

MEMORANDUM

To: City Council
From: John Olson, AICP
Planning Manager
Date: March 25, 2019

Subject: Text Amendment to City of Dunwoody Ordinances
Chapter 16, Article II, Division 6 – Tree Preservation

ITEM DESCRIPTION

The subject item is a consideration of text amendments to the Tree Preservation provisions found in Chapter 16-Article II, Division 6. The general emphases of these amendments include:

- 1.) Establishment of a tree removal permit requirement for the removal of trees on single-family lots when there is the intention to remove trees prior to applying for a land disturbance permit or site work inclusive building permits;
- 2.) Add verbiage that specifies the procedure for unpermitted tree removal; and
- 3.) Add a section that clarifies the removal of hazardous trees that pose a threat to public property.

A copy of the text amendments are provided as attachment A.

BACKGROUND

The existing provisions of tree ordinance give homeowners' exemptions on tree removal on single-family lots, provided the trees are not located in a stream buffer or associated with a development permit or a substantial building permit. Of particular concern is the fact that the exemption is unintentionally open for use by homebuilders, as they can chose to remove large trees without any city review, prior to applying for a development permit. Because this is a loop-hole, large trees can be removed prior to submission of a tree survey, which would identify specimen trees and all trees with DBH measurement of 10 inches or larger. In fact, during construction permitting, specimen tree recompense, preservation of tree stands, tree density calculations and other requirements can be exploited, as much of the tree inventory can be taken out outside of the permitting process and not included on the tree plans during permit review. To close this loop-hole, staff has added verbiage that states a tree removal permit is required on single-family lots if there is an intention to apply for a land disturbance permit or site work inclusive permit within one year of tree removal. Additionally, for all lots, the code does not have specifications that specify coming into compliance when trees are removed without a permit (i.e. when a business owner removes a buffer or street streets are removed without a permit). Therefore, staff has proposed verbiage that states that City Arborist may request the submittal of a landscape plan to address tree replanting. As well, verbiage has been added that states the Community Development Department can determine the appropriate size and number of plantings necessary to achieve restoration of all areas disturbed if trees were removed without authorization. Finally, in an effort to address hazardous trees that pose a threat to public property, staff has added a new section which states that the Community Development Department can require the removal of dead, dying, damaged or diseased trees which are deemed hazardous to public property or persons thereon.

The following outlines the recommend changes:

- **Sec. 16-106. – Tree Removal Permit.** Add subsection 3, *"Any hardwood with a diameter at breast height (DBH) of 10 inches or greater overstory, and 6 inch of greater understory, on single-family lots, when there is the intention to apply for a land disturbance permit or site work inclusive of a building permit within one year of construction activity."*

- **Sec. 16-106. – (c) Exemptions.** Under subsection 3 add, *"however, such exemption does not include tree removal occurring one year or less prior to the acceptance of a land development or site work inclusive building permits, whereby the permit procedures of Section 16-107 apply."*
- **Sec. 16-106. –** Add section (e) "Unpermitted tree removal" with verbiage to read: *"The City Arborist may request submittal of a landscape plan/replanting plan for unpermitted tree removal. For all cases, the Community Development Department shall determine the appropriate size and number of plantings necessary to achieve restoration of all areas disturbed. Any tree removal that violates section 16-106(a) shall be subject to enforcement and penalties explained in Section 16-115."*
- **Add section 16-114** "Hazardous trees posing threat to public property" with verbiage to read: *"The Community Development Department can require the removal of dead, dying, damaged or diseased trees which are deemed hazardous to public property or persons thereon."*

RECOMMENDATION

Staff recommends approval of the text amendments to the Tree Preservation requirements that are found in Chapter 16, Article II, Division 6:

Attachments:

- A. Proposed ordinance and text amendments

STATE OF GEORGIA
COUNTY OF DEKALB

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA TO AMEND CHAPTER 16, DIVISION 6 (TREE PRESERVATION) OF THE CODE OF THE CITY OF DUNWOODY, GEORGIA TO MODIFY AND ADD PROVISIONS PERTAINING TO TREE REMOVAL EXEMPTIONS, UNPERMITTED TREE REMOVAL, HAZARDOUS TREES POSING A THREAT TO PUBLIC PROPERTY, AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Dunwoody ("City Council") are charged with the protection of the public health, safety, and welfare of the citizens of the City of Dunwoody; and

