

## **ARTICLE XII. ENVIRONMENTAL PERFORMANCE STANDARDS**

### **Section 12.1 Purpose**

Dorchester County contains a wide variety of natural resources. These resources support a diversity of plant and animal populations, create an environment that supports a high quality of life, provide opportunities for recreation, and contribute to the well being and enjoyment of the citizens of the County. The County encourages the preservation of forested tracts of property and the utilization of open space within developed areas. These resources also help maintain adequate drainage and prevent flooding in many portions of the County.

In order to maintain the benefits that result from the County's natural resources, all applicable development must adhere to certain standards regarding the alteration of natural resources. These standards involve how development occurs, not how much development is allowed.

### **Section 12.2 Flood Hazard Areas**

**12.2.1** It is the responsibility of each developer or landowner to ascertain whether a proposed structure is situated on land designated as a flood hazard area by the Federal Emergency Management Agency. Any structure located in a designated flood hazard area must meet the applicable construction and locational standards established by the Federal Emergency Management Agency, Dorchester County's Flood Hazard Ordinance 79-13, as amended, and the adopted building codes.

**12.2.2** The Zoning Administrator will identify, and maintain a current map of, areas within the County for which a documented history of frequent flooding can be developed. For any development proposed within one of these designated flood-prone areas, or on adjoining property either upstream or downstream from the designated flood-prone area, the developer must submit a drainage plan, prepared by a certified engineer that will ensure that:

- (a) structures built on the property will not be flooded and roads serving these structures will remain passable, as a consequence of a 10-year rainfall event; and
- (b) development on the site will not significantly increase the incidence or severity of flooding either upstream or downstream.

The drainage plan must be submitted to the Zoning Administrator for approval as required in the Dorchester County Drainage Ordinance 84-09, as amended, prior to the commencement of any land altering activity.

**Section 12.3 Wetlands Protection**

The following provisions shall be considered minimum regulations. Under no circumstances shall this Ordinance be deemed to authorize the violation of state and federal wetlands protections and regulations, the Dorchester County stormwater and drainage regulations, or other County regulations.

**12.3.1 General Wetlands Provisions**

- (a) For purposes of this Ordinance, wetlands are defined as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances to support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include marshes, swamps, bogs and similar areas
- (b) The alteration of wetlands is discouraged.
- (c) For wetlands subject to the jurisdiction of the Office of Coastal Resource Management and/or U. S. Corp of Engineers, required permit to alter wetlands must be obtained prior to any application for development approval and/or building permit to the County and prior to commencement of any land alterations.
- (d) For wetlands not subject to the jurisdiction of either the SC DHEC Office of Ocean and Coastal Resource Management (former Coastal Council) or the U. S. Army Corp of Engineers, the Zoning Administrator may permit the following alterations:
  - (1) Pilings for docks and piers;
  - (2) Alterations that are part of comprehensive site drainage plan Section 12.2;
  - (3) Necessary alterations for required roads; for purposes of this exception, an alteration is considered necessary when there is no reasonably available alternative involving no, or lesser degree of, alteration;
  - (4) Such alteration either which is deemed by the Zoning Administrator to be in the best interest of the public or which are fully permitted by other applicable government agencies.

## **Section 12.4 Tree and Canopy Protection Standards**

### **12.4.1 Intent**

The natural landscape and tree canopy in Dorchester County shall be conserved and enhanced to the following ends: to protect and enhance property values; to maintain the pastoral integrity of the landscape of the county; to preserve and enhance wildlife habitat; to control storm water erosion; to reduce flooding; to provide ambient cooling; to improve air quality; to mitigate negative effects of externalities such as noise, odor, dust, and light glare; and to beautify the county.

### **12.4.2 Tree Classifications**

(a) **Protected Tree.** A tree fifteen inches (15”) in diameter at breast height (DBH) to twenty-four inches (24), excluding pine, shall be protected by Dorchester County under this Ordinance because of its contribution to the environment, property values, and quality of life. If these trees have to be removed, there may not be a requirement of mitigation determined by the Zoning Administrator. If mitigation is required, it would be at 50% of DBH removed.

