

Chapter 32
VEGETATION¹
ARTICLE I. IN GENERAL

Sec. 32-1. Authority.

The provisions of this section operate under authorities granted to municipalities under G.S. 160D, Article 1 and are limited by provisions of G.S. 160D-921.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 7-14-2020(2))

Sec. 32-2. Definitions.

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

Bush hogging. The clearing of a lot using a rotary or similar type mower for the purpose of controlling vines and shrubs. Bush hogging is done prior to grading and may be done without obtaining a permit. Rutting and soil disturbance is prohibited.

Clearing. The permitted removal and proper disposal of any existing structures, rubble, brush, trees as well as roots and other debris which might interfere with construction of a permitted building. This may be done only after the issuance of a permit by development services.

Critical Root Zone. A circular area measuring 1 foot per 1-inch dbh of a tree measured from the trunk.

Diameter at Breast Height (dbh). Dbh is the standard for measuring existing trees. Dbh refers to the tree diameter measured at 4.5 feet above the ground. Diameter at breast height x 3.14 equals the circumference of a tree.

Development permit. A permit that must be obtained from development services prior to the removal and proper disposal of trees on undeveloped properties.

¹Editor's note(s)—Ord. of Mar. 10, 2009, deleted the former Ch. 32, Art. I, § 32-1, Art. II, §§ 32-31—32-40, Art. III, §§ 32-71—32-80, and enacted a new Ch. 32 as set out herein. The former Ch. 32 pertained to vegetation and derived from Ord. of 4-10-2001(6), §§ 1—10; Ord. of 4-10-2001(7), §§ 1—10; Ord. of 6-14-2005; Ord. of 7-12-2005; Ord. of 12-13-2005; Ord. of 6-13-2006(2); Ord of 3-10-2009.

Cross reference(s)—Buildings and building regulations, ch. 8; environment, ch. 14; land use development, ch. 18; zoning, § 18-31 et seq.; subdivision regulations, § 18-371 et seq.; parks and recreation, ch. 22; leaves and yard debris, § 24-65; streets, sidewalks and other public places, ch. 26.

Dune. Those mounds of sand and/or sand management project areas, either manmade or natural, in existence as of December 10, 1999, and/or those restored by the town or other public entity after that date. A primary dune is the first mound of sand (measured from the ocean) that is six feet taller than the mean flood level for the area. Frontal dunes are the first mounds of sand that have enough vegetation, height and continuity to offer protection.

Grading. Altering the shape of the ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Ground cover. Typically, herbaceous plants that grow over an area of ground. Most ground covers are less than two feet in height, vigorous, help control soil erosion, and reduce surface flow rates.

Herbaceous plants. Vascular plants that have no persistent woody stems above ground. Herbaceous plants include most perennial, annual, and biennial plants.

Hazardous tree. A tree that has a structural defect that makes it likely to fail in whole or in part; a tree that is rotten, has a dangerous lean, or a tree with roots being pulled from the ground, as determined by the Tree Program Manager.

Heritage Tree. A tree of any hardwood species with a minimum dbh of 15 inches or greater or softwood species with a minimum dbh of 30 inches or greater.

Large Tree. A woody perennial plant, typically having a single stem or trunk typically growing over 30 feet in height at maturity (excluding palm trees).

Natural area. An area of at least 50 square feet comprised of native vegetation.

Preserved vegetation. Any plant or groups of plants existing prior to development of a property that is protected so that it remains after the development has been completed.

Pruning. The elimination of live and dead branches from a tree's crown to improve tree structure or health, or to enhance vigor and/or maintain safety.

Required site improvements. Any primary structure, accessory structure, stormwater facilities, utilities, and driveway access, and grading or fill permitted by the Unified Development Ordinance that is required to make the site buildable.

Rut. A long deep track made by the repeated passage of the wheels or tracks of a vehicle.

Shrub. A woody plant typically smaller than a tree with multiple stems arising at or near the ground.

Small Tree. A woody perennial plant, typically having a single stem or trunk typically growing under 30 feet in height at maturity (excluding palm trees).

