

TOWN OF MONCK'S CORNER ZONING ORDINANCE

ARTICLE EIGHT TREE PROTECTION

SECTION 8-1 – GENERALLY

Authority and purpose.

Pursuant to authority conferred by S.C. Code 1976, § 6-7-710, as amended, the citizens of Moncks Corner, having recognized the importance of preserving the natural landscape through the protection of existing trees, and to promote the public health, safety and general welfare, to lessen air pollution, to increase dust filtration, to reduce noise, heat, to prevent soil erosion, to improve surface drainage and minimize flooding, to insure that noise, glare and other distractions of movement in one area do not adversely affect activity within other adjacent areas, to beautify and enhance improved and undeveloped land, to preserve and protect both the natural and historic amenities within the town, to insure that excessive tree cutting does not reduce property values, and to minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters, the town council does hereby ordain and enact into law the following provisions of this article.

- (a) The intent of this article is to encourage the protection and replacement of trees consistent with the economic and healthful enjoyment of private property. The intent is not punitive, or to cause hardship to any individual, private firm, or public agency who uses every care and diligence to protect trees within the town.
- (b) Nothing included in the provisions of this article is intended to prohibit agriculture, silviculture, horticulture or nursery operations within the city.

Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them.

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular number include the plural and words used in the plural include the singular.
- (3) The word "shall" is mandatory and not merely discretionary.
- (4) *Diameter-at-breast-height (DBH)*. Diameter-at-breast-height is the standard measure of tree size, and is a tree trunk diameter measured in inches at a height of four and one-half feet above the ground. If a tree splits into multiple trunks below four and one-half feet, then each trunk is measured as a separate tree. A tree which splits into multiple trunks above four and one-half feet is measured as a single tree at four and one-half feet.
- (5) *Grand tree*. A tree 24 inches or greater DBH.
- (6) *P. & Z.C.*. The Moncks Corner Planning and Zoning Commission.
- (7) *Protected tree*. A tree six inches or greater a DBH.
- (8) *Removal of trees*. Any intentional or negligent act which will cause a tree to decline and die, including but not limited to, cutting, damage inflicted upon the root system of a tree by application of toxic substances, the operation of machinery, the change of natural grade by excavation or filling about the root system or around the trunk of a tree, and damages from injury or fire inflicted on trees which result or permit pest infestation.

- (9) *Tree*. Any self supporting woody plant usually having a single trunk and a potential DBH of two or more inches.

SECTION 8-2 – TREE PROTECTION

The regulations set forth herein shall apply to all real property within the limits of Moncks Corner, subject to the following exceptions:

- (1) *Commercial timber operations*. Commercial timber operations shall be exempt from the provisions of this article. The town encourages the retention of a 50-foot buffer of existing trees adjacent to all public rights-of-way.
- (2) *Wetlands mitigation*. The mitigation of wetlands pursuant to a development order or approved plan from, and the requirements of, the South Carolina Coastal Council or the Army Corps of Engineers shall be exempt from the provisions of this article.
- (3) *Commercial tree operation exemption*. Trees grown specifically for sale by commercial nurseries are exempt from the provisions of this article.
- (4) *Agricultural exemption*. Any bona fide agricultural use shall be exempt from the provisions of this article.
- (5) *Utility companies, electric suppliers and governmental agencies*. Utility companies, electric suppliers and governmental agencies in the course of constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmission or rights-of-way only shall be exempt from the provisions of this article if the applicable company, supplier or agency has executed an agreement with the town which, at a minimum:
 - a. Recognizes the need to minimize trimming of grand trees which do not frustrate or substantially interfere with the intended purpose of construction or maintenance;
 - b. Establishes, to the extent feasible, design guidelines for construction and maintenance which identifies the saving of grand trees as a factor to be considered in the design process;
 - c. Allows for a consultation process with the town prior to the commencement of major construction or maintenance or the removal of grand trees; and
 - d. Provides that a breach of such agreement constitutes a violation of this article and a loss of exemption from the requirements of this article.
- (6) All zoning designations are subject to the tree protection regulations

Tree removal prohibited.

- (a) No person, firm, organization, society, association or corporation, or any agent or representative thereof shall directly or indirectly destroy or remove any trees in excess of six inches diameter breast height without approval under provisions of this article as specified.
- (b) This article shall not restrict the ability of the Town of Moncks Corner, public utilities, and electric suppliers from maintaining safe clearance around utility lines.

Tree protection; application and scope.

- (a) All persons desiring to remove any protected trees shall first apply for a tree removal permit in the office of the administrator. For properties already developed and/or not requiring a building permit or plan approval, an application shall be developed by the administrator and require as a minimum the following: the name of owner, the address of the property, the name of the proposed contractor and a sketch of the lot layout showing the location of the

protected trees desired to be removed. These trees should also be visibly marked for inspection.

