

ORDINANCE NO. 1067

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF BRUNSWICK TO CREATE CHAPTER 27 TO BE TITLED "TREE ORDINANCE;" TO PROVIDE THE PURPOSE AND INTENT; TO PROVIDE DEFINITIONS; TO PROVIDE PENALTIES; TO PROVIDE A LIST AND CLASSIFICATIONS OF CERTAIN TREES TO BE PROTECTED; TO PROVIDE RULES AND REGULATIONS FOR THE PLANTING, MAINTENANCE, REPLACEMENT, PRESERVATION AND REMOVAL OF TREES; TO PROVIDE FOR ENFORCEMENT AUTHORITY; TO CREATE A REVIEW PROCESS; TO PROVIDE FOR EXEMPTIONS; TO ALLOW FOR AN APPEAL PROCESS; TO ALLOW FOR AMENDING OF FEES BY RESOLUTION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

SECTION ONE:

The Code of Ordinances of the City of Brunswick, Georgia, is hereby amended by adding a chapter, to be numbered Chapter 27 "Tree Ordinance" which reads as follows:

Sec. 27-1 – Policy, purpose and intent.

It is the policy of the City to reduce and restrict the net loss of canopy within the boundaries of the City. The purpose of this article is to establish the standards necessary to assure that this policy will be realized and that the City will continue to enjoy the benefits provided by its urban forest. The provisions of this article are enacted to:

- (a) Establish and maintain the maximum amount of tree cover on public lands in the City by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article;
- (b) Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices;
- (c) Establish standards for tree protection during land clearing, construction and redevelopment;
- (d) Providing certain exceptions and exemptions;
- (e) Establish and revise as necessary standards for the planting and maintenance of trees so as to improve the economic base of the City by improving property values, to enhance the visual quality of the City and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding;
- (f) Minimize hazards and damage to streets and sidewalks and lessen public rights-of-way

maintenance costs;

(g) Provide for the designation of historic and specimen trees;

(h) Provide latitude in the interpretation and application of City administrative rules, standards and guidelines when reasonable and necessary to minimize the destruction of trees.

Sec. 27-2 – Scope.

The terms and provisions of this article shall apply to all public property subject to City regulation, including all public housing property, parks, rights-of-way, and easements granted to other private or public entities, including public utilities, except where superseded by franchise agreements.

Sec. 27-3 – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Authority means the City Manager for the City of Brunswick, or his or her designee, and may include code enforcement officers, Department of Public Works & Engineering, and Department of Planning, Development, and Codes.

Building means any structure built for the support shelter or enclosure of person(s), animals, chattel or property of any kind.

Building Permit means a permit issued by the Department of Planning Development & Codes of the City of Brunswick to proceed with the development or redevelopment of property meeting the requirements as established by the City of Brunswick building code.

Caliper means a standard nursery measurement of the diameter of a tree trunk. The caliper of the trunk shall be taken at breast height (4½ feet) above the ground.

Canopy Coverage means the coverage of a tree, by its limbs and leaves, of the ground below. This area may include trees offsite on adjacent properties or public-right-of ways where limbs and portions of a tree's canopy overhang onto the subject property. Hazardous and dead or dying trees shall not be used in canopy coverage calculations.

City shall mean City of Brunswick.

City Property means all right of ways, public parks, public buildings and any easements related to the function of City infrastructure and owned or leased by the City.

City Tree Registry means a listing of registered trees of special note because of age, size, location, rarity, or historic association.

Critical root zone means the area surrounding a tree that is essential to that tree's health and survival. For a free-standing tree with no apparent root restrictions, the critical root zone shall consist of a circle having a radius extending from a tree's trunk to a point no less than the furthest crown drip line.

Crown Drip Line means a vertical line extending down to the ground from the end of a tree's longest branches.

Destroy means any intentional or negligent act or lack of protection that is more likely than not to cause a tree to die within a period of five years, as determined by the city forester or city arborist. Such acts include, but are not limited to: performing grade changes (including lowering or filling the grade) that affect more than 20 percent of the root save area; trenching of roots; cutting, girdling or inflicting other severe mechanical injury to the trunk, roots or other vital sections of the tree; removing in excess of 20 percent of the live crown of the tree; inflicting damage upon the root system of a tree by the application of toxic substances, including solvents, oils, gasoline and diesel fuel; causing damage by the operation of heavy machinery; causing damage by the storage of materials; and/or deliberately or negligently burning or setting fire to a tree. In addition, topping, tipping, or any similar improper pruning practices will automatically be deemed as destruction of a tree.