(1) Any tree provided as required by Article XI of this Ordinance.

(b) **Grand Tree.** A tree of special value due to its age and stature, such is deemed of irreplaceable value to Dorchester County. Trees twenty-four inches (24”) in DBH or greater, including pine, shall be considered grand trees. Mitigation will be required inch per inch (100%) of DBH as determined by the Zoning Administrator.

### **12.4.3 Applicability**

The regulations set forth in this section shall apply to all trees and land in Dorchester County except as noted herein and elsewhere in this Ordinance. No provision of this section shall be construed to exempt or relieve one from wetlands protection standards in this Ordinance. Those not requiring land disturbance and Tree Removal Permits are those parties listed below. Such are, however, strongly encouraged by Dorchester County to conserve trees so as to uphold the intent of this Ordinance and the quality of life enjoyed by residents of the county.

(a) **Parties exempt:** The parties listed below are exempt from this section to the extent defined in regard to each party.

(1) Farmers and ranchers: Trees on agricultural land, used specifically for raising livestock or crops (but not trees), shall not be required to be protected by this Ordinance, and provided such trees are not protected by any other government regulation.

- (2) Commercial timberers: Trees harvested by commercial timberers shall not be protected by this Ordinance, provided they adhere to the South Carolina Best Management Practices (BMP's) for Forestry; however, harvesting of trees, other than those in pine plantations, within one and a half (1 ½) years prior to installation of artificial improvements or other development activities shall be a violation of this article of the Ordinance.
- (3) Commercial tree farms and nurseries: Those raising trees for sale and transplant shall not be held to the provisions of this chapter, provided such are not planted in protected wetlands or required buffering thereof after the adoption of this provision.
- (4) Public utilities: Utility providers shall not be held to this section, except where vegetative buffering is required, provided that their easements, rights of way, and clearing practices are not overly destructive to the natural environment and do not adversely affect adjoining properties. Utility companies, electrical suppliers, and governmental agencies constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone, or television transmission, or the clearing of rights-of-way shall be exempt from the provisions of this Ordinance, if the applicable company, suppliers or agency has executed an agreement with the Dorchester County Zoning Department which, at a minimum:
- a. recognizes the need to minimize the cutting and/or trimming of all protected Trees which do not frustrate or substantially interfere with the intended purpose of construction or maintenance;
  - b. establishes, to the extent possible, design guidelines for construction and maintenance which identifies the savings of all protected Trees as a factor to be considered in the design process;
  - c. allows for the consultation process with the County prior to the commencement of major construction or maintenance or the removal of any protected Trees; and
  - d. provides that a breach of such Agreement constitutes a violation of this Ordinance and a loss of exemption from the requirements of this Ordinance.
- (5) Airports: Airports and heliports certified by the Federal Aviation Administration shall not be required to obtain Tree Removal Permits to clear trees so as to maintain safe clearances for aircraft.
- (6) Active recreation areas: All active recreation areas, such as golf courses, athletic fields, courts, and pools managed by schools, public recreation departments, country clubs, and the like shall be exempt from conserving

protected trees located outside of required buffering. Active recreation areas shall not be exempt from conserving grand trees.

- (7) **Transportation:** Those constructing roads, bridges, sidewalks, walkways, bike lanes, and other hard surfaced transportation facilities shall be exempt from conserving protected trees but not grand trees.
- (b) **Parties accountable:** All trees not covered by the above exemptions are protected by the provisions of this ordinance, which further specify regulations for the replacement of such trees once removed. Protected trees are defined in Section 12.4.2. Conditions under which protected trees may be removed by permit are specified in Section 12.4.4.
- (c) Nothing in this Section shall be construed to prevent the ordinary cutting, trimming and maintenance of a tree, nor shall anything in this Section be construed to prevent the cutting or removal of any tree that the authorized County offices shall certify as required for public safety.

#### **12.4.4 Tree Removal Permit**

Except for parties specifically exempt, it shall be unlawful to fell, improperly prune, or otherwise destroy a protected or grand tree without first obtaining a Tree Removal Permit from the Zoning Administrator.

