

ARTICLE XIII. TREE REGULATIONS

TABLE OF CONTENTS

<u>TITLE</u>	<u>SECTION</u>
Intent	1300
Occupied Single Family Residential	1301
Unoccupied Single Family Residential	1302
Protected Trees	1302.1
Appeals	1302.2
Permits	1302.3
Plan Requirements	1302.4
Prohibited Activities	1302.5
Mitigation	1302.6
Exceptions	1302.7
Enforcement	1302.8
Non Single-Family Requirements (Commercial, Industrial, Non-profit, etc.)	1303
Protected Trees	1303.1
Permits Required	1303.2
Prohibited Activities	1303.3
Platting of subdivisions	1303.4
Longleaf Pines	1303.5
Trees and Stormwater Compliance	1303.6
Permitting Process	1303.7
Tree Replacement	1303.8
Exceptions	1303.9
Tree Protection Requirements	1304

ARTICLE XIII

TREE REGULATIONS

1300. **INTENT.** It is the intent of this section to encourage the protection, and replacement of trees during and after development within certain zoning classifications. Benefits derived from tree protection, and replacement include: improved control of soil erosion, moderation of storm water runoff, and minimization of the cost of construction and maintenance of drainage systems; improved water quality; interception of airborne particulate matter and the reduction of air pollutants; reduction of noise, heat and glare; enhancement of habitat for desirable wildlife; climate moderation; maintenance of aesthetic qualities provided by the natural environment and its scenic view sheds; provision of protective physical and psychological barriers between pedestrians and vehicular traffic; energy and water conservation; and the enhancement of real estate property values.

The regulations contained in this Article apply to all zoning districts countywide. The regulations are divided into three classifications: occupied single family residential requirements, unoccupied single family residential requirements and non single-family requirements. Refer to Article III for definitions for these classifications.

1301. **Occupied Single-Family Residential Requirements.** All occupied single-family parcels as defined in Article III of this ordinance are exempt from both tree protection and tree replacement.

1302. **Unoccupied Single-Family Requirements.** The following requirements apply to unoccupied single-family parcels only. This section does not apply to a residential tract of land prior to the installation of infrastructure.

1302.1 **Protected Trees.** Within the entire property, no Protected or Legacy tree shall be removed or cut unless the Zoning Administrator determines in writing by issuance of a permit that:

- the tree is hazardous, diseased or infectious
- the removal of the tree is necessary to maintain the appearance, health or vigor of the remaining trees
- no practical alternatives for the reasonable use of the property exist

In making a determination regarding reasonable use, the Zoning Administrator shall not require that any proposed building be reduced in size.

1302.2 **Appeals.** In the event an affected party disagrees with the Zoning Administrator regarding the removal or cutting of any protected tree, an appeal may be submitted to the Zoning Board of Appeals.

ARTICLE XIII

TREE REGULATIONS

1302.3 Permits. When an application for a building permit or development permit is submitted to the County, a tree plan shall be submitted to the Zoning Administrator. No building or development permit shall be issued until the tree plan has been reviewed by the Zoning Administrator who shall approve, approve conditionally or disapprove the plan. If the plan is disapproved or approved conditionally, the reasons for such action shall be stated in the writing and signed by the Zoning Administrator. The Zoning Division shall retain a copy of the justification for these actions, and a copy shall be given to the applicant.

1302.4 Tree Plan Requirements. A tree plan shall include the following elements:

1302.4.1 Location, DBH and species of all Protected trees on site;

1302.4.2 Indication of any Protected trees to be removed;

1302.4.3 The Zoning Administrator may accept a modified tree sketch plan from an applicant by affirming the impact on trees with a site visit.

1302.4.4 Trees that are proposed to be cut or removed shall be marked with an identifying ribbon.

1302.5 Prohibited Activities. In addition to Section 1302.1 regarding the removal of protected trees, the following activities are prohibited:

1302.5.1 Tree topping, unless such activity is taken as a result of a natural disaster.

1302.5.2 Removal of Waterway Trees. Trees growing in waterways adjacent to residential property and beyond certified property lines may not be removed unless the Zoning Administrator determines that no other way exists to install a permitted dock. Such determination will be made in conjunction with DHEC-OCRM (Ocean and Coastal Resource Management) and the U.S. Army Corps of Engineers.

