

# Town of Sullivan's Island Code - Chapter 21

## ARTICLE XVII. Tree Commission.

### Sec. 21-157. Intent and purpose.

- A. The intent of this Article is to preserve the natural landscape of Sullivan's Island through the protection of trees and palmettos, maintaining and enhancing the tree mass, and mandating and encouraging the replanting of trees lost to development, destruction and natural causes.
- B. The standards and regulations are established in order to promote the public health and general welfare of the citizens of the Town, to preserve the natural history, beauty and value of the whole Island, to mitigate and prevent wind and water damage and erosion, to minimize flooding and to improve water quality and surface drainage, to improve air quality and lessen air pollution, to reduce noise, heat and solar glare, to protect wildlife, to sustain property values and ensure that quality of life and well being are maintained for all citizens of the Town through an undiminished natural landscape.

### Sec. 21-158. Definitions.

#### A. Definitions

- (1) Application. An application for the removal and/or relocation of any Category I or II tree or Sabal Palmetto.
- (2) Category I Tree. Also known as a "Significant" tree, this tree has a DBH of at least sixteen (16) inches or a height of at least forty (40) feet. A Category I tree has the highest level of protection based on its total value to the Island environment.
- (3) Category II Tree. Also known as a "Protected" tree or species, this tree has a DBH of at least six (6) inches. All Sabal Palmetto (Cabbage Palm, herein called "Palmetto") shall be given special protection as a "Protected" species.
- (4) DBH. Diameter of tree at breast height or the diameter at four and a half (4½) feet above grade.
- (5) Determination of Tree Size. Tree size made by measuring the diameter of the tree at four and a half (4½) feet above grade (DBH).
- (6) Point of Measurement. Point at which tree size is measured to determine level of protection. Measurement shall be made by measuring the diameter of the tree at four and a half (4½) feet above grade.
- (7) Tree. Any living, self-supporting woody perennial plant that is evergreen or deciduous.
- (8) Tree Commission. A Commission appointed by the Town Council to oversee the Tree Protection Article of the Zoning Ordinance.

### Sec. 21-159. Jurisdiction.

The Tree Ordinance shall apply to all private property on Sullivan's Island.

### Sec. 21-160. Tree Commission.

#### A. Appointment and size.

The Town Council shall appoint a Tree Commission (Commission), comprised of five (5) members, all residents of Sullivan's Island who have demonstrated knowledge of the diversity of issues concerning trees and an interest in the preservation of the total environment of Sullivan's Island.

#### B. Length of term.

Members shall be appointed for three (3) year terms with reappointment permitted at the expiration of the term.

#### C. Removal and replacement of commission member.

The Town Council may remove any Tree Commission member for repeated failure to attend meetings of the Commission or for any other cause deemed sufficient cause. A member appointed to replace a removed member shall serve the balance of the removed member's unexpired term. At the completion of the unexpired term, the member is eligible for reappointment to a full term.

**D. Officers and conduct of business.**

- (1) The Commission shall elect a chair and vice-chair for one (1) year terms. Officers may succeed themselves, if reelected.
- (2) The Commission shall adopt rules for the conduct of business subject to the review of the Town Attorney.
- (3) Meetings shall be conducted at such times as agreed by the Commission, at least once a month, or upon the call of the Chair.
- (4) Three (3) members are required for a quorum. A concurring vote of three (3) members shall be necessary to take any action on an application.
- (5) All Commission meetings shall be public and proceedings shall be reflected in minutes, kept on file as a public record in Town Hall.

**Sec. 21-161. Powers and responsibilities.**

**A. General powers and responsibilities.**

- (1) Adopt a set of standards and guidelines for the implementation of this Article, including an approved list of appropriate replacement trees.
- (2) Develop policies and administrative standards related to tree and palmetto removal, replacement or relocation.
- (3) Take action on applications for the relocation, or removal and/or replacement of all Category I trees.
- (4) Provide policy guidance to the Zoning Administrator related to the relocation or removal and replacement of Category II trees and palmettos.
- (5) The Tree Commission may elect to
  - (a) Conduct a survey of Island trees and palmettos;
  - (b) Establish and maintain a record of "Significant" trees;
  - (c) Promote educational programs for tree and palmetto conservation;
  - (d) Serve as a source of information on trees and palmettos;
  - (e) Organize appropriate community activities, such as Arbor Day;
  - (f) Lead public efforts to encourage voluntary tree planting and tree and palmetto conservation;
  - (g) Develop, with the approval of Town Council, plans for tree and palmetto planting on public property; and
  - (h) Seek, with the approval of Town Council, public funds and grants to support these activities as well as for tree and palmetto planting and preservation projects.