- (a) **Exception:** A Tree Removal Permit is not necessary to remove a tree creating imminent danger to other trees, crops, permanent structures, public utilities, rights of way, or persons. A tree posing imminent danger shall be defined as one damaged by a storm such that its structural integrity is seriously compromised and the tree can be reasonably expected to fall and injure persons or structures in less than seventy-two (72) hours.
- (b) **Procedure**
- (1) Application for permits must be made not less than seventy-two (72) hours in advance of proposed tree removal. The Zoning Administrator shall issue the permit, valid for six (6) months, if the proposal meets the criteria for tree removal.
  - (2) The applicant may apply for a Tree Removal Permit concurrently with a Land Disturbance Permit, subdivision plan submittal, or Zoning Permit.
  - (3) Property development shall require documentation of a tree survey, depicting on a site plan or plat the location, species, and size in DBH of all protected and grand trees in the development area. The development area shall be defined as all highland areas within one hundred feet (100') of any proposed grading, temporary and permanent structures, and other improvements. The survey shall specify which trees are proposed for

removal. For development plans, this tree survey requirement may be satisfied by way of a “sample area” survey where (a) the same area is approved by an opinion of the engineer of record as being generally representative of the tree growth. (b) where all grand trees are surveyed throughout the entire site, (c) with mitigation plans for all grand trees to be removed, approved by the Zoning Administrator. Mitigation may be handled in two way: 1) Replanting inch per inch and/or 2) use of the sample area trees between the size of 6” and 15”.

(4) Trees to be removed will be physically marked with brightly colored Engineer Tape. The property shall first be inspected by the County Zoning Administrator, or his designee, before approval is granted. The tape on those trees approved for cutting will be left in place. Any engineer tape errantly placed on those trees to be preserved (not approved for cutting) will be removed by the inspector. Following inspection by the County inspector, the permit will be granted for full approval or limited approval or is disapproved.

(5) It shall be the responsibility of the applicant to post the Tree Removal Permit on the property in a place on the site visible from the public right of way throughout any tree removal activity.

(c) **General criteria:** The following criteria shall constitute grounds for a Tree Removal Permit regardless of use or zone.

(1) Trees potentially hazardous to surrounding trees, crops, permanent structures, public utilities, rights of way, or persons due to a loss of stability caused by high wind, unstable soil, age, or other natural forces.

(2) Diseased and/or infectious trees and trees in decline as certified by a registered forester or certified/qualified arborist, who holds a Dorchester County business license.

(3) Trees or their root systems causing ~~to~~ visible damage to permanent structures that cannot be prevented through proper pruning as determined by a certified/qualified arborist..

(4) Trees or their root systems causing ~~to~~ utility lines damage that cannot be prevented through proper pruning.

(5) Trees inhibiting access through a public right of way such that proper pruning cannot mitigate the condition.

(d) **Criteria for property development:** The following criteria shall address grounds for tree removal in the event of property development provided the conditions attached to each criterion are met.

- (1) **Subdivision of parcel:** The subdivider shall make conscious efforts to avoid grand trees and significant groupings of protected trees in proposing placement of rights of way and easements. Additionally, lot lines shall not be platted so as to necessitate removal of grand trees and significant groupings of protected trees by locating them in the middle of proposed lots. More appropriately, lot lines should be platted so that such trees will benefit development by serving as design features and vegetative buffers and by mitigating storm water run-off and erosion problems.
- (2) **Building footprints:** Grand trees within the proposed footprints of primary structures refer to Section 12.4.5 (e) (1) for setback removal rule shall be removed with mitigation if necessary for development. Protected trees, other than grand trees, within the proposed footprints of accessory structures, as well as those non-grand trees within twenty feet (20') of such, may be removed when necessary for development. The twenty-foot clearance area may be increased to fifty feet (50') for structures of three (3) or more stories or, where not applicable, more than forty feet (40') in height.
- (3) **Yards and buffers:** Grand trees shall not be removed from required yards or buffers. Trees taller than twenty-four feet (24') minimum may be limbed up to eight feet (8') to provide view sheds in required yards but not buffers, unless specifically stipulated otherwise within this Ordinance.
- (4) **Means of access:** Protected trees may be removed when necessary to provide access to the site. Access-ways shall be no more than fifty feet (50') wide, which shall accommodate all vehicular and pedestrian routes as well as any parallel utilities. The cleared area may be expanded to create required sight triangles adjacent to a public street. Grand trees shall not be removed for means of access.
- (5) **Parking:** Parking shall be in accordance with Section 11.2 Parking and Access Ways.

