COUNTY DEPARTMENT AGENDA REQUEST

Department:	Stormwater Management	Presenter(s):	Vanessa Birrell
Meeting Date:	Thursday, March 8, 2012	Type of Request:	New Business

Wording for the Agenda:

Discussion of the proposed amendments to Fayette County Code, Chapter 8, Development Regulations, Articles VI, Tree Retention, Protection and Replacement.

Background/History/Details:

Proposed amendments to Chapter 8, Fayette County Development Regulations Article VI - Tree Retention, Protection and Replacement include changing the administrating department to Stormwater Management from Engineering, incorporating technical standards, rearranging content and adding definitions to simplify use and understanding, and clarifying submission requirements.

Following discussion, if the Board concurs, staff would like permission to place this item on the Board's March 22 agenda for adoption.

What action are you seeking from the Board of Commissioners?

Discussion of the proposed amendments and permission to place Ordinance 2012- 02, proposed amendments to Fayette County Code, Chapter 8, Development Regulations, Article VI. Tree Retention, Protection and Replacement on the Board of Commissioners' Agenda for March 22, 2012.

If this item requires funding, please describe:

Funds are not needed at this time, but will be part of an overall cost to update the Fayette County Code of Ordinances.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

DEVELOPMENT REGULATIONS
ARTICLE VI.
TREE RETENTION, PROTECTION AND REPLACEMENT
(Came into existence on 12/14/89)

Section 8-176. Introduction.
It is hereby determined that:

~~This Article shall be known as the Fayette County Tree Protection Ordinance.~~Trees are a valuable asset to the rural/urban environment of Fayette County and can generate such benefits as: ~~the~~ purification of air; moderation of the microclimate; reduction of noise and glare; ~~The~~ conservation of energy in terms of heating and cooling; ~~The~~ prevention of soil erosion; reduced ***stormwater management*** costs ~~in terms of storm water management;The~~ minimization of flood potential; ~~I~~***i***mproved water quality; ~~The~~ enhancement and stabilization of property values;~~I~~***i***ncreased aesthetics; and ~~The~~ preservation of ***the*** rural character ***of unincorporated Fayette County***.

Therefore, Fayette County adopts this ordinance to provide requirements to protect the rural and wooded character of unincorporated Fayette County through the preservation and replanting of trees when new development occurs.

Section 8-177. Definitions.
~~The following definitions of terms shall apply to the Fayette County Tree Protection Ordinance~~

~~Buffer. A portion of a tract which is set aside to provide a perceived or actual visual separation between the use on the tract and abutting tracts or through the use of natural vegetation, or other means including replanting or the provision of supplemental plantings or other visual screening elements or noise attenuation devices.~~

Certified Arborist. An arborist certified by the International Society of Arboriculture (ISA).

Clearing. An activity ~~which~~ ***that*** removes or disturbs the vegetative cover including trees.

Critical Root Zone (CRZ). The ~~total area contained within~~ ***minimum area beneath*** a ~~radius of the circle, measured from the trunk of the~~ tree ***which must be left undisturbed*** ~~in order to preserve a sufficient root mass to give a tree a reasonable chance of survival.~~ ***The critical root zone*** shall be equal to one and one half (1.5) feet ***of radial distance for*** every ~~per caliper~~ inch of ***the*** tree's ***DBH, with a minimum of eight feet***. ~~For pines, the radius of the circle shall be equal to one half (0.5) feet per caliper inch of tree.~~ (Ord. No. 2000-02)

Deciduous Tree. Any tree which drops its leaves at the end of the growing season. ***A tree that annually loses leaves.***

Dripline. A line on the ground established by a vertical plane extending from a tree's outermost branch tips down to the ground ; i.e., the line enclosing the area directly beneath the tree's crown from which rainfall would drip.

~~Dripline Area. The total area underneath a tree which would encompass all driplines.~~

Diameter-at-breast-height ***(DBH).*** ***S***tandard measure of ***existing*** tree ***size*** and is the trunk diameter measured in inches at height of ***four and one-half*** (4½) feet above the ground. If a tree splits into multiple trunks below ***four and one-half*** (4½) feet, then the ~~each~~ trunk is measured ***at its most narrow point beneath the split.*** ~~as a separate tree~~. A tree ~~which~~ ***that*** splits into multiple trunk~~s~~ above 4 ½ feet is measured as a single tree at 4 ½ feet.

