

THE CITY OF PEMBROKE TREE ORDINANCE

ORDINANCE # \_\_\_\_\_

- I. Purpose:** It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees within the City of Pembroke, Georgia by:
- (a) Maintaining the environmental and aesthetic benefits that trees provide;
  - (b) Improving the appearance of vehicular and pedestrian use areas;
  - (c) Providing buffers for different land uses to eliminate or minimize potential nuisances such as dust, litter, noise, glare of lights, signs and unsightly buildings or parking areas; and
  - (d) Protecting and conserving property values within the City of Pembroke
- II. Authority:** The authority for the establishment and creation of the City Tree Board is derived from the provisions of Article IX, Section 2, Paragraph IV and Article IX, Section 2, Paragraph II of the Constitution of Georgia of 1983.
- III. Power:** There is hereby created and established a City Tree Board for the City of Pembroke, which shall consist of the Mayor and Council, the Chairman of the Planning and Zoning Commission, and a resident citizen appointed at large by the Mayor and City Council. Members of the Board shall serve without compensation; the City will reimburse however reasonable expenses incurred from the fulfillment of Board responsibilities. The City Tree Board shall be the responsible entity for all issues concerning trees.
- IV. Terms of Office:** The Mayor, Council Members, and the Chairman of the Planning and Zoning Commission shall serve concurrently as members of the City Tree Board. The appointed citizen will serve a term of three years. The Mayor and City Council shall assign the citizen member. In the event of a vacancy, a successor shall be appointed for a full three-year term.
- V. Exemptions:** The regulations set forth herein shall apply to all real property within the City of Pembroke, subject to the following exemptions:
- (a) Residential. Lots equal to one (1) acre or less that are zoned for residential use shall be exempt from the provisions of this ordinance, except for designated grand trees.
  - (b) Existing Residential. Lots larger than one (1) acre with residential structures existing as of the date of this ordinance shall be exempt from the provisions of this ordinance, except for designated grand trees.
  - (c) Commercial Timber Operations. Commercial timber operations shall be exempt from the provisions of this Ordinance. The City encourages the retention of a thirty-foot (30') buffer of existing trees adjacent to all public rights-of-way.
  - (d) Wetlands Mitigation. The mitigation of wetlands pursuant to an approved plan from the US Army Corps of Engineers (COE) shall be exempt for the provisions of this Ordinance.
  - (e) Commercial Tree Operation Exemption. Trees grown specifically for sale by commercial nurseries are exempt from the provisions of this Ordinance.
  - (f) Agricultural or silviculture exemption. Any *bona fide* agricultural or silviculture use, in operation prior to the effective date of adoption of this Ordinance, shall be exempt from this Ordinance.
- VI. Applicability:** This Ordinance provides full power and authority over all trees, plants and shrubs located within public street rights-of way, parks and public places of the city; and to trees located on private property proposed for development; if said property does not fall within one of the exemptions listed above.
- VII. Definitions:**
- 1. Arborist. Means a person or firm, possessing a current State of Georgia or City of Pembroke business license, who has been trained in the business of diagnosing, treating, pruning and

removing trees, including landscape architects and persons with a formal knowledge of trees, such as Cooperative Extension Service agents. Also includes foresters registered with the Georgia Secretary of State's Office.

2. *Bona fide* agricultural use. Means a parcel zoned for agricultural use under the City's Zoning Ordinance, which has greater than fifty percent (50%) of the parcel in active agricultural production.
3. City Arborist. Means arborist selected by City to render decisions on issues concerning trees within the City of Pembroke.
4. Commercial Nursery. Means an ongoing business for the planting, growing and sale of plants and trees. A commercial nursery does not include an ongoing silviculture operation (tree farming).
5. Commercial Timber Operation. Means property that, on the effective date of this Ordinance, is being used to raise, harvest or produce trees for commercial marketing. The burden shall be upon the owner to establish this use through evidence such as prior leases or marketing agreements, the actual planting of trees for harvest, or other evidence to prove a commercial timber operation.
6. Designated Grand Tree. Means a tree twenty-four inches (24") or greater DBH and listed in the officially adopted City of Pembroke Inventory of Grand Trees.
7. Diameter Breast Height (DBH). Means the total diameter, in inches, of a tree trunk or trunks (in the case of trees with multiple trunks) measured four and one-half feet (4 ½') above existing grade.
8. Drip Line. Means an imaginary line that extends downward from the outermost branches of a tree to the ground.
9. Fence or Wall. Means a structural device erected to serve as an architectural element, landscape element, screen or barrier.
10. Grade. Means the natural elevation of the ground.
11. Ground Cover. Means low growing plant material less than eighteen inches (18") in height.
12. Protective Barricade. Means a physical structure not less than four feet (4') in height, limiting access to protected designated grand trees. A suitable protective barrier shall be composed of wood or other durable material that insures protection of protected designated grand trees during development.
13. Screening. Means the use of landscape planting, fences, walls or other structures to obscure vision of an unsightly or undesirable land use or structure and to minimize the intrusion of lighting on neighboring property.
14. Silviculture. Means the cultivation of a forest for the purpose of harvesting timber.
15. Wetland. Means land that falls under the jurisdiction of one or more of the following agencies: the Georgia Department of Natural Resources or the United States Army Corps of Engineers (US COE)

#### **VIII. Tree Removal Restrictions.**

- (a) Protection of Designated Grand Trees. The City of Pembroke shall establish an inventory list of Designated Grand Trees (see attachment "A") to be included as part of this ordinance. The removal, relocation, destruction or abuse in any manner of any Designated Grand Tree without prior approval of the City Tree Board is prohibited on any parcel of non-exempt land (see above). For new subdivisions, the division of property so that a lot would place a grand tree at or near the center of a lot in a location that would require the removal of the grand tree for construction of a dwelling unit, shall be discouraged.
- (b) Protected Trees Prior to Development. Where a building permit or subdivision approval has not been issued, the removal, relocation, destruction or abuse in any manner of more than twenty-five percent (25%) of the large trees (6" or greater DBH) on any one (1) parcel of non-exempt land within any five (5) year period shall be prohibited
- (c) Protected Trees During Development. For parcels of land proposed for development, large trees (6" or greater DBH) on the entire parcel shall be saved wherever possible, with a goal of preserving most of the large trees on the property. Designated Grand Trees shall be preserved unless specifically condemned by the City Tree Board.

