



Town of Surfside Beach
115 US Hwy. 17 North, Surfside Beach, SC 29575
(843)913-6341

**PLANNING COMMISSION REGULAR MEETING
TOWN COUNCIL CHAMBERS
Tuesday, December 6, 2016 at 6:00PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. AGENDA APPROVAL
4. MINUTES APPROVAL – October 4, 2016
5. PUBLIC COMMENTS ON DISCUSSION ITEMS
6. DISCUSSION ITEMS:
 - a. Draft Tree Ordinance
 - b. Zoning Ordinance (General)
 - c. Any topic the board wishes to discuss
7. PUBLIC COMMENTS – General Comments.
8. BOARD COMMENTS
9. ADJOURNMENT



**SURFSIDE BEACH PLANNING & ZONING COMMISSION
TOWN COUNCIL CHAMBERS
OCTOBER 4, 2016 ♦ 6:00 P.M.**

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5
6 **1. CALL TO ORDER.** Vice Chairman Abrams called the Planning & Zoning Commission meeting
7 to order at 6:00 p.m. Commission members present: Vice Chairman Abrams and members Elliott,
8 Gambino, Johnson, Lauer, Lowery, and Seibold. A quorum was present. Others present: Town Clerk
9 Herrmann and Planning Director Morris.

10
11 **2. PLEDGE OF ALLEGIANCE.** Chairman Abrams led the Pledge of Allegiance.

12
13 **3. BOARD MEMBERS OATH OF OFFICE.** Ms. Herrmann swore in the commission members,
14 all of whom swore to uphold the code and to perform their duties to the best of their ability. The signed
15 oath is on file in the town clerk's office.

16
17 **4. AGENDA APPROVAL.** Ms. Johnson moved to approve the agenda with an amendment to
18 allow public comments on agenda items immediately prior to the discussion items, and to delete
19 discussion item 6.A. sign ordinance. Ms. Lowery second. All voted in favor. **MOTION CARRIED.**

20
21 **5. MINUTES APPROVAL.** Mr. Lauer moved to approve the August 2, 2016 meeting minutes
22 with one correction to state that Ms. Gambino was present. Ms. Johnson second. All voted in favor.
23 **MOTION CARRIED.**

24
25 **PUBLIC COMMENTS- Agenda Items.** There were no comments on agenda items.

26
27 **6. BUSINESS.**

28
29 **A. Proposed amendment to the sign ordinance (by Business Committee.)** Deleted by
30 approved motion, see Item 4, Agenda Approval.

31
32 **B. Annual Rentals in R1 and R2 Zoning Districts – (Defining long term rentals.)** Ms.
33 Morris explained that property located in the R3 district is for short term transient rentals, defined in the
34 ordinance as a dwelling or other accommodation used as a dwelling or other place for human habitation
35 with sleeping accommodations which is rented, leased, or subleased for periods less than a calendar
36 month. The C1 district does not allow residential uses now. The ordinance does not have a definition for
37 annual rentals; the interpretation has always been that if the use is not transient, then it is annual. Staff
38 was challenged a few months ago, because transient is less than 30 days, so it could be interpreted as
39 anything more than 30 days is allowed in R1 and R2. Staff does not believe that R1 and R2, which are
40 established residential, long term occupancy neighborhoods are classified as annual use. The matter is
41 brought to the commission for a recommendation. After discussion, the commission **CONCURRED** to
42 recommend that R1 and R2 shall be allowed to have a long term rentals of six months or longer. Ms.
43 Morris will bring a proposed ordinance for consideration at the next meeting.

44
45 **C. Relaxing of 35 ft. height limits on properties located in the Special Flood Hazard**
46 **Areas that are located in R1 and R2 to allow the structure to extend no more than 3 ft. above**
47 **the maximum height requirement.** Ms. Morris said a contractor recently told Town Council that
48 building a three story house could not be constructed with meeting the 35-height limit. Each zoning
49 district has height limits that have been established for over 20 years. Building height is defined as the
50 highest vertical distance measured from the lowest finished grade at the ground level within one foot of
51 the structure at the highest point of the roof. Over 30 home permits, most of which were in the R1 and
52 R2 districts, were issued in the last few months. Many of the homes had two livable stories and parking
53 underneath the home, which is three stories that meet the 35 height limit required. She did not know

