

# Cobb County

## Atlanta MSA

2003 Population Estimate 651,027; +6.6% change from 2000 Census.

Not a Tree City USA.

No tree board established by ordinance.

### Chapter 50 ENVIRONMENT

#### Article VI. Tree Preservation and Replacement

Year first adopted or last revised unknown.

Addresses private property.

#### TABLE OF CONTENTS

Article I.	In General
Article II.	Chattahoochee River Corridor Tributary Protection Area
Article III.	Land Disturbing Activities
Article IV.	Stormwater Management
Article V.	Stormwater Quality/Illicit Discharge and Illegal Connections
Article VI.	Tree Preservation and Replacement
Section 50-216.	Definitions
Section 50-217.	Scope of article.
Section 50-218.	Conflicting provisions.
Section 50-219.	Findings, intent and statement of purpose.
Section 50-220.	Permit—Required.
Section 50-221.	Same—Procedure.
Section 50-222.	Removal and replacement of trees.
Section 50-223.	Density requirements.
Section 50-223.1	Administrative Variances.
Section 50-224.	Maintenance period and fiscal surety.
Section 50-225.	Enforcement of article.
Section 50-226.	Inspections.
Section 50-227.	Appeal of administrative decision.
Section 50-228.	Notice of noncompliance.
Section 50-229.	Stop work orders
Section 50-230.	Suspension, revocation, modification of permit.
Section 50-231.	Payment of civil penalty; penalty for violation of article.
Section 50-232.	Fees.
Sections 50-233 to 50-255.	Reserved.
Article VII.	Noise

[County Tree Preservation and Replacement Standards referenced in code.]

## Chapter 50 ENVIRONMENT\*

**\*Cross references:** Buildings and building regulations, ch. 18; floods, ch. 58; health and sanitation, ch. 62; planning, ch. 98; solid waste, ch. 102; subdivisions, ch. 110; water and wastewater systems, § 122-26 et seq.; waterways, ch. 130.

## Article I. In General

Secs. 50-1--50-25. Reserved.

## Article II. Chattahoochee River Corridor Tributary Protection Area

## Division 1. Generally

Sec. 50-26. Definitions.

Sec. 50-27. Violations and penalties.

Sec. 50-27.1. Stop work orders.

Sec. 50-28. Notice of noncompliance.

Sec. 50-29. Civil penalties.

Sec. 50-30. Exemptions from article.

Sec. 50-31. Fees.

Sec. 50-32. Protection area.

Sec. 50-33. Responsibility for damages; compliance with other regulations.

Sec. 50-34. Inspections and investigations.

Secs. 50-35--50-45. Reserved.

## Division 2. Land Disturbance Permit

Sec. 50-46. Required.

Sec. 50-47. Application.

Sec. 50-48. Conditions.

Sec. 50-49. Term of permit; extension; renewal.

Sec. 50-50. Appeal of an administrative decision.

Sec. 50-51. Suspension, revocation or modification.

Secs. 50-52--50-70. Reserved.

## Article III. Land Disturbing Activities

Sec. 50-71. Definitions.

Sec. 50-72. Purpose and intent.

Sec. 50-73. Administration and enforcement.

Sec. 50-74. Exemptions.

Sec. 50-75. Minimum requirements for erosion and sedimentation control using best management practices.

Sec. 50-76. Application; plan requirements; permit process.

Sec. 50-77. Inspections.

Sec. 50-78. Penalties and incentives.

Sec. 50-79. Appeal of administrative decision.

Sec. 50-80. Effective date, validity and liability.

Sec. 50-81. Education and certification.

Secs. 50-82--50-100. Reserved.

## Article IV. Stormwater Management

## Division 1. Generally

Sec. 50-101. Reserved.

Sec. 50-102. Purpose and intent.

