



**TOWN OF PERDIDO BEACH
PLANNING COMMISSION
NOTICE OF PUBLIC HEARING
January 08, 2025**

Notice is hereby given that a Public Hearing will be held by the Town of Perdido Beach Planning Commission on January 08, 2025 beginning at 6:30 p.m. at the Al Thompson Community Center, 9212 County Road 97, Perdido Beach, Alabama. The Planning Commission will consider proposed text amendments to the Town of Perdido Beach Land Use and Zoning Ordinance pertaining to Article XVII Section 17.4 Tree Protection. These provisions are intended to regulate the removal and/or destruction of Protected Trees within the community. The public is invited to attend this public hearing to voice an opinion for or against the proposed text amendments. Written comments should be addressed as follows:

**Christi Stitt
Town of Perdido Beach
9212 County Rd 97
Perdido Beach, Alabama 36530**

If you have any questions, please contact Ms. Stitt at 251-962-2200

Protected Tree Ordinance

These provisions are intended to regulate the removal and/or destruction of Protected Trees within the community for the purposes of:

- Preserving the existing character of the Town, part of which is derived from existing Live Oaks (*Quercus virginiana*), Longleaf Pines (*Pinus palustris*), and Southern Magnolia (*Magnolia grandiflora*);
- Reducing the effects of noise and air pollution;
- Preventing soil erosion and the siltation of drainage improvements and waterways;
- Protecting and enhancing the aesthetic qualities of the community;
- Adding an element of landscape maturity to new developments in the Town thereby enhancing buffering, privacy and increasing the value of property; and promoting municipal planning.

-Section 1-

Applicability:

-These regulations shall apply to each Protected Tree within the corporate limits of the Town of Perdido Beach, as well as landed annexed into the Town after the adoption of this Ordinance.

-Section 2-

Definitions:

-Caliper: Diameter of stem at six inches (6") above the nursery planting line.

-Canopy or Crown: Referring to the branches, leaves, and other foliage on a tree and relates to the ground cover this vegetation provides.

-Circumference: The distance measured around an object.

-Critical Root Zone: An area on the ground around the tree that is within the drip line of a tree.

-Diameter: A straight line passing from side to side through the center of a body or figure, especially a circle or sphere.

-Diameter at Breast Height (DBH): The standard measurement method used to measure a tree which defines the attributes of a tree. For the purpose of this Ordinance, a DBH threshold is established for the purpose of protecting existing trees. DBH refers to the diameter or cross section of the tree at 4.5 feet or 54 inches above the ground.

*Note: To calculate DBH, measure 4 and one half feet (4 ½') up the trunk from the ground facing the uphill side of trunk and mark that height. Measure the circumference of the tree at this height. Divide the measurement by pi (3.14) and round up to the nearest whole number to get the diameter of the tree at breast height, or DBH. For example, a tree that measures 30" in circumference at 4 ½' will have a DBH of 10" ($30 \div 3.14 = 9.5$ or 10"). The DBH requirement for protected trees in this Ordinance is 16" DBH; or approximately 50" in circumference at 4 ½' from the ground. Additionally, on steep slopes, measure this distance on the uphill side of the tree. Trees with multiple tree trunks should be treated as multiple trees and the DBH of each trunk added to the aggregate diameter measurement.

-Drip line: The area located directly under the outer line of tree branches.

-Heritage Tree: Any species or category of tree listed in the Tree Ordinance. Heritage Trees are identified with a DBH (Diameter at Breast Height) equal to or greater than a certain DBH based on tree type.

-Incidental Trimming/Pruning: Trimming/pruning no more than 10% of a Protected Tree species.

-Protected Tree: Any Live Oak (*Quercus virginiana*) that has a diameter at breast height (DBH) of sixteen (16) inches or greater, Southern Magnolia (*Magnolia grandiflora*) that has a diameter at breast height (DBH) of sixteen (16) inches or greater, and Longleaf Pine (*Pinus palustris*) that has a diameter at breast height (DBH) of sixteen (16) inches or greater. The Protected Tree includes the tree's trunk, canopy, drip line, and critical root zone.

