

ORDINANCE NO. 2022 – 09

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING THE TOWN OF BLUFFTON'S MUNICIPAL CODE OF ORDINANCES, CHAPTER 23, UNIFIED DEVELOPMENT ORDINANCE, ARTICLE 5 – DESIGN STANDARDS, SEC. 5.3, NATURAL RESOURCES: TREE CONSERVATION, PLANTING & LANDSCAPING, SPECIFIC TO SEC. 5.3.3., TREE CONSERVATION, SEC. 5.3.7., LOT LANDSCAPING, AND SEC. 5.3.8., FEE IN LIEU OF TREE REPLACEMENT AND/OR SPECIFIC LANDSCAPING

WHEREAS, the Town of Bluffton desires to improve the general safety, welfare, health and properties of the citizens of the Town of Bluffton; and,

WHEREAS, to establish the necessary provisions to accomplish the above, the Town of Bluffton has authority to enact resolutions, ordinances, regulations, and procedures pursuant to South Carolina Code of Laws 1976, Section 5-7-30; and,

WHEREAS, the Town of Bluffton's Town Code and Ordinances provide guidance and requirements for development within the Town of Bluffton through regulations set forth to protect and promote the health, safety, and welfare of the Town's citizens, as espoused through the provisions of the Town of Bluffton Comprehensive Plan and as authorized by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Title 6, Chapter 29 of the Code of Laws for South Carolina; and

WHEREAS, the Town of Bluffton Town Council adopted the aforementioned standards, which are known as the Unified Development Ordinance (UDO), Chapter 23 of the Code of Ordinances for the Town of Bluffton, South Carolina on October 11, 2011 through Ordinance 2011-15; and

WHEREAS, the Unified Development Ordinance unifies the subdivision, land use, development/design regulations, as well as the Old Town Bluffton Historic District Code into a single set of integrated, updated, and streamlined standards; and

WHEREAS, the Town Council shall from time to time examine ordinances to ensure that they are properly regarded, enforced, sufficient and satisfactory to the needs of the community and can further suggest changes as deemed appropriate; and,

WHEREAS, the Town of Bluffton Town Council desires to amend the Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.3, Natural Resources: Tree Conservation, Planting & Landscaping, Specific to Sec. 5.3.3., Tree Conservation; and,

WHEREAS, the natural environment of Bluffton is of such importance to its citizens, the 'Covenant for Bluffton' identifies its protection, as well as the enhancement of the Town's tree canopy and natural landscape as a goal; and

WHEREAS, the FY 2021-22 Strategic Plan includes a Community Quality of Life focus area that identifies “[fostering] place-based initiatives and Town codes that support a clean, well-maintained, sustainable community while protecting our natural resources including the May River; and

WHEREAS, in September 2021 Town Council amended UDO Article 5.10 Stormwater and the Stormwater Design Manual to current stormwater management State of the Knowledge practices to protect water quality as priority initiatives in the May River Watershed Action Plan Update and included in the FY 2019 – 2020 Strategic Plans for the Town; and

WHEREAS, development within the Town of Bluffton is resulting in changes in land use and topography causing in an increase in impervious surfaces in the May River watershed from 5.78% in 2002 to 15.31% in 2018; and

WHEREAS, research shows that waterways experience water quality degradation when impervious surface in a watershed exceeds 10% due to stormwater runoff water quality and quantity; and

WHEREAS, similar development rates are causing increases in population and impervious surface rates in most watersheds located in the Southern Lowcountry Region; and

WHEREAS, the Southern Lowcountry (SoLoCo) Regional Board advocated for a uniform set of stormwater standards and design guidelines to meet the goal of protecting the region’s sensitive environment, residents’ quality of life, and future economic development opportunities; and

WHEREAS, SoLoCo’s goal led to the creation of the “Southern Lowcountry Post Construction Stormwater Ordinance” and “Southern Lowcountry Stormwater Design Manual” which were developed for: 1) Regional collaboration for consistent, effective management of stormwater; 2) Unification of the current diversity of stormwater design requirements resulting from Municipal Separate Storm Sewer System permits, community need, and community dynamics; and 3) Protection of water quality by regulating stormwater design standards from a watershed-based approach, not by jurisdiction; and

WHEREAS, incorporation of the model “Southern Lowcountry Post Construction Stormwater Ordinance” language and requirements into the UDO establishes the regulatory framework to preserve, protect, and revitalize the critical watersheds of the May River, Okatie/Colleton Rivers, and New River; and