54 why this particular contractor said it cannot be done. Three story homes are being built all over town
55 now. Ms. Morris said only one home had to be redesign to meet the 35 foot limit; the roof peak was
56 altered to meet the height limitation. Myrtle Beach was contacted and it has a three foot exception for
57 structures in a special flood hazard area. Perhaps that is where this comment came from. The Myrtle
58 Beach ordinance states "for any structure which is elevated no less than three feet above the base flood
59 elevation (BFE,) the maximum building height requirement for the district where the structure is located
60 as found elsewhere in the ordinance shall be relaxed so that the structure makes them no more than
61 three feet above the maximum requirement. Such permission shall be within the authority of the zoning
62 administrator, and shall not require the property owner to request a variance from the board of zoning
63 appeals." This was done because of the FEMA requirements and stringent CRS requirements that require
64 three feet above base flood elevations to save on flood insurance, the City of Myrtle Beach felt it was
65 taking away the three feet, so they gave it back. Ms. Morris said her staff checked records the past five
66 years, and every one of the homes in a flood zone in R1, R2, and R3 were already building to the three
67 foot above the required BFE. Staff did not believe anything was being taken away. The lots are so small
68 the homes have to be built up. After discussion including the fact that three story homes are being
69 constructed with the 35 foot height limitation; the town has many older homes that will eventually be
70 redeveloped, and changing the height would change the town's character, the commission **CONCURRED**
71 that there was no interest in amending the height limits. Ms. Morris said an ordinance would be prepared
72 for consideration at the next meeting for a recommendation to Town Council. She explained that height
73 limits keep coming before the commission; once Town Council acts on a recommendation, the discussion
74 cannot be brought forward again for a year.

75
76 **D. Removal of Landmark Trees.** Ms. Morris said this topic was under discussion at the last
77 Town Council meeting. Mr. Pellegrino lives in the R3 district and has seen many landmark trees, which
78 are Live Oaks, Laurel Oaks, and Cypress trees that are over 24-inches in diameter, removed for
79 construction. Staff tells permit applicants they should save the trees by getting a variance from the
80 board of zoning appeals. Contractors do not come to discuss plans; they bring the plans with them when
81 they apply for permits. A presentation was made showing the types of variances that would allow a
82 landmark tree to be saved. The code states if an arborist letter states the trees must be removed, they
83 are allowed to remove them, which is being used by those who simply want to cut trees. Staff should
84 not have legislative power, and should not make quasi-judicial decisions. After discussion, the
85 commission **CONCURRED** to consider an ordinance for recommendation to require owners to appear
86 before the board of zoning appeals (BZA) for a variance when a landmark tree could be saved; the
87 advertising for the board meeting would run concurrent with the plan review, and BZA would meet as
88 soon as possible. Ms. Morris said that when the town is trying to save a tree, there is no fee to appear
89 before BZA, and staff would do everything possible to assist the homeowner, including completing the
90 form for the BZA explaining why the variance is requested. BZA can place conditions on any variance,
91 but staff does not make recommendations to the board.

92
93 **E. Any topic the board wishes to discuss.** After discussion about losing landmark trees
94 because of arborists' letters stating the tree should be removed because of what could happen, the
95 commission also **CONCURRED** to discuss at the next meeting arborist letters being accepted based on
96 *what could happen* to a tree, instead of the actual current condition of the tree. Ms. Morris would send
97 the code to the commission members for them to consider prior to the meeting.

98
99 **7. PUBLIC COMMENTS - General.** There were no public comments.

