



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

15a

TO: Honorable Mayor and Members of City Council

FROM: John F. McDonough, City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: January 11, 2021

ORDINANCE/RESOLUTION CAPTION:

ORDINANCE TO AMEND SECTION 19-6.2, LANDSCAPING, BUFFERING, AND SCREENING AND TO REPEAL AND REPLACE SECTION 19-6.3, TREE INVENTORY, PROTECTION AND REPLACEMENT, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO MODIFY THE LANDSCAPE, BUFFERING, AND SCREENING, AND TREE PROTECTION REGULATIONS (Z-14-2020)

SUMMARY BACKGROUND:

Staff submits text amendment to amend Sections 19-6.2 and 19-6.3 of the Land Management Ordinance to modify the landscape, buffering, and screening, and tree protection regulations.

These amendments include updates to the City's planting, mulching, installation, irrigation, and inspection standards to reflect current best practices, as well as, changes to address the inventory, protection, and replacement of trees during construction and renovation of any new development. These changes will lead to healthier, more viable landscape projects, slow down and ultimately reverse destruction of Greenville's tree canopy. Additionally, the changes will make it easier for the design/development community to interpret and follow the regulations.

The City Planning Commission, pursuant to public notice, held a public hearing on December 17, 2020, to consider the proposed text amendment. The application was recommended for approval with two amendments and a recommendation by a vote of 7-0.

Planning Staff Recommendation: Approve with conditions

Planning Commission Recommendation: Approval with two amendments by a vote of 7-0

Additionally, Planning Commission recommends that City Council adopt a policy addressing the mitigation of development costs for affordable housing, including those that might be associated with tree mitigation, that does not minimize design standards.

IMPACT IF DENIED:

The text amendment will not be approved, and the landscape, buffering, and screening, and tree protection regulations will remain regulated by the existing standards of the Land Management Ordinance.

FINANCIAL IMPACT:

None

REQUIRED SIGNATURES

Department Director Jonathan B. Graham
DocuSigned by:
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City Attorney Michael Pitts
DocuSigned by:
5E0F2A267E2D413...

OMB Director _____

City Manager John McDonough
DocuSigned by:
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AN ORDINANCE

TO AMEND SECTION 19-6.2, LANDSCAPING, BUFFERING, AND SCREENING, AND TO REPEAL AND REPLACE SECTION 19-6.3, TREE INVENTORY, PROTECTION AND REPLACEMENT, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE TO MODIFY THE LANDSCAPE, BUFFERING, AND SCREENING, AND TREE PROTECTION REGULATIONS (Z-14-2020)

WHEREAS, the city of Greenville desires to modify the landscape, buffering, and screening, and tree protection regulations for the purposes set forth in Section 19-6.2.1(A) of Exhibit A and in Section 19-6.3.1(A) of Exhibit B which said purposes are incorporated herein as if set forth verbatim; and

WHEREAS, the City Planning Commission, pursuant to public notice, held a public hearing on December 17, 2020, to consider the proposed text amendments, and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the proposed text amendments with two amendments to Section 19-6.2.2 (B) (3), Low-volume species recommendation, and Section 19-6.3.1 (C) (8), Exemption for minor subdivision in R-6 and R-9; and

WHEREAS, City Council finds the text amendments to be compatible with the City's Comprehensive Development Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, Section 19-6.2, Landscaping, buffering, and screening, is amended as set forth in Exhibit A and Section 19-6.3, Tree Inventory, Protection and Replacement, is repealed in its entirety and replaced with Exhibit B in the City of Greenville Code of Ordinances. Both Exhibits are attached hereto and incorporated herein by reference. This Ordinance shall be effective upon second and final reading.

DONE, RATIFIED AND PASSED THIS THE ____ DAY OF _____, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

EXHIBIT A

Sec. 19-6.2. - Landscaping, buffering, and screening.

