

ARTICLE 14 - MONUMENTAL TREE PRESERVATION

14.1 Purpose

It is the purpose of this Article to:

- (1) Promote the aesthetic quality of new development by preserving existing trees;
- (2) Preserve trees that contribute to the historic character of the Town;
- (3) Prevent the wholesale clearing of land for development; and
- (4) Preserve and protect property values.

14.2 Applicability

These regulations shall apply to all land development activities including streets and roads, parking lots, and parking areas within the Town, except that the following shall be exempt from the requirements of this Article:

- (1) The construction, reconstruction, expansion or modification of a detached single-family dwelling unit on an individual lot.
- (2) The construction, reconstruction, expansion or modification of no more than three (3) attached dwelling units.
- (3) The removal of any monumental tree which has become or threatens to become a danger to human life or property.
- (4) The necessary removal of monumental trees by a utility company within dedicated utility easements.
- (5) The removal of monumental trees causing the blockage or improper operation of storm water control facilities.
- (6) Forestry activity on forestland that is taxed on the basis of its present-use value as forest land (N.C.G.S. 160A-485 (b) (1)); and forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with N.C.G.S. 160A-485 (b) (2)).

14.3 Preservation of Monumental Trees and Monumental Tree Stands Required

To the greatest extent practical, monumental trees and monumental tree stands shall be protected and preserved during and after development. Measures such as the relocation or reconfiguration of buildings, parking lots, parking areas, streets, roads and other features may be required by the Zoning Administrator if he deems it necessary to fulfill the intent of this Ordinance.

14.4 Criteria for Determining Monumental Trees and Monumental Tree Stands

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(1) Definition of a Monumental Tree

A monumental tree is defined as follows:

- (A)** Any tree in fair or better condition which equals or exceeds the following DBH (diameter breast height) sizes:
 - 1. 12" DBH - Large hardwoods such as live oaks.
 - 2. 18" DBH - Large softwoods such as pines.
 - 3. 4" DBH - Small ornamental trees such as dogwoods.
- (B)** A tree in fair or better condition is one which has a life expectancy of greater than fifteen (15) years, a structurally sound trunk which is solid and free of decay, no more than one major and several minor dead limbs (hardwoods only), no major insect infestations and is free of disease.
- (C)** A lesser-sized tree can be considered a monumental tree if it is a rare or unusual species, of exceptional or unique quality, or of historical significance.

(2) Monumental Tree Stands

Monumental tree stands are defined as a contiguous grouping of trees which have been determined to be of high value to the community by the Planning Board. Such determination is based upon the following criteria.

- (A)** A relatively mature, even-aged stand.
- (B)** A stand with purity of species composition or of a rare or unusual nature.
- (C)** A stand of historical significance.
- (D)** A stand with exceptional aesthetic quality.

14.5 Monumental Tree Survey

All applications for site plan approval and all preliminary major subdivision plats shall be accompanied by a survey of all monumental trees and monumental tree stands on the subject property. The inventory and identification of monumental trees shall be performed by a qualified professional and the location of existing vegetation shall be performed and certified by a registered land surveyor or landscape architect, and submitted as part of the site plan application. At a minimum, the survey shall note the location, DBH and common name of individual trees that meet the criteria for monumental status. Trees comprising a monumental stand shall not need to be individually identified, but the area containing the stand shall be delineated on the survey and the composition of the stand shall be noted. Surveys for large parcels that are not going to be fully developed may exclude those areas located more than fifty (50) feet from the boundary of the construction area.

14.6 Tree Preservation and Protection Plan

In addition to the required monumental tree survey, a complete tree preservation and protection plan shall be submitted with all applications for site plan approval and preliminary subdivision plat approval. The preservation and protection plan shall indicate which monumental trees and monumental tree stands on the subject property will be preserved, relocated or removed. The plan shall also indicate the type and location of all active and passive tree protection measures that will be installed and remain in place throughout the development process. The location of all proposed impervious surfaces shall also be delineated on the plan.

14.7 Review and Approval

The tree survey and preservation and protection plan shall be reviewed by the Zoning Administrator and approved by the appropriate approving body as part of its typical approval process. The approving body may require the alteration of a site plan or subdivision plat to meet the intent of this Article. Approval of a site plan or preliminary subdivision plat may be withheld for failure to comply with the terms of this Article.

14.8 Preservation Required

All monumental trees and monumental tree stands that are identified for preservation on the approved preservation and protection plan shall be preserved and protected from harm through the development process. If, through reckless or careless action by the developer or through disregard for the requirements of this Article, the developer removes or destroys a tree or trees indicated for protection he shall, at his expense, replace the tree(s). Replacement shall be achieved by planting two (2) trees of the same variety for each tree removed or destroyed. Replacement trees shall be a minimum of eight (8) feet tall and have a diameter of at least two (2) inches measured six (6) inches above the ground at the time of planting, and shall be planted in the general vicinity of the removed or destroyed tree(s).

14.9 Tree Protection During Construction

- (1)** No person, in the construction of any structure(s) or improvement(s) or any activity, shall encroach or place solvents, material, construction machinery or temporary soil deposits within six (6) feet of the area outside of the drip line, as defined in this Ordinance, of any monumental tree or any tree within a tree protection zone.
- (2)** Before development, land clearing, filling or any land alteration, the developer shall be required to erect suitable protective barriers as required by the Zoning Administrator, including tree fences, tree protection signs, and erosion barriers until completion of site landscaping. Authorization to remove the protective devices shall be in writing by the Zoning Administrator. Inspection of tree protection barriers is required prior to any land disturbance or development. The Zoning Administrator shall be contacted to schedule an inspection time.
- (3)** Materials for active tree protection shall consist of chain link, orange laminated plastic, wooden post and rail fencing or other equivalent restraining material. In addition to fencing, where active tree protection is required, each tree to be

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saved shall be marked at the base of the trunk with blue colored water-based paint.

- (4)** Materials for passive tree protection shall consist of heavy mil plastic flagging, a minimum of four (4) inches wide with dark letters reading “Tree Protection Area - Do Not Enter” or equivalent signage of a continuous, durable restraint.
- (5)** All tree protection devices must remain in functioning condition until the Certificate of Occupancy is issued, and must be removed promptly thereafter.