Erosion***, Sedimentation*** and ~~i~~***Pollution*** Control Plan. ~~A permit which authorizes the applicant to begin construction of soil erosion and sediment control measures and structures prior to beginning major clearing and grading while taking the adequate steps to limit the soil erosion, control the movement of sediment from the site and follow the best management practices as required by Fayette County Ordinances.~~ ***A plan required by the Erosion, Sedimentation and Pollution Control Act. O.C.G.A., 12-7-1 et seq., that includes, at a minimum, protections at least as stringent as this ordinance.***

Evergreen ***Tree.*** ~~Any~~ tree ~~which~~ ***that*** retains its green foliage throughout the year.

Existing Density Unit (EDU). A tree density unit assigned for the preservation of existing trees that will remain on site and protected during construction and where one EDU is equivalent to inch of DBH when the DBH is a minimum size of four (4) inches.

Land-disturbing activity. Any land change which may result in soil erosion from water or wind and the movement of sediment into State water or onto lands within the State, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, other than federal lands.

Land Disturbance Permit. ~~A permit issued to a~~***A***uthoriz***ation*** ~~clearing, dredging, grading, excavating, transporting and filling of land~~***to conduct a land-disturbing activity under the provisions of Article IX, Soil Erosion, Sedimentation and Pollution Control.***

Landscaping. Any additions to the natural features of a plot of ground to restore construction disturbance and to make ~~it~~ ***an area*** more attractive~~, as by adding lawns, trees and shrubs, etc., to the natural environment~~.

Landscape Area~~s~~. An area set aside for the installation and maintenance of ornamental planting materials.

~~Native Species. Any tree species that originated in a particular place or region. For the purposes of this ordinance, a tree species is considered to be native to Fayette County if it is listed in Native Trees of Georgia, Georgia Forestry Commission, 1996 (as amended to date) and or denoted as a native Georgia plant in Landscape Plant Materials for Georgia, Bulletin 625, University of Georgia Cooperative Extension Service, 1988 (as amended to date), or considered indigenous to Plant Hardiness Zone 7b USDA Plant Hardiness Zone Map, Miscellaneous Publication No. 1475, 1990. (Ord. No. 2000-02)~~

~~Natural Vegetation. Natural vegetation shall connote a generally undisturbed, maintenance-free, self-perpetuating stand of vegetation comprised of indigenous shrubs, flowers, wild grasses and trees.~~

Overstory (Canopy) Tree. ***Any tree that, under normal forest conditions, will compose the top layer or canopy of vegetation and generally will reach a mature height of greater than 40 feet. Examples include: Oak, Maple, Elm, Bald Cypress, Cryptomeria.***

Replacement ~~Tree~~ ***Density Unit (RDU).*** ***A tree density unit assigned to a new*** ~~Any~~ tree planted to achieve the ***site density unit (SDU) and is equivalent to the number of inches of trunk diameter measured at six (6)inches above the ground.***

Shrub. ***A plant with persistent woody stems and a relatively low growth habit, distinguished from a tree by producing several basal stems instead of*** a single trunk.

Site. ***That portion of a tract of land dedicated to a proposed development, including the land containing trees that will be counted toward satisfying the requirements of these provisions.***

Site Density Unit (SDU). ***The minimum number of tree density units that must be achieved on a non-residential site after development and is equal to Existing Density Units (EDU) plus Replacement Density Units (RDU).***

Specimen Tree or Stand. Any tree or grouping of trees ~~which~~ ***that*** ~~has been~~***is*** determined to be of high value ***and qualifies for special consideration for preservation*** because of its species, size, ~~age,~~ or ***historical significance***.

Tree. A self-supporting woody perennial plant that, at maturity, has one (1) or more stems or trunks that attain a diameter of at least three (3) inches; a more or less definitely formed crown of foliage; and a height of 10 feet or more.

