



**TOWN OF BLUFFTON  
BLUFFTON TOWN COUNCIL WORKSHOP MEETING**

**ELECTRONIC MEETING**

**Thursday, June 11, 2020 | 6 PM**

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This meeting can be viewed on the Town of Bluffton's Facebook page  
(<http://www.facebook.com/TownofBlufftonSC/> )

- I. Call to Order – Mayor Sulka
- II. Adoption of the Agenda
- III. Public Comments – Pertaining only to Agenda Items
- IV. Workshop Agenda Items:
  1. Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards: Sec. 5.3 Natural Resources: Tree Conservation, Planting and Landscaping Related to Tree Conservation, Landscaping Standards and Fee in Lieu of Tree Replacement – Heather Colin, Director of Growth Management
  2. Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.10 Stormwater Management, Master Grading and Drainage – Heather Colin, Director of Growth Management
  3. Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 5 – Official Construction Code, Development and Construction Site Standards – Heather Colin, Director of Growth Management
- V. Executive Session
  1. Contractual Matters Pertaining to the Acquisition of Real Property within the Buck Island Simmonsville Area and May River Road (Pursuant to SC Freedom of Information Act 30-4-70 [a][2])

“FOIA Compliance – Public notification of this meeting has been published and posted in compliance with the Freedom of Information Act and the Town of Bluffton policies.”

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Town of Bluffton will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The Town of Bluffton Council Chambers are ADA compatible. Any person requiring further accommodation should contact the Town of Bluffton ADA Coordinator at 843.706.4500 or [adacoordinator@townofbluffton.com](mailto:adacoordinator@townofbluffton.com) as soon as possible but no later than 48 hours before the scheduled event.

\*Please note that each member of the public may speak at one public comment session and a form must be filled out and given to the Town Clerk. Public comment must not exceed three (3) minutes.

2. Receipt of Legal Advice Relating to the Town of Bluffton Development Agreements (Pursuant to SC Freedom of Information Act 30-4-70[a][2])

VI. Action from Executive Session

VII. Adjournment

\*Public Comments may be submitted electronically via the Town's website at (<https://bit.ly/TOBPublicComment>). Comments will be accepted up to 2 hours prior to the scheduled meeting start time. All comments will be read aloud for the record and will be provided to Town Council.

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\*Please note that each member of the public may speak at one public comment session and a form must be filled out and given to the Town Clerk. Public comment must not exceed three (3) minutes.

# TOWN COUNCIL

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## STAFF REPORT Department of Growth Management

<b>MEETING DATE:</b>	June 11, 2020
<b>PROJECT:</b>	Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards: Sec. 5.3 Natural Resources: Tree Conservation, Planting and Landscaping Related to Tree Conservation, Landscaping Standards and Fee in Lieu of Tree Replacement
<b>PROJECT MANAGER:</b>	Kevin P. Icard, AICP Planning & Community Development Manager

**REQUEST:** Provide direction on proposed amendments to Chapter 23 – Unified Development Ordinance, Article 3 – Applications Process, Article 5 – Design Standards, and Article 9 – Definitions and Interpretation Related to Tree Conservation.

**BACKGROUND:** The development of large tracts of land often requires the removal of numerous trees for roadways, infrastructure and buildings. While the current Tree Conservation ordinance ensures that replacement trees will be provided, there has been increasing sentiment that too much tree canopy is still being lost. Therefore, Town Council directed staff re-evaluate the existing tree requirements located in UDO Section 5.3, Natural Resources: Tree Conservation, Planting and Landscaping.

A local landscape architecture firm was engaged to evaluate the ordinance and prepare amendments with assistance from Town staff. Several regional tree ordinances were reviewed to determine if there might be elements of those ordinances that could be incorporated or refined for incorporation in the Tree Conservation ordinance (UDO Sec. 5.3.3). Amendments were then prepared to provide improved standards for the saving and replacement of trees.

Amendments that support the objective include:

- For trees to be replaced, a minimum size tree (provided in caliper-inches) is specified for both protected and specimen trees that are proposed to be removed. This could result in larger and/or more trees being planted and encourage preservation of smaller trees for mitigation;
- Trees that are not classified as protected or specimen may be used towards mitigation if they are a minimum of 8-inches in diameter at breast height (DBH). Saving such trees would limit the number of trees to be removed, reduce earthwork, and provide a cost savings for the developer;
- A minimum requirement of 15 trees per acre would be required. There is presently no minimum number of trees, but a minimum of 75% tree canopy, not including

- rooftops, that must be provided on site. This 75% minimum coverage would remain which can include a combination of existing trees and trees to be planted;
- For replacement trees that are not mitigated on-site, a fee is proposed to allow payment into the Town's Tree Fund. The proposed fee is \$70 per tree caliper-inch. Caliper identifies the size of tree as measured 6-inches above the ground or root ball. A definition of caliper is proposed to be added to UDO Sec. 9.2, Defined Terms; and
  - Identification of 12 native and naturalized tree species to be used for replacement trees.

