

ORDINANCE NO. 2014 – 02

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE TOWN OF BLUFFTON, SOUTH CAROLINA; CHAPTER 23, UNIFIED DEVELOPMENT ORDINANCE; ARTICLE 3 AND ARTICLE 5.

WHEREAS, the Town of Bluffton's Municipal Code and Ordinances provide guidance and requirements for development within the Town of Bluffton through regulations set forth to protect and promote the health, safety, and welfare of the Town's citizens, as espoused through the provisions of the Town of Bluffton Comprehensive Plan and as authorized by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Title 6, Chapter 29 of the Code of Laws for South Carolina; and

WHEREAS, the Town of Bluffton Town Council adopted the aforementioned standards, which are known as the Unified Development Ordinance (the "UDO"), Chapter 23 of the Code of Ordinances for the Town of Bluffton, South Carolina on October 11, 2011 through Ordinance 2011-15; and

WHEREAS, The UDO unifies the subdivision, land use, development/design regulations as well as the Old Town Bluffton Historic District Code into a single set of integrated, updated, and streamlined standards; and

WHEREAS, the Town of Bluffton Town Council desires to update certain provisions of the UDO pertaining to the tree conservation and replacement standards of Article 3 and Article 5; and

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the foregoing, the Town hereby amends the Unified Development Ordinance for the Town of Bluffton as follows:

SECTION 1. AMENDMENT. The Town of Bluffton hereby amends the Code Ordinances for the Town Of Bluffton, South Carolina; Chapter 23, Unified Development Ordinance; Article 3 and Article 5 as shown in Exhibit A, which is attached and incorporated hereto.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. ORDINANCE IN FULL FORCE AND EFFECT. This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this 14th day of January, 2014.

This Ordinance was read and passed on First Reading by Pending Ordinance Doctrine on December 10, 2013.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

Sandra Lunceford, Town Clerk
Town of Bluffton, South Carolina

A public hearing was held on this Ordinance on January 14, 2014.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

Sandra Lunceford, Town Clerk
Town of Bluffton, South Carolina

This Ordinance was passed at Second and Final Reading held on January 14, 2014.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

Sandra Lunceford, Town Clerk
Town of Bluffton, South Carolina

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Exhibit A

Article 3, Application Process

3.22 Tree Removal Permit

3.22.1 Intent

This Section is intended to provide procedures and standards for the review of *Tree Removal Permit Applications*. Review of Tree Removal Permit Applications shall consider the following objectives:

- A. Protect the Town of Bluffton's tree canopy, historic trees, and significant individual trees;
- B. Protect woodlands as important natural resources that provide natural beauty, preserve animal habitat, protect the groundwater recharge areas, and maintain plant and tree diversity, as well as protect threatened, endangered, and imperiled species;
- C. Minimize disturbance and structural changes to the vegetative community; prevent damage from erosion, siltation, and disease; manage stormwater runoff, limit loss of animal habitat and vegetative cover, all of which, in the aggregate, result in the destruction of the woodland character; and
- D. Provide economic support to local property values and preservation of historical character of the Town of Bluffton.

3.22.2 Applicability

- A. **Permit Required.** Regardless of the health or condition of the tree(s), a Tree Removal Permit is required to remove any tree, 8 inches in diameter at breast height ("DBH") or greater or any American holly, dogwood, redbud, southern magnolia, or red buckeye 4 inches ~~diameter breast height or greater in DBH or greater.~~
- B. **Permit Not Required.** A Tree Removal Permit is not required for the following activities:
 - 1. Approved tree removals identified in a valid Silviculture Permit;
 - 2. Approved tree removals identified in a valid Final Development Plan or Subdivision Plan; ~~and~~
 - 3. Removal of trees ~~outside of the Old Town Bluffton Historic District~~, less than ~~24~~ 14 inches ~~Diameter Breast Height in DBH~~ on property used as single-family detached residential;

4. Removal of dead or diseased trees: If the tree was not included in a previously approved landscape plan and the UDO Administrator determines that the tree is clearly diseased or dead, the removal shall not require a permit; and
5. Removal of hazardous trees: If the failure to remove the tree would constitute an eminent danger to the environment, property, public health, safety or welfare due to the hazardous condition of the tree, the removal shall not require a permit. Before removing a hazardous tree, the property owner shall submit an International Society of Arboriculture ("ISA") Basic Tree Risk Assessment Form to the UDO Administrator that has been prepared by an ISA Certified Tree Risk Assessor, ISA Certified Arborist, or ISA Board Certified Master Arborist. The assessment shall be independent and not prepared by the same company that would remove the hazardous tree. The UDO Administrator has the authority to order the removal of any tree that is considered hazardous to life or property.

