

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES

ORDINANCE NO. 2023-04

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF PAWLEYS ISLAND:

AN ORDINANCE OF THE TOWN OF PAWLEYS ISLAND, SOUTH CAROLINA AMENDING THE EXISTING CODE OF ORDINANCES OF THE TOWN OF PAWLEYS ISLAND

INTENT

It is the intent of this ordinance to amend the existing Code of Ordinances of the Town of Pawleys Island, to revise Part II: Uniform Development Code, Article 2. Definitions and Part II: Uniform Development Code, Article 12. Architectural Review Board

WHEREAS, in order to assist in achieving this goal, the Code of Ordinances of the Town of Pawleys Island is to be modified,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAWLEYS ISLAND, SOUTH CAROLINA, PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS 1976 (AS AMENDED), THAT:

The existing Code of Ordinances be modified with a new section incorporated and shall read as follows:

PART II: Uniform Development Code, Article 2. Definitions

*Border area:* The area of a lot that is between the property line and the setback line of the lot.

*Buildable area:* The area of a lot within applicable setback lines where building can occur.

*Diameter Breast Height (DBH):* Being the diameter in inches of a tree measured at four feet from the ground.

*Protected Tree:* A hardwood tree (including oaks, maples, cypress, sweet gum, hickory, cedar, magnolia, etc) having 5 inch DBH or greater; an ornamental tree (including hollies, redbuds, dogwoods, etc) having 3 inch DBH or greater; and pines having 10 inch DBH or greater.

PART II: Uniform Development Code, Article 12. Architectural Review Board

Sec. 11 Tree and Landscaping

- (A) *Purpose.* Trees and areas of understory growth are essential, natural and aesthetic resources that play a critical role in purifying air and water, providing wildlife habitat, enhancing natural drainage, controlling erosion and contributing to the unique heritage and beauty of Pawleys Island. Pawleys Island's special natural environment is ecologically fragile and is difficult to replace once it has been disturbed. This article is intended to protect the natural beauty of Pawleys Island.
- (B) *Removal of Protected Trees requires ARB approval.* No Protected Tree may be removed at any time from the border area without ARB approval, except in the following circumstances:
- 1) The tree is hazardous, diseased or injured to the extent it is irreparably damaged, as documented by a qualified arborist.
  - 2) The tree is an invasive species as designated on the *Nonnative Invasive Plants of Southern Forests* registry published by the US Department of Agriculture.

- 3) The tree is in competition with trees that are not proposed to be removed, as documented by a qualified arborist.
- (C) *Administration of tree removal.* The ARB in its discretion may delegate approval for tree removal to the Town Administrator. The Town Administrator may in his discretion delegate approval for tree removal to a contractor. The Town Administrator or the contractor may in their discretion refer matters back to the ARB for approval. Any applicant may appeal a decision of the Town Administrator or a contractor regarding tree removal to the ARB.
- (D) *Lot clearing.* Lot clearing for sale of a property, for construction or for any other reason, is not permitted, although minimal clearing of other than Protected Trees is permitted for purposes of access, preparing a survey or to stake a building site.
- (E) *Permitted removal of trees.* Tree removal is permitted within the buildable area of the lot, but the ARB in its discretion may require mitigation pursuant to article 12-11(H).
- (F) *Topographic and tree survey required for new construction.* All applications for new developments in the town must include a topographical and tree survey prepared by a South Carolina registered land surveyor or a South Carolina licensed landscape architect. The survey must be in the same scale as the drawings submitted pursuant to article 12-7(B). The survey shall include the following:
- 1) Date of survey preparation, which must be within 12 months of its submittal, address, property owner and name of the registered land surveyor or licensed landscape architect who prepared the survey.
  - 2) The topographical contours of the lot.
  - 3) The location of all trees over 4" DBH, including botanical name, common name, size and canopy line, and specifically identifying all Protected Trees.
  - 4) Locations of trees proposed to be removed or relocated.
  - 5) Locations of proposed replacement trees, including size and species.
- (G) *Protection of trees during construction.* Protective barricades must be installed around trees designated not to be removed for the duration of the construction.
- (H) *Mitigation.* If any trees within the buildable area of the lot are removed, or if the ARB permits removal of any Protected Trees in the border area, the ARB in its discretion may require mitigating replacement as follows:
- 1) The replacement trees shall be native species such as oak, magnolia, palmetto or hickory, as agreed between the applicant and the ARB.
  - 2) The replacement tree shall have a DBH designated by the ARB, with minimum 4" DBH and a maximum DBH not larger than the tree being replaced.
  - 3) The replacement trees used shall be vigorous, well-shaped, branched and foliated.
  - 4) Replacement trees must be planted within 180 days of the issuance of a certificate of occupancy.
  - 5) If replacement trees will not fit on a lot then in the ARB's discretion the ARB may require location of the replacement tree in a common, open or park area of the town.
- (I) *Remedies.* The unauthorized removal, relocation or destruction of trees is considered a serious violation of this article. For trees removed, relocated or destroyed in violation of this article, the ARB in its discretion may impose any one or more of the following remedies. All such remedies are unique to the circumstances of the violation and as such are not precedent setting.
- 1) Grant after-the-fact approval.
  - 2) Require mitigation pursuant to article 12-11(H).
  - 3) Assess a fine in an amount equal to \$500 per inch of DHB of the removed tree.
  - 4) Suspend the building permit for the property until corrective action has been completed.

- 5) Prohibit a contractor from working on Pawleys Island in circumstances where the contractor has acted in flagrant violation of this article, either permanently or for a period of time specified by the ARB.
- 6) Elect to pursue appropriate legal action.
- (J) *Landscaping recommendations.* In addition to the requirements of this article 12-11, the Architectural Design Guidelines manual sets forth numerous recommendations regarding trees and landscaping.

This Ordinance shall take effect and amend the existing Code of Ordinances of the Town of Pawleys Island, and be in full force after the date of its adoption by the Town Council of the Town of Pawleys Island.

Adoption of the foregoing Ordinances moved by Rock Holliday and seconded by Ashley Carter and after discussion and call to vote thereon, the vote was as follows:

Those in favor: Mayor Henry, Guerra Greeny Ashley Carter  
Sarah Zimmermann, Rocky Holliday  
Those opposed:

Date of First Reading: March 13, 2023  
Date of Second Reading: April 10, 2023

APPROVED:   
Brian Henry, Mayor

DATE: 4/11/23

ATTEST:   
Daniel O'Hara, Town Clerk

DATE: 4/11/23

