selected from the species recommended for use in road frontage areas by the *Athens-Clarke County Tree Species List*. Other species may be used as street trees with the approval of the Athens-Clarke County Arborist.

(5) Street trees may be planted within the front yard setback and within 5 feet of the front lot line, or within the public street right-of-way.

(6) Street trees may not be allowed in traffic vision clearance zones designated by the Director of the Department of Transportation and Public Works.

(l) *Minimum tree canopy cover goals*. Where tree canopy cover requirements do not exist or do not apply to a zoning district or individual lot, Athens-Clarke County encourages individual property owners to contribute toward Athens-Clarke County's overall tree canopy cover goal by maintaining trees on their property.

(1) *Single-family residential lots*. Owners of single-family residential lots are encouraged, but not required, to maintain a minimum of 60 percent tree canopy cover, after a certificate of occupancy has been issued.

(2) *Agricultural land uses*. Owners of lots in the AR zone are encouraged, but not required, to maintain a minimum of 50 percent tree canopy cover.

(m) *Measurement of tree canopy cover*. Tree canopy cover includes conserved individual trees, groups of trees, forested areas, forest regeneration areas, future forest areas, and/or planted trees, as established in accordance with this Chapter. For a tree to be eligible for tree canopy cover credit for a specific lot, its trunk must be growing wholly on that lot. The eligible categories of tree canopy cover are measured as follows:

(1) *Tree canopy cover for individual, conserved trees*. For the purposes of this Chapter, the tree canopy cover that is credited to an individual tree shall be either the actual square foot area of the crown's projection directly down onto the ground, or the future tree canopy cover for the species as listed in the *Athens-Clarke County Tree Species List*, whichever is greater. Any tree of a species not on the *Athens-Clarke County Tree Species List* shall be given the future tree canopy cover for the size typical of the species using standard landscaping references. For a conserved tree to be eligible for tree canopy cover it must be protected in accordance with the technical standards set forth in Sec. 8-7-19.

(2) *Tree canopy cover for groups of conserved trees and forested areas*. Tree canopy cover credited to a group of trees shall be the combined area of the crowns' projections onto the ground, also described as the outer perimeter of the area encompassed by the tree protection zones of all the trees.

(3) *Tree canopy cover for forest regeneration areas and future forest areas*. Tree canopy cover credited to a forest regeneration area shall be the area planted in accordance with the forest regeneration area establishment standards set forth in Sec. 8-7-19(f). Tree canopy cover credited to a future forest area shall be the area established in accordance with the future forest area establishment standards set forth in Sec. 8-7-19(g).

(4) *Planted tree canopy cover*. Tree canopy cover credited to a planted tree shall be the future tree canopy cover for the species as listed in the *Athens-Clarke County Tree*

*Species List.* For a planted tree to be eligible for tree canopy cover the required open soil surface area as listed in the *Athens-Clarke County Tree Species List* must be present.

(5) *Tree canopy cover of a site or lot.* The tree canopy cover of a site or lot shall be expressed as a percent of the gross acreage of the site or lot. Tree canopy cover for a site or lot can consist of conserved trees or planted trees or both.

(6) *Tree canopy cover credit for Landmark Trees.* On development sites, designated Landmark Trees shall be given two times either the future tree canopy cover listed in the *Athens-Clarke County Tree Species List* or two times the actual tree canopy cover, whichever is greater.

(7) *Tree canopy cover.* The area of tree canopy cover for which credit is given shall always remain in tree canopy cover and there shall be no other use of the area other than for tree growth or passive recreation as defined in Title 9. The area shall remain permeable, open soil as required by the technical standards set forth in Sec. 8-7-19.

(n) *Athens-Clarke County tree canopy cover measurement.* The current and future total tree canopy cover throughout Athens-Clarke County and the total within each zoning district shall be calculated on a regular basis by the Planning Department or its agent. The results of the tree canopy cover measurement shall be presented to the Mayor and Commission at a regularly scheduled meeting during the first quarter after the completion of the measurement.

#### **Sec. 8-7-16. Protected Trees**

Officially designated Landmark Trees, trees on private property that have been conserved or planted to satisfy Athens-Clarke County code requirements, and Athens-Clarke County trees shall be classified as protected trees. Protected tree status does not apply to trees on single-family residential lots after the certificate of occupancy has been issued.

(a) *Protection of protected trees.* All protected trees shall be actively and passively protected within the tree protection zone from damage or destruction and from any activity that may cause damage or destruction, including, but not limited to, those prohibited and limited activities listed in Sec. 8-7-19(h)(1) and (2), using any and all measures necessary. Tree protection measures shall conform to the tree protection standards contained in Sec. 8-7-19(h).

(b) *Planting of other vegetation.* Planting of perennial shrubs, herbaceous plants, turf, sod, or ground cover is limited to the outer 2/3rds of the tree protection zone for a conserved tree, and to no closer than 2.5 feet to the trunk of a planted tree.

