

COUNTY OF HORRY

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ORDINANCE NO. 44-2023

STATE OF SOUTH CAROLINA

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AN ORDINANCE TO AMEND APPENDIX B OF THE HORRY COUNTY CODE OF ORDINANCES PERTAINING TO TREE PRESERVATION STANDARDS

WHEREAS, Horry County first established specific preservation standards for Live Oak Trees in 2007 under Ordinance 173-06; and,

WHEREAS, the removal of a specimen live oak requires a variance from the Zoning Board of Appeals; and,

WHEREAS, the proposed change allows the Zoning Administrator to authorize the removal of a diseased or dying tree and places restrictions of further subdivision and building permits if Specimen like oaks are unlawfully removed; and

WHEREAS, the fee in lieu has not been updated since 2015, Ordinance 118-14, when a \$150 fee per replacement tree was established; and,

WHEREAS, staff has compared our current fees to other local municipalities and found that doubling the current fee will be more aligned with neighboring jurisdictions; and,

WHEREAS, it is the desire of County Council to revise our fees to be more consistent with the current value of a replacement tree.

NOW THEREFORE the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State ordain it ordained that:

1) **Amendment to Appendix B, Article V, Section 505 – Tree Preservation, Subsections B – Live Oak Standards and E - Mitigation Standards:** Appendix B of the Horry County Code of Ordinances is hereby amended as follows: (All text in ~~strike through~~ shall be deleted and all text shown **underlined and bolded** shall be added)

SECTION 505– TREE PRESERVATION

B. LIVE OAK STANDARDS

It is unlawful to injure, participate in, authorize, or cause the removal of any Specimen Live Oak (DBH of twenty-four (24) inches or greater). Authorization to do so shall come from:

1. *A variance granted by the Zoning Board of Appeals finding that the tree:*
 - a) Presented a safety hazard to pedestrian or vehicular traffic, buildings, structures or utility structures;

- b) Removal presented the only reasonable means to comply with appropriate agency requirements including parking, ingress or egress, or other required infrastructure such as stormwater;
 - c) Justification according to good urban forestry practices (i.e., to reduce competition among trees or to remove an invasive species) or presence of dead, dying, or diseased trees;
 - d) A planned grade cut placing the tree protection zone four (4) feet above final grade or introduction of fill twelve (12) inches or greater elevating the parcel above the required flood protection elevation; or
 - e) Reasonable use of the property will be significantly impaired.
2. For all areas within the Garden City Overlay, the Zoning Administrator shall allow the tree to be removed upon a finding that the tree will be located within the footprint of a proposed structure and the structure cannot be reasonably adjusted to preserve the tree. **This provision does not exempt the tree from the mitigation standards in §505 E.**
3. **The Zoning Administrator may authorize the removal a Specimen Live Oak tree without a variance under the following conditions:**
- a) **The tree is diseased or dying as certified by a certified arborist and cannot be properly treated or pruned to alleviate such condition;**
 - b) **Such assessment must be provided to the county in writing, and the diseased or dying state of the tree may be assessed by the County;**
 - c) **Should the County confirm the tree is diseased or dying and cannot be treated for such condition, a zoning compliance may be issued for removal of the tree;**
 - d) **Mitigation Standards in §505 E will still apply.**
4. **If a Specimen Live Oak tree is unlawfully removed, building permits and further subdivision of the parcel will be prohibited for a period of two (2) years.**

D. TREE PROTECTION

Preserved trees must be protected from damages during development. Most trees can tolerate only a small percentage of root zone disturbance or loss.

- a) *Root Protection Zone*: the total area beneath the tree canopy, or dripline.
- b) If encroachment into the root protection zone is anticipated, preventative methods shall be employed to include:
 - i. Flagging of Protected or Specimen Trees prior to land disturbance activity;
 - ii. Mulching the Root Protection Zone during soil compaction;
 - iii. Vertical root pruning techniques to cut rather than tear or damage root systems during site clearing; and
 - iv. Installation of Protective Devices.
- c) Protective Devices shall be installed surrounding the dripline of the preserved tree and must be kept free of construction materials, vehicles or debris. Areas surrounding the preserved tree must be identified with "tree protection area" signage. Protective Devices shall be one of the following:

- i. Fencing a minimum of four (4) feet in height constructed in a post and rail configuration. Two (2) inch by four (4) inch and double one (1) inch by two (2) inch railing is recommended.
- ii. Four (4) foot high polyethylene laminar safety fencing provided it is maintained to persist until occupancy.
- iii. Continuous rope, flagging (heavy mill, minimum four (4) inches in width) or silt fencing is allowable only in areas that will not be directly impacted by land disturbance activities.

E. MITIGATION STANDARDS

1. *Mitigation:* Mitigation for removal of Protected or Specimen Trees is required. Requirements may be met by either:

- a) *Replacement Trees*

- i. Total caliper of replacement trees must equal the total DBH of Protected or Specimen Trees removed.
- ii. All replacement trees must be a species listed in *Table 5: Protected and Specimen Trees*.
- iii. Newly planted replacement trees will follow the following formula:

$$D/2.5^A = RT^B$$
, where:
 D = total DBH of the largest fifteen (15) removed trees per acre (inches)
 2.5 = minimum caliper of each replacement tree (inches)
 RT = minimum number of replacement trees
 - A. If the caliper of replacement trees is greater than two and a half (2.5) inches, the total number of replacement trees can be reduced.
 - B. A multiplier of one and a half (1.5) is applied when trees removed are Specimen Trees
- iv. Trees preserved on site that do not meet the size requirements of *Table 5: Protected and Specimen Trees* may count as replacement trees provided each tree has a DBH of four (4) inches or greater.

- b) *Fee in lieu*

- i. A fee in lieu of replacement trees collected will be equal to:

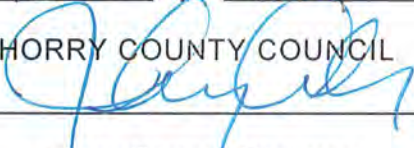
$$RT * 150 = F$$
, where:
 RT = minimum number of replacement trees
 150 = fee per replacement tree (dollars)
 F = total fee paid to Horry County.
- ii. Fees collected are deposited into a special fund designated for costs associated with the installation of landscaping, associated materials and irrigation systems or the purchase of additional park or open space lands.

- iii. **"F" shall be increased at 2 times the standard rate (dollars) for Protected and Specimen live oaks.**

AND IT IS SO ORDAINED, ENACTED AND ORDERED.

Dated this 16th day of May, 2023.

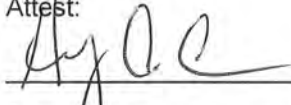
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Attest:



Ashley C. Carroll, Clerk to Council

First Reading: 4/18/2023
Second Reading: 5/2/2023
Third Reading: 5/16/2023
Public Hearing: 5/2/2023