Tree Density Unit~~s~~ (TDU). A unit of measurement for tree density ***based on the diameter of the tree.*** ~~For existing trees designated to remain, total Existing TDU's = Sum of tree diameters (DBH) in inches. For replacement trees, total Replacement TDU's = Sum of tree diameters (measured at least six (6) inches above the ground) divided by 2. Replacement trees are worth half the TDU's of existing trees. Any other new trees planted will be given credited towards the requirement at a rate of one (1) TDU per inch of trunk diameter, similar to existing trees. (Ord. No. 2000-02)~~

Tree Protection Area. ~~All land which falls outside the buildable area of a parcel, all areas of the parcel required to remain in open space,~~ ***A barrier constructed around trees at construction sites sufficient to prevent damage or injury to tree trunks, limbs, and roots. The tree protection area shall be either the dripline of the tree or*** the critical root zone ~~beneath~~ ***of*** a tree or clusters of trees to be retained ~~and/or all areas required as landscaping strips or buffers according to the provisions of the Fayette County Zoning Regulations, or conditions of zoning approval. (Ord. No. 2000-02)~~ ***, ,.whichever is greater.***

Understory Tree. A~~ny~~ ***A*** tree ~~or woody plant which is of lesser~~ ***that, under normal forest conditions, grows to maturity beneath overstory trees and will generally reach a mature*** height ***of at least 10 feet, but less than 40 feet.***~~and spread than surrounding evergreens or deciduous trees but which still provides shade and a degree of the protection to the earth and vegetation beneath it.~~ Examples include dogwood, ~~cherry,~~ red bud, ~~sassafras, crabapple, pear,~~ ***fringe tree,*** ~~American holly,~~ ***lusterleaf holly, and*** red cedar ~~or magnolia~~. (Ord. No. 2000-02)

Utility. Public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines or other utilities identified by a local government.

Section 8-178. General Provisions

(a) **Purpose *and Intent.*** The purpose of this ***ordinance is to establish minimum requirements for tree retention, protection and replacement in Fayette County and*** ~~Article is~~ to protect the rural and wooded character of Fayette County through the preservation and replanting of trees when new development occurs. ~~In wake of Fayette County's rapid development, the goal of this ordinance is to create a uniform standard related to tree coverage.~~ ***It is the intent of this ordinance that all site planning and design for development of land be undertaken with a survey of trees on the property and that the grading, final placement of buildings, structures, roads, utilities, and other features minimizes the removal of existing trees, and insures aesthetic replacement and distribution.***

(b) Applicability**.** This ordinance shall apply to any activity ~~which~~ ***that*** requires a ***Preliminary Plat***, ~~Land Disturbance Permit or Soil~~ Erosion***,*** ~~and~~ Sediment***ation, and Pollution*** Control P~~ermit~~***lan or site plan as defined in Article II. Residential Subdivisions without common infrastructure are still required to submit a Tree Protection Plan but are not required to submit tree density units.***

(c) ***Exemptions.*** ~~from the Fayette County Tree Protection Ordinance are: property containing~~

(i) Trees determined to be dead, diseased, or infested as determined by the Georgia Forestry Commission or a Certified Arborist ***and approved by the Stormwater Management Department.***

(ii) Orchards and tree nurseries in active commercial operation.

(iii) ~~All property involved in a viable a~~***A***gricultural operation ~~(establishment, cultivation, or harvesting of fields), or livestock operation. or commercial forestry operation~~ ***as defined in Article IX.***

(iv) ~~Reserved~~.

(v) ~~The construction of detached single-family and two-family residential structures or accessory structures.~~ ***Non-residential subdivisions development projects without common infrastructure.***

(vi) Public roads. ~~and public utilities~~ ***. as exempted in Article IX, Section 8-243(9).***

(vii) Public utilities, ***as exempted in Article IX, Section 8-243(10 – 11), including telecommunication towers.***

(viii) Commercial forestry operations, ***including timber harvesting.***

(ix) ***Residential and non-residential subdivision development projects are exempt from Tree Density Requirements.***(Ord. No. 2000-02).

