

City of Duluth

Gwinnett County

Atlanta MSA

2003 Population Estimate 23,697; +4.1% change from 2000 Census.

Tree City USA for 17 years.

No tree board established by ordinance.

Chapter 14 TREE PROTECTION

Year first adopted or last revised unknown.

Addresses private property.

Includes buffer and landscape requirements.

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Chapter 14 TREE PROTECTION*

***Editor's note:** At the discretion of the editor, Arts. 1--9 of an ordinance adopted April 26, 1993, have been codified herein as superseding the provisions of former Ch. 14, §§ 14-1--14-15, relative to tree protection. The provisions of said ordinance have been included herein within the substantive sections of Art. II, Divs. 1--9.

Cross references: Fire prevention and protection, Ch. 6; soil erosion and sedimentation control, Ch. 12.

Art. I. In General, §§ 14-1--14-50

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ARTICLE I. IN GENERAL

Secs. 14-1--14-50. Reserved.

ARTICLE II. BUFFER, LANDSCAPE AND TREE ORDINANCE

DIVISION 1. INTENT, PURPOSE AND TITLE

Sec. 14-51. Intent.

This ordinance shall apply to all properties or portions thereof located within the incorporated areas of Duluth, Georgia, to the extent of the provisions contained herein. The city council of the City of Duluth hereby finds that the protection and preservation of trees, the planting of new trees and other landscape material, and the provision of buffers between dissimilar uses as part of the land development process is a public purpose and provides for the public health and general welfare.

(Ord. of 4-26-93, Art. 1(1.1))

Sec. 14-52. Purpose.

(a) The purpose of this ordinance is to preserve and enhance the city's natural environment through tree protection and preservation, the planting of trees and other landscape material, and the provision of natural and/or planted buffers between dissimilar uses. The ordinance is intended to further the city's policy that all development sites where trees are most commonly removed will achieve upon project completion a uniform standard related to tree coverage, landscaping and buffers.

(b) This ordinance is also intended to further the city's policy of encouraging all individuals or firms who propose to develop land, and which are required to meet the requirements of this ordinance, to consider the use of water-efficient landscaping principles and techniques.

(Ord. of 4-26-93, Art. 1(1.2))

Sec. 14-53. Title.

This ordinance shall be known as "The Buffer, Landscape, and Tree Article of the City of Duluth, Georgia" and may be referred to generally as "The Buffer Ordinance," or "The Landscape Ordinance," or "The Tree Ordinance," or, as used herein, "this ordinance."

(Ord. of 4-26-93, Art. 1(1.3))

Secs. 14-54--14-60. Reserved.

DIVISION 2. DEFINITIONS

Sec. 14-61. Definitions of words and phrases.

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, supplemented by the following, shall apply:

Basal area: The cross-sectional area expressed in square inches, of a tree trunk at diameter breast-height (DBH) expressed herein in terms of "units" per acre.

Buffer: Land area used to visibly separate one use from another through screening and distance to shield or block noise, light, glare, or visual or other conditions, to block physical to nonsimilar areas, or to reduce air pollution, dust, dirt, and litter.

Caliper: A standard of trunk measurement for understory or replacement trees. Caliper inches are measured at the height of six (6) inches above the ground for trees up to and including four-inch caliper and twelve (12) inches above the ground for trees larger than four-inch caliper.

City: The City of Duluth, Georgia.

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

Clear cutting: The broad removal of all trees and/or vegetation from a particular area.

Conifer tree: Any tree with needle leaves and a woody cone fruit including, but not limited to, pine, juniper and cedar species.

Construction buffer: A type of buffer which is temporary and remains in effect during the construction of a project.

Critical root zone: The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient Critical Root Zone (CR) will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one (1) times the number of inches of the trunk diameter. Example: The CRZ radius of a twenty-inch diameter tree is twenty (20) feet.

Department: The city department of planning and development (P&D), as established by the city council, and as operated through the actions and administration of the appointed director of said department or his/her designee.

Density factor: A unit of measure used to prescribe the calculated tree coverage on a site. See Appendix B.

Developed residentially zoned single-family lot: A lot that has a residential zoning designation of R-75, R-100, R-200, PRD, PUD which has been developed with a single family residential structure and is exempt from this article.

Development activity: Any alteration of the natural environment which requires the approval of a development or site plan and issuance of a development permit. Development activity shall also include the "thinning" or removal of trees from undeveloped land in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

Development permit: A permit issued by the city that authorizes development activity, and includes, but is not limited to, a soil erosion permit, clearing and grubbing permit, land disturbance permit or building permit.

Development regulations: The adopted regulations providing for the subdivision and development of real property within the city, as amended from time-to-time by the city council.

Diameter breast height (DBH): The standard measure of overstory tree size (for trees existing on a site). The tree trunk is measured at a height of four and one half (4 1/2) feet above the ground. If a tree splits into multiple trunk below four and one half (4 1/2) feet measure the trunk at its most narrow point beneath the split.

Director: The director of the department of planning and development or his/her designee responsible for administrating the provisions of this article.

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.

Floodplain, 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 floodplain as shown on the Federal Emergency Management Agency Map (FEMA). (Available in the department of planning and development)

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

Grubbing: The removal of stumps or roots from a site.

Hardwood tree: Any tree that is not coniferous (cone bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Land disturbance permit: Any permit other than a building permit issued by the city that authorizes clearing or grading activities on a site or portion of a site. Said permit may be clearing, clearing and grubbing, grading, or development permit as defined an authorized under the development regulations.

Landscape architect: The agent or assignee of the city who is professionally qualified and duly licensed to perform landscape architectural services and having those primary responsibilities under this article, and charged with the responsibility for approval on as need basis of all landscape plans in the city as determined by the director of planning and development. The zoning compliance officer will be charged with the primary enforcement responsibilities if a violation of this article should occur.

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.

Lot building area: The area of a lot encompassed by front, sides and rear yard setbacks or building line as required by the city zoning ordinance and subdivision regulations.

Nondevelopment activity: Any alteration of the natural environment which does not require development or site plan approval, but which would include the proposed removal or destruction of any tree(s). Any removal of trees that constitutes development activity as that term is herein defined shall not constitute nondevelopment activity.

Overstory tree: Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of greater than forty (40) feet.

Pervious surface: All that area of land that can be landscaped or planted, allows natural passage through by water, and is not covered by man-made materials or structures such as buildings or paving.

Plantable area: The pervious surface area (expressed in square footage) available for the preservation or planting of trees on a single-family subdivision lot. Plantable area shall not include that portion of the lot that is covered by buildings and structures permitted pursuant to the maximum lot coverage standards of the city subdivision regulations.