3.22.3 Application Review Criteria

The UDO Administrator shall consider the following criteria in assessing an application for Tree Removal Permit:

- A. The application must be in conformance with the applicable provisions provided in *Article 5, Design Standards*; and
- B. The application must comply with applicable requirements in the Applications Manual.

3.22.4 Effect and Expiration of Approvals

- A. **Approval.** Issuance of a permit shall authorize the Applicant to remove the tree(s) specified by the permit.
- B. **Expiration.** Approval of a Tree Removal permit shall expire two years from the date of its issue unless an appreciable amount of tree removal commences and proceeds to completion in a timely and customary manner in accordance with the Tree Removal permit.

Article 5, Design Standards

5.3 Natural Resources: Tree Conservation, Planting & Landscaping

5.3.1 Intent

This Section establishes standards for the conservation, removal, and mitigation of removed trees as well as the standards for landscaping, in order to protect the environment, provide critical habitat, and preserve the character of the Town of Bluffton. Specifically, conservation focuses on existing groups, strands, and mature trees, as well as the associated shrub and herbaceous understory layers. Further, the intent of this Section is:

A. To preserve and enhance the local, native vegetation in order to maintain Bluffton's Lowcountry character.

B. To protect the canopies of large, mature hardwood trees.

B.C. To eradicate or control certain exotic and invasive plant species that have negative impacts to native ecosystems.

C.D. To provide critical habitat for animals and plants throughout the Town of Bluffton.

D.E. To encourage efficient usage of water with native landscaping and reduce the usage of potable water for irrigation.

E.F. To recognize that stormwater management can be assisted by the use of vegetation for natural water and nutrient uptake.

G. To treat all sites equitably for the purpose of protecting and replanting trees and maintaining adequate tree coverage consistent with the character of the area.

5.3.2 Applicability

Unless otherwise stated, this Ordinance applies to all land in the Town of Bluffton.

5.3.3 Tree Conservation

A. **Protected Tree Designations:** No person shall cut, destroy, cause to be destroyed, move or remove a protected tree without first obtaining an approval as required by Article 3, Application Process.

1. **Protected Trees:** A protected tree is defined as all trees, including significant trees, that are 8 inches in Diameter at Breast Height ("DBH") or greater and all American holly, dogwood, redbud, southern magnolia, and red buckeye trees that are 4 inches in DBH or greater.

1.2. **Significant Trees:** A significant tree is defined as all trees that are 24 inches in DBH or greater, any tree listed on America's Historic Tree Register maintained by American Forests, and all trees, regardless of size, that are located within regulated wetland buffers.

A. **Protected Tree Designations:** Unless otherwise exempted from mitigation as set forth in this Section, trees that are defined within the following categories shall be protected and maintained in accordance with the standards and regulations contained in this Ordinance:

1. All trees having a single trunk 14 inches or greater in diameter, measured 54 inches above natural grade and commonly referenced as diameter breast height (DBH), or trees with multiple trunks that add up to 24 inches or greater DBH;

- ~~2. Redbud, dogwood, buckeye, loblolly bay, sweetbay magnolia, as well as American elm and American beech, having a single trunk 6 inches or greater in DBH or multiple trunks that add up to 8 inches or greater DBH;~~

B. Tree Marking: Prior to any removal or commencement of construction on a site, a red ribbon shall be used to identify trees to be removed.

C. Tree Conservation During Site Planning: During the site planning for any property, consideration shall be given to the existing tree canopy and every reasonable effort made to maximize the preservation of the existing canopy. ~~Particular care should be given to preserve the following~~ No significant tree will be permitted to be removed until reviewed and approved by the Development Review Committee (the "DRC"). If the DRC determines that an Applicant has not met the intent of the following criteria, the removal shall require approval of the Planning Commission.