100
101 Mr. Ron Ott, 7th Avenue North, said as a homeowner in town, I appreciate having quality people
102 that do their jobs here. You can tell that you are looking at what you need to look at. Not just saying
103 okay, I'll look at that and for ten minutes you put some time into it. The board of zoning appeals is not
104 just a variance board. Even by its name, it's an appeals board. They do a variance. They also do an
105 appeal. They can change the decision of the zoning director. That's very important. Ms. Morris did not
106 realize it when she saw her first one with us. It worked very well. The other thing they have is special

107 exceptions. Maybe if this group of commissions could take a look at that, that's a little more wide open.
108 I know that Myrtle Beach uses special exceptions to do heritage trees, and so does Horry County. It
109 gives you a little bit of wiggle room. You may not even have to advertise that long. There are a whole
110 lot of things; you might be able to get that board in there within seven days to make a decision on that.
111 So, I'd like to ask Ms. Morris if she could open that up and take a look at that. Right now we don't use
112 that power of special exceptions at all with the board of zoning appeals. Most of the things that were on
113 there were erased, and I think the planning commission should look at that, and see what you would like
114 to add into that. It will help all the citizens in this town to have that third power for those citizens to
115 make decisions for them. Thank you very much.

116
117 **8. COMMISSION COMMENTS.**

118
119 Chairman Abrams: I welcome Mr. Seibold back to the planning commission. For those of you
120 who don't know, he was our former chairman. We are very fortunate to have somebody back who can
121 hit the ground running. I'm glad you're back.

122
123 Mr. Seibold: I looked forward to working with all of you. I'm glad to be back; I really am.

124
125 Ms. Johnson: I'd like to welcome you, [Mr. Seibold.] I'll just say be safe.

126
127 Ms. Elliott: Oh, my (**)! *(Laughter)* I say the same; be safe.

128
129 Mr. Lauer: I'm a little concerned about this hurricane. I'm going to try to be safe.

130
131 Ms. Gambino: Be safe, too.

132
133 Ms. Lowery: I'm just tickled to have Mr. Seibold back. I was a newbie when you were still head
134 of the commission and had no idea what I had done to myself. It is just nice to have you back. It really
135 is, and nice to have you guys out there [in the audience,] too.

136
137 Ms. Abrams: I am just thrilled to death to have a full planning commission, and I think we are
138 going to be absolutely fantastic. Ms. Morris, if I could ask, I would like maybe on the next agenda for us
139 to take a look at the BZA special exceptions power. I'm very interested in learning more about that. It is
140 going to be an interesting few days. I'll say it, too. Everybody stay safe, and we'll see you next month.

141
142 **9. ADJOURNMENT.** Mr. Lauer moved to adjourn at 6:45 p.m. Ms. Gambino second. All voted
143 in favor. **MOTION CARRIED.**

144
145 Prepared and submitted by,

146
147 _____
148 Debra E. Herrmann, CMC, Town Clerk

149 Approved: November 1, 2015.

150
151 _____
152 Mary Ellen Abrams, Vice Chairman

153
154 Clerk's Note: This document constitutes summary minutes of the meeting that was digitally recorded, and not
155 intended to be a complete transcript. Appointments to hear recordings may be made with the town clerk; a free
156 copy of the audio will be given to you provided you bring a flash drive. In accordance with FOIA §30-4-80(A) and
157 (E), meeting notice and the agenda were distributed to local media and interested parties via the town's email
158 subscription list. The agenda was posted on the entry door at Town Council Chambers. Meeting notice was also
159 posted on the town website at www.surfsidebeach.org and the marquee.

DRAFT REVISION 11-7-2016
CHAPTER 17, Article VII, Landscaping and Tree Protection

OBJECTIVE: At the 11/4/2016 Town Council workshop, a motion (Samples/Ott) was approved to refer this ordinance to Planning Commission with a request to address:

- the **landscaping requirements** on residents.
- the **restrictive pruning requirements** on residents.
- the issue of **roots near a foundation** (the current requirement is to wait until damage has already been done.)
- the requirements for an **arborist** to be consulted.
- issues brought by citizens about **vacant lots** either harboring wildlife and excessive vegetation or having trees in danger of falling. (Staff to consult with the attorney about whether this is the appropriate ordinance for this; it may be more appropriate under Chapter 7, "Health and Sanitation.") and,
- in general, to **SIMPLIFY** this ordinance.

A second motion approved at the same meeting (Courtney/Stevens) asks Planning Commission to consider that the **finer** are excessive and that staff has no discretion regarding fines, and to perhaps separate commercial fines from residential fines.

This draft revision provides a strawman which addresses some of the above issues and is a place to begin. It is subject to change by PC members based on their own opinions or on staff advice, or on anything additional that surfaces in the required public hearing.

