

## ARTICLE 27. TREE PRESERVATION

The overarching goal of this article is to proactively manage the City of Southport's Urban Maritime Forest and its tree canopy. This management will take the form of tree preservation when at all possible, and mitigation through the replanting of trees when others must be removed.

A healthy and expansive tree canopy provides a wide range of benefits to the citizens of Southport. Aesthetically, the nurturing of trees and tree canopy provides for a pleasant and beautiful community in which both residents and visitors alike benefit from. Economically, a robust tree canopy provides a consistent cooling effect on our community and on individual properties that can significantly reduce cooling costs for homeowners and businesses alike. Property values on both public and private land are increased when trees form part of the landscape. A healthy tree can increase residential property values by as much as 27 percent.

One large tree can lift up to 100 gallons of water out of the ground and discharge it into the air in a day, helping to filter the air that we breathe and control storm water. In our coastal location, Southport's tree canopy protects our community and helps mitigate the damage caused by wind during tropical storms and hurricanes.

For all these reasons, the City of Southport places great value on our Urban Maritime Forest and the tangible and intangible benefits that it provides. This article provides a plan to ensure that existing trees are protected, in particular our signature heritage Live Oaks, and at the same time provides guidelines for mitigation through the replanting of native species when it is necessary to remove trees.<sup>1</sup>

### Section 27-1. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Arborist:** An arborist shall be an individual trained in arboriculture, horticulture, forestry, ornamental horticulture or urban forestry, who possesses the technical competence through demonstrated experience to provide plans for and supervise the protection, maintenance and management of trees and other woody plants in relation to land development and construction. In addition, the arborist shall hold current certification and membership in good standing with the ISA (International Society of Arboriculture) or ASCA (American Society of Consulting Arborists).

**Buffer:** Any visual buffer or screening required by the City of Southport Unified Development Ordinance.

**Caliper:** The diameter of a nursery-stock tree trunk in inches, measured 6 inches from the ground or top of the root ball. If the diameter is greater than 4 inches, the trunk is measured 12 inches from the ground. If a tree splits or forks into multi-trunks, the trunk is measured at its narrowest point below the split or fork.

**City Manager (City of Southport):** For the purpose of this ordinance, the term "City Manager" shall refer to the City of Southport City Manager, *or his/her designate*, as appropriate. The City Manager shall appoint the appropriate department or employee of the City to administer this Article and address specific procedures or issues.

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<sup>1</sup>Information on the benefits of trees came from NC Cooperative Extension

**Critical Root Zone:** The minimum area surrounding a tree that is considered essential to support the viability of the tree and is equal to a radius of one and one-half foot per inch of trunk diameter (Diameter at Breast Height).

**Crown:** The totality of branches, twigs, and leaves extending from the trunk or main stem(s).

**Developed or Development:** The act, process or state of erecting buildings or structures, or making improvements to a parcel or tract of land not otherwise excluded by the provisions of this Article or the City of Southport Unified Development Ordinance (UDO).

**Diameter at Breast Height (DBH):** The diameter or width of the main stem of a tree as measured 4.5 feet above the natural grade at its base. Whenever a branch, limb, defect or abnormal swelling of the trunk occurs at this height, the DBH shall be measured at the nearest point above or below 4.5 feet at which a normal diameter occurs. Trees consisting of two (2) or more stems in which the fork is below DBH are considered as separate trees and the diameter is measured for each stem separately. If a fork occurs exactly at DBH, the diameter measurement is taken immediately below the enlargement caused by the fork.

**Essential site improvements:** Any construction or reconstruction of site development features required by any local, state or federal regulations, ordinances or laws, such as: underground drainage, off-street parking, driveways and retention areas or similar improvements required for the intended use of the site.

**Grading:** Altering the shape of the ground surface to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

**Hazard tree:** A tree can be considered a potential hazard if it is situated in an area frequented by people or is located adjacent to valuable facilities and has structural defects which predispose it to mechanical failure in whole, or in part, that may result in property damage, personal injury or death, and the likelihood of this failure exceeds an acceptable level of risk as determined by the City Manager or a certified arborist.