1302.6 Mitigation Policy. Any protected tree removed without a permit authorization must be replaced with three (3) trees each of three (3”) inch caliper, and of a species categorized as Protected. If the Zoning Administrator determines that an act of clear-cutting of protected trees has occurred on site prior to issuance of a development permit, the property owner shall be required to replace the trees with protected tree species, at a rate of one (1) three (3) inch caliper tree per one thousand (1000) square feet of open space, excluding the approved building area, any pre-existing open water features and stormwater retention/detention areas.

1302.7 Exceptions. Exceptions to unoccupied single-family tree requirements are listed below.

1302.7.1 If any tree is determined by the Zoning Administrator to be diseased, injured or located in a manner that endangers the public health, safety or welfare, the Zoning Administrator may authorize immediate removal. If a party requests the removal of a protected tree and claims it is diseased or unhealthy and the Zoning Administrator disagrees, the applicant may elect to solicit guidance from a tree professional. The applicant must pay any cost charged by the tree professional to provide the County needed information.

1302.7.2 Immediately after the event of a natural disaster such as a tornado, hurricane, storm, or flood, which results in catastrophic loss or damage to trees, lost or damaged trees may be removed without a permit. Replacement trees shall not be required. Only County Council shall determine catastrophic loss or damage.

1302.7.3 Commercial timber harvesting operations that follow industry best management practices as established by the South Carolina Forestry Commission. Incidental deviation from a best management practice shall not result in the imposition of this Ordinance on the commercial timber harvesting operation.

1302.7.4 The ability of public utilities and electric suppliers to maintain safe clearances around utility lines shall not be affected by this ordinance. Tree-cutting not associated with the safety or proper operation of the utility falls under the provision of this Ordinance.

1302.7.5 All farming operations including tree farms for pulpwood, lumber, horticultural use and other tree products. This exception does not apply if the owner of a tract rezones the property to allow for farming activities and then converts said tract for residential, commercial or industrial development within a five year time period measured from the date of the rezoning. In this case, the property owner will be required to replant trees on the site based on the mitigation policy provided in Section 1301.5 of this Ordinance.

1302.8. Enforcement and Remedies. Any person or entity who violates any provision of this Article shall have committed a misdemeanor. The Zoning Administrator shall institute appropriate legal action including imposition of the following fines.

Tree Removal or topping in a manner not consistent with this ordinance or any standards referred to in this ordinance - \$500 per violation for each tree

Failure to obtain a required permit – Up to \$500 per related tree.

ARTICLE XIII

TREE REGULATIONS

In addition to the above fines, violators shall be subject to all of the provisions established in Sec. 1-6. General Penalty; continuing violations, of the County Code of Ordinances. Issuance of a fine or penalty does not relieve any party of complying with the mitigation requirements set forth in this article.

All fines collected as a result of the enforcement of this article will be placed in the Tree Fund and used by the County for the purpose of planting trees and installing landscaping in public areas.

1302.9. Withholding Approvals. The removal of any tree in violation of this article shall constitute grounds for withholding new building permits directly related to said tree removal until the violation has been corrected, including the payment of all fines and the planting of all trees required as mitigation.

1303. Non single-family requirements. The following sections apply to non-single-family parcels only. The term non single-family includes commercial and industrial uses as well as churches, public facilities and multi-family developments. The requirements of this section also apply to residential tracts of land prior to the installation of infrastructure.

1303.1 Protected Trees. Within the entire property, no Protected, Legacy or Replacement tree shall be removed or cut unless the Zoning Administrator determines in writing by issuance of a permit that:

- the tree is hazardous, diseased or infectious
- the removal of the tree is necessary to maintain the appearance, health or vigor of the remaining trees
- no practical alternatives for the reasonable use of the property exist
- the tree in question is significant and the trunk is leaning over a principal structure or its roots are causing damage to the structure's foundation.

In making a determination regarding reasonable use, the Zoning Administrator shall not require that any proposed building be reduced in size.

In the event an affected party disagrees with the Zoning Administrator regarding the removal or cutting of any protected tree, an appeal may be submitted to the Zoning Board of Appeals. If a determination is made by the Zoning Administrator that certain healthy, Protected trees may be removed, they shall be replaced in accordance with the requirements of Section 1303.7.3 of this Article.

