

ARTICLE 31 LANDSCAPE STANDARDS

31.01	Applicability	31-1
31.02	General Screening Standard	31-1
31.03	Compliance with Screening Standard.....	31-2
31.04	Screening Land Use Classification	31-2
31.05	Table of Screening Requirements	31-3
31.06	Buffer and Screen Requirements	31-4
31.07	Combination Uses	31-7
31.08	Subdivisions.....	31-7
31.09	Screening Along Streets.....	31-7
31.10	Vehicular Surface Area	31-9
31.11	Flexibility in Administration Required	31-10
31.12	Compliance and Maintenance.....	31-11
31.13	Preservation of Existing Trees and Vegetation.....	31-13

31.01 Applicability

31.01.01 The table and information set forth in Section 31.05, concerning the types of screening, establishes suggested screening requirements that, presumably, satisfy the general standards established in Section 31.02. However, this table is only intended to establish a presumption and should be flexibly administered in accordance with Section 31.11.

31.01.02 The provisions of this Article and the Landscape Standards in Appendix C, Town of Boone Details and Specifications Manual of this Ordinance shall apply to all commercially developed land and all land within the following zoning districts: R3, MH, OI, B1, B2, B3, E1, E2, E3 and M1, except for forestry activities subject to regulations pursuant to N.C. Gen. Stat. §160D-921(b).

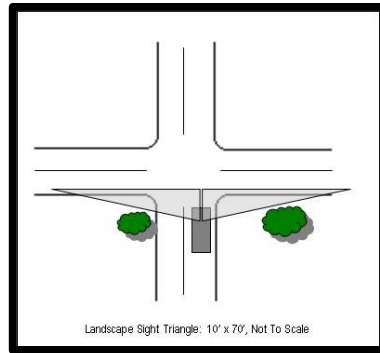
(Ord. PL04727-050721, 07-01-2021)

31.02 General Screening Standard

31.02.01 Every development shall provide sufficient landscape material so that:

- A.** Neighboring properties are shielded from adverse external effects of that development; and
- B.** The development is shielded from the negative impacts of adjacent uses such as parking lots.

31.02.02 To ensure that landscape materials do not constitute a traffic hazard, a sight triangle ten feet (10') by seventy feet (70') will be observed at all intersections of driveways/streets with adjacent streets (see diagram below).



- A. Required street trees shall be planted outside of the sight triangle area.
- B. Shrubs planted within sight triangles shall be of a type with a maximum mature height of twenty-four inches (24”).

31.03 Compliance with Screening Standard

31.03.01 To determine the required screening, the following steps shall be taken:

- A. Identify the classification of the proposed land use and all adjacent uses listed in Section 31.04 Screening Land Use Classification.
- B. Use the Table of Screening Requirements in Section 31.05 to determine the appropriate letter designation for each abutting area. If the abutting area is undeveloped, the required screening shall be that which would be required for a use necessitating the greatest visual obstruction.
- C. Match the letter designation obtained from Section 31.05 Table of Screening Requirements with Section 31.06 Buffer and Screen Requirements to determine the required screening.
- D. The screening requirements established in this Article apply to all land uses except where specific requirements are established for uses elsewhere in this Ordinance.

31.04 Screening Land Use Classification

31.04.01 Listed below are the classifications of land uses that will determine the required screening established in Section 31.05, Table of Screening Requirements. The land uses are keyed to the Table of Principal Uses contained in Article 15.

- A. **Classification I:** 1.01 Single-Family Dwelling, 1.02-1.04 Manufactured Homes, 1.05 Manufactured Home Park, 2.01 Family Care Home, 3.01 Home for Survivors of Domestic Violence, 13.01-13.02 Garden
- B. **Classification II:** 1.06-1.07 Duplex, 1.08-1.10 Townhouse, 1.11-1.13 Multi-Family Dwelling, 1.14 -1.16 Multi-Family Dwelling in Mixed-Use, 1.17 Adult Living Community, 2.02 Family Care Institution, 2.03-2.04 Halfway House, 2.05 Residential Care Facility, 2.06 Fraternity or Sorority Dwelling, 2.07 Boarding House, 3.02-3.03 Shelter for Homeless, 3.04-3.05 Bed and Breakfast, 3.06 Vacation Rental, 4.04 Cemetery, 5.01-5.03