(c) *Pruning of protected trees.* The pruning of protected trees shall conform to the tree pruning standards contained in Sec. 8-7-19(j). A right-of-way encroachment permit shall be required for the pruning of any Athens-Clarke County tree, except for pruning by Athens-Clarke County or for vegetation management in accordance with Sec. 8-7-14(d).

(d) *Removal of protected trees.* An Athens-Clarke County tree shall not be removed without prior approval from the Landscape Management Division Administrator, except for the removal of trees by Athens-Clarke County or for vegetation management in accordance with Sec. 8-7-14(d). Any tree planted or conserved on private property to meet code requirements shall not be removed without prior approval from the Planning Director. Approval shall be granted or denied based upon the tree removal standards set forth in Sec. 8-7-19(l).

(e) *Replacement of protected trees.* The property owner shall replace any protected tree that dies or is removed from a site, if such removal results in the decrease of the tree canopy cover on the site or lot less than that required. Replacement is required by the next tree-planting season with a tree of the same or similar species and canopy size in the same location. Replacement of Landmark Trees for which tree canopy cover credit was received during development shall be at the rate of two times the Landmark Tree's actual tree canopy cover or two times the future tree canopy cover, whichever is greater. Replacement is not required for Landmark Trees removed

from single-family residential lots. All tree replacement shall be in accordance with the tree establishment standards set forth in Sec. 8-7-19(i).

#### **Sec. 8-7-17. Tree Management Plan**

The property owner or his/her agent shall provide an approved tree management plan prior to the issuance of a site review permit, the issuance of a land development/land disturbance activity permit, or the issuance of a building permit for lots that appear on a preliminary plat approved after the adoption of this Chapter. The Tree Management Plan shall show the amount, location, and type of tree canopy cover currently existing on the site or lot, and that which is to be conserved and planted on the site, and the percent to be included on each individual lot within a subdivision. In lieu of a tree management plan approval prior to preliminary plat approval, the Athens-Clarke County Arborist must review and approve the tree canopy conservation areas proposed on the preliminary plat. Tree management plans submitted with a notice of timber harvest are only required to demonstrate that the tree canopy conservation standards will be met. The following components shall be included on the tree management plan:

- (a) *Existing and proposed utilities.* The location and type of all existing and proposed utilities.
- (b) *Existing forested areas and individual trees inventory.* The location and description of all existing forested areas, groupings of trees with overlapping canopies, individual, isolated trees greater than 18 inches in diameter, and Landmark Trees.
  - (1) For each forested area or group of trees the area in square feet.
  - (2) For each individual tree and Landmark Tree outside of existing forested areas the species common and Latin names, dbh, and tree canopy cover area.
- (c) *Athens-Clarke County trees.* The location of any and all individual trees greater than two (2) inches dbh, groupings of trees, and forested areas growing on the public right-of-way adjacent to the property being developed. The information listed shall be as required in Sec. 8-7-17(b)(1) and (2).
- (d) *Current tree canopy cover.* An estimate of the amount of tree canopy cover currently existing on the site or lot to the nearest 1 percent.
- (e) *Individual trees to be conserved.* For individual trees to be conserved the species common and Latin names, dbh, canopy cover, location of the trunk, extent of the crown, boundaries of the tree protection zone, and location of tree protection fencing.
- (f) *Groups and stands of trees to be conserved.* For groups and stands of trees the square foot and percent canopy cover represented, the location of the groups or stands, boundaries of the tree protection zone, and location of tree protection fencing.
- (g) *Forest regeneration areas.* For each forest regeneration area the location and boundaries of the forest regeneration area, the square footage and percent of tree canopy cover represented, the number of trees to be planted of each species and the percent of the total that each species represents, and the size of the trees to be planted by species.
- (h) *Future forest areas.* For each future forest area the location and boundaries of the future forest area, and the square footage and percent of tree canopy cover that will be represented by the future forest area.
- (i) *Tree planting.* For each tree that will be planted to satisfy tree canopy cover requirements, including street trees and parking lot trees, the location, species common and Latin names, variety or cultivar, caliper at time of planting, and extent and location of open soil surface area.
- (j) *Summary Table.* A summary table of tree canopy cover by acres and percent of total site for tree canopy cover meeting conserved, planted, and total tree canopy cover requirements.

#### **Sec. 8-7-18. Forest Management Activities**

(a) Forest management activities, including timber harvesting, shall conform to accepted professional forestry practices and Georgia's Best Management Practices for Forestry, dated

January 1999, published by the Georgia Forestry Commission, and as officially revised and amended from time to time.

