

TREES
ORDINANCE NO. 87A

AN ORDINANCE TO PROVIDE FOR THE PUBLIC HEALTH, SAFETY, WELFARE AND AESTHETIC BEAUTY OF THE TOWN OF DAUPHIN ISLAND, ALABAMA.

WHEREAS, the Town Council of the Town of Dauphin Island may enact ordinances to protect the health, safety, and welfare of Dauphin Island and;

WHEREAS, Dauphin Island is a barrier island that hosts a variety of indigenous species of trees, bushes, and other vegetation that literally hold the island together and;

WHEREAS, depletion of these plants endangers not only the landmass of the island, but is also exceedingly harmful to the wildlife, ecology, natural hurricane resilience, economy, and property of neighbor and;

WHEREAS, migratory bird species depend on our unique vegetation for food, recovery, and nesting before continuing their seasonal migration to other states and countries and a wide variety of local species depend on these same trees, and vegetation for weathering storms, winter cold, and as a food source and;

WHEREAS, our vegetation is equally threatened and is unique from most mainland species, provides predator protection, mating accommodation, nesting for birds, is an important ecological feature for preservation of threatened reptiles and amphibians, and is a critical element in the island's rich history and;

WHEREAS, erosion is a constant threat to the landmass of a barrier island, and when a tree is destroyed, the soil it took to build that tree is forever lost. The absence of the trees lateral root network, usually entwined with the "mat" of surrounding trees, results in the washing away of topsoil and elevation into ditches where it is carried away and;

WHEREAS, since stands of mature trees can reduce the force of hurricane winds by as much as 70% or more, the removal of trees will most certainly expose the Town of Dauphin Island to substantially more risk and damage, increasing insurance costs for the community, reducing property values and, in short, placing the residents of the Town of Dauphin Island in harm's way, economically, physically and aesthetically and;

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Dauphin Island, Alabama that the Tree Ordinance shall be as follows:

TREE AND VEGETATION PRESERVATION AND PLANTING

Section A. Purpose

The purpose of this section is to preserve, protect, restore and properly maintain trees and vegetation within the Town as such plantings:

- 1) Are an important public resource;
- 2) Preserve and enhance the Town's natural and aesthetic environment, especially its natural and unique atmosphere;
- 3) Enhance the air quality by filtering air pollutants;
- 4) Reduce topsoil erosion by the holding effect of the roots;

- 5) Minimize and reduce storm water runoff;
- 6) Provide a buffer and screen against noise pollution;
- 7) Provide a buffer and screen against light pollution;
- 8) Reduce energy consumption by acting as a windbreak and producing shade;
- 9) Preserve and enhance nesting areas for birds and other wildlife, which in turn, assist in the control of insects;
- 10) Protect and enhance property values;
- 11) Protect and enhance the quality of life and the general welfare of the town;
- 12) Improve the compatibility of uses by providing privacy and enhancing the aesthetic transition between uses.

For the purpose of this section, tree is defined as a self-supporting, woody plant, together with its root system, having a well-defined stem or trunk or a multi-stemmed trunk system, a more or less well-defined crown, and a of eight (8') feet. "Tree" does not include trees in containers or nursery stock trees kept or maintained for resale. "Vegetation" is herein defined as perennial bushes and shrubs meeting minimum size requirements at planting.

Section B. Tree Removal Permit

- 1) Permit required. No person shall remove or destroy any tree, that is four inches (4") or greater in diameter, measured at four (4') feet above ground level, on any lot without first obtaining a tree removal permit from the **Building Inspection/Zoning Enforcement Department** in accordance with the procedures set forth in this section. Further, no person shall remove or destroy any such tree located in the common open space of any development without first obtaining a tree removal permit.
- 2) Issuance of permit. Tree removal permits shall be issued only after the Inspector or their designee has received the required tree removal plan, including a replacement tree list, and a completed application for such permit which has been signed by the property owner. In determining whether to grant or deny a permit, the Inspector or their designee shall consider:
 - a) the effect of the proposed tree removal upon the stabilization of the soil;
 - b) the intended use of the property and feasible alternatives which would preserve existing trees;
 - c) the existing topography, proposed changes in topography and proposed landscaping;
 - d) the hardship imposed or the reasonable use denied to the applicant as a result of permit denial;
 - e) historical value of the trees;
 - f) good horticultural and forestry practices;
 - g) the effect of the proposed action will adversely affect the control of flooding or soil erosion;
 - h) the likelihood that the proposed action will adversely affect the control of flooding or soil erosion;

