

FIRST READING January 8, 2019

ADVERTISED February 6, 2019

PUBLIC HEARING February 12, 2019

PASSED February 12, 2019

AN ORDINANCE NO. BR2019-03

1 **AN ORDINANCE ESTABLISHING THE REGULATION OF THE**
2 **PLANTING, REMOVAL AND MANAGEMENT OF TREES ON PUBLIC**
3 **PROPERTY AND RIGHTS OF WAY IN THE CITY; TO ESTABLISH**
4 **CERTAIN STANDARDS; TO CREATE A CITY TREE BOARD; TO**
5 **PROVIDE FOR ENFORCEMENT; TO ESTABLISH PENALTIES; TO**
6 **ALLOW FOR APPEALS AND FOR OTHER PURPOSES: :**

7
8 **PURPOSE:** the purpose of this ordinance to provide for the protection,
9 management, removal and replacement of trees on public property and public
10 rights- of-way.

11 **WHEREAS,** the health, safety and general welfare of the public and the
12 conservation and protection of the natural resources of the City and their values
13 necessitate the implementation of regulations to guide the planting, maintenance
14 and removal of trees on public property and rights-of-way within the City and

15 **WHEREAS,** community forests function to the benefit of the local citizenry
16 as a part of the public infrastructure as much as streets, utilities, storm water
17 management structures, and sewers, and integrated forest canopies reduce the costs
18 of maintenance of other co-located parts of infrastructure and

19 **WHEREAS**, well-managed forest resources increase in value and provide
20 benefits to all the citizens of the community with respect to air quality, water
21 quality, storm water management, temperature amelioration, community aesthetics
22 and general quality of life and, healthy community forests increase local
23 commercial and residential property values and

24 **WHEREAS**, these benefits are crucial to the long-term health, benefit,
25 welfare, and safety of the citizens of the City of Blue Ridge, Georgia and

26 **WHEREAS**, this tree protection law is one part of a dedicated and
27 integrated planning process dealing with land use, impacts of impervious surface,
28 hydrology and water quality, air quality, soil erosion, transportation, noise
29 abatement, and wildlife habitat and

30 **WHEREAS**, the City Council finds that it is in the best interest of the public
31 to provide standards and requirements for the conservation, protection and
32 replacement of trees on public property for the purpose of making this City a more
33 attractive and healthier living environment;

34 **NOW, THEREFORE**, be it ordained by the City Council the Code of
35 Ordinances be amended to add this Article " Care, Placement and Protection of
36 Trees on Public Property and City Rights-of -Way" as follows:

37 **SECTION 1**
38 **DEFINITIONS**
39

40 *Administrator:* The acting City Arborist or other employee of the City of
41 Blue Ridge who is responsible for the administration of the provisions of this
42 ordinance.

43 *Critical Root Zone:* That area of tree roots around the tree measured to be no
44 less than 1.5 ft. in radius for every inch of trunk diameter measured 4 ft. above the
45 ground.

46 *Street Trees:* Street trees are herein defined as trees, shrubs, bushes, and all
47 other woody vegetation on land lying between property lines on either side of all
48 streets, avenues, or rights- of-way within the City or lying within all rights-of-way
49 of all streets, avenues, or ways within the City.

50 *Topping:* Topping is defined as the severe cutting back of tree limbs to stubs larger
51 than three (3) inches in diameter within the tree's crown to such a degree so as to
52 remove the normal canopy and disfigure the tree.

53 *Park and Public Trees and Landscape:* Park and Public trees are herein defined as
54 trees, shrubs, bushes and all other vegetation in public parks and on public property
55 at public facilities, and all area owned by the city, or to which the public has free
56 access.

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60 **SECTION 2**
61 **PUBLIC TREE PROTECTION AND CARE**
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63 1. Except as hereinafter provided, no person except a public utility shall cut,
64 prune, injure or remove any living tree on or in a public highway, right-of-way,
65 neutral ground, public park, public place, triangle, sidewalk, or other public
66 property; or cut or disturb or interfere in any way with the roots of any tree on
67 public property; or spray with any chemical insecticide or herbicide or other oils or
68 whitewash any tree on public property; or place any wire, rope, sign, poster,
69 barricade, or other fixture on a tree or tree guard on public property; or injure,
70 misuse or remove any device placed to protect any such tree;

71 (a) No person shall pile building material or other material, about any
72 tree, plant or shrub in a street in any manner that will in any way injure such
73 tree, plant or shrub.

74 (b) No person shall pave or place gravel, soil or other such material
75 within twelve (12) ft. of any tree on public property, unless approved by the
76 city administrator.

