



JAMES ISLAND PLANNING COMMISSION
Town Hall
1238-B Camp Road, James Island, SC 29412

MEETING AGENDA

May 12, 2016
6:00PM

NOTICE OF THIS MEETING WAS POSTED IN ACCORDANCE WITH THE FREEDOM OF INFORMATION ACT

- I. CALL TO ORDER
- II. PRAYER AND PLEDGE
- III. COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT
- IV. INTRODUCTIONS
- V. APPROVAL OF FEBRUARY 11, 2016 MINUTES
- VI. PUBLIC COMMENTS
- VII. STAFF COMMENTS
- VIII. DISCUSSION OF PROPOSED AMENDMENTS TO THE TOWN OF JAMES ISLAND ZONING AND LAND DEVELOPMENT REGULATIONS ORDINANCE (ZLDR) INCLUDING:
 1. Table 153.110: Adding a Special Exception requirement for Pet Stores or Grooming Salons and Small Animal Boarding in the Community Commercial (CC) and for Small Animal Boarding in the Agricultural (AGR) Zoning District.
 2. Table 153.110: Removing the Conditional Use Requirement for Small Animal Boarding from the Moderate-Density Suburban Residential (RSM) Zoning District.
 3. Section 153.152: Removing square footage conditions from Pet Stores or Services.
 4. Section 153.334: Amending Tree Protection and Preservation to change protected tree requirements and add requirements for Major Subdivisions.
- IX. CHAIR'S COMMENTS
- X. COMMISSIONERS COMMENTS
- XI. NEXT MEETING DATE: JUNE 9, 2016
- XII. ADJOURN

The Planning Commission met in the Council Chambers of the Town of James Island, 1238-B Camp Road, James Island, SC on Thursday, February 11, 2016 at 6:00 p.m. Commissioners present: Bill Lyon, Lyndy Palmer, Warren Sloane, Ed Steers, and Chairman David Bevon, who presided.

Also present: Kristen Crane, Planning Director, Leonard Blank, Town Council, Ashley Kellahan, Town Administrator, Mayor Woolsey, Garrett Milliken, and Frances Simmons, Town Clerk and Secretary to the Planning Commission. Media: James Island Messenger, Live 5 News.

Call to Order: Chairman Bevon called the meeting to order at 6:00 p.m.

Prayer and Pledge: Chairman Bevon led the payer and followed it with the Pledge of Allegiance.

Compliance with the Freedom of Information Act: Chairman Bevon announced that this meeting was noticed in compliance with the South Carolina Freedom of Information Act.

Approval of December 10, 2015 Meeting Minutes: Chairman Bevon moved to approve the December 10, 2015 meeting minutes; Commissioner Lyon seconded. Minutes passed unanimously.

Public Comments: The following persons addressed the Planning Commission:

Garrett Milliken, 762 Fort Sumter Drive: Mr. Milliken stated that he is a Councilmember for the Town of James Island and is speaking as a private citizen. Mr. Milliken's statement is attached.

Mrs. Brook Lyon, 669 Port Circle: Mrs. Lyon commented that she also had the privilege of attending the SC Trees Conference (last October) with Mr. Milliken, Mr. Lyon, and Ms. Palmer. She encouraged the Planning Commission to realize how important trees are to our natural resources on James Island, referring to the Town's logo with a tree canopy. Mrs. Lyon said working with the Town on the BZA, and as President of Lighthouse Point Neighborhood Association, the Town is good in working with people to take down trees that causes a hardship or trees that are diseased. She personally encouraged the Planning Commission to keep the trees at 18 inches. She said Lighthouse Point is a mixture of city properties and there is a smaller subdivision within the subdivision -- she has seen tons of trees taken down and it shocks her. She believes the City's tree size is 24 inches and she hopes the Town will mirror Summerville and Folly Beach's 18 inch tree size. These are her personal thoughts as a citizen.

Staff Comments: None

Discussion of Proposed Amendments to the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR) including: Chairman Bevon announced that Mrs. Crane, Planning Director, will present the recommended changes to the Zoning and Land Development Regulations Ordinance. Discussion and vote will follow after each amendment.

§153.231 TEMPORARY SALES

Currently reads:

- (A) Auctions or garage sales of second-hand merchandise which has been used on the premises may be conducted on a zoning lot where permitted as an accessory use elsewhere in these regulations. Such sales may be conducted only once in a calendar year from the same zoning lot.

Recommendation:

- (A) Auctions or garage sales of second-hand merchandise which has been used on the premises may be conducted on a zoning lot where permitted as an accessory use elsewhere in these regulations. Such sales may be conducted *twice* in a calendar year from the same zoning lot.

Commissioner Sloane asked how this pertained to craft shows. Mrs. Crane said a craft show would require a special events permit. This is different from the recommended change. There are no limits to the number of craft shows someone can have.