WHEREAS, UDO Sec. 5.10 Stormwater was amended, in part, to prevent mass grading and clearing of development sites and to require Better Site Design practices to improve the retention of natural vegetative buffers and conservation of trees to minimize stormwater runoff through improved infiltration which also serves as a first defense to treat water quality pollution; and

WHEREAS, UDO Sec. 5.10 Stormwater incorporates UDO Sec. 5.3 Natural Resources: Tree Conservation, Planting and Landscaping by reference to support Better Site Design practices; and

WHEREAS, Better Site Design practices can be achieved by amendments to UDO Sec. 5.3 that would require the preservation of trees within existing buffers, the retention or planting of at least 15 hardwood trees for development sites of at least one acre, and more replacement trees when large trees—at least 12 inches in diameter at breast height—are removed from a development site; and,

WHEREAS, improved UDO stormwater and tree requirements that apply Town-wide are a reaffirmation of the Town's commitment to the 'Covenant of Bluffton'; and,

WHEREAS, the Town Council specifically finds that the improved stormwater and tree requirements set forth in the UDO are not in conflict with any of the Town's local development agreements; that they are essential to the public health, safety, or welfare of the Town's natural environment and people; and, that the continued development rates and population growth within the Town demonstrate a substantial change that if not addressed would pose a serious threat to the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the foregoing, the Town hereby amends the Code of Ordinances for the Town of Bluffton, Chapter 23, Unified Development Ordinance as follows:

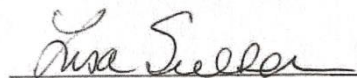
SECTION 1. AMENDMENT. The Town of Bluffton hereby amends the Code Ordinances for the Town Of Bluffton, South Carolina by adopting and incorporating amendments to Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.3, Natural Resources: Tree Conservation, Planting & Landscaping, Specific to Sec. 5.3.3., Tree Conservation, Sec. 5.3.7., Lot Landscaping, and Sec. 5.3.8., Fee in Lieu of Tree Replacement and/or Specific Landscaping as shown on Exhibit A attached hereto and fully incorporated herein by reference.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. ORDINANCE IN FULL FORCE AND EFFECT. This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this 19th day of April, 2022.

This Ordinance had a first reading but was not passed on March 8, 2022.

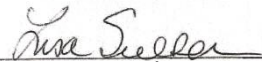


Lisa Sulka, Mayor
Town of Bluffton, South Carolina



Kimberly Gammon, Town Clerk
Town of Bluffton, South Carolina

This Ordinance had a revised first reading and was passed on April 12, 2022.

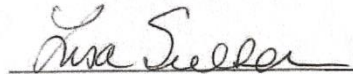


Town of Bluffton, South Carolina



Kimberly Gammon, Town Clerk
Town of Bluffton, South Carolina

A public hearing was held on this Ordinance on April 19, 2022.

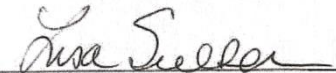


Lisa Sulka, Mayor
Town of Bluffton, South Carolina



Kimberly Gammon, Town Clerk
Town of Bluffton, South Carolina

This Ordinance was passed at second reading held on April 19, 2022.



Lisa Sulka, Mayor
Town of Bluffton, South Carolina



Kimberly Gammon, Town Clerk
Town of Bluffton, South Carolina

EXHIBIT A

Sec. 5.3.3. Tree Conservation

A.-E. *No change.*

F. Replacement of Protected Trees: The following standards shall establish the tree replacement requirements for the removal of certain trees:

1. **Silviculture Pines:** The Town of Bluffton encourages the replacement of planted pines with desirable hardwood trees. Mitigation for the removal of planted pines will not be required; however, all sites must conform to the minimum landscaping requirements defined in this article.
2. **Invasive and Undesirable Species:** The Town of Bluffton encourages the replacement of invasive species as defined by United States Forest Service or Clemson University, water oaks, and sweetgums with desirable hardwood trees. Mitigation for the removal of these trees shall be on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.
3. **Required Trees:** The removal of any tree that was planted to meet the requirements of this Ordinance shall be replaced on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.
4. **All Other Trees:** Unless otherwise noted in this Section, the removal of any protected tree shall be replaced as specified in Sec. 5.3.3.G. All replacement trees shall be at least 12 feet tall and have a trunk diameter of not less than 2.5 inches when planted unless otherwise provided by this Section. ~~The replacement of all approved significant trees shall have a trunk diameter of not less than 6 inches.~~ The trunk diameter, also known as trunk caliper, shall be measured at 6 inches above ground. The UDO Administrator has the authority to accept smaller mitigation trees if the size, shape or topography of the site or the location of utilities unreasonably restricts access to the property or the ability to plant larger caliper replacement trees.