Diameter at Breast Height (DBH) means the diameter of the main stem of a tree or the combined diameters of a multi-stemmed tree as measured 4.5 feet above the natural grade at the base. The top diameter of a stump less than 4.5 feet tall shall be considered the "DBH" of an illegally destroyed tree for the purpose of calculating recompense.

Disease means any fungal, bacterial, or viral infection that will result in the death of the tree, as determined by the city forester or city arborist. Disease shall also mean any fungal, bacterial or viral infection that has progressed to the point where treatment will not prevent the death of the tree, as determined by the city forester or city arborist. In order for the city forester or city arborist to deem that a tree has a disease, the person requesting such determination must present a lab report identifying and presenting the etiology (the cause and origin) of the fungal, bacterial or viral infection.

Drip Line means vertical line from the horizontal extremity of the canopy of a tree to the ground. For trees with canopies set off center, the drip line will be projected based on the average diameter of the existing drip line using the tree trunk as its point of origin.

Exempt Tree means any tree less than six inches (6") caliper or of an undesirable species, such as an invasive species.

Flush Cutting means the removal of limbs by cutting immediately adjacent to the trunk, destroying the protective branch collar, and exposing the trunk to decay organisms.

Hardship means a unique or otherwise special existing condition that is not addressed by the ordinance.

Hazard Tree means a tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the Administrative Authority

Historic Tree means any protected tree which has such unique and intrinsic value to the general public because of its size, age, form, location, historic association, or ecological value as to justify this classification. Any tree in the City selected and duly designated a Georgia State Champion, United States Champion, or a World Champion by the American Forestry Association, or listed in the city's tree registry shall likewise be deemed a historic tree. All historic trees shall be deemed a protected tree regardless of existing tree canopy coverage.

Injure means any intentional or negligent act, including various tree climbing practices, spiking, trimming, flush cutting, incursion into a critical root zone, and the use of climbing spurs or gaffs on trees not subject to removal that exposes the cambium of a tree to insects or decay organisms.

Invasive Tree means any species, including its seeds, or other biological material capable of propagating that species, that is not native to that ecosystem; whose introduction does or is likely to cause environmental harm; and which have been identified by the US Department of Agriculture, State of Georgia, Glynn County, or the City of Brunswick as an invasive species. For the purpose of this ordinance, that list includes but is not limited to the following: Tree-of-Heaven (*Ailanthus altissima*); Mimosa(*Albizia julibrissin*); Camphortree (*Cinnamomum camphora*); Chinaberry (*Melia azedarach*); Princesstree (*Paulownia tomentosa*); Chinese Tallowtree (*Triadica sebifera*); Tung Oil Tree (*Vernicia fordii*)

Live Oak means the Georgia state tree that has a diameter at breast height (dbh) of six (6) inches or larger, also identified as *Quercus virginiana*.

Protected Tree means any self-supporting woody or fibrous perennial plant of a species that normally grows to a mature height of twenty-five (25) feet or greater and will have or has a tree trunk DBH of eighteen (18) inches or greater and is not an exempt tree. Replacement trees become protected trees at the time of installation. All specimen and historic trees shall be deemed a protected tree regardless of existing tree canopy coverage.

Pruning means that definition of the term as set forth in both the most recent International Society of Arboricultural pruning standards and guidelines and American National Safety Institute 300.33. At no time shall trimming, topping, tipping or flush cutting of trees be deemed a form of "pruning."

Public Property Tree means for purposes of this article, where reference is made to a tree being on "public property", the tree shall be deemed to be on public property where at least 50 percent of the flair of the tree, where the tree interfaces with the earth, is located on public property.

Public Utility means any publicly, privately or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, steam, clay, waste, storm water not connected with highway drainage and other similar services and commodities, including publicly-owned fire and police and traffic signals and lighting systems, which directly or indirectly service the public or any part thereof.

Removal of a Tree means any intentional or negligent act which will cause a tree to decline and die, including, but not limited to, such damage inflicted upon the root system of a tree by application of toxic substances, the operation or filling above the root system or around the trunk of a tree, damaging or removing major limbs, roots, or enough canopy volume so that the tree dies, declines beyond recovery, or becomes a hazard to public safety that must be removed.

Replacement Tree means any newly planted shade tree required by this ordinance, which shall have a minimum trunk caliper of two inches (2"). All replacement trees shall adhere to the current guidelines established by nursery industry standards. Replacement trees become protected trees at the time of installation.

Shade Tree means a tree that typically reaches a height of over twenty-five feet (25') and has an average DBH of six inches (6") or larger.

Specimen Tree means a tree, other than exempt trees, with a trunk DBH of fourteen inches (14") or greater, unless deemed a Historical Tree. All specimen trees shall be deemed a protected tree regardless of existing tree canopy coverage.

