

City of Berkeley Lake

Gwinnett County

Atlanta MSA

2003 Population Estimate 1,921; +10.6% change from 2000 Census.

Tree City USA for 7 years.

No tree board established by ordinance.

CHAPTER 22 BUFFER, LANDSCAPE AND TREE ORDINANCE

First adopted 1995. Last revised 2001.

Addresses private property.

Includes buffer and landscape requirements.

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**CITY OF BERKELEY LAKE
CHAPTER 22**

BUFFER, LANDSCAPE AND TREE ORDINANCE

AN ORDINANCE TO AN ORDINANCE TO DELETE CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE ENTITLED "BUFFER, LANDSCAPE AND TREE ORDINANCE" AND TO SUBSTITUTE A NEW CHAPTER 22; TO PROVIDE FOR INTENT; TO PROVIDE FOR PURPOSE; TO PROVIDE OF A TITLE; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR PERMANENT BUFFERS; TO PROVIDE FOR CONSTRUCTION BUFFERS; TO PROVIDE FOR RESIDENTIAL LOTS AND SUBDIVISIONS; TO PROVIDE FOR NON-RESIDENTIAL AND MULTI-FAMILY USES; TO PROVIDE FOR EXISTING DEVELOPMENT, CONSTRUCTION AND REMODELING ON INDIVIDUAL LOTS; TO PROVIDE FOR PLANTING TREES; TO PROVIDE FOR MAINTENANCE AND TREE PROTECTION; TO PROVIDE FOR MANDATORY REMOVAL OF DEAD, DISEASED AND POTENTIALLY DANGEROUS TREES; TO PROVIDE FOR IMMEDIATE REMOVAL OF TREES ENDANGERING PEOPLE OR PROPERTY; TO PROVIDE FOR FLOOD PLAN; TO PROVIDE FOR TREE DENSITY UNITS; TO PROVIDE FOR REQUIREMENTS; TO PROVIDE FOR SPECIFICATIONS; TO PROVIDE FOR A GRADING PLAN; TO PROVIDE FOR REGULATIONS; TO PROVIDE FOR LAND DISTURBANCE PERMITS; TO PROVIDE FOR GRANDFATHERED PROJECTS; TO PROVIDE FOR A TREE PRESERVATION AND/OR REPLACEMENT PLAN; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR VIOLATION AND PENALTY; TO PROVIDE FOR APPEAL; TO PROVIDE FOR ADOPTION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Whereas the City of Berkeley Lake has a compelling commitment to protect the wetlands and watershed areas that feed creeks and tributaries throughout the City, which ultimately flow into the Chattahoochee River.

Whereas the City of Berkeley Lake has a compelling interest in protecting Lake Berkeley and its watershed from degradation due to development and other land disturbance activities; and

Whereas preventing erosion, slowing sedimentation, and otherwise protecting the watershed areas is essential to maintaining and improving the water quality of all waters within the City.

Whereas the maintenance and enhancement of tree coverage within and surrounding the City of Berkeley Lake furthers these goals and is necessary for the preservation of the public health, safety, general welfare, environment, and aesthetics of the citizens of Berkeley Lake;

IT IS HEREBY RESOLVED AND DECLARED to be the policy of the City of Berkeley Lake that all sites where trees are removed shall achieve a uniform standard of tree coverage; and

IT IS FURTHER RESOLVED that owners of existing residential and non-residential properties shall maintain satisfactory tree coverage on their property and shall refrain from unpermitted tree cutting and removal activities and shall keep trees in healthy condition.

Be it Ordained by the Mayor and Council of the City of Berkeley Lake that the Code of the City of Berkeley Lake shall be amended by deleting Chapter 22 in its entirety and replacing it with the following:

CHAPTER 22
BUFFER, LANDSCAPE AND TREE ORDINANCE

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- 22-102 Purpose
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- 22-104 Definitions

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Article 5: Tree Preservation And/Or Replacement Plan

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Article 9: Severability
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Article 10: Effective Date
22-1001 Effective date

ARTICLE 1

GENERAL

22-101 Intent

This Ordinance shall apply to all properties or portions thereof located within the corporate boundaries of the City of Berkeley Lake. The Mayor and the Council of the City of Berkeley Lake, Georgia hereby find that (i) the protection of trees, (ii) the planting of new trees of the species and quality recommended herein, (iii) the protection of the undisturbed buffers, and (iv) the provision of buffers between dissimilar uses as a part of the land development process serve the public interest and promote public health and general welfare.