Replacement planting: The planting of trees on a site that before development had more trees, and after development shall have less trees per acre.

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

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

Softwood tree: Any coniferous (cone bearing) tree. This definition is based on the

colloquialism, and does not necessarily reflect any true qualities of the tree.

Specimen tree: Any tree which has been determined by the city's landscape architect to be of high value because of its type, size, age, and or of historical significance, or other professional criteria, and has been so designated in administrative standards established by the city. This is usually a plant with desirable form, foliage, fruit, or flower that can be emphasized although isolated. See Appendix C on file in the office of the city clerk.

Timber harvesting: The felling, loading and transportation of timber products (pulpwood etc.). The term "timber harvesting" may include both clear cutting and selective cutting of timber.

Tree: Any living, self-supporting woody or fibrous plant which normally obtains a diameter breast height of at least three (3) inches, and typically has one (1) main stem or trunk and many branches.

Tree removal or removal of trees: Any act which causes a tree to die within two (2) years after commission of the act, including but not limited to damage inflicted upon the root system or trunk as the result of:

- (1) The improper use of machinery on the trees;
- (2) The storage of materials in or around the trees;
- (3) Soil compaction;
- (4) Altering the natural grade to expose the roots or to cover the tree's root system with more than four (4) inches of soil.
- (5) Causing the infection or infestation of the tree by pests, fungus or harmful bacteria.
- (6) Pruning judged to be excessive by the director or not in accordance with the standard set forth by the International Society of Arboriculture (ISA).
- (7) Paving with concrete, asphalt or other impervious surface within such proximity as to be harmful to the tree or its root system; and
- (8) Application of herbicides or defoliant to any tree without first obtaining a permit.

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

Tree density standard (TDS): The minimum number of tree density units per acre which must be achieved on a property after development.

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.

Tree planting list: The recommended species of trees listed in Appendix A, which is on file in the office of the city clerk.

Tree protection area (TPA): Any portion of a site wherein are located existing trees which are proposed to be preserved in order to comply with the requirements of this article. 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.

Tree preservation/replacement plan (TP/RP): A plan that identifies tree protection areas where existing trees are to be preserved and where proposed replacement trees are to be planted on a property to meet minimum requirements, as well as methods of tree protection to be undertaken on the site and other pertinent information.

Tree save area: An area designated for the purpose of meeting tree density

requirements, saving natural trees, and/or preserving natural buffers.

Tree thinning: Selective cutting or thinning of trees only for the clear purpose of good forestry management in order to protect said forest from disease or infestation and in no way shall be constructed as clear cutting.

Understory: Those trees that grown beneath the overstory, and will generally reach a mature height of under forty (40) feet.

Zoning buffer: A buffer required by the zoning ordinance or as a condition of zoning, special use or variance approval for a specific property.

Zoning ordinance: The adopted zoning ordinance of the city, as amended from time to time by the city council or any such ordinance not expressly superseding this ordinance.

(Ord. of 4-26-93, Art. 2(2.1); Ord. of 6-22-98; Ord. of 3-22-99; Ord. of 5-13-02)

Secs. 14-62--14-70. Reserved.

DIVISION 3. BUFFER REGULATIONS

Sec. 14-71. Applicability.

Buffer shall be required between uncomplimentary or uses in accordance with the provisions of the Zoning Ordinance or as a condition of zoning, special use or variance approval.

On properties where tree harvesting is proposed, all buffers as required in article 16 of the zoning ordinance shall remain intact and undisturbed. Any tree classified as a specimen tree as defined in this article shall not be removed from the property where tree harvesting is occurring without written approval of the planning director. The requirements of section 14-94.5 of the City Code shall remain in effect, but not limited to, notification and plan requirements.

(Ord. of 4-26-93, Art. 3(3.1); Ord. of 12-9-02)

Sec. 14-72. Standards for permanent buffers.

(1) *Width of buffers.* Buffers shall meet the minimum width requirements contained in the Zoning Ordinance, except as authorized to be reduced by the applicable buffer reduction process, as follows:

- (a) As specified in the Minimum Buffer Strip Requirement Table; or
- (b) As specified in a residential zoning district for a permitted nonresidential use (e.g. a church, temple, synagogue, etc.); or
- (c) As required by a condition of zoning, special use, or variance approval.

(2) *Screening requirements.*

- (a) Buffers shall be natural, undisturbed, and free of encroachments except as authorized by a condition of zoning, special use or variance approval, or as authorized herein, and shall contain the existing tree cover and vegetation as well as any supplemental plantings or replantings as may be required.
- (b) Buffers shall be of such nature and density so as to screen activities, structures and use on the property from view from the normal level of a first story

window on an abutting lot and shall further provide a year-round effective visual screening.

(c) Buffers required along side property lines shall extend to a street right-of-way line unless otherwise required by the director in order to observe the sight distance requirements contained in the development regulations, or as authorized by a condition of zoning, special use or variance approval.

(d) In situations where the required buffer width is partially or completely contained within an existing easement (e.g. power or natural transmission, etc.), the screening requirements of this ordinance shall be met outside of the easement area.

(3) *Supplemental plantings.*

(a) Buffers in which vegetation is non-existent or is inadequate to meet the screening requirements of this ordinance shall be planted with supplemental plantings so as to provide a year-round effective visual screen.

(b) Supplemental plantings and replantings shall consist of evergreen trees, shrubs, or combination thereof, native or adaptable to the region. All trees planted shall be a minimum of six (6) feet in height at time of planting and shall be a species which will achieve a height of at least twenty (20) feet at maturity. All shrubs planted shall be a large growing species, shall be a minimum of three (3) feet in height at time of planting and shall be a species which will achieve a height of at least ten (10) feet at maturity.

(c) All supplemental plantings shall be installed to allow for proper plant growth and maintenance.

(4) *Non-vegetative screening.*

(a) Non-vegetative materials utilized to satisfy the screening requirements of this ordinance, in addition to the use of existing vegetation and/or supplemental plantings, may consist of walls, fences, earthen berms or any combination thereof.

(b) If walls or fences are to be utilized, their placement and installation shall be such so as to cause minimal disturbance of existing vegetation and located so as to provide an effective visual screen.

(5) *Disturbance or encroachments.*

(a) Ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities, similar facilities, and any associated easements, shall not encroach into a buffer except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes) may encroach into the buffer as near to perpendicular as practical.

(b) Supplemental plantings or replantings of vegetation, or authorized non-vegetative screening devices shall be authorized to encroach into a buffer provided there is minimal disturbance of any significant existing vegetation.

(c) Land disturbance is authorized in areas of a buffer that are devoid of significant vegetation provided that the final grade and replantings of vegetation meet the screening requirements contained herein.

