



## ORDINANCE 2015-04

### City of Semmes, Alabama Tree and Natural Feature Preservation and Restoration Ordinance.

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### **Section 01 - Title**

This article shall be known as and called the "City of Semmes, Alabama Tree and Natural Feature Preservation and Restoration Ordinance."

### **Section 02 - Jurisdiction**

The provisions of this article shall apply to all lands within the corporate limits of the City of Semmes and subdivision developments within the City of Semmes planning jurisdiction.

### **Section 03 - Purpose**

The purpose of this article is to establish minimum standards for protection and restoration of trees and natural features on disturbed land. Trees provide the City of Semmes with aesthetic value, historical value, increased environmental quality, and increased land values. The objectives of this article are to increase the current canopy coverage by trees within the City of Semmes and its planning jurisdiction and to increase the preserved greenspace areas.

This article does not restrict landowners from cutting trees on their property due to death of trees, disease or over-crowding.

### **Section 04 - Benefits**

While some functional benefits of tree preservation are well documented, other benefits, such as human well-being and communal health are difficult to quantify.



In general, there are numerous benefits to consider when determining tree preservation:

- (1) Storm water: Storm water runoff washes chemicals (oil, gasoline, salts, etc.) and litter from surfaces such as roadways and parking lots into streams, wetlands, rivers and oceans. The more impervious the surface (e.g., concrete, asphalt, rooftops), the more quickly pollutants are washed into our community waterways. Drinking water, aquatic life and the health of our entire ecosystem can be adversely affected by this process. Trees act as mini-reservoirs, controlling runoff at the source. Trees reduce runoff by intercepting and holding rain on leaves, branches and bark, by increasing infiltration and storage of rainwater through the tree's root system, and by reducing soil erosion by slowing rainfall before it strikes the soil.
- (2) Property value & Beautification and Aesthetic Enhancement: Trees in front of single family homes increase the "curb appeal" of the home and in turn increase the property value of the home. Research has shown that home buyers are willing to pay more for properties with ample versus few or no trees.
- (3) Energy: Strategically placed trees can increase home energy efficiency. In summer, shading east and west walls keep buildings cooler. In winter, allowing the sun to strike the southern side of a building can warm interior spaces. Trees modify climate and conserve energy use in a number of ways: shading reduces the amount of heat absorbed and stored by buildings; Evapotranspiration converts liquid water to water vapor and cools the air by using solar energy that would otherwise result in the heating of the air; and tree canopies slow down winds thereby reducing the amount of heat lost from a home.
- (4) Air quality & Dust Filtration: Air pollution is a health threat that causes asthma, coughing, headaches, respiratory and heart disease and cancer. We now know that the urban forest can mitigate the health effects by absorbing pollutants like ozone, nitrogen dioxide and sulfur dioxide through leaves; intercepting particulate matter like dust, ash and smoke; releasing oxygen through photosynthesis; lowering air temperatures which reduces the production of ozone; and reducing energy use and subsequent pollutant emissions from power plants.
- (5) CO<sub>2</sub> Absorption: Trees can have an impact in reducing atmospheric carbon dioxide in two primary ways: they sequester ("lock-up") CO<sub>2</sub> in their



roots, trunks, stems and leaves while they grow and in wood products after they are harvested; trees near buildings can reduce heating and air conditioning demands, thereby reducing emissions associated with power production.

- (6) Oxygen Production: According to studies, based on the national estimate of net carbon sequestration in the United States, urban forests produce 61 million metric tons of oxygen annually – which is enough oxygen to offset human oxygen consumption for approximately two-thirds of the U.S. population. The net amount of oxygen produced by a tree during a year is directly related to the amount of carbon sequestered by the tree.
- (7) Noise Reduction: Trees can be an effective buffer in screening-out urban noises, The physical bulk of trees dull or soften sound waves that attempt to pass through them, and further dampen these sounds by adding noises of their own, a phenomenon called “masking.” A row of trees can cut the ambient noise level approximately in half (The National Arbor Day Foundation).
- (8) Wildlife Habitat: Urban forestry can greatly contribute to the increase and conservation of biodiversity. Strategically placed plantings of trees, combined with shrubs, grasses and other food sources provide habitats for a diverse population of birds, mammals and insects

## **Section 05 - Exemptions**

The following are exempted from compliance with the tree and landscape provisions of these regulations.

