

PUBLIC NOTICE: Town Council will hold a workshop on Tuesday, April 18th at 5:00 p.m. to discuss Ordinance #17-0839 to amend §§17-700 to 17-741, Landscaping & Tree Protection.

First reading of this ordinance has been deferred until after the workshop.

For more information, please contact Town Clerk Debra Herrmann at 843.913.6333 or dherrmann@surfsidebeach.org.

This notice is published pursuant to the Freedom of Information Act Section 30-4-80(A) and (E). The public is invited to attend all meetings and events.

Decision Paper

Written By: Sabrina Morris, Director of Planning, Building & Zoning

March 28, 2017

1. **SUBJECT:** Ordinance Number 17-0839
2. **FOR:** Repeal of the Landscape and Tree Ordinance and replace with new revised ordinance
3. **PURPOSE:** To clarify and simplify the ordinance while removing any unnecessary requirements to the ordinance.
4. **ASSUMPTIONS:** By re-writing the ordinance the general public, companies and developers will have a better understanding of the ordinance.
5. **FACTS:**
 - a. The Landscape and Tree Ordinance is a complicated document that has been a source of contention for many years.
 - b. Town Council requested the Planning Commission review the ordinance and propose changes that would help better understand the requirements, distinguish between a property with an existing residence; vacant property and commercial property.
 - c. This process took months and workshops with the public invited to participate in the changes and to offer recommendations.
 - d. The commission understands what is being presented tonight may not meet the expectations of all of the property owners, general public, etc. However, it is a comprehensive review and removal of unnecessary requirements. It also separates requirements of the existing residence from vacant and commercial properties.
 - e. The commission recommended permits be exempt from fees for existing residence; removed the requirement of arborist for all trees with the exception of Landmark trees and enlarged the requirements for permits from a 4" tree or limb to 7". To name a few of the changes.
6. **IMPACT OF SUCCESS OR FAILURE:** By approving this re-write, the public, business owners etc. may better understand the requirements of the town.
7. **RECOMMENDATION:**

Planning Commission voted 6-1 to recommend the proposed ordinance as written to council.
8. **RATIONALE FOR RECOMMENDATION:** Public, business owners etc. may better understand the requirements of the town.

STATE OF SOUTH CAROLINA) AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH
) TO REPEAL CHAPTER 17 ARTICLE VII LANDSCAPE AND
 COUNTY OF HORRY) TREE ORDINANCE IN ITS ENTIRETY AND REPLACE WITH A
) NEW REVISED LANDSCAPE AND TREE ORDINANCE
 TOWN OF SURFSIDE BEACH)

WHEREAS, the Mayor and Town Council of the Town of Surfside Beach, in council duly assembled March 28, 2017; and

WHEREAS, Section 17-202 of the Town's Code of Ordinances allows for amendments from time to time when the a public necessity, convenience, general welfare, or good zoning practice justify such action, and after the review by the Planning Commission; and

WHEREAS, the Planning Commission has recommended the amendments after holding a public hearing and allowing public input on the proposed amendments.

NOW, THEREFORE, by the power and authority granted to the Surfside Beach Town Council by the State of South Carolina that Chapter 17, Article VII of the Code of Ordinances of the Town of Surfside Beach, South Carolina, is hereby repealed in its entirety and replaced with a new revised Landscape and Tree Ordinance as follows:

DIVISION 1: LANDSCAPING

SECTION 17-700. 701 INTENT

Moved to top of page – included intent for Landscaping and Trees into one

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

It is the intent of this Article to establish requirements for landscaping and afford protection to all trees, especially those defined as protected, specimen or landmark trees, on developed and undeveloped residential and commercial property. To this end, a zoning permit indicating approval by town staff is required before tree pruning or removal is undertaken in the town.