Commissioner Palmer asked if there is a way to control the number of auctions or garage sales a person has; Mrs. Crane replied on a complaint basis.

Motion: Commissioner Sloane moved to accept the recommended change; seconded by Commissioner Palmer. Motion passed unanimously.

§153.177 SPECIALIZED MANUFACTURING

Currently reads:

- (A) In zoning districts subject to condition (C), a structure or structures used for specialized manufacturing shall have a maximum floor area of 2,000 square feet and shall have no more than five non-resident employees.
- (B) All activities related to the specialized manufacturing use shall be confined to a structure that is entirely enclosed.
- (C) On-site retail sales are prohibited.
- (D) All specialized manufacturing uses shall comply with the site plan review requirements of this chapter.

Recommendation:

- (A) In zoning districts subject to condition (C), a structure or structures used for specialized manufacturing shall have a maximum floor area of 2,000 square feet and shall have no more than five non-resident employees.
- (B) All activities related to the specialized manufacturing use shall be confined to a structure that is entirely enclosed.
- (C) All specialized manufacturing uses shall comply with the site plan review requirements of this chapter.

Mrs. Crane listed specialized manufacturing that falls under this category. Commissioner Sloane asked what the purpose is for the employee limit and residency requirement; to which Mrs. Crane said she was uncertain, it could be from one of the County's versions adopted by the Town. Chairman Bevon said the Planning Commission can propose changes and make recommendations to Town Council at any time for consideration. Commissioner Sloane said he was okay with this, and it may require further study before getting rid of it.

Motion: Commissioner Steers moved to accept the recommended change; seconded by Commissioner Lyon. Motion passed unanimously.

Table 153.110: MANUFACTURING AND PRODUCTION

Currently reads:

Beverage or related products manufacturing, including alcoholic beverages. (Nothing in "CC" box = not allowed)

Recommendation:

Beverage or related products manufacturing, including alcoholic beverages. (Add an "S" in "CC" box = allowed only if reviewed and approved in accordance with the special exception procedures of this chapter, subject to compliance with use-specific conditions and all other applicable regulations of this chapter.)

Mrs. Crane informed the Planning Commission that letters of support were given to them.

Motion: Commissioner Lyon moved to accept the recommended change; seconded by Commissioner Steers; no discussion. Motion passed unanimously.

§153.334 TREE PROTECTION AND PRESERVATION

Currently reads:

(E) Tree removal

(1) *Generally.* Permits for tree removal may be approved where one or more of the following conditions are deemed to exist by the Zoning Administrator:

- (a) Trees are not required to be retained by the provisions of this section.
- (b) Trees are diseased, dead, or dying (as determined by the Zoning Administrator or a qualified arborist);
- (c) Trees pose an imminent safety hazard to nearby buildings or pedestrian or vehicular traffic (as determined by the Zoning Administrator or a qualified arborist); and/or
- (d) Removal of required trees has been approved by the Board of Zoning Appeals.

Recommendation:

(E) Tree removal

(1) *Generally.* Permits for tree removal may be approved where one or more of the following conditions are deemed to exist by the Zoning Administrator:

- (a) Trees are not required to be retained by the provisions of this section.
- (b) Trees are diseased, dead, or dying (as determined by the Zoning Administrator or a qualified arborist);

- (c) Trees pose a safety hazard to nearby buildings or pedestrian or vehicular traffic (as determined by the Zoning Administrator or a qualified arborist); and/or
- (d) Removal of required trees has been approved by the Board of Zoning Appeals.

Mrs. Crane said the change is to remove imminent from one of the requirements for a tree permit. Miriam Webster's Dictionary defines imminent as "ready to take place, hanging, threateningly over one's head". She goes out on tree permit calls and the majority of people she meets are nervous about a tree falling onto their house. It may not be an imminent situation, but it is a safety hazard. Also homeowners are required to pay for an arborist or engineer to tell us (the Town) that the tree is causing structural damage, or it is ready to fall. She said a safety hazard is a safety hazard and recommended the word imminent taken out.

Commissioner Sloane said he likened an imminent safety hazard to a tree hanging over a house, cracking, and attempting to fall vs. a tree growing besides a house and starting to destruct the foundation of the house that takes years for the damage to impact; or fall because it has become severely damaged. He asked if that is the idea, or, are people nervous about trees close to their house. Mrs. Crane said yes, people are nervous and worried about the closeness of the tree to their house and their safety. Commissioner Sloane then asked who makes the call and decide whether someone is just nervous about a tree; or if it is actually a safety hazard. Mrs. Crane said if a tree is not dead, diseased, or dying she will ask the homeowner to have an arborist, engineer, or contractor to look at it and make that determination.