- (1) Utility easements for power lines, pipelines, drainage ditches, etc.
- (2) Those portions of airports and heliports which require clear areas for safety purposes, including runways and taxiways, approach and departure clear zones, etc.
- (3) Land currently used for agricultural purposes for the duration of such use, provided that property changed to a purpose other than agriculture shall be subject to the provisions of these regulations.



- (4) Trees grown specifically for sale by commercial nurseries or the production of lumber and its byproducts. Buildings and associated parking facilities for these types of operations are not exempt from these requirements. This exclusion does not exempt trees cut and sold for timber in anticipation for development.
- (5) Public utility construction activities within the public rights-of-way.
- (6) Trees irreversibly damaged or destroyed by natural disaster.

## **Section 06 - Definitions**

For the purposes of these regulations, certain words or terms herein shall be defined as follows. Words not defined herein shall be interpreted so as to give them the meaning they have in common usage. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

*Caliper:* The diameter or thickness of the main stem of a young tree or sapling as measured at six (6) inches above ground.

*Circumference:* The distance around the periphery of a tree at four and one-half (4½) feet above existing grade.

*Diameter breast height (DBH):* The diameter, in inches, of a tree trunk measured at four and one-half (4½) feet above existing grade. DBH is also referred to as the diameter of a tree. Measured by caliper or diameter tape (d-tape) or circumference divided by 3.14. (see Appendix B)

*Disturbed land:* Any land to be disturbed from its natural features for the purpose of the creation of a subdivision, commercial development or any clearing of land.

*Greenspace:* Any area retained as permeable unpaved ground and dedicated to supporting vegetation.

*Heritage tree:* A healthy, protected native tree and its root system with a diameter at breast height equal to or greater than thirty (30) inches or seven (7) feet ten (10) inches in circumference, whichever dimension is less. Also redbuds and dogwoods with a diameter at breast height equal to or greater than ten (10) inches or thirty (30) inches in circumference, whichever dimension is less. Any tree determined by the mayor and council, as provided herein, to be of notable



historic interest, high aesthetic value, or of unique character because of species, type, age, or size.

*Overstory trees:* Trees which, at maturity, comprise the canopy of a natural forest, which are generally greater than fifty (50) feet at mature height.

*Site clearing:* Any development or other activity which alters the land upon which it is located, except for normal sodding and placement of signs.

*Site plan:* A plan describing for a particular site where the building(s), driveway, utility easements, parking, and stormwater management facilities are to be located and where greenspace is to be retained or planted in compliance with these regulations.

*Species diversity:* A diverse planting or retention of tree species on a site within the city to prevent dominance by any single type of tree. The purpose of this diversity is to prevent the destruction of the entire urban forest in the event of disease or pestilence.

*Understory trees:* Trees, which, at maturity, comprise the sub-canopy of a natural forest. These are generally less than fifty (50) feet at a mature height.

## **Section 07 - Natural features**

Preservation of outstanding and irreplaceable natural features may be required by the City of Semmes Planning Commission or the Mayor and City Council and shall be determined on a case-by-case basis. These features may include, but are not limited to watercourses, historical lands, wetlands, and protected species habitat.

