

00-0 -0654

(Do Not Write Above This Line)

AN ORDINANCE BY COUNCILMEMBER

AN ORDINANCE TO ESTABLISH A NEW EFFECTIVE DATE FOR THE RECENT PROCEDURAL AMENDMENTS TO THE TREE PROTECTION ORDINANCE, TO ALTER THE TIME WITHIN WHICH TO APPEAL FROM 30 DAYS TO 15 DAYS, AND FOR OTHER PURPOSES.

*Unanimous*

ADOPTED BY  
MAY 15 2000  
COUNCIL

*Substitute*

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 5/1/00

Referred To: CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Referred to \_\_\_\_\_

Committee <i>CD/HR</i>	Committee _____
Date <i>5/10/00</i>	Date _____
Chair <i>[Signature]</i>	Chair _____
Action: Fav, Adv, Hold (see rev. side) <i>Subst</i>	Action: Fav, Adv, Hold (see rev. side) Other: _____
Members <i>[Signatures]</i>	Members _____
Refer To _____	Refer To _____

Committee _____	Committee _____
Date _____	Date _____
Chair _____	Chair _____
Action: Fav, Adv, Hold (see rev. side) Other: _____	Action: Fav, Adv, Hold (see rev. side) Other: _____
Members _____	Members _____
Refer To _____	Refer To _____

FINAL COUNCIL ACTION  
 2nd     1st & 2nd     3rd  
 Readings  
 Consent     V Vote     IRC Vote  
*5/15/00 - Removed from Consent by Request of Councilmember Workland*

**CERTIFIED**  
 MAY 15 2000  
 ATLANTA CITY COUNCIL PRESIDENT  
*[Signature]*

**CERTIFIED**  
 MAY 15 2000  
*[Signature]*  
 MUNICIPAL CLERK

MAYOR'S ACTION  
**APPROVED**  
 MAY 23 2000  
*[Signature]*  
 MAYOR



**SUBSTITUTE ORDINANCE BY COMMUNITY DEVELOPMENT /  
HUMAN RESOURCES COMMITTEE:**

00-O-0654

**AN ORDINANCE TO ESTABLISH A NEW EFFECTIVE  
DATE FOR THE RECENT PROCEDURAL AMENDMENTS  
TO THE TREE PROTECTION ORDINANCE, TO ALTER  
THE TIME WITHIN WHICH TO APPEAL FROM 30 DAYS  
TO 15 DAYS, AND FOR OTHER PURPOSES.**

WHEREAS, the Tree Protection Ordinance of the City of Atlanta, found at Chapter 158 of the Code of Ordinances of the City of Atlanta, Georgia (1995), hereinafter "Atlanta City Code (1995)," had been determined by the Tree Conservation Commission, the body charged with administering the Ordinance, to be in need of substantial revisions, especially with regard to procedures, in that the Ordinance as written originally had a number of ambiguities with respect to such procedures; and

WHEREAS, the revisions have been needed in order to make the procedural provisions of the Tree Protection Ordinance fairer, clearer and more protective of the vital tree cover of which the City of Atlanta is justly proud; and

WHEREAS, the Tree Protection Ordinance has needed clarification as to the preservation of the status quo during the application and appeals process; and

WHEREAS, in order to accomplish these purposes Council on April 3, 2000, adopted certain amendments to the Tree Protection Ordinance by adopting Ordinance No. 00-O-0370, which has now become law, a true copy of which Ordinance No.00-O-0370 is attached hereto as Exhibit "A"; and

WHEREAS, due to a shortage of personnel in the Bureau of Buildings to administer the requirements of the procedural changes effected by Ordinance No. 00-O-0370, both the Commissioner of the Department of Planning, Development and Neighborhood Conservation, and the Tree Conservation Commission jointly have requested a delay in the implementation of the procedural changes effected by Ordinance No. 00-O-0370 until such time as additional city arborists can be hired, which is estimated to be by August 15, 2000, and the shortening of the time within which to appeal from thirty (30) days to fifteen (15) days, in order not to cause undue delays in the processing of permits:

**IT IS THEREFORE ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA,  
GEORGIA:**

**Section I:** THAT Ordinance No. 00-O-0370 is hereby repealed, and the Tree Protection Ordinance [Chapter 158 of the Code of Ordinances of the City of Atlanta, Georgia (1995)] shall revert back to the form in which it existed prior to the adoption of the



amendments thereto in said Ordinance No. 00-O-0370, except insofar as it is amended by this Ordinance.

**Section II:** THAT Section 158-64 of the Atlanta City Code (1995) is hereby amended by striking the present section in its entirety, and inserting in lieu thereof a new Section 158-64, to read as follows:

**Sec. 158-64. Meetings; clerk; rules of procedure.**

The Tree Conservation Commission shall establish a regular meeting schedule, and all meetings of the Commission shall be open to the public. The Commission shall have a Clerk, designated by the Commissioner of the Department of Planning, Development and Neighborhood Conservation, who shall be a full-time employee of the Department. The Clerk shall serve as secretary to the Commission and shall be responsible for the clerical administration of the appeals process, including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The Clerk shall also direct and supervise the giving of notices required by the Commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the Commission in such matters. The Clerk shall also be responsible for the maintenance and preservation of all records of the Commission. The Commission shall adopt rules of procedure for the conduct of meetings, hearings and attendance requirements for members.

**Section III:** THAT Subsection (a) of Section 158-65 of the Atlanta City Code (1995) is hereby amended by striking the present Subsection (a) in its entirety, and inserting in lieu thereof a new Subsection (a) of Section 158-65, to read as follows (the remainder of Section 158-65 to remain unchanged):

**Sec. 158-65. Appeals.**

- (a) *Appeals from the decisions of administrative officials.*

Appeals may be taken by any person aggrieved by any decision of an administrative official, except a decision of the city



arborist pursuant to Section 158-101(g) of this article, by filing with the Clerk of the Tree Conservation Commission a Notice of Appeal within fifteen (15) days after the action appealed from was taken, except that in the case of a *Notice of Preliminary Approval* of a permit to remove, destroy, or disturb trees, the fifteen (15) day period shall run from the date of posting of said notice on the affected property, as provided in Section 158-101(c) of this article. The Notice of Appeal shall specify with as much particularity as possible the decision appealed from, giving the date of such action or decision, and specifying the name of the party who had initiated the action appealed from and the location or address of the subject property. Once an appeal is filed, any activity authorized by the decision appealed from shall be stayed automatically, and despite the authorization given by the decision appealed from, no permits shall be issued, no trees shall be cut, or earth disturbed, until the sixth (6<sup>th</sup>) business day after the date of the Commission's written decision on the appeal, at which time the stay shall expire unless a new stay is entered by the superior court pursuant to subsection (b) of this section. The Commission shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as prompt notice in writing to the parties in interest. Public notice shall be given by the Clerk of the Commission in such manner as shall be provided for in the rules for appeals adopted by the Commission, not less than fifteen (15) calendar days before the date of the hearing. Upon the hearing, any party may appear in person or by agent or by an attorney. The Commission shall decide the appeal within a reasonable time. An appeal shall be sustained upon an express finding that the administrative official's action was based upon an erroneous finding of a material fact or upon an erroneous application of law. In exercising its powers, the Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may direct the issuance of a permit provided that all requirements imposed by the applicable laws other than this article are met.

**Section IV:** THAT Section 158-101(a) of the Atlanta City Code (1995) is hereby amended by striking the word *property* at the end of that section and inserting the word *buildings* in lieu thereof.