Additional amendments proposed include:

- Refinements to existing protected and significant tree definitions and changing the "significant" tree designation to "specimen" tree. Protected trees would include palms, live oaks, and magnolias at least 12 inches DBH; all other hardwoods at least 18-inches DBH, and pines at least 24-inches DBH. Presently, a protected tree is any tree that is at least 8-inches DBH and certain trees, including dogwoods, redbuds, and southern magnolias at least 4-inches DBH. A specimen tree would be any hardwood, palm, or cedar at least 24-inches DBH, pines at least 36-inches DBH, and tree listed on *America's Historic Tree Register*, all trees—no matter the size—located within regulated wetland buffers;
- Replacing the Development Review Committee with the UDO Administrator with regards to authority to remove a specimen tree;
- Not requiring tree replacement for trees that are dead, diseased, hollow or have another condition that constitutes an eminent danger;
- Providing more flexibility with regards to excessive tree caliper inches not planted on-site. Presently, only payment into the Town's Tree Fund is permitted. It is proposed that the UDO Administrator be allowed to consider other options, such as planting elsewhere in Town or donation; and
- Revising Sec. 3.22, Tree Removal Permit to change the name of "significant" tree to specimen tree and updating the Master Fee Schedule to include the caliper-inch fee for replacement trees that are not planted on-site.

The proposed ordinance is included as Attachment 1.

**CONSIDERATIONS:** Items for Town Council consideration in this matter, include, but are not limited to, the following:

1. Does Town Council want staff to move forward with the proposed UDO Amendments?
2. Are there any additional changes Town Council would like to be included?

**RECOMMENDATION:** To forward the amendments to the Planning Commission for a Public Hearing, followed by a first and second reading/public hearing by Town Council.

**NEXT STEPS:**

<b>Tree Conservation Procedures</b>	<b>Date</b>	<b>Complete</b>
<b>Step 1. Town Council Workshop</b>	June 11, 2020	✓
<b>Step 2. Planning Commission</b>	July 22, 2020	✓
<b>Step 3. Town Council – 1st Reading</b>	August 11, 2020	✓
<b>Step 4. Town Council Meeting – Final Reading and Public Hearing</b>	September 8, 2020	✓

**ATTACHMENTS:**

1. Proposed Ordinance

### 3.22 Tree Removal Permit

#### 3.22.1. Intent

This Section is intended to provide procedures and standards for the review of Tree Removal Permit Applications. Review of Tree Removal Permit Applications shall consider the following objectives:

- A. Protect the Town of Bluffton's tree canopy, historic trees, and significant individual specimen trees;

*[B-D not provided; no changes.]*

### 5.3 Natural Resources: Tree Conservation, Planting & Landscaping

#### 5.3.3. Tree Conservation

Unless otherwise stated in this UDO, no person shall cut, destroy, cause to be destroyed, move or remove any tree, without first obtaining an approval as required by Section 3.22, Tree Removal Permit.

**A. Protected and Specimen Tree Designations:** ~~No person shall cut, destroy, cause to be destroyed, move or remove a protected tree without first obtaining an approval as required by Article 3, Application Process.~~

1. Protected Trees: ~~A protected tree is defined as all trees, including significant trees, that are 8 inches in Diameter at Breast Height (DBH) or greater and all American holly, dogwood, redbud, southern magnolia, and red buckeye trees that are 4 inches in DBH or greater.~~ A protected tree is any palm, live oak, cedar or magnolia at least 12 inches in Diameter at Breast Height ("DBH"); all other hardwoods at least 18 inches DBH; and, pines at least 24 inches DBH.
2. Significant Specimen Trees: ~~A significant tree is defined as all trees that are 24 inches in DBH or greater, any tree listed on American's Historic Tree Register maintained by American Forest, and all trees, regardless of size, that are located within regulated wetland buffers.~~ A specimen tree is any hardwood, palm or cedar at least 24 inches DBH; pines at least 36 inches DBH; any tree listed on America's Historic Tree Register maintained by American Forests; and, all trees, regardless of size, that are located within regulated wetland buffers.

**B. Tree Marking:** Prior to any removal or commencement of construction on a site, a red ribbon shall be used to identify trees to be removed.

**C. Tree Conservation During Site Planning:**

1. During the site planning for any property, consideration shall be given to the existing tree canopy and every reasonable effort made to maximize the preservation of the existing canopy.
2. No significant specimen tree will be permitted to be removed until reviewed and approved by the ~~Development Review Committee ("DRC")~~ UDO Administrator. If the ~~DRC~~

UDO Administrator determines that the Applicant has not met the intent of the following criteria, the removal shall require approval of the Planning Commission.