(d) ***Designation of Ordinance Administrator. The Fayette County Stormwater Management Department shall administer this ordinance.***

(e) ***Compatibility with Other Regulations. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environmental shall control.***

(f) ***Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.***

(g) ***Effective Date. This Ordinance becomes effective upon adoption by the Board of Commissioners.***

(h) ***Technical Standards. Standards for plant selection and installation listed below are incorporated by reference:***

(i) ***"American Standard for Nursery Stock" (ANSI Z60.1-2004)***

(ii) ***"Manual for Woody Landscape Plants" (Michael Dirr, 2009, Stipes)"***

(iii) ***"Principles and Practices of Planting Trees and Shrubs"(Watson and Himelick, 1997, ISA)***

(iv) ***"American National Standards for Tree Care Operations" (ANSI A300)***

(v) ***University of Georgia Cooperative Extension Service Bulletin No. 625 Landscape Plants for Georgia***

Section 8-179. Tree ***Retention,*** Protection ***and Replacement*** Requirements.
For sites with three (3) acres or less, all trees used in the SDU calculation shall be individually inventoried. For all sites over three (3) acres industry standard sampling methods may be used to prepare a tree survey when trees are of such density to make individual tree identification impractical. In such cases the tree surveyor shall show tree stands and provide estimates of size and species on the Tree Protection Plan.

(a) ***Site Density Requirements. The required tree density for each non-residential site is referred to as the Site Density Unit (SDU). Each property subject to this article shall have a minimum required SDU based on total number of disturbed acres on the project site.***

(i) ***The total SDU required equals Existing Density Units (EDU) plus Replacement Density Units (RDU).***

(ii) Property subject to this Article that is greater than or equal to three (3) acres shall have or exceed an average ***SDU*** of 100 TDU's per acre.

(iii) Property subject to this Article that is less than three (3) acres shall have or exceed an average ***SDU*** of fifty (50) TDU's per acre.

(iv) Credit will be given to trees retained on a property having a DBH of four (4) inches or more.

(v) At least fifty 50 percent of the ~~T~~***E***DU's per acre must be located outside of any ~~natural, undisturbed~~***zoning*** or watershed protection buffers ~~required by~~ ***as referenced in*** Articles V and VII ~~of these development regulations~~.

(vi) Palm trees are not acceptable for SDU credit.

(b) Specimen Trees.

(i) Criteria for the determination of specimen trees or stands are as follows:

1) Any deciduous canopy tree whose DBH equals or exceeds twenty-four (24) inches.

2) Any evergreen canopy tree whose DBH equals or exceeds thirty (30) inches.

3) Any understory tree whose DBH equals or exceeds ten (10) inches.

4) Any tree which has a significant historical value and can be documented through historical records or otherwise. (Ord. No. 2000-02)

(ii) Removal. Any specimen tree removed without prior approval of the Stormwater Management Department will be replaced by trees equaling two (2) times an inch-for-inch replacement of the tree removed. Size alone will determine whether a tree was of specimen quality if the tree is removed without approval and there is no evidence of its condition. Such action may result in a stop work order issued by the Stormwater Management Department.

Written justification must be given for any specimen tree designated for removal. The Fayette County Stormwater Management Department may require additional information including, but not limited to, a certified arborist's appraisal of the tree's viability and anticipated life span.

A specimen tree may be removed if it is shown that at least one of the following conditions is met:

1) The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes.

2) The location of the tree prevents the construction of utility lines or drainage facilities which may not feasibly be relocated.

3) The location of the tree prevents reasonable access to the property, if no alternate access exists.

4) The tree is diseased, dead, or dying to the point that repair or restoration is not practical or the disease may be transmitted to other trees.

5) There is no reasonable assurance that if the tree is saved with proper construction precautions, it will continue to live as an asset to the site.

(iii) ***Preservation. All reasonable efforts should be made to preserve specimen trees and incorporate them into the design of the project. Specimen trees saved by a specifically designed feature of the building, hardscape, or utilities shall be given EDU credit of two (2) inches per inch DBH***.