THAT Subsection (c) of Section 158-101 of the Atlanta City Code (1995) is hereby amended *effective August 15, 2000*, by striking the present Subsection (c) in its entirety, and inserting in lieu thereof a new Subsection (c) of Section 158-101, to read as follows, and that new Subsections (d), (e), (f) and (g) of said Section 158-101 thereof shall be added thereafter, as follows:

- (c) *Application Review; Notice of Preliminary Approval or Denial of Permit to Destroy, Remove, or Disturb Trees .*

Upon receipt of a complete application by the City of Atlanta, the city arborist shall review the application pursuant to the requirements of this article. If the application requests a permit which will authorize the destruction, removal or disturbance of any tree subject to this article, the city arborist shall either give a *Notice of Preliminary Approval* of the application if the application meets the requirements of this article, or shall give a *Notice of Denial* of the application if the application fails to meet the requirements of this article. The city arborist shall submit copies of such Notices promptly to the Clerk. The city arborist may impose conditions to the issuance of the permit consistent with this article. An applicant may submit a new application at any time after a Notice of Denial of an application under this chapter. An applicant may appeal the Notice of Denial to the Tree Conservation Commission as provided in this article. Any person aggrieved by the Notice of Preliminary Approval may also appeal to the Tree Conservation Commission.

- (d) Within five (5) business days after the Notice of Preliminary Approval is issued by the City of Atlanta, the Notice of Preliminary Approval shall be posted in the Office of the Arborist and in a prominent manner upon the property affected so that it may be seen and read by passers by. The Notice of Preliminary Approval shall inform any reader that an appeal may be filed with the Clerk of the Tree Conservation Commission within fifteen (15) days of the date of posting of the notice upon the affected property, and that the failure to appeal within that time will result in the issuance of the permit without further right of appeal. If the Notice of Preliminary



Approval is not posted as required by this section, no permit shall be issued. The Commission may provide further by rule for the manner and method of this posting to the extent that such rule is consistent with the requirements of this section.

- (e) If no appeal is filed within fifteen (15) days from the date of posting of a Notice of Preliminary Approval upon the affected property, then the permit shall be issued in accordance with the terms of said Notice of Preliminary Approval. In the event that an appeal is filed within fifteen (15) days from the date of posting of a Notice of Preliminary Approval upon the affected property, no permit shall be issued until the sixth (6<sup>th</sup>) business day after the date of the Commission's written decision on the appeal, at which time the stay shall expire unless a new stay is entered by the superior court pursuant to Section 158-65(b) of this article.
- (f) Once a permit has been issued in accordance with the procedures set forth in this section there can be no further appeal, except as provided in Section 158-65(b) of this article pertaining to appeals to superior court.
- (g) After the time for appeals has expired with respect to any Notice of Preliminary Approval, the city arborist may approve minor amendments to the permit without there being any new right of appeal from such approval, provided that the arborist, in connection with such approval, shall certify in writing to the following, which certification shall be attached to the permitted amendments:
  - (1) That the amendments do not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case; and
  - (2) That the amendments do not affect any trees on the property in question which are eligible under this article to be designated historic or specimen trees; and



- (3) That the amendments in the aggregate do not affect more than ten (10%) percent of the surface area or areas shown on the previously approved tree replacement plan as being an area or areas where trees are to be preserved.

**Section VI:** THAT Section V of this Ordinance shall become effective August 15, 2000; all other sections shall be effective immediately.

**00-O-0654**

A true copy,

*Rhonda Dauphin Johnson*  
Municipal Clerk, CMC

**ADOPTED by the Council**  
**APPROVED by the Mayor**

May 15, 2000  
May 23, 2000



00-O-0370

**A SUBSTITUTE ORDINANCE AS AMENDED BY**

**COMMUNITY DEVELOPMENT/HUMAN RESOURCES  
COMMITTEE (3/29/00)**

**AN ORDINANCE AMENDING THE TREE PROTECTION  
ORDINANCE SO AS TO PROVIDE FOR PRELIMINARY  
APPROVALS, TO PROVIDE FOR PROCEDURES FOR  
HEARINGS AND APPEALS ON PERMITS, AND FOR  
OTHER PURPOSES.**