(d) Dying, diseased or dead vegetation may be removed from a buffer provided minimal disturbance occurs. Vegetation thus removed shall be replaced where necessary to meet the screening requirements contained herein.

(6) *Protection during land disturbing activities.*

(a) During authorized land disturbing activities, buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.

(b) The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the department.

(Ord. of 4-26-93, Art. 3(3.2))

Sec. 14-73. Standards for construction buffers.

(1) *Where required.* Construction buffers shall only be required where specifically provided as a condition of zoning, special use or variance approval.

(2) *Time constraints.* Construction buffers shall only be in effect during the construction period of a project and shall terminate upon project completion. In the case of a residential subdivision, a construction buffer shall terminate upon each individual lot with the issuance of a certificate of occupancy for the principal dwelling.

(3) *Disturbance or encroachments.*

(a) Construction buffers shall be natural, undisturbed and free of encroachments except as authorized by a condition of zoning, special use or variance approval, or as authorized herein.

(b) The encroachment of ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sediment basins, sanitary sewer conveyance facilities, similar facilities, and any associated easements, into a construction buffer shall not be authorized except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes), and natural bottom detention ponds (sediment basins must be located outside of the construction buffer) and their appurtenant structures which require no grading and removal of trees, may encroach upon the construction buffer.

(c) If the construction buffer on a residential lot is devoid of existing trees and vegetation, and a tree survey is submitted to document this situation prior to conducting land disturbing activities (including clearing) on the lot, then the department may authorize the encroachment of a building or structure into the construction buffer for a distance not to exceed ten (10) feet.

(4) *Protection during land disturbing activities.*

(a) During authorized land disturbing activities, construction buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.

(b) The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the department.

(Ord. of 4-26-93, Art. 3(3.3))

Secs. 14-74--14-80. Reserved.

DIVISION 4. LANDSCAPE REGULATIONS

Sec. 14-81. Applicability.

(1) *Nonresidential and multi-family uses.* Nonresidential and multi-family uses shall provide for landscape plantings on-site as follows:

(a) In a landscape strip at least ten (10) feet in width adjacent to any street right-of-way abutting the property and running the length of the entire property frontage; and

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

(2) *Residential subdivisions.* Residential subdivisions shall provide for landscape plantings on-site as follows:

(a) In no-access easements that are required to be provided by the development regulations along the line of double frontage lots abutting upon a major thoroughfare; and

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

(Ord. of 4-26-93, Art. 4(4.1); Ord. of 7-14-03)

Sec. 14-82. Landscape strip planting requirements.

(1) *Ten-foot wide landscape strips.* Landscape strips which are required to be ten (10) feet in width shall contain landscaping and plantings within said strip as follows:

(a) One (1) tree for each twenty-five (25) linear feet of strip length shall be provided. Each tree shall be at least six (6) feet in height at time of planting and shall be a species native or suitable to this region.

(b) One (1) shrub for each twenty-five (25) linear feet of strip length shall be provided. Each shrub shall be a species native or suitable to this region.

(c) Trees and shrubs required herein may be planted and spaced singly or in groups as authorized by the director as long as the total number of plantings is achieved.

(d) The remaining ground area shall be sodded, seeded or hydroseeded with grass, and/or planted with groundcover species and/or provided with other landscaping material, or any combination thereof.

(2) *Five-foot wide landscape strips.* Landscape strips which are required to be five (5) feet in width shall contain landscaping and plantings within said strip as follows:

(a) One (1) tree for each fifty (50) linear feet of strip length shall be provided. Each tree shall be at least six (6) feet in height at time of planting and shall be a species native or suitable to this region.

(b) One (1) shrub for each fifty (50) linear feet of strip length shall be provided. Each shrub shall be a species native or suitable to this region.

(c) Trees and shrubs required herein may be planted and spaced singly or in groups as authorized by the director as long as the total number of plantings is achieved.

(d) The remaining ground area shall be sodded, seeded or hydroseeded with grass, and/or planted with groundcover species and/or provided with other landscaping material, or any combination thereof.

(3) *Encroachment into landscape strips.* Required landscaped strips shall not be encroached upon by parking spaces, driveway surfaces or stormwater detention facilities except that driveway crossings may traverse such strip as near to a

perpendicular alignment as practical.

(Ord. of 4-26-93, Art. 4(4.2))

Sec. 14-83. Reserved.

Editor's note: An ordinance of July 14, 2003, amended the Code by repealing former § 14-83 in its entirety. Former § 14-83 pertained to off-street parking lot planting requirements, and derived from an ordinance of April 26, 1993.

Sec. 14-84. No-access easement screening requirements.

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

- (a) Planted with a single line of evergreen trees or shrubs; or
- (b) Contain a solid or decorative fence; or
- (c) Contain such other landscaping treatments or grade changes which will produce a partial screening effect as authorized by the director.

(Ord. of 4-26-93, Art. 4(4.4))

Secs. 14-85--14-90. Reserved.

DIVISION 5. TREE PRESERVATION AND TREE REPLACEMENT REGULATIONS*

***Editor's note:** An ordinance of June 22, 1998, amended the Code by repealing former Div. 5, §§ 14-91--14-95, and adding a new Div. 5, §§ 14-91--14-100.7. Former Div. 5 pertained to similar subject matter, and derived from an ordinance of April 26, 1993, Art. 5(5.1)--(5.5).

Sec. 14-91. Purpose and intent.

The city deems it necessary and desirable in the interest of public health, safety and welfare to enact an ordinance for the preservation, planting and replacement of trees and to prevent the indiscriminate removal of trees in the city without denying the reasonable use and enjoyment of real property. The importance of trees is recognized for their shade, cooling, noise and wind reduction, soil erosion prevention, oxygen production, dust filtration, carbon dioxide absorption, aesthetic and economic enhancement of all real property, and their contribution to the general well being and quality of life of the citizens of the city. Consistent with the expressed purpose of this division, all persons shall make reasonable efforts to preserve and retain certain existing, self-supporting trees as defined herein. It is also the intent of this division that all applicable sites within the city maintain or obtain a minimum tree density, as defined and explained herein.

(Ord. of 6-22-98)

Sec. 14-92. Exemptions.