Tree means any self-supporting woody, perennial plant that has a trunk diameter of two inches or more when measured at a point six inches above ground level and which normally attains an overall height of at least ten feet at maturity, usually with one main stem or trunk and many branches.

Tree Board means the board established pursuant to The Code of Ordinances of the City of Brunswick, Georgia, Chapter 2, Article V, Division 3.

Tree Protection Area means any portion of a site where existing trees which are proposed to be preserved in order to comply with the requirements of this Chapter. The Tree Protection Area shall include no less than the total area beneath the tree canopy as defined by the Critical Root Zone of a tree.

Tree Protection Barrier means a suitable structure designed to restrict encroachment of vehicles and equipment and prevent storage of supplies within the tree protection area and is installed at the perimeter of the tree protection area prior to construction, land clearing, or demolition.

Trimming means cutting a stem to an indiscriminate length, as determined by the city forester or city arborist. While trimming is unacceptable, pruning- the act of cutting stems at nodes- is permissible.

Sec. 27- 4 – Authority.

This article is enacted pursuant to the City's planning authority granted by the Constitution of the State of Georgia, including but not limited to Ga. Const. Art. IX, § II, ¶¶ 3 and 4; the City's general police power; Section 1.12 of the City Charter; and all other state and local laws applicable to this article.

Sec. 27-5 – Public Tree Protection and Care.

- (a) Except as hereinafter provided, no person except a public utility shall cut, prune, injure, damage, remove, or relocate any living tree on or in a public highway, right-of-way, neutral ground, public park, public place, triangle, square, sidewalk, or other public property; or cut, disturb, or interfere in any way with the roots of any tree on public property; or spray with any chemical insecticide, herbicide, or other oils or paint any tree on public property; or place any wire, rope, sign, poster, barricade, or other fixture on a tree or tree guard on public property; or injure, misuse, or remove any device placed to protect any such tree.
- (b) No person shall pile building material, or other material, about any public tree located in a street in any manner that will in any way injure such tree.
- (c) No person shall pave or place gravel, soil, or other such material within the critical root zone of any tree on public property unless approved by the Administrative Authority.
- (d) No person shall dump, pour, or spill any oil, herbicide, insecticide, or other deleterious matter upon any tree or tree space in any street or within the critical root zone of any tree, or keep or maintain upon any street, any receptacle from which oil, herbicide, pesticide, or other deleterious matter leaks or drips, or said material only any parking or concrete gutter so as to injure any tree on public property.
- (e) No person shall place advertising matter, posters, or political placards on public trees.

Sec. 27- 6 – Permitting, Enforcement and Penalties.

- (a) Permit to Remove, Destroy, Injure, Or Relocate Public Trees.
 - 1. Applications for permission to remove, destroy, injure, or relocate a tree shall be submitted to the Tree Board as prescribed by the Administrative Authority.
 - 2. Upon the submission of an application, a notice of proposed tree removal shall be obviously posted on site as close to the tree(s) in question as possible.
 - 3. The authorization of the removal, replacement, or relocation of a tree shall be subject to a determination by the Administrative Authority. Prior to authorization by the Administrative Authority, the Tree Board shall submit a recommendation determining whether the removal, replacement, or relocation of a tree conforms to all regulations set forth herein and elsewhere in this Ordinance.
 - 4. Within thirty (30) days of receipt of the Tree Board recommendation, the City shall approve the application, deny the application, or remand the application to the Tree Board for further review and consideration.
 - 5. Permits authorizing the removal, replacement, or relocation of a tree shall be valid only for that particular tree.

(b) Permit Compliance.

1. Approved permits are to be posted on site, legible and visible from the street prior to commencement and throughout completion of the work.
2. All protected trees proposed for removal are to be designated on site in a non-permanent, harmless, and plainly visible manner so that City personnel can easily locate such trees during a site inspection.

(c) Enforcement.

The City Code Enforcement officers, Administrative Authority, the Department of Planning, Development & Codes shall be charged with the enforcement of this article. The Administrative Authority may place conditions on the issuance of construction, demolition, and other land development permits when necessary to safeguard protected trees during the execution of such permits or when recommended as a condition of approval for a tree removal permit. The Administrative Authority shall have the authority to review and approve, deny, or require changes to the proposed replacement tree species to encourage species diversity.

(d) Penalties.