For Simplification and clarity: The lengthy Definitions section and the Charts have been removed (unchanged) to the end of the ordinance as references for anyone who needs them. Also many superfluous words have been deleted throughout the ordinance. Using circumference measurements instead of diameter would probably simplify things for the residents. The average homeowner probably doesn't have a caliper.

As for Council's concern that policies are way too restrictive to homeowners, the drafter suggests PC try the approach of leaving most of the rules as they are but changing to whom they apply. That is, lighten up on the homeowners while remaining strict for developers, redevelopers and major additions (Remember we need to keep future "tear-downs" in mind.)

Another suggestion is that *some* requirements for an arborist be eliminated and that the town make more use of the special exceptions authority of the Board of Zoning Appeals. That is, rather than relying on an arborist in the pay of the applicant, the decision should be made by a "jury of residents using common sense." When appropriate, I would also require developers to request a setback variance from the BZA, rather than leaving it as an option (that they will choose not to use because it may cost a few days).

The list of protected, specimen and landmark trees still needs to be scrutinized; no changes have been made in this draft.

- **DIVISION 1. - LANDSCAPING**

- **Sec. 17-700. - Intent.**

The intent of this division is to ~~provide for proper~~ **establish requirements for** landscaping in the town.

- **Sec. 17-701. - Findings of fact.**

~~Landscaping is a producer of oxygen, a necessary element for the survival of man. Landscaping appreciably reduces the ever increasing and environmentally dangerous carbon dioxide content of the air and plays a vital role in purifying the air that man breaths. Landscaping filters dust and other particles of airborne pollutants from the air and creates temporary conditions of calm, allowing airborne pollutants to settle to the ground. Landscaping gives off considerable amounts of water each day and thereby purifies the air much like the air washer devices used on commercial air conditioning systems. Landscaping, through its root systems, stabilizes the ground water table and plays an important and effective part in community-wide soil conservation, erosion control and flood control. Landscaping is an invaluable physical and psychological counterpart to the urban setting, making urban life more comfortable by provides shade, cools the air and land, reduces noise levels and glare, and breaks the monotony of man's development of the land. Therefore, the town has determined that landscaping is not only desirable but essential to the present and future health, safety, and welfare of all the citizens of the town.~~

- **Sec. 17-702. - Landscaping defined.**

~~Landscaping shall consist of, but not be limited to, is~~ any combination of **vegetative** materials such as grass, ground covers, shrubs, flower beds, vines, hedges, and trees. Property elevations shall not be raised except with clean soil fill compatible with the area and by meeting stormwater management regulations. **(This last sentence does not belong in this ordinance. Sec 704 already says landscaping must meet other code requirements.)**

- **Sec. 17-703. - Area required to be landscaped. (needs review by PC)**

(a) In the commercial zones [districts] at least ten (10) percent of total lot square footage shall be landscaped.

(b) In the R-1 low-density residential district at least fifty (50) percent of total lot square footage shall be landscaped and at least twenty (20) percent of the required landscaping shall be located in the front yard.

(c) In the R-2 medium density residential district at least forty (40) percent of total lot square footage shall be landscaped and at least twenty (20) percent of the required landscaping shall be located in the front yard.

(d) In the R-3 high density residential and accommodations district at least twenty (20) percent of total lot square footage shall be landscaped and at least forty (40) percent of the required landscaping shall be located in the front yard.

(e) In the MU mixed use district at least thirty (30) percent of the total lot square footage shall be landscaped and at least thirty (30) percent of the required landscaping shall be located in the front yard.

- **Sec. 17-704. - Installation of landscaping.**

All landscaping shall be installed ~~in a sound, workmanship-like manner~~ according to accepted good planting procedures. **In cases of new construction, redevelopment or additions which exceed 48% of value,** all elements of landscaping shall be installed prior to the issuance of a certificate of zoning compliance by the code enforcement official in accordance with [section 17-206](#). Furthermore, the installation of landscaping shall meet all other applicable ordinances and code requirements of the town.

- **Sec. 17-705. - Maintenance of landscaping.**

The owner, tenant, and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. **All landscaping** which shall be maintained ~~in good condition~~ so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse **and** debris, ~~and disease.~~ **("healthy" takes care of disease.)**

- **Secs. 17-706—17-719. - Reserved.**

• **DIVISION 2. - TREE PROTECTION^[2]**

Sec. 17-720. - Intent.