Cultural Facility, 5.04-5.05 Recreation Facility, 5.07 Event Venue, 5.12 Police Substation, 5.13-5.15 Utility Facility, 5.16 Government Facility, 6.01-6.02 Utility Facility, 8.01-8.03 Religious Assembly, 9.0 Education, 12.04 Outdoor Theater, 12.07 Event Venue, 12.10-12.11 Recreation Facility

- C. Classification III:** 3.08 Motel, 3.09-3.11 Hotel, 4.01 Airport/Landing Strip, 4.02 Heliport, 4.03 Funeral Home Establishment, 4.05-4.06 Post Office, 5.06 Government Recreation Facility Category 3, 5.08-5.09 Government Event Venue, 8.04-8.05 Club/Lodge, 10.0 Daycare, 11.0 General Sales and Service,; 12.01 Indoor Shooting Range, 12.03 Indoor Theater, 12.06-12.07 Event Venue; 12.08 Campground and Recreational Vehicle Park, 12.12 Recreation Facility, 13.03-13.04 Agricultural Operation, 13.07 Custom Slaughterhouse, 14.01 Microbrewery, 14.02 Brewpub, 14.03 Brewery/Distillery, 14.05 Winery Associated with a Vineyard, 14.06 Winery, 14.09 Machine/Welding Shop, 15.0 Parking, 16.01 Mini-Storage, 16.02 Outdoor Storage, 16.03 Warehouse, 17.0 Transportation, 18.01 Recycling Drop-off Station, 19.0 Particular Activities which pose Particular Concerns about Public Health
- D. Classification IV:** 4.07 Animal Sanctuary, 5.10 Landfill, 5.11 Solid Waste Processing, 7.0 Telecommunications (excluding 7.01, 7.03, and 7.10), 12.09 Coliseum, 14.08 Extraction of Earth Materials, 14.10 Manufacturing Other, 16.04 Fuel Storage Facility, 18.04 Recycling and Salvage

(Ord. PL03076-090919, 11-19-2019)

31.05 Table of Screening Requirements

31.05.01 The Table of Screening Requirements shall be used to determine screening requirements between adjacent land uses.

Proposed Land Use Classification	Adjacent Permitted Land Use Classification				Adjacent Zone with Nonconforming Use		Adjacent Public or Private Street
	I	II	III	IV	Residential	Non-Residential	
II	C	A	A	A	B	A	10' Street Yard See Section 31.09
III	C	B	A	A	B	A	10' Street Yard See Section 31.09
IV	C	C	C	A	C	C	25' Street Yard See Section 31.09

31.05.02 Three basic types of screening are hereby established and are used as the basis for the table. Compliance of planted vegetation screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field

observation of existing vegetation. All types may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Suggested plant material is included in Appendix C, Town of Boone Details and Specifications Manual.

- A. Standard Screen, Type “A” is a screen composed of intermittent visual obstructions from the ground to a height of at least twenty feet (20’). The standard screen is intended to create a separation of spaces without necessarily eliminating visual contact between the spaces.
- B. Semi-Opaque Screen, Type “B” is intended to partially block the view between uses and to create a strong distinction of separation of spaces. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet (10’) wide.
- C. Opaque Screen, Type “C” is a screen that is opaque from the ground to a height of at least six feet (6’), with intermittent visual obstructions from the opaque portion to a height of at least twenty feet (20’). An opaque screen is intended to exclude completely all visual contact between uses and to create a strong spatial separation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstruction should not contain any completely unobstructed openings more than ten feet (10’) wide.

Screening Type	Required Width of Bufferyard
Type “A” Standard	10 ft.
Type “B” Semi-Opaque	15 ft.
Type “C” Opaque	25 ft.

(Ord. 20140384, 08-18-2014)

31.06 Buffer and Screen Requirements

31.06.01 Existing Vegetation

Buffers require provision of both physical separation and landscape elements to meet the intent of this Ordinance. Existing vegetation shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscurity as the planted buffer required below. Vegetation to be saved shall be identified on site plans along with protection measures to be used during grading and construction. See Section 31.13 for protection measures required and calculation of credits for existing trees.