1303.2 Tree permits. Tree removal permits shall be required for all properties and shall be obtained from the office of the Zoning Administrator. A tree permit is required for limb and root pruning of protected trees for all non single-family parcels. All pruning shall follow the latest version of the ANSI A300 standards.

1303.3 Prohibited Activities. In addition to Section 1303.1 regarding the

removal of protected trees, the following activities are prohibited:

1303.3.1 Tree topping, unless such activity is taken as the result of a natural disaster.

1303.3.2 Removal of Waterway Trees. Trees growing in waterways adjacent to commercial-property and beyond certified property lines may not be removed unless the Zoning Administrator determines that no other way exists to install a permitted dock. Such determination will be made in conjunction with DHEC-OCRM (Ocean and Coastal Resource Management) and the U.S. Army Corps of Engineers.

1303.3.3 Relocation and Removal of Legacy Trees. Legacy trees shall not be removed or disturbed, except that Legacy trees with a minimum diameter under eight inches may be relocated with the approval of the sponsoring individual or organization. If a legacy tree is planted in a County park, the County reserves the right to remove or relocate such tree on County property.

1303.4 Platting of Subdivisions. Developers shall design a project so that buildable areas exist on lots to minimize the need for future homebuilders to remove trees over 30 inches DBH to achieve a reasonable use of a lot. The Planning Commission shall examine major subdivisions to assure compliance with this provision as well as ensure the minimization of the removal of other Protected trees on the tract. Planning Department staff shall review minor subdivisions to assure compliance with this provision.

1303.5 Longleaf Pine Trees. Longleaf pine trees located on non single-family parcels are protected within an area bounded by the Waccamaw River to the west, the Horry County line to the north, the Atlantic Ocean to the east and Winyah Bay to the south. In this area, Longleaf pine trees of at least twelve (12) inches in diameter at breast height located on non single-family parcels are considered to be protected. Pine species other than longleaf are not protected.

1303.6 Trees and Stormwater Compliance. Developers shall design stormwater infrastructure so as to reduce the number of protected trees removed. Tree density and function are complementary issues to good stormwater retention and system design. An example is utilizing infiltration systems instead of ponds to meet Stormwater regulations when soil conditions are favorable. It is the responsibility of the applicant to provide supporting data if soil conditions dictate that ponds that affect protected trees are the only acceptable means of meeting Stormwater regulations.

1303.7. Permitting Process. When an application for a building permit or development permit is submitted to the County, a tree plan for the development or alteration of any non single-family parcel of land shall be submitted to the Zoning Administrator. No building or development permit shall be issued until the tree plan

ARTICLE XIII

TREE REGULATIONS

has been reviewed and approved by the Zoning Administrator, who shall approve, approve conditionally or disapprove the plan. If the plan is disapproved or approved conditionally, the reasons for such action shall be stated in writing and signed by the Zoning Administrator. The Zoning Division shall retain a copy of the justification for these actions, and a copy shall be given to the applicant.

1303.7.1 Tree Plan Requirements. A tree plan shall include the following elements:

1303.7.1.1 Location, DBH, species and total of all Protected trees on site;

1303.7.1.2 Location, DBH, species and total of all Protected trees on site over 30” DBH.

1303.7.1.3 Designation of tree protection areas with identification of trees to be retained, and areas of tree replacement; notation of specifications for protection of trees to be retained during development; methods of tree protection for all tree protection areas, including tree fencing, erosion control, retaining walls, tunneling for utilities, aeration systems, transplanting and staking;

1303.7.1.4 Indication of any Protected trees to be removed;

1303.7.1.5 A tree replacement schedule showing the location, species and size of any replacement trees to be planted and existing trees or stands of trees used in the calculation;

1303.7.1.6 Limits of clearing and land disturbance such as grading, trenching, etc., staging areas for parking, material storage, concrete washout, debris burn and burial holes;

1303.7.1.7 Proposed location of all underground utilities should be indicated; if an irrigation system is utilized, the location of the lines and heads;

1303.7.1.8 Specifications and provisions for maintenance and upkeep of trees upon completion of the project;

1303.7.1.9 The name, address and telephone number of the applicant and the following notes in large letters:

CONTACT THE ZONING DIVISION TO ARRANGE A PRE-CONSTRUCTION CONFERENCE WITH THE ZONING ADMINISTRATOR PRIOR TO ANY LAND DISTURBANCE.