It is the intent of this division to afford protection to all existing trees, especially those defined as protected, and specimen and landmark trees, on both developed and undeveloped property. To this end, a zoning permit indicating approval by town staff is required before any certain tree removal or pruning is undertaken in the town.

(Ord. No. 15-0799, 4-28-15)

Sec. 17-721. - Findings of fact.

Trees are an essential environmental resource, an invaluable economic resource, and a priceless aesthetic resource. Trees play a critical role in purifying air and water, providing wildlife habitat, and enhancing natural drainage and stormwater and sediment control. They also help conserve energy by providing shade and shielding against wind, noise and glare. Trees promote commerce and tourism by buffering different land uses and beautifying the landscape.

(Ord. No. 15-0799, 4-28-15)

Sec. 17-722. - Definitions. **(In furtherance of "simplification," editor has moved the lengthy definitions to the end.)** In addition to the definitions set forth in section 17-007, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section Appendix A, Definitions. All other words, terms, and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. **ADD: For clarity, the town categorizes its trees into four (4) types: protected, specimen, landmark, and other.**

Sec. 17-723. - Zoning permit required for pruning and tree removal. **ADD in bold type: This section applies to existing homes only if the tree(s) are listed by this ordinance as "specimen" or "landmark." Other than specimen or landmark trees, owners of existing homes may prune their trees as they wish.**

This following requirements do apply to all new development, re-development, and additions to existing homes exceeding 48% of value regardless of the type of tree(s) involved.

~~Under the terms of this article, A zoning permit is required prior to the following activities:~~

- (1) A zoning permit is required prior to removal of any tree four (4) inches or greater in diameter. **(NOTE: PC should consider whether it is possible throughout the ordinance to measure in something other than "diameter." The term "circumference" has been suggested as easier for the layman to measure. Relevant parts of this draft are highlighted in turquoise.)**
- (2) A zoning permit is required prior to the pruning of limbs over four (4) inches in diameter.
- (3) A zoning permit is required prior to the removal of any required tree to include including replacement trees, irrespective of diameter, if the result of which if the removal would require the replanting of trees to meet the number or cumulative diameter requirements of section 17-724.

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CHAPTER 17, Article VII, Landscaping and Tree Protection

Electric utilities are exempt from the permitting process for the pruning and or removal of a tree when necessary to correct a hazardous situation or to eliminate tree/wire conflict that has the potential to interfere with power reliability upon notification and approval of the town's code enforcement official.

All requests for the removal of trees and/or the pruning of limbs over **four (4) inches in diameter** must have the approval of the code enforcement official before **any action is taken** removal. In some instances, the code enforcement official may require a tree protection plan. With the exception of a dead or diseased limbs or tree, the permit for removal is subject to the fees enumerated in chapter 13 of the Code of Ordinances. Failure to obtain the required approval and permit(s) shall result in the issuance of a municipal summons for this violation and subject the violator to the penalties prescribed in section 17-740.

(Ord. No. 15-0799, 4-28-15)

Sec. 17-724. - Minimum **number of** required trees and diameter by district; applicability of provision.

- (a) **Tree and diameter requirements.** The number and cumulative diameter of trees required per lot within the town's zoning districts are provided in Table 17-724. **(Appendix B)**
- (b) **Applicability.** If at the time of this article's adoption, there exist lots that do not contain the number of trees or **cumulative diameter** as required by this section, such sites may continue in nonconformity pursuant to section 17-505. Any change of use, new construction, or the issuance of a zoning permit affecting such a lot shall thereupon require compliance with the minimum tree planting (minimum number of trees) requirement of this section. **(Editor: Work needed on this paragraph.)**
- (c) **Planned developments.** Planned development districts created under this chapter shall, at a minimum, provide and maintain trees consistent with the requirement for "all other districts" as provided in Table 17-724. Where the ordinance creating the planned development district provides more restrictive standards than those contained in this article, the more restrictive standard shall govern.

