

Chapter 62 - VEGETATION^[1]

Footnotes:

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State Law reference--- Municipal authority to remove unsanitary or unsafe conditions, O.C.G.A. § 41-2-7.

ARTICLE I. - IN GENERAL

Sec. 62-1. - Authority of city manager to cut, trim and remove trees in city rights-of-way.

Whenever in the judgment of the city manager trees on city rights-of-way are in need of trimming or removal because of age, condition, or other reason, the city manager is hereby authorized and empowered to trim or remove said trees in his or her discretion.

(Code 1985, § 28-1; Ord. No. 86-198, § 1, 7-22-1986)

Sec. 62-2. - Award of contracts for clearing of lots by city.

Prior to the commencement of each fiscal year, the assistant purchasing agent for the city shall obtain bids from contractors or other qualified persons for clearing lots of weeds, grass and other vegetation not in excess of two inches in diameter, and for clearing lots of weeds, grass and other vegetation in excess of two inches but not in excess of four inches in diameter, and the board of city commissioners shall award a contract to the lowest and best bidder, such contract to remain in effect during the ensuing fiscal year.

(Code 1975, § 13-9(e); Code 1985, § 28-21)

Secs. 62-3—62-24. - Reserved.

ARTICLE II. - TREE PROTECTION^[2]

Footnotes:

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Editor's note—Ord. No. 15-117, §§ 1, 2(Exh. A), adopted May 26, 2015, repealed the former division 1, §§ 62-25—62-41, division 2, §§ 62-71—62-73, division 3, §§ 62-105—62-109 and enacts new divisions 1—3 as set out herein. The former divisions 1—3 pertained to generally, public rights-of-way and other public lands, and private property. See Code Comparative Table for complete derivation.

DIVISION 1. - GENERAL PROVISIONS

Sec. 62-25. - Short title.

This division shall be officially known as the "Tree Ordinance of the City of Albany, Georgia".

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-26. - Intent.

It is the intent of this division through the conservation, preservation, and protection of trees to:

- (1) Protect, conserve, and promote the aesthetic appeal, character and value of the city;
- (2) To promote public health and safety through the reduction of noise, stormwater runoff, air pollution, visual pollution, artificial light glare, and heat; and
- (3) To preserve the quality of life for the city's citizens.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-27. - Objectives.

The objectives of this division are to protect, maintain, and enhance the immediate and long-term health, safety and general welfare of the citizens of the City of Albany. The following objectives support this purpose by encouraging a productive balance between development and nature:

- (1) To encourage the conservation, preservation, and protection of trees and prevent damage to the city's existing tree canopy;
- (2) To promote and enhance the natural value of trees which contribute to the enhancement of public and private property values, contribute to air purification, oxygen regeneration, groundwater recharge, stormwater runoff control, noise abatement, the reduction of energy for heating and cooling, and glare;
- (3) To promote energy conservation by maximizing the shading and cooling effects of trees;
- (4) To conserve, preserve, and protect a portion of existing trees and to ensure that local stock of native trees is replenished;
- (5) To maintain natural beauty in developed areas by promoting the conservation, preservation, and protection of existing trees and planting of new trees;
- (6) To promote the conservation, preservation, and protection of existing large shade trees by keeping their life needs in mind when developing;
- (7) To promote new tree plantings during the land development and building construction process; and
- (8) To create an environment where the trees will survive and thrive.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-28. - Applicability.

- (a) *Applicability.* The provisions of this division apply to any tree activity on all lands in the city, public and private, except as specifically exempted in section 62-31, and no person shall commence nor allow any tree activity to commence on non-exempt property without first obtaining a tree permit from the city arborist.
- (b) *Access authority.* The city arborist shall conduct such investigations as may be deemed necessary to carry out the duties prescribed in this division, and for this purpose shall be allowed to enter upon any non-exempt property for the purpose of investigation and inspection of sites with activities that may require tree permits or have tree permits. No person shall refuse entry or access to the city arborist or authorized representative who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with the city arborist or authorized representative while in the process of performing their official duties.
- (c) *Liability.* Neither the approval of a tree permit under the provisions of this division, nor the compliance with provisions of this division shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor shall such approval or compliance impose any liability upon the city for damage to any person or property. The fact that a tree activity for which a tree permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this division or the terms of the tree permit.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-29. - Definitions.

Alley: A minor right-of-way used or intended to be used primarily for vehicular service access to the rear or side of properties otherwise abutting a street.

Altering of a tree (tree alteration, alteration of a tree, altered tree): Pruning, trimming, defoliating, topping, grading around the base, compaction of soil on or within critical root zone, damaging the tree, or other actions to the tree. This definition includes tree removal.

ANSI A300: Means the American National Standard for Tree Care Operations-Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices. This is a document offering basic performance standards for tree pruning, published in 1995 by the American National Standards Institute (ANSI), or the same as amended from time to time.

Applicant: Any individual, landowner, lessee, building contractor, developer or other entity applying for a tree permit. The applicant must have authority over the tree activity and the implementation of the requirements of this division.

Appraised value: Means the dollar value assigned to a tree and calculated using the methods outlined in the latest edition of 'Guide for Plant Appraisal'.

Arboricultural specifications and standards of practice: A comprehensive manual compiled and maintained by the city arborist, known as the arborist specifications manual (ASM), that contains the regulations and standards required for the planting, maintenance, protection, and removal of trees on non-exempt property.

Arboriculture: Means the cultivation of trees, including planting, pruning, removal, or any other action which affects the growth and maintenance of trees.

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 public, commercial, or residential landscape. One who is versed in the art of arboriculture, including tree pruning, the prevention and cure of tree diseases, and the control of insect pests.

Berm: A mound of earth between two and six feet high used to buffer or screen a land use.

Best management practices (BMPs): Are technically correct and widely accepted practices and standards used by professional arborists, urban and community foresters, landscape architects, and other tree care and landscape professionals. The goal of BMPs is to provide basic and practical information on how to best accomplish the most important tree management activities. The goal of tree management is to maintain tree, forest, environmental, and community health.

Boundary tree: Means that any portion of the trunk of the tree straddles the actual property line between the city public property and the adjoining property. A boundary tree is the common property of both landowners.

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

Buffer: Land area used to visibly separate one use from another through screening and distance.

Caliper: The diameter of a tree trunk, measured six inches above the soil line up to and including four inches caliper size, and 12 inches above the soil line for trees larger than four inches caliper size. The caliper of multi-stemmed trees which branch within 12 inches of the soil line shall be the diameter of the dominant (or larger stem) measured six inches above the point of branching. 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. Canopy tree species shall be a minimum of eight feet in height and have a caliper of at least two inches at planting. These species shall have an average mature crown spread of at least 25 feet. Synonymous with "shade tree".