(b) *Notification Required.* All persons or firms harvesting standing timber in Athens-Clarke County for delivery as pulpwood, logs, poles, posts or wood chips to any woodyard or processing plant located inside or outside the state or any property owners who individually or through agents or contractors harvest standing timber from their own lands shall provide notice of such harvesting operations to the Athens-Clarke County Planning Director prior to cutting any such timber. "Harvest" or "Harvesting" as used in this Chapter shall mean the cutting or removal of trees for any purpose that results in the assessment of ad valorem taxation of such trees in accordance with O.C.G.A. Sec. 48-5-7.5.

(c) *Forms and Content of Notice.* The required notice of harvesting such timber shall describe each separate site to be harvested, shall be on such form promulgated by the Georgia Forestry Commission, shall be delivered to the Athens-Clarke County Planning Director prior to the inception of harvesting and shall consist of:

- (1) A map of the area which identifies the location of the site to be harvested and, as to those trucks which will be traveling to and from such site for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such site from a public road and, if different, the main point of egress from such site to a public road.
- (2) A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for subject to ad valorem taxation under Sec. 48-5-7.5 of the Official Code of Georgia.
- (3) The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest.
- (4) The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber.

(d) *Delivery of Notice.* Notice may be submitted in person, by transmission of an electronic record via facsimile or such other means as approved by the Athens-Clarke County Planning Director, or by mail to the Athens-Clarke County Planning Director.

(e) *Bond or Letter of Credit Required.* Persons or firms subject to the notice requirement shall deliver a bond or letter of credit as provided by this Section, and notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the Athens-Clarke County Planning Director a valid surety bond, executed by a surety corporation authorized to transact business in Georgia protecting the County against any damage caused by such person or firm in the amount of \$5,000.00 or, at the option of the person or firm harvesting timber, a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in Sec. 7-1-4 of the Official Code of Georgia Annotated, in the amount of and in lieu of such bond. For purposes of this Section, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered.

(f) *Duration of Notice.* Notice shall be effective for such harvesting operation on such site within Athens-Clarke County upon receipt of the same by the Athens-Clarke County Planning Director and compliance with the requirements of Sec. 8-7-4 hereof and until such time as the person or firm giving such notice has completed the harvesting operation for such site; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the Athens-Clarke County Planning Director within three business days after such change.

(g) *Violation; penalties.* Violation of the notice requirements of this Section shall be subject to the penalties set forth in Sec. 1-1-5 of the Code of Ordinances of Athens-Clarke County, Georgia; provided, however, the maximum fine for each violation shall be \$500.00.

(h) *Exemptions.* The notice requirement shall not apply to the following:

- (1) The harvesting of 5 or fewer trees on a site within a calendar year.
- (2) The removal of any tree which has become a danger to human life or property.
- (3) The removal of trees found to be diseased or insect infested by the County Extension Service, the Georgia Forestry Commission, a certified arborist, the Community Forester, or the Athens-Clarke County Arborist.
- (4) *Reserved*
- (5) *Reserved*
- (6) Any harvesting of standing timber on sites one acre or smaller within RS-5, RS-8, RS-15, RS-25 or RS-40 zoning districts.

(i) *Development Limitations.*

- (1) Unless a Tree Management Plan has been submitted and approved prior to or contemporaneously with the filing of the Notice of Timber Harvesting Activity, no development activity may occur on a site for which a Notice of Timber Harvesting has or should have been issued for a period of 5 years after the completion date of the timber harvesting or tree cutting or removal.
- (2) The Hearings Board established under Chapter 4 of Title 9 of this Code may grant waivers from application of the limitation of development activity imposed by the preceding paragraph if the property owner demonstrates that special constraints on the site required the removal of standing timber to allow applicant's proposed use of such site in accordance with applicable zoning and development standards, that the removal of such standing timber was the minimum necessary for such proposed use, and that the proposed development will at a minimum meet the tree conservation requirements as set forth in Sec. 8-7-15.
- (3) The Hearings Board shall be authorized to add conditions to the grant of a waiver to promote the conservation and regeneration of trees on the site, including but not limited to requirements for conservation of existing trees, establishment of natural forest regeneration areas, and technical standards for the planting and maintenance of trees.
- (4) An applicant for a waiver shall submit at the time of application a proposed tree management plan completed by the property owner or his/her agent as set forth in Sec. 8-7-17.

#### **Sec. 8-7-19. Technical Standards**

Technical standards for tree conservation, protection, establishment, pruning, and maintenance are hereby established and shall be the minimum standards required. All activities associated with protected trees shall conform to these technical standards. In addition, all tree conservation, protection, establishment, pruning, and maintenance shall conform to applicable American National Standard for Arboricultural Operations Z133.1 safety standards, dated October 19, 2000, published by the American National Standards Institute, and as officially revised and amended from time to time.

(a) *Professional assistance.* Any person or firm subject to the requirements of this Chapter is encouraged to seek professional assistance from a Registered Forester or Certified Arborist. A list of consulting foresters and arborists is available from the Georgia Forestry Commission, and certified arborists can be located online on the International Society of Arboriculture's website.