Motion: Commissioner Sloane moved to accept the recommended change; seconded by Commissioner Steers and passed unanimously.

§153.334 TREE PROTECTION AND PRESERVATION

Currently reads:

(A) General

(4) Measurements and definitions.

GRAND TREE. Any species of tree measuring 18 inches or greater diameter breast height (DBH) except pine and sweet gum. All GRAND TREES are prohibited from removal unless a grand tree removal permit is issued.

Recommendation:

(A) General

(4) Measurements and definitions.

GRAND TREE. Any species of tree measuring 24 inches or greater diameter breast height (DBH) except pine and sweet gum. All GRAND TREES are prohibited from removal unless a grand tree removal permit is issued.

Mrs. Crane reviewed the recommendation to change the current tree size from 18 inches to 24 inches to be consistent with the City of Charleston and Charleston County. She said 95% of the calls she goes out on are for Water Oaks. Councilman Steers asked if there are other municipalities that protect trees at 18 inches. Mrs. Crane said she did research in 2013 on tree size in other municipalities and listed species of protected trees ranging from 16 to 24 inches. Councilman Lyon asked why 24 inches; why not 20 or 21 inches and Mrs. Crane noted to be consistent with other jurisdictions. Commissioner Sloane asked what problem we are solving by taking this particular hornet's nest. Mrs. Crane said there are homeowners needing to take down a tree, and some are unsure which jurisdiction they live -- changing the tree size would make it consistent with other municipalities. Commissioner Steers asked if the violations are rampant and Mrs.

Crane said she has had six or seven since working here. Commissioner Sloane asked if these were violations or requests and Mrs. Crane said they were violations that were pursued. Commissioner Palmer asked if we could compromise on some of this; perhaps define some of the trees that should remain at 18 inches and specify those to be 24 inches, i.e., Grand Oaks. Mrs. Crane said tonight the 24 inches is what's on the table and discussions about other things can occur at a later time. Commissioner Sloane asked if the Planning Commission could approve this and have Council adjust it as they see fit. Mrs. Crane said if the change is substantial it would come back to the Planning Commission. Chairman Bevon called for a motion to approve the staff's recommendation. Commissioner Palmer moved for discussion, and Commissioner Sloane seconded.

Commissioner Palmer said she would like to look at this more. She mentioned having a break-down of trees that cannot be touched at 24 inches and those that might be able to at 18 inches. She loves trees but understands there are implications when tree roots get too close to a house. Her big concern is the amount of money a homeowner pays. She gave an example of a 19 inch tree in the middle of a lot that prohibits building on the lot. Chairman Bevon said he thinks there are exceptions for a single family residential lot that has a tree in the footprint of the house. Those people can get relief to build on a single family residential lot; not developers. He said private homeowners do have ways to be relieved. He would say that you cannot buy a wooded lot on James Island to build and not be able to remove a grand tree. Commissioner Palmer said we should state that, and there needs to be differentiation between the homeowner and developer. Commissioner Sloane said he would like to vote up or down and if Council is interested in exploring a varied or tiered ordinance they could instruct the staff to research and have it come back to the Planning Commission. He would like to see this go forward to Town Council for discussion. Commissioner Steers agreed and would like to learn more. As a new Planning Commissioner he does not have some of the history the others have. Chairman Bevon added that the zoning and land development regulations is a big document and this is a section people on the island care deeply about and brings the most interest. He said this is not a static document, it can be changed at any time by asking staff to place items on the agenda and recommendations can be forwarded to Town Council for consideration.

Vote:

No: Chairman Bevon, Commissioner Palmer, Commissioner Lyon

Aye: Commissioner Sloane, Commissioner Steers

Motion did not pass: 3-2

Appendix A (Ordinance 2012-06, Attachment C) PRIVATE ROAD STANDARDS

Currently reads:

§A.2.2 Ingress/Egress Easement (Maximum of 10 Lots)

ADDITIONAL LANDOWNER/DEVELOPER RESPONSIBILITIES: The landowner/developer shall determine the location of easement(s) and the type of access to be provided. The location of the easement(s) shall be clearly depicted and labeled on submitted plats or plans.

Recommendation:

§A.2.2 Ingress/Egress Easement (*Maximum of 4 Lots*)

Mrs. Crane said this will change the ingress/egress easement from 10 lots to 4 lots; and will prevent developers from using the right-of-way area in their lot size and density requirements.

Motion: Commissioner Palmer motioned for discussion, Commissioner Lyon seconded.

Chairman Bevon and Commissioner Lyon said the recommended change is good. Motion passed unanimously.

Chairman Bevon announced that Town Council will hold a Public Hearing and First Reading on these amendments with the Planning Commission's recommendations at their March 17, 2016 meeting. The Second Reading will be held at the April 21st Town Council meeting.