(c) Replacement Tree Requirements

~~Trees should not be planted within twenty (20) feet of any structure or within ten (10) feet of a paved driveway unless they are understory trees. (Ord. No. 2000-02)~~

~~Evergreen trees planted should be planted closely together on the northwestern and northern perimeters of buildings to buffer structures from northern winter winds. This is not mandatory. (Source: National Arbor Day Foundation) (Ord. No. 2000-02)~~

~~Deciduous (broadleaf) specimen trees should be planted along the southwestern and eastern perimeters of buildings as shade structures in the summer and allow sunlight to pass through in the winter. This is not mandatory, (Source: Nation Arbor Day Foundation) (Ord. No. 2000-02)~~

~~Where minimum tree density cannot be met due to natural site constraints, the developer/builder shall provide remaining balance of required trees for planting on county property.~~

All trees selected for replacement density units must meet the following requirements:

(i) ***Trees must*** be ~~quality specimens~~, free of disease, injury, or infestation, and must be ecologically compatible with the specifically intended growing area (see Section 8-184), and planted in accordance with standards established by the International Society of Arboriculture.

(ii) ~~Any trees planted should use~~ ***At a minimum***, four (4) species mixture of different ~~plants~~ ***trees***, with at least three (3) being deciduous hardwoods should be utilized. (Ord. No. 2000-02)

(iii) ***No more than thirty (30) percent of replacement trees may be of a single species.***

(iv) A fifty percent mix of overstory and understory trees shall be maintained. See Sec. 8-184~~. for a listing of desirable and undesirable overstory and understory trees.~~ (Ord. No. 2000-02)

(v) ~~At least 75% of all trees planted shall be at least two (2)~~ ***Trees shall have minimum caliper requirements of two and one half (2 ½)*** inches in diameter as measured at ~~least~~ six (6) inches above the ground ***at time of planting***.

(vi) All trees planted to fulfill the ***replacement*** tree ~~Density~~ requirements ~~must~~ ***shall*** be in place before a Certificate of Occupancy ~~may be~~ is granted. In the event that the requirements of this Article cannot be met at the time a Certificate of Occupancy could be otherwise granted, ~~then~~ refer to "Buffer and Landscape Areas," Section 8-16~~3~~***2*** Performance Surety, in these Development Regulations. (Ord. No. 2000-02)

(vii) All trees planted under the requirements of this Article which do not survive for ~~twenty-four (~~24~~)~~ months after issuance of a Certificate of Occupancy will be replaced as a condition of occupancy. Trees shall be bonded via a maintenance agreement ~~and a certified check~~ in the amount of one hundred percent (100%) of their replacement cost. Bonds will be released after the ~~twenty-four (~~24~~)~~ month period has passed, and the health of the trees have been certified and accepted by the County. Refer to "Buffer and Landscape Areas," Section 8-16~~4~~***3*** General Maintenance, in these Development Regulations. (Ord. No. 2000-02)

(viii) ~~At least seventy-five (75) percent of the trees planted must be native trees as indicated in the list of trees suitable for planting Sec. 8-184. (Ord. No. 2000-02)~~ ***See Section 8-160.d.2 and Section 8-161 for suggested tree species. For additional tree species, especially understory (small) trees, see University of Georgia Cooperative Extension Service Bulletin No. 625 Landscape Plants for Georgia.***

(ix) ~~Trees Suitable and Unsuitable for Planting.Overstory Trees Suitable for planting (*denotes Native Species):~~

~~1. American Beech (deciduous)*~~
~~2. Blackgum (Black Tupelo) (deciduous)*~~
~~3. Florida Maple (deciduous)~~
~~4. Shagbark Hickory (deciduous)*~~
~~5. Loblolly Pine (evergreen)*~~
~~6. London Plane Tree (deciduous)~~
~~7. Northern Redoak (deciduous)*~~
~~8. Pecan (deciduous)~~
~~9. Post Oak (deciduous)*~~
~~10. River Birch (deciduous)*~~
~~11. Black Oak (deciduous)*~~
~~12. Southern Magnolia (evergreen)*~~
~~13. Southern Redoak (deciduous)*~~
~~14. Sweetgum (deciduous)*~~
~~15. Water Oak (deciduous)*~~
~~16. White Oak (deciduous)*~~
~~17. Willow Oak (deciduous)*~~
~~18. Yellow-poplar (deciduous)*~~
~~19. Mokernut Hickory (deciduous)*~~
~~Shortleaf Pine (evergreen)*~~
~~Pignut Hickory (deciduous)~~