**Review Criteria**

- ~~1.~~ a. It is difficult or impossible to reasonably use the property without the removal of the tree.
- ~~2.~~ b. Roads, parking area, drive aisles, paths and other site features have been designed around the canopies of the ~~protected~~ specimen trees to the greatest extent possible.
- ~~3.~~ c. The removal allows the preservation of other, healthier hardwood trees on the property.
- ~~4.~~ d. Adjustments to the site plan cannot be made to save the tree without losing lots or floor area.
- ~~5.~~ e. The tree is not located within a required setback or buffer area.
- ~~6.~~ f. The tree is not listed on America's Historic Tree Register maintained by American Forests.

**D. Tree Conservation During Construction:** The following standards shall apply to all trees, natural areas, and/or buffers that are to be preserved during development in the Town of Bluffton, unless specifically exempted under this Section:

1. Tree Protection Zone (TPZ): Each tree or group of trees to be retained shall have a designated TPZ around the drip line of the tree(s). The UDO Administrator has the authority to modify the TPZ based on site-specific conditions that warrant a modification, which can include increasing the TPZ area.
2. Tree Protection Fencing: Tree protection fencing shall consist of 4 to 6 feet high orange laminated plastic or chain link fence and be mounted on sturdy posts (wood or metal) spaced no more than 10 feet apart. Tree protection fencing shall be erected before demolition, grading, or construction begins and remain in place until final inspection and approval of the project by the UDO Administrator. Tree protection signage shall be placed no more than 40 feet apart stating "Warning – Tree Protection Zone – No activity is to occur within this area." The UDO Administrator may approve alternative methods for delineating tree protection zones.
3. Any damage to preserved trees during construction shall be mitigated using industry accepted standards for limb pruning, root pruning, wound cleaning, watering, fertilizing, and any other applicable mitigation needed. Any damage that is determined to be lethal to preserved trees shall cause the tree to be removed and replaced in accordance with the requirements in this Section.

**E. Tree Conservation Post Construction:** Any tree required to be preserved or required to be planted as a result of the requirement of this article, shall not be removed or caused to be removed unless the tree(s) are replaced accordance with the requirement of this Section.

## F. Replacement of ~~Protected~~ Trees:

1. The following standards shall establish the tree replacement requirement for the removal of certain trees:
  1. ~~a.~~ **Silviculture Pines:** The Town of Bluffton encourages the replacement of planted pines with desirable hardwood trees as specified in Section 5.3.3.F.6. Mitigation for the removal of planted pines will not be required; however, all sites must conform to Section 5.3.3.G. and the minimum landscaping requirements defined in this article.
  2. ~~b.~~ **Invasive and Undesirable Species:** The Town of Bluffton encourages the replacement of invasive species as defined by United States Forest Service or Clemson University, water oaks, and sweetgums with desirable hardwood trees as specified in Section 5.3.3.F.6. Mitigation for the removal of these trees shall be on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.
  - c. **Protected and Specimen Trees Required Trees:** ~~The removal of any tree that was planted to meet the requirements of this Ordinance shall be replaced on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.~~
    - i. The removal of Protected Trees shall be replaced at the rate of 3 caliper inches for every 10 caliper inches removed.  
Example: Removal of 23-inch Live Oak would require 6.9 inches (round up), thus 7 caliper inches of replacement trees.
    - ii. The removal of Specimen Trees shall be replaced at the rate of 4 caliper inches for every 10 caliper inches being removed.  
Example Removal of 33-inch Live Oak would require 13.2 inches (round down), thus 13 caliper inches of replacement trees.
  4. ~~All Other Trees: Unless otherwise noted in this Section, the removal of any protected tree shall be replaced. All replacement trees shall be at least 12 feet tall and have a trunk diameter of not less than 2.5 inches when planted. The replacement of all approved significant trees shall have a trunk diameter of not less than 6 inches. The trunk diameter, also known as trunk caliper, shall be measure at 6 inches above ground. The UDO Administrator has the authority to accept small mitigation trees if the size, shape or topography of the site or the location of utilities unreasonably restricts access to the property or the ability to plant larger caliper replacement trees.~~
    - d. All Other Trees: The saving of non-protected / non-specimen trees is encouraged and may be utilized to meet the replacement requirement above. Existing trees used for replacement cannot be within buffers or subdivided residential lots. Existing trees must be a minimum of 8 inches in DBH to count toward replacement. For every 10 caliper inches of existing trees retained, 2 caliper inches can count toward replacement requirements.
2. The removal of any tree that was planted to meet the requirement of this Ordinance shall be replaced on a 1 tree replacement per 1 tree removal basis provided that the mature canopy of the replacement tree is at least equal to the mature canopy of tree removed.