Election of Planning Commission Officers for 2016; Chair and Vice-Chair: Chairman Bevon announced that local Planning Commissions must elect one of its members as Chair and Vice-Chair for a one-year term. These appointments will begin immediately and last through 2016.

Chairman Bevon opened the nominations for the Chair. Commissioner Lyon moved to reappoint David Bevon; Commissioner Steers seconded. No other nominations. Motion passed unanimously for Chairman Bevon to continue to serve.

Chairman Bevon opened the nominations for Vice Chair, and moved to reappoint Commissioner Palmer; Commissioner Steers seconded. No other nominations. Motion passed unanimously for Commissioner Palmer to continue to serve.

Chair's Comments: Chairman Bevon thanked the Planning Commission for their confidence in voting for him to serve again as Chairman. This is a service and responsibility that he takes seriously and strives to be a good steward for the Town. He thanked those who came out regarding the proposed amendments to the Zoning and Land Development Regulations Ordinance.

Commissioners' Comments: None

Next Meeting Date: The next Planning Commission meeting will be held on Thursday, March 10, 2016 at 6:00 p.m.

Adjourn: There being no further business to come before the body, the meeting adjourned at 6:35 p.m.

Respectfully submitted:

Frances Simmons
Town Clerk and Secretary to the Planning Commission

Good evening folks, My name is Garrett Milliken and I am a member of James Island Town Council , but I am here tonight as a private citizen and also as a past member and past chair of the Planning Commission. I know that Mayor Woolsey and Mayor Pro Tem Blank come and speak to you all at times, and also to BZA, but again, I am here as a private citizen.

A few of you have been appointed to PC since the Tree Unpleasantness of 2013 - which you may or may not have heard about. To fill you in, in 2013 Planning commission decided to define Grand Trees in the Town as trees 18 inches and greater, diameter at breast height. This rolled up and down and all around, and after several months: the definition was set at 18 inches and greater dbh.

The past history of this was that in one of our former towns, trees were protected at 12 inches DBH and greater, then at some point in time, it had edged up to 18 inches and Greater DBH. A new town was incorporated and the DBH became 24" but then that town was disbanded. When the Town reincorporated and the PC did a review of the land use plan in 2013, the DBH was changed to 18 inches; and to further explain: this is the Definition of a Grand Tree, this is not about Protected Trees, which differs for all municipalities. As you all know, the reason for this, is not to Save Every tree on James Island, because that would be impossible - it's to encourage the preservation & protection of established trees, and to allow for a process to mitigate trees that are cut down, and ask that folks who do that to substantial, healthy trees: Plant More Trees if that is what is decided by BZA--- when they receive a variance or permit to do that. For example, I think the Pulte Group took out a few grand trees and they should have had to plant new trees to replace what they took out,,I see some holly trees out there, and there are new oaks that they've planted.

Anyway, there was quite a hoo ha over the 18 inches, which just so you all understand is a TREE that measures 57 inches around in circumference. That is a large old tree, 30-40 yrs old on James Island, or more depending on species.

If you compare to 24 inches DBH, that is a tree that measures 75.5 inches around, and that is a massive massive tree - the bigger oaks, the older trees measure like that.

What we've learned and found out is that it's of critical importance to do all we can to save Yes, our Old Granddaddy Oaks, but also our more vital, healthy, younger trees ---to protect our urban tree canopy. Mr. Lyons, Ms. Palmer and myself attended the Trees SC conference where we learned that there are numerous tree species that will never grow as large as 18 inches but provide specialized feeding niches and habitats for local birds and wildlife.

Now where you get into problems is: we have a hard time talking anyone into preserving a Pine tree, as they are more fragile in hurricane forces, or into preserving a sweet gum tree, which are fabulous and native, and if you drive through a neighborhood like Harborwoods - it is full of 30+ foot tall sweet gum - but sweet gum drop the burrs and nobody likes those burrs. Now Take Magnolias, Those don't get huge trunks, That is an iconic Southern tree w/ those gorgeous blooms,,,they almost always measure less than 75 inches around , which is that 24 DBH,,even at 75-80 years old....and the bumblebees love those magnolia blooms.

Another issue is that we've seen what is happening to our very old big oaks, is that they are rotting and splitting at times from all this rain. That in and of itself is the reason to save the younger more vital oaks and all species of trees.

We really incorporated the Town of JI to be more preservation minded than the City or the County. I think Ms. Crane has worked really well w/ residents and I know the Town is reasonable about exceptions & enabling residents to take down trees that are diseased or problematic if they need to.....

Mainly, I wanted to speak to you all tonight to let you know some background on this, and the reason for the 18 inch definition ----- and my recollection is that many residents came out and supported that vs. the 24 inches.

