



Commissioner Bennett
Commissioner Brewer
Commissioner Debrow
Commissioner Flowers
Commissioner Harwood
Commissioner Layel
Commissioner Nicaud

AGENDA

PLANNING AND ZONING COMMISSION

Tuesday, June 27, 2023

6:00 PM CST

Council Chambers, City Hall
and via teleconference, if necessary

Call to Order

Statement of Purpose

1. May our decisions today be made with wisdom, careful deliberation and in the best interest of the City of Diamondhead. May we display patience and kindness in our dealings with each other and all who are in attendance and may any decisions made today promote the health, safety and welfare of the citizens of Diamondhead and the enhancement of the City as a whole.

Pledge of Allegiance

Roll Call

Confirmation or Adjustments to Agenda

Approval of Minutes

2. Approval of May 23, 2023 minutes.

New Business

3. Public hearing on a proposed Text Amendment to the Fence Ordinance Article 9.8 – General Requirements and Restrictions. The proposed text amendment is to add “If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.” at the end of 9.8.C. The Case File Number is 202300274.
4. **Public Hearing** concerning the draft to revise Article 11 - Tree Ordinance. Presentation of draft for discussion and comments prior to offering a final recommendation for the revisions to the Tree Ordinance.

Unfinished Business

Open Public Comments to Non-Agenda Items

Commissioners' Comments

Communication / Announcements

5. The next City Council meeting is Wednesday, July 5, 2023.
The next Planning Meeting is Tuesday, July 25, 2023.

Adjourn or Recess



Commissioner B
Commissioner B Item No.2.
Commissioner Debrow
Commissioner Flowers
Commissioner Harwood
Commissioner Layel
Commissioner Nicaud

MINUTES
PLANNING AND ZONING COMMISSION
Tuesday, May 23, 2023
6:00 PM CST
Council Chambers, City Hall
and via teleconference, if necessary

Call to Order

Chairman Flowers called the meeting to order at 6:01 p.m.

Statement of Purpose

1. May our decisions today be made with wisdom, careful deliberation and in the best interest of the City of Diamondhead. May we display patience and kindness in our dealings with each other and all who are in attendance and may any decisions made today promote the health, safety and welfare of the citizens of Diamondhead and the enhancement of the City as a whole.

Commissioner Brewer read the Statement of Purpose.

Pledge of Allegiance

Commissioner Nicaud led the Pledge of Allegiance.

Roll Call

Present at the meeting were: Commissioners Brewer, Layel, Nicaud, Harwood, and Chairman Flowers.

Absent were: Commissioners Debrow, and Bennett

Also present were: City Attorney, Derek Cusick, Building Official, Ronald Jones, Development Coordinator, Pat Rich, Building Inspector, Beau King, and Minute Clerk, Tammy Braud.

Confirmation or Adjustments to Agenda

Motion was made by Commissioner Nicaud ,second by Commissioner Brewer to accept the Agenda as presented.

Motion Passed Unanimously

Approval of Minutes

1. Approval of February 28, 2023 minutes.

Motion was made by Commissioner Layel, second by Commissioner Harwood to accept the Minutes of February 28,2023.

Motion Passed Unanimously

New Business

2. Phil Latapie is appealing the Building Official's decision of a violation of the Zoning Ordinance Article 14. Land Alterations and Disturbances at property located on 98190 Golf Club Drive owned by Mr. Latapie. The parcel number is 067G-2-25-024.000.

Development Coordinator, Pat Rich presented the case to Commissioners.

Chairman Flowers asked if anyone was present to speak on the case. Phil Latapie's name was called out 3 times , no one was present.

Development Coordinator, Pat Rich read the staff report recommending to deny the appeal.

Motion was made by Commissioner Brewer, second by Commissioner Layel to deny the appeal.

Motion Passed Unanimously

3. **PUBLIC HEARING** concerning revising Article 11 - Tree Ordinance.

Development Coordinator, Pat Rich spoke to the Commissioners about the City Council suggesting the strengthening and enforcing of the Tree Ordinance.

Chairman Flowers asked for Pubic Comments.

Penny Crawford, Piji White, and Von Biggs gave ideas on the Ordinance

1. Replacement of trees.
2. Stop violations
3. Better enforcement.
4. Increase Penalties
5. Living Tree Legacy
6. Engineer / Arborist Monitor
7. Requirements

4. Motion to approve a public hearing to discuss revising Article 9. - Fences, to add to 9.8.C "If fences installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner."