(Ord. No. 15-0799, 4-28-15)

Sec. 17-725. **(Editor's note: This section is about "other" trees. These trees are not listed as protected, specimen or landmark.)** Guidelines for ~~tree removal~~ removal of trees not listed in the table at Attachment A. as **protected, specimen or landmark.** **ADD: This section does not apply to existing homes. This section does apply to all new development, re-development, or additions to existing homes exceeding 48% of value.**

Trees not listed in Attachment a. as protected, specimen or landmark trees, with a trunk **diameter-at-breast-height of eight (8) inches** or more that are located within the front, side, or rear required yard space of the applicable zoning district shall not be removed unless **the code enforcement official determines:**

- (1) The tree poses a safety hazard to pedestrian or vehicular traffic;
- (2) The tree poses a hazard to buildings or utilities. For the purpose of this article, any tree or root system that poses a hazard to a building or utilities foundation or driveway may be removed with the approval of the code enforcement official;
- (3) The tree presents a situation, which prevents the development of a lot or the physical use thereof for proposed development. Tree removal of non-protected trees may be allowed by the code enforcement officials, and only those trees whose removal is determined by the code enforcement official essential for development will be removed;
- (4) The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of hazard to people, buildings or other improvements on a lot; or

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- (5) The property owner wishes to thin or remove existing trees from his property to allow for the proper growth of remaining trees or to enhance the overall appearance of the landscaped area. Thinning may be authorized by the code enforcement official(s) provided thinning is limited to twenty (20) percent of existing trees.
- (6) The tree is located within the footprint of the home **or addition** to be constructed. In these cases, a building permit for the construction must be issued prior to the removal of the tree(s).

(Ord. No. 15-0799, 4-28-15)

Sec. 17-726. - Guidelines for pruning or removal of **protected and/or specimen** trees.

When there is clear evidence that the protected tree or specimen tree **or its limbs** poses a hazard, (i.e. roots visibly extending under a habitable structure, trees located within ten (10) feet of the foundation of a habitable structure with roots causing visible foundation damage, tree is dead, diseased, weakened by storm, fire, or other injury) or for trees whose removal is essential for development, tree removal for a protected tree or specimen tree may be allowed by the code enforcement official for those trees. (ADD: The following requirement for an arborist certification applies only to new development, re-development and additions to existing homes that exceed 48% of value. Owners of existing homes may apply to the Board of Zoning Appeals for an exception.) When staff cannot determine whether a tree meets the criteria for removal, a protected tree or specimen tree (including those located in the buildable area) as well as protected and specimen trees located within the front, side, or rear yard setbacks of the applicable zoning district, shall not be removed unless a licensed or ISA certified arborist, **(PC should consider if they want to recommend that a member of town staff become an ISA certified arborist)** South Carolina registered forester, landscape architect, architect or engineer certifies that:

- (1) The tree poses a safety hazard to pedestrian or vehicular traffic.
- (2) The tree poses a hazard to existing buildings or utilities.
- (3) The tree is diseased, dead, or weakened by age, storm, fire, or other injury, which is a source of hazard to people, buildings or other improvements on a lot.
- (4) The tree presents a situation which prevents the development of a lot or the physical use thereof for proposed development. Should this situation exist, tree removal for a protected or specimen tree may be allowed by the code enforcement official for only those trees whose removal is essential for development. In these cases a building permit for the construction must be issued prior to the removal of the tree(s). ~~The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible.~~ ADD: Application to the Board of Zoning Appeals for a setback variance may be required by staff, in which case staff will assist the applicant with the application and expedite it to the extent possible. (Ord. No. 15-0799, 4-28-15)

Sec. 17-727. - Guidelines for pruning or removal of **landmark** trees. ADD: This section applies to all, except that in the case of existing homes the following requirement for an arborist certification is not required. Owners of existing homes may simply apply to the Board of Zoning Appeals for an exception.

Landmark trees shall not be removed, **or branches above 4" diameter pruned**, unless a licensed ISA certified arborist, landscape architect or professional engineer certifies:

- (1) The tree poses a hazard (i.e. roots visibly extending under habitable structure).
- (2) Trees located within ten (10) feet of the foundation of a structure causing visible foundation damage.
- (3) The tree poses a safety hazard to pedestrian or vehicular traffic.
- (4) The tree poses a hazard to existing habitable buildings or utilities.