WHEREAS, the City Council has determined that it is appropriate from time to time to modify the Code of Ordinances of the City of Dunwoody (the "Code") to further protect the public health, safety, and welfare of the citizens of Dunwoody; and

WHEREAS, the citizens of Dunwoody value trees and the benefits they bring to the community, and have expresses concerns about unnecessary tree removal;

WHEREAS, outside construction activity there is a loop-hole within the current code that would allow a developer to remove trees immediately prior to applying for a land disturbance or substantial building permit; and

WHEREAS, the City of Dunwoody does not have a requirement for the removal of trees that pose a threat to public property.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Dunwoody, Georgia that the City's Code of Ordinances is amended as follows:

SECTION I: Chapter 16, Article II, Division 6 of the Code relating to "Tree Preservation";

DIVISION 6. - TREE PRESERVATION^[6]

Sec. 16-105. - General.

- (a) *Intent.* The intent of this section is to provide standards for the preservation of trees as part of the land development and building construction process for the purpose of making the City of Dunwoody a more attractive place to live, provide a healthy living environment, and to better maintain control of flooding, noise, glare and soil erosion.
- (b) *Purpose.* The purpose of this section is to facilitate the preservation and/or replacement of trees as part of the land development, construction, and tree removal permit process as defined in Section 16.106.
- (c) *Benefits.* Benefits derived from tree protection and replanting include:
 - (1) Improved control of soil erosion;
 - (2) Moderation of stormwater runoff, and improved water quality;
 - (3) Interception of airborne particulate matter, and the reduction of some air pollutants;
 - (4) Enhanced habitat for desirable wildlife;
 - (5) Reduction of noise and glare;
 - (6) Climate moderation and the reduction of the heat island effect;
 - (7) Aesthetics, scenic amenity;
 - (8) Increased property value; and
 - (9) Assistance in traffic calming.
- (d) *Applicability.* The terms and provisions of this section apply to any activity on real property which requires the issuance of a development permit, substantial building permit, or tree removal permit within the City of Dunwoody. No development permit or substantial building permit may be issued by the city without it being determined that the proposed development is in conformance with the provisions of these regulations.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.10), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-106. Tree Removal Permit.

- (a) *Applicability.* The tree removal permit is established for tree removal occurring outside of a land development permit or substantial building permit. A tree removal permit is required for the removal of:
 - (1) Any hardwood with a diameter at breast height (DBH) of 10 inches or greater, softwoods with a DBH of 20 inches or greater, and understory with a DBH of 6 inches or greater on non-residential, mixed-use, and multi-family zoned lots; ~~and~~
 - ~~(2)(2)~~ Any tree located within the City's 75-foot stream buffer; ~~and~~
 - ~~(2)(3)~~ Any hardwood with a diameter at breast height (DBH) of 10 inches or greater overstory, and 6 inch of greater understory, on single-family lots, when there is the

intention to apply for a land disturbance permit or site work inclusive of a building permit within one year of construction activity.