- Sec. 50-103. Effective date.
- Sec. 50-104. Watershed management plan.
- Sec. 50-105. Scope of article.
- Sec. 50-106. Exemptions from article.
- Sec. 50-107. Variance and appeal procedures.
- Sec. 50-108. Continuing review.
- Sec. 50-109. Grandfather clause.
- Sec. 50-110. Stormwater management assessment districts.
- Sec. 50-111. Maintenance of stormwater facilities--Residential.
- Sec. 50-112. Maintenance of stormwater facilities--Commercial/industrial.
- Sec. 50-113. Violations, enforcement and penalties.
- Secs. 50-114--50-125. Reserved.
- Division 2. Stormwater Concept and Design Plans (Optional at Applicant's Discretion)
- Sec. 50-126. Submission of required plans.
- Sec. 50-127. Permit requirements.
- Sec. 50-128. Development fees.
- Sec. 50-129. Permit suspension and revocation.
- Sec. 50-130. Minimum requirements.
- Sec. 50-131. Stormwater management measures.
- Sec. 50-132. Post-development stormwater management performance criteria.
- Secs. 50-133--50-140. Reserved.
- Division 3. Inspection and Maintenance
- Subdivision I. In General
- Sec. 50-141. Ownership and maintenance of stormwater management facilities.
- Sec. 50-142. Agreement between county and municipalities.
- Sec. 50-143. County participation in development agreement.
- Sec. 50-144. Security for construction of stormwater management facilities.
- Sec. 50-145. Inspection for preventive maintenance, regional facilities.
- Secs. 50-146--50-155. Reserved.
- Subdivision II. On-Site Facilities
- Sec. 50-156. Applicability of this subdivision.
- Sec. 50-157. Inspection schedule and reports.
- Sec. 50-158. Inspection requirements during construction.
- Sec. 50-159. Final inspection reports.
- Sec. 50-160. Acceptance of certification in lieu of inspections.
- Sec. 50-161. Inspection and maintenance agreement.
- Secs. 50-162--50-180. Reserved.
- Article V. Stormwater Quality/Illicit Discharge and Illegal Connections
- Sec. 50-181. Definitions.
- Sec. 50-182. Findings.
- Sec. 50-183. Objectives.
- Sec. 50-184. Effective date.
- Sec. 50-185. Violations, penalties and enforcement.
- Sec. 50-186. Scope of responsibility.
- Sec. 50-187. Powers of the department.
- Sec. 50-188. Variances.
- Sec. 50-189. Appeals.
- Sec. 50-190. Runoff quantity controls.
- Sec. 50-191. Prohibited discharges.
- Sec. 50-192. Unlawful connections.
- Sec. 50-193. Maintenance and inspection.

Sec. 50-194. Cooperation with other governments.  
Sec. 50-195. Violation of article; liability.  
Secs. 50-196--50-215. Reserved.  
Article VI. Tree Preservation and Replacement  
Sec. 50-216. Definitions.  
Sec. 50-217. Scope of article.  
Sec. 50-218. Conflicting provisions.  
Sec. 50-219. Findings, intent and statement of purpose.  
Sec. 50-220. Permit--Required.  
Sec. 50-221. Same--Procedure.  
Sec. 50-222. Removal and replacement of trees.  
Sec. 50-223. Density requirements.  
Sec. 50-223.1. Administrative variances.  
Sec. 50-224. Maintenance period and fiscal surety.  
Sec. 50-225. Enforcement of article.  
Sec. 50-226. Inspections.  
Sec. 50-227. Appeal of administrative decision.  
Sec. 50-228. Notice of noncompliance.  
Sec. 50-229. Stop work orders.  
Sec. 50-230. Suspension, revocation, modification of permit.  
Sec. 50-231. Payment of civil penalty; penalty for violation of article.  
Sec. 50-232. Fees.  
Secs. 50-233--50-255. Reserved.  
Article VII. Noise  
Sec. 50-256. Violations and penalty.  
Sec. 50-257. Enumeration of prohibited noises.  
Sec. 50-258. Exceptions to article.

## ARTICLE VI. TREE PRESERVATION AND REPLACEMENT

## Sec. 50-216. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Buffer* means a designated area of adequate width to provide for protection of the streambank, channel soil and vegetative cover as determined by the issuing authority, adjacent to any state waters, watercourses, or drainage areas, in which no land disturbing activities shall be undertaken unless approved in the plan. Such activities may include stream crossings for trains, transportation routes or utilities construction, sewer and water line construction, and minor landscaping or channel improvement activities to stabilize a critical area.

*Commercial development* means any development which is not a single-family residential subdivision.

*Density factor* means a unit of measure used to prescribe the calculated required tree coverage on a site.