ALL TREE PROTECTION MEASURES SHALL BE INSTALLED PRIOR TO GRADING.

1303.7.1.10 Calculation of open space remaining on site after development. For purposes of this ordinance, open space shall be defined as the total lot area minus any wetlands, stormwater detention or retention areas, parking areas and building pads.

1303.7.2 Trees that are proposed to be cut or removed shall be marked with an identifying ribbon.

1303.8 Tree Replacement.

1303.8.1 Uses. Tree replacement is required for non single-family uses including commercial, industrial, non-profit, public, etc.

1303.8.2 Tree Replacement Calculations.

1303.8.2.1 If the existing, undeveloped site contains less than 1 tree per 1,000 SF of land, then the post development tree to open space ratio shall be equal to the pre-development tree to lot area ratio. If the existing, undeveloped site contains 1 tree per 1,000 SF of land or greater, then the post development tree to open space ratio shall be equal to 1 tree per 1,000 SF of open space.

1303.8.2.2 If one or more Protected trees of 30” DBH or greater are removed from a site, then the post development tree to open space ratio must be two times the pre-development tree to lot area ratio not to exceed 1 tree per 1,000 SF of open space.

1303.8.2.3 In no case shall tree replacement be required to exceed the 1 tree per 1,000 SF of open space ratio.

1303.8.2.4 For purposes of this ordinance, open space shall be defined as the total lot area minus any wetlands, stormwater detention area, parking areas and building pads.

1303.8.2.5 The plan shall take into consideration the general landscape characteristics of the site, defined by the density of plant material in the immediate and surrounding areas, and any distinctive grouping of trees or other landscaping features. It shall contain a strategy for retaining those characteristics.

1303.8.3 Planting requirements. The applicant, while planting trees, shall consider the following:

1303.8.3.1 The spacing of replacement trees shall take into consideration the eventual size at maturity of selected species;

1303.8.3.2 Species selected for replacement shall be quality specimens 50% of which must be selected from the protected tree list found in Appendix A, in accordance with the standards for selection of quality replacement stock and for transplanting. The remaining 50% of replacement trees must be of a species approved by the Planning Director.

1303.8.3.3 All replacement trees must be at least three (3") inch caliper in size.

1303.8.3.4 Protected trees and stands of trees shall be replaced by species with potential for comparable size and growth; and

1303.8.3.5 Species placement shall be subject to the approval of the Zoning Administrator or his or her designee.

1303.8.4 Frontage. For all parcels referenced in the table in Section 1303.8.1 of this Article which contain 100 feet of frontage or more on Highway 17 Bypass, Highway 17 Business, Highway 701, Highway 707 or Highway 521; at least one of the required replacement trees must be planted for every 100 feet of highway frontage within twenty (20) feet of the front property line. Existing protected trees within twenty (20) feet of the front property line may count toward this requirement.

1303.8.4.1 Utilities. Parcels that contain overhead utilities along the front may locate the required replacement trees further back than twenty (20) feet if necessary in order to provide safe clearance from utility lines.

1303.8.5 Maintenance. Following development, the property owner shall be responsible for maintaining the trees that were saved and/or planted. (See ANSI 300 standards for additional information on remedial tree care.) If any of the trees become diseased or damaged, the property owner shall be responsible for replacing the trees immediately after their removal. The Zoning Administrator or a designee may inspect replacement trees after one year of installation and as needed to ensure the health of the trees. Additional replacement trees will be required if trees are deemed unhealthy at the time of inspection.

1303.8.5.1 As the trees within a development grow and mature, the Zoning Administrator or his or her designee may authorize removal of certain trees, which lack vigor or are diseased, in order to maintain the appearance and health of the remaining trees. If site

conditions are conducive to replacing the removed trees, the Zoning Administrator or his or her designee may require tree replacement.

1303.8.6 Mitigation Policy. Any protected tree removed without permit authorization must be replaced with three (3) trees, each of three (3”) inch caliper, and of a species categorized as Protected. If the Zoning Administrator or his or her designee determines that an act of clear-cutting of protected trees has occurred on site prior to issuance of a development permit, the property owner shall be required to replace the trees with protected tree species, at a rate of one (1) tree of three (3”) inch caliper tree per one thousand (1000) square feet of open space, excluding the approved building area, any pre-existing open water features and stormwater retention/detention areas.

