

TREE PROTECTION ORDINANCE

CITY OF BUFORD, GEORGIA

This Ordinance shall apply to all properties or portions thereof located within the incorporated areas of the City of Buford, Georgia, to the extent of the provisions contained herein. The Board of Commissioners of the City of Buford hereby finds that the protection of trees and the planting of new trees as part of the land development process is a public purpose, provides for the public health and general welfare, and further ordains as follows:

SECTION 1. STATEMENT OF PURPOSE

The purpose of this Ordinance is to preserve and enhance the City of Buford's natural environment through tree protection and tree planting. The Ordinance is intended to further the City's policy that all development site where trees are not commonly removed will achieve upon project completion, a uniform standard related to tree coverage.

SECTION 2. DEFINITIONS

In construing the provisions hereof and the meaning of each and every word, term, phrase, or part thereof, where the context will permit, the definitions of words as contained in the adopted Zoning Ordinance of the City of Buford, supplemented by the following, shall apply:

1. Clearing: The removal of vegetation from a property, whether by cutting or other means.
2. Department of Development (DOD): The City of Buford Department of the same name, as established by the City of Buford Board of Commissioners, and as operated through the actions and administration of the appointed Director of said department or his designee.
3. Development Regulations: The adopted Regulations providing for the subdivision and development of real property within the City of Buford, Georgia, as amended from time-to-time by the Board of Commissioners of the City of Buford.
4. Diameter Breast Height (dbh): The diameter of a tree measured at a point four and one-half (4 ½) feet above the ground.
5. 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.
6. Flood Plain, 100-Year: Those lands subject to flooding, which have at least a one (1) percent probability of flooding occurrence in any calendar year; and specifically, the flood plain as shown on the Flood Boundary and Floodway Map as prepared by the Federal Emergency Management Agency (FEMA).
7. Grading: The placement, removal, or movement of earth by use of mechanical equipment on a property.
8. Land Disturbance Permit (LDP): Any permit other than a Building Permit issued by the City of Buford that authorizes clearing or grading activities on a site or portion of a site. Said permit may be a Clearing, Clearing and Grubbing, Grading, or Development Permit as defined and authorized under the Development Regulations of the City of Buford.
9. Tree Density Unit: A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in this Ordinance.

10. Tree Density Standard: The minimum number of Tree Density Units per acre which must be achieved on a property after development.
11. Tree: Any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter greater than three (3) inches at any point and a height of over ten (10) feet.
12. Tree Diameter: The widest cross-sectional dimension of a tree trunk measured at diameter breast height (dbh) or at a point below dbh for new trees or multi-trunked species, but in no case less than six (6) inches from the ground.
13. Tree Protection Area: Any portion of a site wherein are located existing trees which are proposed to be retained in order to comply with the requirements of this Ordinance. The Tree Protection Area shall include no less than the total area beneath the tree canopy as defined by the dripline of the tree or group of trees collectively.
14. Tree Protection Plan (TPP): A plan that identifies tree protection areas, existing trees to be retained and proposed trees to be planted on a property to meet minimum requirements, as well as methods of tree preservation to be undertaken on the site and other pertinent information.
15. Zoning Buffer: A buffer, as defined in and required by the Zoning Ordinance or as a condition of zoning approval for a specific property.
16. Zoning Ordinance: The 2000 City of Buford Zoning Ordinance and Subdivision Regulations, as amended from time-to-time by the Board of Commissioners of the City of Buford.

SECTION 3. APPLICABILITY AND EXEMPTIONS

1. The terms and provisions shall apply to any activity on real property which requires the issuance of a Land Disturbance Permit within unincorporated City of Buford, but specifically excluding construction of individual single-family detached and duplex dwellings, and except as further excluded in other paragraphs in this Section. The table on the following page summarizes those activities which are exempt from the provisions of this Ordinance and those for which a Tree Protection Plan must be approved prior to issuance of a Land Disturbance Permit.
2. Grandfathered Projects:
 - a. This Ordinance shall not apply to any portion of a property included within the limits of a valid Land Disturbance Permit issued prior to the effective date of this Ordinance, provided that all time constraints relating to the permit issued shall be observed.
 - b. The requirements of this Ordinance may be waived by the Department of Development for a Land Disturbance Permit which is to proceed with development of a larger project, at least seventy-five (75) percent of the land area of which has already received a permit or permits initiating clearing or grading activities prior to the effective date of this Ordinance.
 - c. In no event shall any grandfathered project be extended for a greater time period than twenty-four (24) months from the date of enactment of this Ordinance.

