

## Village of Wesley Chapel Tree Conservation Ordinance

### § 155.075 TREE CONSERVATION FOR CLUSTER SUBDIVISION

(A) *Purpose and intent.*

The purpose of this section of the Village Ordinances is to sustain a tree canopy of 30 percent of the Village, thereby enhancing the quality of life through sustainable urban forest practices. These regulations are established to conserve, protect, and replenish the tree canopy within the Village.

It is the intent of this Ordinance to:

- (1) Emphasize the importance of trees and vegetation as both a visual and physical buffer within the land use policies of the Village,
- (2) Discourage clear-cutting of sites before and during development,
- (3) Preserve existing tree stands to the extent possible and plant new tree standards to maintain and enhance the tree canopy within the Village,
- (4) Promote clean air quality by reducing air pollution and carbon dioxide levels in the atmosphere, and
- (5) Reduce harmful effects of wind and air turbulence, heat, noise, soil erosion, and stormwater runoff.

(B) *Authority.*

These regulations are adopted under the authority of the Village of Wesley Chapel to protect public health, safety, and welfare as per G. S. §160A-174 and in accordance with other applicable regulations of this chapter.

The Planning Administrator or designee shall have the power and authority to administer and enforce this ordinance.

(C) *Applicability.*

This ordinance will apply to:

- (1) All new residential and non-residential subdivisions/developments;
- (2) Non-residential expansion of existing land use such as parking lot enlargement.

(D) *Exemptions*

Property covered by an active forestry management plan in accordance with G. S. §89B. The plan shall be prepared by a North Carolina Registered Forester, who shall provide documentation to the Planning Administrator.

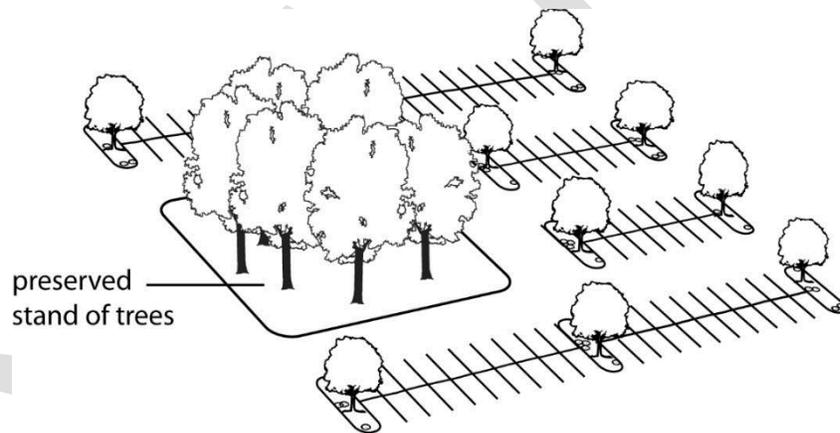
(E) *Tree Conservation and Protection Requirements*

(1) *General Rules/Objectives*

In delineating areas to conserve, the following guidance applies:

- (a) The protection of tree stands, rather than individual trees, is strongly encouraged. Where a project saves a stand of trees and is subject to the tree save requirements of this Section, an incentive may apply; see **§155.075.H.**

- (b) The protection of large, heritage tree stands is a priority.
- (c) Quality natural areas, free of exotic invasive species, should be the focus of tree preservation and Tree Conservation Areas whenever possible.
- (d) Where present in an area designated for tree save, the removal of invasive species will be required prior to final plat or zoning compliance approval.
- (e) The decision of which trees to preserve, as shown on the tree inventory, shall be made jointly by the Village Subdivision Administrator and the Union County Urban Forester or an International Society of Arboriculture Certified Arborist, International Society of Arboriculture Certified Municipal Arborist, North Carolina Registered Forester, or Society of American Foresters Certified Forester.