**Introduced Tree:** Any non-existing tree that is planted during the development of a property.

**Heritage Tree:** any Live Oak (*Quercus virginiana*) within the city limits of Southport with a **DBH of 8 inches or larger**. This species may be protected by additional conditions imposed by the Board of Aldermen, beyond that of Regulated Tree, as they feel they are necessary to maintain this tree population for its historic, environmental and aesthetic significance.

**Permeable Paving:** Any paving which, due to its inherent nature or construction, allows fluids and gases to penetrate through it in at least some areas.

**Preserved Tree(s):** Any tree or groups of trees existing prior to development of a property that is protected so that it remains after the development has been completed.

**Pruning:** The elimination of part of the branching structure of a tree's crown to improve tree structure, enhance vigor and/or maintain safety.

**Public Tree:** Any tree on public lands, which are City-owned property and City right of way (ROW).

**Regulated tree:** The subsurface roots, crown and trunk of any self-supporting woody perennial plant such as a large shade tree, which usually has one (1) main stem or trunk, and has a measured DBH as follows:

- (1) **A hardwood tree**, having a single trunk eight **8 inches in DBH**. Trees may have single or multiple trunks but at least one trunk must measure eight (8) inches in diameter.
- (2) **A coniferous tree**, having a single trunk twelve **12 inches in DBH**.
- (3) **Any tree**, of any species, with a **DBH of 30” or more. (Specimen tree)**
- (4) For the purpose of this Article, a Private Homeowner will only be required to obtain a tree removal permit for the removal of a **Regulated Tree** located in the front setback of the property, or a **Specimen tree** in any location on the property. If a lot is improved with the addition of a structure or hardscape that requires obtaining a Building permit, then the homeowner will be required to note ALL Regulated trees as noted above when applying for the tree removal permit.

**Right of Way (ROW):** Right of way is an area of land over which people and goods have the right to pass or travel. A public right of way grants passage to all and provides the right to park registered vehicles in accordance with local parking restrictions. Public right of way is a form of easement typically dedicated to the City during subdivision for public use. Right of way is not part of the adjacent parcels; the right of way boundary usually coincides with adjacent parcel property lines. The City controls all public rights of way. Public amenities such as streets and sidewalks are part of the public right of way.

**Single Lot Residential:** A lot transitions from being a part of a PUD or subdivision to single lot residential when it is sold or deeded into individual/single ownership.

**Specimen Tree:** Any tree, of any species, with a DBH of 30” or trunk circumference of 8’ or more. A tree which grows to such maturity provides significant aesthetic as well as practical benefits to the community at large. Therefore, providing the tree remains viable it shall be accorded additional protections under this Article.

**Tree:** Any species of self-supporting, perennial, woody plant normally capable of attaining a height of twenty (20) feet at maturity.

**Tree Mitigation Fund:** A fund established to receive money for compensation for damage to or removal of public trees, or for fees-in-lieu of preservation or replanting on a construction site. The funds will be utilized specifically to replant, maintain, or improve the health of the City’s urban forest. Expenditure of these funds will be incorporated in to the annual city budgeting process and follow the guidelines outlined in the **City of Southport Urban Forest Management Plan (2011)**.

**Tree Plan:** A scaled site plan and other documentation that identifies preserved trees, newly planted trees, and other information as required in this Article.

**Tree Removal Permit:** A permit that must be obtained from the Planning & Inspections Department prior to the removal and proper disposal of any **Regulated tree** located in the front setback of any private property or a **Specimen tree** located in any location of the property. A Tree Permit shall also be required for any development, whether

commercial, industrial, or residential as part of the Building Permit and approval process. The Tree Permit fee will be set by the Southport Board of Aldermen.

**Tree Survey:** Typically prepared by a surveyor, registered forester or certified arborist indicating accurate locations, sizes and species of trees, and/or other desired measurements or information on trees on a property or given location. For the purposes of single lot residential construction or on a property with an existing structure, a “tree survey” shall be a rendering of the property which indicates the current or proposed footprint of any structures or hardscape, along with an indication of regulated trees which are to be retained, as well as those that are to be removed. In the case of commercial or Planned Urban Development (PUD), the requirement for obtaining a permit is that the survey will be prepared by a surveyor, registered forester, landscape architect, or certified arborist as noted above.

**Tree Value:** The value of a Regulated tree that is **unlawfully** removed, destroyed, or altered in such a way that it has a deleterious effect on continued viability shall be determined at a rate of up to \$500/inch of DBH.

