



CITY OF HENDERSONVILLE TREE BOARD ORDINANCE REVISION COMMITTEE

**Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Tuesday, July 11, 2023 – 9:30 AM**

AGENDA

- 1. CALL TO ORDER**
 - A. Choose Chair and Vice Chair of Committee
- 2. APPROVAL OF AGENDA**
- 3. APPROVAL OF MINUTES**
 - A. Minutes May 30, 2023
- 4. NEW BUSINESS**
 - A. Discussion of Proposed Ordinances
- 5. OTHER BUSINESS**
- 6. ADJOURNMENT**

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CITY OF HENDERSONVILLE
Tree Ordinance Revision Committee

Minutes of the Meeting of May 30, 2023

Committee Members Present: Glenn Lange (Tree Board), Mary Davis (Tree Board), Neil Brown (Planning Board), Caitlyn Gendusa (Public Works), Virginia Tegel (ESB), Steve Dozier (BAC), Daniel Heyman (Legal), Susan Frady (PEP), Lew Holloway (Community Development), Mark Stierwalt (Public Works), Lyndsey Simpson (City Council), Debbie Roundtree (City Council)

- I. **Call to Order:** Mark Stierwalt introduced the Committee and discussed a tree canopy survey currently being conducted in the City of Hendersonville that should be ready within about three months.
- II. **Background:** Glenn Lange gave background information regarding the formation of this committee and the needs for revisions to City ordinances regarding trees.

Mr. Lange explained that the last tree canopy survey done in 2009 determined that the City has 36 percent canopy coverage, which is very low among NC communities that have conducted similar studies. He also explained some of the benefits of trees, and discussed the goals of the Tree Board.

Mark Stierwalt identified some of the goals discussed by Tree Board, developers, and the City Council, including a desire to make the process of review more efficient and predictable for developers, and to prevent additional mature tree loss.

Neil Brown identified enforcement and ongoing maintenance of required plantings as an additional goal. There was a discussion about enforcement, Susan Frady as the former Development Assistance Director explained how enforcement went in the past, and Lew Holloway discussed some of the challenges they are facing presently.

- III. **Existing Ordinances:** Mr. Holloway discussed the existing ordinances related to tree protection in the City. They can be placed primarily into two categories, voluntary preservation/incentives, and required plantings.

Zoning ordinance requirements are primarily focused on screening. There are required plantings to buffer certain use types, and for vehicular use areas. Developers can get credits towards required plantings for retaining existing mature trees.

Mr. Holloway explained some of the details of the ordinance provisions related to landscaping and how they are applied to new development.

- IV. **Proposed Ordinance Discussion:** Glenn Lange discussed some of the proposed changes outlined by the Tree Board. They are proposing to retain certain significant trees for new development and redevelopment, and to apply certain landscaping requirements to more development types.

There was a discussion amongst the committee about some proposed provisions that are not directly related to regulating trees, including a prohibition on developing steep slopes, mass grading, and an increase of the required stream buffer.

There was a discussion about some potential challenges posed by instituting these new regulations including: where to plant street trees when overhead and underground utilities might be present, and the cost to the developer/the consumer and the effect on affordable housing.

The committee decided that steep slopes, stream buffers, and mass grading were probably outside of the scope of the immediate task before the committee.

Councilmember Simpson suggested providing a method for a fee-in-lieu of planting/retaining trees. Mr. Lange pointed to some of the language in the Tree Board's proposed revisions that attempts to place a value on mature trees.

The committee discussed the anticipated tree canopy survey, and discussed where new development will likely be proposed in the future.

Daniel Heyman will distill the discussion into a working draft ordinance for the committee to review at its next meeting. Mr. Stierwalt will send a poll to the committee to find a date for the next meeting, sometime in June/July.

- V. **Adjournment:** the meeting was adjourned at 11:05 a.m.

THIS IS A WORKING DRAFT. THIS DOCUMENT HAS NOT BEEN REVIEWED BY THE TREE BOARD ORDINANCE REVISION COMMITTEE.