31.06.02 Planted Vegetation

- A. Required plantings include for a mix of large shade trees, small trees, large shrubs, and smaller shrubs to provide variable height screening, and a variety of plantings and seasonal color. Evergreen trees are used to provide a more opaque screen, as well as more natural appearance to the buffer. The mix is designed to create a buffer which will give a satisfactory screen within three (3) to five (5) years of planting, under normal

maintenance, while allowing room for the various plants to grow. Planting requirements for buffers include both trees and shrubs as described below.

Buffer Type	"A" Buffer	"B" Buffer	"C" Buffer
Minimum Bufferyard Width	10 feet	15 feet	25 feet
Total Number of Plants per 100 Linear Feet	20	30	40
Number of Evergreen Trees	3	10	15
Number of Large Deciduous Trees	1	3	5
Number of Small Deciduous Trees	2	2	5
Number of Shrubs (at least 75% must be evergreen)	14	15	15

B. The plant list must only describe plant sizes on the landscape plan by: height for shrubs (gallon sizes for shrubs will not be approved), height for evergreen trees and either or both caliper and height for deciduous trees.

1. Minimum plant sizes for buffer requirements:
 - a. Evergreen tree: Minimum height of eight feet (8') at planting.
 - b. Large deciduous tree: Minimum caliper of two and one-half inches (2 ½") with a height of twelve to fourteen feet (12' – 14') at planting.
 - c. Small deciduous tree: Minimum caliper of one inch (1") with a height of eight feet (8') at planting.
 - d. Shrubs: Minimum height of eighteen inches (18") at planting.

C. Plant Standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock. Plants must be healthy, well branched, and free of disease and insect infestation.

31.06.03 Use of Bufferyards

Required bufferyards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated greenways, utilities, drainage ways, bio-retention areas, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Approval from the Administrator is required prior to initiating any disturbance of the buffer. Utility easements may be included in the width of the buffer with the following conditions:

- A.** Utility lines should be located cross perpendicular to a buffer, if possible, to minimize the impact.
- B.** If utility lines must run within bufferyard, they must be located along the edge of the bufferyard.
- C.** The applicant should minimize the amount of plantings for the bufferyard in the utility easement area so they will not have to be removed if the utility line needs

maintenance. If an applicant plans to plant in the utility easements, approval must be obtained from the affected utility companies to ensure that plantings will not conflict with the installation, operation, or maintenance of utility lines. Trees and shrubs planted within the utility easement will not count towards the buffer planting requirement unless they are approved by the utility companies. This may necessitate adding more land to the buffer to accommodate the required number of plantings.

31.06.04 Bufferyard Reductions

The width of the buffer may be reduced with the use of a fence or wall. If an applicant plans to build a fence or wall, a “C” buffer classification reduces to a “B” buffer classification and a “B” buffer classification reduces to an “A” buffer classification. Fences and walls must meet the following standards:

- A. Fences or walls shall be constructed of wood, brick, stone, or other masonry, and be architecturally compatible with the proposed structure. A detailed drawing of the screen must be shown on the landscape plan and approved by the Administrator.
- B. Walls and fences shall be solid construction and opaque.
- C. Walls and fences shall be a minimum height of six feet (6’).
- D. The wall or fence shall be located in the center of the buffer with vegetation planted on either side.

31.06.05 Loading Docks, Screening of Solid Waste and Recycling Container Areas, Outdoor Storage Areas, Utility Structures and Rainwater Harvesting Systems

- A. Loading docks, solid waste and recycling containers, outdoor storage, mechanical and HVAC equipment, rainwater harvesting systems, and similar facilities on the roof, on the ground, or on buildings shall be incorporated into the overall design theme. These areas shall be located and screened so that the visual impacts of these facilities are fully contained and out of view from adjacent properties and public streets.
 - 1. Accessory solar energy systems are exempt from this screening requirement.
- B. Solid waste and recycling containers (when required) shall be screened in accordance with the Solid Waste and Recycling Enclosure Detail (Subsection 22.13.03). The design and materials of the enclosure, fence or wall must be presented as part of the site plan or subdivision approval process. The screening material shall be architecturally compatible with the principal building(s) on site. Landscape plantings compatible with the overall landscape plan may be required outside of enclosures where they are in public view from a street and it is necessary to soften the enclosures appearance.
- C. Outdoor storage areas shall be located along the side or the rear of the principle structure and screened so that the visual impacts are fully contained and out of view from adjacent properties and public streets. Screening material may include fence, wall or landscaping so long as materials are architecturally compatible with the principle

building(s) on site and will provide an opaque screen. All areas utilized for outdoor storage must be located in areas specifically designed for outdoor storage and is prohibited in or on designated exterior walkways, parking areas, driveways, and landscape areas.