Motion was made by Commissioner Brewer, second by Commissioner Layel to have a public meeting on the Fence Ordinance

Motion Passed Unanimously

Unfinished Business

None

Open Public Comments to Non-Agenda Items

None

Commissioners' Comments

None

Communication / Announcements

5. The next City Council meeting is Tuesday, June 6, 2023.
The next Planning Commission meeting is Tuesday, June 27, 2023.

Adjourn or Recess

Motion was made by Commissioner Harwood, second by Commissioner Nicaud to adjourn the meeting at 6:48 p. m.

Motion Passed Unanimously

H. Flowers, Chairman
Planning & Zoning

SUBDIVISION REGULATIONS**ARTICLE III – PROCEDURES***City of Diamondhead, Mississippi*

runoff. The appropriate values for "I", precipitation intensity in inches per hour, shall be obtained from the NOAA Website at <http://hdsc.nws.noaa.gov/hdsc/pfds/>. This website provides precipitation intensity information.

311.11.4 Any storm drain system installed under areas of pavement such as but not limited to roads, alleys, driveways, and parking areas shall be reinforced concrete pipe (RCP), unless the City Engineer or Designated Representative determines that adequate cover and embedment is provided for another suitable pipe material and approves the use of another suitable pipe material. Storm drains installed parallel to streets may be Advanced Drainage Systems (ADS), High Density Polyethylene (HDPE), or other material as approved as by the City Engineer or Designated Representative.

311.11.5 Existing and proposed ditch cross sections.

311.11.6 All drainage structures (inlets, headwalls, and manholes) shall be numbered on the plans.

311.11.7 All ditches shall be designed to limit erosion of the city's drainage system.

311.12 Subdivision drainage shall be designed in manner where the site drains to existing storm drain structures. Should additional drainage structures be required, the proposed drainage shall be placed underground in pipes if at all possible and placed in a permanent drainage easement.

311.12.1 Drainage easements shall be kept clear of all items which could adversely affect the drainage. If items such as fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.

311.13 Prior to beginning construction, the Owner/Developer shall compile a video library of the upstream and downstream sections of each storm drain tap. The existing drainage pipe shall be videotaped from the point of new connections to the nearest inlet in either direction but shall not exceed three hundred feet (300'). When completed the video tape files shall be submitted the Administrator.

312 - Easements

312.1 Utility and drainage easements are required for all lots for utilities and drainage which are not located in rights-of-way. The easements for each lot shall be 10' drainage/utility easement along the front property line, 5' drainage/utility easement along each side lot line and 10' drainage easement along rear property line. Property owners will be responsible for the maintenance and upkeep of these easement areas.

312.2 Where a subdivision is traversed by a drainage ditch, watercourse, natural channel, or stream, there shall be provided an easement to the city conforming to the limits of such watercourse plus additional width as necessary to accommodate future construction and maintenance as recommended by the City. This additional width shall be no less than ten (10) feet measured from the top of each ditch bank.

312.3 No dedicated easement shall be less than 15 feet.

312.4 No new half easement will be accepted.

313 - Accessibility

**NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION
DIAMONDHEAD, MS**

The City of Diamondhead will hold a public hearing on a proposed Text Amendment to the Fence Ordinance Article 9.8 – General Requirements and Restrictions. The proposed text amendment is to add “If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.” at the end of 9.8.C. The Case File Number is 202300274.

In accordance with Article 2.8.2, the City Council shall have jurisdiction with respect to all Text Amendments and Rezoning. The Planning Commission shall review and submit a recommendation to the City Council on Text Amendments and Rezoning.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, June 27, 2023, at 6:00 p.m.** The public hearing will be held at Diamondhead City Hall in the Council Chambers at 5000 Diamondhead Circle in Diamondhead, MS 39525. Interested members of the public are invited to attend. This meeting will also be live streamed for your convenience.

If you have any questions or comments or would like to review the application, you may contact the Building Department at the above address and/or at 228-222-4626.

ARTICLE 9. - FENCES

9.1. - PERMITS REQUIRED.

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, replace, remove or demolish any fence regulated by this Article without first obtaining a separate permit for each fence from the Zoning Administrator. A fence permit shall be required other than for minor repair or painting as necessary.

9.2. - APPLICATION FOR PERMIT.

To obtain a permit required by this Article, the applicant shall first make application for a permit on a form furnished by the Zoning Administrator.

