

Attachment C- City Of Atlanta Excerpt

Sec. 158-34. Penalties.

(a) *Legal.* Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-8 of the Atlanta Code of Ordinances. For a first offense, the minimum fine shall be \$500.00 per violation. For subsequent offenses, the minimum fine shall be \$1,000.00 per violation. Each tree removed, destroyed or injured or each incursion into a designated root save area in violation of this article is a separate offense. Injurious tree climbing practices, in particular spiking, and tree pruning practices, in particular topping, tipping, and flush cutting, shall be considered punishable offenses. Each day's continuance of a violation may be considered a separate offense. The owner of any building, structure or site, or part thereof, where anything in violation of this article exists, and any architect, builder, contractor or agent of the owner, or any tenant who commits or assists in the commission of any violation shall be guilty of a separate offense.

(b) *Administrative.* Any tree of six inches or greater DBH, or for new subdivisions, new lots of record, vacant lots, and vacant land tracts, any tree except pines of six inches or greater DBH or any pine of 12 inches or more DBH, that is removed or destroyed in violation of this article shall be recompensed by the violator.

(1) Recompense or partial recompense in the form of in-kind replacements on site shall be in a ratio of two trees replaced for each tree illegally removed or destroyed. On site replacement trees shall be in addition to the minimum required tree coverage established in subsection 158-103(f) and in addition to any pre-approved tree replacement plan. In-kind replacements shall be minimum two and one-half caliper inch trees of species with potential for comparable or greater size and comparable or better quality at maturity as the trees illegally removed or destroyed, as determined by the city arborist. In-kind replacement trees must be maintained for a minimum of one year and shall not subsequently be removed or destroyed without a permit from the city arborist.

(2) Recompense or partial recompense in the form of cash payment to the tree trust fund shall be calculated on the following bases:

a. Recompense (IR) for trees of known number removed (Nrem) and known total diameter removed (TDBHrem) shall be calculated according to the formula:

$$IR = \$200.00(Nrem) + \$60.00(TDBHrem)$$

b. Recompense for trees of known number removed but unknown total diameter shall be calculated according to the formula:

$$IR = \$1,500.00Nrem$$

c. Recompense for trees illegally removed or destroyed for which neither total diameter nor number can be determined shall be made under the assumption that the site was fully stocked prior to clearing. Recompense shall be calculated by the formula:

$$IR = \$30,000.00/acre$$

d. Recompense for specimen and historic trees shall be one and one-half times the calculated dollar cost IR.

e. Recompense for trees removed or destroyed with the intent or the effect of by passing or subverting other sections of this article, in particular the public notice provisions of subsection 158-101(e) and the tree replacement calculations of subsections 158-103(a) and (b), shall be assessed a double dollar cost IR.

(c) *Tree protection.* Fences surrounding root save areas must be erected before the commencement of any land disturbance, demolition or construction. Fences must comply

Attachment C- City Of Atlanta Excerpt

with City of Atlanta arboricultural standards. More substantial wood or steel fencing may be required by the arborist on commercial or other heavy construction sites or upon multiple violations. No activity, including construction material storage, shall occur in areas protected by tree fences. Tree protection fences must remain in place and upright until such time as final landscaping of a site requires their removal. The arborist may assess additional recompense against the violator if, in the arborist's opinion, the incursion has converted trees from the status of saved trees to the status of injured, lost, or destroyed trees, as set forth in this section above.

(d) *Additional actions and penalties.* In addition to all other actions and penalties authorized in this section, the city attorney is authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this section.

(Code 1977, § 10-2046; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Secs. 158-35--158-60. Reserved.