(Ord. 20140384, 08-18-2014; Ord. PL05272-110121, 12-08-21)

31.07 Combination Uses

31.07.01 The screening requirement between a combination use and an adjacent use shall be that required for the use necessitating the greatest visual obstruction.

31.07.02 Unless otherwise required for a structure, including a vehicle accommodation area or street, internal screening shall not be required between composite uses.

31.08 Subdivisions

31.08.01 When undeveloped land is subdivided and undeveloped lots only are sold, the applicant shall not be required to install any screening. Screening shall be required, if at all, only when the lots are developed, and the responsibility for installing such screening shall be determined in accordance with the requirements of this Article.

31.08.02 It shall be the responsibility of all new subdivision applicants to submit a tree survey in areas of land disturbance associated with construction of streets, drainage, utilities, and stormwater management areas. The tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight inches (8") in diameter and greater.

A. Every subdivision shall retain all existing healthy Historic trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and stormwater management areas. An applicant may be required to modify their design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of the development on the site or increasing the area of land disturbance.

B. Every subdivision shall retain all existing healthy Significant trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and stormwater management areas.

31.09 Screening Along Streets

31.09.01 The required minimum street yard shall be ten feet (10') and a maximum of twenty-five feet (25'), measured perpendicular from the street right-of-way. An average of one (1) large tree two and one-half inch (2 ½") minimum caliper (unless subject to overhead power lines) per thirty feet (30') of street frontage is required. Innovative design in tree arrangement is encouraged. Trees planted to satisfy this Section shall not be placed uniformly but in an irregular pattern. However, the minimum spacing between street trees shall be twenty feet (20') and the maximum shall be forty feet (40'). The applicant shall

either plant or retain sufficient trees so that, there is for every thirty feet (30') of street frontage at least an average of one (1) deciduous tree that has or will have when fully mature a trunk at least twelve inches (12") in diameter at maturity.

31.09.02 The Administrator shall have the authority to vary on a case-by-case basis the amount and size of required street trees where an alternative requirement would address unique site conditions and allow design flexibility while still serving the objectives for street tree standards. At least 250 square feet of contiguous, un-encroached growing area shall be provided for each tree. Planting location shall take into consideration any roadway widening identified on approved thoroughfare plans but not provided by the development.

31.09.03 Evergreen shrubs at the rate of one eighteen inch (18") minimum height shrub per three linear feet (3 lf) of property line abutting public streets less driveways, of a species expected to reach a minimum height of thirty inches (30") and a minimum spread of thirty inches (30") within three (3) to five (5) years of planting.

31.09.04 Except in the B1 Central Business District, when a surface parking lot is a principal land use or a component of a combination use, the following provisions shall apply:

- A.** The minimum street yard shall be twenty-five feet (25') measured perpendicular from the street right-of-way but the minimum street yard may be reduced by one foot (1') for every two feet (2') below adjacent street grade when the Administrator concludes the parking area shall have less of a visual impact than at street level.
- B.** An average of one (1) large tree, two and one-half inch (2 ½") minimum caliper, per twenty-five feet (25') of street frontage shall be provided.
- C.** An average of one (1) large evergreen tree, eight feet (8') minimum height, per fifty feet (50') of street frontage shall be provided.
- D.** Shrubs at the rate of one (1) eighteen inch (18") minimum height per two linear feet (2') of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30") and a minimum spread of thirty inches (30") within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.
 - 1. When a proposed parking area will be substantially below grade and shrubbery will not be visible from the street, the Administrator may reduce this requirement.
- E.** A minimum three foot (3') opaque decorative brick/rock wall not to exceed six feet (6') in height with landscape plantings along the street side or an earthen berm at least three feet (3') in height with landscape plantings incorporated into the design of the berm or a combination of both must be provided along any street frontage.
- F.** The height of any berm shall be undulating and the base shall be curving in nature.
- G.** A parking area that is located above or below the adjacent street level must design the plant material in the street yard in such a way as to maximize screening from the street.

