

#### **40-4-9-.01 Definitions.**

The following words or terms shall have the meaning set forth herein when used in these rules and regulations.

(a) Bare Root Plant: Any live plant that has been uprooted and separated from its growing medium, then bagged in moss, sawdust or other material to provide temporary moisture to the roots. A bare root plant is also any plant that has been uprooted from its growing medium and placed in controlled atmosphere conditions or heeled in with sawdust, packing material or soil as a means for supplying moisture until it has been planted.

(b) Certificate: Any document issued by the Department attesting to the Plant Pest or treatment status of any Regulated Article.

(c) Commissioner: The Commissioner of Agriculture or any employee of the Department authorized to act on his behalf.

(d) Compliance Agreement: Any written agreement between a person and the Department specifying requirements enforced by the Department for regulatory purposes.

(e) Containerized Plant: Any live plant grown in a container where the plant is healthy, vigorous, well rooted, and established in the container in which it is growing. Containerized plants must possess a well-established root system reaching or nearly reaching the sides of the container to maintain a firm ball when the container is removed, but not possessing excessive root growth that encircles the inside of the container.

(f) Department: The Georgia Department of Agriculture.

(g) Dormant Plant: Any plant or plant part that is not in an active state of growth as evidenced by the lack of vegetative bud swelling and/or shoot growth.

(h) Federal Noxious Weed: Any plant listed under Title 7, Code of Federal Regulations, Part 360 "Noxious Weed Regulations".

(i) Fees: Assessments of costs for the purpose of defraying the expenses of registration of Live Plant Growers and Live Plant Dealers, and expenses of inspection and certification of Regulated Articles.

(j) Live Plant: Any whole or propagative part of any member of the Plant Kingdom, capable of or intended for propagation or growth. It does not include true seeds, cut flowers, or decorative cut foliage.

(k) Live Plant Dealer: Any person who does not grow or propagate Live Plants, but who handles, maintains, solicits orders for, sells, or distributes any Live Plants.

(l) Live Plant Grower: Any person who propagates or grows any Live Plants for sale or distribution. ~~This includes any person who digs or collects plants from the wild or residential area for sale or distribution.~~ Persons meeting any of the following criteria must be properly licensed by the Department:

1. have a production space greater than 1,000 square feet;
2. receive plants from another state;
3. send plants interstate;
4. send plants internationally; or
5. dig or collect plants from the wild or residential areas for sale or distribution.

(m) Live Plant License: A document issued by the Commissioner indicating that the Live Plants maintained by the licensee are regularly inspected by the Commissioner to ensure freedom from plant pests and absence of poor physical condition, and verifying that the licensee has registered with the Commissioner.

(n) Live Plant Shipping Certificate: A document issued by the Commissioner indicating that the Live Plants in the accompanying shipment have been grown and maintained under a regular inspectional program administered by the Commissioner in compliance with these Rules.

(o) Maintain: Both to prevent and control damage by Plant Pests to Live Plants, and to prevent Poor Physical Condition or decline in viability of Live Plants by providing proper environmental conditions, by applying water and nutrients, by applying chemical and cultural pest control, and by removing damaged, diseased, or dead plant material.

(p) Non-profit: Any government agency or bureau, any member of a county or independent school system, any college or university under the University System of Georgia or any 501(c) organization.

(q) Permit: A document issued by the Commissioner authorizing the movement of Regulated Articles to a specific destination in accordance with specific requirements.

(r) Phytosanitary Certificate: A document issued by the Commissioner indicating that the specified Live Plants or Plant Products comply with the legal requirements of the importing state or country. Such a document may be either a State Phytosanitary Certificate or Federal Phytosanitary Certificate.

(s) Plant Pest: Any organism which is determined by the Commissioner to be injurious to the agricultural, horticultural, or other interests of the state, including, but not limited to, insects, bacteria, fungi, viruses, or weeds.

(t) Plant Products: Fruits, vegetables, grains, roots, bulbs, seeds, cut flowers, decorative cut foliage, wood, timber, and all other Live Plants or parts of Live Plants not intended for or used for propagation or growing.

(u) Poor Physical Condition: Serious physical damage, serious wilting caused by lack of or by excessive water, damage caused by severe heat or cold, death, or any other condition which would cause decline in viability or increased susceptibility to plant pests when subsequently handled with normal care.

(v) Quarantine: A verbal or written order issued by the Commissioner immediately prohibiting the sale or distribution of Regulated Articles from a given location, until released in writing by the Commissioner.