- (a) The following shall be exempt from the provisions of this division:
- (1) The removal of trees from a developed residentially zoned, single-family lot.
 - (2) The necessary removal of trees by a utility company within dedicated utility easements provided alternative methods to trenching are used when possible including boring and tunneling (see example # 1).
 - (3) The removal of trees on public right-of-ways conducted by, on behalf of, or any activity pursuant to work to be dedicated to, a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public right-of-way.
 - (4) The removal of trees from golf courses, lakes, and detention ponds and drainage easements.
 - (5) The removal of any tree which has become or threatened to become a danger to human life or property or the removal of a diseased or infested tree to prevent the transmission of disease or infestation. The owner/developer, prior to removal of the diseased tree(s), shall notify the director prior to tree removal or submit a written finding by the county extension service or Georgia Forestry Commission recommending removal. In the case of immediate danger to life and property the tree may be taken down and an inspection requested to verify the condition of the tree.
- (b) Notwithstanding the foregoing, all reasonable efforts shall be made to save specimen trees.

(Ord. of 6-22-98)

Sec. 14-93. Approval letter required for nondevelopment activity (activity which does not require a building permit, etc.).

- (a) Except for routine or seasonal pruning or transplanting of trees, and except as exempted in section 14-92, no person shall engage in any nondevelopment activity as defined in section 14-61 without first obtaining an approval letter if the activity reduces the minimum tree density required in section 14-96. The request for an approval letter shall be submitted to the director and shall be, unless waived by the director, in the form of a brief written narrative stating the reason for proposed work and either a site sketch or photograph of the tree(s) proposed to be removed, identifying such tree(s) by size and species. The director, consistent with the purpose herein and not later than twelve (12) working days from the receipt of a complete request, shall inform the applicant whether such proposed tree removal has been approved and whether replanting will be required. If application is incomplete or denied, the director shall notify applicant in writing regarding the specific reason for denial.
- (b) The director shall generally issue an approval letter for the following provided a plan for replanting to meet the minimum tree density is submitted:
- (1) The removal of dead, substantially injured, damaged or diseased tree(s).
 - (2) The removal of trees within ten (10) feet to either side, front or rear of an existing authorized structure.

(Ord. of 6-22-98)

Sec. 14-94. Tree removal permit required for development activity.

No person shall engage in any development activity and no development permit shall be issued without first obtaining a tree removal permit from the director.

No person shall "clear cut" any parcels or combination greater than two (2) acres without specific plan approval during zoning or first obtaining a conditional use permit. Clear cutting of parcels less than two (2) acres shall not be allowed unless approved by the director, department of planning & development with clear evidence of necessity for development of the parcel.

(Ord. of 6-22-98)

Sec. 14-94.5. Notice requirement for tree harvesting; bond requirement.

(a) All persons or firms harvesting standing timber in any area within the corporate limits of the city for delivery as pulpwood, logs, poles, or wood chips to any wood yard or processing plant located inside or outside the state shall provide notice of such harvesting operations to the city administrator prior to cutting any such timber;

(b) Prior written notice shall be required of any person or firm harvesting such timber for each separate tract to be harvested thereby, and shall be in such form as prescribed by rule or regulation of the director of the state forestry commission, and shall consist of:

(1) A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;

(2) A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under the O.C.G.A. § 48-5-7.5;

(3) The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and

(4) The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber;

(c) Written notice may be submitted in person, by transmission of an electronic record via facsimile, or by mail;

(d) Any persons or firms subject to such notice requirement specified within this section shall deliver a valid surety bond to the city in the amount of five thousand dollars (\$5,000.00), executed by a surety corporation authorized to transact business in this state, protecting the city, as applicable, against any damage caused by such person or firm as a result of such harvesting. A valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in O.C.G.A. § 7-1-4 in the amount of the required bond may be provided in lieu of the bond. For purposes of this subsection, any such surety bond shall be valid only for the calendar year in which delivered;

(e) Notice shall be effective for such harvesting operation on such tract within the city upon receipt of the same by the city administrator and compliance with the requirements of subsection (d) of this section and until such time as the person or firm giving such

notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the city administrator within three business days after such change;

(f) Upon receipt by the city administrator of the notice required by this section regarding timber-harvesting operations to be conducted in whole or in part within the corporate limits of the city, the city administrator shall transmit a copy of such notice to the governing authority of the county;

(g) Violation of the notice requirements of this section shall be punishable by a fine of five hundred dollars (\$500.00). Such violation shall be cited by the city administrator or other authorized agent of the city and shall be under the jurisdiction of the city municipal court;

(h) This section shall be effective on its date of adoption;

(i) Any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant located inside or outside this state shall not be required to obtain any permit for such harvesting or hauling of forest products as described in this section, including without limitation any permit for any new driveway in connection with timber harvesting operations; provided, however, that this subsection shall not otherwise limit the authority this city to regulate roads or streets under its jurisdiction in accordance with O.C.G.A. tit. 32. Nothing in this section shall be construed to waive compliance with any other applicable zoning or development regulations governing the use or development of the property on which the timber harvesting is being conducted.

(Ord. of 10-28-02)

Sec. 14-95. Application requirements.

(a) When a person applies for a development permit as defined in section 14-61, such person shall also file an application for a tree removal permit and provide the following information:

(1) A complete tree survey and inventory, as described in section 14-98.

(2) An integrated site plan showing specimen trees, the trees to be saved and those to be removed, utilities to be installed, grading, the approximate location of all structures, driveways and curb cuts and proposed tree plantings and other landscaping.

(3) A detailed plan to protect and preserve trees before, during and for a period of two years (2) after construction, which plan shall contain the following information:

a. All items found on the erosion and sedimentation control submittal checklist pertinent to normal plan review.

b. Site area (roads, utility lines, detention ponds, etc.).

c. The locations of existing and proposed structures, paving, driveways, cut and fill area, detention areas, etc.

d. Phase lines or limits of construction.

e. A delineation of all protected zones with any required dimensions.

f. Calculations showing compliance with the required site density factor using existing trees, replacement trees, and/or contributions to the city

tree replacement fund or tree bank (See Density Factor Analysis, Appendix B, on file in the office of the city clerk).

- g. Location of all existing and proposed utility lines or easements.
- h. Locations of any boring sites for underground utilities.
- i. Locations of all specimen trees and indications whether they are to be removed or preserved.
- j. Locations of all tree protection devices, materials to be used in each location and details.
- k. A delineation of a tree save area in which trees have been inventoried for density calculations.
- l. If applicable, locations and details of all permanent tree protection measures (tree wells, aeration system, permeable paving, retaining walls, bollards, etc.); and
- m. Additional information as required on a case-by-case basis.

(The above items may be integrated into the normal application requirements and submittals.)

- (b) Minor additions to existing development require only a sketch showing changes to be submitted to the director for review and approval.

(Ord. of 6-22-98)

Sec. 14-96. Minimum tree density requirements.