22-102 Purpose

The purpose of this Ordinance is to preserve and enhance the City's natural environment through tree preservation, protection, and/or replacement. This Ordinance regulates the planting and removal of trees and landscape material, as well as other land disturbance activities. This Ordinance is further intended to provide for penalties for violations hereof, to provide for the protection of trees from abuse and mutilation, to repeal conflicting ordinances, and for other purposes set forth herein.

Terms and Provisions: This section applies to all real property located within the City of Berkeley Lake, except as excluded in other paragraphs in this section. Table A: Summary of Applicability and Exemptions summarizes those activities that are exempt from the provisions of this section.

22-103 Title

This Ordinance shall be known as "The Buffer, Landscape, and Tree Ordinance of Berkeley Lake, Georgia" and may be referred to generally as "The Tree Ordinance" or as used herein, "the Ordinance."

22-103 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 definition of terms as contained in the City Code of the City of Berkeley Lake, supplemented by the following, shall apply:

Arbitration Board: The agency of the City of Berkeley Lake created by ordinance.

Berm: An earthen ledge or shoulder along the edge of a road or sidewalk

Buffer: Land area which separates land use areas from one another through screening and distance, to shield or block noise, light, glare, visual or other conditions, and/or to minimize physical passage to non-similar areas, and/or reduce air pollution, dust, dirt, and litter.

Buffer, Construction: A temporary buffer which remains an active buffer until work is inspected and verified as complete by the proper authorities.

Buffer, Permanent: Buffers which are designed to be permanent and which may include, but are not limited to, undisturbed buffers, stream buffers, and buffers separating zoning districts.

Buffers separating zoning districts: Self-defining; i.e., a land area which separates one zoning district from another.

Canopy Tree: A tree that under normal forest conditions, will compose the top layer or canopy of vegetation and generally will reach a mature height of greater than 40 feet.

City: City of Berkeley Lake, Georgia.

City Arborist: A professional arborist retained by the City of Berkeley Lake as needed to advise the Ordinance Enforcement Officer on matters relating to this Ordinance. The arborist may be a representative of the Georgia Forestry Commission, the University of Georgia Extension Service or a private certified arborist.

Clearing: The removal of vegetation from a property that is being developed, whether by cutting or other means.

County: Gwinnett County, Georgia.

Critical Root Zone (CRZ): The minimum area beneath a tree that must be left undisturbed in order to preserve a sufficient root mass to give the tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half (1.5) times the number of inches of the trunk's diameter. Example: The CRZ radius of a 20 inch diameter tree is thirty feet.

Development Regulations: The ordinances regulating the subdivision and development of real property within the City of Berkeley Lake, Georgia.

Diameter: The widest cross-sectional dimension of a tree trunk, measured at a point 4.5 feet above the ground; or, for new replacement trees and multi-trunk species at a point 6 inches above the ground.

Drip line: A line on the ground established by a vertical plain extending from the tree's outermost branch tips to the ground; that is, the line enclosing the area directly beneath the tree's crown from which rainfall would drip.

Flood Plain-100 year: Those lands subject to flooding, which have at least a 1% probability of a 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).

Grading: The placement, removal, or movement of earth by use of mechanical equipment on a property.

Grubbing: The removal of tree stumps and roots.

Heritage Trees: Trees with a diameter of 8 inches and more at 4.5 feet above ground.

Land Disturbance: Clearing, grading or grubbing activities on a site or portion of a site.

Land Disturbance Permit (LDP): Any permit issued by the City of Berkeley Lake that authorizes clearing, grading or grubbing activities on a site or portion of a site. An LDP may be a clearing and grubbing, or development permit as defined and authorized under the Development Regulations of the City of Berkeley Lake.

Landscape Strip: Land area located within the boundary of a lot and required to be set aside and used for landscaping upon which only limited encroachments are authorized.