(b) *Arboricultural (tree) services.* Any person or firm subject to the requirements of this Chapter is encouraged to hire only qualified, established businesses to perform arboricultural services, to require references for similar work before hiring, and to require adequate insurance for property damage, personal liability, vehicles, and workers compensation. The hiring of arboricultural

businesses and tree services that employ Certified Arborists who can supervise the requested work is recommended.

(c) *Administrative waiver of technical standards.* The Community Forester or the Athens-Clarke County Arborist may waive any technical standard in Sec. 8-7-19 to best meet the purpose and intent of this Chapter. When granted, waivers shall be recorded in writing on the application for Landmark Tree designation, the right-of-way encroachment permit, the tree management plan, or other permanent record.

(d) *Tree conservation standards; forested areas.* The conservation of forested areas shall meet the minimum criteria below.

- (1) Each area shall be at least 2,500 square feet.
- (2) At least 50 percent of the area shall be contiguous.
- (3) Each area shall be a minimum of 20 feet wide in any one dimension.
- (4) Each area shall include the tree protection zones of all trees, and the trees shall be protected according to the tree protection standards set forth in Sec. 8-7-19(h).
- (5) Areas shall remain in a natural, undisturbed condition.
- (6) Turf is not permitted.
- (7) Mowing is not permitted.
- (8) Clearing of underbrush is not permitted, except for the removal of invasive species.
- (9) No new tree maintenance shall be required, except for that necessary to maintain a healthy stand of trees.
- (10) Areas dominated by kudzu or Chinese privet will not be eligible for tree canopy cover credit.
- (11) Tree removal without prior approval is not permitted, except for hazard trees.
- (12) Activities permitted and prohibited within the area shall be as listed in Sec. 9-14A-13 for open space, except that no active recreation areas, timber harvesting, or tree removal shall be allowed.

(e) *Tree conservation standards; individual trees.* The conservation of individual healthy trees or groups of healthy trees shall meet the minimum criteria below.

- (1) Each tree must meet the definition of a conservable tree.
- (2) The tree protection zone of each tree shall be conserved and the tree protected according to the tree protection standards set forth in Sec. 8-7-19(h).
- (3) Each tree shall be mulched in accordance with the mulching standards set forth in Sec. 8-7-19(k).

(f) *Forest regeneration area establishment standards.* Forest regeneration shall meet the minimum criteria below.

- (1) Each area shall be at least 2,500 square feet.
- (2) Soils shall be aerated to a depth of 8 inches.
- (3) Soils shall have a minimum of 5 percent organic matter.
- (4) Wood chips less than 3 months old shall not be used to provide organic matter.
- (5) Soils shall have a pH between 5.8 and 7.0.
- (6) Trees shall be planted at a rate of at least 245 trees per acre.
- (7) All species planted shall be native to the Piedmont area of Georgia.

(8) A minimum of 15 % of the trees planted shall be large canopy trees that are at least 1.5 inches caliper and at least 5 feet tall at the time of planting, and shall be evenly distributed throughout the forest regeneration area.

(9) A minimum of 30% of the trees planted shall be medium canopy trees at least .5 inch caliper and at least 3 feet tall at the time of planting, and shall be evenly distributed throughout the forest regeneration area.

(10) The remaining 55% of the trees planted shall be a mixture of small, medium, and large canopy trees and shall be at least 1-year old seedlings, at least 1.5 feet tall at the time of planting, and shall be evenly distributed throughout the forest regeneration area.

(11) No more than 15 percent of any one species shall be planted.

(12) Only native grasses and shrubs may be planted within the forest regeneration area, except that non-native vegetation approved for soil sedimentation and erosion control may be used.

(13) The area shall remain free from English ivy, Chinese privet, Japanese honeysuckle, kudzu, and other invasive or non-native plants.

(14) Turf is not permitted.

(15) Mowing is not permitted.

(16) Tree removal without prior approval is not permitted, except for hazard trees.

(17) At least 200 healthy trees per acre must be maintained within the forest regeneration area or replanting to meet this minimum shall be required.

(18) Activities permitted and prohibited within the area shall be as listed in Sec. 9-14A-13 for open space, except that no active recreation areas, timber harvesting, or tree removal shall be allowed.

(g) *Future forest area establishment standards.* The establishment of a future forest area shall meet the minimum criteria below.

(1) Each area shall be at least 2,500 square feet.

(2) Soils and existing vegetation shall remain undisturbed.

(3) No prohibited activities, as described in Sec. 8-7-19(h)(1) and (2) shall be allowed.

(4) The area shall remain free from English ivy, Chinese privet, Japanese honeysuckle, kudzu, and other invasive or non-native plants.

(5) Turf is not permitted.

(6) Mowing is not permitted.