If any property is sold, subsequent to the act of clear-cutting by the previous owner, the new owner shall assume responsibility for mitigation and it will be his responsibility, if he so chooses, to seek redress and recover costs from the previous owner under whom the act occurred.

1303.9 Exceptions. Exceptions to tree requirements for non single-family parcels are listed below.

1303.9.1 If any tree is determined by the Zoning Administrator to be diseased, injured or located in a manner that endangers the public health, safety or welfare, the Zoning Administrator may authorize immediate removal. If a party requests the removal of a protected tree and claims it is diseased or unhealthy and the Zoning Administrator disagrees, the applicant may elect to solicit guidance from a tree professional. The applicant must pay any cost charged by the tree professional to provide the County needed information.

1303.9.2 Immediately after the event of a natural disaster such as a tornado, hurricane, storm, or flood, which results in catastrophic loss or damage to trees, lost or damaged trees may be removed without a permit. One tree of at least two (2”) inch DBH shall be replanted, within a three year period, for each tree removed. Only County Council shall determine catastrophic loss or damage.

1303.9.3 Commercial timber harvesting operations that follow industry best management practices as established by the South Carolina Forestry Commission. Incidental deviation from a best management practice shall not result in the imposition of this Ordinance on the commercial timber harvesting operation.

1303.9.4 The ability of public utilities and electric suppliers to maintain safe clearances around utility lines shall not be affected by this ordinance. Tree-cutting not associated with the safety or proper operation of the utility falls under the provision of this Ordinance.

1303.9.5 The removal or pruning of protected trees for the development and maintenance of golf courses excluding sites for clubhouses, sheds and other amenities; road rights-of-way except those relating to subdivisions as referred to in Section 1303.4 ; easements for utilities and drainage; wells; lift stations and water storage tanks shall be exempt from this Ordinance.

1303.9.6 All farming operations including tree farms for pulpwood, lumber, horticultural use and other tree products. This exception does not apply if the owner of a tract rezones the property to allow for farming activities and then converts said tract for residential, commercial or industrial development within a five year time period measured from the date of the rezoning. In this case, the property owner will be required to replant trees on the site based on the mitigation policy provided in Section 1303.8.6 of this Ordinance.

1303.9.7. Protected trees less than 30” DBH on industrially used or zoned properties. Trees addressed in the Buffer Requirements section of this Zoning Ordinance are not exempt from the requirements of this Article.

1303.10. Enforcement and Remedies. Any person or entity who violates any provision of this Article shall have committed a misdemeanor. The Zoning Administrator shall institute appropriate legal action including imposition of the following fines.

Tree Removal, topping or limb/root pruning in a manner not consistent with this ordinance or any standards referred to in this ordinance - \$500 per violation for each tree

Failure to Plant or Maintain Replacement Tree – \$500 per violation for each tree not planted or maintained.

Failure to obtain a required permit – Up to \$500 per related tree.

In addition to the above fines, violators shall be subject to all of the provisions established in Sec. 1-6. General Penalty; continuing violations, of the County Code of Ordinances. Issuance of a fine or penalty does not relieve any party of complying with the mitigation requirements set forth in this article.

All fines collected as a result of the enforcement of this article will be placed in the Tree Fund and used by the County for the purpose of planting trees and installing landscaping in public areas.

1303.11 Withholding Approvals. The removal of any tree in violation of this article shall constitute grounds for withholding new building permits directly related to said tree removal until the violation has been corrected, including the payment of all fines and the planting of all trees required as mitigation.

1304. Tree Protection Requirements. The following section applies to protected trees on both unoccupied single family and non single-family parcels.

1304.1 Tree protection areas: Protected trees or stands of trees designated to be saved shall be protected from the following damages, which may occur during all phases of land disturbance and construction processes:

1304.1.1 direct physical root damage;

1304.1.2 indirect root damage; and

1304.1.3 trunk and crown disturbances.