**Section 27-2. Purpose.**

- (a) The general purpose of this article is to regulate and control the planting maintenance, and removal of trees.
- (b) The specific purposes of this article are:
  - (1) To safeguard and enhance property values and to protect public and private investment through the maintenance and protection of significant existing trees.
  - (2) To prevent the indiscriminate removal of trees and ensure mitigation when trees are necessarily removed. (Ord. of 10-13-88, § 1)

**Section 27-3. Exceptions.**

- (a) The City Manager may waive the requirements of this Article during an emergency such as hurricane, tornado, windstorm, tropical storm, flood or other natural occurrence or event.
- (b) If any regulated tree shall be determined to be a hazard tree such that it may:
  - (1) Immediately endanger the public health, safety or welfare, or
  - (2) Cause an immediate disruption of public services,

The City Manager may authorize removal of the tree without a written permit. Following removal, the City Manager may determine that replacement with additional trees is necessary. In making determinations, the City Manager shall utilize such professional criteria and technical assistance as may be necessary. (Ord. of 10-13-88, § 5)

**Section 27-4. Authority to treat or remove trees on private property.**

- (a) The City Manager may cause or order the removal of any tree or part thereof on public or private property which is in an unsafe condition, damaging or likely to damage sewers or other public improvements facilities, or which is infested by an injurious fungus, disease, insect or other pest.

- (b) The City Manager may cause or order necessary treatment for any tree on public or private property which is infested by any injurious fungus, disease, insect or other pest when they determine such action is necessary to prevent the spread of any such injurious condition or pest and to prevent danger therefrom to persons or property or to vegetation planted on adjacent property.
- (c) Before exercising the authority conferred by this section, the City Manager shall order the owner or occupant of the property to take corrective action. The order shall be in writing and shall state that the action specified therein must be taken within ten (10) consecutive calendar days after the order is mailed. The order shall be mailed by certified or registered mail, return receipt requested. Failure to comply with the order of the City Manager shall be a violation of this section. If the condition has not been corrected or if action that would lead to a timely correction of the condition has not been taken within the time specified above, the City Manager or their designee may seek an injunction, order of abatement or other equitable remedy in a court of competent jurisdiction against the property owner to ensure compliance in accordance with NC GS 160A-175. In addition, the City may pursue any remedy as specified in Section 1-6 of the Code of Ordinances.

**Section 27-5. Appeals.**

- (a) The City Manager shall notify persons who violate this Article of the specific violations by certified or registered mail, return receipt requested. The notice shall include the measures which will be necessary to comply with this Article or, if compliance is not practicable, it shall specify measures to minimize the noncompliance with this Article.
- (b) Any person who is dissatisfied with the decision of the City Manager or their designee may appeal to the Board of Adjustment. The appeal shall be written and filed with the City Clerk within ten (10) calendar days after the notice is mailed. The appeal shall be governed by the same procedures as apply to appeals from decisions of the Building Inspector, Code Enforcement Officer or City Planner under the zoning ordinance. After a full and complete hearing, the Board shall render a decision affirming, reversing or modifying the decision of the City Manager, Public Works Director, Building Inspector, City Planner or their designee in whole or in part. (Ord. of 10-13-88, § 6)

**Section 27-6. Forestry Committee; responsibility.**

The City of Southport Forestry Committee shall review and recommend actions to preserve and enhance the community's trees. The committee's actions will include protection of existing trees, tree replenishment, public education, and any other function related to the community's urban forest environment.

**Section 27-7. Damage to trees.**

- (a) It shall be unlawful to intentionally damage or destroy trees planted on municipally owned or controlled property except as a part of a City-authorized improvement program.
- (b) It shall also be a violation of this Article to attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill, or anything to any such public tree.

- (c) A person damaging a tree on public property in violation of this section shall be liable to the City for such damage, including any loss of value. In the event damage is so pervasive as to result in the treatment or removal of the tree, the person damaging such tree shall also be liable for costs of treatment or removal. Values of public trees or the amount of damages thereto will be determined by a certified arborist retained by the City of Southport, and can be assessed at a rate of up to \$500/inch of DBH.
- (d) The monies collected for damages and loss of value will be placed in the City of Southport Tree Mitigation Fund and are to be used solely for restitution for damages or for other costs incurred by the City for violation of this Section.