Specimen tree. Existing trees of any species with a minimum dbh of 5 inches or greater.

Topping. A pruning technique of cutting back the terminal leader to a bud.

Tree Program Manager. The qualified designated town employee who is assigned by the town manager to carry out the provisions of this chapter.

Tree value. For applications under this chapter shall mean the appraised value of a tree based on the latest edition of the "Guide for Plant Appraisal" by the Council of Tree and Landscape Appraisers.

Utility. Public utilities, businesses or organizations in the business of supplying communication services, electrical energy, gas, heat, steam, water, or sewage disposal and treatment.

Vegetation plan. A plan submitted to the development services department staff in conjunction with subdivision of land, alteration of an existing drainage system, issuance of a grading or development permit, issuance of a building permit, or start of site development. The vegetation plan is a scaled drawing that shows

the site information specified in section 32-74. Photographs are not acceptable to locate natural areas and dbh shall be listed on the plan. The vegetation plan will be finalized and adjusted if needed after construction to ensure existing trees are healthy and undamaged.

Cross reference(s)—Definitions generally, § 1-2.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 12-11-2018; Amend. of 9-10-2019; Amend. of 10-13-2020(1) ; Amend. of 7-13-2021(1))

Secs. 32-3—32-30. Reserved.

ARTICLE II. TREE MANAGEMENT PROGRAM

Sec. 32-31. Applicability of article provisions.

This article applies to town-owned or controlled property including leased property and public rights-of-way within the town.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-32. Environmental advisory committee; responsibility.

The Oak Island Environmental Advisory Committee shall assist staff in maintaining the Town's Tree City USA status.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 10-13-2020(1))

Sec. 32-33. Duty of the town to maintain trees.

The Tree Program Manager shall perform the following duties:

- (1) Supervise the planting, maintenance and removal, as necessary, of trees on public property in coordination with affected town departments. Direct town employees in tree removals and plantings.
- (2) Develop and periodically update arboricultural and horticultural specifications and standards of practice governing the planning, planting, maintenance, removal, fertilization, pruning, and bracing of trees and shrubs on public property. Arboricultural specifications and standards of practice shall be based on the most current arboricultural practices described in the American National Standards Institute ASC A300 and Z60.1 for nursery stock and as referenced by the American Society of Horticultural Science (ASHS), as amended.
- (3) Review all development plans submitted by the town to ensure compliance with town ordinances, master plans and standards. The development services staff shall make a physical site inspection prior to issuance of any building permit and recommend specific changes if necessary.
- (4) Inspect construction and utility work sites on public property to ensure compliance with plans, permits, and ordinances; issues stop-work orders and assess penalties for violations with development services staff.
- (5) Design, implement, and provide maintenance specifications for all landscaping on town property.
- (6) Enforce the provisions of this chapter.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 10-13-2020(1))

Sec. 32-34. Damage to trees.

- (a) It shall be unlawful to intentionally damage or destroy trees planted on municipally owned or controlled property except as a part of a town-authorized improvement program. It shall also be a violation of this code to attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill, or anything to any such public tree.
- (b) A person damaging a tree on public property shall be liable to the town for any loss of value. In the event damage is so pervasive as to result in the treatment or removal of the tree, the person damaging such tree shall also be liable for costs of treatment or removal. Values for public trees shall be appraised in accordance with the Council of Tree and Landscape Appraisers Guide for Plant Appraisal, as amended. These values will be kept on file in the town's development services office.
- (c) Any violation of the provisions of this article shall be deemed a misdemeanor, making the violation subject to punishment in accordance with section 1-7 of this Code in addition to the recovery of damage assessed as outlined in subsection (b) above.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-35. Arbor day celebration.

The town shall annually hold an Arbor Day celebration that focuses attention to the value of trees in the urban environment.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-36. Approved tree list.

Trees planted on municipal property shall be selected from the species found in Table 1 in Appendix A of this Chapter unless pre-approved by the Tree Program Manager.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-37. Reserved.