Certificate of occupancy: A certificate issued by the City of Albany's Planning and Development Services certifying that all requirements for development or redevelopment of property have been met and authorizing occupancy of buildings and structures.

City: The City of Albany, Georgia; or, the geographical area lying within the municipal boundaries of the City of Albany, Georgia.

City arborist: A person duly appointed by the director of engineering, or his successor, to carry out the provisions of this division.

City manager: The administrative head of the City of Albany's municipal government.

Code enforcement officer: A person duly appointed by the director of planning and development services, or his successor.

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 one and one-quarter feet for every one inch in DBH, whichever is greater or as determined at a preliminary site inspection by the city arborist. The critical root zone increases in size as a tree grows larger. It is the area that must be protected for tree survival.

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.

CTLA: Means the council of tree and landscape appraisers, a national council that periodically defines the accepted professional methods for determining the appraised value of trees and the cost of cure for tree damage and destruction.

Cutting: The detaching or separating of any limb, branch, or root from a tree.

Dead tree: A tree that does not contain any living tissue, i.e., green leaves or live limbs.

Decay: Degradation of woody tissue caused by biological organisms.

Deciduous tree: Any tree which naturally loses its leaves in the fall.

Developed area: Any area, with the exception of federal and state properties, where building,

construction, excavation or filling activities occur.

Dedicated tree account: An account of funds contributed from fines, application fees, and payments to meet tree density requirements for off-site tree planting. Account is to be used exclusively for the purchase of new trees and all materials necessary to properly install the trees and is accessible only by the city arborist or the executive director of Keep Albany-Dougherty Beautiful.

Diameter at breast height (DBH): The standard measure of tree size (for trees existing on a site). The diameter of a tree measured at a breast height of 54 inches above the ground. 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.

Director of engineering: The head of the City of Albany's Engineering Department.

Diseased tree: Means a tree or part thereof which has become infected with pathogens or has become significantly diseased.

Dripline: An imaginary vertical line extending from the outermost branches of a tree to the ground, more or less forming a cylinder around the tree.

Emergency: Means damage to utility systems, or to public or private property or an immediate threat to the welfare of persons, due to a storm or other acts of God or other accident, which requires immediate attention to alleviate the conditions or complete repairs.

Engineering inspection supervisor: A staff position within the City of Albany's Engineering Department.

Establishment period: The length of time it takes for a planted tree to develop adequate roots and shoots such that it can survive in the landscape, generally considered to be three years from the time of planting.

Evergreen tree: Any tree that has leaves throughout the year and is always green.

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.

'Guide for Plant Appraisal, latest edition': Authored by the council of tree and landscape appraisers (CTLA) is the professional plant appraiser's how-to manual for determining size, species, condition, and location factors that influence the value of trees. Methods are included by which casualty losses and damage from trespass can be assessed.

Hazard tree: As determined by the city arborist, any public or private 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 and/or is a danger to public safety.

Healthy tree: As determined by the city 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 one-third 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.

Impervious area: Area that is covered by pavement or structures. Pavement for this definition is considered to be areas traveled upon by motor vehicles for ingress, egress, and parking having an impervious material which prevents the percolation of runoff. Examples of such materials are: asphaltic concrete, Portland cement concrete, and paving blocks. A structure is anything constructed or erected that requires permanent location.

Invasive species: Non-native tree species, as identified on the list in subsection 62-37(c), that are a threat to native plants or animals because of their tendency to rapidly expand into and disrupt the local ecosystem.

ISA: Means the International Society of Arboriculture, an international organization that developed and administers the certified arborist, certified municipal specialist, certified tree worker, certified utility worker, and board certified master arborist programs.

Land alteration activity (referred to as a "tree activity"):

- (1) The construction or installation of new impervious area that exceeds 5,000 square feet on non-exempt property;
- (2) Clearing, tree removal, or altering any tree existing, planted, preserved or protected under this division or any predecessor ordinance on a site on non-exempt property; or
- (3) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise significantly disturbing the soil of a site on non-exempt property.

Land alteration permit (referred to as a "tree permit"): An authorized tree permit issued by the City of Albany allowing the commencement of tree activity.

Licensee: Means a person with a valid City of Albany occupational tax certificate as required in this division.

Living space: The minimum area allotted to each new tree for it to be able to grow and survive. Living spaces shall not overlap each other; that is, only one tree may occupy a certain area of land. The living space is the amount of rooting space needed by a tree as specified in the ordinance.

Maintenance: Any and all work performed on a tree including, but not limited to, pruning, removing, spraying, injecting, mulching, fertilizing, weeding, pest management, and stump grinding.

New trees: Trees listed in Appendix A (at the end of this division) or approved by the city arborist for installation shall be called a "new tree." New trees may be shade trees or ornamental trees.

Notice of violation: Means a written notice of ordinance violation, as described in section 62-47.

Occupational tax certificate: An annual license required to be obtained from the City of Albany Finance Director or designee by each person, firm, company or corporation engaged in any business, trade, profession or occupation in the city. The amount of the license fee shall be established by ordinance or resolution of the board of city commissioners, from time to time, and made available for public examination in the offices of the city clerk and finance director.

Ornamental tree: A tree normally reaching a height less than 40 feet but greater than a height of 15 feet, with a spread of at least 12 feet at maturity (as opposed to a shade tree). Palms shall be considered ornamental trees provided they are at least ten feet high at planting. The measurement distance for the palm shall be from the base at ground level to the main point of foliage of the tree, or the upper portion of the tree canopy.

Permit: Means a written approval issued by the city arborist and required for any activity on public trees, including maintenance, removal, and street tree planting.

Permittee: One who receives a permit.

Person: Any individual, landowner, lessee, building contractor, developer or other entity involved in any tree activity or use of real property, including agents, employees, independent contractors or other in association with any of the above, whether persons, corporations, partnerships, or joint ventures.

Pest: Means any insect, disease, or other organism harmful to trees.

Physical barrier: Material used to protect a tree from damage or access.

Private tree: Means a tree that is not a public tree.

Private property: Means any property owned by a person, firm, or corporation, not meeting the definition of public property, and not under the ownership of the City of Albany, Dougherty County, State of Georgia, or the federal government.

Protected tree: Any tree designated on a site plan, tree permit or land alteration application that is to be preserved for tree density unit credit.

Protection zone: The area around a protected tree requiring a physical barrier erected at its extents.

Pruning: Means the practice of cutting tree limbs according to the standards contained in ANSI A300.