No-access easement: Land access that does not grant access to any other properties.

Ordinance Enforcement Officer (OEO): An employee of the City of Berkeley Lake, charged with the responsibility of enforcing ordinances within the corporate limits of the City of Berkeley Lake. The OEO, as defined herein, includes any person properly delegated by the Mayor and City Council to perform his/her duties or functions as authorized by law.

Planning and Zoning Commission: The Planning and Zoning Commission of the City of Berkeley Lake, Georgia.

Screening: A method of shielding or obscuring one abutting or nearby structure of use from another by opaque fencing, walls, berms, densely planted vegetation, or the like.

Shrub: A woody plant of relatively low height, typically distinguished from a tree by having several stems rather than a single trunk.

Stream Buffer: A stream buffer is an Undisturbed Buffer that is 35 feet wide on each side of a stream; the width is measured from the crest of each side of the stream banks.

Street Tree: A tree planted in the Landscape Strip abutting streets.

Structure: Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. A single structure encompasses all man-made materials that are tightly integrated to form the whole.

Surety Bonds: A bond given to ensure the timely performance of a contract or compliance with a provision of this Ordinance.

Tree: Any self-supported woody perennial plant, usually having a main stem or trunk and many branches, and at maturity usually attaining a diameter greater than three inches at any point and a height of over ten feet. For the purposes of the application of this Ordinance, a tree must have a diameter equal to or greater than 3 inches at 4.5 feet above ground.

Tree Density Unity (TDU): A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in this Ordinance.

Tree Protection Area (TPA): Any portion of a site on which tree(s) 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, but preferably the combined critical root zone of the trees collectively.

Tree Preservation and/or Tree Replacement Plan (TP/TRP): A plan that identifies tree protection areas, and shows 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.

Tree Removal Permit (TRP): This permit is issued by the Ordinance Enforcement Officer for the removal of trees, including diseased, dead, dangerous, or potentially dangerous trees on individual residential lots.

Tree Survey: A site survey and documentation of existing trees within a proposed area to be developed.

Understory Tree: A tree that, under normal forest conditions, grows to maturity beneath canopy trees and will generally reach a mature height of 10 to 40 feet.

Undisturbed Buffer: An area of land on public or private property that has been designated on a plat as a non-disturb, undisturbed buffer, or natural buffer.

Xeriscaping: A method of landscaping using materials that are water-efficient.

Zoning Buffer: A buffer or stream buffer that is required by the Zoning Ordinance as a condition of zoning approval for a specific property.

Zoning Ordinance: The Zoning Ordinance is found in the Code of Ordinances of the City of Berkeley Lake. It is amended from time to time by the Mayor and the Council of the City of Berkeley Lake upon recommendation of the Planning and Zoning Commission.

ARTICLE 2

BUFFER REGULATIONS

22-201 Permanent Buffers

A. Permanent Undisturbed Buffer Requirements

(1) Limited Planting Permitted, No Structures Permitted

The Ordinance Enforcement Officer may issue a permit allowing trees from Appendix A.1. Canopy Tree List and/or Appendix A.2. Understory Tree List and bushes to be planted in an undisturbed buffer. No vegetable gardens may be planted in an undisturbed buffer. No structures of any kind, including buildings, playhouses, fences, garden structures, garden furniture, walkways, or paving, may be located in an undisturbed buffer.

(2) Removal of vegetation

No vegetation, including trees, bushes, or plants of any kind, may be removed from an undisturbed buffer, except vegetation determined by the Ordinance Enforcement Officer to be: a) dead or diseased; b) poison ivy and other noxious vegetation; c) trees that are a danger to property or people; d) creeping vines that threaten the viability of plants (e.g.

Kudzu). No vegetation may be removed from an undisturbed buffer unless the Ordinance Enforcement Officer has issued a permit for its removal.