- (d) This Ordinance shall not restrict the ability of the City Of Pembroke, public utilities and electric suppliers from maintaining safe clearance around utility lines.

**IX. Tree Survey Requirements.**

- (a) Application for subdivision approval. Application for subdivision approval where Designated Grand Trees are to be impacted shall require the following information in addition to the site plan or plat information required by the City of Pembroke Subdivision Regulations.
- (b) A tree survey overlay on the plat that locates all Designated Grand Trees identified by species. All tree surveys for subdivisions involving the construction of road or drainage easements shall be performed by an approved arborist and shall have an accuracy of plus or minus three feet (+3') and will indicated the limits of areas proposed to be clear-cut for proposed structures, improvements, rights-of-way and easements. Clear cutting beyond the limits as shown on the plat or site plan shall not be permitted.
- (c) A tree protection plan showing how Designated Grand Trees located in the development areas are to be protected during development in accordance with the standards set forth in Section X of this ordinance.

**X. Tree Protection Requirements.**

For all new construction in Subdivisions of five lots or more, protective barricades shall be placed around all Designated Grand Trees located in development areas prior to the start of development activities, and shall remain in place until development activities are complete or construction in accordance with standards set forth in this Section commences. The area within the protective barricade shall remain free of all building materials, dirt or other construction debris, vehicles and development activities. Barricades shall be erected at a minimum distance from the base of protected trees and grand trees according to the following standards: Designated Grand Trees shall have a protective barricades shall provide a diameter of protection around the tree equal in feet to the diameter breast height of the tree (i.e., a 24" diameter tree would require a 24 foot diameter protective barricade).

- (a) Construction within the protective barricade. Proposed changes in grade or construction of impervious surface or utilities within the required protected barricade may be permitted providing that the City Tree Board, prior to beginning construction, approves all changes in grade or construction within protected zones. Plans must be submitted which illustrate in detail protective measures necessary to protect the trees.
- (b) All pruning of Designated Grand Trees shall be done by a licensed tree service during development according to the National Arborists Association, Pruning Standards for Shade Trees.

**XI. Parking Lot Landscaping Requirements.** All new parking lots greater than one-quarter acre in size shall require the installation and maintenance of landscaping pursuant to this ordinance. Proposed improvements to properties developed prior to (effective date of this ordinance) shall only require landscaping for the section(s) of the lot being improved, unless the cost of the proposed building additions and site improvements exceeds fifty percent (50%) of the current value of the existing land and improvements thereon, in which case the entire lot shall be brought into compliance with landscaping requirements of this ordinance.

- (a) Plan review and approval requirements. Whenever any property is affected by this article (one-quarter acre or larger parking lot), the property owner or developer shall submit a landscaping plan for review and approval by the City Tree Board. The contents of the plan shall include the following:
  1. Layout of all off-street parking and loading areas, including the location of entry and exit points, the internal vehicular circulation pattern and the location and dimension of required parking and loading spaces;
  2. Location and dimensions of existing and proposed streets and highways;
  3. Location, name (botanical and common), size and spacing of all plant materials to be retained and proposed plantings and screenings.

- 4. Locations of walls, fences and railings and an indication of their height and construction materials;
  - 5. Details illustrating landscaping installation.
- (b) No building permit or subdivision plat approval shall be issued until the required parking lot landscaping plan has been submitted and approved.

**XII. Enforcement:** The City arborist or other designated representative shall have the power to enforce the rules, regulations and specifications concerning protection of Designated Grand Trees, tree surveys, tree identification and installations of tree protective barriers. The review of plans for parking lots and other development plans that require tree protective measures shall be the responsibility of the City Tree Board. All tree protection plans will be submitted to the City Tree Board.

**XIII. Penalties and Appeals:** Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to this ordinance, upon being found guilty of violation in municipal court shall be subject to a fine not to exceed \$500 for each separate offense. Each day during which violation of the provisions of this ordinance shall occur or continue shall be a separate offense. An alternative to the assessment of a fine is the replacement of the damaged or removed trees or shrubs. The violator will be assessed the evaluation and the money will be paid to the City to purchase and plant replacement trees. The value of trees shall be determined in accordance with the latest revision of *A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens*, as published by the International Society of Arboriculture. Any adjudication of a violation of this ordinance may be appealed to state court.

**XIV. Amendment Procedure:** This ordinance may be amended at any time pursuant to the procedures utilized by the City when amending any ordinance.

**XV. Adoption:** This Tree Ordinance is hereby adopted this 9<sup>th</sup> day of September 2002, and becomes effective immediately because the health, safety and general welfare of the City requires such.

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Judy B. Cook, Mayor

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Joey Burnsed, Councilmember

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Randall Butler, Councilmember

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Ernest Hamilton, Councilmember

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Elijah Lewis, Jr., Councilmember

ATTEST:

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Betty K. Hill, City Clerk

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Johnnie Miller, Councilmember