*Department* means the community development agency or successor department, by whatever title designated.

*Director of community development* means the agency director or his successor to his duties, by whatever title designated, or his designee.

*Issuing authority* means the department or its agent or designated representative, which shall be responsible for administering this article.

*Land disturbance permit* means the authorization necessary to begin a land disturbing activity under the provisions of this article.

*Land disturbing activity* means any land change which may result in soil erosion from water or wind and the movement of sediments into the waters or into land within the county, including, but not limited to, clearing, grubbing, stripping, dredging, grading, excavating, transporting and filling of land.

*Protected zone* means all lands that fall outside the buildable area of a parcel, all areas of the parcel required to remain in open space, and all designated buffers or tree-save areas, or conditions of zoning approval.

*Subdivision* means a single-family residential development.

*Tree* means any living, self-supporting woody perennial plant which normally obtains a trunk diameter of at least two inches and which normally obtains a height of at least ten feet at maturity, usually with one main stem or trunk and many branches.

*Tree preservation and replacement standards* means standards and specifications established by the county and incorporated in this article for the identification, preservation, replacement and protection of trees.

(Ord. of 9-27-88; Code 1977, § 3-24.5-3; Ord. of 4-29-99)

**Cross references:** Definitions generally, § 1-2.

## Sec. 50-217. Scope of article.

The terms and provisions of this article shall apply to all real property, unless otherwise exempted in the Official Cobb County Code.

This article adopts and incorporates by reference the county tree preservation and replacement standards and any amendments to the county tree preservation and replacement standards that may be adopted periodically. The county tree preservation and replacement standards shall be given the same weight and effect as if they were listed within this article.

(Ord. of 9-27-88; Code 1977, § 3-24.5-4; Ord. of 4-29-99)

## Sec. 50-218. Conflicting provisions.

Other provisions of law or regulations relating to this article shall apply when any provisions of this article shall conflict with federal and/or state law. Federal and/or state law shall apply when this article is silent.

(Ord. of 9-27-88; Code 1977, § 3-24.5-5(b))

Sec. 50-219. Findings, intent and statement of purpose.

(a) *Legislative findings.* The board of commissioners hereby finds and declares that:

(1) Rampant growth and development in certain areas of the county has resulted in the loss of innumerable trees in those areas. Tree roots hold soil in place and tree photosynthesis converts carbon dioxide to oxygen. Tree loss thus has contributed to dramatically increased soil erosion and sedimentation. High growth areas, where natural green spaces are diminishing, have left fewer trees to transform into oxygen the carbon dioxide of ever increasing, harmful vehicular and industrial emissions, resulting in severe air quality degradation;

(2) Integrated forest canopies reduce the costs of maintenance of other collocated parts of the urban infrastructure;

(3) Well-managed urban forest resources increase in value and provide benefits to all the citizens of the community with respect to air quality, water quality, stormwater management, temperature amelioration, community aesthetics and general quality of life;

(4) These benefits are crucial to the long-term health, benefit, welfare, and safety of the citizens of the community;

(5) The removal of forest canopy from urban areas of the state and its replacement with more intensive land uses exacts real costs upon the infrastructure which must be borne by all citizens of the community;

(6) Community forests function to the benefit of the local citizenry as a part of the public infrastructure as much as streets, utilities, stormwater management structures, and sewers;

(7) Healthy community forests increase local commercial and residential property values; and

(8) A tree protection law is one part of a dedicated and integrated planning process dealing with land use, impacts of impervious surface, urban hydrology and water quality, air quality, soil erosion, transportation, noise abatement, and wildlife habitat.

(b) *Provision of standards.* The board of commissioners finds that it is in the best interest of the public to provide standards for the preservation and/or replacement of trees as part of the land development and building construction process for the purpose of making this county a more attractive place to live, providing a healthy living environment, and better maintaining control of stormwater runoff, noise, glare and soil erosion.

(Ord. of 9-27-88; Code 1977, § 3-24.5-2; Ord. of 4-29-99)

Sec. 50-220. Permit--Required.

The terms and provisions of this article shall apply to any activity, private and/or governmental, on real property which requires the issuance of a land disturbance permit within the county. No land disturbance permit shall be issued for full site development by the department without it being determined that the proposed development is in compliance with the provisions of this article.