(7) Activities permitted and prohibited within the area shall be as listed in Sec. 9-14A-13 for open space, except that no active recreation areas, timber harvesting, or tree removal shall be allowed.

(h) *Tree protection standards.* Athens-Clarke County trees or trees on private property conserved and planted to meet tree canopy cover requirements shall be actively protected during development and passively throughout their life in accordance with the requirements for protected trees set forth in Sec. 8-7-16.

(1) *Prohibited activities.* The following activities and conditions, and any other activities and conditions harmful to a tree's roots, trunk, or crown, within the tree protection zone are prohibited:

a. Vehicle or equipment traffic, parking, or storage.

b. Materials or supplies storage.

- c. Placement of temporary or permanent structures.
- d. Equipment maintenance or washout.
- e. Wounding of trunk.
- f. Wounding or breakage of scaffold limbs or branches greater than six (6) inches in diameter.
- g. Topping or other improper pruning, such as stub cuts or flush cuts.
- h. Fires; excessive heat from equipment exhaust pipes.

(2) *Limited activities.* The following activities and conditions within the tree protection zone are limited to one side of the tree in the outer ½ of the critical root zone, but in no case closer than 2.5 feet to the trunk of a planted tree and 10 feet to the trunk of a conserved tree:

- a. Site or lot clearing or grubbing.
- b. Soil excavation.
- c. Soil cuts.
- d. Soil fills.
- e. Grading.
- f. Trenching.
- g. Tilling.
- h. Edging.
- i. Soil compaction.
- j. Top dressing with soil greater than two (2) inches in depth.
- k. Paving.

(3) *Active tree protection standards.* Active tree protection shall meet the following minimum criteria:

- a. Tree protection fencing shall be installed prior to any land development or land disturbance activity around a tree at the location of the tree protection zone and shall remain in place until construction activities end or a certificate of occupancy is issued, whichever is later.
- b. Tree protection fencing shall be 4 feet high, high-visibility polypropylene fencing erected with sturdy posts.
- c. Activities described in Sec. 8-7-19(h)(1) and (2) shall be prohibited within the tree protection zone.
- d. Low hanging limbs that may be damaged by equipment traffic or other construction activities shall be pruned prior to the commencement of any land development/land disturbance activity; all pruning shall be in accordance with the pruning standards set forth in Sec. 8-7-19(j).
- e. When equipment movement is such that damage to tree trunks is possible, then tree trunks shall be wrapped vertically with one layer of 2 inch x 4 inch lumber spaced a maximum of 12 inches apart, and covered with corrugated cardboard secured with strapping. The wrapping shall remain on throughout the period of potential damage.

(4) *Active tree protection area sign standards.* Prior to any land development or land disturbance activity and after tree protection fencing is installed around any conserved

trees or tree conservation area, tree protection area signs shall be installed. Signs shall be installed along the perimeter of all tree protection zones at least every 50 feet and shall include, at a minimum, the following text: "Tree Protection Area, Entry Prohibited, No Construction Activity, Materials or Equipment Storage, Equipment Washout, or Vehicle Traffic Allowed". The sign shall be fabricated out of a sturdy material, shall be at least 18 inches wide by 24 inches high, and shall be placed on a sturdy post with the bottom of the sign at a minimum height of 30 inches above the ground. The signs must remain present at all times during construction.

(5) *Passive tree protection standards.* Passive tree protection shall be required throughout the life of a protected tree and shall require, at a minimum, the avoidance of all prohibited activities described in Sec. 8-7-19(h)(1) and (2) within the tree protection zone.

(i) *Tree establishment standards.* Tree establishment involves a series of steps that includes site selection, species selection, quality tree selection, site preparation, tree planting, and new tree maintenance. Tree establishment standards shall be as set forth in sections (1) through (7) below.

(1) *Site selection standards.* Trees shall be placed such that they have adequate space to grow unobstructed to maturity. Minimum distances, at the time of planting as measured from the tree trunk, to structures and infrastructure shall be required as listed in Table 2. In addition, the following standards apply:

- a. Trees shall not be planted directly over property boundary lines or corners.
- b. In no case shall a planting site be less than 3 feet wide in any one direction.