9.3. - PLANS AND SPECIFICATIONS.

Three sets of plans and such other data as deemed necessary by the Zoning Administrator shall be submitted with each application for a permit under this Article.

9.4. - INFORMATION ON PLANS.

Plans shall be drawn to scale and shall include the following:

- A. Building locations and area to be fenced;
- B. Legal description of land to be fenced;
- C. Height of fence and type of materials to be used;
- D. Intersections of streets, roads, highways, alleys and driveways;
- E. Zoning; and
- F. Corner "visibility range," when required, shall be shown.

9.5. - PERMIT ISSUANCE.

9.5.1 *Application.*

The application, plans, and other data filed by an applicant for a permit under this Article shall be reviewed by the Zoning Administrator. If the work described in an application for a permit and the plans and other data filed therewith conform to the requirements of this Article and all other pertinent laws and ordinances, and the required fees have been paid, the permit shall be issued to the applicant.

9.5.2 *Endorsement.*

The plans shall be endorsed by the City in writing and shall not be changed, modified, or altered without authorization from the Zoning Administrator, and all work shall be done in accordance with the approved plans.

9.6. - PERMIT EXPIRATION.

Every permit issued by the Zoning Administrator under the provisions of this Article shall expire by limitation and become null and void if the authorized work is not commenced within 60 days from the date of permitting, or if the authorized work is not completed, or is abandoned for a period of 60 days. Before the work can be recommenced, a new permit shall be first obtained and the fee shall be one half the amount required for a new permit for such work, provided the elapsed time does not exceed 180 days in which case the permittee shall pay a new full permit fee in order to renew the permit.

9.7. - PERMIT FEES.

The fee for each permit shall be established by the City of Diamondhead.

9.8. - GENERAL REQUIREMENTS AND RESTRICTIONS.

- A. Fences constructed on any lot, and specifically corner lots, will be subject to, and shall conform to the visibility range requirements contained in Section 5.4.3 Traffic Visibility across Corners of this ordinance. An additional clear zone may be required by the Zoning Administrator.
- B. No fence, guy wire, brace or post shall be constructed upon or extend over property that the City has control over, owns or has an easement over or under, except upon:
 - i. Underground drainage easements that contain non-pressurized storm sewer pipes if written permission is granted by all users.
 - ii. Underground sanitary sewer easements that contain non-pressurized pipes if written permission is granted by all users.
 - iii. Utility easements if written permission is granted by all users.
- C. No drainage easement, public or private, shall be fenced or obstructed in any manner, without prior written permission by all users. A gate shall be constructed in a fence along easements to allow ingress and egress for maintenance. If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.
- D. No fence shall exceed six (6) feet in height measured from the finished grade of the lot or property upon which the fence is being erected except as otherwise provided for in this Article. Moveable screening devices utilized to comply with the parking or storage regulations of this ordinance shall not be considered a fence for the purpose of these height restrictions.
- E. No fence erected within the City limits shall be electrically charged in any manner, without prior written permission by the City Council.
- F. No fence shall be constructed of barbed wire or other sharp, pointed material except on property utilized for agricultural purposes and is five acres or greater in size, or except as provided for in Subsection (H) of this Section.
- G. All fences shall have a minimum of one gate for emergency ingress and egress. The minimum width of such gate shall be three feet. A driveway approach shall be required for all vehicle gates.
- H. In C-1, C-2, T, and I zoning districts, fences shall not exceed six (6) feet in height, unless otherwise permitted by this ordinance, and may be constructed with angle arms at the top and such angle arms may be armed with barbed wire. Such arms shall not extend over public property, city, county, or state rights-of-way, easements or adjacent private property. Any property that requires a screening device shall conform to the general development ordinance. In the Public Facilities and Recreation (PFR) zoning district, fences shall not exceed six (6) feet in height unless otherwise permitted by the Zoning Administrator to meet the recreational needs and standards and for public safety concerns in parks which chain link may be utilized as the fence material.
- I. Construction material may be wood, vinyl, masonry, or other approved material except in the case where a screening device is required; in all such cases the City Zoning Ordinance requirements shall prevail. Chain-link shall not be used in areas that are zoned residential.
 - i. The finished side of the fence shall display toward the outside of the lot being fenced.
 - ii. All exposed structural members and cross bracing shall display internally on the lot being fenced.
- J. No fence shall be constructed in the required front yard building setback area of R-1, R-2, R-3, R-4, MH, C-1, C-2, T, I, PR, or PFR zoning districts. In the situation of a corner lot, each street-side frontage shall be considered as a front yard. In the case of the primary structure being set back further than the required front yard setback, no fence shall be constructed closer to the street than the building façade.