- 31.09.05** In the B1 Central Business District, when a surface parking lot is a principal land use or a component of a combination use the following provisions shall apply:
- A.** The minimum street yard shall be ten feet (10') measured perpendicular from the street right-of-way.
 - B.** An average of one (1) large tree, two and one-half inch (2 ½") minimum caliper, per twenty-five feet (25') of street frontage shall be provided.
 - C.** An average of one (1) large evergreen tree, eight feet (8') minimum height, per fifty feet (50') of street frontage shall be provided.
 - D.** Shrubs at the rate of one (1) eighteen inch (18") minimum height per three linear feet (3 lf) of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30") and a minimum spread of thirty inches (30") within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.
 - 1. When a proposed parking area will be substantially below grade and shrubbery will not be visible from the street, the Administrator may reduce this requirement.
 - E.** A minimum three foot (3') opaque decorative red brick/native rock wall not to exceed six feet (6') in height with landscape plantings along the street side shall be provided.
 - F.** A parking area that is located above or below the adjacent street level must design the plant material in the street yard in such a way as to maximize screening from the street.

(Ord. PL04727-050721, 07-01-2021)

31.10 Vehicular Surface Area

- 31.10.01** The purpose of this Section is to provide visual relief from large expanses of pavement with the introduction of landscape plantings. Trees and shrubs are required in and around parking lots with more than six (6) spaces to provide attractive views from roads and adjacent properties, provide shade to reduce heat generated by impervious surfaces, reduce glare from parking lots, and to help filter exhaust from vehicles.
- 31.10.02** Plant beds shall be evenly distributed throughout the vehicular surface areas for maximum shade. No portion of the vehicular surface area shall be further than sixty feet (60') from the trunk of a large deciduous tree, except for areas that cannot reasonably be landscaped in the interior as determined by the Administrator, including, but not limited to, truck loading and unloading spaces and vehicle storage areas.
- 31.10.03** Plantings which shall be used to meet these requirements shall be located within the vehicular surface area or in plant beds directly adjacent to the surface areas. Trees along the adjacent street or yard areas and a maximum of ten feet (10') from the vehicular surface area may be used to meet this requirement.
- A.** Plant bed islands within the vehicular surface area shall be a minimum ten feet (10') in width to allow for adequate root aeration and expansion.

- B. Plant bed islands shall provide a minimum 250 square feet of contiguous growing area for each tree.
- C. Planting areas and islands shall be protected by barriers including but not limited to curbs, bollards, wheel stops, walls or fences.
- D. Plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, or pedestrian circulation.

31.10.04 Shrubs shall be planted at the rate of one (1) eighteen inch (18") minimum height evergreen or deciduous shrub per every 250 square feet of vehicular surface area. Shrubs to meet this requirement must be located within fifteen feet (15') of the paved area. Additionally, shrubs shall be located to facilitate safe sight distances within parking areas, and to protect them from overhangs of motor vehicles.

- A. Minimum curb radii of three feet (3') are required on the corners of all planting islands and medians to allow for free movement of motor vehicles around planting materials. All islands shall have raised edging around them to further protect plant material from being run over by motor vehicles.
- B. Shrubs shall not be planted within six feet (6') of a trunk of a new tree, nor within the drip line of a protected, existing tree.

31.10.05 Parking areas shall be separated from the exterior wall of a structure by landscaped planting areas at least four feet (4') in width. Planting areas may be omitted where necessary to accommodate pedestrian entrance ways. Alternative planting areas meeting the purpose and intent of this Section may be approved by the Administrator.

31.11 Flexibility in Administration Required

31.11.01 The requirements of this Article are established by the Council as standards that presumptively result in a better overall appearance of the built environment and protect the natural resources of the community. The Council recognizes that due to the particular nature of a tract, the nature of the proposal, or other factors, that the objectives of this Article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Administrator is authorized to permit deviations from these standards when both of the following conditions are met:

- A. The objectives underlying these standards can be met without strict adherence to them.
- B. Because peculiarities in the applicant's tract of land or the facilities proposed would make it unreasonable to require strict adherence to these standards.