SECTION 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 providing shade, cooling the air and land, reducing noise levels and glare, and breaking 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.~~

SECTION 17-702.701 LANDSCAPING DEFINED

Landscaping shall consist of, but not be limited to, any combination of materials such as grass, ground covers, shrubs, flower beds, vines, hedges, and trees. In no case shall stone, pebbles, sand or rocks be used for groundcover.

~~Property elevations shall not be raised except with clean soil fill compatible with the area and by meeting stormwater management regulations.~~

SECTION 17-703.701.1 AREA REQUIRED TO BE LANDSCAPED

Made into table for easy reading

- (a) In the commercial zones [districts] ~~at least ten (10) percent of total lot square footage shall be landscaped.~~ **All commercial zoning districts shall meet the requirements of Article IX (Design Overlay District)**
- (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)~~ **twenty (20)** 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.

Zoning District	Percentage of total lot square footage to be landscaped	Percentage of landscaping required to be located in the front yard.
R-1 (Low-Density Residential)	At least fifty (50) percent	At least twenty (20) percent
R-2 (Medium-Density Residential)	At least forty (40) percent	At least twenty (20) percent
R-3 (High-Density Residential and Accommodations)	At least twenty (20) percent	At least twenty (20) percent
MU (Mixed Use District)	At least twenty (20) percent	At least twenty (20) percent
LLI (Limited Light Industrial)	At least twenty (20) percent	At least twenty (20) percent
Commercial Districts	All commercial zoning districts shall meet the requirements of Article IX (Design Overlay District)	

SECTION 17-704.701.2 INSTALLATION OF LANDSCAPING

~~All landscaping shall be installed in a sound, workmanship-like manner according to accepted good~~

~~planting procedures.~~ 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.~~

~~SECTION 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 which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse, debris, and disease.~~

~~SECTIONS 17-706 702 through 17-719. [RESERVED]~~

DIVISION 2: TREE PROTECTION

~~SECTION 17-720. — INTENT REGULATIONS/CLASSIFICATIONS~~

~~It is the intent of this division to afford protection to all existing trees, especially those defined as protected and specimen trees, on both developed and undeveloped property. To this end, a zoning permit indicating approval by town staff is required before any tree removal or pruning is undertaken in the town. (Amended 4/28/15 Ordinance #15-0799)~~

~~The regulations of this Division are divided into three classifications:~~

- ~~1. Owner of existing residence;~~
- ~~2. Owner of commercial property;~~
- ~~3. Involving development of vacant property, redevelopment, pool or a major addition.~~

~~SECTION 17-721. — FINDINGS OF FACT~~

~~Trees are an essential 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 shield against noise and glare. Trees promote commerce and tourism by buffering different land uses and beautifying the landscape.~~

~~SECTION 17-722. — DEFINITIONS — DIVISION FOUR: DEFINITIONS~~

Moved to Division Four of new proposed ordinance

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. All other words, terms, and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

~~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.~~

Circumference the distance around the tree at breast height or limb 2” from trunk.

Common Tree shall mean any tree not listed in Table 17-740 of this ordinance as a Protected, Specimen or Landmark tree.

Diameter at Breast Height (DBH) shall mean the diameter, in inches, of a tree trunk as measured four and one-half (4 1/2) 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.

Major Addition shall mean any addition, the cost of which equals or exceeds forty eight (48) percent of the tax or certified appraised value of the structure before the start of construction of the improvement.

