

STATE OF GEORGIA
COUNTY OF FULTON

First Reading: July 22, 2019
Second Reading: August 26, 2019

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE SECTION 12.1
TREE PROTECTION TO CLARIFY WHEN TREE PROTECTION SURVEYS, TREE
PROTECTION PLANS, AND TREE REMOVAL APPLICATIONS ARE REQUIRED TO
BE SUBMITTED, AND TO DEFINE THE PROCESS FOR EVALUATING PENALTIES
FOR UNPERMITTED REMOVAL OF SPECIMEN TREES**

WHEREAS, the City of Roswell is a Georgia municipal corporation; and

WHEREAS, the Mayor and Council are the governing authority of the city; and

WHEREAS, the Mayor and Council have determined that it benefits the health, safety and/or welfare of the citizens of Roswell to amend the Unified Development Code (UDC); and

WHEREAS, The City finds that the regulations contained in this Unified Development Code (UDC) are necessary for the purposes of implementing its 2030 Comprehensive Plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

WHEREAS, this Unified Development Code (UDC) have been prepared and considered in accordance with the zoning procedures law, O.C.G.A. 36-66;

NOW, THEREFORE, the Mayor and Council of the City of Roswell, Georgia, pursuant to their authority, do hereby amend the Unified Development Code (UDC), which is incorporated by reference.

1.

The Mayor and Council hereby amend the Unified Development Code by amending Sections 12.1.1, 12.1.2, 12.1.3, and 12.1.4 to read as follows:

Sec. 12.1. Tree Protection

12.1.1. General Provisions

- A. Purpose and Intent. The purposes of the following tree protection requirements are to:
1. Provide standards for the preservation of trees as part of the land development process;
 2. Protect trees during construction and land development whenever possible in order to enhance the quality of life within Roswell;
 3. Protect specimen trees while providing for reasonable use of land; and
 4. Promote a healthy urban forest.

B. Applicability

1. The tree protection requirements of this UDC apply to any activity that requires a review under Article 13, except as specifically exempted in Sec. 12.1.1.C. below.
2. No Land Disturbance Permit may be issued until it is determined that the proposed development conforms with the tree protection requirements of the UDC.
3. No person may remove, cause to be removed, poison, damage, trim or transplant any tree with a trunk diameter of 3 inches in diameter at breast height (DBH) which normally attains a mature height of 15 feet or more without first obtaining a permit as provided in this UDC.

C. Exemptions. The tree protection requirements that protect specimen trees apply to all properties. While the following activities are exempt from the remaining tree protection provisions, a tree removal permit application is required to demonstrate the exemption applies.

1. The removal of trees other than specimen trees from any lot of less than 1 acre in size and which contains or is zoned and platted or to be platted for purposes of constructing a detached house or attached house.
2. The removal of trees from horticultural properties such as farms, nurseries, orchards or tree harvesting.
3. The removal of trees by a utility company within dedicated utility easements, where necessary to install, remove, repair, or maintain utilities within the easement.
4. The removal of trees on public rights-of-way by or on behalf of any federal, state, county, municipal, or other government agency with jurisdiction, where necessary to lawfully construct, maintain, repair or improve public rights-of-way.
5. The removal of trees, other than specimen trees, from detention ponds and drainage easements where necessary for the construction, maintenance, or operation of detention ponds or drainage improvements within drainage easements.
6. The removal of any tree which has become or threatens to become a danger to human life or property, as determined by the City Arborist.
7. The removal of trees less than 3 inches DBH where no Land Disturbance Permit is required.

12.1.2. Tree Protection Survey and Plan

A. Tree Survey Required

1. Survey Required. A tree survey must be submitted to the City Arborist as part of any application that requires review under Article 13.
2. Survey Requirements. The tree survey must be in the form of a map drawn to scale or a site plan prepared and sealed by a registered land surveyor, registered professional engineer, registered landscape architect, an arborist certified by the International Society of Arboriculture, or a registered forester.