Public property: Means any property owned by, dedicated to, or deeded to the public or for the public's use. City parks, cemeteries, public rights-of-way, and other publicly owned properties are included in this definition. This definition excludes any federal, state, or county owned properties except where otherwise provided by contract or law.

Public safety: Means the condition of being safe from bodily harm and/or property damage resulting from tree conditions and/or failures while using public property.

Public tree: Any tree located on property belonging to the City of Albany.

Public utility easement: Means the rights-of-way acquired by a utility or governmental agency to

place utilities, including all types of pipelines, telephone and electrical cables, and cell phone towers.

Remove or removal: To take a tree away from its existing position and including such actions that may be reasonably expected to damage a tree sufficiently to cause it to die.

Replacement: Replacement of dead, dying, diseased, or removed trees with trees of equal or comparable size, species, vigor, and health.

Right-of-way: A strip of land over which the city has the right to ownership to construct a public street, sidewalk, alley, or use for public utilities.

Risk management services: Is responsible for the administration of the city's property and casualty insurance program. It includes subrogation of damages to city property.

Risk manager: Is an advisory position in risk management services of the City of Albany.

Shade tree: A tree normally reaching the height of 40 feet or greater, with a spread of at least 16 feet, at maturity.

Silvicultural practices: The practice of establishing, tending, and reproducing stands of trees. It involves prescribing such cultural operations as weeding, thinning, pruning, and measures to protect the trees from insects, disease, and natural elements.

Site: The area within the property boundaries of the principal parcel, to be developed; or contiguous parcels intended for development under a common scheme or plan.

Specimen tree: Any shade tree more than 25 inches DBH, any ornamental tree more than 12 inches DBH, which has been determined by the city arborist to be of a high value because of its species, size, growth form, age, or other accepted horticultural criteria.

Street tree: Any existing tree or any tree to be planted on city right-of-way.

Subrogation: Is the process of seeking reimbursement from the responsible party and/or insurance company when damages are caused by the negligence of others.

Timber harvesting: The logging of two or more acres of property for the purpose of selling the harvested wood products to a commercial wood processing mill.

Timber harvesting permit: A permit required when a two acres or larger tract of timber is commercially harvested. The timber harvesting company is responsible for obtaining the permit prior to beginning operations.

Topping: The indiscriminate cutting of tree branches to stubs or cutting of lateral branches such that they are not large enough to assume the terminal role. Other names for topping include "heading back", "tipping", "hat-racking", "rounding over", or any other term that can be described as severe cutting back of limbs as defined in ANSI A300.

Tree: Any perennial woody plant, usually, but not necessarily, single stem and long-lived, with a height greater than overall spread.

Tree activity: Same definition as a land alteration activity. "Tree activity" is the common usage.

Tree clearing: The removal of any tree of four inches DBH or greater; or the removal of any tree planted, or conserved under the requirements of this division or under the previous ordinance on non-exempt property.

Tree density unit (TDU): A numerical representation used to assign values to trees to calculate for tree density requirements; as in the case of trees protected during development process, or to determine the extent of replanting required on a site.

Tree evaluation formula: A systematic approach to secure the value of a tree by using four major factors: size, species, condition, and location. With the four factors established, a cost of cure or trunk formula can be implemented to determine a value for the tree. Formulas are based upon the latest edition of 'Guide for Plant Appraisal' by the council of tree and landscape appraisers (CTLA) and the International Society of Arboriculture (ISA).

Tree permit: Same definition as a land alteration permit. "Tree permit" is the common usage.

Tree removal: Any act that causes a tree to die or to decline to a degree requiring physical removal within a period of three years after said act, on non-exempt property, including but not limited to:

- (1) Improper planting;
- (2) Neglect;
- (3) Damage inflicted upon the root system by machinery, storage of materials, or soil compaction;
- (4) Changing the natural grade of the root system within the drip line;
- (5) Excessive or improper pruning; and/or
- (6) Paving with concrete, asphalt, or other impervious materials within such proximity as to be harmful to the tree.

Tree stump: Means the base part of a tree attached to root(s), including any portion of the tree trunk that remains after the tree has been cut.

Vandalism: Means to damage, mutilate, deface, or destroy any part of the woody structure of public trees that is above or below ground, affecting the short or long term health of the tree.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

DIVISION 2. - PRIVATE PROPERTY

Sec. 62-30. - Standards for tree activity.

In order to obtain the objectives of this division the following standards are applied:

- (1) A minimum density of trees per acre of land is required;
- (2) Non-exempt property which has a land alteration activity (see definition in section 62-29) to take place is required to meet the minimum tree density requirement;
- (3) A tree permit, tree permit application and monitoring procedures are established;
- (4)

Certain kinds of trees are determined to be desirable or preferred that will greatly enhance the foliage cover for the city. To encourage the planting of these trees a higher value (tree density unit) is given to them;

- (5) Certain kinds of trees are determined to be invasive and no value (tree density unit) is given to them;
- (6) The planting of trees is required in parking areas for the purpose of segmenting the pavement expanse;
- (7) Alterations, including maintenance of all trees, shall be done in accordance with the tree care industry association (TCIA), formerly known as the National Arborist Association Inc., Pruning Standards for Shade Trees (ANSI A300), and in accordance with those maintenance procedures referenced in this division;
- (8) Tree protection measures are to be utilized for any trees that are to remain on the site; and
- (9) Any permittee is required to replace any "new" tree planted which has died within three years of planting it on the site of the tree activity. Any on-site tree dying within three years of its planting on a site is considered to be a tree removal.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-31. - Exemptions.

(a) The following are exempt from the provisions of this division:

- (1) *Residential exemption.* All single-family and duplex lots in any zone where permitted by the City of Albany zoning ordinance.
- (2) *Linear infrastructure projects.* Examples include gas lines, fiber optic lines, gravity or force main sanitary sewer lines, storm sewer lines, and potable water lines.
- (3) *Landfills.* Land used for state-permitted landfills.
- (4) *Borrow pits and surface mines.* Land used for state-permitted borrow pits and surface mines.
- (5) *Telecommunication antenna tower sites.* The area contained within the security fence surrounding an antenna tower.
- (6) *Airport.* Land used for commercially operated airport. Tree planting is limited per the Federal Aviation Administration.
- (7) *Stormwater ponds.* The area of the stormwater pond to include a 20-foot wide strip around the perimeter of the pond required for maintenance purposes. The engineer of record can deduct the acreage of the stormwater pond and maintenance strip from the overall acreage of the site when calculating required tree density units for the overall site. Additionally, any lot within a subdivision that is dedicated for use as a stormwater pond is exempt from the tree ordinance.
- (8) *Property zoned C-8 (Commercial Recreation District)* is exempt from the requirements of the tree ordinance.
- (9) *City and county public works equipment and materials storage yards.*
- (10) *City and county open ditch or canal stormwater conveyance systems.* The area contained within the open ditch or canal and a 20-foot wide maintenance strip along the top of both banks. The exemption applies to both publicly owned stormwater conveyance systems and public systems contained within dedicated stormwater drainage easements.