## (2) *Plan Requirements*

A tree conservation plan and a tree inventory are required for residential and non-residential development. The tree inventory must be completed by a certified [arborist](#), [registered forester](#) or [botanist](#). The inventory is intended to serve as the basis for formulating a tree conservation plan. [The tree inventory is required along with the original site plan submission.](#)

All development plans, residential and non-residential, shall include a tree conservation plan of all tree protection zones.

A tree conservation plan shall accompany all preliminary plat and construction plan submissions for major subdivisions and all non-residential developments. A tree conservation plan shall include a tree inventory, Tree Conservation Areas as required, [tree removal documentation](#), [tree mitigation](#)

calculations, mitigation planting areas and documentation and any other information the Planning Administration deems necessary to properly review the site for tree retention.

(3) *Tree Inventory Review*

A tree inventory shall be required for major subdivisions and all non-residential development prior to any land disturbing activities as part of the original site plan, and included in preliminary plat and/or construction plan reviews.

Such tree inventory will accurately depict the current condition of the site and existing trees to the satisfaction of the Planning Administrator. The tree inventory shall identify the following:

- (a) Description and location of all trees that are ten (10) inches in diameter at breast height (DBH = 4.5 feet above ground level) or greater; including the condition, species and approximate height of each tree.
- (b) General description of stands of trees that are ten (10) inches DBH or less with the size, species and density of trees per acre.
- (c) Any invasive species identified on site.

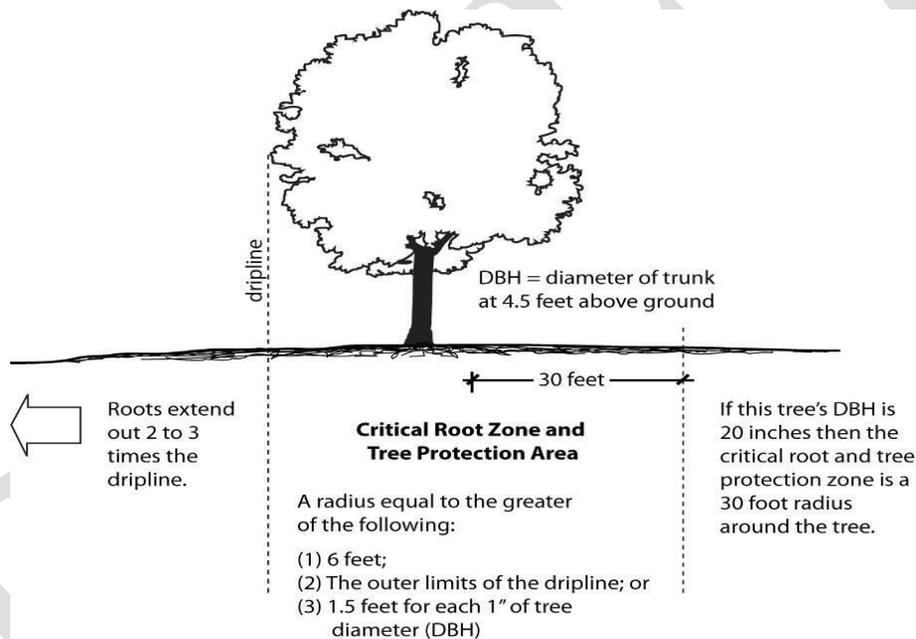
(4) *Tree Conservation Area*

- a. All developments must designate Tree Conservation Areas on site plans in an amount consistent with the guidelines below. If there is not enough area in existing trees, open areas are to be planted in native tree species to meet the Minimum Tree Conservation Area Requirements. Tree species utilized in planting are to be of the same species as naturally occurring trees on the development property. Commercial reforestation planting methods (seedling plantings) may be used for open area plantings.
- b. Land designated for Tree Conservation Areas shall be as a natural tree conservation easement in deeded common open space.
- c. For the purposes of this section, the “tree canopy” shall be composed of crowns of all healthy self-supporting canopy trees with a diameter of ten (10) inches or greater and understory trees with a caliper size of four (4) inches or greater.
- d. Tree canopy will be determined based on the highest percentage of cover over the last five (5) years, as supported by aerial photography.
- e. Method for Designating Tree Conservation Area:

1) The total percentage of Tree Conservation Area shall be 30% of the entire site. Tree Conservation Areas shall not include rights-of-way, utility easements, and any area covered by existing ponds and lakes.