Editor's note(s)—An amendment of Dec. 9, 2014, repealed § 32-37, which pertained to tree inventory and derived from an ordinance adopted March 10, 2009; and an amendment of May 15, 2012.

Sec. 32-38. Development of annual tree program.

The town or its designee shall annually review its tree installation needs including new projects and replacement of diseased or damaged trees in conjunction with development of the town's annual budget.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-39. Community awareness.

The environmental advisory committee or its designated successor and the Tree Program Manager shall make recommendations to the town council to enhance the community's awareness of the value of trees and qualify for points toward the Tree City USA Growth Award.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 10-13-2020(1))

Sec. 32-40. Maintenance of public trees/projects.

- (a) The public works department shall be responsible for the maintenance of trees on municipal property, with guidance from the Tree Program Manager.
- (b) The town shall have the right to prune, maintain and remove any tree on public grounds which interferes with the safe flow of traffic, any traffic control device or sign.
- (c) It shall be unlawful for any person to top or cut back the crown of any tree on public grounds.
- (d) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this section. This also includes dead, dying, or diseased trees as determined by the Tree Program Manager and which pose a threat to the safety of the community.
- (e) All other town departments shall cooperate fully with the public works department in carrying out the responsibilities of this section.
- (f) Planting, maintenance, and removal activities on public trees shall meet current arboricultural practices described in the most recent version of the American National Standards Institute standards for tree care operations, as amended. Town departments, contractors, community organizations and individuals performing tree related activities on town-managed property are required to adhere to these standards.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 10-13-2020(1))

State law reference(s)—Cultivating or removing timber from public lands, G.S. 14-130.

Sec. 32-40.1. Hazardous trees.

- (a) Every owner of any tree overhanging a street or sidewalk within the town is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians. Provided further, that all property owners within the town are hereby required to cause the removal of any dead or diseased trees on their property whenever such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees.
- (b) If the owner or owners of any lot or other real property within the town, after the giving of ten days' notice in writing by Tree Program Manager or his/her designated representative, shall refuse or neglect to perform the duties in connection with his or their property as specified in subsection (a) hereof, the Tree Program Manager or his/her designated representative is hereby authorized to enter upon the property and have said tree and/or branches cut and removed; and the cost thereof shall be charged against said premises and shall constitute a lien thereon. The Tree Program Manager or his/her designated representative shall also have the option of issuing a citation of \$50.00 a day, per day for the first ten days following the time allowed for abatement, if compliance is not met within the allotted timeframe.
- (c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or is a nonresident of this state, then a copy of the written notice herein above referred to shall be posted upon the premises for a period of 48 hours and, before any action to enforce such lien shall be had, the town clerk shall make an affidavit setting out the facts as to the unknown address or whereabouts of nonresidents; and, thereupon, service of the publication as now provided for by law against a nonresident defendant may be had, and an authority ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.
- (d) If a tree falls across multiple properties due to inclement weather or otherwise it shall be the responsibility of each individual owner where the tree lies across their property to properly remove the remains of the tree off the property.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Ord. of 3-14-2017; Amend. of 9-10-2019)

Sec. 32-40.2. Protection utilities.

Public utilities shall exercise reasonable care and utilize best management practices to avoid damage and injury to public trees during the installation and maintenance of its facilities. The public works department will provide assistance on any utility project to see that the utilities can be installed or repaired with minimal damage to any public tree.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 10-13-2020(1))

Sec. 32-40.3. Notification for work near public trees.

- (a) No person or business shall perform any grading, excavation, place any fill, compact the soil or construct any building structure, street, sidewalk, driveway, pavement or public utility within 25 feet of any public tree without first notifying and consulting with the Tree Program Manager or his/her designee. Any such work shall be conducted in accordance with this article.
- (b) Any public utility constructing or maintaining any overhead wires or underground pipes or conduits within 25 feet of public trees shall consult with the development services staff and Tree Program Manager prior to performing work which may cause injury to public trees.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Secs. 32-41—32-70. Reserved.

