

TREES
ORDINANCE NO. 87

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, replace 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 by protecting the structural integrity and sustainability of this barrier island;

- 3) Enhance the air quality;
- 4) Minimize and 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;
- 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 minimum height 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. Prohibited Acts

The following acts are expressly prohibited by this ordinance. Any performance of these actions is in violation of this ordinance and subject to fines and penalties as set forth herein.

Act	Summary
Poisoning Trees	Poisoning trees is strictly forbidden. In addition to purposely skirting the Tree Ordinance, poisoning of trees seriously damages ground water and substrate.
Harvesting Trees for Profit (i.e. pulp wood, pilings, telephone poles, etc.)	Harvesting of trees for profit (resale for telephone poles or pilings, etc.) is strictly forbidden. Dauphin Island tree grain is twisted from hurricanes and unsuitable for most applications.
Unapproved Removal of Trees	Unapproved removal of trees is in violation of Dauphin Island's Tree Ordinance. In order to remove trees, a request must be made, a determination of need shall be reviewed, and approval will be granted under most reasonable circumstances.
Clear Cutting	Clear cutting of trees and other vegetation from a parcel of property on Dauphin Island is a severe violation of this tree ordinance and is strictly prohibited. Clear cutting of property shall result in

<p>Setting Fire to Trees</p>	<p>doubling of the fine.</p> <p>Setting fire to trees is a violation of Dauphin Island's Fire Ordinance and Tree Ordinance. Intentional setting fire to trees shall be determined to be a misdemeanor, subject to fine and penalties. Note: Undergrowth removal by means of fire is permissible seasonally, by permit from Town Hall and the Fire Department, when authorities such as the fire department, contractors, and fire control experts are present to ensure no damage is done other than clearing dangerous, dry undergrowth/debris. While superficial marks may be left on trees in a controlled burn, no trees shall be damaged.</p>
<p>Damaging/Removing Trees by Contractors</p>	<p>Removal of trees by contractors is a serious violation of the Tree Ordinance. Both the property owner and the contractor shall be responsible for fines for taking of unauthorized trees, and a Certificate of Occupancy shall be withheld until all fines are satisfied. Repeated violations by contractors will result in cancellation of their business license.</p>
<p>Damaging Unapproved Trees While Destroying Approved Trees</p>	<p>Accidental damage to unapproved trees during construction must be avoided. Should an unapproved tree be damaged so as to consider it being destroyed, the applicable fine as located in the fine schedule shall apply. Both homeowner and contractor shall be jointly responsible for such damage and payment of the fine. A Certificate of Occupancy shall be withheld or a lien on the title shall be filed, as applicable, until the fine is paid according to the fine schedule.</p>

The intent of this ordinance is not to restrict the use of the land to the property owner, but to ensure and protect the health, safety and welfare of Dauphin Island and its residents and visitors.

Section C. Tree removal permit

- 1) Permit required. No person shall remove or destroy any tree, that is four inches (4") or greater in diameter at a height of thirty six inches (36") from the ground, on any lot without first obtaining a tree removal permit from the **Building Inspection or 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) Each tree permitted for removal shall be replaced on a three (3) trees planted to each one (1) tree removed. Replacement **plantings must be on the list of tree species approved by the Town** and must be one inch (1") in diameter or greater, **measured at thirty six inches (36") from the ground**, with a height not less than six feet (6'). A plan to comply with the requirements of this ordinance must accompany the tree removal permit application. If space is unavailable on the property from which the trees are removed to replace the required amount, it is allowable for the owner to satisfy the requirement with one of the alternative methods as follows:
 - a) on land of another private property owner with the permission of the owner; **A list of property owners willing to accept mitigation trees is available at Town hall.**
 - b) on land owned by the Town of Dauphin Island with the permission of the Town;
 - c) on land owned by another civic entity with the permission of the civic entity;OR
 - d) For each tree removed, a fee may be paid to the Town of Dauphin Island Environmental Mitigation **fund**. These funds will be used in future **environmental** enhancement projects by the Town. The value of the trees to be removed will depend on the type and size of tree.

A list of trees and their respective values may be obtained through Dauphin Island Town Hall. Also available is a brochure with desirable native plants for the island.

Oversight of the tree removal project will be performed by the Town Building Inspector and/or Zoning Enforcement Officer. All of the alternatives discussed above must be approved by the Town Building Inspector and/or Zoning Enforcement Officer and accomplished within six (6) months of the issuance of a Tree Permit. In the case of new construction, the mitigation alternative must be accomplished prior to the issuance of a Certificate of Occupancy.

- 3) Issuance of permit. Tree removal permits shall be issued only after the Inspector/Officer has received the tree removal application package including, but not limited to, the required plan to comply with and satisfy the requirements of the ordinance, photographs of the property with trees to be removed marked thereon; and a completed application for such permit which has been signed by the property owner. In the case of new construction, the applicant is required to present a survey of the property **including the location of the principal structure** and the identification and location of existing trees and vegetation. Neither a tree removal

permit nor a building permit will be issued without this survey. **Only trees located within the footprint of the principal structure will be exempt from the replacement requirement defined in this ordinance.** In determining whether to grant or deny a permit the Inspector shall consider:

- a) the effect of the proposed tree removal upon the stabilization of soil;
 - b) the intended use of the property and feasible alternatives which would preserve existing trees;
 - c) the existing topography, proposed changes in the topography and proposed landscaping;
 - d) the hardship imposed or the reasonable use denied to the applicant as a result of permit denial; Note: economics do not constitute a hardship.
 - e) historical value of the trees;
 - f) good horticultural and forestry practices;
 - g) the likelihood that the proposed action will adversely affect the control of flooding or soil erosion;
 - h) the impact of such action on surrounding property or persons;
 - i) the consistency of the proposed action with the purpose of this section.
- 4) (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 **required** before proceeding with further work.

VIOLATIONS AND PENALTIES

- 1) **It shall be an offense for any person to perform any of the actions listed in Section B. Prohibited Acts, or to remove a tree without having first obtained a Tree Permit. It shall be an offense for a property owner to employ, authorize, allow or direct any third person or entity to perform any of the actions listed in Section B. Prohibited Acts, or to remove a tree without having first obtained a Tree Permit. A fine of One Thousand (\$1,000) Dollars will be levied against the property owner upon such an offense.**
- 2) A separate offense shall be deemed to have been committed for each tree removed without a Tree Removal Permit in violation of the provisions of this section.

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- 3) **Further, beyond the initial fine 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 _____, 2016.

JEFF COLLIER, MAYOR

ATTEST:

WANDA SANDAGGER, TOWN CLERK

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