#### **12.4.5 Tree Protection Procedures**

The base and root system of most trees are very sensitive to changes and must be protected. The following measures shall also be taken to protect trees located off-site, the limbs and drip lines of such encroach property boundaries.

- (a) Protected trees shall be guarded during development and harvest against the following:
  - (1) Unnecessary cutting, breaking, or skinning of roots;
  - (2) Skinning and bruising of bark;

- (3) Storing or stockpiling construction, excavation, or other machinery, tools, materials, and debris within drip lines;
  - (4) Burning within drip lines;
  - (5) Absorption of wastewater run-off within drip lines;
  - (6) Excessive foot or vehicular traffic within drip lines; and
  - (7) Parking vehicles within drip lines.
- (b) Wounds to protected trees shall be cleaned to sound wood by removing loose bark and wood, leaving a smooth edge around the wound, and be properly dressed.
- (c) Any roots of protected trees necessary to be removed shall be severed clean and treated by installing a two-inch (2") layer of mulch applied on the surface above such roots, to be sustained throughout harvesting and development activities.
- (d) Soil disturbance within the dripline of a protected tree shall be limited to six inches (6") in depth removed or six inches (6") in depth added. Any soil added under the dripline of the tree shall be a loamy soil mix to ensure minimal compaction.
- (e) **Development activities:** The following additional measures shall be taken to protect trees scheduled to be retained in preparation for and during property development.
- (1) **Setbacks:** All site improvements other than landscaping and hardscaping shall maintain a minimum setback from the trunk of a grand tree. A minimum setback from the base of all protected and grand trees shall be twelve (12) feet plus one additional one (1) foot of clearance for every three (3) inches in DBH in excess of twenty-four (24) inches.
  - (2) **Protective barricading:** Barricades shall be erected around all protected trees located on development sites prior to the start of such activities and shall remain in place until such activities are complete. The following standards apply:
    - a. Barricading trees in groups shall be encouraged.
    - b. Barricading shall be erected as per Section 12.4.5 (e) (1). Barricading shall be highly visible (so as to be easily recognized in the rear view or side mirror of an oncoming vehicle traveling in reverse), continuous at a height of three feet (3'), minimum, and capable of repelling a man moving at walking speed. Recommended materials are orange safety

fencing supported by wood/metal members or approved material as determined by the Zoning Administrator. Flagged string or tape alone is not preferred during development.

- c. All tree protection areas shall be designated with signs or tape posted visibly on or within fencing denoting the area as off limits for the sake of tree protection.
- (f) **Installation of utilities:** Utilities shall not be installed in tree protection areas without the use of special tunneling techniques to preserve root systems.

#### **12.4.6 Violation and Penalty**

- (a) Each protected tree destroyed without the appropriate Tree Removal Permit shall be judged a separate offense. For each day that the loss of the tree goes unmitigated, as provided below, shall be judged a separate offense.
- (b) In lieu of any fines and penalties incurred by a violator of this section, the Zoning Administrator may propose tree replacement as a condition of granting Certificates of Occupancy. Replacement trees shall be required such that the combined diameter at breast height of new trees shall be equivalent to that of trees lost to violations.
- (c) In the event that violations of this article result in the issuance of a Stop Order, tree replacement or payment of fines may be required to commence before development is allowed to proceed.
- (d) In the event that the violator of tree protection standards cannot be identified and located, the landowner shall be held responsible for fines and mitigation.