**Section 27-8. Approved tree list.**

The City shall maintain a list of approved native trees for various applications. A copy of the approved native tree list can be obtained from the City of Southport, Planning and Inspections Department or on the City web site.

**Section 27-09. Development of annual tree program.**

The City Manager, in cooperation with the Forestry Committee, shall annually review its tree maintenance and installation needs including new projects, pruning of existing trees and replacement of diseased or damaged trees in conjunction with development of the City's annual budget.

**Section 27-10. Community awareness.**

The City shall undertake programs, as may be determined by the Forestry Committee, Director of Tourism, and/or the Director of Parks and Recreation, which enhance the community's awareness of the value of trees and qualify for points toward the Tree City, USA Growth Award. The City shall annually hold an Arbor Day Ceremony, planned and organized by the Southport Forestry Committee, which focuses attention on the value of trees in the urban environment, and encourages public participation in tree planting or other activities supporting Southport's urban forest.

**Section 27-11. Maintenance of public trees/ projects.**

- (a) The Public Services department shall be responsible for the maintenance of trees on municipal property with the advice of the City Manager or his designee.
- (b) The City shall have the right to prune, maintain and remove any tree on public grounds which interferes with the safe flow of traffic, any traffic control device or sign.
- (c) It shall be unlawful for any person to top or cut back to stubs the crown of any tree on City property or ROW.
- (d) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this section. This also includes dead, dying, or diseased trees as determined by the City Manager or their designee and which pose a threat to the safety of the community.
- (e) All other City departments shall cooperate fully with the City Manager or his designee in carrying out the responsibilities of this section.
- (f) The planting, maintenance, and/or removal activities of public trees shall meet current arboricultural practices (ANSI A300 Standards) and follow guidelines outlined in the 2011 City of Southport Urban Forest Management Plan. City departments, contractors, community organizations and individuals performing

tree related activities on City-managed property are required to adhere to these standards.

**Section 27-12. Hazard tree.**

- (a) Every owner of any tree overhanging a street or sidewalk within the City is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians. Provided further, that all property owners within the City are hereby required to cause the removal of any dead or diseased trees on their property whenever such trees constitute a hazard to life and property or harbor insects or diseases which constitute a potential threat to other trees. Failure to take such action shall be a violation of this section.
- (b) The City Manager or his designated representative shall give written notice to any owner violating the terms of this section of said violation and give said owner no less than 10 days to perform the duties in connection with his or her property as specified in (a). If said owner or occupant shall refuse or neglect to perform the duties hereof, the City Manager or his designee may seek an injunction, order of abatement or other equitable remedy in a court of competent jurisdiction against the property owner to ensure compliance in accordance with NC GS 160A-175. In addition, the City may pursue any remedy as specified in Section 1-6 of the Code of Ordinances.
- (c) In case the owner(s) of any lot or other real property is unknown or their whereabouts is not known after diligent efforts to identify and locate said person, then a copy of the written notice herein above referred to shall be posted upon the premises. The City Clerk shall make an affidavit setting out the facts and circumstances justifying the posting of said property.

**Section 27-13. Protection of utilities.**

Public utilities shall exercise reasonable care and utilize best management practices to avoid damage and injury to public trees during the installation and maintenance of its facilities. The City's Public Works Director or their designee will provide assistance on any utility project to see that the public utilities can be installed or repaired with minimal damage to any public tree utilizing standards outlined in the City of Southport Urban Forest Management Plan (2011).

**Section 27-14. Notification for work near public trees.**

- (a) As part of any new construction project, no person or business shall perform any grading, excavation, place any fill, compact the soil or construct any building structure, street, sidewalk, driveway, pavement or public utility within twenty-five (25) feet of any public tree without first notifying and consulting with the City Manager. Any such work shall be conducted in accordance with this article.
- (b) Any public utility constructing or maintaining any overhead wires or underground pipes or conduits within twenty-five (25) feet of public trees shall consult with the Public Works Director prior to performing work which may cause injury to public trees.

**Section 27-15. Required.**

No person, directly or indirectly, shall remove or cause the removal of any tree from **public** property, including public rights of ways and public alleys, without first obtaining a

tree removal permit. Any development of property intended for commercial, industrial, or residential purposes, shall require a tree removal permit and landscape/tree plan submission as noted in section 27-20 below.