(a) All sites within the city other than single-family residential lots shall maintain a minimum tree density of twenty (20) units per acre. The term "unit" is an expression of basal area as defined herein, and is not synonymous with "tree". The density requirements must be met whether or not a site had trees prior to development. The density may be achieved by counting existing trees to be preserved, planting new trees in accordance with the minimum standards of this division, or some combination of the two. Minimum tree density shall be calculated and established pursuant to the formula and analysis set forth in Appendix B to this division. The developer shall be subject to the minimum tree density requirement set forth in this paragraph, but the developer shall base its density calculations on the net site area excluding the infrastructure improvements (roads, utility lines, detention ponds, etc.). In no event shall a parking lot be considered an infrastructure improvement.

A required buffer shall not be counted towards tree density. Tree save areas may be counted in overall density for up to a fifty (50) percent credit on individual lot requirements for residential lots.

(b) All single-family residential lots being developed as a subdivision in the city shall maintain a minimum tree density based upon the maximum number of trees that can be maintained within twenty (20) percent of the lot's plantable area, taking into consideration the standards established in this division for tree size and separation. The density requirement must be met whether or not the individual lot had trees prior to development. (See Appendix D, on file in the office of the city clerk.)

(c) Replanting lots shall be at the ratio of not less than one (1) overstory tree (minimum two-inch caliper) for every three (3) understory trees (minimum one-inch caliper).

(d) Notwithstanding the foregoing, it is required that all reasonable efforts be made to save specimen trees. (Reasonable efforts shall include, but not be limited to, alternate building design, building location, parking area layout, parking area location, water retention location and the like.)

(e) Tree save areas are encouraged and will be given credit of up to fifty (50) percent individual lot requirements when the number of trees in the tree save area is equal to or greater than the total number of trees required on the total number of lots within the subdivision. When a fifty (50) percent reduction on required trees is taken, the balance of the trees shall be planted in the front yard of the individual residential lots.

(f) Specimen trees and stands of trees must be replaced by species with potentials for comparable size and quality. Tree replacement in addition to the minimum site tree density may be required in recompense for the removal of specimen trees. Refer to Appendix C on file in the office of the city clerk. Species selection is subject to the approval of the planning director after consulting with the city's landscape architect.

(Ord. of 6-22-98; Ord. of 10-26-98; Ord. of 5-13-02)

Sec. 14-97. Alternative compliance methods.

The intent of this division is to insure that a minimum density of trees is maintained on all developed sites. Occasionally, this intent can not be met because a project site will not bear the required density of trees. To provide some alternatives in such cases, two (2) alternative methods of compliance may, at the discretion of the director, be approved: for planting at a location remote from the project site; or contributing to the city tree replacement fund (tree bank).

The following standards have been established for administering these alternative compliance methods. The Director or his designee must review and approve all requests for alternative compliance. In no instance shall one hundred percent (100%) 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.

No permit shall be issued until the director has approved the request and received the necessary documentation and/or funds. If trees are to be planted at another location, the off-site location should be as close as reasonably possible in the city as the project site and a tree replacement plan meeting all applicable standards must be reviewed and approved.

If a replacement fee to the city tree replacement fund is approved, the amount of the donation shall be established by the director or his designee. The amount of the donation shall be based upon the number, size and type of trees that cannot be planted at the site. The director shall estimate the cost to the city for the materials, labor and three-year maintenance requirements associated with the trees. The amount of the donation shall be one hundred (100) percent of the estimated costs of the average of two (2) bids from reputable landscape contractors for the materials and planting trees on public property.

(Ord. of 6-22-98)

Sec. 14-98. Tree survey plan and inventory.

(a) The tree survey as required in section 14-96 shall be in the form of a to-scale map or a site plan prepared and sealed by a registered surveyor or certified engineer, arborist or landscape architect, noting the location of all trees (as described in paragraph (b) below) within the area to be modified from its natural state and twenty-five (25) feet

beyond in each direction or to the property line, whichever is less. (See example #2, on file in the office of the city clerk.)

(b) All specimen trees and all trees that are to be counted toward meeting density requirements must be shown on the survey and inventoried by size (caliper or DBH, whichever is applicable) and species.

(c) Sampling methods may be used to determine tree densities for forested (over five (5) acres). Specimen trees must be shown on the plan with an indication whether they are to be retained or removed. All tree protection zones (see example #3, on file in the office of the city clerk) and tree save areas must be delineated on the plan. All buffers with existing trees must be delineated on plans as tree save areas. Land disturbance within any buffer is subject to department of planning and development approval.

(Ord. of 6-22-98; Ord. of 10-26-98)

Sec. 14-99. Tree survey inspection.

Following the receipt of the completed tree removal application and supporting data, the director or his designee shall schedule and conduct an inspection of the proposed development site. The applicant or his designee shall be advised as to the date and time of the inspection and given an opportunity to participate. Following inspections, the director, consistent with the purposes of this division, shall advise the applicant of any recommended changes in the applicant's proposed tree removal, protection or replanting plans.

(Ord. of 6-22-98)

Sec. 14-100. Tree removal permit.

(a) The director shall review all applications and supporting data and take one (1) of the following actions: Approve, approve with conditions or disapprove.

(b) The issuance of a tree removal permit does not authorize any development activity until such time as appropriate development plan approval is granted and a permit issued.

(c) Tree removal and replacement shall begin no later than one hundred eighty (180) days after issuance of the permit and shall be completed no later than two (2) years after the issuance of the permit. The director may refuse to issue any permit for tree removal until the submission of all development plans and receipt of other evidence satisfactory to the director that there is a reasonable certainty that the development activity is imminent. One (1) renewal of a permit at no additional fee shall be granted if a reasonable request is made.

(d) No certificate of occupancy shall be issued until all requirements of the tree planting have been satisfactorily completed.

(Ord. of 6-22-98)

Sec. 14-100.1. Tree protection.

(a) The cleaning of equipment, storage of materials or dirt, disposal of waste material such as paint, oil solvent or other harmful substances, or any other such act which may be harmful to the continued vitality of the tree(s) within the tree protection area, is prohibited.

(b) Prior to commencement of any grading, construction or tree removal, a tree protection area for any tree located within twenty-five (25) feet of any proposed grading, construction or tree removal must be established by physical barrier and maintained until such work is completed.

(Ord. of 6-22-98)

Sec. 14-100.2. Tree preservation standards.

Prior to any tree removal or commencement of construction on a site, the following system shall be used:

(1) *Location and types of tree protection devices.*

a. Tree protection devices are to be installed as shown on the plan or otherwise completely surrounding the critical root zone of all the trees to be preserved (see definitions section 14-61 and example #4, on file in the office of the city clerk).

b. The plan shall indicate whether the tree protection device is to be active or passive.

c. Active protection (see material section below) is required where tree save areas are located in proximity to construction activity.

d. Passive protection (see material section below) may be used in more remote locations and in all protected zones not designated as tree save areas.

e. The locations and installation of all tree protection devices will be verified prior to the issuance of the construction permit for clearing and/or grading. All tree protection devices must be maintained intact throughout construction.

f. Once protected zones are established and approved, any changes are subject to the department of planning and development review.