3. Replacement trees must be native or naturalized species from following list, specified at a similar percentage to those tree species being removed (within 10 percent):
- a. Bald Cypress
  - b. Black Gum
  - c. Black Oak
  - d. Eastern Red Cedar
  - e. Live Oak
  - f. Long Leaf Pine
  - g. Nuttall Oak
  - h. Pecan
  - i. Sabal Palmetto
  - j. Southern Magnolia
  - k. Southern Red Oak
  - l. Willow Oak

All replacement trees shall be at least 12 feet tall and be 2.5 inches in caliper at time of planting.

**G. Additional Requirements for Tree Replacement ~~Maximum Replacement of Removed Trees.~~**

~~The amount of trees required to be planted on-site in order to meet replacement of removed trees requirements shall be limited to the number of trees necessary to provide 75 percent lot coverage with tree canopy measure as the mature canopy, not including rooftops. If all of the removed trees are not required to be mitigated, based on the remaining canopy coverage, the 6 inch caliper replacement trees shall be installed before satisfying the requirement with 2.5 inch caliper replacement trees.~~

In addition to providing replacement trees as specified in this Section, the following shall be required:

1. A minimum 75 percent lot coverage of tree canopy, not including rooftops. Tree canopy shall be measured as mature canopy of existing trees to be saved and proposed replacement trees.
2. A minimum of 15 trees per acre, a combination of proposed and existing trees.
3. If the requirements of G.1 and G.2 are met on-site but the total required replacement tree caliper inches has not been planted on-site, the difference shall be provided in the form of payment to the Town of Bluffton Landscape Fund as specified in Sec. 5.3.8. The UDO Administrator may approve alternatives to payment, either partial or full, such as planting the remaining tree caliper inches elsewhere in the Town.

**H. Exceptions to Tree Replacement Requirements:** The regulations contained in this Section shall apply differently to the following activities:

1. Schools and Public Parks. The removal of tree on property to be used for the purpose of providing active recreation requiring open areas for schools and public parks shall be exempt from this Section. Any other area of a school or public park site not considered active recreation requiring open area shall meet the requirements of this Section.
2. Wetlands Mitigation: The mitigation of wetlands pursuant to a development order or approved plan from, and meeting the requirements of the South Carolina DHEC-OCRM or

the United States Army Corps of Engineers shall be exempt from the provisions of this Ordinance, except for the mitigation requirements listed herein.

3. Commercial Operations: All commercial nursery, botanical garden, and tree farm operations shall be exempt from the provisions of this Section, but only as to those trees that were planted for display or sale in the ordinary course of business.
4. Agricultural Exemption: Any bona fide agricultural use being conducted on land that is eligible for, and actually used for agricultural operations, and written application had been approved by the Beaufort County Assessor for the special assessment for agricultural use for the property in question shall be exempt from this Section, provided that an undisturbed 50 feet wide vegetated perimeter buffer is maintained.
5. Utilities: Utility companies, electric supplier and governmental agencies construction or maintaining within easements or rights-of-ways for water, sewer, electricity, gas, drainage, telephone, television, or other utilities shall be exempt from the provisions of this Ordinance if the applicable company, supplier, or agency has executed an Agreement with the Town which at a minimum:
  - a. Recognizes the need to minimize the cutting or trimming of vegetation that does not frustrate or substantially interfere with the intended purpose of construction or maintenance;
  - b. Establishes, to the extent feasibly, design guidelines for constructions and maintenance that identifies the saving of protected trees as a factor to be considered in the design process;
  - c. Requires a consultation process with the Town prior to the commencement of major construction or maintenance or the removal of protected trees; and
  - d. Provides that a breach of such Agreement constitutes a violation of this Ordinance and a loss of exemption from the requirements of this Ordinance.
6. **Tree Health: Tree replacement is not required for any tree that is dead, diseased, hollow, or has another condition that would constitute an eminent danger to the environment, property, public health, safety or welfare. The process for determination of tree health is specified in Sec. 3.22.2.B.4. and Sec. 3.22.2.B.5.**

### 5.3 Natural Resources: Tree Conservation, Planting & Landscaping

#### 5.3.8. Fee in Lieu of Tree Replacement

#### 5.3.8 Fee in Lieu of Tree Replacement ~~and/or Specific Landscaping~~

~~If it is determined that the required tree conservation and/or specific landscaping standards provision of this Section will have an adverse impact on the intended use for a particular property, the Town Council may authorize the Application to pay a fee in lieu of planting to the Town of Bluffton Tree Fund. The fee per tree is based on the current market rate for the purchase, installation, and 1 year maintenance.~~

If the tree replacement requirements of Sec. 5.3.3.G. are met on-site but the total required replacement tree caliper inches have not been planted on-site, the difference shall be provided in the form of payment to the Town of Bluffton Landscape Fund. The

UDO Administrator may approve alternatives to payment, either partial or full, such as planting the remaining tree caliper inches elsewhere in the Town.