2) A Tree Conservation Area shall include the **preserved** critical root protection zone for the tree stand. Critical root protection zones are a radius equal to the greater of the following:

- I. Six (6) feet;
- II. The outer limits of the dripline; or
- III. One and a half (1.5) feet per one inch (1") of tree diameter (DBH).



#### (5) *Limitations on Removal of Tree Canopy*

Any existing tree canopy shall be saved to meet the requirements of this section and may only be removed if:

- (a) The existing trees pose a threat to property or public safety due to disease, danger of falling, or otherwise present a hazard to other vegetation or surrounding properties, and/or

- (b) The existing trees that are to be removed are replaced with new trees, if required by, and consistent with, the Minimum Tree Conservation Area calculations.

(6) *Credit for newly planted trees*

The area devoted to newly planted trees may be counted as part of the Tree Conservation Area. The area that is represented by newly planted trees will be calculated on the basis of square footage of forest stand coverage created, based on typical coverage at maturity, please see §155.075(G)(2)

(F) *Heritage Tree Protection*

Heritage trees are large growth trees, twenty inches (20”) DBH or greater, that exist throughout the Village of Wesley Chapel. It is the intent of the Village to preserve these trees to the maximum extent possible by regulating their removal.

(1) Exemptions

Heritage tree protection standards shall NOT apply to the removal of heritage trees under the following circumstances:

- (a) Diseased, dying, or dead trees that cause a probable safety hazard to buildings, utilities, and/or pedestrian or vehicular travel paths may be removed with written approval from the Planning Administration, unless deemed an emergency. The removal request shall include the number, location, species, and diameter of the trees to be removed along with the condition of the tree and reason for the proposed removal, as signed by a certified arborist with photographic evidence.

- (b) The Planning Administrator shall review all heritage tree removal requests and consider the following:

The condition of the tree or trees, with respect to their health, danger of falling, proximity to existing structures or utilities, their location near pedestrian or vehicular travel paths, and the probability of implementing tree maintenance techniques as an alternative to removal.

- (c) The emergency removal of trees that pose an immediate public health and safety hazard, as determined by a Town, County, and/or State emergency services professional, may be removed without first obtaining written approval from the Planning Administrator. Written documentation of the removed tree(s) shall be provided to the Planning Administrator and include the number, location, species, and diameter of the trees removed along with the condition of the tree and reason for removal signed by a certified arborists with photographic evidence.

## (2) Heritage Tree Removal

- a. Land development application plans that show a removal of heritage trees will be approved only when trees are located within a portion of the site where building pads or related improvements are permitted and no other reasonable location for the building pad or improvement exists, this includes removal to allow for an access road or drive.
- b. Approval of plans that show the removal of heritage trees shall be reviewed as per the Subdivision Modification requirements set out in §155.030.
- c. Any plans approved that show the removal of heritage trees also require new trees be planted in accordance with the Mitigation Planting standards (155.075)(F)(3).

## (3) Mitigation Planting

- a. Each heritage tree mitigated shall equate to 1,600 square feet of canopy for large tree species; 900 square feet for medium tree species; and 400 square feet for small tree species. (This equates to approximately 28 large tree species; 49 trees for medium; and 109 trees for small species.)
- b. Each replacement tree shall be at least two inches (2”) caliper at the time of replanting.
- c. All mitigation plantings shall occur during the dormant (when the leaves are off of the deciduous tree species) season or an irrigation system is required to ensure viability of trees.
- d. Required Tree Conservation Areas do not qualify as part of mitigation plantings for the removal of heritage trees. Mitigation requirements are in addition to required Tree Conservation Areas.
- e. All required mitigation plantings, or existing tree canopy used for mitigation, shall be located on land that is deeded Tree Conservation area in common open space; 1,600 square feet of additional tree canopy is equivalent to one large tree species; 900 square feet of tree canopy is equivalent to one medium tree species; and 400 square feet of canopy is equivalent to one small tree species.

