

ARTICLE II. - TREES ^[2]

Sec. 114-26. - Purpose and intent.

Community trees provide many environmental, social, and economic benefits. In addition to the aesthetic value of trees, they protect the environment and improve health by reducing carbon dioxide and introducing oxygen into the air. Furthermore, trees reduce soil erosion due to storm water runoff, conserve energy by providing shade, and serve as protective buffers between varying zoning classifications, as well as provide benefits to property values, business revenues, scenic quality, urban design, human health and well-being, outdoor recreation, and wildlife. Therefore, the purpose of this ordinance is to sustain and enhance the functions and benefits of trees and the community forest for the citizens of Moultrie, Georgia and to utilize trees for all of their positive aspects.

It is hereby declared that trees within the city are both an economic and aesthetic asset to the city. The fostering of positive public attitudes toward the value of trees and green space to the community warrants directed public education efforts. It is further declared that existing trees are in need of protection and qualified maintenance, and that measures should be undertaken to promote the planting of additional trees.

(Ord. No. 2009-61, § 1, 7-7-2009)

Sec. 114-27. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boundary tree means any tree that has any part of its trunk located on two or more properties or property lines other than property of the City of Moultrie or rights-of-way. Ownership of, and responsibility for, a boundary tree shall be shared equally by the owners of all properties upon which any portion of its trunk grows. Trees with branches encroaching on a property with items other than a trunk, i.e.: limbs, leaves, fruit, etc. are not considered boundary trees.

Buildable area means that portion of a site that development may or does occur.

Caliper means the diameter or thickness of the main stem of a young tree or sapling as measured at six inches above ground level. This measurement is used for nursery-grown trees.

City of Moultrie Tree means any tree whose trunk is growing wholly or partially on land owned by City of Moultrie, including, but not limited to, public street rights-of-way, parks, and building and facility yards.

Clearing means the removal of a tree that has a diameter of four inches or greater measured at the height of six inches above the ground.

Critical root zone means a more or less circular area above and extending 24 inches below the ground around the trunk of a tree with a radius equivalent to the distance to the drip line, or one and one-quarter feet for every one inch in diameter-at-breast height (DBH), whichever is greater. The critical root zone increases in size as a tree grows larger and serves as the tree protection zone.

Diameter-at-breast height (DBH) means a standard measurement of tree size and is a tree trunk diameter measured in inches at a height of 54 inches above the ground. If a tree splits into multiple trunks below 54 inches, the trunk is measured at its most narrow point beneath the split. Measurements of one-half-inch or more are rounded to the higher DBH.

Drip line means a line extending down to the ground from the greatest horizontal extent of a tree's branches, more or less forming a cylinder around the tree.

Exceptional tree means any tree determined by the tree committee, as provided for herein, to be of notable historic interest, high aesthetic value or of unique character because of species, type, age, location, or size.

Imminently dangerous tree means a tree that shows extensive signs of insects or disease, infections, wounds or other mechanical damage, decay, or structural defects; an unhealthy tree that may pose a threat to property and/or safety.

Ownership of any tree shall be determined by the location of its trunk. If the entire trunk is located solely on one property, the property owner(s) shall be deemed the owner(s) of the tree.

Re-planting means the replacement of trees to meet the minimum requirements of this article.

Scaffolding branches means the large main limbs that diverge from the trunk of a tree and support the remainder of the branches and leaves.

Shade tree means a large or medium tree with a crown size and shape that will typically provide significant shade and beneficial effects on temperature, air quality, water quality, and other environmental conditions, at maturity. Synonymous with "canopy tree."

Structural defects means defects to a tree and may include, but are not limited to: severed or damaged roots greater than two inches in diameter within the critical root zone; signs of previous topping or other improper pruning practices resulting in decay or a structural defect; longitudinal cracks in the trunk; wounds that encompass greater than one-third of the circumference of the trunk; trunk cavities equal to or greater than two-thirds of the trunk diameter at the point of the cavity; cracks, wounds, or cavities of one or more of the scaffold limbs resulting in a structural defect that cannot be corrected to ensure a safe or healthy condition; and any other defect that cannot be corrected through standard arboricultural practices.

Tree means any wooded plant that has a single trunk with a diameter of four inches or greater when measured at a point six inches above the ground and which normally obtains a height of at least ten feet at maturity.

Tree bank means a monetary fund, written agreement, or other approved activity, as deemed appropriate by the committee, used for tree plantings or tree replacements throughout the city. The tree bank should be utilized for mitigation plans when necessary.

Tree stand means a contiguous grouping of trees.

Unhealthy tree means a tree demonstrating one or more signs of loss of vigor and decline, as indicated by atypical leaf color, recurring short annual shoot extension, or severe insect or disease infestation, or with damage or structural defects.

