

Section 64-4.

H. Tree protection requirements.

1. Purpose.

- a. To promote environmental and ecological awareness;
- b. To improve the city's image and aesthetic charm and beauty;
- c. To protect property values from the adverse aesthetic and ecological effects of imprudent tree removal;
- d. To promote ground and surface water stabilization and decrease the adverse impact of the water table fluctuations caused by imprudent removal;
- e. To protect against greater noise pollution which is increased by the imprudent removal of buffer trees;
- f. To protect existing vegetation from greater wind velocities resulting from the imprudent removal of buffer trees;
- g. To promote air quality which is significantly affected by the natural clearing of the atmosphere by the trees through particulate matter interception and the release of oxygen into the atmosphere as a byproduct of photosynthesis;
- h. To stabilize the urban wildlife habitat and ecosystem balance;
- i. To provide for the public health, safety and welfare;
- j. To support the provisions of the Mobile Tree Act (Act. No. 929, Acts of Alabama, 1961 Regular Session, as amended in 1981);
- k. To provide uniform standards in the removal and replacement of trees on public and private property within the corporate limits of the City of Mobile, with the exception of the rights-of-way of public streets and areas designated as rights-of-way on approved subdivision plats in accordance with both municipal and state laws which are governed by the Mobile Tree Act and the Mobile Tree Commission;
- l. To educate the public in the economic, aesthetic and historic benefits of preserving trees, including conserving energy, reducing soil erosion, and protecting trees and the ecosystem of the City of Mobile, Alabama;
- m. To preserve the economic base attracted to the City of Mobile by such factors.

2. Application of section. The requirements of this subsection shall apply to all land, other than the public rights-of-way, and areas designated as rights-of-way, located within the corporate limits of the City of Mobile, except R-1 and R-2 lots with an existing habitable structure, which are not located in an historic district subject to the rules and regulations of either the architectural review board and/or the Old Dauphin Way review board. However, R-1 and R-2 lots which are under the purview of the rules and regulations of either the architectural review board and/or the Old Dauphin Way review board are subject to the requirements of this section.

3. Mobile tree commission.

- a. The Mobile tree commission shall act in an advisory, research and consultation capacity to the City of Mobile and the general public, in coordination with the city's urban forester.
- b. Nothing in this section shall be construed to limit the Mobile tree commission's regulatory authority pursuant to the Mobile Tree Act of 1961, (Act. No. 929, Acts of Alabama, 1961 Regular Session, as amended, 1981) with regard to monitoring trees in public rights-of-way.
- c. Further, the Mobile tree commission shall take active steps to:
 - (1) Conduct regular meetings in a public place in a manner conducive to public comment and participation;
 - (2) Educate the public as to provisions of Article IV, section H of the zoning ordinance and the State Tree Act, as well as the economic, aesthetic and historic benefits of trees to the city and its citizens, both on publicly and privately owned property protected by this section;
 - (3) Promote the planting and replacement of trees in the city;
 - (4) Promote the health, care, watering, fertilization and other desirable measures which promote the maintenance and growth of existing trees in street rights-of-way and public parks in the city;
 - (5) Protect trees located in the city's street rights-of-way and public parks from damage, removal, lack of sustenance or any other act or condition which might threaten the health and growth of such trees; and
- d. On the 1st day of March in each year, the Mobile tree commission shall make a written report to the mayor, the city council and the planning commission which report shall state:
 - (1) The number of heritage trees and heritage live oak trees preserved during the previous twelve (12) months;
 - (2) The number of public trees and new heritage trees planted during the previous twelve (12) months;
 - (3) Other pertinent information.

The inspection services department shall keep monthly totals on the number of heritage trees preserved and planted during the previous month and shall transmit the same to the Mobile tree commission for use in the above referenced report.

4. Permit. Any person wishing to remove or relocate a heritage live oak tree shall under the provisions of this section make written application with the city inspection services department, which application shall include a landscape plan as provided in section IV E. Upon paying an administrative application fee of thirty dollars (\$30.00) to cover the costs of researching and processing the application, the application and plan shall be stamped with the date and time and forwarded to the city's urban forester for review and approval. All proceeds from the said processing fee shall be earmarked for the use of the city's urban forester for the administration of this subsection.
 - a. Time of permit. Any and all permits issued by the city as per the requirements of this subsection shall be declared null and void if commencement of work so permitted is not started within a reasonable time, not to exceed six (6) months. But in no case will the permit be valid for more than twelve (12) months. Permits not used within this period will become null and void and future work will require a new application.

- b. Permit procedure. An application may be field checked prior to issuance of a permit, but in no event more than ten (10) working days after the date of receipt of the application. Failure to deny the application, as provided herein, within this ten-day period shall result in the automatic issuance of the permit as requested in the application. The urban forester may request a recommendation concerning the application from any or all appropriate city departments, and/or the tree commission.
- c. Pre-application inspection service. In connection with applications involving extremely large tracts of property, the urban forester may arrange and coordinate a pre-application inspection of the site involved.
- d. Issuance and denial of permit. Upon receiving the field inspection report and any requested recommendations concerning the application, the urban forester shall issue a permit for the removal or relocation of trees if one (1) or more of the criteria in subparagraph (e) is met.
- e. Criteria for issuance of tree removal permit.
 - (1) The tree is located in an area where a structure or improvement will be placed according to an approved plan.
 - (2) In addition to criteria #1 above, as to R-1 and R-2 properties only, the tree is located where a swimming pool or detached carport or garage will be located.
 - (3) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance or conflicts with other ordinances or regulations.
 - (4) The tree is, or will be after construction, in violation of federal, state, or local laws or regulations, or cause the construction to violate federal, state, or local laws or regulations including, but not limited to, laws and regulations pertaining to government programs for financing the construction.
- f. Basis for denial of permit. The urban forester, upon a determination that an application for tree removal does not meet the criteria of subparagraph (e) above, may, within his discretion, deny the same and shall notify the applicant of the reason(s) for said denial within five (5) working days of his decision.
- g. Historic areas. All other provisions of this subsection notwithstanding, no heritage tree can be removed, nor can land be cleared or grubbed, in any historic district, area, or property within the jurisdiction of the architectural review board and/or the Old Dauphin Way review board, except under a permit issued by the urban forester after application as provided above, which shall be granted only upon a showing that the said heritage tree is:
 - (1) Diseased or injured, in danger of falling too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance or conflicts with other federal, state or local laws and regulations;
 - (2) Certified by the architectural review board or the Old Dauphin Way review board to be removed for the purpose of renovating an historic structure or enhancement of the aesthetic quality of the property; or
 - (3) The owner of the property on which the heritage tree is located has demonstrated by clear and convincing evidence that the owner will suffer extreme and extraordinary hardship unless the permit is granted.

In all cases where removal is permitted, the said tree shall be relocated if deemed feasible by the urban forester and the cost does not exceed five hundred dollars (\$500.00). Otherwise the said tree shall be replaced on a two (2) for one (1) basis, with replacement heritage trees in compliance with section IV E. For trees located in areas covered by this subsection the definition of a heritage tree shall be amended to reduce the size to eight (8) inches DBH.