- (b) Application for a building permit, site plan or subdivision plan where protected trees are proposed to be removed shall require the submission of a site plan or plat which includes:
- (1) A overlay at the same scale as the site plan or plat showing the location of any grand trees;
 - (2) Designation of any grand trees to be saved and those to be removed or relocated;
 - (3) Limits of areas proposed to be cleared for proposed structures, improvements, rights-of-way and easements;
 - (4) A statement of how grand trees located in the development area are to be protected during development.

General standards for removal and retention.

It is the desire of Moncks Corner Town Council to preserve existing trees to the greatest extent possible. Permits for removal of protected trees may be approved and issued where one or more of the following conditions are deemed to exist by either the administrator or Moncks Corner Town Council:

- (1) Trees are diseased, dead or dying;
- (2) Trees pose a safety hazard to nearby buildings, utility lines, or pedestrian or vehicular traffic;
- (3) Trees prevent essential grade changes or all reasonable utility installations;
- (4) Trees prevent all reasonable site configurations;
- (5) Removal of trees is the only reasonable means by which building, zoning, subdivision, health, public safety, or other town requirements can be met;
- (6) Trees are located on the construction site and up to five feet around the perimeter of the construction site of an approved building and related driveway/parking area;
- (7) The lot is of such density with existing trees that the removal of certain protected trees is considered beneficial;
- (8) Removal of trees has otherwise been approved by Town Council.
 - (a) Grand trees may only be removed when approved by action of a majority of Town Council.
 - (b) The approving authority may require tree replacement as a condition of approval. Where replacement trees are required in fulfillment of the requirements of this section, they shall be no smaller than two and one-half inches DBH. Moncks Corner Town Council is empowered to require trees of larger DBH or a greater number of replacement trees as determined appropriate for site specific conditions and the circumstances

Permits

The approved tree permit shall be posted in a visible place on the site throughout any tree removal activities.

Tree protection during development.

Protective barricades shall be placed around all grand trees in or near development areas, as determined by the Administrator or designee, prior to the start of development activities. These barricades, constructed of wood or plastic fencing or other approved materials shall be erected in

accordance with standards provided by the administrator or designee and shall remain in place until development activities are complete. The area within the protective barricade shall remain free of all building materials, fill, or other construction debris, vehicles, and development activities. Paved areas shall be separated from trees by a minimum distance deemed necessary to protect the tree's root system, as determined by the administrator or designee. The administrator is granted authority to develop administrative guidelines for these purposes.

Emergency conditions.

- (a) In the event that any tree shall be determined to be in hazardous or dangerous condition so as to endanger the public health, safety, or welfare, and requires immediate removal without delay, written authorization shall be given by the administrator or his designee and the tree removed.
- (b) During the period of an emergency, such as a tornado, hurricane, ice storm, flood or any other act of nature, the requirements of this article may be waived by the mayor or his assignee for a maximum of 30 days after which town council shall review the emergency waiver and may extend it for a maximum of an additional 30 days. In such case, the cutting and removal of felled trees shall be permitted.

Review of decision.

Any applicant aggrieved by a decision of the administrator may demand the application be submitted to the Moncks Corner Town Council for review at its next regularly scheduled meeting.

Violations and penalties.

- (a) Should violations be detected in progress, the administrator or his designee, or any town law enforcement official is authorized to require that all tree removal activity cease immediately subject to arrest by an authorized law enforcement official.
- (b) The issuance of a tree removal permit and the failure to substantially erect the building or physical improvement which necessitated the permit within six months combined with the removal of trees in the area of the proposed building or improvements shall be deemed as a violation of this article. Misrepresentation on the tree removal application shall also be deemed as a violation of this article.
- (c) Should violations be noted during the course of a project or at final inspection, the administrator shall take appropriate actions, including, but not limited to, requiring: replacement of illegally removed trees; replacement of protected trees which are damaged, diseased, dying or dead; remedial actions to protect trees during construction; revocation of zoning permits; and denial of certificates of occupancy. Provided, however, that the administrator or any town official or committee shall not be required to require any appropriate action to provide a remedy to any violation.
- (d) Violation of this article or failure to comply with any of the requirements hereof unless remedied by actions and within the time frame prescribed by the administrator shall be classified as a misdemeanor punishable by a maximum \$200.00 fine, and/or a maximum of 30 days imprisonment. In addition, the person committing the violation may be required to replace the tree with a size and species recommended to the municipal judge by the administrator. Each tree removed or destroyed in violation of this article represents a separate offense. Any person, firm, organization, society, association or corporation, or any

agent or representative thereof who commits, participates, or assists in such violations may each be found guilty of a separate offense and suffer the penalties herein provided.

Legality of article and parts thereof.

Should any section, clause or provision of this article be declared by the courts to be invalid, the same shall not affect the validity of the article as a whole, or parts thereof, other than the part so declared to be invalid.