~~Chestnut Oak (deciduous)~~
~~Green Ash (deciduous)~~
~~White Ash (deciduous)~~
~~Red Mulberry (deciduous)~~
~~Hackberry (deciduous)~~
~~27. Black Locust (deciduous)~~
~~28. Sycamore (deciduous)~~
~~29. Red Cedar (evergreen)~~
~~30. Winged Elm (deciduous)~~
~~31. Eastern Cottonwood (deciduous)~~
~~32. Persimmon (deciduous)~~

~~Understory Trees Suitable for planting (*denotes Native Species):~~
~~1. American Holly (evergreen)*~~
~~2. Carolina Basswood (deciduous)~~
~~3. Black Cherry (deciduous)*~~
~~4. American Plum (deciduous)*~~
~~5. Southern Crabapple (deciduous)*~~
~~6. Dogwood (deciduous)*~~
~~7. Eastern Redbud (deciduous)*~~
~~8. Eastern Hophornbeam (deciduous)*~~
~~9. American Hornbeam (Blue Beech) (deciduous)*~~
~~10. Red Maple (deciduous)*~~
~~Sassafras (deciduous)*~~
~~12. Sourwood (deciduous)*~~
~~13. Virginia Pine (evergreen)*~~
~~Georgia Oak (deciduous)*~~
~~15. Elder Berry (deciduous)~~
~~16. Sparkleberry (deciduous)~~

~~Unsuitable Trees for Planting:~~
~~Eastern Hemlock~~
~~Eastern White Pine~~
~~Lombardy Poplar~~
~~Mimosa~~
~~Norway Pine~~
~~Paper Birch~~
~~Silver Maple~~
~~Spruce~~
~~Box Elder~~
~~WillowRoyal Paulownia Bradford Pear~~
~~Tree of Heaven~~

~~Trees not listed on the above list of approved trees may be substituted from Dirr's Manual if approved by the County Engineer. (Ord. No. 2000-02)~~

(d) Tree Protection Requirements. ~~Certain tree protection measures will be mandatory to assure the survival of existing trees and stands of trees during and after the construction process. It is more feasible to save stands of trees than it is to save single trees scattered throughout the site. Stands of trees have been shown to have higher survival rate after the grading and construction process as opposed to single stand-alone trees. The tree protection area shall be the same as the critical root zone (CRZ)~~

~~a, as defined in this ordinance. Generally The tree protection area should be maintained as a natural vegetation area. or at least an area landscaped with shrubs or understory trees when possible and mulching with either pine straw or pine bark. This is not mandatory. The seeding or sodding of grass in the tree protection area is undesirable trees and grass compete for moisture and nutrients in the soil.Mulching shall be limited to a maximum depth of four (4) inches and mulch shall be dispersed by methods that do not involve heavy machinery.(Ord. No. 2000-02)~~

~~In most cases, existing overstory trees should be removed and replaced with an understory trees if they will be are within twenty (20) feet of any structure. The critical root zones of existing trees are often damaged. This is due to the extensive land disturbance which occurs within and around trees within twenty (20) feet of a structure. are to be saved new construction, therefore, special attention should be given to the protection to reduce potential damage to the protection of the critical root zones of surrounding trees. and the If pruning of existing the trees is necessary, situations such as this the Georgia Forestry Commission or a Certified Arborist should be contacted for technical assistance. Overstory trees within twenty (20) feet of a structure can cause problems such as:~~

~~the clogging of gutters from falling leaves and debris.~~
~~the cracking of foundations from roots.~~
~~3. leaks caused by the rubbing of limbs on roofs.~~
~~costly expenditures in terms of the removal of trees if damaged by the construction process.~~
~~excessive mildew. (Ord. No. 2000-02)~~

~~In most cases overstory trees within ten (10) feet of a paved driveway should be removed and replaced with an understory tree or the driveway should be moved to another location unless special attention is given to the protection of the critical root zone. This is not mandatory. In special situations such as this the Georgia Forestry Commission or a certified arborist should be contacted for technical assistance. Overstory trees within ten (10) feet of a driveway can cause problems such as:~~

~~The pavement of a driveway suffocating the tree or trees by causing a decrease in soil oxygen levels.~~
~~The roots of specimen trees cracking driveways. (Ord. No. 2000-02)~~