## 9.2 Defined Terms

Caliper: The width of a tree trunk as measured six (6) inches above the root ball.

## Master Fee Schedule Amendment

The Town's Master Fee Schedule will need to be amended to show the cost per tree caliper inch that is required but not met with a planted tree. The fee will be \$70 per caliper inch.

Example: 23" tree caliper inches required: 23 inches X \$70 = \$1610

# TOWN COUNCIL

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## STAFF REPORT Department of Growth Management

<b>MEETING DATE:</b>	June 11, 2020
<b>PROJECT:</b>	Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards, Sec. 5.10 Stormwater Management, Master Grading and Drainage
<b>PROJECT MANAGER:</b>	Kevin P. Icard, AICP Planning & Community Development Manager

**REQUEST:** Provide direction on proposed amendments to Chapter 23 – Unified Development Ordinance, Article 5 – Design Standards, and Article 9 – Definitions and Interpretation related to lot grading.

**BACKGROUND:** It is recognized that lot grading for small infill lots, not just large development tracts, should have minimum regulations in order to minimize groundwater runoff and maximize groundwater recharge. Therefore, the UDO and related stormwater regulations is proposed to be amended to require a Lot Grading Permit for development activities.

This ordinance would support the Community Quality of Life focus area of the 2019-2020 Strategic Plan, specifically Guiding Principle 5, which states: "Foster place-based initiatives and Town codes that support a clean, well-maintained, sustainable community while protecting our natural resources including the May River.

The initial recommendation from Town Staff is that when land disturbance or lot grading is proposed for a lot at least 2,500 square feet in size or an impervious area of a 1,000 or more square feet, a Lot Grading Plan would be required to be submitted by a licensed professional engineer. For Planned Unit Developments, the Lot Grading Plan would be required as part of the Development Plan submission. For a Subdivision Plan with five (5) or more lots, a Lot Grading Plan would be submitted to the Development Review Committee. All other developments would submit the Lot Grading Plan at the time of application for a Building Permit.

The Lot Grading Plan must ensure compliance with the following sections of the UDO: Section 5.3, Natural Resources: Tree Conservation, Planting and Landscaping and Article 5.6, Open Space. Mass grading, the various land disturbance activities undertaken to prepare a large tract of land for development, would no longer be permitted. The Plan would also require compliance with the Town's Stormwater Design Manual, which is anticipated to be updated in late summer or early fall of 2020 after the Low Country Regional Stormwater Manual updates have been approved. Potentially, changes to those manuals could affect the proposed Lot Grading ordinance.

**CONSIDERATIONS:** Items for Town Council consideration in this matter, include, but are not limited to, the following:

1. Does Town Council want staff to move forward with the proposed UDO Amendments?
2. Does Town Council want staff wait to move forward with the proposed UDO Amendments concurrently with proposed amendments to the Low Country Regional Stormwater Manual and the Town’s Stormwater Design Manual to ensure consistency?
3. Are there any additional changes Town Council would like to be included?

**NEXT STEPS:**

Lot Grading Procedures	Date	Complete
Step 1. Town Council Workshop	June 11, 2020	✓
Step 2. Planning Commission	TBD	✓
Step 3. Town Council – 1st Reading	TBD	✓
Step 4. Town Council Meeting – Final Reading and Public Hearing	TBD	✓

**ATTACHMENTS:**

1. Proposed Ordinance

## 5.10 Stormwater

### 5.10.3 Standards

#### E. Lot Grading Permit.

Lot grading activity not conducted in conjunction with the overall subdivision, development, or master plan can create major problems with storm drainage. The Town of Bluffton's Growth Management Division has a responsibility to review lot grading plans on compliance with overall development plans. An objective of the plan shall be to maximize groundwater recharge and to minimize runoff.

No land within the Town shall be cleared, disturbed, graded, excavated, except as follows:

1. It shall be unlawful to perform land disturbance in excess of 2,500 square feet or create an increase in impervious surface in excess of 1,000 square feet unless a Lot Grading Plan has been submitted to and approved by the Town of Bluffton as provided for herein.
2. A Lot Grading Plan shall be filed with and become part of any application for a development/building permit if the limits of proposed land disturbance or impervious surface meet the threshold limits identified above. Such plan shall be prepared by a Professional Engineer licensed in the State of South Carolina in accordance with State law and accompanied by the required fees.
3. Those properties in the Town of Bluffton that are zoned Planned Unit Development (PUD) shall submit the Lot Grading Plan at the Development Plan Application Plan Type to the Growth Management Department. General Subdivision Plan Application Types consisting of five (5) or more lots shall submit the Lot Grading Plan to the Development Review Committee. All other properties shall submit the Lot Grading Plan at the Building Permit Application Type.
4. Issuance of Permit. The Department of Growth Management shall issue a Lot Grading Permit upon receipt of a letter of approval from the UDO Administrator.
5. Amendments to Lot Grading Plans. Amendments, changes or modifications of a minor nature to a plan required as a result of conditions arising in the field during construction may be ordered or approved by the Town Engineer. All other amendments, changes, or modifications to a plan shall require review by the Development Review Committee.
6. The following design standards shall be incorporated into the lot grading plan:
  - a. Article 5.3, Natural Resources: Tree Conservation, Planting, and Landscaping;
  - b. Article 5.6, Open Space; and

- c. Mass grading and clearing shall not be permitted.
- 7. Soil erosion and sediment control measures shall, at a minimum, conform to the Standards for Soil Erosion and Sediment Control per the Town of Bluffton Stormwater Design Manual.