**B. Responsibilities of the Tree Commission related to the RC-1 District.**

- (1) Provide guidance with the management of tree pruning and trimming within the RC-1 District.
- (2) Oversee the manner in which cuttings are removed from and disposed of in the RC-1 District.
- (3) Study and monitor the impact of pruning and trimming in the RC-1 District and its impact on flora and fauna.
- (4) Study and monitor the impact of the pruning and trimming in the RC-1 District as to the integrity of the RC-1 public land as it relates to erosion control and beach stability, drainage, mosquito control, and the public welfare, safety, and health of the town.
- (5) Approve or deny, with the concurrence of a consultant, the cutting or removal of Popcorn trees in the RC-1 District.
- (6) Study and make recommendations to the Town as to the management of all RC-1 public land so as to preserve and maintain RC-1 public land in accordance with the public welfare, safety, and health of the Town and the covenants and restrictions set forth in the Title to Real Estate dated February 12, 1991, conveying said land to the Town of Sullivan's Island.

- (7) Gather, organize and disseminate information about the RC-1 Area District, and provide guidance to the replacement of vegetation under mitigation.

**C. Consultant assistance.**

The Tree Commission in the discharge of its duties may seek the advice of a consultant retained by the Town to provide consultation on the RC-1 District.

**Sec. 21-162. Application for relocation, or removal and replacement.**

**A. Damage or destruction forbidden.**

No individual or agent shall remove, destroy, cause to be destroyed, move or mortally prune or use any other harmful treatment such as application of toxic substances, fire or machinery, on any Category I or II tree or palmetto.

**B. Category I trees.**

- (1) The landowner shall make every reasonable effort to retain and preserve Category I trees.
- (2) The Tree Commission shall oversee the proper retention, removal and/or replacement of Category I trees.
- (3) The Zoning Administrator shall process permit applications as submitted for removal and replacement of Category I trees. A permit application fee of twenty-five dollars (\$25) shall be paid to the Town and credited to the Tree Fund account. The Zoning Administrator shall provide de the Tree Commission with all information pertaining to the permit application.
- (4) The Tree Commission shall review all information related to the facts, circumstances and conditions pertaining to the tree removal application, including site visits and meeting with the applicant when deemed necessary by the Commission. The Tree Commission, as needed, may consult with the Urban Foresters of the South Carolina Forestry Commission or other appropriate experts in the field.
- (5) After review and within thirty (30) days of receipt of the application, the Tree Commission shall render its decision of denial or approval with or without required conditions, which decision will be communicated to the applicant by the Zoning Administrator.
- (6) The Zoning Administrator shall be responsible for the issuance of permits, which have been approved by the Tree Commission and for oversight, and enforcement of all requirements of the permit.
- (7) If a landowner wishes to remove a Category I tree because it is diseased, dying, mortally damaged, or deemed to be a hazard, a landowner shall submit an application for removal of the tree to the Tree Commission.
  - (a) If the Tree Commission concurs with the landowner's findings, the tree may be removed. No replacement tree is required nor is any application fee charged.
  - (b) If the Tree Commission does not concur with the landowner's findings, the tree shall not be removed.
- (8) If a landowner wishes to remove a Category I tree for any reason other than listed in (7) above, a landowner shall submit an application for removal of the tree to the Tree Commission.
  - (a) An application for removal of a Category I tree may be approved or approved with conditions and issued, or it may be denied. If the Tree Commission concurs with the landowner's request, the tree may be removed. Prior to the removal of the tree, the landowner shall submit a tree replacement plan or provisions for payment in lieu.
  - (b) If the Tree Commission does not concur with the landowner's findings, the tree shall not be removed.
- (9) The landowner shall bear the expense of removal and replacement of Category I trees in accordance with the approved permit.
- (10) See Sec. 21-167 for emergency removal of trees.

**C. Category II trees.**

- (1) The Zoning Administrator shall oversee the proper retention, relocation, removal and/or replacement of Category II trees.