(Ord. No. 2009-61, § 2, 7-7-2009; Ord. No. 2011-106, §§ 1, 2, 10-18-2011)

Sec. 114-28. - Tree committee.

- (a) *Created; membership.* There is hereby created the Moultrie Tree Committee to serve the purpose and intent of [Chapter 114](#), Article II, of Part II Code of Ordinances as follows:
- (1) The committee shall consist of 11 members and shall include a member of city council, the city manager, the planning and community development director, and the main street director.
 - (2) The other members shall be appointed by the city council, and it is recommended that they include a member of the Moultrie-Colquitt Planning Commission, a member of the local state conservancy chapter, a representative of the chamber of commerce, a member of the board of realtors, a member of the local garden club and a member of a forestry service or his or her designee.
 - (3) In making appointments, the city council shall seek to appoint individuals with expertise in landscape

design, horticulture and related areas of knowledge.

- (b) *Terms; reappointment.* The terms of the members shall be for two (2) years. Members may be reappointed at the discretion of the city council. In order to achieve staggered terms, in 2011 appointments shall be: Six members for one year and five members for two years.
- (c) *Compensation.* The members shall serve without compensation.
- (d) *Cooperation with city departments.* The committee shall cooperate with and coordinate activities with all departments of the city, and all departments of the city shall cooperate with the committee.
- (e) *Election of chairman.* Each year the committee shall elect a chairman who shall be a voting member of the committee.
- (f) *Calling of meetings.* A meeting may be called by the elected chairman or two committee members.
- (g) *Quorum.* Six members of the committee shall constitute a quorum.
- (h) *Donations.* The committee is empowered to accept donations from individuals, groups, civic associations and governmental organizations to further the purpose of the committee, but shall not obligate the city without prior consent.

(Ord. No. 2009-61, § 3, 7-7-2009)

Sec. 114-29. - Cutting, trimming or removing trees; application required; actions by tree committee.

- (a) Except as otherwise provided, no person shall cut, remove, trim or in any way damage any City of Moultrie Tree or shall create any condition injurious to any such tree without having first made a written application to the committee and having obtained advance written permission from the committee. The committee shall take action on the application within 45 days of its receipt. The form of application shall be established from time to time by the committee, and the committee may delegate to one or more of its members or officers the power to grant such permission in accordance with standards set by it. The committee may, in its discretion, hold public hearings on any application and may approve all or any part of an application upon such terms and conditions as the committee may fix. In considering any application before it, the committee shall base its decision on whether the public and private benefit that will result from granting the application outweighs the public and private benefit that will result from denying it.
- (b) The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to safety and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. The tree committee shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. Owners will be afforded a hearing before the committee prior to removal, if the owners so desire. Failure to act within the 60-day period shall prompt further action by the committee in accordance with [section 114-37](#)
- (c) When any tree is encroaching on city property or rights-of-way and it is determined that more than fifty (50) percent of its diameter-at-breast height (DBH), as determined by the City of Moultrie Engineering Department or a licensed engineer or surveyor, is located on property not owned by the city, the city shall have the right to cause the removal of said tree(s). The tree committee shall notify in writing the owner(s) of such tree(s) and removal shall be done by said owner(s) at their own expense within 60 days after the date of service of notice. Owners will be afforded a hearing before the committee prior to removal, if the owner(s) request same in writing within 15 days of notification. Failure to request a hearing within the time required or to act within the 60-day period shall subject the owner(s) to the penalties contained in subsection [114-37\(c\)](#).
- (d) Any tree determined to have more than fifty (50) percent of its diameter-at-breast height (DBH), as determined by the City of Moultrie Engineering Department or a licensed engineer or surveyor, located on property not owned by the city, shall be cut, trimmed or removed by said owner(s) at their own expense and any and all maintenance to said tree shall be the responsibility of its owner(s).
- (e) Except as otherwise provided herein, no boundary tree shall be removed unless and until all owners have signed an agreement for the removal and sharing the cost. The owners may split the cost and pay for the removal or one owner may reimburse the other. Regardless, no removal or maintenance of the tree is deemed the responsibility of one party over the other. If a boundary tree becomes diseased or dies, any owner thereof may have the tree removed over objection from the remaining owner(s). In the case of a

diseased or dead boundary tree the owner who opts for the removal is the responsible party for payment, but may submit a bill to the other property owner(s) or seek reimbursement for their pro rata share as determined by the number of property owners of the boundary tree.

- (f) Subsection 114-29(a) shall not apply to local power, cable and telephone companies, and their agents, or when other emergency situations with respect to the maintenance of utility rights-of-way exist. However, these agencies should follow procedures and tree maintenance techniques in accordance with the American National Standard for Tree Care Operations A300 dated June 1, 1995. A copy of which is available at the planning and community development department.