- (b) *Requirements.* To obtain a Tree Removal Permit, the Owner/Applicant shall submit the following information:
- (1) A completed Tree Removal Permit Application;
 - (2) A site plan, or a detailed map sketch illustrating the species, approximate size, and location of each existing tree to be removed and preserved;
 - (3) Picture of each tree to be removed, including any particular evidence of dead, diseased, dying, insect-infested, or hazardous trees;
 - (4) Payment of the applicable tree removal permit fee as listed on the City of Dunwoody fee schedule; and
 - (5) In cases where the aforementioned information is not sufficient to accurately review the removal and replacement of trees, the City Arborist may request additional information from the applicant (i.e. tree survey, tree replacement plan, third party arborist report, and/or planting plan).
- (c) *Exemptions.* A tree removal permit is not required for the removal of:
- (1) Any hardwood less than 10 inches, softwood less than 20 inches, and understory trees less than 6 inches on Non-Residential, Mixed-Use, and Multi-Family zoned lots, with exception of any tree located within the City's 75-foot stream buffer;
 - (2) Any tree as necessary for construction, repair, or maintenance of public assets, including but not limited to the right-of-way, public roads, utilities, or drainage structures;
 - (3) Any trees found on single-family lots, located outside of the 75-foot City stream buffer; however, such exemption does not include tree removal occurring one year or less prior to the acceptance of a land development or site work inclusive building permits, whereby the permit procedures of Section 16-106 apply; and
 - (4) Any trees damaged during the period of an emergency, such as a tornado, ice storm, wind storm or other act of nature whereby the Community Development Director or his/her designee may waive the requirements of this section.
- (d) *Tree Removal Permit Application.* The Community Development Director and their designee(s) shall develop such forms as necessary to facilitate the Tree Removal Permit Application process.
- (e) *Approval.* The City Arborist will approve the removal of the tree(s) within five business days of receipt of a completed Tree Removal Application-, provided the following applicable standards are met:
- (1) On non-residential, mixed use, and multi-family lots, the site plan and/or tree replacement plan must be sufficient to produce a total site density factor of 20 units per acre;
 - (2) For Specimen trees located outside of a stream buffer ~~on non-residential, mixed use and multi-family lots~~, the tree replacement plan shall demonstrate that the removed trees will be replaced by species with potential for comparable size and quality as noted in Section 16-110 (d) "Removal of Specimen Trees"; and

(3) Stream buffer tree(s) that are deemed dead, dying, diseased, insect-infested or hazardous.

(d) *Denial*. If tree(s) are denied removal, they may be appealed per section 16-114~~5~~(c).

(e) *Unpermitted tree removal*. The City Arborist may request submittal of a landscape plan/replanting plan for unpermitted tree removal. For all cases, the Community Development Department shall determine the appropriate size and number of plantings necessary to achieve restoration of all areas disturbed. Any tree removal that violates section 16-106(a) shall be subject to enforcement and penalties explained in Section 16-115.

Sec. 16-107. - Permit procedure.

(a) *Submittal of tree protection plan*. All applications for a development permit or a substantial building permit must be accompanied by a tree protection plan prepared and sealed by a registered landscape architect, certified arborist, or registered forester. The tree protection plan must include the following information:

(1) *Tree survey*. The tree survey must be a to-scale map or site plan that has been prepared and sealed by a registered landscape architect, certified arborist, registered forester, registered surveyor, or registered engineer. The tree survey must include the following minimum requirements:

- a. All specimen trees are to be located and labeled with their size and species. Their critical root zone must be delineated and the spot elevation at the base of their trunk must be indicated. They must also be labeled in a way to determine if they are intended for removal or preservation.
- b. All trees with a DBH measurement of 10 inches or larger over-story and 6 inches or greater for understory must be located and their size and species must be indicated.
- c. Sampling methods may be used to determine tree density calculations for forested areas over five acres.

(2) *Definition of spatial limits*.

- a. Limits of land-disturbance, clearing, grading, and trenching.
- b. Tree protection zones.
- c. Areas of revegetation.
- d. Indication of staging areas for parking, material storage, concrete washout, debris burn, and other areas where tree protection may be affected.
- e. Locations of existing and proposed structures, paving, driveways, cut and fill areas, detention areas, utilities, etc.

(3) *Detail drawings of tree protection measures (where applicable)*.

- a. Protective tree fencing;
- b. Erosion control fencing;
- c. Tree protection signs;

- d. Transplanting specifications;
- e. Tree wells and aeration systems;
- f. Staking specifications; and
- g. Other applicable drawings.

(4) *Tree density calculations.* See appendix A.

(5) *Installation and maintenance measures* Procedures and schedules for the implementation, installation, and maintenance of tree protection measures.

- (b) *Site inspection.* An on-site inspection will be made by the City Arborist prior to the commencement of any development activity.
- (c) *Review.* All landscape plans, tree protection plans, and related documentation must be reviewed by the City Arborist for conformance to the provisions of these regulations and either approved, returned for revisions, or denied within 30 days of receipt. If denied, the reasons for denial must be annotated on the landscape plan or otherwise stated in writing.
- (d) *Permit issuance.* Issuance of the development permit or a substantial building permit is contingent upon approval of the required tree protection plan and landscape plan and an on-site inspection by the City Arborist for tree protection measures.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.20), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-108. – Protected zones.