- K. In all zoning districts where outside storage of material, equipment, goods and supplies is allowed, all fencing shall comply with this ordinance.
- L. No fence shall be constructed upon any lot adjoining a golf course unless said fence complies with the following:
 - i. Fences shall be constructed entirely of ornamental metallic components with a black finish. Chain-link fencing is prohibited.
 - ii. Fences shall not exceed forty-eight inches (48") in height.
 - iii. The fence shall be set back from the property line adjoining the golf course a minimum of ten (10) feet.
 - iv. The fence shall not be opaque or of a solid construction to prevent one from seeing through the fence, as illustrated by the following image:

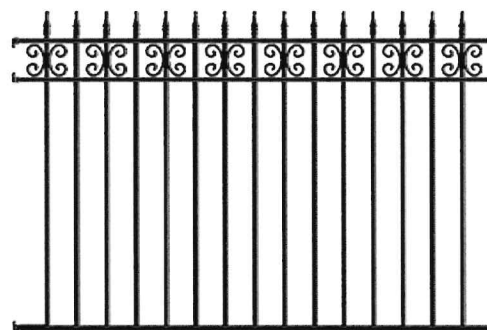
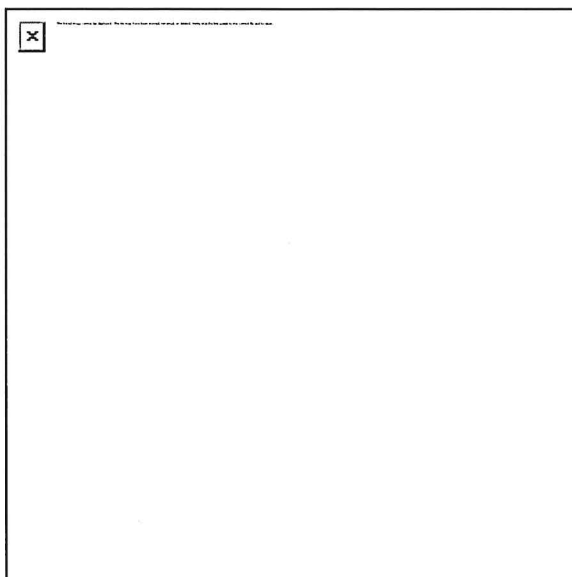


Image courtesy of: www.amazinggates.com

9.9. - INSPECTIONS.

Upon completion of work authorized under this Article it shall be the duty of the permittee to notify the Zoning Administrator that such work is ready for inspection. Required inspections shall include:

- A. *Alignment inspection.* (To be made after all post or support structures are in place or to be made when the holes are dug before the posts are inserted or concrete is poured.)
- B. *Final inspection.* To be made after the fence has been completed.

9.10. - MAINTENANCE.

- A. All fences, both existing and new, and all parts thereof, shall be maintained in a safe and aesthetically pleasing condition. Graffiti shall be removed immediately.
- B. The owner or his designated agent shall be responsible for the maintenance of the fence, and to determine compliance of this Section, the Zoning Administrator may cause any fence to be re-inspected.

9.11. - VARIANCE.

Variances shall be administered in accordance with Section 2.6, Variance Procedure.

ARTICLE 11. - TREE ORDINANCE^[3]

Footnotes:

--- (3) ---

Editor's note— Ord. No. [2012-019.4](#), adopted October 1, 2019, in effect, repealed art. 11, §§ 11.1—11.8 and enacted a new art. 11 as set out herein. Former art. 11 pertained to similar subject matter.

11.1. - PURPOSE AND SCOPE.

The purpose of this Article is to provide for the protection and continuance of the heavy tree canopy that currently exists within the City of Diamondhead by prohibiting the unnecessary removal of mature protected trees upon private property. The provisions of this Article shall apply to all protected trees having a caliper diameter of six (6) inches or more as measured at five (5) feet above adjacent grade and growing on privately owned property. Protected trees are defined as Live Oak Trees (*Quercus virginiana*) and Southern Magnolia Trees (*Magnolia grandiflora*).

It is further the scope of this Article to provide certain planting limitations to protect trees and the like from unnecessary trimming and to protect utility systems from damage and/or destruction due to tree growth.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.2. - RESIDUAL TREE DENSITY.