ARTICLE III. TREE AND VEGETATION PRESERVATION PROGRAM

Sec. 32-71. Purpose of article.

- (a) The purpose of the tree and vegetation preservation program is to provide a means to preserve and manage significant natural areas and specimen trees in the community on private property.
- (b) The objectives of the program are as follows:
 - (1) Maintain and enhance property values;
 - (2) Preserve and enhance the visual appearance of the town;
 - (3) Preserve unique and productive coastal habitats;
 - (4) Reduce the impacts of development on the town's stormwater system;
 - (5) Assist the town in preserving and enhancing the quality of its estuarine waters; and
 - (6) Help create and protect the protective dune systems. (Ord. of 3-10-2009; Amend. of 5-15-2012;

Amend. of 12-9-2014)

Sec. 32-72. Reserved.

Sec. 32-73. Reserved.

Sec. 32-74. Vegetation plans required.

- (a) A vegetation plan must be submitted to the department of development services for the following actions:
 - (1) Issuance of a grading permit;

- (2) Alteration of an existing drainage system;
- (3) Issuance of a building permit;
- (4) Issuance of a development permit.
- (b) Agricultural activities that do not involve artificial drainage of land and the maintenance, alteration, or improvement of an existing structure that does not involve an increase in impervious surface are exempt from the requirement for a landscape plan.
- (c) The sketch vegetation plan may be prepared in conjunction with the stormwater plan required by article V of chapter 18 of this Code and must include the following information:
 - (1) Lot width and length;
 - (2) Front, rear and side setbacks;
 - (3) Location of house, driveway, walkways, accessory buildings, and other required site improvements;
 - (4) Location of trees to be left marked with an (L) on the plan/worksheet (marked with flagging on the ground); trees to be removed marked with an (R) on the plan/worksheet;
 - (5) Location and type of vegetation that will be replaced after development or construction;
 - (6) Location of natural areas to be left;
 - (7) Location of areas to be filled.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 7-13-2021(1) ; Amend. of 9-13-2022(1))

Sec. 32-75. Vegetation plan review.

- (a) The vegetation plan will be reviewed by the Tree Program Manager or his/her designee for compliance with the requirements and guidelines of this Chapter.
- (b) Plan submittal, review, and approval are mandatory prior to any land disturbing activity.
- (c) An on-site inspection shall be conducted by the Tree Program Manager or his/her designee prior to land disturbing activity. The applicant shall provide a sketch vegetation plan meeting the requirements of Sec. 32-74 (c). The Tree Program Manager may provide guidance and comments on the proposed plan based on the existing site conditions. The sketch plan shall be amended based on the Tree Program Manager's comments and changes shall be incorporated into the vegetation plan.
- (d) Preserved trees shall be protected per Section 32-76 prior to land disturbing activities.
- (e) After land disturbing activity, an inspection shall be conducted by the Tree Program Manager or their designee to ensure compliance with the approved vegetation plan.
- (f) Changes made to the approved vegetation plan must be reviewed and approved by the Tree Program Manager or their designee prior to the removal of any trees shown as being preserved on the originally approved vegetation plan. Changes must be compliant with Sec. 32-76.
- (g) Compliance with the approved vegetation plan is required prior to issuance of a certificate of occupancy.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 7-13-2021(1))

Sec. 32-76. Tree and vegetation guidelines.

Vegetation plans shall comply with the following guidelines:

- (1) Provide for the retention and protection of existing trees and the planting of new trees as follows:

- a. A minimum of one-inch dbh per 220 square feet of lot area shall be preserved.
 1. If trees are located where permit required site improvements are proposed, trees from the species listed in Table 1 shall be replanted to meet the minimum requirements.
 2. The dbh of Specimen or Heritage Trees being preserved per Section 32-79 shall be counted toward this minimum requirement.
 3. Preserved trees shall be any tree species with a minimum of a 5-inch dbh to be counted toward the total dbh to be retained.
 4. Planted trees shall be a Large Tree Species a minimum of 2 dbh to be counted toward the total required dbh.