~~When possible all underground utilities will be run along roadways, driveways, or sidewalks. Utilities shall not be run through a tree protection area unless they are tunneled at a depth of twenty-four (24) inches in a manner which will damage as little or the root system as possible.~~

(i) A tree protection area shall be maintained around all trees and stands of trees ***to be retained throughout the duration of construction by tree protection fencing.***

(ii) The tree protection area ***of stand-alone trees and stands of trees*** shall be marked with standard tree protection fencing (orange), chain-link fencing, stakes, ***and/or*** continuous engineering tape and "Tree Protection Area" signs. ***At least two (2) "Tree Protection Area" signs shall be posted at each individual tree protection area. (Ord. No. 2000-02)***

(iii) ***All tree protection fencing shall be inspected for proper installation by the Stormwater Management Department during the initial erosion and sediment control inspection.***

(iv) ***During subdivision street construction, land disturbance allowed by a development permit shall be limited to areas needed for street right-of-way, drainage easements, erosion and sediment control practices and utilities. All other areas shall remain undisturbed for tree protection purposes.***

(v) ***If utilities must run through the tree protection area and the running of those utilities will encroach into the critical root zone CRZ of any trees to be saved, the utility must be tunneled at a depth of 24 inches. When feasible, utilities will run along streets, roadways, driveways, or sidewalks. Reasonable efforts shall be made to save as many trees as possible. (Ord. No. 2000-02)***

(vi) ***If it is determined that irreparable damage has occurred to a tree or trees within a designated tree protection area, as determined by the Fayette County Stormwater Management Department, the Georgia Forestry Commission, or a Certified Arborist, it shall be the responsibility of the developer/builder to remove and replace the tree or trees and guarantee survival after the issuance of the Certificate of Occupancy as referenced in Section 8 – 179.c.vii and Article V. (Ord. No. 2000-02)***

(e) Tree Protection Plan. ~~For non-residential, single lot development, a Tree Protection Plan (TPP) must be submitted to the Fayette County Engineering Department for review to ascertain conformance to the Fayette County Tree Protection Ordinance upon application for a Land Disturbance Permit or a Soil Erosion and Sediment Control Permit. The TPP may be combined with required Construction Plans or Site Plans when possible. For residential subdivision development or non-residential subdivision development, a TPP must be provided when the Preliminary Plat is submitted. It is advised that a qualified Landscape Architect, Urban Forester, or Arborist prepare the TPP. The Georgia Department of Forestry can assist in a tree survey in preparation of the TPP. The TPP must include:~~

(i) Procedures.

1) ***The TPP shall be submitted with the Preliminary Plat, Erosion, Sedimentation and Pollution Control Plan or the Site Plan, whichever is the first submittal required by Fayette County Planning and Zoning Department.***

2) ***The Tree Protection Plan shall be prepared by either a licensed Landscape Architect or Forester; Certified Arborist, or other licensed professional of similar design discipline licensed in Georgia.***

3) The Stormwater Management Department shall have a maximum of 14 calendar days from the submittal date, or each re-submittal date, for plan review. If the plan is not approved a deficiency checklist will be submitted back to the applicant.

(ii) Submittal. ~~A TPP shall be submitted to the Fayette County Engineering Department prior to permit application so that a representative of that department can:~~

~~conduct a preliminary review of the TPP/Site Plan. return the TPP/Site Plan either approved or with notations of changes which must be made before a Land Disturbance Permit or Soil Erosion and Sediment Control Permit can be issued.~~

~~The Engineering Department will follow this review by returning the TPP with signature and comments denoting approval or disapproval with required change, within fifteen (15) working days of the submission of the TPP. (Ord. No. 2000-02)~~

The Tree Protection Plan shall be submitted on a scale of no less than one (1) inch to 100 feet and shall include project name, design professional's name and contact information, north arrow, graphic scale, and date. The plan should clearly show and label the following:

1) ***Tree save areas noting the*** location, size, DBH, dripline, CRZ, and species name (common name) of each tree that will be retained to fulfill the SDU requirements . Five or more trees whose dripline and CRZ combine into one tree protection area may be outlined as a group ***with the exception of specimen trees***

2) ***Summary table listing the DBH and species name of each RDU and EDU tree used to obtain the required SDU under "Notes."***