Ordinance #

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE XII – DEVELOPMENT REVIEW, SECTION 7-3-3 AND SECTION 7-3-4 AND ARTICLE XV – BUFFERING , SCREENING, AND LANDSCAPING, SECTIONS 15-4 THROUGH 15-6, SECTION 15-9, SECTION 15-13, AND TO ADD NEW SECTIONS 15-14 AND 15-15 OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ESTABLISH ADDITIONAL REQUIREMENTS FOR THE PROVISION AND PROTECTION OF TREES.

WHEREAS, ...

NOW, THEREFORE, BE IT ORDAINED by City Council of the City of Hendersonville, North Carolina that:

SECTION 1. This Ordinance shall be known as “An Ordinance to Establish New Requirements for the Provision and Protection of Trees.”

SECTION 2. Article XII. Development Review is hereby amended as follows:

Sec. 7-3-3. Review of preliminary site plans.

7-3-3.2 Contents of preliminary site plan. Applicants for developments required to undergo preliminary site plan review shall, as a part of the application for such development, submit a preliminary site plan which shall show the following:

n) A survey showing tree line before site preparation with species and diameter of trees 12 inches or greater DBH (diameter at breast height) indicated and showing existing trees proposed to be removed and preserved, as well as areas to be screened, fenced, walled and/or landscaped;

t) Proposed limits of land disturbing activity.

Sec. 7-3-4. Review of final site plans.

Sec. 7-3-4.3 Contents of final site plan. A site plan showing the following shall accompany an application for site plan approval:

w) A survey showing tree line before site preparation with species and diameter of trees 12 inches or greater DBH (diameter at breast height) indicated and showing existing trees proposed to be removed and preserved.

x) Proposed limits of land disturbing activity.

SECTION 3. Article XV. Buffering, Screening, and Landscaping is hereby amended as follows:

Sec. 15-4. Existing vegetation.

Preservation of existing vegetation. Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with paragraph b), below.

Credits and other incentives to preserve vegetation. Preserved trees may be credited at the following rate:

2—12 inch caliper tree = 1 tree

13—18 inch caliper tree = 2 trees

19—24 inch caliper tree = 3 trees

25+ inch caliper tree = 4 trees.

In order to receive credit, preserved vegetation must be in good health and condition, and must not be listed as an Invasive Plant on the Recommended Species List. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with paragraph c), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree under the following circumstances: a) when the developer has elected to protect existing trees during construction in accordance with paragraph c), below, if the preserved tree dies within five years of completion of the project; b) when the developer has not elected to protect existing trees in accordance with paragraph c), below, if the preserved tree dies within ten years of completion of the project.

Sec. 15-5. General standards.

The following general standards shall apply to all landscaping requirements in this article.

a) Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the Recommended Species List. No plants listed as an Invasive Plant in the Recommended Species List may be used to meet the requirements of this ordinance. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.

Sec. 15-6. Bufferyards.

TABLE OF BUFFER REQUIREMENTS

Proposed Land Use	Existing Land Use /Zoning District ¹					
	Residential ²	Residential, multi-family ³	Mobile Home Park ⁴	Institutional & Cultural ⁵	Commercial ⁶	Industrial ⁷
Residential	X	X	X	X	X	X
Residential, multi-family	10-foot B	10-foot B	X	X	X	X
Mobile Home Park	10-foot B	10-foot B	X	8-foot A	10-foot B	X
Institutional & Cultural	10-foot B	10-foot B	8-foot A	X	X	X
Commercial	10-foot B	10-foot B	10-foot B	8-foot A	X	X
Industrial	25-foot C	25-foot C	25-foot C	15-foot B	15-foot B	X

Notes for Table of Buffer Requirements:

- 1 Buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the city, the city's extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.
- 2 Includes the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.
- 3 Includes only those parcels developed as multi-family.
- 4 Includes the PMH district or an existing mobile/manufactured home park.
- 5 This category includes religious, recreational, child care and educational uses and the following use districts: MIC and PID.
- 6 Includes the following use districts: C-1, C-2, C-3, C-4, PCD, CMU, GHMU, HMU, UV, UR and CHMU.
- 7 Includes the following use districts: I-1, PMD.

Sec. 15-9. Landscaping for vehicular use areas.

Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

- a) **Perimeter and interior plantings.** Vehicular use areas must be planted with at least one tree and two shrubs for every 3,000 square feet of vehicular use area, which

includes parking spaces, aisles, driveways, and loading areas. Trees shall be spaced so that no parking space is more than 50 feet from a tree. At least 75 percent of the required parking lot trees must be large-maturing (>50 ft in height), broadleaf canopy trees. At least 60 percent of the required parking lot trees must be native species as identified in the Recommended Species List. Trees and shrubs must be planted within 20 feet of the vehicular use area to count as parking lot landscaping.

When a development contains 20 or more parking spaces, 50 percent of the trees and shrubs required by paragraph a), above, must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 square feet) for each tree therein. Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

- 1) Broadleaf canopy trees: One and one-half to two-inch caliper;
- 2) All other trees: Five to six feet in height;
- 3) All shrubs: Height or spread of 18 to 24 inches.

- b) **Planting strips.** When a vehicular use area lot is located within 100 feet of an abutting property and no bufferyard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large-maturing tree (50 ft in height) and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in paragraph a), above, if the planting strip is located within 20 feet of the vehicular use area. Adjacent businesses on separate lots which share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the reasonable use of the shared parking or driveway. Vehicular use areas located behind buildings and screened from view from public rights-of-way shall be exempt from this requirement.

Sec. 15-13. Common open space landscaping. In addition to all other landscaping required by this zoning ordinance, each development parcel required to provide common open space pursuant to Sec. 6-16 shall contain a minimum of one tree and five shrubs for every 1,200 square feet of common open space on such development parcel. A minimum of 50 percent of the trees shall be canopy trees.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in

height). The remaining street trees shall be medium maturing trees (25-50 feet in height).

At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

- (a) Broadleaf canopy trees: one and one-half to two-inch caliper;
- (b) All other trees: five to six feet in height;
- (c) All shrubs: height or spread of 18 to 24 inches.

No landscaped area shall be constructed with more than ten percent of the total area of gravel, stone, concrete, asphalt, or other similar material, excepting necessary walks and vehicular use areas.

Sec. 15-14. Street Trees. Street trees shall be required at the rate of one tree for every 35 linear feet of property abutting a street. Trees do not need to be spaced evenly. They may be clustered with a minimum spacing of 15 feet and a maximum spacing of 75 feet.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining street trees shall be medium maturing trees (25-50 feet in height).

Where overhead utility lines are present, streets trees shall be planted at the rate of one small-maturing tree (<25 feet in height) for every 25 linear feet of property abutting a street.

Street trees shall be placed in a planting strip on private property and not within the street right-of-way. No street tree can be planted farther than 35 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced to an average of seven feet.

During the development review process, the approving authority for the city may permit minor deviations in the placement of trees in order to avoid conflict with utility structures and utility lines.

Sec. 15-15. Tree Preservation. All developments required to comply with this Article pursuant to Sec. 15-2 herein shall preserve existing trees in compliance with this Section.

- a) **Preservation of canopy:** 50 percent of the 12-inch caliper trees inventoried on the development site shall be preserved. The specific trees preserved shall be at the discretion of the developer.
- b) **Significant trees:** All significant trees, being 24-inch caliper or greater, shall be preserved. Significant trees may only be removed if essential site improvements cannot be accommodated without their removal. If a significant tree is removed, it shall be replaced by new plantings of large-maturing trees (>50 feet in height) at the following rate:

- 1) 24-29 inch caliper tree removed = 5 large maturing trees;
 - 2) 30-35 inch caliper tree removed = 8 large maturing trees;
 - 3) 36+ inch caliper tree removed = 12 large maturing trees.
- c) **Protection of trees during construction:** All trees required to be preserved by this Section shall be protected during construction in accordance with the standards contained in Sec. 15-4(c).
- d) **Credit for existing vegetation:** All trees preserved pursuant to this Section may be credited towards the requirements of this Article subject to the provisions of Sec. 15-14.
- e) **Fee in lieu.** A developer may, in lieu of preserving trees pursuant to this Section, pay a fee-in-lieu of tree preservation to the City's Tree Fund. The fee-in-lieu shall be based on the actual value of each tree not preserved. The developer shall be required to provide an estimate, prepared by a certified arborist or other properly qualified professional, to determine the fee. The City may obtain its own estimate, in which case the City's estimate will control.

SECTION 4. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 5. It is the intention of the City Council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 6. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this ____ day of _____ 202__.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

DRAFT