(b) The following have limited exemptions from complying with this division:

- (1) *Hazards.* In the event that any tree on non-exempt property shall be determined by the city arborist to be hazardous or in dangerous condition so as to immediately endanger the public health, safety or welfare or cause harm to a building, and requires immediate trimming or removal without delay, verbal authorization may be given by the city arborist for the tree to be trimmed or removed where trimming will not remove the danger. Application for a tree permit is required within 72 hours after the hazard action. Determinations of the city arborist may be appealed per section 62-40.
- (2) *Emergency.* During the period of an emergency such as a flood, ice storm, thunderstorm, windstorm, tornado, or any other disastrous act of nature, the requirements of this division may be suspended by the city manager. No tree permit is required if the ordinance has been suspended.
- (3) *General agreement.* See section 62-32 for details.
- (4) *Agricultural exemption.* Any land presently zoned agricultural. No tree permit is required provided normal silvicultural practices are followed. A timber harvesting permit is required for any commercial timber operations involving the harvesting of two or more acres.
- (5) *Commercial tree operations.* Trees grown specifically for sale, such as Christmas trees, nursery stock, commercial pine plantations, or commercial pecan orchards. No tree permit is required provided normal silvicultural practices are followed. A timber harvesting permit is required for any commercial timber operations involving the harvesting of two or more acres.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-32. - Execution of general agreement.

Utility companies and governmental agencies constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmission shall execute a written general agreement with the city which, at a minimum:

- (1) As a policy, requires the least possible alteration of trees and specimen trees;
- (2) Establishes design guidelines for construction and maintenance which identify the saving of trees and specimen trees as a factor to be considered in the design process;
- (3) Requires a consultation process with and approval of the city arborist before the commencement of construction projects, maintenance work within five feet of trees, or the removal of trees and specimen trees;
- (4) Provides that a breach of such agreement constitutes a violation of this division; and
- (5) Provides that all pruning of trees comply with the Tree Care Industry Association (TCIA), formerly the National Arborist Association Inc., Pruning Standards for Shade Trees (ANSI A300).

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-33. - Duties of the Albany Tree Board.

- (a) *Establishment of the Albany Tree Board.* There is hereby established an Albany Tree Board for the City of Albany. Said board shall consist of 17 members with its members appointed by the procedure below. Board members shall serve without compensation. All board members not chosen by position shall be reevaluated every two years by the board that appointed them and either reaffirmed for a new two year term or replaced.

- (1) Seven members are appointed to serve two year terms by: The mayor and city commissioners (each shall appoint one member);
- (2) Six members are appointed by position to serve as long as the position is held and include: Director of Albany-Dougherty Planning and Development Services, or designee; executive director "Keep Albany-Dougherty Beautiful", or designee; Georgia Forestry Commission's Dougherty County Forester; director of engineering, or designee; city arborist;, Director of Albany Utility Board or designee;
- (3) Four members are appointed by the Albany Tree Board to serve two year terms and consist of the following:
A currently licensed professional civil engineer in private practice whose main field of work is site development, or a registered landscape architect; a representative of Albany Board of Realtors; and two additional interested citizens;

(b) *Duties of the Albany Tree Board.* The Albany Tree Board shall:

- (1) Provide written short and long range planning recommendations to the mayor and the city commission each calendar year;
- (2) Every six years, or as directed by the mayor and city commission, the board shall review the current ordinance and send recommendations to the mayor and city commission to maintain current status or make adjustments to the current ordinance;
- (3) Make recommendations for policies for managing trees on the city's public properties;
- (4) Make recommendations for policies concerning general agreements;
- (5) Perform other duties concerning the forestation of the city as directed by the mayor and city commission;
- (6) Meet from time to time as convened by any nine members, or by the chairman, but in all events, shall convene and meet not less than once quarterly;
- (7) All meetings of the tree board shall be open to the public. The tree board shall keep minutes of its proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings, and other official actions, all of which shall be immediately filed in the office of Keep Albany-Dougherty Beautiful and shall be public record; and
- (8) Until such time that bylaws are adopted by the tree board, a quorum will consist of a majority of the members.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-34. - Duties of the city arborist.

(a) Duties of the city arborist on private property.

- (1) It shall be the duty of the city arborist to administer this division.
- (2) The city arborist may at his(her) discretion use the code enforcement officer to assist in the administering of this division, though the ultimate responsibility for administration rests with the city arborist. The city arborist shall have the authority, either individually or with the code enforcement officer, to revoke, suspend, or void any tree permit and shall stop work or suspend all work on any site or any portion thereof which is in violation of this ordinance.
- (3) The city arborist shall have the authority for approvals of the following:

- a. Trees not on the tree list;
 - b. New tree caliper sizes above the maximum size;
 - c. Tree pruning, transplanting, protection, and maintenance;
 - d. Emergency tree removal;
 - e. Repairing damaged trees;
 - f. General agreements entered into under section 62-32.
 - g. Planting dates outside of the October 1 to April 15 period;
 - h. Requests for pruning, removal or planting of trees on public property;
 - i. Requirements of the tree care industry association (TCIA), formerly the National Arborist Association Inc., Pruning Standards for Shade Trees (ANSI A300), and maintenance procedures set out in any exhibits; and
 - j. Trees planted in accordance to the standards outlined in the Arboricultural Specifications Manual (ASM) developed and maintained by the city arborist.
- (b) Duties of the city arborist on public property.
- (1) The city arborist shall be responsible for permitting the removal of trees located on the public rights-of-way and other city property. Regardless the reason, no public tree in the City of Albany can be removed without the approval of the city arborist.
 - (2) The city arborist shall review all requests for the removal of trees located on the public rights-of-way for new commercial development. The city arborist is authorized, at his/her discretion, to require as a condition of granting of approval for such removal(s), that such property owner shall pay all costs of removing such tree(s) and also to require that the tree(s) removed be replaced at some other nearby location by planting another tree(s), not necessarily of the same type. The city arborist may approve, approve with modifications, or deny the request.
 - (3) The city arborist shall investigate all requests for the removal of trees located on the public rights-of-way by citizens. Public tree removal is permitted when trees are dead, dying, diseased, or hazardous. The city does not remove a public tree because it drops leaves, cones, or acorns. The city does not cut nor fill roots of public trees.
 - (4) The city arborist investigates trees located on the public rights-of-way and other city property that have been damaged or removed without an approved permit.
 - (5) The city arborist determines the value of public trees which are damaged or removed in accordance with the latest edition of the 'Guide for Plant Appraisal' and submits the calculations to the risk manager.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-35. - Procedure for land alteration permit application.