## **Section 08 - Heritage trees**

Heritage trees are hereby protected and cannot be cut or intentionally harmed without the expressed written permission of the City of Semmes. Heritage trees are:



HERITAGE TREES	PROTECTED MINIMUM DBH	MATURE HEIGHT/DBH (Informational)
Oak	11.25"	80' x 45"
Cypress	6.25"	80' x 25"
Hickory	10"	80' x 40"
Birch	8.75"	80' x 35"
Magnolia	10"	90' x 40"
Maple	7.5"	50' x 30"
Pecan	10"	60' x 40"
Ash	4.5"	50' x 18"
Sweetgum/Redgum	12"	120' x 48"
Yellow Poplar/Tulip	18"	120' x 72"
Sycamore	30"	100' x 120"
American Beech	6"	90 x 24"
Hackberry/Sugarberry	6"	50' x 24"
Walnut	10"	120' x 40"

Species could include but are not limited to cypress, live oak, magnolia, sweet gum, black gum, juniper, and longleaf pine. Replacement trees shall be required for the removal of all heritage trees. The developer is required to plant two (2) trees for each heritage tree removed. The replacement trees shall correspond to the tree removed. For example a heritage live oak shall be replaced by two (2) live oak plantings. Replacement trees must be native noninvasive trees. The site plan shall show the placement and species of the proper number of required new trees.

### Section 09 - Heritage tree removal permit

Any person wishing to remove or relocate a heritage tree shall submit a heritage tree removal permit to the City of Semmes Public Works Department accompanied by a site plan and a twenty-five dollar (\$25.00) fee for processing. The Public Works Department shall review the permit for consistency with the requirements and will either grant or deny the permit in writing within five (5) working days from the permit submittal date. The site plan must identify the location and type of heritage tree to be removed and the location and type of plantings for replacement. The permit may be denied if the tree has aged or grown to an impressive stature for its species or it is considered an integral part of the natural heritage of the City of Semmes. Heritage trees may be removed, subject to review, prior to the permit issued if it is an immediate threat to life, safety and welfare. The following criteria must be established for the permit to be issued:



- (1) The tree is located in an area where a structure or improvement is to be placed in accordance with the proposed plan.
- (2) The tree is diseased, injured, or in danger of falling too close to an existing or proposed structure, interferes with the existing utility service, creates an unsafe vision clearance or conflicts with other ordinances, articles or regulations.

### **Section 10 - Tree survey**

#### (a) General requirements.

- (1) All reasonable steps shall be taken to preserve heritage trees. A written justification and heritage tree removal permit shall accompany the tree survey for the removal of all heritage trees.
- (2) Native trees in floodplains and wetlands shall be left in natural state unless otherwise directed or permitted by state or federal agencies.
- (3) The tree survey conducted by the surveyor, contractor or owner shall be submitted along with the land disturbance permit application. The tree survey shall include a review fee of fifty dollars (\$50.00) for developments under five acres or a review fee of one hundred dollars (\$100.00) for developments five acres or greater. The tree survey shall be reviewed by the Public Works Department for compliance.

#### (b) Developments five (5) acres or greater shall detail the following:

- (1) All heritage trees to be preserved and to be removed;
- (2) Areas of tree preservation in common areas and/or buffers;
- (3) Areas of tree plantings to include replacement heritage plantings and plantings per the requirements.

#### (c) Developments under five (5) acres shall detail the following:

- (1) All heritage trees to be preserved and to be removed;





- (2) Existing trees, shrubbery, and other vegetation to be preserved in common areas, buffers and/or yards;
- (3) Trees, shrubbery, or other vegetation to be planted to complete the final landscaping of the property.