1. Any person who shall injure, damage, or destroy any public tree situated on the public right-of-way of any street, alley, sidewalk, park, or other public property within the City limits shall promptly notify the Administrative Authority of such fact and all, within such a reasonable time as specified by the City, repair or replace the same to the satisfaction of the Administrative Authority. Species must be native or non-invasive, regionally adapted, and comply with the acceptable city planting list, and all other city standards, and shall not be on the prohibited species list.
2. Should the person or entity fail or refuse to repair or replace the damaged or destroyed trees within such a reasonable time, the City shall do, or cause to be done, the necessary repairing or replacement and the costs of this work shall be recovered from the person or entity responsible for the damage or destruction by a proper action of law. In addition, the City may recover for any other damages or losses to which it is entitled by law. Each tree removed or destroyed in violation of this article represents a separate offense.

(e) Criteria for Removal, Destruction, Injury of Relocation.

1. Minimum Canopy Coverage Standards. The City desires to maintain the current tree canopy cover across all land uses within the City's jurisdiction.
 - i. The spacing of trees will be in accordance with the species size classes and

no trees may be planted closer together than the following: Small ornamental trees, 30 feet; Large Trees; 40 – 50 feet; except in special plantings designed or approved.

- ii. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the species size classes listed and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; and Large Trees, 4 feet.
- iii. Replacement trees shall have a trial period of (1) one year from the final inspection date. At the end of the trial period, the applicant shall request an inspection of all replacement trees. Those trees, as determined by the Administrative Authority, that are in a poor or unhealthy condition shall be replaced in accordance with the tree permit with a new trial period of (1) one year.
- iv. Regardless of caliper or diameter at breast height, replacement trees shall not subsequently be removed or destroyed without a permit.

2. Replacement Trees.

The following list constitutes the official approved Replacement Trees.

Large shade trees

Acer Floridanum	Florida Maple
Acer Rubrum	Red Maple
Betula Nigra	River Birch
Carpinus Caroliniana	American Hornbeam
Carya Illinoensis	Pecan
Carya Ovata	Shagbark Hickory
Catalpa Bignonioides	Southern Catalpa
Cedrus Atlantica	Blue Atlas Cedar
Cedrus Deodara	Deodar Cedar
Celtis Laevigata	Sugarberry
Cryptomeria Japonica	Japanese Cedar
Cunninghamia Lanceolata	China Fir
Cupressus Sempervirens	Italian Cypress
Diospyros Virginiana	Persimmon
Ginkgo Biloba	Ginkgo (Male Only)
Halesia Carolina	Carolina Silverbell'
Juniperus Virginiana	Eastern Red-Cedar
Liquidambar Styraciflua	Sweetgum (Male)
Magnolia Grandiflora	Southern Magnolia
Metsoquoia Glyptostrobiodes	Dawn Redwood
Nyssa Sylvatica	Black Tupelo

Ostrya Carpinifolia	Hop Hornbeam
Pinus Glabra	Spruce Pine
Quercus Alba	White Oak
Quercus Falcata	Southern Red Oak
Quercus Laurifolia	Laurel Oak
Quercus Lyrata	Overcup Oak
Quercus Marilandica	Blackjack Oak
Quercus Michauxii	Swamp Chestnut Oak
Quercus Phellos	Willow Oak
Quercus Stellata	Post Oak
Quercus Virginiana	Live Oak
Taxodium Ascendens	Pond Cypress
Taxodium Distichum	Bald Cypress
Ulmus Americana (hybrids only)	American Elm
Ulmus Parvifolia	Chinese Elm or Lacebark Elm

Small to Medium Trees, maximum of 35'

Aesculus Pavia	Red Buckeye
Amelanchier Arborea	Downy Serviceberry
Cercis Canadensis	Eastern Redbud
Chionanthus Virginicus	Fringetree
Cornus Florida	Dogwood
Eriobotrya Japonica	Loquat
Ilex Casseine	Dahoon Holly
Ilex Opaca	American Holly
Ilex Vomitoria	Yaupon Holly
Ilex X Attenuata 'East Palatka'	East Palatka Holly
Lagerstroemia Fauriei	Japanese Crape Myrtle
Lagerstroemia Indica	Crape Myrtle
Magnolia Virginiana	Sweetbay Magnolia
Magnolia X Soulangeana	Saucer Magnolia
Vitex Agnus-Castus	Chaste Tree
X Cuprocypris Leylandii	Leyland Cypress
Zelkova Serrata	Japanese Zelkova

(f) Protection of Existing Trees

Protection of existing individual trees shall be incorporated as a required portion of initial design and project layout through project completion.