31.11.02 Whenever the permit-issuing authority authorizes any deviation from the standards, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

31.12 Compliance and Maintenance

31.12.01 Certificate of Occupancy, Completion, or Zoning Compliance

- A. Landscaping must be installed according to the approved site plan and inspected prior to receiving final certification.
- B. All plant material shall meet or exceed size and shape relationships specified in the latest edition of the American Standard for Nursery Stock published by the American Association of Nurserymen.
 - 1. All sizes specified refer to size at time of planting. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant material.
 - 2. Caliper of the trunk of all new planted trees shall be taken six inches (6") above ground up to and including four-inch (4") caliper, and twelve inches (12") above the ground for larger sizes. Seldom are tree trunks perfectly round. Caliper measurements may be taken with "pincer" type caliper, or diameter tape.
- C. Plant material must be installed by a landscape contractor licensed to practice in the State of North Carolina, except that this provision does not apply with respect to:
 - 1. Landscaping work where the price of all contracts for labor, material, and other items for a given job site during any consecutive 12-month period is less than \$30,000.00;
 - 2. A federal, State, or local governmental agency performing landscaping on public property;
 - 3. A landowner performing landscape work on their own property;
 - 4. A general contractor licensed under Article 1 of Chapter 87 of the General Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor;
 - 5. Any other circumstance where the installation qualifies for an exemption under §13 of Chapter 89D of the General Statutes (as such may be amended from time to time).

31.12.02 Request for Extension of Compliance

- A. It is recognized that land development occurs continuously and that if the season or weather conditions prohibit planting the materials, the applicant may file a written request for extension of compliance with landscaping requirements with the Administrator, which states the reasons why the request is being made. If the Administrator finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed. Along with the letter the applicant must provide a performance guarantee in compliance with UDO Section 4.13.

31.12.03 Compliance of Maintenance

- A.** The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features required under this Article. The disturbance of any landscaped area or vegetation installed pursuant to the Article shall constitute a violation of the site plan or subdivision plan. Any vegetation that is dead, substandard, unhealthy, of poor structural quality, or missing, shall be removed and replaced in conformance with the standards of this Ordinance and to the approved site plan or subdivision plan.
1. Should significant amounts of landscaping or physical elements used to meet requirements be lost due to an unusual weather occurrence or natural catastrophe, the landowner shall submit a plan detailing their intent in replacing lost material. Replacement planting may occur within a phased basis as approved by the Administrator. The owner shall have one (1) year or one (1) growing season, whichever is sooner, to replace or replant.

31.12.04 Prohibited Pruning

- A.** All plant materials required by this Article shall be allowed to reach their mature size and shall be maintained at their mature size. Any trimming or pruning must be conducted in strict accordance with the current edition of “Tree, Shrub, and other Woody Plant Maintenance – Standard Practices” of the American National Standard for Tree Care Operations (ANSI 300). Required plantings shall not be cut or excessively pruned or otherwise damaged so that their natural form is impaired. Improper pruning includes the removal of the central leader, removal of more than twenty-five percent (25%) of the foliage within an annual growing season, removal of twenty-five percent (25%) of the foliage of a branch or limb when it is cut back to a lateral branch, and cutting a branch back to a lateral not large enough to assume apical dominance.
1. A violation of this Subsection shall subject the violator to a civil penalty as set forth in Section 12.07 for any improperly pruned, damaged, or excessively trimmed tree. In addition to this civil penalty, if more than fifty percent (50%) of the crown of a tree is removed within a continuous five-year period, the owner of the property, where a violation has occurred, shall replace each improperly pruned, damaged, or excessively trimmed tree with the appropriate replacement rate in accordance with Subsection 31.13.02.
 2. Any replacement tree shall be planted in a planting area of at least 250 square feet of contiguous growing area for each and shall have a minimum dimension of seven feet (7'). If the property whereon the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees cannot be planted on adjoining public street rights-of-way, then in lieu of such replacement trees, a fee equal to \$100 per caliper inch of 2 ½” replacement trees shall be paid to the Town. The Town’s Administrator may require crown restoration

and/or crown reduction in accordance with the current edition of “Tree, Shrub, and other Woody Plant Maintenance – Standard Practices” of the American National Standard for Tree Care Operations (ANSI 300) for any improperly pruned, damaged, or excessively trimmed tree. All such corrective pruning shall be done under the supervision of a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or North Carolina Certified Plant Professional and approved by the Administrator.

(Ord. 20160226, 06-16-2016; Ord. PL04727-050721, 07-01-2021)

31.13 Preservation of Existing Trees and Vegetation

31.13.01 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 the proposed development. It is recommended that groups of trees be preserved, as well as individual trees.