- (2) If a landowner wishes to remove a Category II tree because it is diseased, dying, mortally damaged, or deemed to be a hazard, a landowner shall submit an application for removal of the tree to the Zoning Administrator.
  - (a) If the Zoning Administrator concurs with the landowner's findings, the tree may be removed. No replacement tree is required nor is any application fee charged.
  - (b) If the Zoning Administrator does not concur with the landowner's findings, the tree shall not be removed.
- (3) If a landowner wishes to remove a Category II tree for any reason other than listed in (2) above, a landowner shall submit an application for removal of the tree to the Zoning Administrator.
  - (a) An application for removal of a Category II tree may be approved or approved with conditions and issued, or it may be denied. If the Zoning Administrator concurs with the landowner's request, the tree may be removed. Prior to the removal of the tree, the landowner shall submit a tree replacement plan or provisions for payment in lieu.
  - (b) If the Zoning Administrator does not concur with the landowner's findings, the tree shall not be removed.
- (4) A permit application fee of twenty-five dollars (\$25) shall be paid to the Town and credited to the Tree Fund account.
- (5) The Zoning Administrator shall review and approve or deny all Category II tree permit applications. Before issuance of an approved Category II tree permit, the Zoning Administrator shall attach to the permit the replacement requirements and conditions as set forth in the Tree Replacement Plan required in Sec. 21-164, or receive payment in lieu submitted by the property owner.
- (6) The landowner shall bear the expense of removal and replacement of Category II trees in accordance with the approved permit.
- (7) See Sec. 21-167 for emergency removal of trees.

**D. Palmettos.**

- (1) Palmettos are a highly valued natural resource of Sullivan's Island.
- (2) The Zoning Administrator shall oversee the proper relocation of palmettos in accordance with the Tree Commission's guidelines. The Zoning Administrator processes and reviews all permit applications for the relocation of palmettos.
- (3) A permit application fee of twenty-five dollars (\$25) shall be paid to the Town and credited to the Tree Fund.
- (4) With the concurrence of the Zoning Administrator, a landowner may relocate palmettos intact either to another site on the same lot or to a site on public property of the Town. The landowner shall use best professional management practices in relocation of the palmettos.
- (5) The landowner shall bear the palmetto(s) relocation expense in accordance with the approved permit.
- (6) If the Zoning Administrator does not approve the relocation permit, the palmetto(s) shall not be relocated.
- (7) See Sec. 21-167 for emergency removal of palmettos.

**Sec. 21-163. Submissions, fees and permit.**

**A. Submission requirements.**

- (1) Photographs of the site shall accompany requests for removal of Category I and II trees or relocation of palmettos.
- (2) Two (2) copies of a site survey, drawn to scale, indicating existing and proposed structures and all Category I or II trees or Sabal Palmetto to be removed, relocated, or replaced.
- (3) An application for removal and/or relocation of Category I or II Trees or Sabal Palmettos will not be accepted without a Building Permit application on file with the Building Official.

- (a) The site survey included in the above applications shall be incorporated into the site plan submitted with the Building Permit application.
- (b) An approved plan for the removal and/or relocation of Category I or II Trees or Sabal Palmettos shall become a part of the Building Permit. The Building Permit shall not be issued until such tree removal and replacement plan shall be approved.

**B. Fees.**

- (1) Applications for Tree Commission review of Category I and Category II plans for tree removal and replacement and palmetto relocation shall be those required by the Zoning Administrator and any other information required to make a determination thereof accompanied by an application fee the amount of which shall be established by resolution of the Town Council. (9-18-07)
- (2) No fees shall be charged to remove diseased, dying, mortally damaged, or hazardous trees and palmettos.

**C. Signed permit.**

Upon approval by the Tree Commission or the Zoning Administrator, a permit shall be issued and the plans shall be signed and dated by the Zoning Administrator. One set of plans will be returned to the applicant, with the Town retaining a set for its files.

**Sec. 21-164. Tree replacement plan.**

**A. Tree replacement required.**

- (1) An approved Tree Replacement Plan prepared by the applicant shall be an integral part of all tree removal permits.
- (2) The Tree Commission shall approve the Tree Replacement Plan for Category I trees. The Zoning Administrator shall approve the Tree Replacement Plan for Category II trees. Working with the landowner, the Zoning Administrator shall approve the relocation of palmettos on private property.