- (a) Nothing in these regulations may be construed as allowing the removal of vegetation in a natural, undisturbed buffer required by zoning or land development regulations.
- (b) Trees may not be removed from any protected zone. When preserving trees in a protected zone will result in a documented hardship, an appeal may be made to the Community Development Director or the Zoning Board of Appeals, pursuant to section 116-114(c). The documentation proving the hardship must be submitted as part of the tree protection plan and submitted variance application.
- (c) When no trees are present in a protected zone or when it is proposed that any portion of a protected zone be disturbed, it is the responsibility of the owner/developer to landscape the areas (where improvements are not constructed) with trees or other plant materials.
- (d) Trees may not be removed from a floodplain or stream buffer except as follows:
 - (1) Those trees found to be hazardous, dead, diseased, or insect-infested by the city arborist as prescribed in Section 16-106; and
 - (2) As necessary for construction, repair, or maintenance of public roads, utilities, or drainage structures.
- (e) No person shall intentionally or unintentionally damage, cut, carve, transplant, or remove any tree in a stream buffer; attach any rope, wire, nails; allow gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set

fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

- (f) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.30), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-109. - Tree replacement and revegetation.

- (a) *Applicability.* Replacement of trees in the minimum required landscape areas, as determined by this section, must occur under the following conditions:
- (1) To establish the minimum tree density requirements for the site.
 - (2) Where grading occurs outside the buildable area of the lot.
 - (3) If the buildable area of the lot leaves no protected zone.
 - (4) If no trees are present within an existing protected zone.
 - (5) Where specimen trees or specimen stands of trees within the buildable portion of the lot are to be removed.
 - (6) Where specimen trees or specimen stands of trees, and trees within otherwise designated tree protective zones have been irreparably damaged or removed through development or construction activities.
- (b) *Replacement quantity.*
- (1) Except as specified for single-family residential lots in subsection (b)(2), the quantity of replacement trees on a site must be sufficient to produce a total site tree density factor of no less than 20 density units per acre (Note: the terms unit and tree are not interchangeable). Procedures for determining the site density requirements and the subsequent tree replacement requirements are provided in appendix A. A required buffer or trees located in the floodplain may not be counted towards tree density. Understory trees may constitute no more than 25 percent of the required replacement trees, but lots smaller than 8,000 square feet in area are exempt from this limit.
 - (2) The following number of trees must be planted or preserved on all single-family residential lots developed in the city:

Lot Size	Number of Required Trees
≤8,000 square feet	1 tree
8,001 to 15,000 square feet	2 trees
15,001 to 20,000 square feet	3 trees
20,001 to 25,000 square feet	4 trees
25,001 to 30,000 square feet	5 trees
≥30,001 square feet	1 tree per 5,000 square feet of lot size

- (c) *Spacing*. The spacing of replacement trees must be compatible with spatial limitations, and within responsible considerations towards potential species size.
- (d) *Specimen trees*. All reasonable efforts be made to save specimen trees. ("Reasonable effort" includes alternate building design, building location, parking area layout, parking area location, water retention location and equivalent or similar measures).
- (e) *Tree save areas*. Tree save areas are encouraged and will be given credit of up to 50 percent individual lot requirements when the number of trees in the tree save areas is equal to or greater than the total number of trees required on the total number of lots within the subdivision.
- (f) *Tree replacement fund*. Occasionally, the tree replacement requirements of this section cannot be met because a project site will not accommodate the required density of trees. In this case, the City Arborist is authorized to approve a contribution to the City of Dunwoody Tree Replacement Fund. The following standards have been established for administering these contributions:
- (1) The City Arborist must review and approve all requests for alternative compliance. In no instance may 100 percent of the required site density be met through alternative compliance. As many trees as can reasonably be expected to survive must be planted on the site in question.
 - (2) No permit may be issued until the required contribution has been made to the tree replacement fund.
 - (3) The amount of the contribution must be determined from the fee schedule for the community development department.
 - (4) The City of Dunwoody Tree Replacement Fund must be used for planting trees on public property. Funds may be used for the purchase of trees, installation of trees

and irrigation, and the purchase of mulch and soil amendments for the planted areas.