Protected specimen and landmark 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 Protect Specimen and Landmark Trees			
Tree Name	Protected @	Specimen Tree @	Landmark Tree @
Beech (American)	8 inches / 25” in circumference but less than	24 inches/ 75” in circumference	
Birch (River)	6 inches/ 19” in circumference but less than	18 inches/ 57” in circumference	
Cedar (Eastern Red)	8 inches / 25” in circumference but less than	24 inches/ 75” in circumference	
Cypress (Bald)	8 inches/ 25” in circumference but less than	24 inches/ 75” in circumference	Greater than 24 inches/ 75” in circumference
Dogwood (Flowering)	4 inches / 12” in circumference but less than	12 inches/ 38” in circumference	
Elm (American)	8 inches/ 25” in circumference but less than	24 inches/ 75” in circumference	
Elm (Winged)	8 inches / 25” in circumference but less than	24 inches/ 75” in circumference	
Hickory (Mockernut)	8 inches / 25” in circumference but less than	24 inches/ 75” in circumference	
Hickory (Pignut)	8 inches/ 25” in circumference but less than	24 inches/ 75” in circumference	
Hickory (Shagbark)	8 inches/ 25” in circumference but less than	24 inches/ 75” in circumference	
Holly (American)	6 inches / 19” in circumference but less than	12 inches/ 38” in circumference	

Magnolia (Southern)	8 inches / 25" in circumference but less than	16 inches / 50" in circumference	
Maple (Red)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Oak (Laurel)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	Greater than 24 inches / 75" in circumference
Oak (Live)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	Greater than 24 inches / 75" in circumference
Oak (Post)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Oak (Southern Red)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Oak (Water)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Oak (Willow)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Oak (White)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Pine (Long Leaf)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Poplar (Yellow)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Sycamore	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Tupelo (Black)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	
Tupelo (Water)	8 inches / 25" in circumference but less than	24 inches / 75" in circumference	

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.

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.

SECTION 17-723. — ZONING PERMIT REQUIRED FOR PRUNING AND TREE REMOVAL

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

- (1) — The removal of any tree four (4) inches or greater in diameter.**
- (2) — The pruning of limbs over four inches in diameter.**
- (3) — The removal of any required tree to include replacement trees, irrespective of diameter, the result of which would require the replanting of trees to meet the number or cumulative diameter requirements of section 17-724.**

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 removal. In some instances, the code enforcement official may require a tree protection plan. With the exception of a dead or diseased limb 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.

SECTION 17-724.720.1 MINIMUM 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 17-720.1**.

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 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 acre are to provide two trees for every one-tenths (.1) acre of lot area.
*** All properties within the C1 District must also comply with all requirements set forth in Article IX of the Zoning Ordinance.

Table 17-720.1 MINIMUM NUMBER OF REQUIRED TREES AND DIAMETER/CIRCUMFERENCE BY ZONING DISTRICT*			
Zoning District	Number of Required Trees (minimum)	Minimum Diameter (all trees)**	Minimum Circumference measured at breast height (all trees)
R-1	5 trees per lot	60 DBH inches	188 inches
R-2	5 trees per lot	40 DBH inches	125 inches
R-3	3 trees per lot	30 DBH inches	94 inches
MU	4 trees per lot	40 DBH inches	125 inches
LLI	4 trees per lot	40 DBH inches	125 inches
Commercial Districts	All commercial zoning districts shall meet the requirements of Article IX (Design Overlay District)		
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 (for existing residence) seven (7) inches for commercial and vacant properties 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 circumference inches.

(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~~ **Table 17-720.1**.

(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.

SECTION 17-725.720.2 GUIDELINES FOR TREE REMOVAL (excluding protected trees specimen trees and landmark trees). ZONING PERMIT REQUIREMENTS FOR PRUNING AND TREE REMOVAL

Owner of existing residence: No zoning permit is required for the removal of trees under 7 inches diameter/22 inches circumference, nor for the pruning of limbs 7 inches diameter/22 inches circumference measured 2 inches from the tree truck. All request for the removal of trees and/or the pruning of limbs over 7 inches in diameter/22 inches in circumference must have the approval of the code enforcement official.

Owners of Commercial Property or those involving development of vacant property, redevelopment, pool or a major addition: Permits are required for the pruning and/or the removal of any tree.

With the exception of dead or diseased limbs or tree, the permit is subject to the fee schedule found in Chapter 13 of the Code of Ordinances a copy of which can also be found at the Planning, Building & Zoning Department.