WHEREAS, the Tree Protection Ordinance of the City of Atlanta, found at Chapter 158 of the Code of Ordinances of the City of Atlanta, Georgia (1995), hereinafter "Atlanta City Code (1995)," has been determined by the Tree Conservation Commission, the body charged with administering the Ordinance, to be in need of substantial revisions, especially with regard to procedures, in that the present Ordinance has a number of ambiguities with respect to such procedures; and

WHEREAS, the revisions are needed in order to make the procedural provisions of the Tree Protection Ordinance fairer, clearer and more protective of the vital tree cover of which the City of Atlanta is justly proud; and

WHEREAS, the Tree Protection Ordinance needs clarification as to the preservation of the status quo during the application and appeals process:

**IT IS THEREFORE ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA,  
GEORGIA:**

**Section I:** THAT Section 158-64 of the Atlanta City Code (1995) is hereby amended by striking the present section in its entirety, and inserting in lieu thereof a new Section 158-64, to read as follows:

**Sec. 158-64. Meetings; clerk; rules of procedure.**

The Tree Conservation Commission shall establish a regular meeting schedule, and all meetings of the Commission shall be open to the public. The Commission shall have a Clerk, designated by the Commissioner of the Department of Planning, Development and Neighborhood Conservation, who shall be a full-time employee of the



Department. The Clerk shall serve as secretary to the Commission and shall be responsible for the clerical administration of the appeals process, including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The Clerk shall also direct and supervise the giving of notices required by the Commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the Commission in such matters. The Clerk shall also be responsible for the maintenance and preservation of all records of the Commission. The Commission shall adopt rules of procedure for the conduct of meetings, hearings and attendance requirements for members.

**Section II:** THAT Subsection (a) of Section 158-65 of the Atlanta City Code (1995) is hereby amended by striking the present Subsection (a) in its entirety, and inserting in lieu thereof a new Subsection (a) of Section 158-65, to read as follows (the remainder of Section 158-65 to remain unchanged):

**Sec. 158-65. Appeals.**

(a) *Appeals from the decisions of administrative officials.*

Appeals may be taken by any person aggrieved by any decision of an administrative official, except a decision of the city arborist pursuant to Section 158-101(g) of this article, by filing with the Clerk of the Tree Conservation Commission a Notice of Appeal within thirty (30) days after the action appealed from was taken. The Notice of Appeal shall specify with as much particularity as possible the decision appealed from, giving the date of such action or decision, and specifying the name of the party who had initiated the action appealed from and the location or address of the subject property. Once an appeal is filed, any activity authorized by the decision appealed from shall be stayed automatically, and despite the authorization given by the decision appealed from, no permits shall be issued, no trees shall be cut, or earth disturbed, until the sixth (6<sup>th</sup>) business day after the date of the Commission's written decision on the appeal, at which time the stay shall expire unless a new stay is entered by the superior court pursuant to subsection (b) of this section. The Commission shall fix a reasonable



time for the hearing of the appeal and shall give public notice thereof as well as prompt notice in writing to the parties in interest. Public notice shall be given by the Clerk of the Commission in such manner as shall be provided for in the rules for appeals adopted by the Commission, not less than fifteen (15) calendar days before the date of the hearing. Upon the hearing, any party may appear in person or by agent or by an attorney. The Commission shall decide the appeal within a reasonable time. An appeal shall be sustained upon an express finding that the administrative official's action was based upon an erroneous finding of a material fact or upon an erroneous application of law. In exercising its powers, the Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may direct the issuance of a permit provided that all requirements imposed by the applicable laws other than this article are met.

**Section III:** THAT Section 158-101(a) of the Atlanta City Code (1995) is hereby amended by striking the word *property* at the end of that section and inserting the word *buildings* in lieu thereof.