**Table 2. Minimum Distances in Feet Required between Trees and Structures or Infrastructure by Tree Canopy Size Category**

Structure/Infrastructure Description	Tree Canopy Size Category from the <i>Athens-Clarke County Tree Species List</i>			
	Large	Medium	Small	Very Small
<i>Street intersections, measured from the right-of-way boundary</i>	35	35	35	35
<i>Traffic signs</i>	20	20	20	20
<i>Light poles</i>	20	20	15	15
<i>Overhead utility lines</i>	30	20	0	0
<i>Underground utility lines</i>	5	5	5	5
<i>Mailboxes</i>	5	5	5	5
<i>Fire hydrants, electrical transmission boxes, water meters, other similar structures</i>	5	5	5	5
<i>Curb, sidewalk, or pavement edge</i>	2	2	1.5	1.5
<i>Buildings</i>	15	10	5	5

(2) *Species selection standards.* Species planted to satisfy the requirements of this Chapter shall be selected from the *Athens-Clarke County Tree Species List*, and shall conform to the following standards:

- a. Species shall be selected that are tolerant of the growing conditions existing on the site, including growing space, sunlight, soil moisture, temperature, and soil volume.
- b. Only urban tolerant trees shall be planted in parking lots.
- c. No more than 30 percent of any one species shall be planted on a lot, except in forest regeneration areas where no more than 15 percent of any one species shall be planted.
- d. For street trees, where no obstructions to growth exist, large canopy trees shall be planted; where obstructions to growth exist for large canopy trees, medium canopy trees shall be planted; where obstructions to growth exist for medium canopy trees, small canopy trees shall be planted.

(3) *Tree size and quality standards.* Trees planted to satisfy the requirements of this Chapter shall meet minimum quality standards as established in the *ANSI Z60.1 American Standard for Nursery Stock* dated 1990 and published by the National Arborist Association, as officially revised and amended by the national Arborist Association from time to time. Trees shall also conform to the following standards to be eligible for tree canopy cover credit:

- a. Trees shall be a minimum of 2 inches in caliper for deciduous trees, a minimum of 8 feet in height for evergreen trees, and a minimum of 1 inch caliper per trunk for multi-trunk trees at the time of planting.
- b. Trees outside of forest regeneration areas may be container grown or balled and burlapped.
- c. Trees within forest regeneration areas may be bare root, container grown, or balled and burlapped.
- d. Trees with forked stems and included bark shall not be counted for tree canopy cover credit.
- e. Trees that require staking to stand upright shall not be counted for tree canopy cover credit.

(4) *Site preparation standards.* The soil around a planted tree shall meet the following standards:

- a. The soil within the open soil surface area shall be well aerated to a depth of 8 inches, except that in tree planting islands surrounded by pavement it shall be well aerated to a depth of 18 inches.
- b. The soil shall contain at least 5 percent organic matter.
- c. Soil pH shall be with a range of 5.8 to 7.0.
- d. An approved structural soil mix containing 80 percent rock aggregate, 15 percent mineral soil, and a sticking agent may be used within parking lots and other paved areas to increase the rooting volume available to trees.
- e. Permeable or porous pavements may be used within a parking lot or other paved area, in which case the open soil surface area required may be reduced by up to 20 percent.

(5) *Tree planting standards for container grown, or balled and burlapped trees.* The following standards shall apply to container grown and balled and burlapped trees:

- a. In undisturbed soils and prepared soils the planting hole shall be at least 2 times as wide and no deeper than the root ball of the tree, shall have sides sloping inward from the top, and the bottom shall be firm soil.

- b. In compacted soils, the planting hole shall be at least 3 times as wide and no deeper than the root ball of the tree, shall have sides sloping inward toward the bottom, and shall have firm soil on the bottom.
- c. The tree shall be planted no deeper than it was growing in the container or field and the trunk flare shall be visible above the ground.
- d. All strapping, webbing, twine, strings, and other such material shall be removed from the root ball.
- e. The burlap and wire basket, if present, shall be removed to a minimum depth of twelve (12) inches and to a greater extent if possible.
- f. In no case shall any burlap be located above the soil surface.
- g. Tree staking is not required, but if installed it shall be removed no later than 1 year after planting.

(6) *Tree planting standards for bare root saplings and seedlings.* The following standards shall apply to all bare root saplings and seedlings:

- a. The roots of saplings and seedlings shall remain moist at all times prior to planting.
- b. A planting hole shall be dug of sufficient depth to accommodate the root system of the tree without bending or creating a j-shaped root.
- c. Trees shall be planted no deeper than they were growing in the field.
- d. The soil shall be packed around the roots after planting to eliminate air pockets.

(7) *New tree maintenance standards.* For newly planted balled and burlapped or container grown trees that are planted to satisfy the requirements of this Chapter, except for those planted in forest regeneration areas, the property owner shall comply with the following maintenance standards for the first 3 years after planting:

- a. Trees shall be mulched immediately after planting in accordance with the mulching standards set forth in 8-7-19(k)(1).
- b. When natural rainfall is less than 1 inch per week, trees shall be provided with the equivalent of 1 inch of water per week after planting and throughout the growing season and throughout the open soil surface area.
- c. Trees shall be pruned immediately after planting to remove dead, broken, diseased, dying, or rubbing branches.
- d. Tree pruning shall be done as necessary to remove dead branches, train tree structure, and maintain clearance over walkways and vehicles in accordance with the tree pruning standards set forth in 8-7-19(j).
- e. Tree staking materials shall be removed within 1 year after planting.