11.2.1 *Number of Trees Based on Lot Size:*

SITE AREA (NET SQUARE FEET)	REQUIRED TREES
0 to 10,000 (approx. ¼ acre)	1 tree/1,000 sq. ft.
10,000 to 110,000 (approx. ¼—2.6 acres)	10 trees for first 10,000 sq. ft., plus 1 tree/2,500 sq. ft. over 10,000 sq. ft.
Over 110,000	50 trees for first 110,000 sq. ft., plus 1 tree/5,000 sq. ft. over 110,000 sq. ft.

11.2.2 *Tree Relocation or Replacement.* As a condition to the granting of a tree removal permit, the applicant may be required to:

1. Relocate those protected trees which would otherwise be destroyed to another location upon the site; or
2. Replace those protected trees which will be destroyed with suitable replacement trees elsewhere within the site; or
3. Replace those protected trees which will be destroyed with suitable replacement trees within a City right-of-way, easement, or public property, upon approval by the City Manager and City Council.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.3. - PERMIT REQUIRED PRIOR TO TREE DESTRUCTION.

Except as provided and permitted herein, it shall be unlawful to cut down, remove, deface, burn, poison or take any other action that results ultimately in the destruction of any protected tree designated in this Article on private property which has a trunk diameter of at least six inches (6") when measured at a point five feet (5') above ground level from the base of such tree unless a proper permit is issued under the provisions of this Article.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.4. - PERMIT PROCESS.

Any person, firm, partnership, corporation, or other entity seeking permission to take any action which may result in the removal or destruction of a protected tree, as defined in this Article, shall first make application to the Zoning Administrator. An administrative fee of \$25.00 will be assessed to the applicant. If the Zoning Administrator determines a City Arborist is needed, the applicant must pay the City Arborist fee prior to the issuance of a permit to remove any protected tree.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.5. - PERMIT APPLICATION CONTENTS.

Any person, firm, partnership, corporation or other legal entity seeking permission to cut down, remove, deface, burn, poison, or take any other action that results ultimately in the destruction of any protected tree designated in this Article shall first make written application to the Zoning Administrator which shall contain the following information:

- A. The plat map describing the property on which the protected tree or trees are located naming streets adjacent to the property and showing the location of the protected tree or trees on said plat. The map may be prepared by the petitioner (compass direction shall be shown on the map). The map shall be legible.
- B. Protected trees to be affected shall be so denoted on the map by a circle and numbered in sequence so that they may be identified by the same code with any written material accompanying the map. Protected trees must be listed by species.
- C. An explanation or description of the work or alteration to be performed on each protected tree and the reasons therefore.
- D. The name, legal residence, mailing address, email address, and phone number of the property owner making the request and the same information of the person or firm doing the work.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.6. - APPLICATION REVIEW.

11.6.1 *Standard of Review.* The Zoning Administrator shall review the application and, in his discretion, may consult with the City Arborist in reaching the decision of whether to grant or deny the application. In reviewing the application, the following criteria shall be taken into consideration:

- A. The health of the protected tree or trees, if proposed to be removed for health reasons.

- B. The location of any buildings or appurtenances existing or proposed upon a piece of property, and whether or not a more suitable design or location is available to avoid removing a protected tree.
- C. The effects an existing protected tree is having or is expected to have upon buildings or appurtenances existing on the property.
- D. The species of the tree.
- E. Other conditions that may be unique to the situation revealed in the application, including the economic hardship that would be imposed upon the applicant were the permit denied.

11.6.2 *Appeals Process.* The Zoning Administrator shall receive and review applications for any work proposed to be done which may result in destruction of any protected tree or trees covered by this Article. An applicant may appeal the Zoning Administrator's decision within ten days to the Planning and Zoning Commission. The Planning and Zoning Commission's finding shall be final.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.7. - VARIANCE PROCEDURE.

See City of Diamondhead Code of Ordinances Section 2.6.1—2.6.7—Variance Procedures

Section 11.7 shall be known as the Variance Procedure. This procedure is intended to provide relief from the terms of the Tree Ordinance when, because of special circumstances applicable to the property, the strict application of the Tree Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and to ensure that any adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the district in which such property is situated.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.8. - TREES ON PUBLIC PROPERTY.