(Ord. No. 2009-61, § 4, 7-7-2009; Ord. No. 2011-106, §§ 3—6, 10-18-2011)

Sec. 114-30. - City departments granted emergency powers.

Departments of the city are granted emergency powers with respect to cutting, trimming, or removing trees in order to restore the delivery of city services following service interruptions. Departments of the city are granted emergency powers with respect to cutting, trimming, or removing dead or imminently dangerous trees. The tree committee will be notified of all emergency tree removals at their next regularly scheduled meeting.

(Ord. No. 2009-61, § 5, 7-7-2009)

Sec. 114-31. - Procedure for land clearing or land disturbance permits.

- (a) Before any land clearing or land disturbing activities can begin on any parcel of land (excluding one- and two-family dwellings), the land owner or an authorized agent must make application for an erosion and sediment control plan review, along with the notice of intent as required by the State of Georgia Environmental Protection Division. A copy of the application and the state-required fee for local governments should be turned into the planning and community development department.
- (b) An additional local application should accompany plans that must adhere to the specifications of the City of Moultrie Zoning Ordinance. This plan must be approved before land clearing procedures or land disturbing activities commence. This plan can be part of the building construction plans.

(Ord. No. 2009-61, § 6, 7-7-2009)

Sec. 114-32. - Tree replacement and removal for new developments and redevelopments greater than 50 percent.

- (a) All new development and redevelopment of property shall have a number of trees equivalent to 15 tree units per acre of development site. (Not including land area covered by buildings.) All properties less than one acre shall have a minimum number of trees equivalent to seven units. Where trees must be added to achieve the required 15 tree units per acre of development site one species may not comprise more than 25 percent of the required units. Where existing pines already comprise 50 percent or more of the required units any additional pines planted will not be credited toward the required tree units per acre.

Example: A 19-inch DBH tree has a tree density equaled to two units. Four two-inch caliper replacement trees at .5 per tree would also equal two tree density units. Therefore, a tree that has a DBH of 19 inches would be replaced with four replacement trees that have a two-inch caliper.

- (b) The committee shall direct replacement with suitable trees in suitable locations on property of the city in those situations where trees have been removed. City of Moultrie Suggested List of Shade Quality Trees is a list of trees approved and adopted by the Moultrie Tree Committee that includes tree species approved for planting(s) throughout the City of Moultrie to satisfy the requirements of this chapter. Said list shall be on file in the planning and community development department.
- (c) Prior to any new development and redevelopment of property an application must be filed with and approved by the committee or their designee in writing.
- (d) The provisions of this section shall not apply to one- and two-family dwellings.

(Ord. No. 2009-61, § 6, 7-7-2009)

Sec. 114-33. - Tree units.

Chart 114-33A shows the conversion from DBH to density factor for trees to remain on-site. These trees should be measured at 54 inches, with 15 tree units per acre required.

CHART 114-33A

DBH	UNITS	DBH	UNITS	DBH	UNITS
1-4	.1	22	2.6	37	7.5
5-7	.3	<u>23</u>	2.9	<u>38</u>	7.9
8-9	.5	<u>24</u>	3.1	39	8.3
10	.6	<u>25</u>	3.4	40	8.7
11	.7	26	3.7	41	<u>9.2</u>
12	.8	<u>27</u>	4.0	<u>42</u>	9.6
13	.9	28	4.3	43	10.0
14	1.1	29	4.6	44	10.6
15	1.2	<u>30</u>	4.9	45	11.0
16	1.4	31	5.2	<u>46</u>	11.5
17	1.6	32	5.6	47	12.0
18	1.8	33	5.9	48	12.6
19	2.0	<u>34</u>	6.3	49	13.1
20	2.2	35	6.7	50	13.6
<u>21</u>	2.4	36	7.1		

Chart 114-33B shows the conversion from caliper to density factor units for replacement trees. These trees are nursery plants measured at six inches.

CHART 114-33B

CALIPER	UNITS	CALIPER	UNITS
1	.4	8	1.3
2	.5	9	1.5
3	.6	10	1.7
4	.7	11	1.9
5	.9	12	<u>2.1</u>
6	1.0	13	2.3
7	1.2	14	2.5

(Ord. No. 2009-61, § 7, 7-7-2009)

Sec. 114-34. - Exceptional tree criteria.

- (a) A tree may be declared an exceptional tree if it is in fair or better condition and capable of delivering at least 75 percent of foliage to the scaffolding branches that equals or exceeds the following diameter sizes: Large trees 40 feet or more in height at maturity, e.g. oaks, hickories, yellow poplars, sweetgums, long leaf pine, sycamore, etc. with a 20 DBH.
- (b) Tree stands may be declared exceptional tree stands if they consist of a contiguous grouping of trees which are in fair or better condition and that is capable of delivering at least 75 percent of foliage to the scaffolding branches based on the following criteria:
 - (1) A stand with purity of species composition or of a rare or unusual nature;
 - (2) A stand of historical significance; or,
 - (3) A stand with exceptional aesthetic quality.