77 (c) No person shall dump, pour or spill any oil, herbicide , insecticide or
78 other deleterious matter upon any tree or tree space in any street or within
79 the critical root zone of any tree, or keep or maintain upon any street, any
80 receptacle from which oil or herbicide , pesticide or other deleterious

81 matter leaks or drips, or said material onto any parking or concrete gutter
82 so as to injure any tree on any public property.

83 (d) No person shall use the rights-of-way, parks, sidewalks, or public
84 places to dump grass clippings, tree trimmings, rocks or refuse of any nature.

85 (e) No person shall decorate a public tree or place advertising matter,
86 posters or political placards on trees or in public properties.

87 **SECTION 3**
88 **NOTIFICATION AND PENALTIES**
89

90 (a) Any person who shall injure, damage or destroy any public tree
91 situated upon the public right-of-way of any street, alley, sidewalk, park or other
92 public property within the city shall promptly notify the City Administrator of such
93 fact and shall, within such reasonable time as specified by the City Administrator,
94 repair or replace the same to the satisfaction of the City Administrator.

95 (b) Should the person fail or refuse to repair or replace the damaged or
96 destroyed trees or plants within such reasonable time, the City Administrator
97 shall do or cause to be done the necessary repairing or replacement, and the
98 costs of this work shall be recovered from the person responsible for the
99 damage or destruction by, a proper action of law. In any such action, "The Guide
100 for Establishing Values of Trees and Other .Plants," published by the Council of
101 Trees and Landscape Appraisers, current edition, shall form the basis for
102 establishing any monetary damages due for damage or destruction to the tree. In

103 addition, the City may recover for any other damages or losses to which it is
104 entitled by law.

105 **SECTION 4**
106 **CITY REQUIREMENTS**
107

108 The City shall have the right to plant, prune, maintain and remove trees,
109 plants and shrubs within the rights-of-way of all streets, parks, squares, and public
110 grounds, as may be necessary to insure public safety or to preserve or enhance the
111 symmetry and beauty of such public grounds. All tree work taking place on public
112 property being conducted by contractors, sub-contractors, or city employees will
113 conform to International Society of Arboriculture and ANSI 300 and Z-133
114 arboricultural standards for tree work.

115 Additionally:

116 It shall be unlawful as a normal practice for any person, firm, or government
117 entity/department to top any street tree, park tree, or other tree on public property.
118 Trees severely damaged by storms or other causes, or certain trees under utility
119 wires or other obstructions where other pruning practices are impractical may be
120 exempted from this provision of this ordinance by receipt of written notification
121 from the Administrator for each instance allowing such actions.

122 It shall be unlawful for any entity, utility, citizen, tree care company or
123 government to trench, cut, grade, clear, or fill within the critical root zone of any
124 public tree without the expressed written consent of the Administrator.

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SECTION 5
DUTIES OF THE ADMINISTRATOR

It shall be the expressed duty of the Administrator, when necessary, to issue permits, inspect tree work, require certain tree work to be performed, and enforce provisions of this ordinance.

SECTION 6
PRIVATE LANDOWNER RESPONSIBILITIES AND RIGHTS

Every owner of any tree overhanging any street or right of way within the city shall prune the branches so that such branches shall not substantially obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) ft. above street surface or eight (8) ft. above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign or line of sight.

Nothing in this ordinance is intended to prohibit the planting of street trees by adjacent property owners providing that the selection and location and planting of said trees is in accordance with specifications of this ordinance and with prior approval of the Administrator.

150 **SECTION 7**
151 **CREATION AND ESTABLISHMENT OF A CITY TREE BOARD**
152

153 There is hereby created and established a City of Blue Ridge Tree Board
154 which shall consist of five (5) members, residents of Fannin County, who shall be
155 appointed by the Mayor and Council. The term of the board members to be
156 appointed by the Mayor and Council shall be two (2) years. In the event that a
157 vacancy shall occur during the term of any member, his or her successor shall be
158 appointed for the unexpired portion of the term. Members of the board shall serve
159 without compensation.

160 **A. Tree Board Duties and Responsibilities**

161 It shall be the responsibility of the Board to study and develop and update
162 annually, specifications for the care, conservation, pruning, planting, and
163 replanting of publicly owned trees and shrubs in parks, along streets, and in other
164 public areas. Such information and reports will be presented annually to the City
165 Council. The Board, when requested by the City Council, shall consider,
166 investigate, make findings, and make recommendations upon any special matter or
167 question coming within the scope of its work.

168 The Board shall choose its own officers, make its own rules of procedure,
169 and keep minutes of its proceedings. A majority of the members shall be a quorum
170 for the transaction of business.

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172 **B. Development of Arboricultural Specifications**

173 The City Tree Board shall develop and maintain arboricultural specifications
174 for tree care and replacement as follows:

175 1. A list of desirable trees for planting along streets in three size classes
176 based on mature height: small (under 20 ft.), medium (20 to 40 ft.), and large
177 (more than 40 ft.). The Tree Board will also create lists of trees not suitable
178 for planting.

