

**§ 166.01 TREE PROTECTION.**

**§ 166.01-01 Purpose and Intent.**

This section is intended to:

- (A) Preserve the visual and aesthetic qualities of Folly Beach;
- (B) Ensure that excessive tree cutting does not reduce property values;
- (C) Preserve protected trees;
- (D) Establish the standards of review for tree alteration permits (See § [162.03-10](#));
- (E) Encourage site design techniques that preserve the natural environment and enhance the developed environment;
- (F) Control erosion and sediment run-off into waterways;
- (G) Improve surface drainage and minimize flooding;
- (H) Protect wildlife and marine habitat; and
- (I) Conserve energy, reduce noise, heat, and glare caused by excessive tree cutting;
- (J) Promote commerce and tourism by buffering different uses and beautifying the landscape.

(Ord. 05-10, passed 3-23-10; Am. Ord. 29-12, passed 3-12-13; Am. Ord. 029-21, passed 12-14-21)

**§ 166.01-02 Applicability.**

(A) *Tree alteration permit required.*

(1) *General.* No removal of trees or pruning of limbs over six inches diameter at the nearest juncture, shall occur prior to issuance of a tree alteration permit (See § [162.03-10](#), Tree Alteration Permit). All fees collected for the issuance of a tree alteration permit shall be placed in the Folly Beach Tree Fund.

(2) *Responsibility for compliance.* Review for compliance with the standards of this section shall occur at the time of application for a site plan, § [162.03-06](#); minor subdivision, § [162.03-07](#)(C); preliminary plat for subdivision, § [162.03-07](#)(D); planned development, § [162.03-02](#); or tree alteration permit, § [162.03-10](#), whichever occurs first.

(B) *Trees designated as protected trees.* [Table 166.02](#), Protected Trees, sets out the types and sizes of trees to be treated as protected trees. Trees not meeting the minimum size requirements in [Table 166.02](#) shall not be considered protected trees.

<b>TABLE 166.02: PROTECTED TREES</b>		
<b>SPECIES</b>	<b>COMMON NAME</b>	<b>MINIMUM SIZE (inches) (1)</b>
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<b>SPECIES</b>	<b>COMMON NAME</b>	<b>MINIMUM SIZE (inches) (1)</b>
Magnolia grandiflora	Southern Magnolia	12 (DBH)
Quercus Phellos	Willow Oak	12 (DBH)
Magnolia virginiana	Sweet Bay Magnolia	12 (DBH)
Quercus virginiana	Live Oak	6 (DBH)
Quercus launfolia	Laurel Oak	12 (DBH)
Acer rubrum	Red Maple	12 (DBH)
Juniperus virginiana	Eastern Red Cedar	12 (DBH)
Sabal palmetto	Cabbage Palm or Sabal Palm	12 (DBH)
Ilex opaca	American Holly	12 (DBH)
Cornus florida	Flowering Dogwood	12 (DBH)
NOTES: (1) DBH = Diameter at breast height measured 4.5 feet above grade.		

(C) *Tree protection exemptions.* The following development and activities are exempt from the standards of this section:

(1) *Removal of dead and nuisance vegetation.* The removal of dead or naturally fallen trees or vegetation, or vegetation that is determined by the Building Official to be a nuisance or threat to the public health, safety, or welfare.

(2) *Maintaining clear visibility.* The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing authorized field survey work.

(3) *Removal of trees on city land.* Removal of trees on city-owned land and public rights-of-way.

(4) *Period of emergency.* Removal of trees threatening life, property, or other trees during or immediately after dangerous weather conditions such as those associated with hurricanes, tornados, or floods.

(5) *Silviculture.* Any legally established silviculture use conducted in accordance with South Carolina Forestry Commission requirements.

(Ord. 05-10, passed 3-23-10; Am. Ord. 29-12, passed 3-12-13; Am. Ord. 25-16, passed 1-10-17; Am. Ord. 029-21, passed 12-14-21)

### **§ 166.01-03 Retention of Trees.**

(A) *Retention of protected trees.* No protected tree may be removed during or after development, except in accordance with § [166.01-03](#)(C), Removal of a Protected Tree. In addition, all protected trees shall have the following protections, whether located on public or private land:

(1) *Cutting, removal, or harm prohibited.* Protected trees shall not be cut, removed, pushed over, killed, or otherwise harmed. No protected tree shall be cut in such a manner as to remove limbs greater than six inches in diameter measured at the nearest juncture.

(2) *Public utilities and electric suppliers.* Public utilities and electric suppliers shall employ best management practices in regard to tree trimming and removal.

(a) Annually, public utilities and electric suppliers shall submit to the city their plans for tree trimming and/or tree removal. All plans must meet ANSI A300 Standards.

(b) Tree trimming and removal by utilities, other than the removal of healthy, nonthreatening trees, shall be allowed without a report during a period of emergency, such as hurricane, tornado, ice storm, flood or any other such act of nature.

(B) *Retention of non-protected trees.* In no case shall the total number of trees with 12-inch DBH or greater, whether protected or non-protected, be reduced to less than 12 trees per acre excluding palmetto trees. This requirement may be satisfied by the retention of non-protected trees or the planting of new shade trees as identified by the South Carolina Forestry Commission.