-Tree Removal: The actual removal of a tree by digging up or cutting down, or the effective removal through damage or neglect.

-Tree, Overstory: A tree that has an expected height at maturity greater than 30 feet and produces significant shade because it has a crown that is oval, round, vase-shaped or umbrella-shaped.

-Tree Permit: A permit, issued by the Town of Perdido Beach, to a property owner, or their representative, for the trimming, pruning, or removal of a Protected Tree(s), as defined within this Ordinance, and compiled with herein, the regulations, applications, and issuance of said permit.

-Tree Permit Application: A form provided by and submitted to the Town of Perdido Beach by property owner, or developer, desiring the trimming, pruning, or removal of a Protected Tree(s) within the Town of Perdido Beach, and requiring approval or denial by the Town before any action affecting the Protected Tree, its trunk, canopy, drip line, and/or critical root zone can be taken, as herein defined. The submittal of a Tree Permit Application shall not grant applicant the right to remove or cut a Protected Tree. Only the approval of the Tree Permit Application and issuance of a Tree Permit by the Town of Perdido Beach allows any action on a Protected Tree, with the exception of incidental Trimming/Pruning, as defined herein.

-Tree, Understory: A tree that has an expected height at maturity of not greater than 30 feet.

-Uphill Side: The side of the truck in relation to the slope, where the tree should be measured. As one is walking uphill, the tree should be measured from the uphill side of the slope.

-Section 3-

General Regulations:

-No Protected Tree, as defined in this article, shall be removed, relocated, destroyed, or otherwise directly or indirectly injured unless/until a permit under this ordinance has been issued. The Town is authorized to issue an annual permit to public utility companies exempting them from this requirement with respect to the trimming or pruning of Protected Trees that may interfere with utility lines located within public right-of-way, upon such terms and conditions as may be determined by the Town.

-Tree drip lines shall be avoided during construction and day-to-day activities to not damage, destroy, or otherwise directly or indirectly injure the tree.

-No tree permit shall be required for the incidental trimming or pruning, less than 10% removal, of a Protected Tree located on private property by the owner of the property or the owner's agent.

-Section 4-

Tree Permit Application:

-Any person wishing to remove, relocate, destroy, or otherwise prune or trim a Protected Tree shall first make written application to the Town. The application shall be available at Town Hall and require the applicant to adequately explain the nature of their request and provide all information regarding the Protected Tree(s) as deemed necessary by the Mayor/Council. The Mayor/Council shall review the application and submit a recommendation of approval or denial no later than thirty (30) days following proper filing of the completed application. If approved by the Mayor/Council, a permit shall be issued authorizing the proposed activity.

-The Tree Permit required by this Ordinance shall be in addition to any land disturbance permit, building permit, site plan or plat required or requested by the Town. The costs for each Tree Permit Application shall be \$20.00, provided, however, that said fee shall not be charged for the removal, relocation, destruction, pruning or other trimming of trees that are damaged, diseased or in danger of falling. Applicants requesting a determination as to such damage, disease or danger shall provide sufficient evidence thereof to the Mayor/Council prior to taking any action, unless immediate action is required to prevent imminent and serious harm to persons or property. Any immediate action taken to prevent harm to persons or property must be submitted to the Town for review by the Mayor/Council within twenty-four (24) hours of such action commencing. The Council shall then recommend approval or denial of the submission to the Town, and the Town may thereafter accept the Mayor/Council's recommendation or determine that the action taken was a violation of this Ordinance and subject the applicant to the penalties set out herein.

-The Mayor/Council of the Town of Perdido Beach may declare and impose a temporary Moratorium on the enforcement of this Ordinance, following severe storm events within the town.