(2) *Materials.*

a. Active tree protection shall consist of chain link, orange laminated plastic, wooden post, and rail fencing or other equivalent restraining material. In addition to fencing, where tree trunks are in jeopardy of being damaged by equipment, the director shall require two-inch by four-inch boards to be strapped around the trunks of trees. In addition, where active tree protection is required, each tree to be saved shall be marked at the base of the trunk with blue colored water-based paint.

b. Passive protection shall consist of heavy mil. plastic flagging, a minimum of four (4) inches wide with dark letters on a bright background reading "Tree Protection Area -- Do Not Enter" or equivalent signage on a continuous, durable restraint.

(3) *Sequence of installation and removal.* All tree protection devices shall be installed prior to any clearing, grubbing or grading. The department of planning and development must inspect the installation of tree protection, erosion and sedimentation control devices prior to the issuance of the tree removal permit. Tree protection must remain in functioning condition until the certificate of occupancy is issued.

(Ord. of 6-22-98)

Sec. 14-100.3. Tree damage.

Any tree designated in the plan to be saved that is damaged during construction, or as a result of such construction, shall be treated according to accepted National Arborists Association standards, or replaced with a tree(s) equal to the unit value of the tree removed. However, any specimen tree damaged as described above shall be replaced with a tree(s) two (2) times the unit value of the tree removed.

(Ord. of 6-22-98)

Sec. 14-100.4. Tree planting standards.

(a) Unless otherwise approved by the director, trees selected for replanting to comply with minimum requirements must be on the tree planting list. Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure to reasonable expectation of survivability. Standards for transplanting shall be in keeping with those established in the International Society for Arboriculture publication *Trees and Shrubs Transplanting Manual* or similar publication. Reference the American Association of Nurserymen publication *American Standard for Nursery Stock* (ANSI Z60, 1973) for plant material quality specifications. Reference the Manual of *Woody Landscape Plants* (Michael Dirr, 1983, Castle Books) or similar publication for information on tree species site requirements.

(b) It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. Accordingly, the replanted trees shall be of the same or similar species as those removed when practical.

(c) All replanted overstory trees shall be at least six (6) feet tall and have a trunk of not less than two (2) caliper inches. All replanted understory trees shall be at least four (4) feet provide sufficient growing area for planted trees, the following minimum criteria growing area for planted trees, the following minimum criteria must be observed unless otherwise approved by the director.

Overstory trees: Two hundred (200) square feet of pervious root zone.

Understory trees: Seventy five (75) square feet of pervious root zone.

However, The Director may grant a variance up to thirty (30) percent of the root zone for impervious area.

(Ord. of 6-22-98)

Sec. 4-100.5. Tree removal compliance inspection.

(a) Following the issuance of a tree removal permit for the development site, the director or assignee shall from time to time inspect the site for the purpose of certifying compliance with the requirements of the tree removal permit. In the event of noncompliance, the director or assignee may revoke or modify the tree removal permit, and may withhold or revoke or modify the tree removal permit pertaining to the development. No certificate of occupancy shall be issued until actual compliance is obtained.

(b) If any required tree removal conditions have not been met within the time specified

in the tree removal permit, and provided the director has not granted a written extension, the city may use the cash or bond proceeds to insure that these conditions are met. Provided the director required such a bond to be posted for compliance assurance.

(c) After development is complete, the director or assignee shall continue to make random inspections to insure that required trees are maintained. Replacement shall be required or bond/letter of credit posted within thirty (30) days of notice by the director should any of these trees die, be removed or be destroyed within two (2) years after completion of development.

(d) Notwithstanding any other provision of this article to the contrary a home builder's responsibility to replace a newly planted tree or trees shall terminate upon the issuance of a certificate of occupancy provided that an inspection conducted immediately prior to the issuance of the certificate of occupancy confirms that the replanted tree or trees are planted properly as established in the ISA (International Society of Arboriculture) standards, and are healthy and free of pests and disease. Nothing in this article shall be deemed to eliminate any other obligation the home builder may have pursuant to any private agreement between the home builder and home owner, or any agreement between the home builder and home owner, or any restrictive covenants that are applicable to the property.

(e) It is the responsibility of the property owner to properly maintain trees, shrubbery, etc. that could interfere with or cause obstructions on the public right-of-way or other public property. If deemed a public hazard, the city may elect to have the obstruction removed. (See examples #5 and #6, on file in the office of the city clerk.)

Sec. 14-100.6. Approval letter fee; permit fee.

The fee for review of a request for an approval letter and the fee for review of an application for a tree removal permit (which only applies to development activity) shall be as stated in the city fee ordinance. These fees may be revised from time to time by resolution of the city council, or delegated to the director to be administratively established and revised from time to time.

(Ord. of 6-22-98)

Sec. 14-100.7. Tree preservation.

Every property owner or occupant shall be responsible for the normal care of trees located on such property. Every property owner or occupant with the exception of single-family zoned properties shall be subject to the following restrictions:

- (1) Willful injury or disfigurement or any tree growing within the city shall be a violation of this article (see example #7, on file in the office of the city clerk).
- (2) No person shall:
 - a. Attach any sign, notice or other object to any tree or fasten any wires, cables, nails or screws to any tree in a manner that could prove harmful to the tree, except as necessary in conjunction with activities in the public interest.
 - b. Pour any material on any tree or on nearby ground which could be harmful to the tree.
 - c. Cause or encourage any unnecessary fire or burning near or around any tree.

- d. Construct a concrete, asphalt, brick or gravel sidewalk, significantly compact the soil, place fill material, or so as to cut off air, light, or water from the roots of the tree so as to adversely impact the tree's root system.
- e. Pile building material or equipment around any tree so as to cause injury thereto.
- f. Improperly shear, prune, top, or round over or otherwise disfigure any tree located on public property or use said trees on public property in calculations in meeting minimum density and buffer requirements.

(Ord. of 6-22-98)

DIVISION 6. PLAN AND PLAT SPECIFICATION

Sec. 14-101. Water-efficient design consideration.