## (G) Landscaping Plan

- (1) A landscaping plan shall accompany all preliminary plat submissions, in conjunction with the tree conservation plan, tree inventory, and/or heritage tree mitigation plans. Plans shall include the following information:
  - a. Tree Inventory – including heritage tree identification and yield calculations of species and size,
  - b. Identification of all Tree Conservation areas,

- c. Tree Mitigation Plan,
- d. Tree Conservation Areas,
- e. Building Sites,
- f. Utilities and associated easements,
- g. Rights-of-Way,
- h. Parking and driveways,
- i. Storm water management facilities,
- j. Trees to be planted,
- k. Land use buffering,
- l. Parking lot landscaping, and
- m. Street trees.

(2) Canopy Tree Planting Requirements (Reference 155.075)(E)(4)

- a. All developments subject to Tree Conservation Area requirements that cannot save the required amount of canopy through the preservation of existing trees will be required to meet the canopy requirements through the planting of new canopy trees consistent with this section. The area of newly planted canopy trees will be calculated on the basis of the estimated canopy at maturity (i.e. 1,600 square feet for large maturing trees; 900 square feet for medium maturing trees; and 400 square feet for small maturing trees).
- b. All tree canopy cover requirements shall be met through the preservation of existing trees and/or the planting of trees.

(3) Parking Lot Tree Planting

- a. All new or expanded parking areas must comply with the tree planting requirements herein as well as in §156.126, Screening. In order to meet the parking lot planting requirements, required canopy tree areas shall be located within the parking lots and adjacent parking spaces, inside medians at the end of parking bays, or tree island and shall adhere to the following:
  - i. All trees shall be a minimum of two inches (2”) in caliper and at least 8 feet in height above ground level at the time of planting, with an expected mature height of at least 30 feet.
  - ii. All parking lots with more than 12 parking spaces must provide a minimum of 35 percent canopy cover or one tree every 10 parking spaces.
  - iii. All parking spaces must have at least one tree within 50 feet.
  - iv. A mix of tree species shall be provided for rows of parking spaces over 50 and provide a minimum of three types of tree

species, chosen from the acceptable species list, §155.075(G)(5).

- v. A minimum size planting island shall be provided for different sized trees as follows:

Size	Minimum Planting Island area
Small	162 square feet
Medium	225 square feet
Large	288 square feet

1. Planting islands that serve to break up every ten (10) parking spaces shall be a minimum of 162 square feet.
2. All planting islands have a minimum width of nine (9) feet.

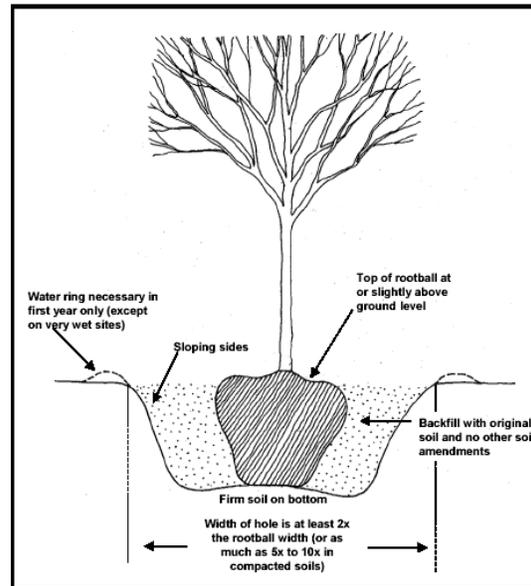
- vi. A minimum of 25% of the trees provided shall be large canopy trees.