- (5) Species selected for replacement must be quality specimens and must be ecologically compatible with the specifically intended growing site. No single tree species may be used for more than 35 percent of replacement trees. Evergreens may not be used for more than 25 percent of the trees in non-buffer areas. Standards for transplanting and selecting quality replacement stock must be in accordance with standards of the International Society of Arboriculture, National Association of Arborists, American Standard for Nursery Stock and appendix B.
- (6) Understory replacement trees may account for no greater than 25 percent of the required tree density units. The City Arborist is authorized to approve the additional use of understory trees for meeting density requirements on single-family lots if the size and/or layout of the lot does not allow for large overstory trees.
- (7) Species selection and replacement densities are subject to approval by the City Arborist.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.40), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-110. - Specimen and special trees.

- (a) *Criteria.* Some trees on a site warrant special consideration and encouragement for preservation. These trees are referred to as specimen or special trees. The following criteria are used by the City Arborist to identify specimen and special trees. Both the size and condition must be met for a tree to qualify.

- (1) *Tree size.*

Criteria	Special Trees	Specimen Trees
Minimum size for hardwoods	14" to 23" DBH	24" DBH
Minimum size for softwoods	20" to 29" DBH	30" DBH
Minimum size for understory trees	4" to 5" DBH	6" DBH
Minimum Life Expectancy	25 years	15 years

- (2) *Tree condition.*

- a. Relatively sound and solid trunk with no extensive decay.
- b. No more than one major and several minor dead limbs.

- c. No major insect or pathological problems.
 - d. No major pruning deficiencies, i.e. topping.
 - e. At least 75 percent of the critical root zone in a natural, undisturbed state.
- (b) *Tree density credit.* In order to encourage the preservation of specimen and special trees and the incorporation of these trees into the design of projects, additional density credit will be given for specimen and special trees which are successfully saved and maintained. Credit for any specimen or special tree thus saved would be one and one-half times the assigned unit value shown in appendix A. Should the property owner retain the services of a certified arborist to improve the quality of the trees (services include, but are not limited to, installation of cabling and bracing, installation of lighting protection, corrective pruning, removal of deadwood, supplemental irrigation, introduction of mycorrhizae, etc.), the density credit will be increased to two times the assigned value designated in appendix A. The property owner must supply a letter of commitment from the certified arborist and/or provide documentation of services provided in order to receive the increased density credit.
- (c) *Preservation of tree stands.* The City Arborist may identify and require the preservation of a tree stand if it contains one or more specimen or special trees and the trees are interlocked with other members of the stand in such a manner as to imperil the individual tree if other members of the stand were to be removed.
- (d) *Removal of specimen trees.* All specimen trees must be replaced by species with potential for comparable size and quality with three-inch caliper or larger trees at a density of one and one-half times the unit value of the tree removed; for example, a 30-inch DBH specimen tree (4.9 density units) must be replaced with 7.35 units. Specimen tree replacement density is in addition to the minimum required density for the site.
- (1) Any specimen tree which is fatally damaged during construction, as determined by the City Arborist, or removed without the appropriate review and approval of the City Arborist, must be replaced with four-inch caliper or larger trees with a total density up to three times the unit value of the tree removed. Size alone will determine whether a tree was of specimen quality if the tree is removed without approval. Additionally, the area that encompassed the critical root zone of the specimen tree must remain undisturbed to allow for the planting of replacement trees.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.50), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-111. - Tree protection measures.

The following minimum tree protection measures must be in place for all tree save areas:

- (1) *Tree protection fencing.* Trees identified for preservation must have protection fencing that is a minimum of four feet high installed at the edge of the critical root zones. The City Arborist is authorized to require the installation of four-foot fencing

in those areas where the likelihood of possible encroachment occurs. All tree protection zones must be designated as such with signage posted visibly on all sides of the fenced area. Signs requesting workers' cooperation and compliance with tree protection standards are recommended at the site entrance(s).