18' protects tree species diversity, it allows for younger trees to be protected and it allows for James island to retain its commitment to tree preservation in the face of challenges from the City of Charleston and unincorporated Charleston County. Keeping more trees keeps JI looking like JI. Thank you.

ORDINANCE 2016-05

AN ORDINANCE AMENDING THE TOWN OF JAMES ISLAND ZONING AND LAND DEVELOPMENT REGULATIONS ORDINANCE, SECTIONS 153.110 AND 153.52

WHEREAS, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Sections 6-29-310, et seq., 6-29-510 et seq., 6-29-710 et seq. and 6-29-110 et seq., of the Code of Laws of South Carolina, 1976, as amended, authorizes the Town of James Island to enact or amend its zoning and land development regulations to guide development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, and general welfare; and

WHEREAS, Pet Stores or Grooming Salons and Small Animal Boarding are currently conditional uses within the Community Commercial Zoning District and Small Animal Boarding is a conditional use in agricultural and residential zoning districts; and

WHEREAS, Town Council recommends that the uses of Pet Stores or Grooming Salons and Small Animal Boarding have a method of applying parameters of density, sound control and hours of operation to these establishments; and

WHEREAS, upon first reading of this ordinance, Town Council will then send to the Planning Commission the proposed amendments to the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR) for review and recommendation before coming back to Town Council for final action as prescribed in Section 6-29-370 of the Code of Laws of South Carolina; and

NOW, THEREFORE, be ordained it, by the Town of James Island Council in meeting duly assembled, as follows:

SECTION I. FINDINGS INCORPORATED

The above recitals and findings are incorporated herein by reference and made a part of

this Ordinance.

SECTION II. AMENDMENTS OF THE ZONING AND LAND DEVELOPMENT REGULATIONS ORDINANCE

1. The Town of James Island Zoning and Land Development Regulations Ordinance, Section 153.110, is hereby amended as referenced in Exhibit "A" which includes the following amendments:
 - a. Add a special exception requirement in the Community Commercial Zoning District (CC) for Pet Stores or Grooming Salons and Small Animal Boarding.
 - b. Add a special exception requirement in the Agricultural Zoning District (AGR) for Small Animal Boarding.
 - c. Remove the conditional use requirement from the Multi-family Residential Zoning District (RSM) for Small Animal Boarding.
2. The Town of James Island Zoning and Land Development Regulations Ordinance, Section 153.52 Pet Stores or Services is hereby stricken as referenced in Exhibit "B".

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately following second reading by the Town Council.

ADOPTED and APPROVED in meeting duly assembled this ____ day of _____, 2016.

TOWN OF JAMES ISLAND COUNCIL

By: _____
Bill Woolsey
Mayor

ATTEST:

By: _____
Frances Simmons
Town Clerk

First Reading: April 21, 2016

Public Hearing: _____

Second Reading: _____

EXHIBIT A

TABLE 153.110	ZONING DISTRICTS											Condition		
	NSM 26	AG 5	AGR	RSL	RSM	MHS	OR	OG	CN	CC	I			
Septic Tank Installation, Clearing, or Residue Services												\$	\$	
Solid Waste Combustors or Incinerators, Including Cogeneration Plants												\$	\$	\$ 153,171
Solid Waste Disposal Facility												\$	\$	
Waste Collection Services												\$	\$	
Waste Transfer Facilities												\$	\$	
COMMERCIAL USES														
ACCOMMODATIONS														
Bed and Breakfast Inns	C	C	C	C	S	S	C	C	C	C	C	C	A	\$153,124
Hotels or Motels								S	A	A	A	A	A	
Rooming or Boarding Houses								S	A	A	A	A	A	
RV (Recreational Vehicle) Parks or Campgrounds	S	S	S	S										\$153,132
ANIMAL SERVICES														
Kennel	A	A	C											\$153,174
Pet Stores or Grooming Salons														\$153,152
Small Animal Boarding (enclosed buildings)	A	A	S									S	A	\$153,152
Veterinary Services	A	A	S	S			S	C	C	C	A	A	A	\$153,152

EXHIBIT B

EXHIBIT B

~~§ 153.152 PET STORES OR SERVICES.~~

~~—(A)—In the nonresidential zoning districts, pet stores, grooming salons, small animal boarding, and veterinary services shall have a maximum floor area of 2,000 square feet or less; otherwise these uses shall fall under the special exception procedures of this chapter.~~

~~—(B)—In the agricultural and residential zoning districts, pet stores, grooming salons, small animal boarding, and veterinary services shall have a maximum floor area of 1,500 square feet; otherwise these uses shall fall under the special exception procedures of this chapter.~~
(Ord. 2012-06, § 6.4.32, passed 10-18-2012; Ord. 2013-02, passed 4-18-2013)

****Proposed changes are hi-lighted, underlined or struck-through and italicized.****

153.334 TREE PROTECTION AND PRESERVATION.

(A) General.