(j) *Tree pruning standards.* Protected trees shall be pruned in accordance with the American National Standard for Tree Care Operations A300 dated June 1, 1995 published by the American National Standards Institute and Best Management Practices published by the International Society of Arboriculture, as officially revised and amended from time to time. Tree owners and their agents are encouraged to hire businesses that employ certified arborists who can supervise the pruning work on site and ensure that proper pruning is being done. In addition, the following standards shall apply to protected trees:

- (1) Pruning activities shall not disturb nesting, rare, or endangered wildlife to the greatest extent possible.

- (2) Co-dominant stems less than 4 inches in diameter at the fork shall be pruned off and 1 main stem shall remain.
- (3) Pruning shall be done such that a tree's natural form is maintained to the greatest extent possible.
- (4) Tree topping or heading is not permitted.
- (5) Reasons for which tree pruning is not permitted include, but are not limited to:
  - a. Sign installation, clearance, or visibility, excluding traffic, directional, warning, or information signs owned by any public or semipublic agency.
  - b. Clearance for temporary or permanent equipment traffic or storage, the erection of temporary structures, or materials storage within the tree protection zone.

(k) *Tree maintenance standards.* In addition to pruning, tree maintenance includes mulching, fertilization, cabling and bracing, and lightning protection. When required for protected trees as set forth herein, these activities shall be done in accordance with the standards set forth below.

- (1) *Mulching standards.* Individual planted trees, individual conserved trees, and groups of ten 10 or less conserved trees shall be mulched in accordance with the following standards. For conserved groups of more than 10 trees, forested areas, future forest areas, and forested buffers, the addition of mulch is not required, however the ground surface and natural leaf litter within these areas shall remain present and undisturbed.
  - a. Mulch shall be composed of organic materials only and may include, but is not limited to, pine straw, leaves, wood chips aged at least 3 months, compost, and pine bark.
  - b. Grass clippings, plastic sheeting, and rocks or gravel shall not be used as mulch and shall not be applied within the tree protection zone.
  - c. For all trees the critical root zone shall be mulched out from the trunk at least 1/3 the distance to the outer edge of the critical root zone, except that no mulch ring shall have a radius less than 2.5 feet or shall be required to be greater than 10 feet.
  - d. Mulch shall be 3 to 4 inches in depth, and shall be spread in an even layer from 6 inches out from the trunk to outer extent of the mulched area.
  - e. Mulch is not allowed closer than 6 inches to the tree trunk.
  - f. Mulch shall be applied at least annually, preferably in the late winter or early spring.

(2) *Fertilization standards.* Fertilization is not required for protected trees. However, if protected trees are fertilized, they shall be fertilized in accordance with the American National Standard for Tree Care Operations A300 (Part 2), dated September 24, 1998, published by the American National Standards Institute, and as officially revised and amended from time to time.

(3) *Tree support systems standards.* Any tree support systems placed in protected trees shall be designed, installed, and maintained in accordance with the American National Standard for Tree Care Operations ANSI A300 (Part 3), published by the American National Standards Institute, and as officially revised and amended from time to time.

(4) *Lightning protection systems standards.* Any lightning protection systems placed in protected tree shall be designed, installed, and maintained in accordance with the American National Standard for Tree Care Operations ANSI A300 (Part 4), dated August 30, 2002, published by the American National Standards Institute, and as officially revised and amended from time to time.

(l) *Tree removal standards.* The removal of protected trees shall be done in accordance with the standards set forth below.

(1) Tree removal shall not disturb nesting, rare, or endangered wildlife to the greatest extent possible and removal shall be delayed until nesting wildlife is safely removed.

(2) Tree removal shall be approved if a tree meets one or more of the following conditions.

- a. Dead.
- b. Unhealthy condition.
- c. Dieback of 50 percent or greater of the crown.
- d. Insect infestation or disease condition for which treatment is impractical, causing tree decline, and with a high probability of spreading to other trees.
- e. Trunk wounds greater than 1/3 the circumference of the trunk.
- f. Trunk cavity greater than 2/3 the diameter of the trunk at the point of the cavity.
- g. Structural defects in scaffold limbs, where defect correction through pruning will result in removal of 50 percent or greater of the tree's crown.
- h. Litter originating from the tree that creates an unsafe condition or poses a hazard to public health, safety, and welfare.
- i. Unresolvable conflict with infrastructure that is creating an unsafe condition or poses a hazard to public health, safety, and welfare.

(3) Reasons for which tree removal is not permitted include, but are not limited to:

- a. Sign installation, clearance, or visibility, excluding traffic, directional, warning, or information signs owned by any public or semipublic agency.
- b. Unwanted production of leaves, fruit, or other organic litter that does not create an unsafe condition or that is not a hazard to public health, safety, and welfare.