#### (4) Street Tree Planting Requirements

- a. All developments that have frontage on a public or private street must install tree plantings.
- b. Where a landscape buffer or screening is required (as per §156.126) or parking lot plantings are required (as per §155.075(G)(3)), the requirements of this section shall not apply.
- c. The required perimeter strip for street trees must be comprised of the following:
  - i. Row of ornamental or canopy trees,
  - ii. Mix of tree species,
  - iii. Average of 30 feet **per 100 feet** between trees on the center, and
  - iv. Located between the street and sidewalk with a planting strip of nine (9 feet) or greater.
- d. The applicant will be required to secure all necessary permits for planting in a road right-of-way from the NC Department of Transportation.

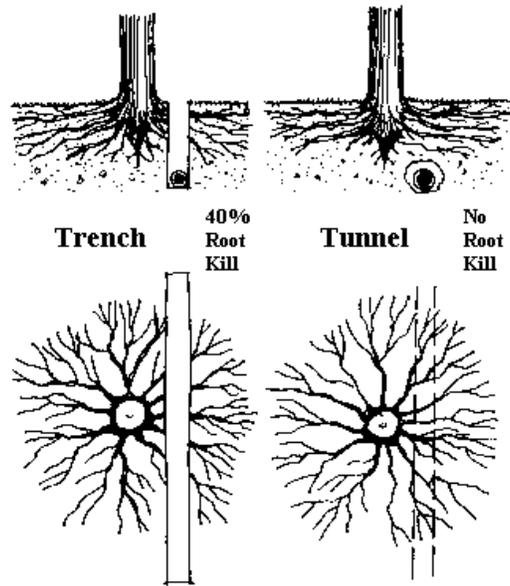
## (5) Acceptable Tree Species

All tree and shrub species shall be from the Union County approved list of species and planted as per our recommended planting method. The applicable tree species are incorporated by reference automatically into this ordinance. The clerk shall maintain a digital or paper copy of this list, as published by Union County.

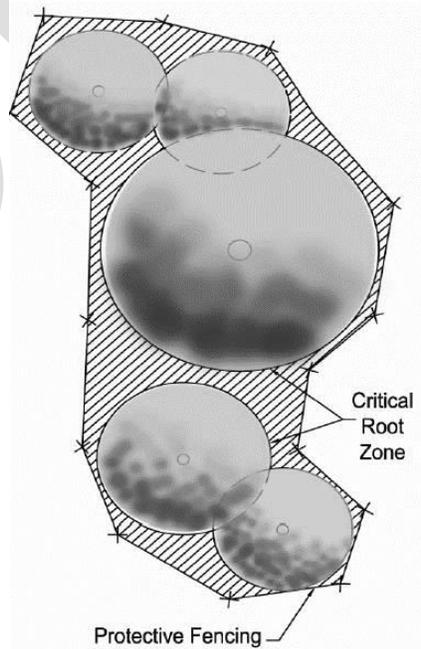


## (H) Construction Standards for Tree Protection

- a. To receive credit for the protection of tree canopy, trees shall be protected from direct and indirect root damage and trunk and crown disturbance.
- b. The following standards apply during construction:
  - i. The Tree Conservation Areas and any planting areas shall remain open and unpaved.
  - ii. Construction site activities, such as parking, material storage, dirt stockpiling, concrete washout, and other similar activities shall be prohibited within the Tree Conservation Area and any planting areas.
  - iii. Changes that significantly raise the grade of soil adjacent to Tree Conservation Areas and/or planting areas are prohibited.
  - iv. If an underground utility must cross the drip line of retained tree canopy, the contractor must tunnel or auger underneath major roots of the tree without cutting them. Depth of auguring shall be a minimum of two feet (2').