**E. F. Irrigation System.** Irrigation systems must first make use of all available surface stormwater runoff or other retained or detained stormwater as the water supply. No groundwater wells or use of potable water for irrigation of any kind will be permitted in developments or redevelopments unless it can be demonstrated that alternative sources of irrigation water will not exceed pre-development conditions. In addition, no irrigation systems shall be placed within fifty feet of a natural creek, marsh, or estuary where soils and/or grade will allow such irrigation water to flow or migrate to such a natural creek, marsh, or estuary.

**F. G. Waiver.** Individuals seeking a waiver in connection with a Stormwater Plan may submit to the UDO Administrator a request for a waiver from the requirements of this article if exceptional circumstances applicable to a site exist such that adherence to the provisions of the article will result in unnecessary hardship and will not fulfill the intent of the article.

1. Request of Waiver at Staff Level. A written request for a waiver is required and shall state the specific waiver sought and the reasons, with supporting data, a waiver should be granted. The request shall include all information necessary to evaluate the proposed waiver. The applicant will address the three areas of consideration for waiver approval as follows:

- a. What exceptional circumstances to the site are evident?
- b. What unnecessary hardship is being caused?
- c. How will denial of the waiver be inconsistent with the intent of the article?

2. Review of Waivers. The UDO Administrator will conduct a review of the request and will issue a decision within 15 working days of receiving the request.

## 9.2 Defined Terms

**Lot Grading Plan:** A plan to control soil erosion and sedimentation which meets or exceeds the standards for soil erosion and sediment control as outlined in the Town of Bluffton Stormwater Design Manual and has been reviewed and approved by the proper Town authority. (hereinafter referred to as the "plan" and or "lot grading plan")

**Clearing:** The cutting or removal of trees as regulated by the Town of Bluffton Tree Conservation, Planting, and Landscaping standards (Article 5.3)

**Limit of Grading:** The boundary line formed between those areas of a site which are to be graded and the existing natural topography of the property. The limit of grading shall be synonymous with a no cut-no fill line.

**Limit of Lot Grading:** The boundary line formed between all portions of the site where lot grading will occur and the existing natural area of the property.

**Lot Grading:** Any activity involving the clearing, grading, transporting, filling or excavation of land, stump removal or any other activity which causes land to be exposed to danger of erosion. "Lot grading" shall be synonymous with "land disturbance."

**Lot Grading Permit:** A certificate issued to perform work under this article.

# TOWN COUNCIL

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## STAFF REPORT Department of Growth Management

<b>MEETING DATE:</b>	June 11, 2020
<b>PROJECT:</b>	Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 5 – Official Construction Code, Development and Construction Site Standards
<b>PROJECT MANAGER:</b>	Kevin P. Icard, AICP Planning & Community Development Manager

**REQUEST:** Provide direction on proposed amendments to Chapter 5 - Official Construction Code, Article 1 – Administration to create Division 18, Construction Site Property Maintenance and Site Preparation for Severe Weather Events.

**BACKGROUND:** An amendment to the municipal code of ordinances is proposed to address construction site property maintenance during non-emergency events, as well as preparation of construction and developed sites for severe weather events. Several hurricanes in recent years and an increase in development throughout the Town have demonstrated the need for this ordinance.

In the interest of public safety, the ordinance is proposed to prepare construction and developed sites for severe weather events to prevent loose items from becoming airborne. Such items would be required to be secured, stored or removed, and containers and portable toilets would be required to be tied to the ground. Public notice of an impending severe weather event would come when the National Weather Service or National Hurricane Center issues a hurricane or tropical storm warning for Beaufort County, or when a severe weather directive has been issued by the Town Manager, whichever may be first. Once these agencies remove Beaufort County from further weather threat, or the Town Manager ends the severe weather directive, materials and furnishings could be returned to their locations. For construction sites, if the Town deems the site to be an endangerment to public safety; a possibly liability to the Town; or an endangerment to public property, streets or utilities, the Town would be able to enter the site to secure, store or remove items if the property owner or contractor has not done so. The property owner would be required to reimburse the Town for related expenses.