(1) Findings. Trees are an essential natural resource, an invaluable economic resource, and a priceless aesthetic resource. Trees play a critical role in purifying air and water, providing wildlife habitat, and enhancing natural drainage of storm water and sediment control. They also help conserve energy by providing shade and shield against noise and glare. Trees promote commerce and tourism by buffering different land uses and beautifying the landscape. The tree protection and preservation regulations of this section are intended to enhance the health, safety, and welfare of the citizens of the town.

(2) Applicability and exemptions.

(a) Applicability. The provisions of this section in their entirety shall apply to all real property in the town, except as expressly exempted.

(b) Exemptions.

1. Single-family detached residential lots of record shall be exempt from all provisions in this section except for the grand tree documentation, protection, and replacement provisions. This exemption does not include *protected trees in major subdivisions* or applications for major and minor subdivisions for which landscape buffers may be required per §153.335(D).

3. The Zoning Administrator shall be authorized to modify or reduce the standards of this section for commercial nursery operations.

4. This section shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines and existing easements in accordance with applicable state laws. Siting and construction of future *and existing* gas, telephone, communications, electrical line, or other easements shall not be exempt from ~~the~~ *any* provisions of this section.

5. Removal of trees for the purpose of conducting bona fide forestry operations shall be exempt from the provisions of this section except for removal of live oak species of grand trees.

6. Removal of trees for the purpose of establishing bona fide agricultural uses, as specified in § 153.047(B)(1) of this code, shall be exempt from the provisions of this section except for the grand tree documentation, protection, and replacement provisions.

7. Removal of trees for the purposes of maintaining safe clearance for aircraft as required by federal law or the establishment of facilities exclusively dedicated to aviation operations on property owned or leased and in use by the County Aviation Authority will be exempt from the provisions of this section.

8. All invasive tree species as referred by Clemson Extension and the South Carolina Exotic Pest Plant Council shall be exempt from all provisions of this section.

(3) Definition of tree removal. For the purpose of this section, the term TREE REMOVAL shall include, but not be limited to, damage inflicted to the root system by machinery, girding, storage of materials and soil compaction, changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; paving with concrete, asphalt, or other impervious material within such proximity as to be harmful to the tree; or any act of malicious damage to a tree. Excessive pruning or thinning shall be pruning or thinning that exceeds more than 25% of the leaf surface on both the lateral branch and the overall foliage of a mature tree that is pruned within a growing season. Additionally, one-half of the foliage of a mature tree is to remain evenly distributed in the lower two-thirds of the crown and individual limbs upon completion of any pruning.

(4) Measurements and definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CALIPER. The diameter of a tree trunk measured six inches above the ground on trees with calipers of four inches or less. For trees between four inches and 12 inches caliper, the trunk is measured 12 inches above the ground.

DIAMETER BREAST HEIGHT (DBH). Used for measuring all trees greater than 18 inches caliper. The DIAMETER BREAST HEIGHT (DBH) of a tree is the total diameter, in inches, of a tree trunk or trunks measured four and one-half feet above existing grade (at the base of the tree). In measuring DBH, the circumference of the tree shall be measured with a standard diameter meter, and the circumference shall be divided by 3.14. If a tree trunk splits at ground level and does not share a common base (separated by earth at natural base), then each trunk shall be measured as a separate tree. If a multi-trunk tree splits below the four and one-half foot mark, all trunks shall be measured separately added together and count as one tree. Any trunk measuring less than eight inches DBH is not included in the calculation.

GRAND TREE. Any species of tree measuring 24 inches or greater diameter breast height (DBH) except pine and sweet gum. All GRAND TREES are prohibited from removal unless a grand tree removal permit is issued.

PROTECTED TREES. Any tree on a parcel with a diameter breast height of eight inches or greater prior to development and all trees within required buffers or required landscape areas. Limited removal is allowed only when specified by the provisions of this chapter.

(B) Administration.

(1) Zoning permit required.

(a) Tree removal. Removal of required trees is prohibited prior to the issuance of a zoning permit by the Zoning Administrator. Zoning permits will be issued only after a tree plan is approved by the Zoning Administrator as outlined below.

(b) Excess canopy (limb) removal.

1. Removal of three or more limbs with an individual diameter of six inches or greater shall require a zoning permit.

2. Removal of any size limbs which contribute to more than 100 continuous linear feet of canopy over public roadways shall require variance approval from the Board of Zoning Appeals. This requirement shall not preclude the SCDOT, CCPW, or other entities from maintaining height clearances of 14 feet or less and width clearances within designated travel ways and from removing unprotected trees along rights-of-way for road widening projects.