A tree removal permit shall be required to remove any **Regulated** tree within any private residential property's front yard building setback; or a **Specimen** tree, located anywhere on the property that is greater than 30" diameter breast height (DBH) or 8' in circumference.

A tree removal permit shall also be required for any commercial, industrial, or residential development and will be issued as part of the Building permit and approval process.

#### **Section 27-16. Prerequisite for other authorizations.**

The City may withhold or withdraw any permits, certificates and other authorizations issued or granted by the City, including but not limited to, building permits, driveway permits and certificates of occupancy, until a tree removal permit is obtained. A tree removal permit or exemption for permit must be obtained before a building permit may be issued.

#### **Section 27-17. Application.**

All persons seeking a permit for removal of a **Regulated** tree shall make application to the City via the tree removal permit application. The application shall be in writing and contain the following information:

- (1) Name, address of property owner of the site. Address of construction site or site of tree removal if different than property owner's legal address, name, address and telephone number of applicant, if contractor or agent for property owner.
- (1) Description of regulated trees to be removed, or a tree survey or plan, as required herein, for trees to be preserved.
- (2) Reason for removal request
- (3) Mitigation/Replenishment plan

#### **Section 27-18. Tree Plan.**

- (a) All new construction shall, in addition to the application for a permit under this article, submit a tree plan containing the following information:
  - (1) The shape and dimensions of the real property to be developed, together with the existing and/or proposed locations of structures and improvements, existing and/or proposed utility services, roadways, bikeways, walkways, and parking areas.
  - (2) The location, DBH and species of all regulated trees to be preserved.
  - (3) The proposed relocation of any existing regulated tree with a statement of how the tree is to be relocated and maintained.
  - (4) The proposed tree mitigation/replenishment plan in the event that trees are to be removed. Applicants are required to demonstrate a **40%** canopy coverage on the property at tree maturity either through tree retention or replacement. In the event that structures and hardscape preclude meeting the 40% requirement, the applicant must demonstrate that the dimensional standards in Article 11: Table of Area Yard and Density preclude them from meeting the 40% requirement.

- (5) Any proposed grade changes which might adversely affect or endanger any regulated tree to be preserved with a statement of how the tree is to be protected and maintained.
- (6) The proposed method of protecting the remaining regulated trees during construction, in accordance with this Article.

The tree plan shall utilize a diverse selection of trees native to the Southport/ Brunswick County area such as live oaks, long-leaf pines, or other approved native species. An approved list of native trees can be obtained from the office of the City Planning and Inspections or via the City Web site. The use of these species shall reflect the approximate percentages of these trees species represented in the area where the site is located.

Where storm runoff ponds are required for impermeable surfaces, native wetland tree species shall be planted around the pond.

The planting site shall be large enough to support the growth of the trees that are chosen.

The City Manager or his designee shall review the tree survey or plan to ensure that the plan submitted is structured in accordance with the principles outlined above. The City Manager has the option to engage the Southport Forestry Committee and/or certified arborist as required.

A tree removal permit must accompany any tree survey or plan submitted to the City for approval.

#### **Section 27-19. Criteria for issuance.**

Unless the applicant for a permit under this article is engaged in new construction, no tree removal permit shall be issued unless one (1) or more of the following criteria are met:

- (1) The regulated tree is dead, severely diseased, injured or in danger of falling close to existing or proposed structures.
- (2) The regulated tree is causing disruption of existing utility service or causing drainage or passage problems upon the rights-of-way.
- (3) The regulated tree is posing an identifiable threat to pedestrian or vehicular safety.
- (4) The applicant demonstrates that through preservation and mitigation, they will maintain a minimum of **40%** canopy coverage on the property at full tree maturity, either through preservation of existing trees or planting of new canopy or understory specimens. In the event that structures or hardscape on the property precludes meeting the 40% requirement, the applicant must demonstrate that the dimensional standards in Article 11: Table of Area Yard and Density preclude them from meeting the 40% requirement.
- (5) The regulated tree violates state or local safety standards.
- (6) Removal of the regulated tree is necessary to enhance or benefit the health or condition of adjacent trees or property.