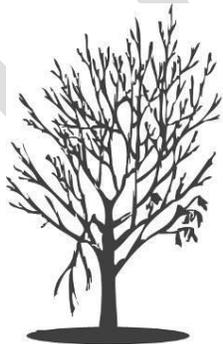
- v. Tree protection fencing shall be installed [at the critical root zone](#) (see: § 155.075(4)(a)) around the Tree Conservation Area and/or planning areas prior to any land disturbing activities. Fencing shall remain in place until construction is complete and other plantings have occurred. The Planning Administrator shall give approval for removal.



- c. All Tree Conservation Areas shall be designated with “Tree Conservation Area” signs posted visibly on the outside of the fenced area. Signs must be in compliance with §156.155-156.165, Signs.

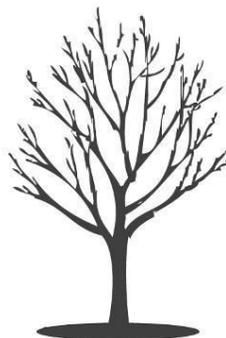
(I) Maintenance of Trees

- a. All property owners shall be responsible for the maintenance of existing trees in Tree Conservation Areas and/or newly planted areas to fulfil the requirements of this section.
- b. All tree plantings required by or installed pursuant to this section shall be maintained in good condition so as to present a healthy, neat, and orderly appearance.
- c. All required tree plantings shall be kept free from refuse, debris, and dead, diseased or severely damaged plants or vegetation.
- d. All dead or unhealthy trees can be removed **if that condition is verified by a qualified arborist or tree professional.**
- e. If existing or planted trees used to comply with the regulations of this section die or are removed for any reason during development, or within 12 month of the end of construction, they must be replaced during the next suitable planting season in a manner, quantity, size and installation period approved by the Planning Administrator.
- f. All existing and proposed trees used to comply with this section shall not be sheared, topped, or disfigured by improper pruning. Trees shall be allowed to grow to their natural height and form.



**Before Pruning**

Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.



**After Proper Pruning**

After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.



**After Excessive Pruning**

Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

g. Operations and Maintenance Agreement

- i. All developments shall have an enforceable operation and maintenance agreement to ensure the Tree Conservation Areas remain in good health as approved. This agreement will include any and all areas designated for tree conservation or mitigation planting as part of an approved development plan and to perform routine maintenance as necessary to ensure proper health of area. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all tree save and mitigation planting areas shall be secured prior to issuance of any permits for land disturbance activities.
- ii. Prior to the final approval of a preliminary plat or site development plan, the applicant or owner of the site shall execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, including any homeowners' associations or management companies. Failure to execute the agreement shall result in a delay of approval.
- iii. All operation and maintenance agreements shall be recorded with the Union County Register of Deeds after final approval. A copy showing recordation must be presented to the Zoning Administrator.
- iv. The person or organization with authority over the Tree Conservation Area shall submit an annual inspection report to the Zoning Administrator from a certified arborist or registered forester for the first two years and then every five years afterward. Annual inspection reports will begin one year after final plat or site development plan approval.

This report shall contain all of the following:

1. The name and address of the land owner;
2. The recorded book and page number of the lots for each Tree Conservation Area;
3. A statement that an inspection was made of all Tree Conservation Areas;
4. The date the inspection was made;
5. The general area of tree canopy on the site;
6. A statement that the Tree Conservation Areas are in good health and in compliance with the terms and conditions of the approved maintenance agreement required by this section; and
7. The original signature and seal of the arborist or tree professional.

(J) Enforcement

- a. The Planning Administrator, and any other person so designated by the Village Council, shall have the authority to administer and enforce this section. Minor exceptions to this section may be granted by the Administrator where, in his or her belief, such exception would not significantly impact or impair the intent of this section. Any decision of the Planning Administrator may be appealed to the Board of Adjustment as per §156.256.
- b. If, through inspection, it is determined that the developer or property owner has failed to comply, or is no longer in compliance with the provisions of this section, the development will be considered in violation of Village Code and follow the remedies established in §156.999.

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