(3) Undisturbed Buffer Landscaping Plan Permit

Where the property plat indicates “approved landscaping” in an undisturbed buffer, a Buffer Landscaping Plan must be submitted to the Ordinance Enforcement Officer for review and approval. The Ordinance Enforcement Officer may approve Buffer Landscaping Plans to plant additional trees and bushes or the placement of fences to indicate property lines. The Ordinance Enforcement Officer may only approve the planting of trees from A.1. Canopy Tree List and/or A.2. Understory Tree List. This provision is to allow the replacement of trees and bushes that have been damaged or killed by natural forces and to return the buffer to its natural state as quickly as possible.

(4) Appeal

If a request for permit under this provision is denied, the applicant may appeal the denial by submitting a written appeal to the Arbitration Board, with a copy to the City Clerk, within ten days of the date of the denial. If denied again, the applicant may submit a written appeal to the Mayor and the City Council within ten days of the date of the denial by the Arbitration Board. For purposes of any appeal, the Ordinance Enforcement Officer’s denial of a request for a permit under this provision shall be reviewed only for arbitrariness and capriciousness.

B. Stream Buffer

No trees, bushes or vegetation may be removed from a stream buffer except to clear the path of the stream for ease of water flow. Determination of the need to clear a stream is made by the Ordinance Enforcement Officer and/or the State of Georgia Watershed Department. Trees (from Appendix A.1 and A.2), bushes and other vegetation may be added to a stream buffer upon the advice and approval of the Ordinance Enforcement Officer. The guidelines for the selection of plant material is the same as for Undisturbed Buffers.

C. Buffers that separate different zoning uses

The intent of these buffers is to provide visual and auditory screening between different zonings. Regulations governing these buffers are covered by, but not limited to, the following codes:

39-803.5	Code for Residence District R-100, sub-category Religious Institution
39-809	Residential-Agricultural Use District. RA-101
39-904	Access Route to M-1 Light Industrial Districts
39-905	Buffer Zones Established. M-1
39-1005	Buffer Zone Established. C-1
39-1105	Buffer Zones Established. O-I
40-10.8	Buffer and Landscape Plan Specifications

22-202 Construction Buffers

A temporary buffer which remains an active buffer until work is inspected and verified as complete by the proper authorities.

ARTICLE 3

LANDSCAPE REGULATIONS

22-301 Residential Lots and Subdivisions

A. Owners and/or developers of individual residential lots and residential subdivisions shall provide for and maintain landscaping plantings on-site in the following circumstances:

- (1) In no-access easements that are by the Development Regulations along the line of double frontage lots abutting upon a major thoroughfare; and,
- (2) As required by a condition of zoning, special use, variance approval.

B. Subdivision Street Trees

(1) Requirements

Newly planted “street trees” shall be at least two (2) inches in diameter at 4.5 feet above the ground. The quantity of trees shall be at least one (1) tree per each forty (40) linear feet of street. Trees shall be planted in the street right of way. Trees shall be located at least eight (8) feet from the back of the curb, and/or as granted in conjunction with the site plan approval. Trees shall be a species listed in Appendix A.1 Canopy Tree List of this Ordinance with the exception of trees not recommended next to sidewalks.

(2) Performance Surety Agreement

Developers shall enter into a performance surety agreement with the City of Berkeley Lake guaranteeing tree planting within two (2) years of the date of recording of the Final Plat. The performance surety shall be provided at the time of recording the Final Plat. In addition, a Street Tree Planting Plan shall be submitted to and approved in conjunction with site plan approval. Street tree planting shall be delayed from June through August.

(3) Refund

No refund of the surety bond will be granted until the Ordinance Enforcement Officer certifies that the street trees are in place and remain healthy for two years from date of planting.

(4) Responsibility

Street trees shall be maintained and cared for by the property owner adjacent to the tree, except in subdivisions in which the property owners' association provides maintenance and care. Maintenance shall include replacement and trimming as necessary. A statement of the property owner's responsibility for street trees shall be provided on the Final Plat.

22-302 Non-Residential and Multi-Family Uses

A. Non-residential and multi-family uses shall provide for and maintain landscape plantings on-site as follows:

(1) A Landscape Strip at least 10 feet in width adjacent to any street right-of-way abutting the property and running the length of the entire property frontage; and,

(2) In areas adjacent or internal to off-street parking lots that are required by the Zoning Resolution to contain more than 5 off-street parking spaces; and

(3) A berm at least 4 feet in height must be constructed between the main street and the interior parking of a nonresidential use. It must meet the trees and bush requirements as specified in the Landscape Strip Planting Requirements; and,

(4) As required by a condition of zoning, special use or variance approval.