Similarly, it is in the interest of the public welfare to require that construction sites during non-emergency events be maintained in good, clean and safe condition. Minimal standards are proposed to help ensure this, including but not limited to a requirement for debris to be removed at least once a week, or when a dumpster is full; removing any dirt, mud or other debris from rights-of-way and public property on a daily basis; placing portable toilets away from adjacent properties; tree protection measures; and, approving access for construction vehicles. Any violation would require correction within 24 hours, otherwise a stop-work order may be issued, and the Town may correct the violation, charging the

property owner for related expenses. The requirements will be included during the development plan review process, issuance of any and all planning and building permits and during the pre-construction meeting.

The proposed ordinance is included as Attachment 1.

**CONSIDERATIONS:** Items for Town Council consideration in this matter, include, but are not limited to, the following:

1. Does Town Council want staff to move forward with the proposed Amendment?
2. Are there any additional changes Town Council would like to be included?

**RECOMMENDATION:** To consider the Ordinance for a first reading by Town Council at a subsequent Town Council meeting

**NEXT STEPS:**

Property Maintenance (Construction & Weather)	Date	Complete
Step 1. Town Council Workshop	June 11, 2020	✓
Step 2. Town Council – 1st Reading	August 11, 2020	✓
Step 3. Town Council Meeting – Final Reading and Public Hearing	September 8, 2020	✓

**ATTACHMENTS:**

1. Proposed Ordinance

**Chapter 5, Official Construction Code; Article 1, Administration, Division 18. –  
Construction Site Property Maintenance and Site Preparation for Severe Weather  
Events**

**Sec. 5-270. - Intent.** The intent of this Division is to protect the public health, safety and welfare by establishing minimum standards for construction site maintenance and to prepare construction sites and developed sites for severe weather events as described within this Division.

**Sec. 5-271. – Construction Site Property Maintenance.**

- A. All construction sites shall be maintained in a good, clean and safe condition, including, but not limited to, the following minimum requirements:
1. **Handling of debris.** Accumulated construction debris shall be hauled away and disposed of in accordance with all applicable laws, on a regular basis, but no less than one (1) time per week. Any debris temporarily stored on site must be stored and secured so as to prevent a safety risk or danger. In addition to any applicable dumpster requirements set forth in this Code, dumpsters shall be emptied or removed when full. Debris from construction sites shall not be disposed of in dumpsters located at any other construction site within the Town without the prior approval of the Chief Building Official.
  2. **Storage of construction materials.** Construction materials shall be stored, maintained and secured so as to prevent safety risk or danger. Except as otherwise provided herein, construction materials shall not be stored in a right-of-way.
  3. **Site cleanliness.** All mud, dirt or debris deposited on any street, alley, lane, crosswalk, sidewalk or other public property as a result of demolition, excavation or construction shall be removed and cleaned on a regular basis, and at all times when a nuisance has been created by said debris. In addition, such areas shall be broom cleaned to the extent possible at the end of each day that construction work has occurred. Debris shall be disposed of in accordance with all applicable laws.
  4. **Portable toilets.** A portable toilet shall be provided at every construction site of a new principal structure, or addition thereto, prior to the commencement of construction, unless an existing facility is available on the site. Portable toilets shall be located to have the least possible impact on adjacent properties and should be located, to the extent possible, at the rear of the construction site and out of plain view of any public right-of-way. Portable toilets shall be serviced no less than once a week.
  5. **Ingress and egress.** Routes of access for ingress and egress to the construction site, which will provide protection to pedestrians and minimize disruption of traffic and damage to the public rights-of-way, shall be followed. The Town reserves the right to designate certain prescribed routes of access for construction traffic.

6. **Oversized construction vehicles.** Oversized construction vehicles will be allowed only on those streets or rights-of-way as designated by the Town Manager or designee
7. **Tree protection measures.** All trees and other vegetation on the public right-of-way shall be protected from damage by means of appropriate fencing. Fencing around trees on the public right-of-way shall be placed so as to protect the critical root zone, which is that circular area under the tree as determined by a one-foot radius for each one-inch in diameter. All tree protection measures set forth in any approved tree protection plans must also be followed.
8. **Utilities and on-site equipment.** On-site electricity is required for construction-related work as soon as is practicable. The proposed locations of any generator and/or compressor shall be depicted on the plans submitted at the time of application for the review and approval of the Town, and shall be located so as to have the least possible impact on adjacent properties, preferably at the rear of the property.
9. **Use of public property.** No loading, unloading, or storage of demolition debris, spoil or construction materials shall be permitted within any right-of-way, on any public property or within ten (10) feet of any right-of-way adjacent to public or private property, unless specifically approved by the Town and shown on an approved Development Plan, if applicable.

**Sec. 5-272. – Preparation of Construction Sites and Developed Sites for Severe Weather Events**

**A. Intent.**

The provisions of this Section apply at the direction of the Town Manager, or designee, in the event of significant severe weather conditions, or other similar types of severe weather warnings for any part of Beaufort County.