1304.2 Planning considerations. The following standards shall apply to protected tree areas:

1304.2.1 Tree save islands and stands shall be used rather than the protection of small individual (non-significant) trees scattered throughout a site;

1304.2.2 The protected tree area shall be equal in feet to the DBH (diameter breast height) of the tree (i.e. a 24 inch diameter tree would require a 24 foot diameter protective barrier.)

1304.2.3 Layout of the project site utility and grading plans shall accommodate the required tree protection areas. Utilities should be placed along corridors between tree protection areas, whenever possible; and

1304.2.4 Construction site activities such as parking, material storage, concrete washout, burnhole placement, etc., shall be arranged so as to prevent disturbances within tree protection areas.

1304.3 Protective Barriers. Prior to any land disturbance, suitable protective barriers shall be erected and maintained around all trees to be retained during development, so as to prevent damage. The Zoning Administrator or his or her designee shall be consulted regarding the specific type(s) of barrier(s) to be utilized and shall periodically visit the site during the construction stage to ensure compliance with all provisions of this Ordinance.

1304.3.1 Active protective tree fencing shall be installed along the outer edge of and completely surrounding the protected area as described in Section 1304.2.2.

1304.3.1.1 These fences shall be a minimum of 4 feet high, constructed in a post and rail configuration. A 2-inch x 4-inch post and a double 1-inch x 4-inch rail is recommended. Four-foot orange polyethylene laminar safety fencing is also acceptable.

1304.3.2 Passive forms of tree protection may be utilized in any area not subject to land disturbance.

1304.3.2.1 These areas shall be completely surrounded with continuous rope or flagging (heavy mill, minimum 4” wide).

1304.3.3 There shall be no grading or paving with any impervious material within five (5) feet of the trunk of any retained tree (additional area may be specified by the Zoning Administrator if necessary to prevent injury to Protected trees). The required five (5) foot setback may be reduced by the Zoning Administrator, or his or her designee, for pedestrian or biking trails.

1304.3.4 All trees to be protected shall be protected from the sedimentation of erosion material.

1304.3.4.1 Silt screening shall be placed along the outer edge of tree protective zones at the land disturbance interface.

1304.3.4.2 The screening shall be backed by 12-gauge 2 inch x 4-inch wire mesh fencing in areas of steep slope.

1304.3.4.3 All tree fencing and erosion control barriers shall be installed prior to and maintained throughout the land disturbance process and building construction, and shall not be removed until landscaping is installed.

1304.4 Encroachment. If encroachment is anticipated within the critical root zones of trees to be protected, the following preventive measures shall be employed, as required by the Zoning Administrator:

1304.4.1 Clearing activities: The removal of trees adjacent to tree protection areas can cause inadvertent damage to the roots of protected trees. Whenever possible, a minimum three (3') foot deep trench (e.g. with a “ditchwitch”) shall be cut along the limits of land disturbance, rather than tear the roots.

1304.4.2 Soil compaction: Where compaction might occur due to traffic or materials storage, the tree protection area shall first be mulched with a minimum 4 inch layer of processed pine bark or wood chips, or a 6 inch layer of pine straw.

1304.4.3 Utility installation: The installation of utilities through a tree protection area shall occur in a manner least detrimental to the existing protected trees. If roots must be cut, proper root pruning procedures shall be employed as required in ANSI A300 standards.

ARTICLE XIII

TREE REGULATIONS

1304.4.4 Grade Changes: An increase in grade may be tolerated within a tree's critical root zone. This shall be accompanied with the installation of an aeration system. A decrease in grade shall be accomplished with the use of retaining walls or through terracing.

1304.4.5 Irreparable damage: Where the Zoning Administrator has determined that irreparable damage has occurred to trees within a tree protection area, removal or replacement of the trees shall be required. In addition, penalties as outlined in Section 1302.8 and 1303.10 may be imposed.

1304.5. Reclamation of growing site. The following methods of site reclamation may be utilized:

1304.5.1 Bringing the soil back to its natural grade by removal of any unnecessary fill, erosion, sedimentation, concrete washout, and construction debris.

1304.5.2 The aeration of compacted soils within the protected tree area as described in Section 1304.2.2.

1304.5.3 Improvement of soil with mineral supplementation.

1304.5.4 The spreading of mulch material, such as pine bark or wood chips spread a minimum of four (4") inches deep, within the protected tree area as described in Section 1304.4.2.

1304.5.5 Monitoring of the availability and drainage of water.