B. Landscape Strip Planting Requirements

Landscape Strips which are required to be at least 10 feet in width shall contain landscaping and plantings within or adjacent to the strip as follows:

(1) At minimum, one (1) canopy tree for each 25 linear feet of strip length shall be provided. Deciduous trees shall be at least 2 inches in diameter at 4.5' above ground and evergreen trees shall be at least 6 feet in height at time of planting. Canopy trees shall be selected from Appendix A.1 Canopy Tree List.

(2) At minimum, one (1) shrub for each 25 linear feet of strip length shall be provided. Each shrub shall be a species native or suitable to this region.

(3) The remaining ground area shall be planted with groundcover, sodded, and/or provided with other non-verdant landscaping material, or any combination thereof.

(4) All landscape plans for non-residential and multi-family development must be approved in conjunction with the applicable site plan.

C. No Access Easement Screening Requirements

No-access easements which are required by the Development Regulations, or as a condition of zoning, special use or variance approval, shall be screened as follows:

- (1) A minimum of a single line of evergreen trees or shrubs, spaced to provide complete screening; or,
- (2) Contain a solid or decorative 6 feet high.

ARTICLE 4

TREES ON INDIVIDUAL RESIDENTIAL LOTS

22-401 Existing Development, Construction and Remodeling on Individual Lots

A tree removal permit must be issued by the OEO before the removal of any trees. Lot owners will maintain a minimum of 16 TDUs on each ½ acre of their property and are encouraged to plant and/or save as many trees as possible beyond that number. However, if the property does not have 16 TDUs for each ½ acre of property at the time of the cutting of any trees, the owner shall replace the removed trees with sufficient tree units so as to have the same number of TDUs as before the removal. Heritage trees should be preserved to the greatest extent possible. Trees in designated buffer areas may not be counted toward the tree density unit requirements of this Ordinance. Homeowners are encouraged to plant trees, preferably selected from Appendix A.1 Canopy Tree List or Appendix A.2 Understory Tree Lists of this Ordinance.

22-402 Planting Trees

Trees may be added to an existing residential lot, subject to other limitations of this Ordinance (39-402 Zoning-Vision Clearance at Intersections). Planting trees which are on the Appendix A.1: Canopy Tree List and Appendix B.1: Understory Tree List is encouraged.

22-403 Maintenance and Tree Protection

Every property owner or occupant shall be responsible for the normal care of shrubs and plants located on their property. Willful injury or disfigurement of any tree growing within the City shall be a violation of this Ordinance. No person shall:

- A. Pour any material on a tree or on nearby ground which could be harmful to the tree;
- B. Cause or encourage any unnecessary fire or burning near or around any tree;

- C. Cut off air, light, or water from the roots;
- D. Pile building material or equipment around any tree so as to cause injury thereto.

22-404 Mandatory Removal of Dead, Diseased, and Potentially Dangerous Trees

If the Ordinance Enforcement Officer deems a tree located on an individual residential lot or in the public right-of-way or in public areas to be dead, dying, diseased, or in a potentially dangerous condition, to person or property, the tree may be declared a nuisance. Upon determining that any tree upon private property is a nuisance, the Ordinance Enforcement Officer shall notify the property owner in writing, describing the condition, stating the actions necessary for correction, and setting forth a reasonable time in which the action must be taken. Actions required to cure and abate a nuisance, as described above, may include any reasonable technique, method, or procedure to cure the nuisance, including if necessary, the removal of the tree.

22-405 Immediate Removal of Trees Endangering People or Property

Any tree, on private or public property, which is endangering people or property must be reported immediately to the Berkeley Lake Emergency Management Agency (available through calling City Hall). BLEMA has procedures in place and equipment designed to handle emergencies. In a declared emergency situation, BLEMA has the right to immediately remove dangerous trees from private or public property.

22-406 Flood Plain

Trees in 100-year flood plain or required stream buffers may not be cut, nor shall they be counted to accomplish requirements of this Tree Ordinance.