- (1) *Policy.* It is the policy of the City of Duluth to encourage individuals or firms who prepare the plans and plats required by this ordinance to consider the use of water-efficient landscaping principles and techniques as one of the criterion to be used in plant selection and design.
- (2) *Principles and techniques of water-efficient landscaping.* The recommended principles and techniques to be considered are as follows:
 - (a) *Proper location and design:* Locating plants where they will naturally thrive and not require excessive water and maintenance to survive, as well as grouping plants by water needs, and limiting and concentrating high water using plants.
 - (b) *Turf selection:* Selecting turf grasses that can survive the variable rainfall conditions in this region, and limiting turf areas.
 - (c) *Efficient watering:* Once plants are established, avoid watering during periods of normal rainfall and during droughts, watering every week to ten (10) days or less depending on the drought tolerance of the plants.
 - (d) *Soil improvements:* Loosening and breaking up the soil beyond the immediate planting area to allow better water absorption and to promote deep roots.
 - (e) *Mulching:* Using mulch to hold moisture in the soil which helps maximize the benefits of watering as well as preventing weeds.
 - (f) *Plant selection:* Selecting plants according to their watering requirements and optimum locations.
 - (g) *Maintenance:* Maintaining the landscape to maximize water conservations such as increasing mowing heights and avoiding fertilizing during dry spells.

(Ord. of 4-26-93, Art. 6(6.1))

Sec. 14-102. Buffer and landscape plan specifications.

The following subsections and paragraphs outline the required elements of the plants and plats mentioned throughout this ordinance.

- (1) A buffer and landscape plan shall be prepared for any project wherein

buffer areas or other landscaping areas or treatment are required by this ordinance, the Zoning Ordinance, conditions of zoning, special use or variance approval, or other regulations of the City of Duluth, and shall be approved prior to issuance of a development permit. While the plan shall cover, at a minimum, the required buffer and landscape areas, the plan can be combined with a general landscaping plan for the entire project and/or tree preservation/replacement plan (if required), at the developer's option.

(2) The buffer and landscape plan shall be shown on a site plan or boundary survey drawn to the same or a larger scale as the other plan documents prepared for the development permit application and shall cover the same area.

(3) The buffer and landscape plan shall contain but need not be limited to the following:

(a) Project name and land district, land lot, and acreage.

(b) Developer's name and telephone number.

(c) The name, address and telephone number of the registered 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). The performance of professional services in the preparation of plans required herein shall comply with Georgia Law governing the practice of the applicable profession.

(d) Boundary lines of each buffer or other landscape area, appropriately labeled.

(e) Delineation of undisturbed buffer areas, and any other areas wherein trees are proposed to be retained to meet city requirements, along the driplines of the trees or groups of trees contained therein. These areas shall be treated in accordance with the tree protection area requirements contained in this ordinance, and labeled as such. Protective barriers and signage as required by this ordinance shall be shown as to location and detailed.

(f) General location of all proposed trees, shrubs, vines, groundcovers, mulching, and other features proposed within the buffer/landscape area. A scale sufficient to clearly indicate all details shall be used, along with a north arrow.

(g) Within areas involving or adjacent to land form changes, existing and finish grade topographic lines at an interval of no more than two (2) feet may be required.

(h) For new plant materials to be installed, a plant material list including but not limited to:

1. Common and botanical names of all proposed plants.
2. Plant quantities.
3. Size and condition of plants. (Example: one (1) inch caliper, six (6) feet height, bailed and burlapped).
4. Spacing.
5. Remarks as necessary to insure proper plant selection upon installation. (Example: Specimen, multitrunked).

(Ord. of 4-26-93, Art. 6(6.2))

Sec. 14-103. Tree preservation/replacement plan specifications.

(1) Tree preservation/replacement plans shall be prepared by a professional landscape architect, urban forester, or arborist in accordance with the specifications for such plans contained herein. The performance of professional services in the preparation of plans required herein shall comply with Georgia Law governing the practice of the applicable profession. Other licensed professionals (e.g. architects, engineers, etc.) may be authorized by the director to prepare tree preservation plans, but not tree replacement plans, provided that they demonstrate, to the satisfaction of the director, competency and knowledge in the principals and practices of arboriculture.

(2) The tree preservation/replacement plan shall be shown on a copy of a preliminary plat, concept plan or site plan, with the exception of a permit to conduct tree thinning, 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 preservation/replacement 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 preservation/replacement plan shall contain but need not be limited to:

(a) Project name, land district, land lot, 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, arborist or other authorized individual responsible for preparation of the plan, in accordance with the requirements of subsection 14-103(1) above, 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, special use of variance approval.

(e) Total acreage of the site and total acreage exclusive of all zoning buffer areas.

(f) Delineation of all areas located within a 100-year floodplain.

(g) 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. Groups 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.

(h) 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 area signs or other pertinent signage.

(i) If replacement trees are proposed to be planted in order for the property to achieve the required tree density standard, the replacement 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.

(j) 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 subsection 14-93(2), paragraph (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.

(Ord. of 4-26-93, Art. 6(6.3))

Secs. 14-104--14-110. Reserved.

DIVISION 7. COMPLIANCE

Sec. 14-111. Artificial materials prohibited.

All artificial plants, trees, shrubs, grass or other vegetation shall be prohibited from fulfilling the requirements of this ordinance.

(Ord. of 4-26-93, Art. 7(7.1))

Sec. 14-112. Warranty or maintenance surety.

Upon final installation of new trees, shrubs or other landscape material planted to meet the requirements of this ordinance, and following acceptance by the department in accordance with the procedures set forth in the development regulations, the owner shall either provide proof of warranty or post a maintenance bond or other acceptable surety, warranting the new trees, shrubs or landscape material for a period of no less than one (1) year.

(Ord. of 4-26-93, Art. 7(7.2))

Sec. 14-113. Inspection.

(1) The department shall perform an inspection of the plantings and landscape materials required by this ordinance prior to expiration of the one (1) year warranty or maintenance period. The owner shall be notified of any replacements or restoration that must be made to maintain compliance with this ordinance or conditions of zoning, special use or variance approval.

(2) Required landscape material found to be dead or near death shall be replaced prior to release by the department of the warranty of maintenance surety. In no case shall replacement be delayed greater than thirty (30) days from notification unless a performance bond is posted with the department.

(Ord. of 4-26-93, Art. 7(7.1))

Sec. 14-114. Performance surety.

(1) *Compliance prior to certificate of occupancy or final plat approval.* In the event that new trees proposed to be planted to achieve the tree density standard as set forth in the tree regulations contained herein, or other trees or landscape material required to be planted as set forth in the buffer regulations or landscape regulations contained herein, are not installed upon application for a certificate of occupancy or final plat approval as appropriate to the project, then a performance bond or other acceptable surety in an amount equal to one hundred ten (110) percent of the value of new trees or landscape material and their installation shall be posted with the department in accordance with the performance bonding requirements and provisions of the development regulations.