19-6.2.1. *General.*

- (A) *Purpose and intent.* The purpose of landscaping, buffering, and screening requirements is to provide an aesthetically pleasing environment for property owners and residents of the city and other members of the public. The requirements are intended to maintain and enhance property values, enhance the appearance of all developments, provide adequate buffers between different land uses, improve the character, appearance, and micro-climate of the city, improve heat and noise abatement, and reduce erosion and stormwater runoff.
- (B) *Applicability.* These regulations shall apply on a citywide basis for the following proposed development plans:
- (1) Subdivision, construction, or reconstruction of all residential and nonresidential developments.
 - (2) Construction of a parking structure or a vehicular use area.
 - (3) Expansion, paving, or repaving of a nonconforming parking lot pursuant to the provisions of section 19-9.6, nonconforming parking lots.
 - (4) Demolition of a structure within the C-4 district resulting in a vacant lot.
 - (5) Change of use.
 - (a) If a change of use constitutes less than 25 percent of the floor area of a structure or lot accommodating one or more uses (within a five-year period), the property shall comply with the provisions of this section and all other applicable city, state and federal regulations to the greatest extent practicable, as determined by the administrator, provided the new use fully complies with the requirements of subsection 19-6.2.3, buffering and screening requirements, and subsection 19-6.2.5, additional screening requirements.
 - (b) If a change of use constitutes 25 percent or more but less than 50 percent of the floor area of a structure or lot accommodating one or more uses (within a five-year period), the property shall comply with the provisions of this section and all other applicable city, state and federal regulations, to the greatest extent practicable, as determined by the administrator, provided the new use fully complies with the requirements of subsection 19-6.2.2, street trees; subsection 19-6.2.3, buffering and screening requirements, and subsection 19-6.2.5, additional screening requirements.
 - (c) If a change of use constitutes 50 percent or more of the floor area of a structure or lot accommodating one or more uses (within a five-year period), the property shall comply with the provisions of this section and all other applicable city, state and federal regulations, to the greatest extent practicable, as determined by the administrator, provided the new use fully complies with the requirements of subsection 19-6.2.2, street trees; subsection 19-6.2.3, buffering and screening requirements, 50 percent of the planting rate established in subsection 19-6.2.2(D)(4), interior parking lot landscaping, 50 percent of the perimeter buffer yard requirements established in subsection 19-6.2.4, street buffer yards, and subsection 19-6.2.5, additional screening requirements.
- (C) *Exemptions.* These regulations shall not apply to the construction or renovation of a single-family detached dwelling on an existing lot of record

- (D) *Landscape plan required.* A landscape plan shall be submitted as part of a site plan permit application for all developments listed in subsection 19-6.2.1(B). The landscape plan shall meet the requirements listed in the administrative manual.
- (E) Installation of Plant Material. Plant material must be installed according to American National Standards Institute (ANSI) A300 standards. This includes removal of straps, burlap wraps, cutting of wire baskets, and proper mulch techniques. Plant material will be inspected prior to the issuance of a Certificate of Occupancy and the permit will be held if it is determined that trees and/or shrubs are not installed correctly. Installation details that are consistent with ANSI A300 standards must be provided on all landscape plans submitted for review.
- (F) Maintenance. The owner of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material for the duration of the premises.
- (1) All landscape material, maintenance, and management shall conform to the minimum standards of the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations.
 - (2) Landscaped areas shall be maintained in good condition and kept free of dead plants, weeds, or debris. Failure to maintain or replace dead, damaged or diseased plant material or to repair a broken wall or fence within 30 days of notification shall constitute a violation of this section. If a catastrophic event occurs which destroys a large quantity of vegetation, the owner or lessee shall replant within a reasonable time period determined by the administrator, normally during the next planting season, which is November through March. Replaced plant material must be in compliance with the minimum size, spacing, and quantity standards of this section.
 - (3) Mulch should be installed and maintained according to the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations. The tree's root flare should always be visible with correct mulching techniques. Over-mulching, 'volcano' mulching, and / or covering the base of the tree with mulch is not acceptable and will be considered a violation of this ordinance.
 - (4) Trees may not be severely trimmed beyond only be pruned according to the standards of ANSI A300 Standards for Tree Care Operations. If aggressive trimming occurs, the property will be considered nonconforming and required to replace the trees with trees meeting the minimum size, spacing, and quantity standards of this section.
 - (5) Buffer and screening material shall be maintained to meet the minimum size, spacing, and quantity standards of table 19-6.2-1.
- (G) *Species variety.*
- (1) Landscape plan species variety shall be in proportion to the number of trees and shrubs planted. The following minimum quantities shall be in the form of genus diversity:

| Required Number of Trees | Minimum Species |
|----------------------------------|------------------------|
| 1—5 | 1 |
| 6—10 | 2 |
| 11—20 | 3 |
| 21+ | 4 |
| <u>Required Number of Shrubs</u> | <u>Minimum Species</u> |

| | |
|--------------|----------|
| <u>1-10</u> | <u>1</u> |
| <u>11-30</u> | <u>2</u> |
| <u>31-50</u> | <u>3</u> |
| <u>51+</u> | <u>4</u> |

(2) Shrubs required to meet the requirements of this ordinance should be diverse in selection and utilize a variety of species. A monoculture of shrubs is not permitted on development plans subject to the conditions of Section 19-6.2. A mix of native evergreen and deciduous shrubs is recommended and all shrubs should be adapted to Greenville's climate zone. A minimum of 50% of all shrubs shall be considered native.

(3) In the case of unusual site limitations, an exception may be requested and a different mix and number of species may be proposed for review and approval. A description of the unusual site limitations and the reasons for the proposed actions must accompany the request upon submittal of the site plan.

19-6.2.2. *Landscaping requirements.*

(A) *General.*

- (1) All planting areas shall be protected from vehicle damage by the installation of curbing or other methods approved by the administrator. Alternative barrier designs which provide improved infiltration or storage of stormwater are strongly encouraged.
- (2) The plant materials used in and around parking lots and adjacent to street rights-of-way and pedestrian ways shall be designed to ensure visibility at intersections and safety of pedestrians.
- (3) All planting areas shall be stabilized with ground covers, mulches, or other approved materials to prevent soil erosion and to allow rainwater infiltration. Rubber mulch is not acceptable. Mulch shall be applied according to guidelines in Section 19-6.2.1 (F)(3), to encourage healthy plant and tree growth.
- (4) All plant and other materials used to comply with this section shall be placed in such a manner as to ensure maintenance access, to maintain unobstructed sight distances, to avoid encroachment on neighboring property, and shall be a species suitable for proposed location, including conflicts with all utility easements and rights-of-way.
- (5) Any shrub used to comply with a six-foot-tall screening requirement shall be evergreen, and at least four feet in height at the time of planting. Exception: Shrubs used to screen non-single-family uses proposed for the C-3, S-1, and RDV districts shall be six feet tall at the time of planting. Cultivars of evergreen shrubs that do not increase in spread size and provide a full natural screen at maturity shall not be used to meet screening requirements.
- (6) Plant height refers to the height of plants measured from the top of the root flare, and does not include the root ball or the plant's container.
- (7) A naturalized dispersion and spacing of any required trees and shrubs throughout the site is encouraged.
- ~~(7) The entire planting area must be scarified and contain amended on-site soil or a soil mix to a depth of 18 inches.~~
- (8) Irrigation:

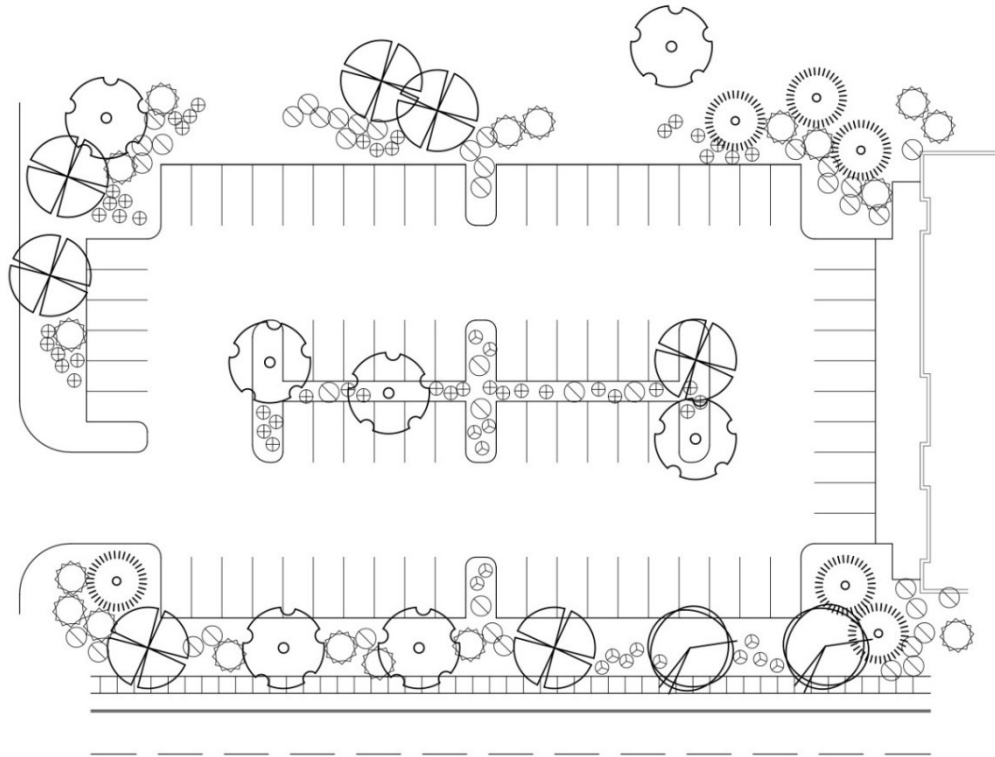
- (a) *New installation.* ~~From and after January 1, 2011, r~~ Rain sensors or clocks that receive local weather data shall be required on all automatic irrigation systems that will receive city water. Systems shall be designed, installed, and adjusted to not allow overhead irrigation to fall on non-permeable surfaces.
- (b) *Required maintenance.* All rain sensors shall be adjusted and set so that they automatically shut off the irrigation system after more than one-fourth inch of rainfall has occurred. All rain sensors shall be installed according to manufacturer's instructions in a location that will provide full exposure to rainfall such that accuracy of operation is ensured and shall be maintained in good working condition. No person shall, with the intent of circumventing the purpose of this section, adjust either the rain sensor or irrigation system so that the rain sensor is not able to override and turn off the irrigation system after one-fourth inch of rain has fallen.
- (B) *Minimum planting size/height requirements.* All landscape planting materials shall conform to the minimum size or height standards in table 19-6.2-1 at the time of planting as well as meet the standards of ANSI Z60.1 American Standard for Nursery Stock.
- (1) For newly planted trees the caliper measurement of the trunk shall be taken six inches above the top of the root flare up to and including four-inch caliper size. If the caliper at six inches above the top of the root flare exceeds four inches, the caliper should be measured at 12 inches above the top of the root flare.
- (2) For existing trees, the diameter measurement of the trunk shall be taken at DBH (diameter at breast height) 4.5 feet above the average ground level.
- (3) It is recommended that trees in planting areas less than 135 square feet be of a species known to thrive in low soil volume areas.