3. Natural Features. Important natural features such as streams, stream buffers and wetlands must be shown on the tree survey.
 4. Specimen Trees. All specimen trees and their critical root zones and drip lines must be labeled, even if the tree trunk is not on the subject property, and must be shown on the tree survey and inventoried by size and species. This includes specimen trees to be preserved as well as those proposed for removal, if any, and the portion of critical root zones and drip lines of trees on abutting properties which are contained within the subject property, to the extent that drip lines and critical root zones can be determined from the vantage point of the property to be developed. This provision does not authorize trespassing on private property abutting the site.
 5. Other Trees To Be Retained. All other trees to be counted toward meeting tree density unit requirements must be shown on the survey and inventoried by size and species. Only trees of 3 inches DBH or greater are eligible for tree density unit compliance purposes. Trees to be retained must be designated as tree save areas, including their drip line and critical root zones.
 6. Trees To Be Removed. Trees other than specimen trees that are proposed to be removed are not required to be counted and shown individually on the tree survey. Such trees may be estimated in number, size and species and quantified as part of the total site inventory of tree population.
 7. Sampling. Sampling methods may be used to determine tree densities for forested areas over 2 acres with approval of the City Arborist.
 8. Tree Save Areas. All tree save areas must be delineated on the tree survey. All buffers with existing trees must be delineated as tree save areas. Land disturbance within any buffer must be approved by the City Arborist.
 9. List and Tree Density Unit Calculations. The tree survey must provide an accurate list of trees to be saved and their tree density units.
- B. Tree Survey Inspection. Within 10 working days following the receipt of a tree survey, the City Arborist will conduct an inspection of the proposed development site. The applicant will be advised as to the date and time of the inspection and given an opportunity to attend and observe the inspection. Following inspection, the City Arborist will advise the applicant in writing or on the survey of any recommended changes to the applicant's tree survey.
- C. Tree Protection Plan Required. A tree protection plan must be submitted to the City Arborist as part of any application that requires review under Article 13.
- D. Tree Protection Plan Specifications. A tree protection plan is a detailed plan designed to protect and preserve trees before, during and for a period of 2 years after issuance of a Final Certificate of Occupancy, including the following:
1. Separate Drawing. The tree protection plan must be submitted as a separate drawing unless the City Arborist approves the combination of tree protection plan with a tree replacement plan on a single drawing.
 2. Boundary Survey. The tree protection plan must be submitted on a current boundary survey of the proposed site, drawn to scale, and clearly show all information required in this paragraph.

3. Tract Identification. The plan must identify the tract of land involved by acreage and location.
 4. Owner and Contact. The name, address and phone number of the owner of the land and the name, address and phone number of any tenant of the property, and 24-hour emergency contact phone number
 5. Trees To Be Protected. The type, location and size in DBH of all trees to be protected. Only trees designated on the approved tree protection plan will be counted toward meeting the minimum required tree density requirements.
 6. Specimen Trees. Location, species, size, critical root zone, and drip line for specimen trees proposed to be protected or removed. Where a critical root zone or drip line for a tree on abutting property is proposed to be protected, it must be included in the tree protection plan.
 7. Tree Save Areas and Clearing Limits. All natural areas to be retained and buffers must be included in a tree save area.
 8. Tree Protection Methods. Methods of tree protection for all tree save areas, including tree fencing, erosion control, retaining walls, tunneling for utilities, aeration systems, transplanting, staking, signage, geoweb or similar material, permeable paving, bollards, and similar methods, must be included in the tree protection plan.
 9. Development Characteristics. The plan must identify the location of roads, existing and proposed structures, paving, driveways, cut and fill areas, drainage before and after construction including detention areas, and similar aspects of the proposed project that may affect tree protection.
 10. Justification for Removal. Provide a written explanation as to why specimen tree(s) cannot be retained on the site in accordance with Section 12.1.3 Tree Removal.
 11. Utilities and Easements. The plan must include the location of all existing and proposed utility lines or easements, including the location of any boring sites for underground utilities.
 12. Tree Density Units. Calculations showing the trees to be retained to meet minimum required tree density units must be included in the plan.
 13. Irrigation Systems. The tree protection plan must indicate any irrigation systems.
 14. Additional Information. Additional information may be required on a case-by-case basis by the City Arborist.
- E. City Arborist Authority. As part of a tree protection plan, the City Arborist may require relocation or replacement of trees as uniformly as possible throughout the site. The City Arborist may also require the use of active tree protection fencing for any or all tree save areas.

12.1.3. Tree Removal

A. Applicability

1. The tree removal provisions apply to any person removing trees, as well as any person removing trees on behalf of any other person, including all tree removal companies, utility companies or persons in the business of removing trees or construction.
2. It is unlawful for any person or company to remove any tree or undertake any work for which a Land Disturbance Permit is required unless a valid permit is in effect and displayed on the site.
3. Where any such work or removal is performed without the permit being displayed, the removal or work constitutes a violation and will subject the person or company violating this UDC in accordance with Sec. 13.14.
4. Utility companies may conduct emergency work without formal approval; provided, however, that emergency actions are reported in writing to the City Arborist within 3 working days after completion of all emergency services. Further, the permit taken by any person, company or utility may include defined areas of tree cutting and trimming under one permit.