(2) *Compliance upon permit completion or expiration.* Properties where a permit is issued to conduct land disturbing activities that do not require the issuance of a certificate of occupancy or the approval of a final plat, or said activities as authorized are completed or the permit expires, shall comply with the tree density standard of this ordinance as follows:

(a) *Clearing, clearing and grubbing, or grading only permits.* Replacement trees proposed to be planted to achieve the tree density standard of this ordinance which are not planted upon completion or prior to expiration of a clearing, clearing and grubbing, or grading permit, shall be planted within thirty (30) days of the completion or expiration of said permit unless a performance bond is posted with the department.

(b) *Development permits.* Replacement trees proposed to be planted to achieve the tree density standard of this ordinance which are not planted upon completion or prior to expiration of a clearing, clearing and grubbing, or grading permit, shall be planted within thirty (30) days of the completion or expiration of said permit unless a performance bond is posted with the department.

(Ord. of 4-26-93, Art. 7(7.4))

Sec. 14-115. Continuing maintenance.

(1) The owner, occupant, tenant, and respective agent of each, if any, shall be jointly and severally responsible for the perpetual maintenance and protection of buffers and

landscape plantings required by this ordinance.

(2) The department is hereby authorized to order diseased, infested, dying, dead or damaged landscaping required herein to be replaced.

(3) Buffers that, over a period of time, lose their screening ability shall be replanted to meet the requirements of this ordinance.

(4) Replacement trees and landscaping shall be in accordance with the applicable provisions of this ordinance.

(Ord. of 4-26-93, Art. 7(7.5))

Secs. 14-116--14-120. Reserved.

DIVISION 8. ENFORCEMENT, VIOLATION AND PENALTIES

Sec. 14-121. Enforcement.

It shall be the responsibility of the department to enforce this ordinance. The director or his/her 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 preservation/replacement plan for the site.

(Ord. of 4-26-93, Art. 8(8.1))

Sec. 14-122. Violation and penalty.

Any person violating provision of this ordinance shall be guilty of violating duly adopted ordinance of the City of Duluth, and upon conviction by a court of competent jurisdiction, may be punished either by a fine not to exceed one thousand dollars (\$1,000.00), or confinement in the city jail not to exceed sixty (60) days, or both. Each day of non-compliance shall constitute a separate offense. 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.

(Ord. of 4-26-93, Art. 8(8.2); Ord. of 10-24-94)

Sec. 14-123. Appeals and waivers.

(1) *Variance from the Zoning Ordinance.* The preservation of trees may be considered as a condition peculiar to a piece of property in support of a request for a variance from the literal application of the provision of the Zoning Ordinance, under the procedures and requirements contained therein.

(2) *Appeals.* Appeals of the interpretation of the requirements of this ordinance by the director shall be filed and processed in accordance with the appeal procedures as set

forth in the development regulations.

(3) *Waivers.* Waiver requests of the requirements of this Ordinance shall be filed and processed in accordance with the waiver procedures as set forth in the development regulations.

(Ord. of 4-26-93, Art. 8(8.3))

Secs. 14-124--14-130. Reserved.

DIVISION 9. ADOPTION AND AMENDMENT

Sec. 14-131. Repeal clause.

The provisions of any ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are repealed.

(Ord. of 4-26-93, Art. 9(9.1); Ord. of 10-24-94)

Sec. 14-132. 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.

(Ord. of 4-26-93, Art. 9(9.2))

Sec. 14-133. Amendment.

This ordinance may be amended from time to time by resolution of the City Council of the City of Duluth. Such amendments shall be effective as specified in the adopting resolution.

(Ord. of 4-26-93, Art. 9(9.3))

Sec. 14-134. Effective date.

This ordinance shall become effective upon its adoption.

(Ord. of 4-26-93, Art. 9(9.4))

**TABLE A.
SUMMARY OF APPLICABILITY AND EXEMPTIONS**

TABLE INSET:

Project Type	Type of Construction	Applicability
One- and two-family dwellings	Building permit	Exempt (14-91(1))

Grandfathered projects	Any property included within the limits of a LDP approved prior to the effective date of this article, and remaining portion of a project where seventy-five (75) percent of area has already been included in LDP's approved prior to December 21, 1987 which was effective date of the Tree Ordinance	Exempt (14-91(2))
Horticultural or agricultural operations	Land clearing for clearly agricultural purposes, including timber harvesting, in RA-200 zoning district, plant or tree nurseries, orchards	Exempt (14-91(3))
Diseased or infested trees	Removal upon advice and written finding of county extension service or Georgia Forestry Commission	Exempt (14-91(4))
Residential and nonresidential subdivisions	Land disturbance limited to areas needed for streets, drainage and utilities	TP/RP not required* (14-92(3)(a))
	Land disturbance beyond areas needed for streets, drainage, and utilities	TP/RP required (14-92(2))
	Building permit for the construction of one- and two-family dwellings	Exempt (14-91(1))
	Recreation area	TP/RP required (14-92(3)(a))
Multifamily and nonresidential sites	Clearing or clearing and grubbing, only, limited to areas outside of all minimum yards, buffers and one-hundred-year floodplain	TP/RP not required*, ** (14-92(3)(b))
	Clearing or clearing and grubbing only, proposing disturbance within a minimum yard or one-hundred-year floodplain	TP/RP required (14-92(2))
	Grading or development permit	TP/RP required (14-92(2))
	Building permit	Covered by TP/RP as approved by LDP (14-92(2))

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

** Additional areas may be designated by P&D to remain undisturbed based on land use plan.

(Ord. of 4-26-93)

**TABLE B.
CREDIT FOR EXISTING TREES**

Conversion From Tree Diameter in Inches to Tree Density Units for Trees Remaining on Site

TABLE INSET:

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Diameter	Units	Diameter	Units	Diameter	Units	Diameter	Units
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: For the purpose of this article, 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.

Note: For the purpose of this article, tree diameter fractions may be "rounded up" if 0.5 inches or greater or "rounded down" if less than 0.5 inches.

(Ord. of 4-26-93)

**TABLE C.
CREDIT FOR REPLACEMENT TREES**

Conversion From Tree Diameter in Inches to Tree Density Units for Proposed Replacement Trees

TABLE INSET:

Diameter	Units	Diameter	Units
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 article, 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.

Note: For the purpose of this article, tree diameter fractions may be "rounded up" if 0.5 inches or greater or "rounded down" if less than 0.5 inches.

Note: Multi-trunked ornamental tree shall be given credit by measuring the single largest trunk only. Tree-form shrubs shall not be given credit.

(Ord. of 4-26-93)