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

ZONING PERMIT REQUIRED		
Owner of Existing Residence	Owner of Commercial Property	Involving development of vacant property, redevelopment, pool or a major addition
Pruning trees limbs greater than seven (7) inches in diameter / 22 inches circumference when measured 2 inches from the trunk.	Permit required for all pruning and/or removal of any tree to ensure compliance with Article IX of this ordinance	Permit required for all pruning and/or removal any tree. Removal of trees for development requires a tree protection plan.
The removal of trees seven (7) inches in diameter / 22” in circumference or greater measured at breast height.		

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.

~~Trees, excluding protected and specimen 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:~~

~~(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~~

~~(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 to be constructed. In these cases a building permit for the construction must be issued prior to the removal of the tree(s). (Amended 4/28/15 Ordinance #15-0799)~~

SECTION 17-720.3 GUIDELINES FOR PRUNING OR REMOVAL OF COMMON TREES

ZONING PERMIT REQUIRED		
Owner of Existing Residence	Owner of Commercial Property	Involving development of vacant property, redevelopment, pool or a major addition
Removal of limbs greater than seven (7) inches in diameter / 22” in circumference measured 2 inches from trunk	Permit required for all pruning and/or removal of any tree to ensure compliance with Article IX of this ordinance	A building permit must be issued prior to the removal of any trees located within the proposed footprint of the home or proposed footprint of the addition. Building Permit will include the tree removal approval as part of the permit
<p>Removal of trees greater than seven (7) inches in diameter / 22” in circumference measured at breast height meeting the following requirements:</p> <p>Trees located within or beyond the required yard setback space of the applicable zoning district shall not be removed unless the code enforcement official (or BZA in a dispute) determines:</p> <ol style="list-style-type: none"> 1. The tree poses or may pose a safety hazard to pedestrian or vehicular traffic; 2. The tree poses or most likely can be expected to pose a hazard to buildings or utilities, including to foundations or driveways in the near future; 3. The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of 		<p>Trees located within or beyond the required yard setback space of the applicable zoning district shall not be removed unless the code enforcement official (or BZA in a dispute) determines:</p> <ol style="list-style-type: none"> 1. The tree poses or may pose a safety hazard to pedestrian or vehicular traffic 2. The tree poses or most likely can be expected to pose a hazard to buildings or utilities, including to foundations or driveways in the near future; 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 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 provided thinning is limited to twenty (20) percent of existing trees.

hazard to people, buildings or other improvements on a lot		
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SECTION 17-726. GUIDELINES FOR REMOVAL OF PROTECTED AND/OR SPECIMEN TREES

When there is clear evidence that the protected tree or specimen tree poses a hazard, (i.e. roots visibly extending under a habitable structure, trees located within 10 feet of the foundation of a habitable structure with visible foundation damage (amended 4/28/15 Ordinance #15-0799), 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. 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 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, 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). (amended 4/28/15 Ordinance #15-0799) The board of zoning appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible.

SECTION 17-727. GUIDELINES FOR REMOVAL OF LANDMARK TREES

Landmark Trees shall not be removed 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 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 trees when feasible. (amended 4/28/15 Ordinance #15-0799)