SUMMARY: APPLICABILITY AND EXEMPTIONS
See Text for Further Details

GRANDFATHERED PROJECTS	Any property included within the limits of a LDP approved prior to effective date of Ordinance, and remaining portion of a project where seventy-five (75) percent of area has already been included in LDP's approved prior to effective date of Ordinance.	EXEMPT
AGRICULTURAL OPERATIONS	Land clearing for clearly agricultural purposes, including timber harvesting, in RA-200 Zoning District. Plant or Tree Nurseries. Orchards.	EXEMPT
DISEASED OR INFESTED TREES	Removal upon advice and written finding of County Extension Service of Georgia Forestry Commission.	EXEMPT
RESIDENTIAL S/D AND NON-RESIDENTIAL S/D	Land disturbance limited to areas needed for streets, drainage, and utilities.	TPP <u>NOT</u> REQUIRED*
	Land disturbance beyond areas needed for streets, drainage, and utilities.	TPP REQUIRED
1 AND 2 FAMILY HOUSE	Building Permit	EXEMPT
MULTI-FAMILY AND NON-RESIDENTIAL SITES	Clearing or clearing and grubbing limited to areas outside of all minimum yards, buffers, and 100-year flood plain	TPP <u>NOT</u> REQUIRED* (Additional areas may be designated by DOD to remain undisturbed based on Land Use Plan.)
	Clearing or clearing and grubbing only, proposing disturbance within a minimum yard or 100-year flood plain.	TPP REQUIRED
	Grading or Development Permit	TPP REQUIRED
	Building Permit	Covered by TPP, approved for LDP

- Limits of land disturbance to be designated with protective tree fencing, staking, or continuous ribbon prior to commencement of activities, consistent with exemption allowances.

3. Horticultural or Agricultural Operations:

- a. All plant or tree nurseries and botanical gardens shall be exempt from the terms and provisions of this Ordinance in relation to those trees which are being grown for relocation and continued growth in the ordinary course of business, or for some public purpose.
- b. All orchards of trees in active commercial operation shall be exempt from the terms and provisions of this Ordinance for bona fide agricultural purposes only.
- c. Land clearing or clearing and grubbing activities for clearly agricultural purposes in the RA-200 zoning district shall be exempt from the provisions of this Ordinance.
- d. Timber harvesting (selective cutting or clear-cutting) for pulpwood or saw-timber shall be exempt within the RA-200 zoning district. In other zoning districts, such activities may be authorized only in accordance with the issuance of a Land Disturbance Permit under the requirements and provisions of this Ordinance.

4. Removal of Disease or Infestation:

Upon the advice of the County Extension Service or the Georgia Forestry Commission in accordance with commonly accepted forestry practices and a finding of tree disease or infestation, the Director of Development may authorize the removal of trees to prevent the transmission of disease or infestation, to prevent the danger of these trees falling, or to prevent potential injury to life and property. The owner/developer, prior to the removal of the diseased trees, shall notify the Director of Development, identifying the location of the infested property, and shall submit to the Director of Development the written finding of the County Extension Service or Georgia Forestry Commission.

5. Existing trees proposed to be retained and new trees proposed to be planted in order to meet the buffer requirements of the Zoning Ordinance or conditions of zoning approval shall not be considered in fulfilling the requirements of this Ordinance. Trees or other vegetation shall not be removed from a zoning buffer area except under the provisions as established by the Zoning Ordinance.

SECTION 4. PERMITS

1. Land disturbance activities shall not commence until such activities have been authorized by issuance of an appropriate Land Disturbance Permit under the provisions of the Development Regulations.
2. For those projects not exempt from the provisions of this Ordinance, and not included under Paragraph 3 of this Section below, a Tree Protection Plan shall be submitted along with the other documents required by the Development Regulations for the issuance of a Clearing, Clearing and Grubbing, Grading, or Development Permit.
 - a. All Tree Protection Plans and related documentation shall be reviewed by the Department of Development for conformance to the provisions of this Ordinance along with and at the same time as well as other plans required for a requested Land Disturbance Permit under the provisions of the Development Regulations.
 - b. Clearing, grading and development activities shall conform in all respects with the approved Tree Protection Plan. Any revisions to the proposed development of a property, and any changed reflected in a subsequently submitted permit application, shall be shown on a revised Tree Protection Plan and be approved as part of the new or revised permit prior to the commencement of such changed activities.
3. Projects which propose only limited development activities may be issued a Land Disturbance Permit without a Tree Protection Plan under the following circumstances.
 - a. Residential and non-residential subdivisions shall not be required to submit a Tree Protection Plan if the proposed land disturbance and construction activities are strictly limited to those directly related to the provision of the streets and stormwater drainage and detention facilities, placement of required soil erosion and sedimentation controls, the installation of public or private utilities, and other improvements expressly required by the City or by a condition of zoning approval.