ARTICLE 5

TREE PRESERVATION AND/OR REPLACEMENT PLAN

22-501 Tree Density Units

The Tree Preservation and/or Replacement Plans require that there are a minimum of 16 TDUs (see Tables B and C) for each half-acre of development. Heritage trees should not be removed unless they interfere with the site plan. Mandatory street trees may be included in the minimum 16 TDU requirement. Tree Preservation is strongly encouraged. Tree Preservation and/or Replacement Plans shall be prepared by a professional landscape architect, urban forester, arborist, engineer, or other professional designee in accordance with the specifications for such plans contained herein for development within zoning districts other than R-100 and RA-101.

22-502 Requirements

The Tree Preservation and/or Replacement Plan shall be shown on a copy of a preliminary plat, or site plan, 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, landscape and parking lot plans for the project, at the option of the developer.

22-503 Specifications

The Tree Preservation and/or Replacement Plan shall contain, but need not be limited to, the following:

- A. Project name, land district, land lot and parcel number, north arrow and scale.
- B. Developer's name, address and telephone number.
- C. The name, address and telephone number of the professional landscape architect, urban forester, or arborist responsible for preparation of the plan, and the seal or statement of professional qualifications of said person, which may be attached separately.
- D. Delineation of all minimum yard areas, buffers and landscape areas as required by the zoning ordinance or conditions of zoning approval.
- E. Total acreage of the site and total acreage exclusive of all zoning buffer areas
- F. Delineation of all areas within the 100-year flood plain.
- G. Existing trees to be retained in Tree Protection Areas with trunk location and size (to the nearest inch in diameter at breast height) of individual trees proposed to remain for credit toward meeting the minimum Tree Density Standard on the property. Groups of three 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 of 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.
- H. Tree protection measures
 - (1) A detail or description of the protective tree fencing 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 or beyond the owner's property, and the location of such devices.

(3) Proposed location of temporary construction activities such as equipment or worker parking, material storage, burnholes, equipment wash down areas and entrance paths.

(4) Proposed type and location of any "Tree Save Area" signs or other pertinent signage.

I. A summary table of the number of existing trees to remain and the new trees to be planted, by diameter to the nearest inch, at 4.5 feet above ground, shall be shown along with the calculations showing the tree density for the site. Additional credit shall be noted where applicable. Groupings of trees in Tree Protection Areas for new tree planting may be keyed to the summary table by area rather than having each tree individually labeled on the plan.

22-504 Grading Plan

The plan sheet that shows the grading plan, including existing and proposed contour lines, shall indicate the drip line location of all Tree Protection Areas through the use of shading of the plans. The exact location of each tree is not required to be shown, only the limits of the Tree Protection Area and any other areas that are not to be disturbed.

22-505 Regulations

Regulations governing Tree Preservation/Replacement Plans are covered, but not limited to the following chapters in the Code of Ordinances:

40-5.8.2	General Requirements
40-5.8.3	Tree Preservation and Replacement Requirements
40-10.7	Tree Preservation/Replacement Plan Specifications
40-11.4.2	Tree Protection Areas

ARTICLE 6

PERMITS

22-601 Land Disturbance Permit

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.

22-602 Grandfathered Projects

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. In no event shall any grandfathered project be extended for a greater time period than 12 months from the date of enactment of this Ordinance.

22-603 Tree Preservation and/or Replacement Plan

A Tree Preservation and/or Replacement Plan is required for projects not exempt from the provisions of this Ordinance, and not included under section 22-603 below, a Tree Preservation and/or Replacement Plan shall be submitted along with the other documents required by the Development Regulations for the issuance of a Clearing, Grubbing, Grading, or Development Permit.

A. Review of Tree Protection and/or Replacement Plans

The Ordinance Enforcement Officer shall review Tree Protection and/or Replacement Plans and related documentation for conformance with the provisions of this Ordinance, along with and at the same time as all the other plans required for a requested Land Disturbance Permit or Building Permit under the provisions of the Development Regulations. The Ordinance Enforcement Officer may consult with the County Extension Service or Georgia Forestry Commission prior to action on each request.