(C) *Removal of a protected tree.* The Building Official shall allow removal of protected trees under one of the following conditions:

(1) *Removal of a severely diseased, high risk, or dying tree.* A protected tree is certified by an ISA certified arborist or SC registered landscape architect arborist certified in the State of South Carolina as severely diseased, high risk, or dying. A severely diseased, high risk, or dying protected tree shall be exempt from § [166.01-03\(E\)](#), Replacement/Mitigation of Trees.

(2) *Removal on single-family lots.* A healthy protected tree is located within the footprint of a proposed dwelling, onsite waste water system, or the access thereto, provided the arrangement of such features is the least impactful to protected trees, and the landowner complies with all mitigation standards.

(3) *Removal of hazardous trees.* A protected tree is certified by an arborist or other qualified professional as posing a threat to public safety or to the safety of a structure. A hazardous tree shall be exempt from § [166.01-03\(E\)](#), Replacement/Mitigation of Trees.

(D) *Removal of non-protected trees.* Any tree that is not listed in [Table 166.02](#), Protected Trees, may be removed from a lot without cause. A person removing a healthy non-protected tree with at least 12-inch DBH shall be responsible for mitigation in accordance with § [166.01-03\(E\)](#)

(E) *Replacement/mitigation of trees.* A person causing the destruction or removal of a healthy tree shall be responsible for the following mitigation:

(1) *Replacement trees required.* Each healthy protected or non-protected tree removed or destroyed shall be replaced with the minimum number of trees necessary to achieve an equivalent amount of trunk diameter.

(a) For protected trees with DBH greater than 18 inches, the replacement trees required shall be a minimum number of trees necessary to achieve an equivalent amount of trunk diameter equal to 1.5 times the diameter of those trees removed or destroyed.

(b) For protected trees with DBH greater than 24 inches, the replacement trees required shall be the minimum number of trees necessary to achieve an equivalent amount of trunk diameter equal to two times the diameter of those trees removed or destroyed.

(2) Replacement of protected trees shall be of the same species as the tree removed or an accepted shade tree species as identified by the South Carolina Forestry Commission. Replacement of non-protected trees shall be from trees listed in [Table 166.02](#).

(a) *Location of replacement trees.* Replacement trees shall be either planted on the parcel of land from which the protected tree was removed if sufficient space is available, placed on nearby public lands in accordance with § [166.02-08](#), Alternative Landscaping Plan, or substituted with fee-in-lieu to the city's Tree Fund.

(b) *Replanting period.* Replacement trees shall be provided within 12 months of the removal or destruction of the protected tree(s). For those trees removed for the purpose of new construction or substantial improvement to a structure, replacement trees shall be provided prior to the issuance of a certificate of occupancy.

(c) *Establishment period.* Replacement trees shall be maintained through an establishment period of at least two years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs (See § [167.03](#), Performance Agreements). If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

(3) Mitigation for the removal of protected and non-protected trees may be satisfied by the payment of a fee in lieu of mitigation.

(a) The value of the fee in lieu of mitigation shall be determined by the computing the average of two written quotes for cost of replacement trees required in § [166.01-03\(E\)](#). For non-protected trees, the fee shall be calculated on written quotes for the species of tree being removed. The written quotes will be provided by the applicant and sourced from a person with credentials acceptable to the Zoning Administrator.

(b) A fee in lieu of mitigation must be paid at the time of application for a permit to remove a protected tree or at the time of payment of any fine related to unlawful removal or destruction of a protected tree.

(c) All fees in lieu of mitigation for the removal of protected trees shall be placed in the Folly Beach Tree Fund.

(Ord. 05-10, passed 3-23-10; Am. Ord. 20-10, passed 9-28-10; Am. Ord. 29-12, passed 3-12-13; Am. Ord. 19-13, passed 12-10-13; Am. Ord. 25-16, passed 1-10-17; Am. Ord. 029-21, passed 12-14-21)

#### **§ 166.01-04 Tree Protection During Construction.**

(A) *Protective barricades required.* Protective barricades including silt fencing shall be placed around all protected trees and grand trees located in development areas, and designated to be saved, prior to the start of development activities, and shall remain in place until development activities are complete. Protective barricades must use temporary chain link fencing for grand trees 24-inches DBH or greater. Orange construction fencing for all others. The fencing must contain the entire tree drip line; there may be no trenching or grade changes within the zone.

(B) *Paving or soil compaction prohibited.* Except when authorized by an approved alternative landscaping plan (See § [166.02-08](#)), paving within the drip line of a protected tree shall be prohibited. When authorized, the area within the drip line of any protected tree shall not be subject to paving or soil compaction greater than 10% of the total drip line square footage or within 12 feet of the tree trunk.

(C) *Mulch required.* A two inch layer of mulch shall be applied over the area within the tree protection barricades as well as the surface of exposed roots within the drip line during development.

(Ord. 05-10, passed 3-23-10; Am. Ord. 29-12, passed 3-12-13; Am. Ord. 25-16, passed 1-10-17; Am. Ord. 029-21, passed 12-14-21)

#### **§ 166.01-05 Penalty.**

The penalty for removing an existing tree or a limb greater than six inches at the nearest juncture without a permit shall be \$500 and each tree removed in violation shall count as a separate offense.

(Ord. 25-16, passed 1-10-17)