**Section IV:** THAT Subsection (c) of Section 158-101 of the Atlanta City Code (1995) is hereby amended by striking the present Subsection (c) in its entirety, and inserting in lieu thereof a new Subsection (c) of Section 158-101, to read as follows, and that new Subsections (d), (e), (f) and (g) of said Section 158-101 thereof shall be added thereafter, as follows:

(c) *Application Review; Notice of Preliminary Approval or Denial .*

Upon receipt of a complete application by the City of Atlanta, the city arborist shall review the application pursuant to the requirements of this article. The city arborist shall either give a *Notice of Preliminary Approval* of the application if the application meets the requirements of this article, or shall give a *Notice of Denial* of the application if the application fails to meet the requirements of this article. The city arborist shall submit copies of such Notices promptly to the Clerk. The city



arborist may impose conditions to the issuance of the permit consistent with this article. An applicant may submit a new application at any time after a Notice of Denial of an application under this chapter. An applicant may appeal the Notice of Denial to the Tree Conservation Commission as provided in this article. Any person aggrieved by the Notice of Preliminary Approval may also appeal to the Tree Conservation Commission.

- (d) Within three (3) business days after the Notice of Preliminary Approval is issued by the City of Atlanta, the Notice of Preliminary Approval shall be posted in the Office of the Arborist and in a prominent manner upon the property affected so that it may be seen and read by passers by. The Notice of Preliminary Approval shall inform any reader that an appeal may be filed with the Clerk of the Tree Conservation Commission within thirty (30) days of the date of issuance, and that the failure to appeal within that time will result in the issuance of the permit without further right of appeal. If the Notice of Preliminary Approval is not posted as required by this section, no permit shall be issued. The Commission may provide further by rule for the manner and method of this posting to the extent that such rule is consistent with the requirements of this section.
- (e) If no appeal is filed within thirty (30) days from the date of issuance of a properly posted Notice of Preliminary Approval, then the permit shall be issued in accordance with the terms of said Notice of Preliminary Approval. In the event that an appeal is filed within thirty (30) days from the date of issuance of a properly posted Notice of Preliminary Approval, no permit shall be issued until the sixth (6<sup>th</sup>) business day after the date of the Commission's written decision on the appeal, at which time the stay shall expire unless a new stay is entered by the superior court pursuant to Section 158-65(b) of this article.
- (f) Once a permit has been issued in accordance with the procedures set forth in this section there can be no further appeal, except as provided in Section 158-65(b) of this article pertaining to appeals to superior court.



(g) After the time for appeals has expired with respect to any Notice of Preliminary Approval, the city arborist may approve minor amendments to the permit without there being any new right of appeal from such approval, provided that the arborist, in connection with such approval, shall certify in writing to the following, which certification shall be attached to the permitted amendments:

- (1) That the amendments do not alter or amend any rulings of the Tree Conservation Commission made in connection with the particular case; and
- (2) That the amendments do not affect any trees on the property in question which are eligible under this article to be designated historic or specimen trees; and
- (3) That the amendments in the aggregate do not affect more than ten (10%) percent of the surface area or areas shown on the previously approved tree replacement plan as being an area or areas where trees are to be preserved.

A true copy,

*Rhonda Douglas Johnson*  
Municipal Clerk, CMC

ADOPTED as amended by Council  
RETURNED WITHOUT SIGNATURE OF THE MAYOR  
APPROVED as per City Charter Section 2-403

April 3, 2000

April 12, 2000

RCS# 1968  
5/15/00  
5:21 PM

Atlanta City Council

Regular Session

00-O-0654

ESTABLISH A NEW EFFECTIVE DATE FOR THE  
RECENT PROCEDURAL AMENDMENTS TO TREE ORD  
ADOPT

YEAS: 15  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 0

Unanimous

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

00-O-0654