#### **Section 27-20. Issuance, denial.**

The City Manager or his designee shall review all properly submitted applications for tree removal permits and shall grant or deny a permit in accordance with the provisions

of this Article within five (5) working days of submittal. In applying the provisions of this Article, the City Manager or his designee shall follow normal landscaping practices and may seek technical assistance from tree professionals, as appropriate. A tree removal permit shall be issued for an application as set forth above and shall apply to the specifics of that request.

**Section 27-21. Issuance in hardship cases.**

Whenever meeting the requirements of this Article creates an irreconcilable hardship which would clearly impede essential site improvements, tree removal permits shall be issued.

**Section 27-22. Tree Plans required.**

- (a) A Tree Plan must be submitted to, reviewed, and approved by the Planning & Inspections Department for the following actions:
  - (1) Issuance of a tree removal permit;
  - (2) Recording a subdivision plat or subdividing land;
  - (3) Issuance of a commercial building permit for new construction or additions (includes demolition of structures on these sites);
- (b) A Tree Plan shall be submitted with all applications for tree survey approval and shall follow the procedures for consideration of a tree survey pursuant to the City of Southport UDO. The Tree Plan will be considered as part of the tree survey approval process.
- (c) **For Commercial development of a property or a Residential subdivision**, the Tree Plan shall be a scaled plan not less than 1"= 30' and shall be prepared by a surveyor, landscape architect, engineer, or architect registered in the State and shall provide the following information:
  - (1) Property line with bearings and distances, easements, marsh and wetland delineations and other information necessary to depict the development area;
  - (2) All existing and proposed buildings, paving, infrastructure, and utilities;
  - (3) All **preserved** trees which meet the criteria of Regulated trees located on the site indicating the diameter, species, and the critical root zone for each preserved tree;
  - (4) All trees which meet the criteria of Regulated trees located on the site proposed to be **removed**, including species and size;
  - (5) All proposed newly planted trees indicating the caliper, height and species;
  - (6) Tree protection zones, protective fencing details, and tree wall and/or tree well details;
  - (7) Maintenance plan identifying the methods to ensure the viability of all trees and the party responsible for continuing maintenance;
  - (8) Listing of total number of trees to be removed and planted by species;
  - (9) Seal of the design professional with signature and date.
- (d) **For single-lot residential construction or for a private homeowner**, the Tree Plan to be submitted as part of the permitting process will include a rendering or copy of an existing plat or survey of the property indicating the location of those **Regulated** trees proposed to be removed, as well as any trees proposed to be planted as mitigation (if applicable).

- (e) Distance from utilities. Any tree required by this section which is placed within 20 feet lateral distance from the centerline of an above ground electric utility line (the line connecting pole centers) should have a maximum expected maturity height as follows:
  - (1) Zero to ten feet lateral distance of the centerline, 15-foot maximum expected maturity height; and
  - (2) Greater than ten feet and up to 20 feet lateral distance of the centerline, 25-foot maximum expected maturity height. Outside such 20 feet lateral distance, trees should be placed in the most feasible manner to avoid future conflict with aboveground electric utilities and violations of the National Electric Safety Code, and to avoid conflict with any belowground utilities and drainage facilities. Variations to such distance requirements may be made with the approval of the Public Works Director.

### **Section 27-23. Tree Plan review.**

- (a) The Tree Plan will be reviewed by the City Manager or his designee for compliance with the requirements and guidelines provided herein.
- (b) Plan submittal, review, and approval process is mandatory for major residential uses (multiple-family dwellings, townhouses, and condominiums), institutional uses, commercial uses, planned unit developments and subdivisions. No changes are to be made to the approved Tree Plan during the construction process without receiving written consent from the Planning & Inspections Department. Compliance with the approved Tree Plan is required prior to issuance of a certificate of occupancy or recording of a final plat for the uses.
- (c) The developer of any project requiring compliance with this article must meet with the City Manager to discuss tree protection and other matters relating to this ordinance **prior to beginning land disturbing activities.**

### **Section 27-24. Tree guidelines.**

Tree Plans shall comply with the following guidelines:

- (a) Preserve and protect as much wooded area on the site as is practical. Where existing trees and shrubs are being preserved or replaced, applicants are required to retain a minimum of **40%** canopy coverage on the property at full tree maturity, either through preservation of existing trees or planting of new canopy or understory specimens. (Estimated canopy at maturity can be found on the approved native tree list as noted below)
- (b) Incorporate existing vegetation, wooded areas, and specimen trees into required buffers where possible.
- (c) Where trees are being replaced, applicants may select tree types from the list of approved native trees, a copy of which is kept in the Planning & Inspections Department as well as the City web site.
- (d) Alternative tree species and number of required plantings to achieve the targeted canopy coverage can be determined by the native tree listing, which also provides estimated tree canopy coverage at maturity.
- (e) In the event that structures or hardscape on the property precludes meeting the 40% goal, the applicant must demonstrate that the dimensional standards in Article 11: Table of Area Yard and Density preclude them from meeting the 40% requirement.

**For example:** On a city lot measuring 75' x 100', the total square footage of the lot is 7500 square feet. At a goal of 40% canopy coverage, 3000 square feet of the lot should be covered by tree canopy **at full tree (canopy and understory tree) maturity** of the planted or retained trees. The tree(s) to be planted should be selected and their full maturity estimated canopy coverage should be 3000 square feet or greater.

#### **Section 27-25. Tree preservation.**

A major objective of this article is to encourage the preservation of existing vegetation wherever possible while allowing quality development to take place. As a result, the following measures shall be required for preserved trees on proposed subdivisions, planned unit developments, multifamily developments, and all industrial and commercial projects during the construction process.

- (a) Protective fencing not less than four (4) feet high or other construction barrier shall be placed at and completely encompass the critical root zone of all preserved trees.
- (b) Any tree whose critical root zone will be affected by soil removal shall have roots cut clearly by trenching at a point at least one (1) foot outside the construction barrier installed as required above.
- (c) The following shall be prohibited within the critical root zone of any preserved tree, except as may be necessary when constructing, repairing or replacing public utilities:
  - (1) Grading and excavation which involves cutting or filling to a depth of more than 3 inches.
  - (2) Pouring of any material onto ground which is toxic to plants.
  - (3) Installing, depositing, placing, storing, or maintaining any stone, brick, sand, concrete or other materials which may impede the free unobstructed growth of or passage of water, air, and fertilizer to the roots.
  - (4) No storing of any construction materials within the critical root zones of the preserved trees.
  - (5) Attaching any sign, poster, notice or other object, or fastening any guy wire, cable, rope, nail, screw, or other device to any preserved tree for any reason other than that of a protective nature to the tree.
  - (6) Causing or encouraging any fire or burning of any kind near or around any tree.
  - (7) Parking or operating construction or passenger vehicles of any type within the critical root zone of any tree.

#### **Section 27-26. Landscaping maintenance for projects other than individual single family residential.**

The owner of the property on which the landscaping improvements (as defined in Section 18-4 of the UDO) are located shall be responsible for the maintenance of landscape improvements and other requirements of this article. The requirements of this article shall be maintained according to the following:

- (a) All landscaping shall be maintained in a neat and orderly manner.
- (b) Preserved trees or Introduced trees which die within five years from the date of completed construction shall be replaced by the owner thereof (including any homeowners association owning said property) with approved plants within twelve months of loss. In the event that the owner fails to replace said Preserved

- Tree within said time, the City shall notify the owner in writing who shall then have 30 days from written notification from the City to replace said tree, Upon failure to replace said tree after written notification, the City may replace said tree and the owner shall be responsible for the cost thereof which shall be paid into the Tree Mitigation Fund. The funds will be utilized specifically to replant, maintain, or improve the overall health of the City's urban forest.
- (c) Broken irrigation lines or heads shall be replaced within 15 days to ensure adequate irrigation and prevent waste of water.
  - (d) Fencing, permeable paving and other non-plant landscaping improvements shall be maintained in as close to installation conditions as possible.

**Section 27-27. Enforcement; penalties for violations of Article.**

Any violation of the terms of this Article shall constitute a misdemeanor pursuant to N.C.G.S 14-4 with a maximum fine of \$500. In addition to constituting a misdemeanor, violation of this Article shall subject the offender to a civil penalty to be recovered by the City in a civil action in the nature of debt if the civil penalty is not paid by the offender within 96 hours of being cited for the violation. The civil penalty for violation of this Article shall be \$100 except for a violation of Section 27-7(a) which shall be \$ 500.