

AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE TOWN OF DUCK, NORTH CAROLINA  
REGARDING VIOLATIONS OF THE TREE AND VEGETATION  
PRESERVATION AND PLANTING ORDINANCE

**Ordinance No. 10-03**

WHEREAS, the Town Council of the Town of Duck may enact ordinances to protect the health, safety, and welfare of its citizens under the North Carolina General Statutes § 160A-174; and

WHEREAS, the Town's adopted CAMA Core Land Use Plan articulates in Chapter II, Concerns and Aspirations, the Duck Vision Statement as follows:

*The Town of Duck desires to remain a slow paced, coastal village and family oriented vacation destination. The Town seeks to maintain its charm and character. It will accomplish these objectives by: balancing residential and commercial land uses; protecting and preserving view sheds; protecting and preserving the natural environment and the waters of the ocean and sound; and, discouraging over-commercialization and intensive land use developments that are not compatible with the Town's residential nature and established development patterns.; and*

WHEREAS, the Town's adopted CAMA Core Land Use Plan provides in Chapter IX, Plan for the Future, a series of goals, policies, and objectives that support the adoption and enforcement of regulations to regulate land use, development and redevelopment of properties in accordance with the Land Use Plan in order to protect the public health, safety, and welfare; and

WHEREAS, within the CAMA Core Land Use Plan, Objectives #1c, #6a and #12a state that the Town will:

*Adopt and apply development policies that balance protection of natural resources and fragile areas with residential and economic development.*

WHEREAS, within the CAMA Core Land Use Plan, Objective #19g with respect to residential development states:

*OBJECTIVE #19g: Encourage new residential development to respect the rights and consider the concerns of adjoining property owners with respect issues such including storm water runoff, line of sight, and vegetative buffer installation.*

WHEREAS, within the CAMA Core Land Use Plan, Policy #24b with respect to tourism states:

*POLICY #24b: Duck supports the concept of combining natural resources and tourism to promote the area's ecological values, known as "eco-tourism" and supports passive recreation activities such as biking and walking/jogging.*

WHEREAS, within the CAMA Core Land Use Plan, Policy #28c states:

*POLICY #28c: Create landscaping provisions in Town ordinances to create vegetative buffers to assist in improvements of water quality; and*

WHEREAS, the Town Council and the Planning Board have determined that the regulation of tree and vegetation preservation and planting is reasonable and consistent with the CAMA Core Land Use Plan; and

WHEREAS, the Town Council and the Planning Board have solicited public input and professional advice regarding tree and vegetation preservation and planting regulations;

**NOW THEREFORE BE IT ORDAINED** by the Town Council for the Town of Duck, North Carolina that the Zoning Ordinance shall be amended as follows:

**PART I.** Amend section § 156.137 TREE AND VEGETATION PRESERVATION AND PLANTING.

(J) Violations and penalties.

(1) It shall be a violation for any person to remove a tree without having first obtained a tree removal permit, if so required under the provisions of this section. It shall be a violation for a property owner to employ, authorize or direct any third person or entity to remove a tree without having first obtained a tree removal permit, if so required under the provisions of this section.

(2) A separate violation shall be deemed to have occurred for each tree removed without a tree removal permit in violation of the provisions of this section.

(3) Each violation of the tree removal permit requirements of this section shall subject the offender to a civil penalty in the amount of one thousand dollars (\$1,000).

(4) Removal of a tree greater than six (6) inches in diameter at breast height on any vacant, undeveloped parcel without the necessary permits and approvals as defined above in section 156.137 (B), shall subject the offender to a civil penalty according to the following procedure:

(a) If the number and type of removed trees and/or vegetation can be determined, the civil penalty shall be assessed as follows:

1. Unauthorized removal of large trees as defined by the “Town of Duck Vegetation Planting Guidelines” shall subject the offender to a civil penalty in the amount of four hundred dollars (\$400) per tree.

2. Unauthorized removal of small trees as defined by the “Town of Duck Vegetation Planting Guidelines” shall subject the offender to a civil penalty in the amount of two hundred dollars (\$200) per tree.

3. Unauthorized removal of shrubs as defined by the “Town of Duck Vegetation Planting Guidelines” shall subject the offender to a civil penalty in the amount of forty dollars (\$40) per shrub.

(b) If the number and type of removed trees and/or vegetation cannot be determined, a civil penalty can be determined based on the square footage of disturbed area and/or area of canopy coverage removed. The penalty shall be equal to one dollar (\$1) for every one square foot of canopy coverage removed. In no instance shall the civil penalty exceed five thousand dollars (\$5,000).

(5) Unauthorized removal of vegetation shall also subject the offender to mitigation requirements as specified herein. The mitigation requirements shall be calculated using the formula to determine canopy coverage as defined above in section 156.137 (G). The required canopy coverage of replacement vegetation shall equal that which has been determined to have been removed for the assessment of the required civil penalty. Replacement vegetation, to the extent that it can be determined, shall of similar type to that which has been removed.

**PART II.** This ordinance shall be effective upon its adoption.

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Dave Wessel, Mayor

ATTEST:

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Town Clerk

Date adopted: March 3, 2010

Motion to adopt by: Mayor Pro Tempore Kingston

Vote: 5 AYES 0 NAYS