Diameter at Breast Height (dbh) to be retained per lot Town Oak Island, NC

Note 5-inch dbh minimum tree size for credit

Lot Size (square feet)	Dbh to be retained (inches)
6600	30
7500	34
10000	45
20000	91

- b. Planting of new trees shall only be allowed to meet the required dbh when the required number of existing trees cannot be retained on the lot. Lots unable to retain the required dbh of existing trees shall need an approved planting plan by the Tree Program Manager prior to any development or building permits being issued.
- c. A minimum of four-inch dbh per 25 linear ft of street frontage shall be saved or restocked within the front setback area. If the development application shows an additional four-inch dbh per 50 linear feet of street frontage located within the front setback beyond the minimum tree amount required to be preserved, then the development permit fee will be waived.
- d. Oceanfront and second row properties are excluded from the requirements of Sec. 32-76(1) a, b, c, and e. A combination of trees, herbaceous plants, and/or grasses shall be planted or preserved to provide a planted area of 50 square feet for each 500 square feet of heated area for oceanfront and second row lots. Only species listed in Table 1 and recommended for seaside plantings shall be planted to meet the minimum requirements for oceanfront and second-row lots.
- e. The applicant may request a reduction of tree dbh up to 30% of the total required amount. Should the applicant request a reduction, the applicant shall pay \$250 per inch dbh reduced. These funds shall be used by the Town for the planting, maintenance, distribution, enhancement, and preservation of trees in public spaces including, but not limited to, parks, streets, open spaces, and other Town-owned facilities. This option shall not be used for heritage trees as defined by this Chapter.
- f. Lots devoid of trees or which do not meet the required dbh to be saved shall need an approved vegetation plan showing the minimum dbh required under 32-76 (1) prior to issuance of any development or building permit.
- g. A permit application to demolish and replace or rebuild a principal structure on a lot with an already established residential principal structure must maintain the ordinance required minimum number of trees.
- h. Preserved trees shall be guarded during development against the following:

1. Cutting, breaking, bruising, and skinning of limbs, roots, or bark of preserved trees shall not be allowed.
 2. No attachments including wires, ropes, cables, signs, or other materials shall be made to preserved trees.
 3. No parking, storage, or equipment traffic shall be allowed within the critical root zone of preserved trees.
 4. During and after land clearing and construction stage of development, the Tree Program Manager or their designee may inspect the site to ensure compliance with the provisions of this section.
2. Preserve and protect as much natural area on the site as is practicable.
 3. Incorporate existing vegetation, natural areas, and specimen trees into required shoreline, wetland, and visual buffers where possible.
 - 4.—Where vegetation is being replaced, applicants shall select plant types from the Oak Island Approved Native Plant Material List found as Table 1 in Appendix A of this Chapter. New plantings shall be spaced a minimum of 10 feet from existing trees, other new plantings, and the foundation of any permanent structure.
 5. Applicants shall not completely clear shrubs and grasses in areas designated as preserved natural areas in vegetation plans without the approval of development services, or the Tree Program Manager or his/her designee.
 6. Planted or preserved trees shall be maintained in a healthy state for a minimum of one (1) year after the issuance of the Certificate of Occupancy or after planting if delayed planting is allowed by the Tree Program Manager. Trees may only be removed during the 1-year period upon the issuance of a Tree Removal Permit and shall be replaced to meet the minimum dbh requirements at the time the Certificate of Occupancy was issued. The Tree Program Manager or his/her designee shall inspect the health of planted or preserved trees at any time during the 1-year period.
 7. The Tree Program Manager or his/her designee may delay plantings during the months of June, July, August and September. When planting is delayed, the Tree Program Manager or his/her designee shall set a date certain that the planting shall be completed and shall inspect the site to determine compliance.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 12-11-2018; Amend. of 7-13-2021(1) ; Amend. of 9-13-2022(1))

Secs. 32-76.1—32-76.3. Reserved.

