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Folly Beach Code of Ordinances

§ 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)

§ 166.01-02 Applicability.

(A) *General applicability of tree protection standards.* The standards of this section apply to all development in the city, unless it is exempted in accordance with § 166.01-02(C), Tree Protection Exemptions.

(B) *Tree alteration permit required.*

(1) *General.* No removal of existing trees on a parcel of land or development site shall occur prior to issuance of a tree alteration permit (See § 162.03-10, Tree Alteration Permit).

(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.

(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) *Utility companies.* The actions of public and private utility companies within their utility easements.

(5) *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.

(6) *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)

§ 166.01-03 Retention of Protected Trees.

All development within the city shall be required to preserve protected trees on existing and developing sites in accordance with the following standards:

(A) *General requirement.* 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 trunk; and

(2) *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.

(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.

TABLE 166.02: PROTECTED TREES		
SPECIES	***COMMON NAME***	***MINIMUM SIZE (inches) (1)***
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)

All other hardwood trees not listed above	12 (DBH)
NOTES: (1) DBH = Diameter at breast height measured 4.5 feet above grade.	

(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 arborist or other qualified professional as severely diseased, high risk, or dying. A severely diseased, high risk, or dying protected tree shall be exempt from § 166.01-03(D), Replacement/Mitigation of Protected Trees.

(2) *Removal on single-family lots.* A healthy protected tree is located within the footprint of a proposed single-family detached dwelling, or the access thereto 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.

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

(1) *Replacement trees required.* Each healthy 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 trees may be of any species listed in Table 166.02, Protected Trees.

(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 within 180 days of 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 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 three written quotes for cost of replacement trees required in § 166.01-03(D). 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 tor 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)

§ 166.01-04 Tree Protection During Construction.

Owner's responsibility. During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

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

§ 166.01-05 Tree Preservation Incentives.

(A) *Tree preservation credits.* In order to encourage the preservation of existing trees on a site, a tree preservation credit for the retention of existing, undisturbed, and structurally sound healthy trees which are not protected trees shall be granted in accordance with the following standards:

(B) *Credit amount.* A credit of one-and-one-quarter (1.25) of the aggregate DBH of trees that are not protected trees shall be credited and applied towards the mitigation standards required by this chapter, provided the trees that are saved are 12 inches DBH or greater.

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