

# **City of Austell**

**Cobb and Douglas Counties**

**Atlanta MSA**

**2003 Population Estimate 6,430; +14.8% change from 2000 Census.**

**Not a Tree City USA.**

**No tree board established by ordinance.**

## **CITY OF AUSTELL TREE ORDINANCE ADDENDUM PRESERVATION AND REPLACEMENT**

**First adopted 2003. No revisions.**

**Addresses private property.**

### **TABLE OF CONTENTS**

Section 21.5-14	PERMIT REQUIRED
Section 21.5-15	SAME—PROCEDURE
Section 21.5-16	REMOVAL AND REPLACEMENT OF TREES
Section 21.5-17	DENSITY REQUIREMENTS
Section 21.5-18	ADMINISTRATIVE VARIANCES
Section 21.5-19	MAINTENANCE PERIOD AND FISCAL SURETY
Section 21.5-20	ENFORCEMENT OF ARTICLE
Section 21.5-21	INSPECTIONS
Section 21.5-22	APPEAL OF ADMINISTRATIVE DECISION

*Tree Preservation and Replacement Standards are referenced in the ordinance addendum, but were not submitted.*

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# CITY OF AUSTELL

## TREE ORDINANCE ADDENDUM

(April 7, 2003)

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### PRESERVATION AND REPLACEMENT

#### Sec. 21.5-14 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.

#### Sec. 21.5-15 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 submitted to the community development department. 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 city and either be approved, returned for revisions, or denied within seven days of receipt or in conformance with the planning review process. The review process will be done at a cost of no more than One hundred dollars (\$100.00) and no more than Five hundred dollars (\$500.00) 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.

#### Sec. 21.5-16 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.

#### Sec. 21.5-17 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 access whether all reasonable options have been considered which preserve the maximum amounts of existing forest cover. Recompense for the removal of specimen trees shall be required as outlined in the tree preservation and replacement standards.

#### Sec. 21.5-18 ADMINISTRATIVE VARIANCES

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

#### Sec. 21.5-19 MAINTENANCE PERIOD AND FISCAL SURETY

For all developments other than single family, residential trees planted to meet the requirements of this article shall be subject to a maintenance 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 in the protected zone.

#### Sec. 21.5-20 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 from enforcing the required maintenance periods set out under this article.

#### Sec. 21.5-21 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, not shall any person obstruct hamper or interfere with any such representative while in the process of carrying out his official duties.

#### Sec. 21.5-22 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 Mayor and Council 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 an 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 mayor and council a written report of its findings and recommendation, which shall become apart of the official record
- (d) The Mayor and Council, 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 and the administration or enforcement of this article. The decision of the mayor and council shall not result in a violation or circumvention of any applicable condition of zoning, provision of city zoning laws, subdivision regulations, or any other regulation or ordinance.
- (e) A written copy of the findings of mayor and council 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 mayor and council on an appeal under this section shall have the right to appeal to the superior court of the city by writ of certiorari.