(Ord. of 9-27-88; Code 1977, § 3-24.5-16; Ord. of 4-29-99)

Sec. 50-221. Same--Procedure.

(a) All applications for a land disturbance permit shall provide a tree preservation and/or replacement plan as part of an application for a land disturbance permit submitted to the community development agency. Standards for the tree preservation and/or replacement plan shall be established in administrative standards by the agency.

(b) All tree preservation and/or replacement plans and related documentation shall be reviewed by the agency for conformance to the provisions of this article and administrative

standards established by the county and either be approved, returned for revisions, or denied within seven days of receipt or in conformance with the planning review process. If denied, the reasons for denial shall be annotated on the plan or otherwise stated in writing.

(c) Issuance of the land disturbance permit for full site development shall constitute an approval of the required preservation and/or replacement plan and conformance to the provisions of this article.

(Ord. of 9-27-88; Code 1977, § 3-24.5-17)

Sec. 50-222. Removal and replacement of trees.

(a) Trees shall not be removed in any protected zone unless the owner/developer documents an economic hardship if the trees in the protected zone were to be preserved. Such documentation shall be submitted as part of the application for a land disturbance permit.

Nothing in this article shall be construed to allow the removal of vegetation in a designated, undisturbed buffer required by a condition of zoning.

(b) When no trees are present in the protected zone or when it is determined that any portion of the protected zone be disturbed, it shall be the responsibility of the owner/developer to replant as necessary such areas (where improvements are not constructed), as required in this article.

(Ord. of 9-27-88; Code 1977, § 3-24.5-18)

Sec. 50-223. Density requirements.

The quantity of total existing/replacement trees on a site must be sufficient so as to produce a total site density factor of no less than 15 units per acre. In determining the 15 units per acre, unique requirements for commercial and subdivision developments are established in the tree preservation and replacement standards. Each development shall be evaluated to assess whether all reasonable options have been considered which preserve the maximum amount of existing forest cover. Recompense for the removal of specimen trees shall be required as outlined in the tree preservation and replacement standards.

(Ord. of 9-27-88; Code 1977, § 3-24.5-20; Ord. of 4-29-99; Ord. of 7-10-01)

Sec. 50-223.1. Administrative variances.

If a reasonable option has been considered or presented to the county which would preserve the maximum amount of forest cover if not for conflicting with other regulations established by this code or the county's development standards, the director of community development or his/her designee may issue an administrative variance in accordance with section 134-35.

(Ord. of 7-10-01)

**Editor's note:** An ordinance of July 10, 2001, amended the Code by adding a new section to be numbered § 50-223a. In order to maintain Code style, the editor has redesignated the new section as § 50-223.1.

Sec. 50-224. Maintenance period and fiscal surety.

For all developments other than single-family residential subdivisions, trees planted to meet the requirements of this article shall be subject to a maintenance period as defined in the tree preservation and replacement standards. Fiscal surety for the maintenance of said trees shall also be required in accordance with procedures provided in those standards.

After completion of the full growing season, maintenance period, a permit shall be required to remove any tree in the protected zone.

(Ord. of 9-27-88; Code 1977, § 3-24.5-20; Ord. of 4-29-99)

Sec. 50-225. Enforcement of article.

(a) It shall be the duty of the director of community development to enforce this article. The director shall have the authority to suspend, stop or modify any land disturbance permit.

(b) The issuing authority shall have the power to withhold all permits, including, but not limited to, final certificates of occupancy, building permits and all other permits on the subject site as well as final plat approval until it is determined by the issuing authority that the site complies with this article and the provisions of the formal plan approved by the county. Notwithstanding the foregoing, nothing in this section shall prohibit the issuing authority from enforcing the required maintenance period set out under this article.  
(Ord. of 9-27-88; Code 1977, § 3-24.5-31; Ord. of 4-29-99)

Sec. 50-226. Inspections.

(a) The issuing authority may cause inspection of work to be made periodically during the course thereof and shall make a final inspection following the completion of the work. Applicants shall cooperate with the issuing authority in making such inspections. The issuing authority shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for the purpose of entering at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land disturbing activities.

(b) No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(Ord. of 9-27-88; Code 1977, § 3-24.5-32)

Sec. 50-227. Appeal of administrative decision.