B. Conformance

Clearing, grading, grubbing and development activities shall conform in all respects with the approved Tree Preservation and/or Replacement Plan. Any revisions to the proposed development of a property, and any changes reflected in a subsequently submitted permit application, shall be shown on a revised Tree Preservation and/or Replacement Plan and shall be approved as a part of the new or revised permit prior to the commencement of such changed activities.

ARTICLE 7

ENFORCEMENT, VIOLATION AND APPEALS

22-701 Enforcement

It shall be the responsibility of the Ordinance Enforcement Officer to enforce this Ordinance. The Ordinance Enforcement Officer shall have the authority to revoke, suspend, or void any clearing, 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 Preservation and/or Replacement Plan for the site.

A. Nothing in this Ordinance shall be deemed to impose any liability upon the City, or upon any of its officers or employees, nor to relieve the owner or occupant of any private property from the duty to keep trees and shrubs upon private property, or under his control, in a safe condition.

B. Nothing in this Ordinance is meant to restrict or limit the emergency powers of the governing authority or property owners in the event of emergency or natural disaster where life or property may be threatened.

22-702 Violation and Penalty

Any person charged with a violation of any provision of this Ordinance may, upon conviction in the Municipal Court of Berkeley Lake, be punished by a fine not to exceed \$500.00 or imprisonment not to exceed 60 days or both. Each day a violation occurs shall be considered a separate and distinct violation. Each tree removed or killed in violation of this Ordinance shall be considered a separate offense. The Court shall have the power and authority to suspend or modify any fine or sentence, and as a condition of said suspension, the Court may require payment or restitution or impose other punishment allowable by law which may include mandatory attendance at an educational program regarding tree preservation. The owner of any property where any violation exists, and any builder, contractor or agent who may have assisted in the commission of such violation, may be charged with a separate offense. Any person who receives a warning or citation shall have the right to appear before the City of Berkeley Lake Arbitration Board in accordance with Section 3-801 of the Code of Ordinances to attempt to resolve the alleged violation.

22-703 Appeal

Any applicant for or holder of an initial or subsequent Land Disturbance Permit who is aggrieved by a decision of the Ordinance Enforcement Officer relating to the application of this Ordinance shall have all rights of appeal through the Arbitration Board.

ARTICLE 8

ADOPTION

22-801 The provisions of any ordinance or resolution or parts of ordinances or resolutions in conflict herewith are repealed, save and except such ordinances or resolutions or parts of ordinances or resolutions which provide stricter standards than those provided herein.

ARTICLE 9

SEVERABILITY

22-901 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 this Ordinance in whole or in any part hereof other than the part so declared to be invalid.

ARTICLE 10

EFFECTIVE DATE

22-1001 This Ordinance shall be effective upon its adoption by the Council of the City of Berkeley Lake.

Appendix A1 Canopy Tree List

The City of Berkeley Lake hereby adopts the Canopy Tree List as contained in the Buffer, Landscape, and Tree Ordinance of Gwinnett, County as same may be amended from time to time.

Appendix A2 Understory tree List

The City of Berkeley Lake hereby adopts the Understory Tree List as contained in the Buffer, Landscape, and tree Ordinance of Gwinnett, County as same may be amended from time to time.

Adopted March 2001

TABLE A: CREDIT FOR EXISTING TREES *Conversion from Tree Diameter in Inches*

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

NOTE:

Tree diameter for existing trees is measured at 4.5 feet above the ground. Tree diameter fractions may be “rounded up” if 0.5 inches or greater, or “rounded down” if less than 0.5 inches.

TABLE B: CREDIT FOR REPLACEMENT TREES *Conversion from Tree Diameter in Inches*

<i>to Tree Density Units for Proposed Replacement Trees</i>	Units	Diameter	Units
Diameter			
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

NOTES:

Tree diameter for new replacement trees is measured at six (6) inches above the ground. Tree diameter fractions may be “rounded up” if 0.5 inches or greater or “rounded down” if less than 0.5 inches. Multi-trunked trees shall be given credit by measuring the single largest trunk only. Tree-form shrubs shall not be given credit. See graphic reference on pages X and A-11.