Table 5.3.3.G.	
Number of Replacement Trees Required	
<u>Protected Tree DBH Removed</u>	<u>Number of Replacement Trees</u>
<u>Significant Trees ≥24 inches; any tree listed on the America's Historic Tree Register maintained by American Forests; all trees, regardless of size, located within regulated wetland buffers</u>	<u>5 trees or 3 trees with a 6-inch caliper at time of planting</u>
<u>18 inches < 24 inches</u>	<u>3 trees</u>
<u>12 inches < 18 inches</u>	<u>2 trees</u>
<u>8 inches < 12 inches</u>	<u>1 tree</u>

<u>≥4 inches for the following trees: American holly, dogwood, redbud, southern magnolia, and red buckeye</u>	<u>1 tree</u>
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G. Maximum Replacement of Removed Trees. ~~The amount of trees required to be planted on-site in order to meet replacement of removed trees requirements shall be limited to the number of trees necessary to provide 75 percent lot coverage with tree canopy measured as the mature canopy, not including rooftops. If all of the removed trees are not required to be mitigated, based on the remaining canopy coverage, the 6-inch caliper replacement trees shall be installed before satisfying the requirement with 2.5-inch caliper replacement trees.~~

Replacement of Removed Protected Trees

1. A tree canopy with a minimum of 75% lot coverage, not including roof tops, shall be provided where land disturbance is proposed for sites less than one (1) acre. Tree canopy is the mature canopy of any existing trees to be saved, including trees located within a required buffer, together with the mature canopy of proposed replacement trees.
2. When land disturbance is proposed for sites of at least one (1) acre, a minimum of 15 hardwood trees per acre shall be provided on-site, which may include trees to be planted, existing healthy native trees, or a combination thereof. Trees located within a required buffer shall not count towards the minimum requirement.
3. A replacement tree must be a minimum of two and one-half (2.5) inches caliper. The removal of any significant tree or protected trees of certain sizes shall require the number of replacement trees as specified in Table 5.3.3.G. Any replacement tree that is a minimum of four (4) inches caliper shall be counted as two (2) replacement trees and any replacement tree that is a minimum of six (6) inches caliper shall be counted as three (3) replacement trees.
4. If any required replacement tree(s) cannot be planted on-site, as determined by the UDO Administrator, the Applicant shall pay into the Town of Bluffton Tree Fund as provided in Sec. 5.3.8.

H. *No changes.*

Sec. 5.3.7. Specific Landscaping Standards

A.-C. *No changes*

D. Lot Landscaping

1. All lots, except active recreation areas requiring open area that are part of a school or public park, shall contain sufficient landscaping, either existing or planted, ~~to have a~~

~~minimum of 75 percent lot coverage with tree canopy measured as the mature canopy, not including building rooftops.~~

2. All permeable ground surfaces of lots in environments altered from their natural, predevelopment state and not provided for circulation of vehicles, bicycles or pedestrians shall be planted with vegetation or otherwise landscaped.

E. *No change.*

Sec. 5.3.8 Fee in Lieu of Tree Replacement and/or Specific Landscaping

~~If it is determined that the required tree conservation and/or specific landscaping standards provisions of this Section will have an adverse impact on the intended use for a particular property, the Town Council may authorize the Applicant to pay a fee in lieu of planting to the Town of Bluffton Tree Fund. The fee per tree is based on the current market rate for the purchase, installation, and 1 year maintenance.~~

If the UDO Administrator determines that required tree and/or landscaping cannot be provided on-site, the UDO may authorize the Applicant to pay a fee-in-lieu of planting. For each required tree caliper inch that is not planted on-site, a fee per caliper inch required shall be assessed. The fee for trees and landscaping is based on 125% of the current market rate for the purchase, installation, and one year maintenance. Any collected fees shall be deposited into the Town of Bluffton Tree Fund.