- (5) The tree is diseased, dead, or weakened by age, storm, fire, or other injury, which is a source of hazard to people, buildings or other improvements on a lot.

Tree removal for a landmark tree may be allowed by the code enforcement official for only those trees whose removal is essential for development (trees located within the footprint of the building). In these cases, a building permit for the construction must be issued prior to the removal of the tree(s). ~~The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen landmark trees when feasible.~~ Application to the Board of Zoning Appeals for a setback variance may be required by staff, in which case staff will assist the applicant with the application and expedite it to the extent possible. (Ord. No. 15-0799, 4-28-15)

- **DIVISION 3. - ENFORCEMENT**
- **Sec. 17-740. - Penalties.**

Any person or entity who violates any provision of this article shall have committed a misdemeanor. The code enforcement officer shall institute appropriate legal action including imposition of the fines set forth herein.

Where applicable, the fines are as follows: **(NOTE: as revised, many of the requirements no longer apply to owners of existing homes, so the fines won't apply either.)**

~~Fine for~~ removing limbs over **four (4) inches in diameter** without **required permit** approval\$500.00

~~Fine for~~ removing unprotected trees without a **required** permit\$500.00

~~Fine for~~ removing protected or specimen trees without a **required** permit\$500.00
per four-inch caliper for each tree

~~Fine for~~ removing landmark trees **without a required** permit shall be\$10,000.00

~~Fine for~~ failure to obtain a permit\$500.00

In addition to the fines, violators shall be subject to all of the provisions established in **section 1-16**, General penalty; continuing violations, of the Town's Code of Ordinances. Issuance of a fine or penalty does not relieve any party of complying with the mitigation requirements set forth in section 17-736.

All fines collected as a result of the enforcement of this article shall be placed in the tree mitigation fund and used by the town for tree-related activities including but not limited to: the purchase of trees or tree care products, planting activities, irrigation equipment and supplies, preservation and care of trees, and education about trees in the Town of Surfside Beach.
(Editor: I didn't get a clear reading from Town Council if they want to have this fund or not.)

(Ord. No. 15-0799, 4-28-15)

DRAFT REVISION 11-7-2016
CHAPTER 17, Article VII, Landscaping and Tree Protection

• **Sec. 17-741. - Mitigation required for removal of trees without a permit.**

Any tree removed without a permit must be replaced with twice the inches removed and shall be replaced with species listed in Table 17-724 of the Town's Code of Ordinances. **(Suggest PC consider if this requirement on top of a fine is too burdensome,)**

(Ord. No. 15-0799, 4-28-15)

APPENDIX A: Definitions (These still need to be reviewed by PC.)

Caliper shall mean the diameter of the stem of a tree as measured six (6) inches above the ground for trees up to four (4) inches in diameter and twelve (12) inches above the ground for larger diameter trees. Caliper inch(es) is used as a measurement standard for replacement trees and trees less than ten (10) feet in height.

Diameter at breast height (DBH) shall mean the diameter, in inches, of a tree trunk as measured four and one-half (4½) feet above the ground. If the tree splits into multiple trunks below four and one-half feet, the trunk is measured at its narrow point beneath the split. Diameter-at-breast-height is used as a measurement standard for all trees, excluding replacement trees and trees less than ten (10) feet in height.

Protected and specimen trees. The following trees are designated by the Town of Surfside Beach as either protected or specimen trees when the **diameter** is attained as indicated in Table 17-722 below:

Table 17-722 Protected, Specimen and Landmark Trees			
Tree Name	Protected @	Specimen Tree @	Landmark Tree @
Beech (American)	8 inches but less than	24 inches	
Birch (River)	6 inches but less than	18 inches	
Cedar (Eastern Red)	8 inches but less than	24 inches	
Cypress (Bald)	8 inches but less than	24 inches	greater than 24 inches
Dogwood (Flowering)	4 inches but less than	12 inches	
Elm (American)	8 inches but less than	24 inches	
Elm (Winged)	8 inches but less than	24 inches	
Hickory (Mockernut)	8 inches but less than	24 inches	