- (a) *Applications.* All tree permit applications, together with site plans and documentation shall be reviewed by the city arborist for conformance to the provisions of this division and either approved, approved with revisions, returned for revisions, or not approved within 15 working days of receipt by the city arborist's office. If not approved, the reason for the non-approval shall be stated in writing, and dated.

(b)

Submission. All tree permit applications for new development shall be submitted to the Albany Planning and Development Services for forwarding to the city arborist. Tree removal permit applications and timber harvesting permit applications should be submitted directly to the city arborist's office. Only complete applications will be accepted. A complete tree permit application contains the following:

- (1) Name and address of property owner;
- (2) Name, address and phone number of applicant if other than the property owner;
- (3) Address of property to have the tree activity;
- (4) Signature of applicant;
- (5) Statement indicating which of the following is being applied for:
 - a. Tree altering with no other intended actions on non-exempt property; (information requirements may be reduced if allowed by the city arborist)
 - b. Tree altering as part of a site development plan on non-exempt property.
- (6) Statement of which phase of the development the application is being applied for (NOTE: separate approvals are required for each phase, as each phase enters development);
- (7) If another city permit is required for the site which requires a scaled plan (except for internal building plans), the landscape plan is required to be on a scaled plan of a scale equal to or larger than the other required plan (one inch equals 20 feet or larger). A fee is required (see schedule of fees as stated in the Code of Ordinance, City of Albany, GA). All application fees for tree permits shall be paid through the office of the city arborist into a dedicated tree account to be used only for the purchase of new and replacement trees and all materials needed to properly install the trees on public lands, rights-of-way, and on tree easements abutting public lands and rights-of-way, as designated by the city arborist or the executive director of Keep Albany-Dougherty Beautiful.
- (8) Statement indicating how much (if any) of the existing impervious areas were constructed prior to May 12, 1992;
This statement shall include:
 - a. Intentions for any existing impervious areas to be preserved and used after the land alterations have been completed;
 - b. The location and square footages of the existing impervious areas which will be preserved and used;
 - c. The location and square footage of all proposed new impervious areas;
 - d. The percentage of existing impervious areas compared to proposed impervious areas;
- (9) Acreage of property on which the land alteration will take place;
- (10) The total tree density units required for the site;
- (11) The total tree density units from existing trees;
- (12) The total tree density units from new trees;
- (13) Existing tree density credit information:
 - a. Location of tree
 - b. DBH
 - c. Specific species (common name)

- d. Square footage of living space
 - e. Tree protection measures
 - f. Tree unit credit for each size of tree
 - g. Tree unit credit for each species of tree
- (14) New tree density unit information:
- a. Location
 - b. Caliper
 - c. Specific species (common name)
 - d. Square footage of living space
 - e. Number of trees of each species (NOTE: no more than one-third of the total number of trees planted are to be from any one species)
 - f. Number of trees which are "shade" trees (NOTE: at least one-half of the total number of trees planted are to be "shade" trees)
 - g. Pre-approval for trees not listed in Appendix A
 - h. Tree unit credit for each species of tree
- (15) Identification of all trees larger than four inches DBH on the City of Albany rights-of-way and indication of how these trees will be protected during construction.
- (16) Any changes to the plan must be submitted to the city arborist at least ten working days prior to installation. Plans must be approved by the city arborist prior to any tree activity removal or planting.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-36. - Tree density required.

(a) *Tree density required.*

- (1) Any site on which there will be a tree activity shall have not less than 15 tree density units per acre.
- (2) The city desires not to create or impose undue hardship on lands which had impervious areas before the enactment of the first tree ordinance on May 12, 1992. Therefore for lands which do not meet the minimum tree density units and had impervious areas on May 12, 1992 the following applies:
 - a. The tree density units required are adjusted by a percentage. This percentage is the ratio of existing preserved and used impervious area which was on the site on May 12, 1992 divided by the overall area of the parcel being developed. The resulting percentage is multiplied by the TDU requirements for the site and that number is subtracted from the original TDU requirements to determine the reduced TDU requirements.
 - b. If requirement of subparagraph a. above causes an overall tree density unit total greater than the minimum tree density units of paragraph (1), then the required number of tree density units is reduced to require only the difference between the minimum tree density units of paragraph (1) and the existing tree density units.
 - c. The minimum required new tree density units shall not be less than ten percent or require less than one tree (whichever is greater) to be planted;
- (3) Nothing in this division shall authorize the removal of existing trees as to reduce site tree units below 15 tree density units per site acre, and any such removal is prohibited.

- (b) *Sites with new paved parking areas.*
- (1) On sites where the tree density unit requirements have been met by trees retained on the site, any proposed or new parking areas shall be designed so as to provide for the preservation of existing trees, or living space for additional trees, to break up the expanse of the paved area(s) so that no new parking space shall be more than 75 feet from a tree density unit living space.
 - (2) On sites where the tree density unit requirements are not met by existing trees left on site, the site shall be designed to require planting tree density units in the expanse of the new parking area to meet the site's required tree density units; and at a ratio of not less than one tree density unit per 25 parking spaces, and so that no new parking space shall be more than 75 feet from a tree density unit living space. If there are tree density units remaining after meeting the previous requirement, then these tree density units may be placed at the applicant's discretion anywhere on the site as per section 62-37, (d) Tree density unit credit for new trees, (10) (11), and (12).
 - (3) Multi-level or covered parking areas are exempt from the requirements of subparagraphs (1) and (2) above.
- (c) *Off-site tree planting requirements/dedicated tree account.* On sites to be altered having serious space limitations such as party walls, zero lot lines or other similar restrictions and having less than 7,500 square feet of paved area, the applicant may elect to:
- (1) Where tree density unit requirements still remain, pay to the city \$300.00 per remaining tree density unit. All checks or money orders shall be made out to the "City of Albany". The money shall be paid through the office of the city arborist into a dedicated tree account to be used only for the purchase of new and replacement trees and all materials needed to properly install the trees on public lands, rights-of-way, and on tree easements abutting public lands and rights-of-way, as designated by either the city arborist or the executive director of Keep Albany-Dougherty Beautiful.
 - (2) On sites to be developed with fewer than 100 parking spaces, when it is impractical to meet the criteria for replanting on the confines of the property to be developed, as determined by the arborist and/or engineering department, then applicant shall provide for replanting to occur on other properties within the city, public or private, that are acceptable to the city arborist, provided all other requirements are met. As an option to the provision for off-site replanting, the applicant may pay to the dedicated tree account \$300.00 per tree density unit to plant the required number of replacement trees on public lands and rights-of-way.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-37. - Tree density unit credits.