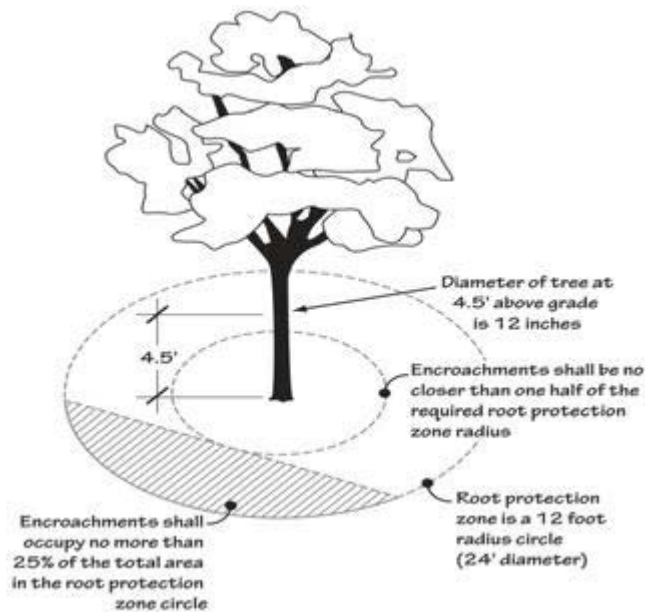
### **Section 11 - Tree density**

Residential lots less than six thousand (6,000) square feet shall have a minimum of one (1) tree located anywhere on the lot. Residential lots containing six thousand (6,000) square feet or greater shall have a minimum of two (2) trees, one (1) of which must be between the front setback line and the right-of-way and one (1) of the said trees shall be an overstory tree. These individual trees per lot may be counted as part of the required tree density units per acre for the development, but they may be an additional requirement if the appropriate units per acre requirement are met elsewhere on the site. This tree-per-lot requirement shall apply to the developer or homebuilder, whoever is responsible for obtaining the building permit for the individual lot, but if it is applied to the homebuilder, the developer will be given credit on the whole project for the trees which will be required to be planted on the lots which may be built upon later.

Residential subdivisions, commercial and industrial developments shall have a minimum tree density of ten (10) native trees per acre. All preserved and planted trees shall be included in the tree density, which includes trees located in the buffers, parking areas, perimeter, individual lots, and common areas.

### **Section 12 – Tree protection during land disturbance**

The City of Semmes adopts the “Prescriptive Path” method of tree protection which establishes a root protection zone and blocks this zone from construction activities. The prescriptive path calls for the root protection zone to have a 1-foot radius from the center of the trunk per inch of tree diameter (e.g., a 12-inch diameter tree would require a 12-foot radius root protection zone or a 24-foot diameter root protection zone).



Limitations of encroachments in the root protection zone: Construction activities may not encroach into more than 25% of the root protection zone area. The encroachment may not be closer than one half of the root protection zone. (Above diagram adapted from [www.portlandoregon.gov/trees/article/421216](http://www.portlandoregon.gov/trees/article/421216)).

Root protection fencing: Before any land disturbance activities take place, including clearing, grading or construction, root protection fencing shall be installed. The root protection fencing must be a minimum of 6-foot high chain link or comparable sturdy fencing secured with 8-foot metal posts placed at the edge of the root protection zone. A "Tree Root Protection Zone" sign must be affixed to the fencing designating the root protection zone. (See Appendix A) The "Tree Root Protection Zone" sign must be affixed with zip or twist ties and must be placed in a prominent location on the fencing such that the placement will allow the sign to be visible from the street, to the greatest extent possible. The sign must be legible throughout the entire duration of the project and should be replaced if the sign becomes illegible. The fencing and the sign must remain in place for the entire duration of the project until final inspection has been completed.

Prohibited activities in the root protection zone: Some construction activities are prohibited in any part of the root protection zone. These activities include:

- Ground Disturbance
- Dumping of litter, garbage, construction materials or construction debris



- Construction activity involving vehicle or equipment access (unless the access is on an existing street or driveway)
- Storage of equipment or materials (including soil)
- Temporary or permanent stockpiling
- Proposed buildings
- Impervious surfaces
- Underground utilities
- Excavation or fill
- Trenching
- Other work activities.

Root cutting: Cutting a large percentage of a tree's roots can be dangerous. Most large tree roots, those over four (4) inches in diameter, are structural roots that support the tree. If large roots are disturbed or removed, the tree may fall over and/or decline or die. Roots over four (4) inches in diameter should not be cut. If cutting a tree's roots is unavoidable, a certified arborist or forestry agent must oversee the root cutting.