All trees of any kind, regardless of size, located on public property belonging to the City of Diamondhead shall not be removed, cut down or destroyed by any means except upon action of the City Manager. The City Manager shall report the removal or destruction of protected trees on public property in his/her City Manager's Report to the City Council.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.9. - EXEMPTION FOR PUBLIC UTILITIES.

Any public utility operating within the City of Diamondhead may, upon order of the City Manager, be exempt from the provisions of this Ordinance, upon a finding that the services provided by them are necessary for the general health, safety and welfare of the citizens of the City of Diamondhead, but such cutting, removal, defacing, burning, poisoning or taking of any other action that would ultimately result in the destruction of any protected tree designated in this Ordinance shall be limited to the amount necessary in order to provide such utility.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.10. - PLANTINGS NOT TO INTERFERE WITH UTILITIES.

It shall be unlawful for any tree or shrub to be planted in close proximity to an overhead utility such that said planting will come into conflict with and potentially damage or destroy said utility.

It is the intent of this Section that plantings occur in such a location that they achieve mature height without the necessity of trimming or pruning to avoid overhead utility lines, thus destroying the symmetry of the planting.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.11. - PROHIBITED ACTS.

It shall be unlawful to "clear cut," or remove all trees, regardless of size or species, from a parcel of property. Any person, firm, partnership, corporation or other entity that clear cuts a parcel of property shall be subject to the penalties listed in Section 11.12 of this Ordinance.

(Ord. No. [2012-019.4](#), 10-1-2019)

11.12. - PENALTIES.

Any person, partnership, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the maximum fine allowed by law and the cost of prosecution or in default of the payment thereof, shall be punished by imprisonment for a period not to exceed thirty (30) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the cost of such prosecution (Sec. 1-14.—General Penalty).

(Ord. No. [2012-019.4](#), 10-1-2019)

11.13. - CONFLICT WITH OTHER LAWS.

Whenever the requirements of this Article are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

This Ordinance, having been unanimously adopted shall become effective 30 days upon the adoption thereof, with a single publication of the ordinance prior to becoming effective and being recorded and published in the ordinance book in the same manner as required by State Law of other ordinances.

(Ord. No. [2012-019.4](#), 10-1-2019)

Residents Suggestions for Tree Ordinance

- Stated goal of preserving all healthy, mature trees.
- Expand list of protected trees.
- Committee/Board with professional to make recommendations in public meeting.
- Include protecting dripline.
- Improve and expand mitigation for protected trees, replacement sizes, maintenance period, public property, increase canopy, mitigation trust.
- Moratorium for violations.
- Incentives for preservation.
- Replace any tree that is removed.
- Enforce existing ordinance.
- Keep non-protected trees to prevent soil erosion.
- Increase penalties.

ARTICLE 11. – TREE PRESERVATION AND PROTECTION**11.1. - PURPOSE AND SCOPE.**

11.1.1. Aid in stabilizing the environment's ecological balance by contributing to the processes of energy and soil conservation, air purification, oxygen regeneration, pollutant neutralization, groundwater recharge, and the reduction of stormwater runoff, while at the same time aiding in noise, glare, and heat abatement by preserving the existing canopy.

11.1.2. Ensure that the stock of native trees and vegetation is maintained and replenished; and

11.1.3. Provide visual buffering and enhance the beautification of the city.

11.2. – PRINCIPLES.

11.2.1. Preservation of existing trees shall be the first, best, and standard approach.

11.2.2. If preservation cannot be achieved, on-site mitigation shall next be pursued.

11.2.3. If those approaches cannot be achieved, off-site mitigation shall be next pursued.

11.3. – APPLICABILITY.

11.3.1. Except as noted herein, requirements apply to all land located in the city. Trees may not be cleared from any site for any purpose without a Tree Preservation permit.

11.4. – PERMIT REQUIRED. Under this Article, the clearing of any site is permitted only after a tree inventory has been completed and Tree Preservation permit has been issued.

11.4.1. Tree inventory required. An inventory of existing trees is required for any site plan or subdivision. The inventory must be conducted by an International Society of Arboriculture (ISA) certified arborist and submitted to the Building Official for approval.

11.4.2. The tree inventory shall include:

- a. The location, size, type and quality of existing significant, specimen and heritage trees.
- b. Which trees are to be removed and which retained.

11.4.3. Exception. If the property owner is notified by their insurance company that a tree is to be trimmed or removed as a condition of insurability, no tree inventory is required. Upon receipt of proof of the condition of insurability, a Tree Preservation permit shall be issued.