- (a) *TDU credits.* To receive any TDU credits the minimum caliper, the minimum square footage of living space and the minimum living space radius are required. This applies to healthy, actively growing trees and requires approval by the city arborist. If a tree is in a location where a protection zone is needed or is determined to be needed, a protection zone is required to receive any TDU credits for that location.
- (b) *Protection zone.* The physical barrier shall extend a minimum distance in all directions from the tree base at least one foot for each inch of trunk diameter. Physical barriers include but are not limited to: fencing, security screens, silt fence style of fencing, and construction warning fencing.

Special conditions may warrant an adjustment to this requirement. The code enforcement officer with the city arborist's guidance shall set the special conditions and may grant adjustments to this paragraph on a case by case basis.

- (c) *Tree density unit credit for existing trees.* Conversion from "diameter at breast height" (DBH) to "tree density unit" (TDU) is provided in the table below. To receive credit for the trees remaining on site, the minimum living space and minimum radius for living space are required. (see Appendix A). If the existing tree is a species not on the new tree list, approval must be obtained from the city arborist to receive credit. Existing trees identified as invasive species by the city arborist will not receive credit. The list of invasive species, identified by common name, includes: Catalpa Tree, Cottonwood, Royal Princess Tree, Cherry Laurel or Black/Wild Cherry, Hackberry or Sugarberry, Mimosa, Chinaberry, Tree of Heaven, and Chinese Tallow. The city arborist shall add other tree species to the list as needed.

TABLE INSET:

DBH	TDU
1 to 5	1
6 to 10	2
11 to 15	3
16 to 20	4
<u>21</u> to 25	5
26 to 30	6
31 to 35	8
36 to 40	10
41 to 45	12
>45	14

Retention of large existing trees that are included in the preferred large shade trees list (Appendix A) is encouraged. An additional increase in units is provided for these trees. The increases are listed below:

TABLE INSET:

DBH	Increase above units by this percentage
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1 to 10	5%
10 to 20	10%
<u>21</u> to 30	25%
>31	50%

(d) *Tree density unit credit for new trees.* New trees are either approved shade trees or ornamental trees. Each listed tree has an individual tree density unit depending on the size, shape, and desirability. The minimum tree density unit is one-half and the maximum is one and one-half. Trees are designated as small, medium, or large relative to their potential size and the minimum living space requirement ranges from 100 to 400 square feet for any new trees planted outside the perimeter of parking areas (see Appendix A). A minimum radius of three feet living space for trees planted within the landscape islands of parking areas is required.

- (1) Appendix A (at the end of this division) contains the listing of trees that are available to receive credit. The appendix contains common tree name, botanical name, minimum living space, tree density units, and general comments.
- (2) The caliper of new trees is required to be between one and one-half and three and one-half inches, except that a pine tree caliper is required to be between one and one and one-half inches.
- (3) Palm trees are assigned credit based on height, not caliper, and receive one-half TDU credit for each ten feet height increment.
- (4) All new trees shall be planted on site between October 1 and April 15 unless an operational underground or drip irrigation system exists in place or the city arborist grants permission otherwise.
- (5) Trees not on the list are required to be reviewed and approved by the city arborist prior to any tree permit application submittal.
- (6) At least one-half of the new trees shall be from the shade tree class regardless of whether planting is for the purpose of meeting parking area requirement or TDU requirement.
- (7) No more than one-third of the new trees shall be from any one species regardless of whether planting is for the purpose of meeting parking area requirement or TDU requirement.
- (8) For a new tree surrounded by existing or new pavement, the minimum required living space is 150 square feet for all species.
- (9) Crape myrtles may be grouped together, in maximums of three per single living space, though the minimum living space becomes 150 square feet.
- (10) Trees being placed for this requirement may not be placed in locations such as sight clear zones that may cause hazardous situations for traffic.
- (11) Trees shall be placed such that full shape and height will be reached without trimming, cutting or altering. For example: a large shade tree (height over 40 feet) placed near or under a power line shall not be allowed.

- (12) Trees shall not to be planted within ten feet of any existing or proposed natural gas or sanitary sewer lines and within five feet of any other existing or proposed underground utilities.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-38. - Receiving a building permit or certificate of occupancy.

- (a) No certificate of occupancy shall be issued until the city arborist has conducted the final inspection.
- (b) Due to the restricted tree planting period (October 1 to April 15) an allowance is made for activities to be completed during the non-tree planting time. A bond or an irrevocable letter of credit may be posted with the city arborist which will allow the applicant to occupy or use the development before all requirements of this division are met. An example letter of credit shall be furnished by the city attorney upon request.
- (1) The amount of the bond or irrevocable letter of credit shall be \$300.00 per required tree density unit.
- (2) In no event shall a bond or irrevocable letter of credit be for a time period of longer than seven months.
- (3) A bond or irrevocable letter of credit shall be accepted only during the time of April 1 to October 1.
- (4) A request for an extension of an existing bond or irrevocable letter of credit may only be done through the appeal process. A request for an extension appeal application does not exempt the bond or letter of credit from the original termination date of the bond or irrevocable letter of credit.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-39. - Enforcement and penalties.

- (a) Each violation of this division or failure to comply with any of the requirements hereof shall be additionally punishable by a fine of \$500.00 for each violation of this division payable to the dedicated tree account. Funds of the dedicated tree account are designated only for the purchase of new trees and all materials necessary to properly install the trees.
- (b) Damage to all trees harmed shall be either repaired or replaced with the corresponding TDU's. The repair shall be to the maximum extent feasible as determined by the city arborist. The fine shall be paid and all damaged trees repaired or replaced before continuation of any further tree activity or tree permit application processing.
- (c) Each violation of a provision of this division shall constitute a separate offense.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-40. - Appeals.