B. Removal of Specimen Trees. No specimen tree may be removed except in accordance with the following requirements.

1. Justification for Removal. Any applicant proposing to remove a specimen tree must apply for a tree removal permit. In addition to the requirements for tree removal permits, the applicant must provide a written explanation as to why the specimen tree cannot be retained on the site. This description must include a description of alternative site plans considered to avoid the removal of the specimen tree. The written explanation must at minimum include the following:
 - a. Consideration of whether any buildings or structures, parking areas, stormwater facilities, utilities, driveways, or other features of the proposed development can be relocated or designed to retain the specimen tree, and the additional costs of redesign, if any.
 - b. Consideration of whether the land area consumed by the proposed development can be reduced via decked parking, reduction of the footprint of a building or structure by increasing the height or number of stories, placement of stormwater facilities underground, and other appropriate means, to retain the specimen tree, and the additional costs involved in the surface area modifications, if any.
2. Engineering Director Approval. The Engineering Director will approve or deny the application to remove a specimen tree, after review and recommendation from the City Arborist. The Engineering Director may issue a permit to remove one or more specimen trees after finding that one or more of the following conditions are met:
 - a. The written analysis provides convincing evidence that alternative site and building designs have been considered by the applicant, but would not result in retention of the specimen tree.

- b. The additional cost associated with developing the site or constructing buildings as redesigned or reducing the site area consumed to retain one or more specimen trees would be disproportional to the value of the specimen tree retained, calculated at \$100 per tree density unit.
 - c. Where more than one specimen tree is proposed to be removed, the site design results in the minimum number of specimen trees removed that are necessary to accommodate the proposed development.
 - d. The request to remove one or more specimen trees is reasonable considering the remaining specimen trees on the site that will be retained.
 - e. A variance to the district dimensional requirements may be an appropriate remedy to preserve a specimen tree. Where, in the opinion of the Zoning Director, one or more variances would enable a site and building design to be accomplished while saving one or more specimen trees, and where the objectives of tree protection would outweigh the purposes of the dimensional requirements that would be varied, the Zoning Director may suggest an applicant apply for variances instead of proposing to remove one or more specimen trees. A determination by the Zoning Director that one or more variances to the dimensional requirements would not be appropriate may support a finding by the Zoning Director in favor of granting approval to remove one or more specimen trees.
3. Fee in Lieu of Specimen Tree Preservation
- a. If removal of a specimen tree is approved by the Engineering Director, then prior to issuing the tree removal permit, the applicant must contribute to the Roswell Tree Bank an amount of \$500 for each tree density unit of the specimen trees removed.
 - b. Where a specimen tree was removed without or prior to a lawfully issued tree removal permit, the amount contributed to the Roswell Tree Bank must be \$1,000 per tree density unit of the specimen trees removed. For purposes of calculating tree density units of specimen trees removed, if the applicant is not able to provide a tree survey documenting sizes in DBH of trees removed without a tree removal permit, then the sizes of trees removed shall be determined by measuring the diameter of the remaining tree stumps or if no stumps are present an average of 20-inches in DBH shall be presumed for each tree removed. If the applicant is unable to submit a report by a certified arborist documenting the condition of the trees removed, then each tree removed will be considered to be in fair or better condition.
 - c. The tree removal permit must not be issued or the specimen tree removed until funds are received for deposit in the Roswell Tree Bank.
 - d. Any contribution for specimen trees is in addition to any contribution required in Sec. 12.1.7.

4. Credit for Planting Trees. Contributions to the Roswell Tree Bank may be reduced by planting trees. Credit may be approved by the City Arborist for newly planted trees of 4-inch caliper or greater located on the subject site, where the planting is above and beyond the minimum site density requirement.
- C. Removal of Non-Specimen Trees
 1. Tree removal is not allowed where soil erosion or runoff problems will occur due to topography, soil type, or proximity to floodplain or river protection areas; or if the removal will substantially alter the existing soils adversely with regard to runoff and erosion. Information submitted by the Engineer Director or other environmental specialist may be used by the City Arborist in such an evaluation.
 2. Removal of non-specimen trees from a site may be allowed at the discretion of the City Arborist when:
 - a. The tree is located in an area where a structure or improvement will be placed, and the tree cannot be relocated on the site because of age, species or size;
 - b. The tree is diseased or structurally unsound;
 - c. The tree is injured or poses an imminent danger;
 - d. The tree interferes with existing utility service; or
 - i. The tree creates an unsafe vision clearance for vehicular movement.
- D. Site Clean-Up Required. All tree removal companies, utility companies or persons in the business of removing trees or construction must remove from the site any trees, stumps, limbs or debris caused by tree removal activities.