D. Review Criteria

1. It is difficult or impossible to reasonably use the property without the removal of the tree.
2. Roads, parking areas, drive aisles, paths and other site features have been designed around the canopies of the protected trees to the greatest extent possible.
3. The removal allows the preservation of other, healthier hardwood trees on the property.
4. Adjustments to the site plan cannot be made to save the tree without losing lots or floor area.
5. The tree is not located within a required setback or buffer area.
6. The tree is not listed on America's Historic Tree Register maintained by American Forests.

- ~~1. Any tree listed on America's Historic Tree Register maintained by American Forests;~~
- ~~2. Groups of existing trees that connect to other vegetated and/or treed areas on adjacent sites, helping to create or extend a wildlife or natural corridor; and~~
- ~~3. Tree(s) that may be identified for protection due to a significant characteristic such as, but not limited to, allees and hedgerow trees, trees of unique character such as those with unique or unusual growth habit, endangered species, or any species that is rarely found in the area.~~

B.E. Tree Conservation During Construction: The following standards shall apply to all trees, natural areas, and/or buffers that are to be preserved during development in the Town of Bluffton, unless specifically exempted under this Section:

1. Tree Protection Zone ("TPZ"): Each tree or group of trees to be retained shall have a designated TPZ ~~to include at a minimum a radius equal to 1.5 feet for each inch of trunk DBH around the drip line of the tree(s)~~. The UDO Administrator has the authority to modify the TPZ based on site-specific conditions that warrant a modification, which can include increasing the TPZ area.
2. Tree Protection Fencing: Tree protection fencing shall consist of 4 to 6 feet high orange laminated plastic or chain link fence and be mounted on sturdy posts (wooden or metal) spaced no more than 10 feet apart. Tree protection fencing shall be erected before demolition, grading, or construction begins and remain in place until final inspection and approval of the project by the UDO Administrator. Tree protection signage shall be placed no more than 40 feet apart stating "Warning- Tree Protection Zone- No activity is to occur within this area." The UDO Administrator may approve alternative methods for delineating tree protection zones.
3. Any damage to preserved trees during construction shall be mitigated using industry accepted standards for limb pruning, root pruning, wound cleaning, watering, fertilizing, and any other applicable mitigation needed. Any damage that is determined to be lethal to preserved trees shall cause the tree to be removed and replaced in accordance with the requirements in this Section.

C.F. Tree Conservation Post Construction: Any tree required to be preserved or required to be planted as a result of the requirements of this article, shall ~~be~~ not be removed or caused to be removed unless the tree(s) are replaced in accordance with the requirements of this Section.

D.G. Replacement of ~~Removed Protected~~ Trees: The following standards shall establish the tree replacement requirements for the removal of certain trees:

1. Silviculture Pines: The Town of Bluffton encourages the replacement of planted pines with desirable hardwood trees. Mitigation for the removal of planted pines will not be required; however, all sites must conform to the minimum landscaping requirements defined in this article.
2. Invasive and Undesirable Species: The Town of Bluffton encourages the replacement of invasive species as defined by United States Forest Service or Clemson University, water oaks, and sweet gums with desirable hardwood trees. Mitigation for the removal of these trees shall be on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.
- ~~3. Dead, Diseased, or Hazardous Trees: The removal of dead, diseased, or hazardous trees shall be on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal~~

~~to the mature canopy of tree removed. A certified arborist shall determine if a tree is diseased or hazardous and provide the determination in writing to the Town of Bluffton. The UDO Administrator has the authority to order the removal of any tree that is considered hazardous to life or property.~~

4.3. Required Trees: The removal of any tree that was planted to meet the requirements of this Ordinance shall be replaced on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.

4. All Other Trees: Unless otherwise noted in this Section, the removal of any protected tree shall be replaced. All replacement trees shall be at least 12 feet tall and have a trunk diameter of not less than 2.5 inches when planted. The replacement of all approved significant trees shall have a trunk diameter of not less than 6 inches. The trunk diameter, also known as trunk caliper, shall be measured at 6 inches above ground. The UDO Administrator has the authority to accept smaller mitigation trees if the size, shape or topography of the site or the location of utilities unreasonably restricts access to the property or the ability to plant larger caliper replacement trees.