**B. Replacement procedure.**

- (1) Tree replacement shall be required for all approved tree removals based on the requirement of replacing one (1) linear inch of tree DBH for each one (1) linear inch of tree DBH removed. Replacement trees shall be from the approved tree list, except that replacement for the removal of oaks, magnolias, pecan and red cedar trees shall be with the same kind of tree, as determined by the Zoning Administrator or Tree Commission, as applicable.
- (2) Each replacement tree shall have a minimum of two (2) inches caliper and be at least ten (10) feet tall. However, any permitted removal of a Sabal Palmetto will require replacement by a Sabal Palmetto at least 8 feet tall.
- (3) All replacement trees shall be of healthy, vibrant stock, in accordance with American Standards for Nursery Stock of the American Association of Nurserymen.
- (4) The applicant is responsible for maintenance of the replacement trees and palmettos and for replacement of these trees and palmettos if they die within one (1) year of planting.
- (5) In cases where tree replacement on the same lot is not possible or desirable, the landowner may donate to the Tree Fund an equivalent sum of money for the future purchase of public trees or donate a number of trees of the equivalent mass and quality as those removed to be planted on public property of the Town.
- (6) It shall be required that tree replacement be accomplished within a time limit according to the earliest time possible for replacement as set by the Zoning Administrator or the Tree Commission.

**Sec. 21-165. Public utilities and electric suppliers.**

- A. Public utilities and electric suppliers shall employ best management practices in regard to tree trimming and removal
- B. Annually, public utilities and electric suppliers shall submit to the Tree Commission their plans for tree trimming and/or tree removal.
- C. Nothing in this Article shall restrict the ability of public utilities and electric suppliers from maintaining safe clearance around utility lines. During a period of Town emergency, such as hurricane, tornado, ice storm, flood or any other such act of nature, the provisions of this act are suspended, with the exception of the prohibition of the removal of healthy, non-threatening trees or palmettos.

**Sec. 21-166. Tree fund.**

The money collected from tree permits, as well as from fines for violations of this Article shall be placed in a special fund referred to as "The Tree Fund", to be used for the purchase of trees to be planted on public property of Sullivan's Island and for other related activities planned by the Tree Commission and approved by Town Council.

**Sec. 21-167. Emergency removal.**

- A. Emergency removal of Category I and II trees and palmettos that pose an eminent threat or danger to life and property may be removed without prior notification and approval.
  - (1) These occurrences shall be reported within five (5) days.
  - (2) Trees or palmettos that have already fallen on their own due to disease or damage from natural disaster may be cleared away without approval.
  - (3) Occurrence of loss from natural disaster shall be reported within five (5) days and the requirements for replanting new trees or palmettos in their place may be waived.
- B. The Tree Commission shall decide questions concerning the appropriateness of tree removal under the conditions indicated above.
- C. There shall be not fee charged for the emergency removal of trees or palmettos.

**Sec. 21-168. Violations, penalties and fines.**

**A. Violations include:**

- (1) Disregard for the provisions of this Article;
- (2) Destruction of a tree or palmetto or critical damage to a tree or palmetto by any means such as those described herein; or
- (3) Disregard of any conditions of a permit, such as failure to protect trees or palmettos during construction activities or to replant trees or palmettos in accordance with the permit.

**B. Penalties and fines.**

- (1) Each unauthorized removal, destruction, negligent act or failure to replant a tree or palmetto shall constitute a separate offense subject to fines and penalties;
- (2) Nothing herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violations. Replacement as described herein shall also be required; and,
- (3) Any person convicted of violating any provision of this Article shall be fined not more than five hundred dollars (\$500) or sentenced to incarceration for a period not to exceed thirty (30) days, or both.

**Sec. 21-169. Protection against liability.**

Any member of the Tree Commission acting within powers granted by the Ordinance shall be relieved from personal liability for any damage and held harmless by the Town of Sullivan's Island. Any suit brought against any member of the Commission shall be defended by a legal representative furnished by the Town of Sullivan's Island until the termination of the proceedings.

**Sec. 21-170. Appeal to Board of Zoning Appeals.**

The Board of Zoning Appeals, as contained in ARTICLE XVIII, may consider appeals from the decision of the Zoning Administrator or the Tree Commission by any aggrieved party.

**Sec. 21-171. Reserved.**