- b. Individual multi-family residential and non-residential projects (not involving the subdivision of the property) may be allowed to undertake activities limited to clearing or clearing and grubbing only, without approval of a Tree Protection Plan, if the proposed land disturbance activities are limited to those portions of the property outside of all minimum yard areas required by the zoning district, all buffer areas required by the Zoning Ordinance or conditions of zoning approval, and any area within the 100-year floodplain, except for curb cut access into the property and for the placement of required soil erosion and sedimentation controls. Additional areas may be designed by the Department of Development to remain undisturbed as may be reasonably required with consideration to the proposed use of the property in accordance with the City's Land Use Plan. The limits of clearing or clearing and grubbing shall be established no closer to the boundaries of all said undisturbed areas than the driplines of the trees which are located within said areas.

- c. For any property for which a Tree Protection Plan was not required prior to issuance of a Land Disturbance Permit under the provisions of this Section, all areas required to be undisturbed shall be provided with protective tree fencing, staking, or continuous ribbon along the limits of clearing or grading which adjoin existing trees. Such measures shall be in place prior to beginning clearing or grading activities, and shall be maintained throughout the land disturbance period.

SECTION 5. TREE DENSITY REQUIREMENTS

1. Minimum Standard:

On each property for which a Tree Protection Plan is required by this Ordinance, existing trees may be retained and new trees shall be planted such that the property shall attain or exceed a tree density standard of fifteen (15) units per acre, exclusive of any acreage within a zoning buffer area and any trees needed to meet buffer requirements of the Zoning Ordinance or conditions of zoning approval. The trees, both existing and new, where feasible shall be reasonably distributed throughout the site, with emphasis on tree groupings to achieve aesthetic results following professional landscaping standards. Trees may be retained or planted for credit within a public right-of-way or park if granted approval by the Department of Development.

2. Tree Density Standard Calculation:

The tree density standard shall be calculated by summing the following credits and dividing by the total acreage of the project included within the limits of the permit application (but excluding any acreage included within a zoning buffer).

- a. Credit for existing trees to be retained shall be calculated by multiplying the number of trees (by diameter) times the units assigned in the following Table A. Credit shall be given all trees retained on a property having a diameter of 3" or more, except trees located in a zoning buffer.
- b. Credit for new trees proposed on the site shall be calculated by multiplying the number of trees (by diameter) times the units assigned in the following Table B. Credit shall be given all new trees on a property except for new trees of less than one (1) inch in diameter and new trees planted in a required zoning buffer.
- c. Additional credits shall be granted under the following circumstances:
 1. A total tree density credit not to exceed twice the units shown on Table A, may be granted by the Department of Development for existing trees to be retained which have greater value as outstanding specimen trees or having historic value or being a rare or unique species.
 2. Existing trees to be retained within a minimum yard area (as required by the applicable zoning district) or within a 100-yard flood plain shall be granted a bonus credit of fifty (50) percent of the units assigned in Table A unless the tree is located within a required credit zoning buffer.

TABLE A

CONVERSION FROM TREE DIAMETER IN INCHES
TO TREE DENSITY UNITS FOR TREES
REMAINING ON SITE

<u>Dia.</u>	<u>Units</u>	<u>Dia.</u>	<u>Units</u>	<u>Dia.</u>	<u>Units</u>	<u>Dia.</u>	<u>Units</u>
3	.05	10	.6	24	3.1	38	7.9
4	.1	11	.7	25	3.4	39	8.3
5	.15	12	.8	26	3.7	40	8.7
6	.2	13	.9	27	4.0	41	9.2
7	.3	14	1.1	28	4.3	42	9.6
8	.4	15	1.2	29	4.6	43	10.1
9	.5	16	1.4	30	4.9	44	10.6
		17	1.6	31	5.2	45	11.0
		18	1.8	32	5.6	46	11.5
		19	2.0	33	5.9	47	12.0
		20	2.2	34	6.3	48	12.6
		21	2.4	35	6.7	49	13.1
		22	2.6	36	7.1	50	13.6
		23	2.9	37	7.5		

TABLE B

CONVERSION FROM TREE DIAMETER IN INCHES
TO TREE DENSITY UNITS FOR
PROPOSED NEW TREES

<u>Dia.</u>	<u>Units</u>	<u>Dia.</u>	<u>Units</u>
1	.4	8	1.3
2	.5	9	1.5
3	.6	10	1.7
4	.7	11	1.9
5	.9	12	2.1
6	1.0	13	2.3
7	1.2	14	2.5

NOTE: For the purpose of this Ordinance, tree diameters are measured at diameter breast height (dbh) or at any point below dbh for new trees or multi-trunked species, but in no case less than six (6) inches from the ground.