12.1.4. Variances and Appeals

- A. Applicants with a hardship imposed by the standards for tree protection may seek a variance to the standards (see Sec. 13.11.).
- B. Applicants dissatisfied with a staff decision regarding tree protection may appeal the decision to the Board of Zoning Appeals (see Sec. 13.12.).

2.

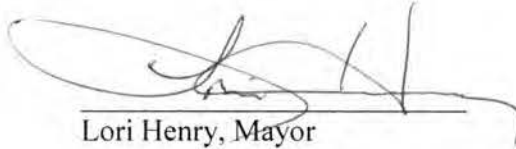
Severability. Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

3.

Repeal of Conflicting Provisions. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

This Ordinance shall take effect and be in force upon adoption, the public welfare demanding it.

The above Ordinance was read and approved by the Mayor and Council of the City of Roswell, Georgia, on the 26th day of August 2019.


Lori Henry, Mayor

Attest:


Marlee Press, City Clerk
(Seal)



9. Approval of a text amendment to the Unified Development Code (UDC) regarding Sections 4.3.5, 5.3.7, and 6.3.2 - Townhouse and Open Space. (Second Reading)

Ordinance No. 2019-08-27

The second reading of this text amendment was approved which will amend Sections 4.3.5, Townhouse, 5.3.7, Townhouse and 6.3.2, Townhouse, of the Unified Development Code (UDC), with the following language:

1.

Amend Section 4.3.5, Townhouse, Number 1, Lot, Lot Dimensions of the UDC to change the following:

Letter F. Change Common open space to Landscape open space.

2.

Amend Section 5.3.7, Townhouse, Number 1, Lot, Lot Parameters of the UDC to change the following:

Letter F. Change Common open space to Landscape open space.

3.

Amend Section 6.3.2, Townhouse, Number 1, Lot, Lot Dimensions of the UDC to add the following:

Letter F. Landscape open space (min) 20%.

RESULT:	APPROVED ON SECOND READING [UNANIMOUS]
MOVER:	Michael Palermo, Councilmember
SECONDER:	Matt Judy, Councilmember
IN FAVOR:	Judy, Palermo, Tyser, Willsey, Zapata

10. Approval of a text amendment to the Unified Development Code (UDC), Section 12.1 Tree Protection. (Second Reading)

Ordinance No. 2019-08-28

The second reading of the text amendment was approved with changes to the following sections:

12.1.1 - Tree Protection - General Provisions including Purpose and Intent; Applicability; and Exemptions

12.1.2 - Tree Protection Survey and Plan including Tree Survey Required; Tree Survey Inspection; Tree Protection Plan Required; Tree Protection Plan Specifications; and City Arborist Authority

12.1.3 - Tree Removal including Applicability; Removal of Specimen Trees; Removal of Non-Specimen Trees; and Site Clean-up Required

12.1.4 - Variances and Appeals

RESULT:	APPROVED ON SECOND READING [UNANIMOUS]
MOVER:	Michael Palermo, Councilmember
SECONDER:	Matt Judy, Councilmember
IN FAVOR:	Judy, Palermo, Tyser, Willsey, Zapata

9. Approval of a text amendment to the Unified Development Code (UDC) regarding Sections 4.3.5, 5.3.7, and 6.3.2 - Townhouse and Open Space. (Second Reading)

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Letter F. Landscape open space (min) 20%.

RESULT: APPROVED ON SECOND READING [UNANIMOUS]

MOVER: Michael Palermo, Councilmember

SECONDER: Matt Judy, Councilmember

IN FAVOR: Judy, Palermo, Tyser, Willsey, Zapata

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12.1.3 - Tree Removal including Applicability; Removal of Specimen Trees; Removal of Non-Specimen Trees; and Site Clean-up Required

12.1.4 - Variances and Appeals

RESULT: APPROVED ON SECOND READING [UNANIMOUS]

MOVER: Michael Palermo, Councilmember

SECONDER: Matt Judy, Councilmember

IN FAVOR: Judy, Palermo, Tyser, Willsey, Zapata