11.5. – SITE DESIGN GUIDELINES. Design for development shall consider:

11.5.1. Generally. Potential for retaining existing site topography and existing vegetation.

11.5.2. Parking lots. Shall be designed to preserve the maximum number of existing significant, specimen, and heritage trees and other significant vegetation.

11.5.3. Curb cuts. All proposed curb cuts shall consider damage to trees and tree groves and shall be placed in areas to provide the least damage to existing trees and tree groves.

- 11.6. – TREE PRESERVATION CRITERIA. The ISA certified arborist shall consider the following factors, and any other relevant information, when submitting the Tree Preservation permit application:
- 11.6.1. The desirability of preserving a tree or group of trees by reason of age, location, size, or species.
 - 11.6.2. Whether the size or shape of the lot reduces the flexibility of the design.
 - 11.6.3. The general health and condition of the tree or group of trees, or the presence of any disease, injury, or hazard.
 - 11.6.4. The placement of the tree or group of trees in relation to utilities, structures, and the use of the property.
 - 11.6.5. The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
 - 11.6.6. Whether roads, utilities and building footprints are designed in relation to the existing topography, and located, where possible, to avoid damage to existing tree canopy.
 - 11.6.7. Construction requirements of on-site and off-site drainage.
 - 11.6.8. The extent to which development of the site and the enforcement of this article are impacted by state and federal regulations.
- 11.7. – CREDITS FOR RETENTION. For existing significant, specimen and/or heritage trees retained, the following credits shall be available:
- 11.7.1. For each significant and/or specimen tree retained, extra credit shall be available for one, two-inch caliper tree equal to the total DBH of all significant and/or specimen trees retained divided by the rate of mitigation of five inches.
 - 11.7.2. For each tree grove retained, extra credit shall be available for one, two-inch caliper tree equal to the total DBH of all significant and/or specimen trees retained within a tree grove divided by the rate of mitigation of five inches.
- 11.8. – TREE PROTECTION. Trees identified on an approved Tree Preservation permit to be retained shall utilize the following protection methods:
- 11.8.1. Install four-foot-high perimeter fencing at the extreme outer edge of the dripline.
 - 11.8.2. Perimeter fencing located within 50 feet of any building footprint, unless approved by the Building Official, shall be constructed of materials equivalent to those used for silt fencing.
 - 11.8.3. There shall be no activity of any kind inside the perimeter other than hand-brush clearing.
 - 11.8.4. No land clearing or building permits shall be issued until the perimeter of all protected trees and tree groves have been properly fenced.
 - 11.8.5. Grates or other pervious surfaces shall be utilized within the dripline of existing trees to allow water and air to reach the tree roots.

11.8.6. Fill (other than soil disturbance) shall be prohibited, as well as any vehicle traffic or material storage in areas under the dripline of trees to be protected.

11.8.7. Drastic changes in drainage patterns which may negatively affect existing trees shall be avoided.

11.8.8. Any person who intentionally damages a protected tree shall be in violation of this article and subject to the penalties prescribed in the Zoning Ordinance.

11.8.9. The removal of the protected fencing, or encroachment into the area, without explicit approval of the property owner or his designated agent, shall be punishable by a fine up to the replacement value of the tree(s) involved. Replacement value shall be determined by a method approved by the International Society of Arboriculture (ISA). This applies to any person or entity, public or private.

11.9. – TREE MITIGATION REQUIREMENTS. The intent is to leave undisturbed as many existing significant, specimen and heritage trees as possible. Mitigation is required for removal of significant, specimen, and heritage trees removed.

11.9.1. Each development will have a ten percent credit applied before any mitigation is required. For example, if there were 1,000 inches DBH of existing trees, 100 inches could be removed without mitigation.

11.9.2. For trees that will be removed, the number of trees required for mitigation shall be based upon the existing significant, specimen, and heritage trees removed.

11.9.3. Mitigation may be made through replanting on-site and if not possible, off-site.

11.9.4. Trees in poor health and/or hazard trees will not require mitigation if the condition is so determined by the ISA certified arborist.

11.9.5. Existing significant trees located within a building footprint, street, driveway, sidewalk, pathway, or utility easement shall generally not require mitigation.