SECTION 6. TREE PROTECTION AND TREE PLANTING REQUIREMENTS

1. The following guidelines and standards shall apply to trees proposed to be retained for credit toward meeting the minimum required tree density standard on a property:

- a. Tree Protection Areas:

The root system within the dripline is generally considered to be the critical root zone. To protect these critical root zones, a tree protection area shall be established around each tree or group of trees to be retained.

1. The tree protection area shall include no less than the total area beneath the tree canopy as defined by the dripline of the tree or group of trees collectively.
2. Layout of the project site utility and grading plans shall avoid disturbance of the tree protection areas.
3. Construction site activities such as parking, materials, storage, concrete washout, burnhole placement, etc. shall be arranged so as to prevent disturbances within tree protection areas.

- b. Protective Barriers:

1. Protective tree fencing, staking or continuous ribbon shall be installed between tree protection areas and areas proposed to be cleared, graded or otherwise disturbed on the site, prior to any land disturbance.
2. All tree protection areas are recommended to be designated as such with "tree save area signs" posted in addition to the required protective fencing, staking or continuous ribbon. Signs requesting subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.
3. All tree protection areas must be protected from soil sedimentation intrusion through the use of silt screens or other acceptable measures placed up-slope from the protection area.
4. All protective tree fencing, staking or continuous ribbon and all erosion control barriers must be installed prior to and maintained throughout the land disturbance and construction process, and should not be removed until final landscaping is installed.

c. Encroachment:

If encroachment into a tree protection area occurs which causes irreparable damage to the trees, the Tree Protection Plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this Ordinance, or shall plan revision activities stop the Department from instituting action for violation of this Ordinance.

2. New trees proposed to be planted for credit toward meeting the minimum required tree density standard in a property shall comply with the following guidelines and standards:
 - a. The spacing of new trees must be compatible with spatial site limitations and with responsible consideration towards species size when mature.
 - b. Species selected for planting must be ecologically compatible with the specifically intended growing site. Standards for transplanting shall be in keeping with those established by the International Society of Arboriculture, as included in the “Tree and Shrub Transplanting Manual”, latest edition, or similar publications.
 - c. Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor, so as to assure a reasonable expectation of survivability.
 - d. In the event that new trees proposed to be planted to achieve the Tree Density Standard are not installed upon application for a Certificate of Occupancy or final plat approval (as appropriate), then a Performance Bond or other acceptable surety in an amount equal to one hundred and ten (110) percent of the value of the new trees and their installation shall be posted in accordance with the performance bonding requirements and provisions of the Development Regulations.
 - e. Upon final installation of new trees planted under the requirements of this Ordinance, and following acceptance by the Development Department, the owner shall warrant the new trees and provide for the replacement of those which did not survive for a period of no less than one (1) year.

SECTION 7. TREE PROTECTION PLAN SPECIFICATIONS

1. Tree Protection Plans shall be prepared by a professional Landscape Architect, Urban Forester, or Arborist in accordance with the specifications for such plans contained herein.
2. The Tree Protection Plan shall be shown on a copy of a Preliminary Plat, Sketch Plan or Site Plan, as appropriate to the proposed development, drawn to the same scale as the other plan documents prepared for a land disturbance permit application on the property, and shall cover the same area. The plan may be combined with a required Buffer and Landscape Plan for the project, at the option of the developer.
3. The Tree Protection Plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this Ordinance will be fully satisfied.
4. The Tree Protection Plan shall contain but need not be limited to the following:
 - a. Project name, land district, land lot, parcel number, and North arrow and scale.
 - b. Developer's name, address and telephone number.
 - c. Delineation of all minimum yard areas, buffers, and landscape areas as required by the Zoning Ordinance or conditions of zoning approval.
 - d. Total acreage of the site and total acreage exclusive of all zoning buffer areas.
 - e. Delineation of all areas located within a 100-year flood plain.
 - f. Existing trees to be retained in tree protection areas: Trunk location and size (to the nearest inch in diameter at or below diameter breast height), of individual trees proposed to remain for credit toward meeting the minimum tree density standard on the property. Group of three (3) or more trees whose driplines combine into a single Tree Protection Area may be outlined as a group and their number, by diameter, shown in the Summary Table. If the number and size of all existing trees to remain on the site exceeds the required tree density standard for the entire site, only those trees required to meet the minimum tree density standard must be shown. All Tree Protection Areas are to be outlined and labeled.