~~5. All Other Trees:~~ Unless otherwise noted in this Section, the removal of any tree —identified by this article to be a protected species shall be replaced on a —1 inch replacement per 1 inch removal basis, not including palm trees which —shall be calculated on a 1/2 inch replacement per 1 inch removal.

E.H. Maximum Replacement of Removed Trees. The amount of trees required to be planted on-site in order to meet replacement of removed trees requirements shall be limited to the number of trees necessary to provide 75 percent lot coverage with tree canopy measured as the mature canopy, not including rooftops. If all of the removed trees are not required to be mitigated, based on the remaining canopy coverage, the 6 inch caliper replacement trees shall be installed before satisfying the requirement with 2.5 inch caliper replacement trees.

F.I. Exceptions to Tree ~~Conservation~~ Replacement Requirements. The regulations contained in this Section shall apply differently to the following activities:

~~1. Single Family Detached Residential: The removal of trees outside of the Old Town Bluffton Historic District less than 24 in inches DBH on property used as single family detached residential shall be exempt from this Section.~~

1. Schools and Public Parks: The removal of trees on property to be used for the purpose of providing active recreation requiring open areas for schools and public parks shall be exempt from this Section. Any other area of a school or public park site not considered active recreation requiring open area shall meet the requirements of this Section.

2. Wetlands Mitigation: The mitigation of wetlands pursuant to a development order or approved plan from, and meeting the requirements of, the South

Carolina DHEC-OCRM or the United States Army Corps of Engineers shall be exempt from the provisions of this Ordinance, except for the mitigation requirements listed herein.

3. Commercial Operations: All commercial nursery, botanical garden, and tree farm operations shall be exempt from the provisions of this Section, but only as to those trees which were planted for display or sale in the ordinary course of business.
4. Agricultural Exemption: Any bona fide agricultural use being conducted on land that is eligible for, and actually used for agricultural operations, and written application has been approved by the Beaufort County Assessor for the special assessment for agricultural use for the property in question shall be exempt from this Section, provided that an undisturbed 50 feet wide vegetated perimeter buffer is maintained.
- ~~5. Airports: Removal of trees for the purposes of maintaining safe clearance for aircraft as required by federal law or the establishment of facilities exclusively dedicated to aviation operations by the Beaufort County Aviation Authority will be exempt from the provisions of this Section, but will require a Tree Removal Permit from the Town of Bluffton.~~
5. Utilities: Utility companies, electric suppliers and governmental agencies constructing or maintaining within easements or rights-of-way for water, sewer, electricity, gas, drainage, telephone, television, or other utilities shall be exempt from the provisions of this Ordinance if the applicable company, supplier, or agency has executed an Agreement with the Town which at a minimum:
 - a. Recognizes the need to minimize the cutting or trimming of vegetation that does not frustrate or substantially interfere with the intended purpose of construction or maintenance;
 - b. Establishes, to the extent feasible, design guidelines for construction and maintenance that identifies the saving of protected trees as a factor to be considered in the design process;
 - c. Requires a consultation process with the Town prior to the commencement of major construction or maintenance or the removal of protected trees; and
 - d. Provides that a breach of such Agreement constitutes a violation of this Ordinance and a loss of exemption from the requirements of this Ordinance.

5.3.4 General Tree & Landscape Material Standards

- A. Native and regionally appropriate plant species are required. Invasive species, as identified by the United States Forest Service or Clemson University are

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prohibited from being planted in the Town of Bluffton. Further, the Town of Bluffton encourages the replacement of invasive species with desirable hardwood species.

- B. All plant and tree material shall meet the American Standard for Nursery Stock standards that are published by and available from the American Association of Nurserymen.
- C. Tree and landscape materials selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.
- D. Large and Medium Canopy Tree species shall be a minimum of 12 feet in height and have a caliper of at least 2.5 inches at time of planting.
- E. Small Canopy Tree species shall be a minimum of 5 feet in height and have a caliper of at least 1.5 inches at time of planting.
- F. Shrubs shall be a minimum of 18 inches in height and width at time of planting.
- G. At least 80% of all tree plantings must be hardwoods.
- H. In order to promote diversity, ~~no more than 15 percent of plant material shall be of the same species~~ a variety of plant species are encouraged.