

**STATE OF GEORGIA
CITY OF BERKELEY LAKE**

ORDINANCE NO. O-54-07

AN ORDINANCE TO AMEND CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE TO DELETE SECTIONS 201, 702 AND 703 IN THEIR ENTIRETY AND TO ADD NEW SECTIONS 201 AND 702; TO PROVIDE FOR PERMANENT UNDISTURBED BUFFER REQUIREMENTS; TO PROVIDE FOR LIMITED PLANTING PERMITTED, NO STRUCTURES PERMITTED; TO PROVIDE FOR REMOVAL OF VEGETATION; TO PROVIDE FOR UNDISTURBED BUFFER LANDSCAPING PLAN PERMIT; TO PROVIDE FOR APPEAL; TO PROVIDE FOR STREAM BUFFER; TO PROVIDE FOR BUFFERS THAT SEPARATE DIFFERENT ZONING USES; TO PROVIDE FOR VIOLATION AND PENALTY; TO PROVIDE FOR REPEALER; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BERKELEY LAKE that Sections 201, 702 and 703 of Chapter 22 of the Code of Ordinances of the City of Berkeley Lake shall be amended to delete said sections in their entirety and to add new Sections 201 and 702 as follows:

BUFFER REGULATIONS

22-201 Permanent Buffers

A. Permanent Undisturbed Buffer Requirements

(1) Limited Planting Permitted, No Structures Permitted

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

(2) Removal of vegetation

No vegetation, including trees, bushes, or plants of any kind, may be removed from an undisturbed buffer, except vegetation determined by the Ordinance Enforcement Officer to be: a) dead or diseased; b) poison ivy and other noxious vegetation; c) trees

that are a danger to property or people; d) creeping vines that threaten the viability of plants (e.g. Kudzu). No vegetation may be removed from an undisturbed buffer unless the Ordinance Enforcement Officer has issued a permit for its removal.

(3) Undisturbed Buffer Landscaping Plan Permit

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

(4) Appeal

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

B. Stream Buffer

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

C. Buffers that separate different zoning uses

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

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

22-702 Violation and Penalty

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

~~22-703 Appeal~~

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

Repealer

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of any such conflict.

Severability

In the event any article, section, subsection, sentence, clause, or phrase of this resolution shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, subsections, sentences, clauses, or phrases of this resolution, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Effective Date

This ordinance shall be effective upon its adoption by the Council of the City of Berkeley Lake.

SO ORDAINED this ____ day of _____, 2007.

LOIS SALTER, MAYOR
CITY OF BERKELEY LAKE

ATTEST:

LEIGH THREADGILL
City Clerk

First Read: _____
Second Read and Adoption: _____