(2) Documentation. Tree plans, prepared by licensed registered surveyor, civil engineer, or landscape architect, shall be required on all non-exempt parcels before any permits are issued.

(C) Tree plans and surveys.

(1) General. Tree plans of the same scale as, and superimposed on, a development plan or preliminary plat shall include location, number, size (DBH or caliper), and species with a scaled graphic representation of each grand tree, canopy size and shape, and the trunk location. All required tree surveys shall include the name, address, signature, and seal of a licensed surveyor, landscape architect, or civil engineer registered in the state. The survey shall include all trees to be protected or preserved and those scheduled to be removed, including dead and damaged trees. In cases where a landscape architect, civil engineer, forester, or surveyor utilizes previously approved recorded plats prepared by surveyors for the purpose of showing a tree plan, the name, address, signature, and seal of the licensed landscape architect, civil engineer, forester, or surveyor registered in the state, who shall be responsible for the accuracy of the information provided, shall be included on the tree survey. A scaled infrared or high resolution black and white aerial photograph or print of equal quality may be substituted in cases where the Zoning Administrator determines that it would provide the same information as a tree plan. However, all grand trees within 40 feet of proposed construction and land disturbance areas and trees within required buffers must be surveyed and mapped.

(2) Major and minor subdivisions preliminary plats. Refer to § 153.305(B)(4), Preliminary plat application, in the subdivision regulations of this chapter.

(3) Commercial, industrial, multi-family *and major subdivisions*. All tree surveys must show the location, number, size, and species of all trees eight inches or greater DBH (diameter breast height), including those scheduled to be removed. When there are no trees eight inches or greater DBH, documentation of this fact shall be provided from a registered surveyor, engineer, or landscape architect.

COMMENTARY:

Assistance in tree identification and condition should be provided by a forester or qualified arborist.

(4) Single-family detached residential parcels. Single-family detached residential parcels shall show all grand trees within the area of construction and land disturbance and in conjunction with the subdivision regulations of this chapter at the time a zoning or building permit application is made.

(D) Required tree protection.

(1) General.

(a) All grand trees and any other trees required to remain on a site as outlined in this chapter must be protected during construction and development of the parcel. Tree protection must be shown on all development plans prior to site plan approval. A site inspection of the tree barricades must be scheduled by the applicant with the Planning/Zoning Department for approval prior to the issuance of permits or the start of development activities.

(b) Prior to commencement of development activities, a pre-construction planning conference for tree preservation shall be held on-site with the Zoning Administrator's representative, the applicants, and any parties deemed appropriate for the purpose of determining if there is a need for additional tree protection techniques and for designating placement of tree barricades, construction employee parking, temporary construction office, and dumpster.

(2) Tree protection during development and construction. Protective barricades shall be placed around all required trees in or near development areas on all zoning parcels, including residential, as approved by the Zoning Administrator, 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 Zoning Administrator and placed beneath the canopy drip-line or 1.5 feet times the DBH of the tree. Other protective devices or construction techniques may be used as approved by the Zoning Administrator. The barricades shall remain in place until development activities are complete. The area within the protective barricade shall remain free of all building materials, dirt, fill, or other construction debris, vehicles, and development activities. All required trees are also subject to the provisions of § 153.335(F) of this code and subject to the enforcement criteria of §§ 153.375 through 153.383 and 153.999.

(3) Partial exception for limited clearing. Limited clearing and grubbing may be authorized by the Zoning Administrator prior to the installation of protective tree barricades on sites that exhibit unusually heavy undergrowth where access to the interior of the site and its protected trees would be otherwise highly impractical; if permitted, this clearing shall be done by hand with hand tools or gas powered push type or walk behind equipment designed for brush and undergrowth clearing. Under no circumstances will metal tracked bulldozers, loaders, or similar rider/operator types of equipment be allowed on the site until the protective barricades are erected and a zoning permit is issued.

(4) Separation of trees from pavement, grading, and structures. Paved areas shall be separated from trees by a minimum distance of the drip-line or one and one-half times the DBH or as modified by the Zoning Administrator as deemed necessary to protect the root system of the tree. Paved areas shall not constitute more than 25% of the protected area beneath a tree. Any paving, grading, trenching, or filling within the remaining 75% of the protected area must be approved by the Zoning Administrator and may require specific construction techniques be used in order to preserve the health of the tree. Refer to § 153.343 for examples. When grading and construction within the protected area of a tree has been approved, all damaged roots shall be severed clean and inspected by the Town Landscape Architect or Inspector prior to the receipt of a zoning permit.

(5) Quantity and location of trees to be protected.