### **Section 13 - Tree planting**

The following standards shall apply to all trees planted as required as part of these regulations:

- (1) All tree plantings shall be installed to current nursery industry standards.
- (2) Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure a reasonable expectation of survivability.
- (3) Replacement tree plantings and overstory trees shall measure a minimum diameter at breast height (DBH) of three (3) inches and shall measure a minimum of eight (8) feet of clear trunk. (Appendix B for measuring DBH)
- (4) Understory trees shall have an initial caliper diameter of at least one (1) inch and shall measure a minimum of five (5) feet of clear trunk.
- (5) No overstory trees shall be planted within twenty (20) feet of overhead wires.
- (6) All plantings that die or are destroyed must be replaced during the next suitable planting season, except those on single-family lots.



(7) Maintenance of new plantings is the responsibility of the property owner.

#### **Section 14 - Maintenance**

The legal owner of record as it appears on the current tax assessment roll shall be responsible for the maintenance of all landscape areas which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free from refuse and debris. Maintenance shall include the replacement of all dead plant material. Dead plant material shall be replaced within a time appropriate to the growing season of the species in question, not to exceed one (1) year.

#### **Section 15 - Enforcement**

The City of Semmes shall serve the following to the owner of said property, each person, firm or corporation engaged in activities regulated hereunder in which the activities are being conducted in violation of any provision of this article:

- (1) Stop work order: Whenever the Public Works Department determines that a violation of this article has occurred, the following actions shall be initiated:
  - (a) Written notice: Immediately issue written notice by personal delivery or certified mail to the person violating this article of the nature and location of the violation, specifying what remedial steps are necessary to bring the project into compliance. Such person shall immediately, conditions permitting, commence the recommended remedial action and shall have fourteen (14) working days after receipt of said notice, or such longer time as may be allowed by the Public Works Department, to complete the remedial action set forth in said notice.
  - (b) Remedial work and stop work orders: If a subsequent violation occurs during the fourteen (14) working days referred to in subsection a., above, or if remedial work specified in the notice of violation is not completed within the time allowed, or if clearing and development of land is occurring without a permit, then the Public Works Department shall issue a stop work order immediately. Said stop work order shall contain the grounds for its issuance, and shall set forth the nature of the violation. The stop work order shall be directed not only to the person owning the land upon which the clearing and development is occurring, but also a separate stop work order shall be directed to the



person or firm actually performing the physical labors of the development activity or the person responsible for the development activity, directing him forthwith to cease and desist all or any portion of the work upon all or any geographical portion of the project, except such remedial work as is deemed necessary to bring the project into compliance. If such person fails to complete the recommended remedial action within the time allowed, or fails to take the recommended action after the issuance of such stop work order, then the building official may issue a stop work order on all or any portion of the entire project.

(c) Notice of compliance: Upon completion of remedial steps required by notice the Public Works Department shall issue a notice of compliance and cancellation of said notice or stop work order.

## (2) Penalties.

(a) Work started without a permit: Any person who performs tree removal or site clearing without city approval shall be required to pay three (3) times the cost of the permit for the work performed without the permit. In addition, the developer shall be required to plant replacement trees on the site, equal to the number of diameter inches of protected trees removed without a permit, regardless of the number of trees being preserved.

(b) Criminal penalties: In addition to the above penalties in 2a, any person who violates the provisions of this article upon conviction may be deemed guilty of a misdemeanor and shall forfeit and pay such penalties as the court may decide not to exceed five hundred dollars (\$500.00) or thirty (30) days' imprisonment, or both, at the discretion of the court for each violation.

## **Section 16 - Abrogation and greater restrictions**

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

## **Section 17 - Interference**



No person shall hinder, prevent, delay or interfere with the city while engaged in carrying out the execution or enforcement of this article; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the planning jurisdiction of the City of Semmes.