Editor's note—Amend. of 7-13-2021(1) repealed § 32-76.1, which pertained to parking facilities landscaping for new development projects; § 32-76.2, which pertained to tree and shrub preservation; and § 32-76.3, which pertained to landscaping maintenance for projects other than single-family residential; and all derived from Ord. of 3-10- 2009; Amend. of 5-15-2012; and Amend. of 12-9-2014.

Sec. 32-77. No clearing without permit.

No clearing or removal of vegetation other than bush hogging shall be permitted on any undeveloped lot or parcel or any lot or parcel to be redeveloped without a valid land use permit from the town. The following activities are exempt from this section: bona fide forestry and agricultural practices, control of non-invasive species identified by the North Carolina Department of Agriculture, and minor clearing of vegetation for line-of-sight surveying, footpaths, and minor clearing and/or cutting of grasses, weeds, vines and so on as required for responsible property maintenance. Vegetative material will be disposed of properly as indicated in section 24-65.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-78. Flexible setbacks.

The allowable building area on each lot or parcel may be moved toward one side lot line and either the rear lot line or the front street line a distance of up to 25 percent of the required setback for the zoning district for the purpose of preserving natural areas and/or specimen trees. This section does not increase the maximum permitted length and width of the allowable building area. Such setback or yard modifications must be approved by the development services staff in writing prior to construction beginning. Setback adjustments shall be noted on the final survey. A conservation easement shall be recorded at the Brunswick County Register of Deeds for the areas being preserved and a copy of the recorded easement provided to the Tree Program Manager prior to issuance of a Certificate of Occupancy.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014)

Sec. 32-79. Tree Preservation

- a. Applicability. This subsection shall apply to all development within the Town's jurisdiction.
- b. No person, directly or indirectly, shall remove any heritage tree from public or private property within the required setback area during development. In addition, no heritage tree may be removed from any location on developed property without first obtaining a tree removal permit.

(c) Tree Removal Permit. All persons seeking a permit for removal of a heritage tree from the areas outlined in subsection (b) shall make application to the Tree Program Manager. The application shall contain the following.

- (1) The name, address, and phone number of the property owner of the site.
- (2) The address of the construction site or site of tree removal if different than the property owner's legal address.
- (3) The name, address, and telephone number of the applicant.
- (4) A site plan containing the following information. For new construction, this information can be included in the tree and vegetation plan required by Chapter 32 of the Code of Ordinances.
 - a. The shape and dimensions of the property.
 - b. Location of existing or proposed structures and improvements.
 - c. The location and dbh of all trees.

(d) Criteria for Tree Removal Permit Issuance. No tree removal permit shall be issued unless one (1) or more of the following criteria are met.

- (1) The heritage tree is dead, severely diseased, injured or in danger of falling close to existing or proposed structures.
- (2) The heritage tree is causing disruption of existing utility service or causing drainage or passage problems upon the right of way.
- (3) The heritage tree is posing an identifiable threat to pedestrian or vehicular safety.
- (4) The heritage tree violates state or local safety regulations.

(e) Issuance, denial of Tree Removal Permit. The Tree Program Manager shall review all properly submitted applications for tree removal permits and shall grant or deny a permit in accordance with the provisions of this chapter within ten (10) business days of submittal. In applying the provisions of this chapter, he shall follow normal landscaping practices and may seek additional technical assistance, as

appropriate. A tree removal permit shall be issued for a qualified application as set forth above and shall apply to the specifics of that request.

Sec. 32-80. Enforcement; penalties for violations of article.

- (1) Violations. Any person violating the requirements of this chapter shall be subject to a civil penalty of \$500.00 as permitted by G.S. 14-4 and shall be required to replant the disturbed area in accordance with an approved vegetation preservation plan that meets the guidelines of 32-74(c) and Section 32-76. The Tree Program Manager or his/her designee may stay enforcement of the civil penalty if the offender replants the disturbed area in accordance with an approved vegetation preservation plan that meets the guidelines of subsection 32-74(c) and section 32-76, provided, however, the option to stay penalty does not apply to heritage trees removed without a permit.
- (2) Appeals. Appeals of decisions of the Tree Program Manager or his/her designee concerning enforcement of this article shall be made to the board of adjustments. Appeals to the board of adjustments shall be made in accordance with section 4.10 of the Unified Development Ordinance.
- (3) Variances. Variances of this Chapter shall be heard by the Board of Adjustment. The Board of Adjustment must follow the standards found in Section 4.10 of the Unified Development Ordinance.