(a) Before the issuance of a zoning permit for commercial, industrial, multi-family, civic/institutional uses and *major subdivisions*, the following number of trees with a diameter breast height of eight inches or greater shall be preserved and protected in accordance with the provisions of division (D)(2) above. All trees located within required buffers as outlined in § 153.335.

1. Twenty trees per acre; or

2. Any number of trees with a combined diameter breast height of at least 160 inches per acre.

(b) Required drainage improvements such as detention and retention ponds and wetlands may be subtracted from the area used to calculate tree preservation requirements.

(E) Tree removal.

(1) Generally. Permits for tree removal may be approved where one or more of the following conditions are deemed to exist by the Zoning Administrator:

(a) Trees are not required to be retained by the provisions of this section;

(b) Trees are diseased, dead, or dying (as determined by the Zoning Administrator or a qualified arborist);

(c) Trees pose an imminent safety hazard to nearby buildings or pedestrian or vehicular traffic (as determined by the Zoning Administrator or a qualified arborist); ~~and/or~~

(d) Removal of ~~required~~ *grand* trees has been approved by the Board of Zoning Appeals *and/or*

(e) The location and configuration of protected trees required by this section create an unreasonable burden on the use of the parcel and protected trees removed will be replaced and/or mitigated according to a schedule determined by the Zoning Administrator

(2) Variances. *Grand trees and protected trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals and shall be replaced according to a schedule*

determined by the ~~Board~~ **Zoning Administrator**. ~~The Zoning Administrator will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such trees.~~

(3) Emergency provisions. In the event that a tree poses a serious and imminent threat to public safety due to death, disease, or damage resulting from emergencies including, but not limited to, fires, flooding, storms, and natural disasters, the Zoning Administrator may waive requirements of this section. Documentation must later be submitted for review outlining the threat to public safety which initiated the removal. Documentation must include any written findings by a qualified arborist and photographs supporting the tree removal emergency. The Zoning Administrator may require replacement of required trees that are removed where it is determined that death or disease resulted from negligence.

(4) Violations and penalties. Violations and penalties are specified in §§ 153.375 through 153.383 and 153.999 of this code.

(F) Tree replacement.

(1) Generally. Tree replacement shall be required accompanying development on all non- exempt properties in the manner described below.

(a) When replacement canopy trees are required in fulfillment on the requirements of this section, they shall be no smaller than two inches caliper.

(b) ~~The Zoning Administrator or Board of Zoning Appeals~~ is empowered to require trees of larger caliper as determined appropriate for site-specific conditions and the circumstances, lawful or illegal, under which removal occurred.

(2) ~~Protected trees removed in violation. When trees of eight inches DBH or greater have been removed in violation of this chapter, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Zoning Administrator~~ **the trees shall be replaced and/or mitigated according to a replacement schedule approved by the Zoning Administrator.**

(3) Sites with less than 160 inches per acre combined DBH. When lots lack a sufficient number of trees to meet the requirement for DBH/number of trees per acre, all trees six inches DBH or greater shall be preserved and protected in accordance with division (D)(2) above during development and must equal no less than 40 inches per acre combined DBH. On lots with less than 40 inches per acre combined DBH, additional trees shall be planted on the lot equaling or exceeding 40 inches per acre combined DBH. Planting schedules shall be approved by the Zoning Administrator.

(4) Previously cleared sites. Where sites were completely cleared of trees prior to adoption of this section or have been cleared subsequently for activities exempted from this section, replacement trees shall be planted, the combined caliper of which equals or exceeds 40 inches per acre. Replacement schedules, including number, species, caliper, and placement shall be approved by the Zoning Administrator.

(5) Tree Fund. The Tree Fund is a fund established to receive monies exacted from tree removal violations fines to include, but not limited to, removal, damage, destruction, or as defined in division (A)(4) above, and as a form of mitigation when planting of the required trees is determined to be detrimental to the overall health of existing trees or impractical for the intended site design. The Zoning Administrator shall impose a tree mitigation fee based on the current market retail value of two- to three-inch caliper trees installed to the American Association of Nurserymen Standards. If the applicant disagrees with the amount of the tree mitigation fee imposed, he or she may file appeal with the Board of Zoning Appeals in accordance with the provisions contained in this chapter. All tree mitigation fees collected shall be paid to the town and placed in an account established for public beautification through the planting of trees on James Island.

(6) Bankruptcy or abandonment of site. When trees have been removed through an approved mitigation program and the project will not be completed for any reason, i.e., bankruptcy, abandonment, change in ownership, and the like, the owners of the subject property are responsible for the mitigation of the removed trees as outlined and agreed or subject to division (F)(5) above.

(Ord. 2012-06, § 9.4, passed 10-18-2012; Ord. 2013-07, passed 10-17-2013; Ord. 2014-08, passed 8-21-2014; Ord. 2014-12, passed 11-20-2014)