11.9.6. Replanting.

- a. For each significant, specimen, and heritage tree removed, replacement trees shall be planted at one, two-inch caliper tree per five inches of trees removed, measured at DBH.
- b. Smaller trees. The Building Official may approve the use of trees of less than two-inch caliper for the planting of medium tree species (dogwoods and redbuds) and/or greater than two-inch caliper on an equal total caliper basis, e.g., two, three-inch caliper trees equal three, two-inch caliper trees.
- c. Placement of trees. The applicant is expected to plant trees in locations on the site where the environmental benefits of canopy cover are most likely to offset the impact of development. Trees shall not be placed within utility and drainage easements, or in other locations where their future protection cannot be assured.

11.11. – PRIOR TREE REMOVAL.

11.11.1. Prior removal of significant, specimen and/or heritage trees. If a site is cleared or significant specimen or heritage trees removed prior to obtaining Tree Preservation permit approval, then any permit application for the site shall be denied for up to 24 months and a fee of \$500.00 per acre of trees cleared and \$1,000.00 per each heritage tree removed shall be imposed.

11.11.2 Any request for permit approval within the 24-month time frame may, however, be considered if the proposed Application for Tree Preservation permit incorporates a reforestation plan that results in a future canopy coverage of 40 percent of the site. The square foot percentage of canopy area required for reforestation shall be based on the total area of the property less the square footage dedicated to any building footprints, streets, driveways, sidewalks, pathways, or utility easements.

11.12. – HERITAGE TREES.

<u>Common Name</u>	<u>Minimum Diameter at DBH</u>
American holly	12 inches
Bald cypress	8 inches
Black gum	16 inches
Live Oak	8 inches
Southern magnolia	8 inches
Sweet gum	16 inches
White ash	16 inches
Yaupon	12 inches

DEFINITIONS

Arborist: A professional in the practice of arboriculture, which is the cultivation, management, and study of individual trees, shrubs, vines, and other perennial woody plants.

Clearing: The removal of vegetation, including tree stumps, or the material damage of landscape materials by disturbing, excavating, or removing the underlying soil.

DBH (diameter breast height): The diameter of a tree as measured four and one-half feet above grade level.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

Dripline: The periphery of the area underneath a tree, which would be encompassed by the perpendicular lines, dropped from the farthest edges of the crown of the tree.

Fill: The placing, storing, or dumping of any materials such as earth, clay, sand, concrete, rubble, or non-decomposable waste of any kind upon the surface of the ground which results in increasing the natural surface elevation.

International Society of Arboriculture, ISA: credentialing organization that promotes the professional practice of arboriculture. ISA focuses on providing research, technology, and education opportunities for tree care professionals to develop their arboricultural expertise.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development by means of an appropriately recorded legal document. A subdivision which reduces the size of an existing lot may require approval of a new site plan for any existing development on that lot.

Tree grove: A stand of native significant and/or specimen trees with understory vegetation cover intact, drainage conditions unchanged, and general slope and grades unaltered. The extent of a grove will extend three feet beyond the dripline of the perimeter trees in the grove.

Tree, heritage: Any tree by virtue of its species and/or size included in the heritage tree list (see appendix). The listed trees are predominantly species native to Hancock County and of size and maturity important to the health and conservation of Diamondhead's urban forest. In addition, any hardwood and/or evergreen tree 36 inches or greater at DBH shall be considered as a heritage tree.

Tree, large: An evergreen or deciduous upright woody perennial plant having a single main stem or several main stems, which is a minimum of two-inch caliper, 12 to 14 feet with the maximum of 16 feet in height at the time of planting and which attains generally more than 30 feet in height at maturity.

Tree, native: A tree that is indigenous to the area.

Tree, protected: Any tree which meets the requirements of being classified as a "significant tree" or is declared by the developer, or as required by the Diamondhead Planning Commission, as to be preserved and protected from clearing or infringement by development.

Tree, significant: Plant materials which meet the following requirements:

Healthy hardwood and evergreen trees, except pines, with a DBH of 15 inches or greater.

Healthy pines with a DBH of 24 inches or greater.

Tree, small: An evergreen or deciduous upright woody perennial plant having a single main stem or several main stems, which is a minimum of six to eight feet overall height at the time of planting, and which attains a minimum height of 15 feet and a maximum height of 30 feet.

Tree, specimen: Any tree identified by the Diamondhead Tree Ordinances' Master Tree List at least four inches or more DBH that exemplifies a unique color, texture scent, growth habit, outstanding size, or other distinguishing characteristic that makes it unique compared to other trees found on the site in question.

Vegetation, significant: Any large shrub meeting or exceeding eight feet in height at maturity.

DRAFT