- (c) Before any exceptional tree or exceptional tree stand may be removed, an application must be filed with and approved in writing by the committee or their designee.
- (d) A less size tree can be considered exceptional if it is of a rare or unusual species or of exceptional quality or of historical significance.
- (e) The provisions of this section shall not apply to one- and two-family dwellings.

(Ord. No. 2009-61, § 8, 7-7-2009)

Sec. 114-35. - Maintenance, protection, and replacement.

- (a) All pruning of trees shall be in accordance with the American National Standard for Tree Care Operations A300 dated June 1, 1995 and a copy of which shall be maintained in the planning and community development department.
- (b) Tree protection devices are necessary to eliminate activities detrimental to trees including but not limited to:
 - (1) Soil compaction in the critical root zone resulting from heavy equipment, vehicular or excessive pedestrian traffic or storage of equipment or building materials;
 - (2) Root disturbance due to cuts, fills, or trenching;
 - (3) Wounds to exposed roots, trunks or limbs by mechanical equipment; and,
 - (4) Other activities such as chemical storage, cement truck cleaning, fire, etc.
- (c) All required trees shall be maintained in good condition at all times. When necessary, dead trees shall be replaced in accordance with the provisions of this chapter and within a time period appropriate to the growing season of the species in question. Replacement trees must last at least two years.

(Ord. No. 2009-61, § 9, 7-7-2009)

Sec. 114-36. - Variances.

Except as otherwise provided in this chapter, where practical difficulties, unnecessary hardships, and results inconsistent with the purpose and intent of this chapter may result from the strict application of certain provisions thereof, variances may be granted by the Moultrie Tree Committee. In considering a variance the Moultrie Tree Committee may impose conditions to protect the best interests of the surrounding property and property owners, the neighborhood, or the community as a whole and consistent with the purpose and intent of this article.

- (1) *Application.* All requests for variances shall be heard by the Moultrie Tree Committee upon written application. Such application shall be accompanied by:
 - a. A tree management plan prepared in accordance with the City of Moultrie Zoning Ordinance;
 - b. A statement and evidence demonstrating that the following criteria are met:
 - 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, character, topography;
 - 2. The application of the provisions from this article to the particular piece of property would create an unnecessary hardship;
 - 3. The benefits of granting the variance will be greater than any negative impacts on adjacent uses and will further the purpose and intent of this chapter;
 - 4. The special conditions and circumstances on the site do not result from the actions of the applicant; and,
 - 5. The variance requested is the minimum variance that will make possible the legal use of the land, building or structures; and,
 - c. A proposed mitigation plan that offsets the effects of the proposed variance during site preparation, construction and post-construction phases. Specific plans using mitigation measures such as the tree bank should be noted during the variance proceedings.
- (2) The committee may grant waivers from any or all of the above provisions or may establish guidelines for the granting of waivers by its designee. Waivers shall not be granted except in cases of extreme hardship (excluding financial hardships).

(Ord. No. 2009-61, § 10, 7-7-2009)

Sec. 114-37. - Penalties and violations.

- (a) Any person or entity that unnecessarily removes a tree deemed an exceptional tree shall pay a fine in such amount as set by resolution of the city council for exceptional tree removed.
- (b) Any exceptional tree removed without authority from a development site must be replaced with a replacement tree or trees of equal units. This is in addition to the 15 tree unit per acre requirement.
- (c) Any person who shall violate the provisions of this article shall be guilty of an offense against the City of Moultrie punishable with the same as any other offense against the city in accordance with the provisions of [section 1-9](#) of this Code.

(Ord. No. 2009-61, § 11, 7-7-2009)

FOOTNOTE(S):

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Editor's note— Ord. No. 2009-61, §§ 1—11, adopted July 7, 2009, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 114-26—114-38, pertained to similar subject matter. See the Code Comparative Table for complete derivation. ([Back](#))

RESOLUTION

WHEREAS, the City of Moultrie amended its Vegetation ordinance on July 7, 2009; and,

WHEREAS, the City of Moultrie adopts a resolution regarding fees set forth within the Vegetation ordinance.

NOW, THEREFORE, be it resolved by the Mayor and Council of the City of Moultrie and it is hereby resolved by authority of the same that the following penalty / fee be and is adopted by the City Council pursuant to Chapter 114, et. Seq. of the Code of Ordinances, Moultrie, Georgia:

Removal of Exceptional Tree(s)	\$	1,500.00 each tree
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Unanimously adopted in regular session this 15th day of May, 2012

Mayor

Clerk