SECTION 17-720.4 GUIDELINES FOR PRUNING OR REMOVAL OF PROTECTED, SPECIMEN AND LANDMARK TREES

ZONING PERMIT REQUIRED		
Owner of Existing Residence	Owner of Commercial Property	Involving development of vacant property, redevelopment, pool or a major addition
<p>Pruning of larger limbs (over 7 inches in diameter /22 inches in circumference measured 2 inches from trunk) or the removal of trees requires the Code Enforcement Official (or the BZA in a dispute) determine in writing:</p> <ol style="list-style-type: none"> 1. The tree or limb poses a hazard to structure or it is clear that roots within 10 feet of the foundation can most likely be expected to cause foundation damage in the near future. 2. The tree or limb is diseased, dead, or weakened by age, storm, fire, or other injury, which creates a hazard to people, buildings or other improvements on a lot. 3. Prior to the removal of a Landmark Tree. (Regardless of location on lot) an application requesting removal must be presented to the Board of Zoning Appeals for consideration. A letter from an ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer must be submitted with the request for removal. The letter must state reason the tree requires removal. (Submittal of a BZA appeal request does not guarantee approval). The Planning, Building and Zoning department will expedite the appeal process as much as state law allows. 	<p>Permit required for all pruning and/or removal of any tree to ensure compliance with Article IX of this ordinance</p> <p>The Code Enforcement Official (or the BZA in a dispute) determines:</p> <ol style="list-style-type: none"> 1. The tree or limb poses a hazard to the foundation of a structure or it is clear that roots within 10 feet of the foundation can most likely be expected to cause foundation damage in the near future. 2. The tree or limb is diseased, dead, or weakened by age, storm, fire, or other injury, which creates a hazard to people, buildings or other improvements on a lot. 3. Prior to the removal of a Landmark Tree (regardless of location on lot) an application requesting removal must be presented to the Board of Zoning Appeals for consideration. A letter from an ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer must be submitted with the request for removal. The letter must state reason the tree requires removal. (Submittal of a BZA appeal request does not guarantee approval). The Planning, Building and Zoning department will expedite the appeal process as much as state law allows. 	<p>Trees of any measurement may not be pruned or removed unless the Code Enforcement Official (or the BZA in a dispute) has determined in writing:</p> <ol style="list-style-type: none"> 1. The tree or limb is diseased, dead, or weakened by age, storm, fire, or other injury, which creates a hazard to people, buildings or other improvements on a lot. 2. Pruning or removal of a tree is essential for development (Landmark trees or limbs located within the footprint of the proposed building). An application requesting removal must be presented to the Board of Zoning Appeals for consideration. A letter from an ISA certified arborist, South Carolina registered forester, landscape architect, architect or engineer must be submitted with the request for removal. The letter must state reason(s) the tree requires removal. (Submittal of a BZA appeal request does not guarantee approval). The Planning, Building and Zoning department will expedite the appeal process as much as state law allows.

SECTION 17-728.721 TREE REPLACEMENT FOR PERMITTED TREE REMOVAL

(a) Except as provided by section ~~17-733~~ 17-726, only trees in table 17-721(1) ~~all replacement trees~~ shall be planted in order to replace existing protected trees, specimen trees, and any trees when the number or cumulative diameter (DBH) of trees on a parcel falls below the minimum required for the district in which the lot is located.

(b) When replacement trees are required, the tree **caliper circumference** inches will be calculated as specified below:

(a) The total circumference inches of a replacement tree required to be planted must be a minimum of 22” in circumference measured at breast height.

(b) Once building site meets the minimum number of trees required, the remaining replacement to meet the circumference inch requirement may be satisfied by paying into the tree mitigation fund as established in section 17-726 of this article.

(c) *Retained trees.* ~~Trees two (2) inches or greater in diameter retained on the property can count toward any required replacement. To avoid a monoculture there shall be diversity in the plantings required.~~ **Existing residence: A minimum of 3 trees 2 inches in diameter/6 inches in circumference or greater retained on the property can count toward any required replacement. New Construction: must meet minimum diameter of 7 inches/22 inches in circumference. To avoid a monoculture there shall be diversity in the plantings required.**

4) ~~Mitigation limited. Where Table 17-724 establishes a minimum tree diameter (cumulative) for a zoning district, the replacement and/or mitigation requirements of subsections (1) and/or (2) shall not be construed to require plantings or mitigation beyond that required to satisfy the number of trees and the minimum diameter requirements of the zoning district. This provision shall not apply to districts where no minimum diameter has been established by Table 17-724 or where additional plantings are required pursuant to section 17-725(4).~~

The following, Table ~~17-727(e)~~ **17-722(1)**, is a list of approved trees and includes all trees on the list of protected specimen and landmark trees as well as others noted in italics:

Table 17-728(c) Trees Approved for Planting as Replacements	
Beech (American)	Myrtle (Crepe)
Birch (River)	Myrtle (Wax)
Cedar (Eastern Red)	Oak (Laurel) (all species)
Cypress (Bald)	Oak (Live)
<i>Cypress (Leyland)</i>	Oak (Post)
Dogwood (Flowering)	Oak (Southern Red)
Elm (American)	Oak (Water)
Elm (Winged)	Oak (Willow)
Hickory (Mockernut, pignut and shagbark)	Oak (White)
Holly (American)	Palmetto (Sabal)
<i>Thornless Locust (Honey)</i>	Poplar (Yellow)
<i>Loquat</i>	Sycamore
Magnolia (Southern)	Tupelo (Black)

Maple Family	Tupelo (Water)
Maple (Japanese)	Weeping Willow
Maple (Red) (all species)	Yaupon
	Zelkova

(d) Replacement trees must be planted within six (6) months from the date of removal of the existing trees. ~~The code enforcement official may authorize one (1) six month extension to this requirement in cases of hardship.~~ In the case of new construction, replacement plantings shall be required prior to the final inspection of the project.

(1) Only those trees on the list of approved trees shall be authorized for planting **to replace protected, specimen or landmark trees. Replacement trees for common trees may be replaced with another common tree.** ~~Trees not native to this area or not on the list of approved trees may be planted but will not count toward the total required.~~

(2) Each required tree (not including protected specimen and landmark trees) inspected by the code enforcement official and determined to be damaged by development activity or lot filling shall be removed and replaced with two (2) trees capable of obtaining equal or greater height over time. ~~The code enforcement official shall make notification as necessary. Minimum replacement tree size shall have a minimum trunk diameter of two (2) caliper inches and shall have a height not less than four and one half (4.5) feet above the grade.~~

SECTION ~~17-729.~~ 17-722 TREE PROTECTION DURING CLEARING, GRUBBING, AND DEVELOPMENT

During development, there shall be erected and maintained suitable protective barriers around all trees to be retained so to prevent damage thereto. The code enforcement official shall be consulted regarding the specific type(s) of barrier(s) to be used. No other types of disturbance or construction shall be allowed under the drip line.

SECTION 17-730.723 PUBLIC TREE CARE

The Town of Surfside Beach shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, boulevards, drives, public rights-of-way, and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The code enforcement official or the public works director may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or which is infected with any injurious fungus, insect, or other pest.

The installation of trees and/or landscaping shall meet all requirements of other applicable ordinances of the town.

SECTION 17-731.724 TREE TOPPING

It shall be unlawful for any person, firm, or town department to top any tree on public or private property. "Topping" is defined as 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 disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the code enforcement official or public works director. **Crepe Myrtles shall be exempt from this section of the ordinance.**

SECTION 17-732. TREE PROTECTION PLAN

All applications for zoning and/or building permits shall be accompanied by a tree protection plan. All plans must be approved by the code enforcement official prior to the issuance of a permit. The plan(s) shall be drawn to include all pertinent dimensions and indicate clearly proposed parking, driveways and other vehicular use areas, all proposed buildings and structures, all existing trees four (4) inches and over in diameter (DBH) and locations of proposed landscaped areas and materials to be used in landscaping. Where more than six (6) inches of soil fill is to be used to bring up lot elevations, the tree protection plan must indicate how existing required trees will be protected.

SECTION 17-733.726 TOWN OF SURFSIDE BEACH TREE MITIGATION FUND

(a) Establishment. It is recognized that the replacement of trees on a site, under certain circumstances, may be impractical for a property owner. In order to ensure that the intent of this article is maintained while providing flexibility to affected property owners, a fund, to be known as the Town of Surfside Beach Tree Mitigation Fund, is hereby established. All mitigation fees and other appropriations, as directed by the town council, are to be deposited into this fund.