- i) the impact of such action on surrounding property or persons;
 - j) the consistency of the proposed action with the purpose of this section.
- 3) Each tree permitted for removal shall be mitigated as follows:
- a) Trees within the foot print of the primary structure and a ten (10') foot perimeter around the primary structure, and a single lane (10 foot wide) straight driveway shall be mitigated at a 1:1 ratio (one tree replaced for each one tree removed).
 - b) All other permitted trees will be mitigated at a 3:1 ratio (three trees replaced for each one tree removed).
 - c) Exempt Trees:
 - Exotic species such as *Triadeca sebifera* (also known as *Sapium sebiferum*) or Chinese Tallow (Florida Aspen, Chicken Tree, Popcorn Tree, Candleberry Tree).
 - Dead or diseased trees.
 - Trees that pose an eminent threat to life or property.
 - Trees destroyed by an Act of God.
- 4) Mitigation of permitted trees can be accomplished as follows:
- a) Plant approved trees on property where permitted trees were removed.
 - b) Make a contribution to the Town Environmental Fund in the amount of Fifty (\$50.00) Dollars per tree based on mitigation ratio(s).
 - c) Some combination of A & B.
- NOTE: All trees for mitigation must be one (1") inch or greater in diameter measured at one (1') foot above ground level.
- 5) Term of Permit and Mitigation Compliance
- a) A permit shall expire and become null and void if work authorized is not commenced within six (6) months from the date of the permit or if such work, when commenced, is suspended or abandoned at any time for a period of six (6) months.
 - b) If work has commenced and the permit becomes null and void or expires because of lack of progress or abandonment, a new permit for the proposed tree removal activity shall be obtained before proceeding with further work.
 - c) In the case of new construction, the tree mitigation alternative must be accomplished prior to the issuance of a 'Certificate of Occupancy'.

VIOLATIONS, PENALTIES AND FINES

- 1) It shall be an offense for any person to damage or destroy trees by any means or action, including but not limited to poisoning, fire, or skirting, or to remove a tree without having first obtained a Tree Permit. It shall be an offense for a property

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owner to employ, authorize, allow or direct any third person or entity to perform such actions as well. A fine of One Thousand (\$1,000) Dollars will be levied against the property owner upon such an offense. In the case of new construction, this fine must be paid prior to the issuance of a 'Certificate of Occupancy'.

- 2) A separate offense shall be deemed to have been committed for each tree violated in any manner. In such instances where trees have been removed from a property without a Tree Removal Permit, tree stumps will be used to determine the number and size of trees removed in violation of this ordinance. In the event that the stumps have been removed, the nearest undeveloped, wooded piece of property shall be used to determine an approximation of the number of trees in violation for the purpose of determining a fine assessment. In the absence of a nearby undeveloped, wooded lot, the fine will be Ten Thousand (\$10,000.00) Dollars.
- 3) Further, beyond the initial penalties for violating this ordinance, each offense under this section shall be punishable as prescribed in Ordinance 64B which reads: ...shall be punishable by a fine of not more than FIVE HUNDRED AND 00/100 (\$500.00) dollars PLUS Court costs or by imprisonment in jail for a period not to exceed SIX (6) MONTHS, or by both such fine and Court cost and imprisonment and/or community service at the discretion of the Judge, unless otherwise prohibited by State law.

APPROVED AND ADOPTED THIS _____ DAY OF _____, 2017.

JEFF COLLIER, MAYOR

ATTEST:

WANDA SANDAGGER, TOWN CLERK

1st Reading: _____
 Council Public Hearing: _____
 2nd Reading: _____
 Adopted: _____
 Posted: _____
 Effective Date: _____