(4) *Stump grinding standards.* After removal, stumps of protected trees, except for Landmark Trees on single-family residential lots, that are greater than 6 inches in diameter shall be ground to a depth of 12 inches, and the resulting woody debris mixed with an equal part of soil. The surface of the ground in the area of the stump shall be level with the surrounding ground after grinding and incorporation of soil.

#### **Sec. 8-7-20. Variances**

Except as otherwise provided in this Chapter as administrative waivers, where practical difficulties, unnecessary hardships, and results inconsistent with the purpose and intent of this Chapter may result from the strict application of certain provisions thereof, variances may be granted by the Athens-Clarke County Hearings Board established in Title 9 upon a finding that the criteria set forth in (a)(2) below have been met. In granting a variance, the Hearings Board is hereby given jurisdiction to hear variances herein and may impose conditions to protect the best interests of the surrounding property and property owners, the neighborhood, or the community as a whole and consistent with the purpose and intent of this Chapter.

(a) *Application.* Variances shall be heard by the Hearings Board pursuant to the provisions of Chapter 9-21. Such application shall be accompanied by:

- (1) Tree management plan prepared in accordance with Sec. 8-7-17.
- (2) A statement and evidence demonstrating that the following criteria are met:
  - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in questions because of its size, shape, character, topography;

- b. The application of the provisions of this Chapter to this particular piece of property would create an unnecessary hardship;
- c. The benefits of granting the variance will be greater than any negative impacts on adjacent uses and will further the purpose and intent of this Chapter;
- d. The special conditions and circumstances on the site do not result from the actions of the applicant; and
- e. The variance requested is the minimum variance that will make possible the legal use of the land, building or structures.

(3) Proposed mitigation plan that offsets the effects of the proposed variance during site preparation, construction and post-construction phases.

**Sec. 8-7-21. Inspections**

Inspections shall be required to ensure that the purpose, intent, and provisions of this Chapter are met. At a minimum, the following inspections by the County Arborist shall be required for all development related activities and by the Community Forester for non-development related activities covered by the provisions of this Chapter.

(a) *Preliminary inspection.* The site shall be inspected with the applicant or his/her agent prior to plans review or preliminary plat, approval for the purpose of discussing options for tree conservation, compliance with technical standards and enforcement procedures. In no case shall a site plan or preliminary plat be approved without a preliminary inspection as set forth in Sec. 8-7-21(a) and approved tree management plan as set forth in Sec. 8-7-17.

(b) *Tree protection inspection.* An inspection shall be made after the approval of a site plan and prior to the issuance of a land development/land disturbance activity permit for the purpose of insuring that all tree protection standards have been met. The approval of tree protection measures by the County Arborist shall be required before any land disturbance activities commence. In no case shall a land disturbance activity permit be issued without a site inspection for tree protection compliance and without an approved tree management plan as required by Sec. 8-7-17.

(c) *Periodic inspections.* Additional site inspections may take place periodically during construction or encroachment to ensure that all technical standards and conditions of the tree management plan are being met. Inspections may be made at any time to insure that tree canopy cover is being maintained on a site or lot as required by this Chapter.

(d) *Certificate of occupancy inspection.* An inspection of the site shall be required prior to the issuance of a certificate of occupancy for the purpose of insuring all applicable requirements of this Chapter have been met.

(e) *Inspection of right-of-way encroachment activity.* The Community Forester may inspect when right-of-way encroachment permits are issued as described in Sec. 8-7-14(b). Site inspections may be made at any time after the permit is issued to enforce the provisions of this Chapter.

**Sec. 8-7-22. Enforcement**

Failure to comply with any of the provisions of this Chapter shall result in a citation, or one of the following actions.

(a) *Stop work order.* Upon notice from the issuing authority or its agent, work on any project that is being done contrary to the provisions of this Chapter shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property and shall state the conditions under which work may resume. Where an emergency exists a written notice to comply nor a written notice to stop work is not required.

(b) *Withholding of certificate of occupancy.* If the person engaged in development activity fails to comply with a written notice to comply within the time specified, he shall be deemed in violation of this Chapter and, in addition to other penalties, the Administrator may request that the Athens-Clarke County Building Permits and Inspections Department refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the measures necessary to achieve compliance with this Chapter have been completed and all violations of this Chapter have been brought into compliance.

**Sec. 8-7-23. Violations and Penalties**

Any person violating or causing the violation of any of the provisions of this Chapter or failing to comply with its provisions, has committed an infraction, and upon conviction thereof is punishable as prescribed in Sec. 1-1-5 of the Athens-Clarke County Code.

SECTION 2. Severability. In the event any one or more of the provisions of this Ordinance shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of the mayor and commission that such illegality or invalidity shall not affect any other provision hereof, but this title shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 3. Effective Date. The effective date of this Ordinance shall be September 1, 2005.

SECTION 4. Repealer. All ordinance or parts of ordinances in conflict herewith are hereby repealed.