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Hickory (Pignut)	8 inches but less than	24 inches	
Hickory (Shagbark)	8 inches but less than	24 inches	
Holly (American)	6 inches but less than	12 inches	
Magnolia (Southern)	8 inches but less than	16 inches	
Maple (Red)	8 inches but less than	24 inches	
Oak (Laurel)	8 inches but less than	24 inches	greater than 24 inches
Oak (Live)	8 inches but less than	24 inches	greater than 24 inches
Oak (Post)	8 inches but less than	24 inches	
Oak (Southern Red)	8 inches but less than	24 inches	
Oak (Water)	8 inches but less than	24 inches	
Oak (Willow)	8 inches but less than	24 inches	
Oak (White)	8 inches but less than	24 inches	
Pine (Long Leaf)	8 inches but less than	24 inches	
Poplar (Yellow)	8 inches but less than	24 inches	
Sycamore	8 inches but less than	24 inches	
Tupelo (Black)	8 inches but less than	24 inches	
Tupelo (Water)	8 inches but less than	24 inches	

Prune shall mean to lop or cut off any parts, branches, or shoots to clear trees of useless material; to shape or smooth by trimming; or to trim to maintain the plant's health or the safety of persons or property. Pruning of a tree must not result in permanent or long-term disfigurement of that tree unless required in other sections of this article.

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Regulated tree shall mean a protected tree, specimen tree, and/or any other tree **eight (8) DBH** inches or greater whose removal is restricted under the terms of this article.

Replacement tree shall mean a tree with a diameter of not less than **two (2) caliper inches** that is planted on a site to replace a tree that was removed, damaged, or destroyed as a result of construction and/or non-construction activities.

Required tree shall mean any tree, regardless of regulated status, whose retention or planting is needed to satisfy the tree count, minimum **diameter**, or replacement provisions of this article.

Topping shall mean the severe cutting back of limbs to the stubs larger than **three (3) inches in diameter** within the trees crown to such a degree so as to remove the normal canopy and result in the disfigurement of the tree.

Tree shall mean any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk **diameter of greater than three (3) inches at any point** and a height of over ten (10) feet.

Tree mitigation fund shall mean a fund established by this article to be used for tree-related activities including, but not limited to: the purchase of trees or tree care products, planting activities, irrigation equipment and supplies, preservation and the care of trees, and education about trees in the Town of Surfside Beach. This fund is to receive monies from tree mitigation fees and may receive other funds as appropriated by the town council.

Tree protection plan shall mean a plan that identifies the location, size, and species of existing trees and trees targeted for removal including the identification of any tree protection areas and the means of such protection. When new plantings are proposed or required by this article, the tree protection plan shall denote the location, size, and species of all trees to be planted on the site.

(Ord. No. 15-0799, 4-28-15)

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APPENDIX B: (This still needs to be reviewed by PC.)

Table 17-724 Required Trees and Diameter by Zoning District*		
Zoning District	Number of Required Trees (minimum)	Minimum Diameter (all trees)**
R-1	Five (5) trees per lot	Sixty (60) DBH inches
R-2	Four (4) trees per lot	Forty (40) DBH inches
R-3	Three (3) trees per lot	Thirty (30) DBH inches
C-1****	Ten (10) trees per acre plus one (1) tree for each additional one-tenth (.1) acre***	Each Tree shall be a minimum of 3 inches in DBH
C-2	No Planting Requirement	n/a
C-3	Three (3) trees per lot	Thirty (30) DBH inches
MU	Four (4) trees per lot	Forty (40) DBH inches
All Other Districts	Twenty (20) trees per acre plus two (2) trees for each additional one-tenth (.1) acre***	No Minimum Diameter
Notes:		
* For the purpose of administering the requirements of this section, no tree less than two (2) inches in diameter shall be counted in order to satisfy the minimum number of trees per lot, nor shall the diameter of such tree be counted to satisfy the cumulative DBH requirement for the lot.		
** The minimum DBH is the sum of all qualifying trees on the lot. Replacement trees and trees with heights of less than ten (10) feet are measured in caliper inches.		
*** Lots less than one (1) acre are to provide two (2) trees for every one-tenths (.1) acre of lot area.		
**** All properties within the C-1 District must also comply with all requirements set forth in Article IX of the Zoning Ordinance.		

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