- (2) *Silt fences.* All tree protection zones must be designed to prevent the sedimentation of erosion material. Silt fences must be placed along the outer uphill edges of tree protection zones at the development interface.
- (3) *Encroachment.* No person may encroach into the tree protection zones. Construction activities, including but not limited to, parking, vehicle and foot traffic, material storage, concrete washout, debris burning, and other activities must be arranged so as to prevent disturbance within the protected areas.
- (4) *Utilities.* Reasonable efforts must be made to locate utility lines along corridors between tree protection zones. If utility lines must encroach into the protection zones, they must be installed by tunneling rather than trenching.
- (5) *Maintenance of tree protection.* All tree protection devices must remain in fully functioning condition until the certificate of occupancy is issued.
 - a. Any tree, designated for preservation, which is negligently damaged during construction or removed without the appropriate review and approval, as determined by the City Arborist, must be treated in accordance with the National Arborists Association Standards. If fatally damaged, the tree(s) must be replaced with four-inch caliper trees equal to the unit value of the tree removed. Any specimen tree damaged as described above must be replaced with trees equal to three times the unit value of the tree removed.
 - b. All tree protection zones must be mulched with at least four inches and not more than eight inches of organic mulch, such as pine straw, wood chips, tree leaves, or compost.
 - c. Construction activity is prohibited inside the tree save areas, including but not limited to, grading, paving, and construction of buildings and other structures.
 - d. The site must be designed and maintained in a manner to ensure proper drainage in tree save areas during and after construction.
- (6) *Tree protection supervisors.* The developer must designate a tree protection supervisor. This person must demonstrate knowledge in the area of tree protection practices during construction and must be on-site to ensure tree protection measures are enforced. The tree protection supervisor must participate in a pre-construction conference with the city prior to the commencement of any development. The tree protection supervisor must notify the City Arborist immediately should any tree damage occur on the site.
- (7) *Inspections.* Tree protection inspections must be performed by a certified arborist or registered forester during construction. The inspections must be conducted prior to the commencement of development, immediately following the clearing and grubbing phase, immediately following the grading phase, and at the end of the project before a certificate of occupancy (commercial developments) is issued or the final plat approved (residential developments). The site must be inspected to

ensure all tree protection regulations are being met and to identify any existing or developing tree-related problems that require treatment. An inspection report must be prepared and certified by the inspector and submitted to the City Arborist. Any damage noted must be treated in accordance with the recommendation of the inspector prior to the issuance of a certificate of occupancy or approval of the final plat. The City Arborist is authorized to require additional reports should he/she determine significant construction damage has occurred, the tree protection supervisor has failed to enforce minimum protection standards, or if other development processes, including but not limited to utility placement and building construction, may impact the tree save areas.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.60), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-112. - Maintenance.

All maintenance activities performed on preserved or planted trees to be included in the tree density requirements must be performed in accordance with the most current professional standards, including, but not limited to, the standards described below. It is the responsibility of the property owner to ensure such work is in compliance. Should maintenance activities on the trees not be in compliance with such professional standards, the property owner will be responsible for replacing the damaged trees with new trees of an equivalent density value, based on the DBH at the time damage occurs.

- (1) *Nursery stock.* All nursery stock must meet standards defined in the American Standard for Nursery Stock ANSI Z60.(1).
- (2) *Pruning.* All pruning must be done in accordance with ANSI A300 (Part 1) Standards for Tree Care Operations—Pruning. Tree topping is not allowed. Crown reduction pruning must be used instead to reduce the height of a tree when necessary. Topped trees may not be counted toward tree density requirements.
- (3) *Fertilization.* All tree fertilization must be performed in accordance with ANSI A 300 (Part 2) Standards for Tree Care Operations—Fertilization.
- (4) *Cabling and bracing.* All cabling and bracing installation and maintenance must be performed in accordance with ANSI A300 (Part 3) Standards for Tree Care Operations—Cabling and Bracing.
- (5) *Lightning protection.* All lightning protection installation and maintenance must be performed in accordance with ANSI A300 (Part 4) Standards for Tree Care Operations—Lightning Protection.
- (6) *Safety.* All tree-related work must be performed in accordance with ANSI Z13(3)1 Standards for Tree Care Operations—Safe Work Practices.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.70), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-113. - Alternative compliance.