- (a) Appeals of any decisions of the city arborist shall be directed to the tree appeals board. Appeals of any decisions of the tree appeals board can be directed to the entire Albany Tree Board for further consideration. Appeals of any decision by the entire Albany Tree Board can be appealed to the city manager, who has the final authority. The appeal shall follow the requirements below:
- (1) Appeals shall be filed within three months of a city arborist decision;
- (2) The appeal letter shall be addressed to the city arborist and contain the following information:
- a. The specific reason for the appeal;

- b. All supporting information relevant to the appeal; and
 - c. A written report from the city arborist why subject of the appeal was denied.
- (3) The city arborist shall notify the chairman of the Albany Tree Board of the appeal within ten business days of the submittal of a completed appeal application.
 - (4) The chairman of Albany Tree Board shall convene the tree appeal board within ten business days of the date of notification by the city arborist. The tree appeal board shall consist of the following four members: the chairman of the Albany Tree Board, the planning and development services tree board designee, the engineering department tree board designee, and the Keep Albany-Dougherty Beautiful designee. All decisions by the tree appeal board must be unanimous to overturn the city arborist's decision. Decisions that are not unanimous will result in an automatic rejection of the appeal. The appellant shall be notified in writing within ten business days of the results of the appeal.
 - (5) The appellant can appeal the decision of the tree appeal board to the entire Albany Tree Board. The appellant shall notify the city arborist requesting an appeal to the entire Albany Tree Board within ten business days of receipt of the denial of appeal by the tree appeal board. If a regular quarterly Albany Tree Board meeting is not scheduled within 45 days of the notification of appeal, the chairman of the Albany Tree Board shall call a special meeting to vote on the appeal. A majority decision by the board is required for approval, approval with conditions, or denial of the appeal. The appellant shall be notified in writing within ten business days of the decision.
 - (6) The appellant may request that the city manager review the decision of the entire Albany Tree Board by submitting an appeal request in writing to the city manager within 30 days of the Albany Tree Board's decision. The city manager has 30 days from receipt of the written appeal to render a decision. All decisions of the city manager are final.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-41. - Conflict.

Where the provisions of this division conflict with other tree protection or landscape provisions contained within any other city ordinance, the stricter ordinance shall govern.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

**APPENDIX A
NEW TREE LIST**

PREFERRED LARGE SHADE TREES	
Minimum Living Space = 400 square feet	
Common Name (scientific name)	Tree Density Units
Black Tupelo (<i>Nyssa sylvatica</i>)	1.5
Bald Cypress (<i>Taxodium distichum</i>)	1.5
Laurel or Darlington Oak (<i>Quercus hemisphaerica</i>)	1

Live Oak (<i>Quercus virginiana</i>)	1.5
Overcup Oak (<i>Quercus lyrata</i>)	1.5
Scarlet Oak (<i>Quercus coccinea</i>)	1.5
Shumard Oak (<i>Quercus shumardii</i>)	1.5
Southern Red Oak (<i>Quercus falcata</i>)	1.5
Swamp Chestnut Oak (<i>Quercus michauxii</i>)	1.5
White Oak (<i>Quercus alba</i>)	1.5
Willow Oak (<i>Quercus phellos</i>)	1

OTHER LARGE SHADE TREES**Minimum Living Space = 400 square feet**

Common Name (scientific name)	Tree Density Units
American Beech (<i>Fagus grandifolia</i>)	1
Chinese Elm (<i>Ulmus parvifolia</i>)	1.5
Dawn Redwood (<i>Metasequoia glyptostroboides</i>)	1.5
Deodar Cedar (<i>Cedrus deodara</i>)	1
Ginkgo or Maiden Tree (<i>Ginkgo biloba</i>)	1
Longleaf Pine (<i>Pinus palustris</i>)	1
Sawtooth Oak (<i>Quercus acutissima</i>)	1
Southern Magnolia (<i>Magnolia grandiflora</i>)	1.5
Tulip Tree or Yellow Poplar (<i>Liriodendron tulipifera</i>)	1.5

ORNAMENTAL LARGE TREES**Minimum Living Space = 400 square feet**

Common Name (scientific name)	Tree Density Units
Chinafir (<i>Cunninghamia lanceolata</i>)	1
Eastern Red Cedar (<i>Juniperus virginiana</i>)	1
Japanese Evergreen Oak (<i>Quercus acuta</i>)	1
River Birch (<i>Betula nigra</i>)	1.5
Weeping Willow (<i>Salix babylonica</i>)	1

ORNAMENTAL MEDIUM TREES**Minimum Living Space = 250 square feet**

Common Name (scientific name)	Tree Density Units
American Holly (<i>Ilex opaca</i>)	1
Arborvitae (<i>Thuja occidentalis</i> and cultivars)	1
Chinese Pistache (<i>Pistacia chinensis</i>)	1
Japanese Cryptomeria (<i>Cryptomeria japonica</i>)	1
Japanese Pagodatree (<i>Sophora japonica</i>)	1
Japanese or Saucer Magnolia (<i>Magnolia soulangiana</i>)	1
Florida or Southern Sugar Maple (<i>Acer floridanum</i>)	1
Goldenrain Tree (<i>Koelreuteria paniculata</i>)	1
Leyland Cypress (<i>Cupressocyparis leylandii</i>)	.5
Savannah Holly (<i>Ilex opaca</i> x <i>attenuata</i>)	.5
Sweetbay Magnolia (<i>Magnolia virginiana</i>)	1

Trident Maple (<i>Acer buergerianum</i>)	.5
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ORNAMENTAL SMALL TREES**Minimum Living Space = 100 square feet**

Common Name (scientific name)	Tree Density Units
Cabbage Palmetto (<i>Sabal palmetto</i>)	.5
Cassine Holly (<i>Ilex cassine</i>)	.5
Chaste Tree (<i>Vitex agnus-castus</i>)	.5
Crape Myrtle (<i>Lagerstroemia indica</i>)	.5
Croonenburg Holly (<i>Ilex opaca</i> v. <i>croonenburg</i>)	.5
Eastern Redbud (<i>Cercis canadensis</i>)	.5
Flowering Dogwood (<i>Cornus florida</i>)	.5
Fringe-Tree or Grancy Graybeard (<i>Chionanthus virginicus</i>)	.5
Hybrid Holly (<i>Ilex</i> or <i>attenuata</i> hybrids)	.5
Japanese Flowering Apricot (<i>Prunus mume</i>)	.5
Japanese Maple (<i>Acer palmatum</i>)	.5
Nellie R. Stevens Holly (<i>Ilex aquifolium</i> or <i>I. cornuta</i>)	.5
Purpleleaf Plum (<i>Prunus cerasifera pissardii</i>)	.5
Red Buckeye (<i>Aesculus pavia</i>)	.5
Sassafras (<i>Sassafras albidum</i>)	.5
Yaupon Holly (<i>Ilex vomitoria</i>)	.5

The tree permit fee information can be found in the City of Albany's Code of Ordinance under Appendix C (schedule of fees). Fees may be updated from time to time. The current fees are listed below.

NOTE: Not part of the tree protection ordinance.

Application fee of \$100.00 if landscape plan required for permit.

Application fee of \$35.00 for tree permit only.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

DIVISION 3. - PUBLIC RIGHTS-OF-WAY AND OTHER PUBLIC LANDS

Sec. 62-42. - Intent.