g. Tree Protection Measures:

1. A detail or description of the protective tree fencing, staking, or continuous ribbon to be installed, and the location of such measures, which at a minimum shall follow the dripline of all trees to be retained along adjoining areas of clearing, grading, or other construction activity.
 2. Measures to be taken to avoid soil sedimentation intrusion into Tree Protection Areas, and the location of such devices.
 3. Proposed location of temporary construction activities such as equipment or worker parking, materials storage, burn holes, equipment washdown areas, and entrance pads.
 4. Proposed type and location of any tree save areas, signs or other pertinent signage.
- h. If new trees are proposed to be planted in order for the property to achieve the required tree density standard, the new trees shall be shown and their spacing and diameter identified, to the extent needed to achieve the minimum requirements. Trees grouped together in tree planting areas may be listed on the Summary Table by total number in the grouping, by size.
- i. A Summary Table of the number of existing trees to remain and new trees to be planted, by diameter to the nearest inch at or below dbh, shall be shown along with calculations showing the tree density achieved for the site. Additional credits shall be noted where applicable (see Section 5., paragraph 2.c.). Groupings of trees in Tree Protection Areas and areas for new tree planting may be keyed to the Summary Table by area rather than having each tree individually labeled on the plan.
5. The plan sheet which shows the grading plan, including existing and proposed contour lines, shall indicate the dripline location of all Tree Protection Areas through the use of shading on the plans. The exact location of each tree is not desired to be shown, only the limits of the Tree Protection Area and any other areas which are not to be disturbed.

SECTION 8. TREE BANK

1. Where a tree is to be removed under the provisions of this Ordinance, the City may, with the consent of the property owner, relocate the tree at the City's expense to City-owned property for replanting, either for permanent utilization at the new location, or for future use at other City property.
2. Credit may be given to the property for each relocated tree as though the tree was proposed to remain on the property, if the tree is relocated to a site designated by the City at the owner/developer's expense.

SECTION 9. ENFORCEMENT

It shall be the responsibility of the Department of Development to enforce this Ordinance. The Director of Development or his designee shall have the authority to revoke, suspend, or void any Clearing, Clearing and Grubbing, Grading, Development or Building Permit or to withhold issuance of a Certificate of Occupancy, and shall have the authority to suspend all work on a site or any portion thereof, where tree removal or damage occurs in violation of this Ordinance or the provisions of the approved Tree Protection Plan for the site.

SECTION 10. VIOLATION AND PENALTY

Any person violating a provision of this Ordinance shall be guilty of violating a duly adopted Ordinance of the City of Buford, and upon conviction by a court of competent jurisdiction, may be punished either by a fine not to exceed \$500, or confinement in the County jail not to exceed sixty (60) days, or both. The court shall have the power and authority to place any person found guilty of a violation of this Ordinance on probation and to suspend or modify any fine or sentence. As a condition of said suspension, the court may require payment of restitution or impose other punishment allowed by law, which may include mandatory attendance at an educational program regarding tree preservation. The owner of any property wherein a violation exists, and any builder, contractor, or agent who may have assisted in the commission of any such violation, shall be guilty of a separate offense.

SECTION 11. APPEALS

1. The preservation of trees may be considered as a condition peculiar to the particular piece of property in support of an application for a variance from the literal application of the provisions of the Zoning Ordinance, under the procedures and requirements contained therein.
2. Any applicant for or holder of an initial or subsequent Land Disturbance Permit who is aggrieved by any decision of the Department of Development relating to the application of this Ordinance to said permit shall all rights of appeal as provided under the Development Regulations, and shall file such request for relief as a Wavier or Regulations for consideration by the Board of Commissioners.

SECTION 12. REPEAL CLAUSE

The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed, save and except such ordinances or resolutions or part of ordinances or resolutions which provide stricter standards than those provided herein.

SECTION 12. SEVERABILITY

Should any section, subsection, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance in whole or any part thereof other than the part so declared to be invalid.

SECTION 14. EFFECTIVE DATE

This Ordinance shall become effective upon its adoption.

Adopted this 5th day of June, 2000.