179 2. The distance trees may be planted from curbs or curb lines and
180 sidewalks will be in accordance with the three (3) species size classes listed
181 in the arboricultural specifications. No trees may be planted closer to any
182 curb or sidewalk than the following: small trees, two (2) ft.; medium trees,
183 four (4) ft.; and large trees, six (6) ft.

184 3. No street tree shall be planted within thirty-five (35) ft. of any street
185 corner, except on city property measured from the point of nearest
186 intersecting curbs or curb lines. No street tree shall be planted within ten
187 (10) ft. of any fire hydrant.

188 4. No tree, other than those particularly designated for planting under
189 overhead lines by the Tree Board, shall be planted under or within ten (10)
190 ft. of a line drawn vertically below any overhead utility wire or any recorded
191 utility right-of-way of a greater width. Trees planted within twenty (20) ft.

192 must be of a small species listed in the arboricultural specifications
193 developed by the Tree Board.

194 5. The City Tree Board must review a utility tree trimming policy prior
195 to any trimming by the utility company to assure current arboricultural
196 specifications are followed.

197 6. All stumps of street and park trees shall be removed below the surface
198 of the ground so that the top of the stump shall not project above the surface
199 of the ground where necessary to provide for public safety.

200 **C. Public Education:**

201 It shall be the responsibility of the Tree Board to undertake a public Arbor
202 Day planting activity and develop and/or secure and distribute tree care and tree
203 benefit information as part of a city wide educational program.

204 **SECTION 8**
205 **PERMIT AND BOND**
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207 It shall be unlawful for any person or firm to engage in the business or
208 occupation of pruning, treating, or removing street or park trees or tree within a
209 public right-of-way within the city without first applying for and procuring a
210 permit. No permit shall be required for electric utilities and their agents and
211 contractors or city employee doing such work in the pursuit of their public service
212 endeavors.

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214 Before any permit shall be issued for any tree work on public property, each
215 applicant shall first file evidence of possession of liability insurance in the
216 minimum amounts of \$300,000 for bodily injury and \$100,000 for property
217 damage indemnifying the city, or any person injured or damaged resulting from the
218 pursuit of such endeavors, as herein described.

219 **SECTION 9**
220 **PENALTIES FOR VIOLATIONS**
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222 Any person violating any provision of this ordinance shall be, upon
223 conviction or a plea of guilty, subject to a fine not to exceed \$1,000.00 plus
224 restitution for damages to public trees and property.

225 **SECTION 10**
226 **EMERGENCY ACTION**
227

228 It may become necessary, from time to time for emergency crews to prune
229 or remove trees to provide for public safety or restore phone or electrical service.
230 Such an action may be conducted by government, emergency or utility crews
231 without permit so as to allow immediate action to prevent damage or collect a
232 condition which may pose a hazard to life or property. The Administrator shall be
233 notified of any such action within 24 hours of the action being initiated, by the
234 entity taking such action, for each instance of action.

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237 **SECTION 11**
238 **INDEMNIFICATION**

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240 Nothing contained in this ordinance shall be deemed to impose any liability
241 upon the City of Blue Ridge, its officers or employees, nor to relieve the owner of
242 any private property from the duty to keep any tree, shrub or plant upon any street
243 tree area on his property or under his control in such condition as to prevent it from
244 constituting a hazard or an impediment to travel or vision upon any public property
245 or right of way or public place within the city.

246 **SECTION 12**
247 **APPEALS**

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249 Any action of the Administrator may be appealed to and heard by the City
250 Council. An appeal must be filed within ten (10) calendar days after the decision of
251 the Administrator. The appeal shall be in writing and shall be filed with the City
252 Clerk for placement on the City Council agenda. The appeal shall clearly specify
253 the reasons for which a hearing is requested. After a hearing, the City Council shall
254 render its decision, which shall be final.

255 **SECTION 13**
256 **SEVERABILITY**

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258 Should any part or provision of this ordinance be declared by a court of the
259 competent jurisdiction to be invalid, the same shall not affect the validity of the
260 ordinance as a whole or any part thereof other than part held to be invalid.

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SECTION 14
EFFECTIVE DATE

The effective date of this Ordinance shall be immediately upon its passage by the City Council and execution by the Mayor or upon fifteen (15) days expiring from the date of its passage without a veto of said Ordinance by the Mayor as set forth in the City Charter at Section 3.23(b).

SO RESOLVED, this 12 day of February , 2019.

BLUE RIDGE CITY COUNCIL

By: _____
Mayor

Attest Ordinance Passed: _____

Attest:

City Clerk Kelsey Ledford