**B. Construction sites.**

1. All construction materials, including roof tiles, within the Town shall be secured, stored or removed so as not to create a safety hazard because of hurricane or tropical storm force winds, or similar severe weather.
2. Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of a hurricane or tropical storm warning shall be deemed sufficient notice to the owner of real property upon which construction is occurring or any contractor responsible for the construction to secure, store or remove loose construction debris and loose construction materials against the effects of high wind.
3. Materials stockpiled on top of any structure under construction shall be permanently installed by the property owner or contractor at the direction of the Town Manager, or designee. However, if such installation cannot be timely completed, then the property owner or contractor shall:

- a. Band together the construction materials and mechanically fasten them to the top of the structure in such a manner so a threat of becoming airborne during a tropical storm or hurricane is not experienced;
  - b. Remove the construction materials from the top of the structure and mechanically tie them down to the ground;
  - c. Remove the construction materials from the job site; or
  - d. Store the construction materials inside a protected structure.
4. Interiors of structures under construction shall be secured to prevent materials from becoming airborne.
  5. All debris on a construction site shall be stored in commercial containers and shall be properly secured.
  6. Commercial containers and portable toilets must be removed from a construction site or mechanically tied to the ground.
  7. Piles of dirt, sand, and stone on a construction site shall be located away from rights-of way, adjoining properties, swales, culverts, inlet grates, creeks, coves and rivers.
  8. All construction materials or debris required to be secured, stored or removed shall remain secure, stored or removed hereunder from the property until the National Weather Service, National Hurricane Center or other appropriate weather agency has removed all portions of Beaufort County from those areas included in a hurricane or tropical storm warning, or the Town Manager, or designee, lifts an severe weather directive pursuant to this Section, whichever event shall first occur.

**C. Developed sites.**

1. On all developed property, all furnishings including, but not limited to, furniture and lawn equipment not secured by a fence or screen enclosure, shall be secured, stored or removed so as to not create a safety hazard due to hurricane force winds.
2. Media broadcasts or notice at the direction of the Town Manager, or designee, issued by the National Weather Service or National Hurricane Center of a hurricane or tropical storm warning for Beaufort County shall be deemed sufficient notice to the owner of developed real property to store or secure furnishings or to remove furnishings not secured or stored from the property.
3. All materials and furnishings required to be secured, stored or removed shall remain secure, stored or removed hereunder from the property at the direction of the Town Manager, or designee, lifts an severe weather directive pursuant to this Section, or until the National Weather Service, National Hurricane Center or other appropriate agency has removed all portions of Beaufort County from those areas included in a hurricane or tropical storm warning, whichever event occurs first.

**Sec. 5-273. – Notice of Violation.****A. Non-emergency Situations.**

Upon the determination of the Town that a construction site is in violation of with any of the terms of this Division, or that a construction site poses a health or safety risk, the Town shall provide notice to the property owner, its contractor or agents of the violation.

The violation may be enforced by the Chief Building Official, or designee, through the issuance of a stop work order in accordance with the procedures set forth in this Code; or an order to repair, restore or demolish the work; to vacate the premises; or otherwise to abate the violation enforceable.

Upon due notice, the construction site shall be brought into compliance within the time directed by the Town, but in no event more than 24 hours from the time of notice. If the violation is not corrected within the time directed, the Town shall have the right, but not the obligation, to correct the violation and charge all costs and fees to the permittee or property owner.

**B. Emergency Situations.**

If at any time the Town determines that an emergency situation exists endangering the public health, safety, or welfare; creating a potential liability for the Town; or endangering the Town streets, utilities or other public property, and if the timing or nature of the situation precludes advance notification as provided in subsection (A) of this section, the Town shall have the right to enter the construction site to take whatever emergency action it deems necessary to secure, store or remove all loose construction materials and debris, including, but not limited to, roof tiles and roofing materials.

In such circumstances, the Town shall bill the property owner or his/her agent for all charges and expenses incurred to eliminate these potentially unsafe conditions by any means necessary. The securing of an outside contractor to perform these services shall be deemed to be the securing of emergency services and shall not require the Town to utilize a competitive bid process to select a contractor.

Any and all loss, damage, costs and expenses, including legal fees and administrative costs, incurred by the Town in the course of exercising its rights pursuant to this Section, or incurred in repairing or restoring damage to the public right-of-way or other public property shall be reimbursed by the property owner. The Town shall not be responsible for any loss or damage incurred as a result of exercising its rights under this Section.

A notice of violation shall be posted at the job site and mailed to the property owner and contractor. The written notice shall constitute a stop work order and shall remain in effect until the bill is paid. Upon receipt of

payment, the Chief Building Official, or designee, shall allow resumption of work.