(w) Regulated Articles: Live Plants, Plant Products or other things determined by the Commissioner to be capable of carrying Plant Pests.

Authority O. C. G. A. 2-7-1 et. seq.

### **40-4-9-.03 Categories and Fees.**

(1) Live Plant Grower: [as defined in 40-4-9-.01(l)]

- (a) Annual registration fee of \$105.00 for each location where plants are grown, plus:
- (b) An additional annual fee to defray costs of inspection of:
  - i. \$5.00 per acre of sod or sprigs, and/or
  - ii. \$8.00 per acre of field grown plants, and/or
  - iii. \$14.00 per acre of container grown plants, greenhouse grown plants or collected native plants, and/or
  - iv. The maximum annual fee to defray costs of inspection is \$1,100 per location.
- (c) Where the business owner registers any fraction of an acre, the full per acre fee will be assessed.

~~(2) Hobby Grower.~~

- ~~(a) A Hobby Grower shall be defined as any person who has a production area less than 1,000 square feet.~~
- ~~(b) Annual registration fee of \$75.00~~

~~(3) (2) Live Plant Dealers, Re-wholesalers, Agent or Broker~~ [as defined in 40-4-9-.01(k)]

(a) Live Plant Dealers, Re-wholesalers, Agents or Brokers

1. Annual registration fee of \$125.00 for each location where plants are held or maintained.

~~(b) Individuals selling live plants at craft shows, fairs, flea markets or similar venues must be licensed as a Live Plant Dealer.~~

~~(4) (b) Florist or Landscaper~~

1. (a) Any person or business that offers plants for sale as a Florist or Landscaper will be charged an annual registration fee of \$75.00 for each location.

(c) Seasonal Vegetable Plant Dealer

1. A business that offers only vegetable transplants for sale during the months of March, April, May, June will be charged a licensing fee of \$50.

~~(5) (3) Non-Profit~~ [as defined in 40-4-9-.01(p)]

- (a) Each Non-profit 501(c) organization must provide documentation of their non-profit status with their Live Plant License application and;
- (b) With each Live Plant License renewal.
- (c) Plant clubs that have a plant sale only once per year may be issued a Live Plant License valid for that sale at no cost.

~~(6)~~ (4) Certification Fees:

(a) The Commissioner may assess fees for additional certifications or inspections not required by this Chapter. These certifications or inspections shall include but not be limited to:

- (1) Federal or State Phytosanitary Certificates for the one time shipment of articles regulated by other countries or states
- (2) Live Plant Shipping Certificates to accompany sales or shipment of Live Plants
- (3) Special Permit for the shipment of articles regulated by another state or foreign country
- (4) Diagnostic fees for the identification of plant pests or certification.

(b) The Certification Fees shall be published by the Commissioner on or by ~~July~~ January 1 of each year.

Authority O. C. G. A. 2-7-1 et. seq.

#### **40-4-9-.05 Inspection and Maintenance of Live Plants.**

(1) The Commissioner will inspect each Live Plant Dealer or Live Plant Grower location prior to issuance of a license, and at any other time at his discretion. All Live Plants at any location must be:

- (a) apparently free of plant pests,
- (b) in good physical condition,
- (c) adequately maintained,
- (d) sufficiently free of weeds and grasses to ensure that such weeds and grasses do not:
  - 1. serve as a source of plant pests,
  - 2. interfere with the general health of the Live Plants,
  - 3. interfere with a dependable inspection,
- (e) in conformance with requirements of any applicable Compliance Agreement, and
- (f) in full compliance with all other requirements of this Chapter.

(2) The Commissioner may specify the conditions under which Live Plants or Plant Products are produced in order to certify that such Live Plants or Plant Products are free of plant pests and in good physical condition.

(3) All Live Plants being grown, sold, or held for distribution, and located in Georgia must be properly maintained as defined in 40-4-9-.01 (o) above. Discretion as to what is proper maintenance consistent with the requirements of this Chapter is left to the discretion of the area inspector.

(4) Bare-root Live Plants may be maintained indoors if held under controlled-atmosphere storage conditions of no less than ninety percent relative humidity at a temperature between 32F and 38F, or they may be maintained outdoors if heeled into sawdust, packing material, or soil and protected at all times from extremes of heat or cold, and provided with adequate water.

~~(5) Leafed-out deciduous Live Plants may not be sold bare-root.~~

~~(6)~~ (5) The Commissioner or his agent may order any live plants to be quarantined and/or destroyed at cost to the owner if the plants are believed to be or if they exhibit signs or symptoms of infestation or infection with a plant pest.