31.13.02 Existing healthy preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees according to the following:

A. Preserved trees may be credited at the rate of:

1. 2”- 6” caliper tree = 1 tree
2. 7” – 12” caliper tree = 2 trees
3. 13” – 18” caliper tree = 3 trees
4. 19” – 24” caliper tree = 4 trees
5. 25” + caliper tree = 5 trees

Note: All replacement trees are required to be a minimum two and one-half inch (2 ½”) caliper with a height of twelve to fourteen feet (12’- 14’).

31.13.03 In order to receive credit, preserved vegetation must be certified in good health and condition by a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or N. C. Certified Plant Professional. Trees designated to be preserved must be indicated on the Landscape and Grading Plans. Protective barriers must be shown on the Landscape and Grading Plans in accordance with the requirements of Subsection 31.13.10. If a preserved tree dies after completion of the project, it must be replaced with the total number of trees which were credited to the existing tree.

31.13.04 Every development shall retain all existing healthy Historic trees with drip lines outside the building footprint except new subdivisions. New subdivisions shall refer to Section 31.08. An applicant will be required to modify their design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of development on the site.

31.13.05 It shall be the responsibility of all applicants that submit site plans for new construction to submit a tree survey of the site proposed for development except for new subdivisions. New subdivisions shall submit a tree survey in accordance with Subsection 31.08.02. The

tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight inches (8") in diameter or greater on the site, and all trees proposed for credit as provided in Subsection 31.13.02.

31.13.06 If a landowner contends a tree is or is not healthy and the Administrator is in disagreement with such claim, the landowner shall submit an evaluation of the tree's health, performed by an individual who meets the requirements established in Subsection 31.13.03. If such evaluation determines the tree is not in good health or will not remain healthy under new conditions proposed for the site, the Administrator shall permit the removal of the tree(s).

31.13.07 Every development shall retain all existing healthy significant trees with drip lines outside the building and paving area footprint to the greatest extent possible. An applicant may be required to modify their design in order to preserve healthy Significant trees, provided the redesign can be accommodated without reducing the intensity of development on the site.

31.13.08 The permit-issuing authority may approve reductions in the requirements for the number of parking spaces or loading area requirements in order to facilitate preservation of Historic and Significant trees.

31.13.09 The standard measurement for existing trees to be preserved shall be the Diameter-at-breast-height (Dbh) measured in inches at a height of four and one-half feet (4 ½') above ground. If a tree splits into multiple trunks below four and one-half feet (4 ½'), then each trunk is measured as a separate tree. A tree which splits into multiple trunks above four and one-half feet (4 ½') is measured as a single tree at four and one-half feet (4 ½').

31.13.10 Protection of Existing Vegetation

- A.** No grading or other land disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet the landscaping requirements until protective barriers are installed by the applicant and approved by the Administrator.
- B.** For purposes of this Article, the Tree Protection Area is defined as that area within a circle drawn with the tree's trunk as the center and a radius defined by the tree's drip line (which is the perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground). No storage of materials, dumping of waste materials, fill or parking of equipment shall be allowed within this protected area, either during construction or after completion. No structures shall be permitted within the protected area unless approved by the Administrator.
- C.** A protection fence constructed of a high visible material resistant to degradation by sun, wind and moisture for the duration of the construction, shall be used.
- D.** If a violation of Section 31.13 occurs and as a result protected trees or shrubs die after a certificate of occupancy is issued for the development, then the owner of the property and their agents, heirs, or assigns shall be required to replace the tree using the credits in Subsection 31.13.03. Such replacement must take place within thirty (30)

days after death and this condition shall be a continuing condition of the validity of the permit.

- E. Where tree-protection areas are damaged during the development of the site and trees or shrubs which are designated to be preserved are killed or removed, the permit recipient shall be penalized as follows:
 - 1. A fine of one hundred (\$100.00) dollars per each inch in diameter of the damaged tree and fifty (\$50.00) dollars per each shrub (For example, the penalty for damaging a six-inch (6”) caliper tree shall be \$600.00), and
 - 2. Replacement vegetation shall be provided in accordance with Subsection 31.13.02.

(Ord. PL04727-050721, 07-01-2021)