1. The City shall have the right to plant, prune, maintain and remove trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

2. Utility Companies / Authorities. Unless otherwise set forth in any franchise agreement, utility companies and authorities acting as utility companies shall provide thirty (30) days written notice to the Administrative Authority of any and all tree work or work impacting trees performed within the city prior to such work commencing, or as set forth in any franchise agreement. Utility companies shall provide written evidence to the Administrative Authority of adherence to established utility specialist guidelines (as recommended by the International Society of Arboriculture) for line clearance work. These guidelines shall cover the following areas:
 - i. Tree trimming/pruning. Topping is not permitted within the City;
 - ii. Tree removal, especially Historic and Specimen trees;
 - iii. Brushing;
 - iv. Right-of-way clearance for new utility conveyors on private right-of-way; and
 - v. Chemical brush control and appropriate precautions.
3. Construction Sites. Protected trees located on or adjacent to property on which construction, renovation or other land disturbing activity is underway, shall be shielded from any potential negative impacts as a result of the construction, renovation or land disturbing activity.
4. The Administrative Authority shall supervise the tree related portion of all projects as necessary and may regulate or halt the project when it is deemed to be detrimental to any protected tree or when the cutting exceeds what is needed for continued utility service.

Sec. 27-7 – Proper Pruning

Only public utilities, The City of Brunswick, or other public authorities or persons or firms employed by any of the preceding may trim street trees or park trees. The following are accepted tree trimming and tree maintenance standards to be followed when such work is deemed necessary:

- (a) All trees designated for trimming shall be trimmed according to International Society of Arboriculture standards.
- (b) Trees trimmed for clearance from utility lines may be trimmed such a manner as to provide clearance from lines for a designated period of time or cycle not to exceed three (3) years. Clearance is defined as the distance necessary to prevent regrowth from contacting utility lines before the tree is retrimmed on the designated cycle. In all cases where conditions

permit, drop-crotch or side trimming methods will be used to obtain necessary clearance.

- (c) Where necessary trimming harms the shape of the tree, additional trimming shall be done so as to give the tree satisfactory shape and appearance.
- (d) Where possible all cuts should be done in accordance with the ISA guidelines. A stub is defined as any limb not cut to a lateral or any limb cut to a lateral less than 1/4 the diameter of the cut limb.
- (e) All cuts shall be made so as to prevent rips of the bark.
- (f) No hanging limb shall be left in trees.
- (g) The person(s) trimming the tree is responsible for disposal of wood residue and trimmed parts of the tree, including, without limitations, chips, logs, and limbs.

Sec. 27-8 – Interference with Tree Board

It shall be unlawful for any person to prevent the operation of or interfere with the Tree Board, or any of its agents or any county employee operating pursuant to directions of the Tree Board while engaging in the planting, cultivation, mulching, pruning, treating, or removing of any street trees or park trees. Any person guilty of such interference shall be punished as provided herein for a violation on this ordinance.

Sec. 27-9 – Appeals

Any person may appeal any ruling or order or act of the Tree Board to the City of Brunswick Board of Commissioners. Written notice of the appeal shall be delivered to the City Manager within thirty (30) days of the date the decision being appealed was made. Any such notice of appeal shall state with specificity what action(s) are being appealed and the grounds therefor.

Sec. 27-10 – Review by Board of Commissioners

The Board of Commissioners shall have the right to review, approve, countermand or alter any conduct, act, or decision of the Tree Board.

Sec. 27-11 – Emergency Conditions

In case of declared emergencies under Section 25-1 of the City of Brunswick Code of Ordinances from hurricanes, tornados, windstorms, or other disasters, the requirements of this ordinance may be waived by the City of Brunswick Board of Commissioners during the emergency period so that

the requirements of this ordinance will not hamper public or private efforts to restore public order, safety, services or welfare in the county.

Sec. 27-12 – Exempted Trees

The following trees shall not be subject to this ordinance or to the jurisdiction of the Tree Board:

- (a) trees that are declared dead by the City Agent or a registered forester;
- (b) trees located within an area to which City of Brunswick has a utility or drainage easement;
- (c) downed trees, which is defined for this ordinance as any tree that has fallen down onto the earth, or onto some other tree or thing so that it is not entirely supportive of its own weight.
- (d) any tree within an approved road improvement project area.

Sec. 27-13 – Violations

Any persons violating any provision of this Ordinance shall be punished by any combination of a fine of up to \$1,000.00 or imprisonment for a period of up to sixty (60) days or both.

SECTION TWO:

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION THREE:


If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION FOUR:


This Ordinance shall be effective immediately upon its adoption by the City Commission.

SO ORDAINED BY THE CITY COMMISSION OF BRUNSWICK THIS 15th DAY OF

July, 2020.


Cornell L. Harvey, Mayor

ATTEST:


Naomi D. Atkinson, City Clerk