### **Section 18 - Recommended overstory trees**

The following species are recommended for planting within the City of Semmes. Other species that are recognized as suitable for this area may be used if approved by the City of Semmes Planning Commission or Public Works Department and are species native to coastal Alabama (Baldwin, Escambia, and Mobile Counties):

Acer rubrum Red Maple

Betula nigra River Birch

Carya spp. Hickory (any species native to coastal Alabama)

Celtis laevigata Hackberry/Sugarberry

Fagus grandifolia American Beech

Fraxinus spp. Ash (any species native to coastal Alabama)

Liquidambar styraciflua Sweetgum/Redgum

Liriodendron tulipifera Yellow-Poplar/Tulip-Tree

Magnolia grandiflora Southern Magnolia

Magnolia virginiana Sweetbay Magnolia

Nyssa sylvatica Black Gum, Tupelo

Quercus spp. Oak (any arborescent species native to coastal Alabama)

Pinus palustris Longleaf Pine



Platanus occidentalis Sycamore

Taxodium ascendens Pond Cypress

Taxodium distichum Bald Cypress

Carya illinoensis Pecan

Juglans Walnut

### **Section 19 - Recommended understory trees**

The following species are recommended for planting within the City of Semmes. Other species that are recognized as suitable for this area may be used if approved by the City of Semmes Planning Commission or Public Works Department and are species native to coastal Alabama (Baldwin, Escambia, and Mobile Counties):

Amelanchier aboreum Downy Serviceberry

Cercis canadensis Eastern Redbud

Chamaecyparis thyoides Atlantic White Cedar

Chionanthus virginicus Fringe-Tree/Grandsie-Graybeard

Cornus florida Flowering Dogwood

Ginkgo biloba Ginkgo/Maidenhair Tree (use male plants only)

Halesia caroliniana Carolina Silverbell

Halesia diptera Two-Wing Silverbell

Ilex spp. Holly/Ilex (arborescent species native to coastal Alabama)

Juniperus virginiana Eastern Red Cedar

Juniperus silicicola Southern Red Cedar



Lagerstroemia indica Crape-Myrtle (varieties over fifteen (15) feet tall at maturity)

Myrica cerifera Southern Bayberry, Wax Myrtle

Nyssa ogeche Ogeeche Gum

Osmanthus americanus American Olive, Devilwood

Oxydendrum arboreum Sourwood

Persea borbonia Redbay

Styrax americanum American Snowbell

## **Section 20 - Plants not supported by this article**

The following plants are exotic species, which are difficult to control, or otherwise unsuitable for this area, and are not acceptable to meet any of the requirements for overstory trees, understory trees or buffer zone planting:

Albizia julibrissin Mimosa

Ailanthus altissima Tree of Heaven

Cinnamomum camphora Camphor Tree

Ligustrum sinense Chinese Privet

Melia azedarach Chinaberry

Pawlonia tomentosa Princess Tree

Sapium sebiferum Chinese Tallowtree/Popcorn Tree

Additionally, all nonnative species of bamboo (except those in the genus Bambusa) and all invasive exotic vines (such as Kudzu, Chinese Wisteria, Japanese Honeysuckle, and Air Potato) are not acceptable.

## **Section 21 - Administrative liability**





No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act, or failure to act, as required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the city attorney until the final determination of the proceedings therein.

### **Section 22 - Repealer Clause**

The provisions contained in this Ordinance shall be cumulative in their effect and shall not repeal any existing ordinances. If this Ordinance conflicts with any other ordinance adopted by the City, the more stringent standard shall apply.

### **Section 23 - Severability**

The provisions of this ordinance are severable. If any part of this ordinance is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

### **Section 24 - Effective date**

This ordinance shall be in full force and effect from and after its adoption and publication, as required by law.

**Adopted and Approved this the 3rd day of November, 2015.**

**/s/ Judith Hale - Mayor**

**Attest:**

**/s/ Brandi Michelsen - Interim Acting City Clerk**