Appeal of Denial of Tree Permit:

-Appeals of denial of Tree Permits shall be to the Town of Perdido Beach, Board of Adjustments, and may be made by the applicant, or their representative, aggrieved by any decision of the Town pursuant to the enforcement of this Ordinance. Appeals must be submitted to the Town within ten (10) business days from notification of Tree Permit denial. The Town of Perdido Beach, Board of Adjustments, shall have the power to grant Tree Permits upon a showing by the applicant, or their representative, of clear and convincing evidence that the applicant will suffer an extreme and extraordinary hardship if the Protected Tree(s) is not removed. The Town of Perdido Beach, Board of Adjustments, shall have the power to deny Tree Permits upon a showing of an aggrieved party that Protected Tree removal is not in the best interest of the Town of Perdido Beach.

-Section 5-

Criteria for Issuance of a Tree Permit:

-A Tree Permit for the removal, relocation, or destruction of a Protected Tree shall be issued for any of the following reasons:

-The Protected Tree is located in an area where an approved structure or improvement is to be placed according to a site plan, building permit, plat or land disturbance permit approved by the Town; or

-The Protected Tree is diseased, damaged, in danger of falling close to existing or proposed essential utility services, creates unsafe vision clearance or conflicts with other ordinances or regulations of the Town; or

-If the Tree Permit Application does not meet the above criteria, the permit shall be denied and the reasons for denial shall be communicated to the applicant within ten (10) working days of the Town Council's decision.

-Section 6-

Protection of Protected Trees during Adjacent Construction

- During any adjacent construction or land development, the developer shall clearly mark all Protected Trees for preservation to prevent injury during construction activities.

- During adjacent construction, the canopy, drip line, and critical root zone of a Protected Tree(s) shall be fenced and protected from compaction, trenching, grade changes and any other construction activity that could cause injury.
- During construction, the developer shall not allow the movement, parking or storage of vehicles, equipment, materials, debris and fill to be placed within the drip line or critical root zone of any Protected Tree.

-During construction, the developer shall not allow the cleaning of equipment or material under the canopy of any Protected Tree. Neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any Protected Tree(s).

Enforcement and Penalties:

-Whenever a Town Official, or his designee, shall determine that a violation of this Article has occurred, any of the following actions may be initiated singly or in combination:

- On any new construction site, a Stop Work Order may be immediately issued to the contractor or property owner. Upon receipt of such Order, construction may not be resumed until an approved Tree Permit authorizing the removal, relocation, or destruction of the Protected Tree(s) is presented to the Mayor/Council or a remediation proposal is presented and approved by the Mayor/Council.
- On an existing developed site, depending upon the circumstances of the violation, a formal citation may be issued to the violator as determined by the Town Official, or his/her designee. A Stop Work Order shall specify the nature of the violation and require that any work not permitted under this Article immediately cease and desist. The property owner shall, within two (2) weeks, present a remediation proposal to the Mayor/Council for correcting the violation.

-Each remediation proposal shall be reviewed by the Council which shall present the proposal to the Town along with a recommendation for acceptance or rejection, or modification thereof.

-Any person, firm or corporation violating or failing to comply with any of the provisions of this Ordinance may be fined five-hundred dollars (\$500.00) for each Protected Tree. Each violation of this Article shall be a separate offense, and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Town of Perdido Beach shall have jurisdiction to enjoin a violation of this Article. All costs, fees (including without limitation, reasonable attorney's fees), and expenses in connection with such action shall be assessed as damages against the violator.

-This Ordinance shall not be construed to impair: (1) the right of eminent domain granted by the State laws to utilities, whether public or private; (2) their right to design, locate, erect, construct, re-construct, alter, protect or maintain utility-poles, towers, lines, conduits, pipes or mains reasonably required in the public service or (3) their right to exercise authority conferred by statute, certificate of convenience and necessity, license or easement. The Protected Tree Ordinance shall apply to all other work done by public or private utilities, their employees, agents and contractors.