3) ***If a group of trees is outlined on the plan as a tree save area, include a summary table listing the size, DBH and species name of each tree within that group under "Notes."***

4) Location of all new ***replacement*** trees ***including*** species ***name and DBH*** that fulfill ***RDU*** requirements

5) ***Location of any specimen tree designated in a tree protection area including the DBH, CRZ and species name even if contained in a group***. If construction is limited to streets, drainage easements and utilities the TPP only needs to show all specimen trees located within 100 feet of the centerline of any right-of-way, or drainage/utility easements. (Ord. No. 2000-02)

6) Location of any specimen trees designated for removal during construction including the size, DBH and species name. See Sec. 8-181.

7) ***Location, depth and height of all existing and proposed utility lines.***

8) Boundaries of property, buffer and landscaped areas, buildings ***and structures***, vehicle use areas, and ***other impervious*** areas.(Ord. No. 2000-02)

9) ***Calculations for meeting all required site density units under "Notes." If a scientific sampling method is used to determine the site density units, label all sample areas and provide estimates of trees by size and species as based on sampling method requirements.***

10) ***Under "Notes" state the following***: "No land disturbance, construction processes, or storage of equipment or materials ~~will be allowed~~ ***shall take place within a designated*** tree protection area in order to prevent direct physical root damage that occurs during site clearing and grading and can cause transport or feeder roots to be cut, torn, or removed; indirect root damage caused from grade changes, storage of fill material, soil compaction and chemical changes; and, trunk and crown damage caused by direct contact with land clearing machinery or falling of adjacent trees." (Ord. No. 2000-02)

Section 8-180. Appeals.

Any applicant ~~for a Land Disturbance Permit, a Soil Erosion and Sediment Control Permit, or Certificate of Occupancy~~ who is aggrieved by any decision of the Fayette County ***Stormwater Management*** ~~Engineering~~ Department relating to the application of this Ordinance shall have the right to appeal as provided under Article IX of the Fayette County Zoning Ordinance.

Section 8-181. ***Violations, Enforcement and Penalties***

~~It is the responsibility of the Fayette County Engineering Stormwater Management Department to review the TPP to ascertain compliance with the provisions of this Section before a Land Disturbance or Soil Erosion and Sediment Control Permit will be issued. It is the responsibility of the Fayette County Engineering Department to conduct a final inspection for compliance with this section. before a Certificate of Occupancy will be granted. The Fayette County Engineer or his representatives Stormwater Management Department hasve the authority to revoke, suspend, or void any Land Disturbance Permit or Soil Erosion and Sediment Control Permit, stop all work on site or any portion thereof, or withhold a Certificate of Occupancy when there has been a violation of any of the provisions of this Section.~~

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management application may be subject to the enforcement actions outlined in this Section. Any such action or inaction, which is continuous with respect to time, is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(a) ***Notice-of-Violation. If the Stormwater Management Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved Stormwater Management Plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.***

The notice-of-violation shall contain:

(i) ***The name and address of the owner or the applicant or the responsible person;***

(ii) ***The address or other description of the site upon which the violation is occurring;***

(iii) ***A statement specifying the nature of the violation;***

(iv) ***A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the Stormwater Management Plan or this ordinance and the date for the completion of such remedial action; and,***

(v) ***A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.***

(b) ***Penalties. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Stormwater Management Department shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Stormwater Management Department may take any one or more of the following actions or impose any one or more of the following penalties:***

(i) ***Stop Work Order. The Stormwater Management Department may issue a stop work order that shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.***

(ii) ***Withhold Certificate-of-Occupancy – The Stormwater Management Department may recommend that the Fayette County Permits and Inspection Department refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.***

(iii) ***Suspension, Revocation or Modification of Permit – The Stormwater Management Department may suspend, revoke or modify the permit authorizing the land-development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice-of-violation(s) or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the Stormwater Management Department***

may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(c) ***Citations – For intentional and flagrant violations of this ordinance, or in the event the applicant or other responsible person fails to take the remedial measures set forth in previously issued notice-of-violation(s) or otherwise fails to cure the violations within ten days, the Stormwater Management Department may issue a citation to the applicant or other responsible person, requiring such person to appear in State Court of Fayette County to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.***