The City Arborist is authorized to approve alternate methods of compliance with the provisions of this division when he/she determines the overall intent of the division and/or specific guidelines can be met.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.80), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-114. Hazardous trees posing threat to public property.

The Community Development Department can require the removal of dead, dying, damaged or diseased trees which are deemed hazardous to public property or persons thereon.

Sec. 16-1154. - Enforcement and penalties.

- (a) *Enforcement.* It is City Arborist's and his/her designee duty to enforce this section. The City Arborist and his/her designee has the authority to revoke, suspend, or void any development permit and the authority to suspend all work on a site or any portion thereof.
- (b) *Violation and penalties.* The person, firm, or corporation responsible for violating any of the provisions of this section may be deemed guilty of an ordinance violation. Each tree cut, damaged, or poisoned shall constitute a single offense and the responsible party shall be subject to a fine up to \$1,000 per tree. The Dunwoody Municipal Court has jurisdiction to try offenses to these regulations.
- (c) *Appeal.* Any person aggrieved or affected by any decision of the City Arborist or his/her designee relating to the application of this section may appeal to the Community Development Director for relief or reconsideration within 30 days from the date of the adverse determination by the City Arborist. Decision by the community development director made pursuant to this division may be appealed to the zoning board of appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.90), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-~~115~~116. - Additional information.

The following rules and regulations are approved by the City Council from time to time and are kept and maintained by the Community Development Department:

- (1) Lists of approved street trees as listed in Section 16-116;
- (2) Standards for substantial building permits and tree removal permits; and
- (3) Tree replacement and planting rules and regulations.

(Ord. No. 2013-10-14, 1(Exh. A § 16-8.100), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-116. – General Tree List and Street Trees.

Sec. 16-238. - Street trees.

(a) *General.* These street tree planting requirements apply in all districts.

(b) *Tree planting requirements.*

- (1) A street tree planting plan must be submitted to and approved by the City Arborist prior to issuance of a development permit. The plan must be prepared and sealed by a registered landscape architect, certified arborist or registered forester. All proposed trees must be individually identified on the plan with an included tree species list.
- (2) Street trees must be planted in the right-of-way. Trees must be planted at intervals or no more than 50 feet and no closer than 25 feet to street intersections. Street trees are not required abutting each individual lot where spacing distances are inadequate. Street trees are required on both sides of the street. The City Arborist may approve alternate spacing when the 50-foot spacing requirement cannot be met due to driveways and other improvements.
- (3) Street tree species shall be selected in accordance with appendix B and the approved General Street List and Street Trees as defined in Section 16-116, subject to approval by the City Arborist. No more than 35 percent of any one species may be used throughout the development.
- (4) Street trees must have a minimum caliper of three inches. They must be single-stemmed with a single, straight leader.
- (5) The builder/developer must install the street trees specified on the street tree planting plan prior to the issuance of the certificate of occupancy. However, street tree plantings may be delayed from May 1 through October 1, provided that the builder enters into a performance surety agreement with the city guaranteeing tree planting by October 15. The performance surety agreement must be executed before the issuance of certificates of occupancy.
- (6) Street trees count towards the minimum individual lot tree density requirements set forth in article II, division 6.

(c) *Installation and maintenance.*

(1) *Installation.*

- a. All trees must be installed in a sound workmanlike manner and according to accepted good planting procedures. No certificate of occupancy or similar authorization may be issued unless the requirements of this section have been met.
- b. Impermeable rigid tree root barriers must be installed in a linear method in all tree planting areas. The barriers must be a minimum of 24 inches deep and include ribs to direct root growth downward. The root barriers must be installed in accordance with city standards and specifications.
- c. Expandable plastic tree trunk protectors must be installed on each tree.

- (2) *Staking and guying.* Newly planted trees may not be staked or guyed unless approved by the City Arborist.
- (3) *Maintenance.* Street trees must be maintained by the property owner who owns the abutting lot or by the property owners' association. Maintenance must include watering, pruning, tree replacement and removal of leaves and litter from the sidewalks and street, as necessary. A maintenance responsibility statement must be provided on the final plat.