The intent of this article is to encourage the preservation and protection of trees on public property in the City of Albany. The purpose of the provisions contained herein include: protect the health, safety and welfare of both the public citizenry and the trees in the City of Albany by establishing standards and regulations to control planting, planning, removal, maintenance, and protection of the trees within the public rights-of-way and public land areas from undesirable and unsafe planting, removal, maintenance and protection practices, replacement of trees removed or destroyed by individuals, business entities or associations and by eliminating and guarding against dangerous conditions which may result in injury to persons using the public areas of the city; as well as to prevent damage to any public sewer or water main, gas line or other public property; and to guard all trees within the city against the spread of disease or pests. It is not intended to resolve or regulate disputes over trees on private property that do not affect general public safety.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-43. - Approval procedures.

The director of engineering shall have the responsibility, through the city arborist, to approve or deny requests for removal and replanting of trees on the public right-of-way, and other public places.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-44. - Maintenance of public trees.

All pruning and tree caring of conserved trees shall be done in accordance with ANSI A300.

- (a) The city shall have the right to plant, prune, maintain and remove trees within the right-of-way of all streets, alleys, avenues, lanes, on all parks, cemeteries, and on all city utility easements, as may be necessary to insure public safety, to conserve or enhance the symmetry and beauty of the city, or to further the intent of this division.
- (b) The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, visibility of street intersections, traffic control devices or other public improvements, or is infected with any injurious fungus, insect, or other pest.
- (c) It shall be unlawful for any person(s) or firm to engage in pruning, treating or removing public tree(s), except those persons who are employees of the city, contracted by the city, or approved volunteers supervised by either the city arborist, the executive director of Keep Albany-Dougherty Beautiful or the chairman of the Albany Tree Board.

- (d) All tree stumps on public lands shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. All persons performing stump removal on public lands shall be responsible for compliance with the Georgia Utility Facility Protection Act, O.C.G.A. § 25-9-1 et seq.
- (e) No person shall physically impede employees of the city who are engaged in the planting, maintaining, pruning, treating, or removing of any tree or portion of a tree in any public right-of-way or property.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-45. - Moving buildings on streets.

- (a) All requests for approval of house moving permits shall be submitted to the engineering department. The engineering department shall approve, approve with conditions, or deny the request. The engineering department shall approve, approve with conditions or deny the proposed route.
- (b) If tree trimming or tree removal is required to facilitate the moving of a building or structure, the city arborist shall investigate the proposed route and determine whether the moving of any building or structure as proposed in, and over the route specified in the application can be done without excessive or damaging tree trimming or removal. The city arborist shall coordinate with the engineering department's representative on all tree trimming or tree removal required to facilitate the moving of a building or structure.
- (c) The city's engineering department may issue a permit authorizing such tree trimming and/or removal containing conditions prescribed by the city arborist to assure against damage or injury to public trees and to provide indemnity for any damage or injury resulting from the work. In the alternative, the city arborist may require a permittee to select a different route which will not require excessive or damaging tree trimming and/or removal.
- (d) The permittee shall contract with a city licensed tree removal company and bear all costs associated for tree trimming and/or removal. All private tree removal companies shall obtain an occupational tax certificate prior to commencing any tree work as per chapter 16, businesses, article II, regulations, except as specifically exempted in article I, in general, section 16-1.
- (e) The city arborist may require tree replacement for any tree(s) removed as a condition of the permit. All tree replacement, installation and maintenance costs shall be borne by the permittee.
- (f) The issuance of a permit does not authorize the permittee to break, injure, damage, move, or remove public trees without approval from the city arborist.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-46. - Injuring, damaging or removing trees on public property.

It shall be unlawful for any person to damage, mutilate, destroy, cut, carve, paint, set fire or allow to burn or remove any public tree; attach any device or structure (i.e., tree houses, lights, signs, rope, wire, nails, reflectors, mirrors, etcetera) to or on public trees unless otherwise authorized by the city arborist; store, spill or dump substances, whether liquid or solid, which may be harmful to trees, on any part of a public tree or within the critical root zone of a public tree; damage public trees through construction activities in violation of the conditions of a permit issued under this chapter. Such activities include, but are not limited to: making excavations or cuts in the soil near roots of public trees

unless otherwise approved by the city arborist; damaging roots of a public tree by compacting or placing fill within the critical root zone; engaging in any pruning activity on public trees, including but not limited to: topping, heading, rounding or shearing.

- (a) Any person who damages public trees shall be charged the cost of replacement of said tree or trees. Fines shall be in addition to the cost of replacement of said tree or trees in accordance with the civil penalty as set out in section 62-47 below. The replacement value of trees shall be determined in accordance with the latest revision of 'Guide for Plant Appraisal' as published by the International Society of Arboriculture.
- (b) If the city arborist deems the tree to be beyond repair, the responsible party shall compensate the City of Albany for the lost monetary value of the tree to the satisfaction of the city arborist.
- (c) Should any person cause removal of any tree upon the public right-of-way, or other public property, after being denied a permit to do so, the city arborist shall cause a penalty of up to treble damages of the appraised value of said tree to be assessed against the responsible party.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-47. - Notice, violation and civil penalty.

- (a) If any person violates this article or fails to comply with any provision of this article, the risk manager, or his/her designee, shall notify the person of the violation in writing. Said notice shall be delivered in person or by certified mail.
- (b) Any person who violates any provision of this article or who fails to comply with a lawful order of the risk manager shall be issued a summons so charging the person notified and requiring such person to appear in municipal court for a hearing at a given time, place and date. Said summons shall be in the form of a written complaint setting forth the violation and the identity of the person complained against. Said summons shall be delivered in person by the risk management department or by certified mail.
- (c) If the court determines that the person being summoned did violate this division, the court shall order mitigation as prescribed by (d) of this article. In addition to mitigation, the court may impose a fine not to exceed \$500.00 for each violation of this article.
- (d) If, as a result of the violation of any provision of this article, the injury, mutilation, or death of a tree located on city-owned property or public rights-of-way is caused, the cost of repair or replacement of such tree shall be borne by the party in violation. The replacement value of trees shall be determined in accordance with the latest edition of the 'Guide for Plant Appraisal'.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-48. - Conflict.

Where the provisions of this division conflict with other tree protection or landscape provisions contained within any other city ordinance, the stricter ordinance shall govern.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-49. - Appeals.

Denial of request for tree removal on public property may be appealed in accordance with section 62-40.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)

Sec. 62-50. - Severability.

If any section, subsection, sentence, clause, phrase or word of this division is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this division. The city commission hereby declares that it would have passed this division and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, then the remaining division provisions will be in full force and effect.

(Ord. No. 15-117, § 2(Exh. A), 5-26-2015)