(a) After having complied with application requirements of the issuing authority, should the applicant dispute a decision of the issuing authority, the applicant may appeal to the board of commissioners by filing a notice of appeal with the issuing authority; however, such appeal must be filed within ten days from the date of the decision being appealed. Upon failure to file such appeal within ten days of the decision being appealed, the decision shall be binding and final upon all parties.

(b) A notice of appeal shall address the reasons why the terms and provisions of this article should be waived.

(c) The issuing authority shall review the notice of appeal provided for in this section and transmit to the board of commissioners a written report of its findings and recommendations, which shall become a part of the official record.

(d) The board of commissioners, having received the report of the issuing authority under this section, making it a part of the official record, and having considered the written and oral statements of the applicant and any other evidence, is authorized to hear and shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the issuing authority in the administration or enforcement of this article. The decision of the board of commissioners shall not result in a violation or circumvention of any applicable condition of zoning, provision of county zoning laws, subdivision regulations, or any other regulation or ordinance.

(e) A written copy of the findings and decision of the board of commissioners on an appeal under this section shall be transmitted to the applicant and to the issuing authority.

(f) An applicant aggrieved by the decision of the board of commissioners on an appeal under this section shall have the right to appeal to the superior court of the county by writ of certiorari.  
(Ord. of 9-27-88; Code 1977, § 3-24.5-33)

Sec. 50-228. Notice of noncompliance.

If, through inspection, it is determined that a person has engaged in land disturbing activities and has failed to comply with the terms and conditions of the permit, a written notice to comply shall

be served upon the property owner or the agent of record only. Where a person has engaged in land disturbing activities without having first secured a permit therefor, notices under the provisions of this article may be served upon the person in charge on the site. The notice shall set forth the measures necessary to achieve compliance with the permit and shall state the time within which such measures must be completed. If the person engaged in land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article, and the developer shall be deemed to have forfeited the fiscal surety required under the provisions of section 50-224. The issuing authority may call the fiscal surety instrument or any part thereof to be forfeited and may use the proceeds to hire a contractor to bring the project into compliance. (Ord. of 9-27-88; Code 1977, § 3-24.5-34; Ord. of 4-29-99)

**Sec. 50-229. Stop work orders.**

Upon notice from the issuing authority, work on any project that is being done contrary to the provisions of this article shall be immediately stopped. Such notice shall be in writing, shall state the specific violation(s), shall be given to the applicant, his authorized agent, or the person in charge of the activity on the subject property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.

(Ord. of 9-27-88; Code 1977, § 3-24.5-35)

**Sec. 50-230. Suspension, revocation, modification of permit.**

The permit may be suspended, revoked or modified by the issuing authority upon finding that the holder is in violation of the terms of the permit or any portion of this article.

(Ord. of 9-27-88; Code 1977, § 3-24.5-36)

**Sec. 50-231. Payment of civil penalty; penalty for violation of article.**

(a) Any person violating any provision of this article, permitting conditions or stop work orders shall be liable for civil penalty of ten percent of the cost of correction as determined by the issuing authority, but in no event less than \$1,000.00. Each day the violation continues shall constitute a separate offense.

(b) In addition to or in lieu of any civil penalty, the issuing authority may at its discretion order the replacement of trees by the person violating this article in order to meet the minimum requirements set out in this article.

(c) Any civil penalties imposed pursuant to this article shall be payable to the county, shall commence on the date of issuance of any stop work order or any other order of noncompliance and shall not be affected by the filing of any appeals. However, an appellant may, upon filing an appeal, post an appeal bond with the issuing authority in an amount equal to double the cost of any and all corrective work necessary to remedy the violation, the cost of such corrective work to be determined by the issuing authority. Further, any civil penalty imposed pursuant to this article may, in the discretion of the issuing authority, be waived or reduced if, in the discretion of the issuing authority, the violator has taken sufficient and timely curative and corrective action.

(Ord. of 9-27-88; Code 1977, § 3-24.5-37; Ord. of 4-29-99)

**Sec. 50-232. Fees.**

Permit processing and/or inspection fees may be established from time to time by the board of commissioners.

(Ord. of 9-27-88; Code 1977, § 3-24.5-38)

Secs. 50-233--50-255. Reserved.