(Ord. of 3-10-2009; Amend. of 5-15-2012; Amend. of 12-9-2014; Amend. of 7-13-2021(1))

Appendix A – Tables

Table 1: Oak Island Approved Native Plant Material List

Botanical Name	Common Name	Traits	Aerosol Salt Tolerance	Maritime Forest	Seaside Planting
<i>Yucca filamentosa</i>	Yucca	E, N, D	H	X	X
<i>Sorghastrum nutans</i>	Indiangrass	N, D	H	X	X
<i>Schizachyrium scoparium</i>	Little Bluestem Grass	N, D	H	X	X
Large (Shade) Tree installed at minimum 2-inch caliper; mature height typically greater than 30 feet					
<i>Muhlenbergia capillaris</i>	Pink Muhly Grass	N, D	H	X	X
<i>Quercus virginiana</i>	Live Oak	E, N, D	M	X	X
<i>Uniola paniculata</i>	Sea Oats	N, D	H	X	X
<i>Magnolia grandiflora</i>	Southern Magnolia	E, N, D	M	X	X
<i>Ammophila previlligulata</i>	American Beachgrass	N, D	H	X	X
<i>Prunus caroliniana</i>	Cherry Laurel	E, N, D	M	X	X
<i>Persea borbonia</i>	Red Bay	E, N, D	H	x	x
<i>Carya glabra</i>	Pignut Hickory	N, D	M	x	
<i>Quercus falcata</i>	Southern Red Oak	N, D	M	x	
<i>Quercus shumardii</i>	Shumard Oak	N, D	M	x	
<i>Pinus palustris</i>	Long Leaf Pine	E, N, D	H	x	x
<i>Nyssa sylvatica</i>	Black Gum	N	M	x	
<i>Taxodium distichum</i>	Bald Cypress	N, D	M	x	
<i>Juniperus virginiana</i>	Eastern Red Cedar	E, D,*N,	H	x	x
Small Tree installed at minimum 2-inch caliper; mature height typically less than 30 feet					
<i>Magnolia grandiflora</i>	'Little Gem' Magnolia	E, N, D	M	x	
<i>Quercus geminata</i>	Sand Live Oak	E, N	H	x	x
<i>Ilex vomitoria</i>	Yaupon Holly	E, N, D	H	x	x
<i>Ilex opaca</i>	American Holly	E, N, D	S-M	x	
<i>Diosporos virginiana</i>	Common Persimmon	N, D	H	x	x
<i>Morella cerifera</i>	Wax Myrtle	E, N, D	H	x	x
<i>Cartrema americana</i>	Devilwood, Wild Olive	E, N	M	x	
<i>Zanrhoxylum clava-hercules</i>	Toothache Tree, Hercules Club	N. D	H	x	x
<i>Myrica cerifera</i>	Southern Wax Myrtle	E, N, D	H	x	x
<i>Sabal minor</i>	Dwarf Palmetto	E, N, D	M	x	
Shrubs, Grasses, and Herbaceous Plants transplanted from 5-gallon containers; typical height 3-15 feet					
<i>Ilex vomitoria "Nana"</i>	Dwarf Yaupon Holly	E, N, D	H	x	x
<i>Ilex vomitoria "Pendula"</i>	Weeping Yaupon Holly	E, N, D	H	x	x

Traits Key: E = EVERGREEN, N = NATIVE, D = DROUGHT TOLERANT, *N = NATIVE TO NORTH AMERICA
MAINE TO TEXAS

Salt Tolerance Key: HIGH (H)—DIRECT SALT SPRAY; PLANT ON DUNES/BEACH FRONT, MODERATE
(M)—INDIRECT SALT SPRAY, SLIGHT (S)—LOW/NO SALT SPRAY