(Ord. No. 2013-10-14, 1(Exh. A § 16-14.30), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

Sec. 16-79. - Exemptions and special administrative permits.

- (a) *Exemptions.* The stream buffer regulations of this division do not apply to any of the following activities, provided that any activity within a state-mandated stream buffer must meet state requirements. Exemption of these activities does not constitute an exemption from any other activity proposed on a property or a requirement to obtain a building/land development permit.
 - (1) Work consisting of the usual and customary repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this section. Such usual and customary repair and maintenance activities cannot create any land disturbance, and must occur within the preexisting disturbed area;
 - (2) Maintenance, including the full replacement, of existing decks, porches or similar improvements attached to a dwelling that encroach into a city stream buffer so long as the work does not increase the degree of encroachment or any nonconformity. The complete replacement of these improvements is provided for, including the replacement of stairs and all supporting beams, posts and footings subject to compliance with applicable city codes. The necessary construction of new or improved footings as required to comply with current building codes is allowable up to a maximum of 100 square feet of land disturbance;
 - (3) Construction of new decks, porches or other similar additions no more than 200 square feet in area, to existing structures without a deck, porch or similar structure, provided that such construction does not require more than 100 square feet of land disturbance and does not further encroach more than ten feet into the city stream buffer;
 - (4) Existing development and on-going land-disturbance activities including existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land-disturbance activities on such properties is subject to all applicable buffer requirements;
 - (5) Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land disturbance within a state waters' buffer must meet state requirements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption may not be construed as allowing the construction of roads, bike paths

or other transportation routes in such easements, regardless of paving material, except for access for the uses expressly identified in this paragraph;

- (6) Removal of unwanted ground cover (e.g., poison ivy) using hand tools as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed;
 - (7) Land development activities within a dedicated transportation right-of-way existing at the time this section takes effect or approved under the terms of this section;
 - (8) Within an easement of any utility existing at the time this section takes effect or approved under the terms of this section, land-disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures;
 - (9) Emergency work necessary to preserve life or property. However, when emergency work is performed, the person performing it must report such work to the community development department on the next business day after commencement of the work. Within ten business days thereafter, the person must apply for a permit and perform such work within such time period as may be determined by the community development department to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area;
 - (10) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land-disturbance in the buffer that would otherwise be prohibited, then no other land-disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer;
 - (11) Activities to restore or enhance stream bank stability, riparian vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
 - (12) The removal of dead, diseased, insect-infested, or hazardous trees (without any associated land disturbance), provided the property owner provides a tree removal permit ; and
 - (13) Multi-use trails and related improvements that are part of a city council-approved plan. Unless otherwise approved by the state, such encroachments must be located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the community development director determines that the alignment is the most desirable alternative and that they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a city council-approved plan are not counted as part of a site's impervious surface area for purposes of site development-related calculations and regulations.
- (b) *Special administrative permits.* The following activities may be approved within the stream buffers required by section 16-78 by special administrative permit, pursuant to the process outlined in chapter 27, article V, division 7:

- (1) Stream crossings by utility lines, roads, driveways or similar transportation routes, including trails for nonmotorized transportation;
- (2) Public water supply intake or public wastewater outfall structures;
- (3) Land development necessary to provide access to a property;
- (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
- (5) Stormwater outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high-flow velocities due to steep slopes;
- (6) Exclusive of the exemptions in [subsections] (a)(2) and (a)(3) above, minor land-disturbing activities totaling no more than 200 square feet in area and located more than 25 feet from the stream, for the construction of decks, porches, or other additions to existing structures, and accessory structures where riparian vegetation is restored or replaced in any disturbed areas; and
- (7) Construction and land disturbance that results in the reduction or removal of impervious surfaces.

(Ord. No. 2013-10-14, 1(Exh. A § 16-6.40), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015; Ord. No. 2016-04-04, § 1, 4-11-2016)

Section 2: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of _____, 2018.

Approved:

Denis L. Shortal, Mayor

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk

Office of City Attorney