(b) Eligibility to participate and computation of mitigation fees. A property owner, replacing trees under the provisions of section 17-727, must replant trees on the affected site to meet the minimum number of trees required within the applicable zoning district. Once the required number of trees has been met, the remaining replacements needed to meet the caliper inch requirement may be satisfied by paying into the tree mitigation fund. The election to pay a mitigation fee, in lieu of onsite plantings, is voluntary to the property owner. The fee is to be determined by the town's applicable cost schedule based on the current nursery market value plus installation costs.

(c) Fund maintenance. The finance director shall collect all mitigation fees under this article. Such fees shall be recorded and maintained in a special account separate from the general fund and shall accrue interest at the short term rates prevailing in the market.

(d) Eligible expenditures and disbursements. Mitigation funds may be used for purchasing trees or tree care products, planting activities, purchasing irrigation equipment and supplies, preservation and the care of trees, and education about trees in the town. Funds may be dispersed for eligible expenditures by the town administrator with the approval of town council.

SECTION 17-734.727 CODE ENFORCEMENT OFFICIAL TO AUTHORIZE REDUCTION

(a) Reduction authorized. The code enforcement official may, consistent with the requirements of this section, authorize a reduction in the number of required trees from the terms of sections 17-724 721(1) and 17-727 728. This reduction is limited to one (1) tree or 20% of the number of trees required for a lot,

whichever is greater. In no instance shall the code enforcement official reduce the cumulative diameter of trees required on a lot or reduce any mitigation fee.

(b) Conditions required for reduction. Reduction by the code enforcement official may be authorized in the following circumstances:

- (1). The lot is nonconforming in area and the reduction in the number of trees is proportional to the degree of nonconformity;
- (2). The lot contains a specimen tree(s) and, based on supporting documentation from a licensed or ISA arborist, South Carolina registered forester, landscape architect, architect, or engineer, the placement of the required tree(s) would interfere with the healthy growth of the specimen tree or the replacement tree(s) could not reach maturity due to existing canopy cover; or,
- (3). The replacement tree(s) would interfere with a public street, sidewalk, drainage or utility easement and alternate placement is not possible.

(c) Appeals and further reductions. Appeals from grants or refusals of the code enforcement official under subsections (a) or (b), above, are made to the board of zoning appeals pursuant to section 17-223. The board of zoning appeals may grant a variance to provide additional relief from the terms of this article, subject to the requirements imposed by section 17-222.

SECTION 17-~~734~~ 728 through 17-~~739~~. 729 [RESERVED]

DIVISION THREE: ENFORCEMENT

SECTION 17-~~740~~-730 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.

Fine for removing limbs over 4” in diameter without approval \$500.00

Fine for removing unprotected trees without a permit \$500.00

Fine for removing protected or specimen trees without a permit \$500. Per four-inch caliper for each tree

Fine for removing Landmark trees 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.

SECTION 17-~~741~~ 731 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~~ **721(1)** of the Town's Code of Ordinances.

SECTIONS 17-~~742~~ 732 through 17-~~799~~. 739 [RESERVED]

SEVERABILITY. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

EFFECT OF SECTION HEADINGS. The headings or titles of the sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this ordinance.

REPEAL AND EFFECTIVE DATE. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed. This ordinance shall take effect immediately upon approval at second reading by the Town Council of the Town of Surfside Beach, South Carolina.

BE IT ORDERED AND ORDAINED by the Mayor and Town Council of the Town of Surfside Beach, South Carolina, in assembly and by the authority thereof, this _____ day of _____ 2017.

Robert F. Childs, III, Mayor

Ron Ott, Mayor Pro Tempore

Timothy T. Courtney, Town Council

Mark L. Johnson, Town Council

David L. Pellegrino, Town Council

Julie M. Samples, Town Council

Randle M. Stevens, Town Council

Attest:

Debra E. Herrmann, CMC, Town Clerk