| Table 19-6.2-1: Minimum Planting Size/Height Requirements/Spacing | |
|--|---|
| Type of Planting Material | Minimum Size/Height/Spacing |
| Shade trees | 3-inch caliper 14-foot height, 6-foot clear trunk, <u>12-foot height</u> |
| Ornamental and understory street trees | 2-inch caliper, 10-foot height, 5-foot clear trunk |
| Multi-stemmed street trees | 2-inch caliper, 3 canes minimum <u>5 canes maximum, 10-foot height, 5-foot clear trunk</u> |
| Evergreen buffer vegetation | <u>4</u> 6-foot height at planting, plant spacing 5 feet on-center, <u>10'</u> maximum mature width, 6' minimum mature height |
| Evergreen shrubs | 18-inch height |
| Deciduous shrubs | 24-inch height |
| Additional screening requirement | 48-inch height, evergreen, plant spacing 4 feet on-center |

- (C) *Street trees.* Street trees shall be provided and maintained within, or adjacent to, all existing and proposed public street rights-of-way in accordance with the following requirements:
- (1) Street trees shall ~~include only those trees listed in the approved list of tree species unless use of an alternative species is~~ be approved by the administrator based on the location and use of the space.

- (2) Street trees shall be located in an area no further than ten feet from the existing or proposed street right-of-way line.
 - (3) Street trees shall be planted at a spacing of 40 feet on-center for shade trees or 20 feet on-center for ornamental and understory trees along the entire length of the street frontage of the proposed development or as approved by the administrator based on the development plans. Ornamental and understory trees shall be used as street trees only when there is an overhead obstacle which would preclude the use of taller-growing shade trees. ~~A list of acceptable street trees is available in the administrative manual.~~
 - (4) Preserved existing trees of a three-inch DBH or greater may be used to satisfy the street tree requirement. Preserved existing trees shall meet all the requirements outlined in section 19-6.3., *tree protection*, be of an acceptable species, ~~table C [in the administrative manual (see subsection 19-6.2.3(e)(1))]~~, and alive and healthy at the time of final inspection. Tree species listed in Table A of Appendix E of the administrative manual are unacceptable for preservation.
 - (5) Trees used to comply with street tree requirements shall not count toward the minimum number of trees required to meet interior parking lot landscaping.
- (D) *Interior parking lot landscaping.*
- (1) In addition to all other landscape requirements, all parking lots subject to this section 19-6.2 shall provide and maintain landscaped planting areas within the interior of the parking lot. These standards shall not apply to parking structures. Each planting area shall consist of at least ~~180~~ 135 square feet, or as approved by the administrator.
 - (2) In cases where the area required for the construction of the minimum parking spaces as required by section 19-6.1, off-street parking requirements, would cause the removal of a ~~historic or~~ heritage tree, the administrator may modify the landscaping requirements and/or the parking requirements in order to preserve the affected ~~historic or~~ heritage tree.
 - (3) Interior planting areas shall be designed within parking areas as:
 - (a) Islands located at the end of parking bays;
 - (b) Islands located between parallel rows of cars, used to visually separate parking areas into pods;
 - (c) Driveway medians, which shall have a minimum width of six feet.
 - (4) Each interior planting area shall contain non-columnar approved shade trees and be planted at the following rates:
 - (a) One shade tree and eight shrubs for every 2,000 square feet, or portion thereof, of the total parking lot area, including drives and service areas.
 - (b) Not more than ten continuous parking spaces shall be allowed in a row of parking without separation by a ~~180~~ 135-square foot median containing at least one shade tree.
 - (5) Each parking space must be located within 60 feet of a tree measured from the closest point of the parking space to the tree trunk.
 - (6) Shade trees are not to be located any closer than ~~25~~ 15 feet apart measured from trunk to trunk.
 - (7) Proposed shade trees being used to meet the interior parking lot landscaping requirements shall be located no further than ten feet and no closer than four feet from the edge of pavement.

- (8) Existing shade trees may be used to meet the interior parking lot landscaping requirements at the discretion of the administrator if the trees meet the intent of the interior parking lot landscaping requirements and the tree protection requirements.
- (9) Trees used to comply with interior parking lot requirements shall not count toward the number of trees required to meet the street tree requirements.
- (10) No more than 25 percent of required shrubs may be deciduous.
- (11) Bioswales, rain gardens, and other forms of low impact development (LID) located within parking lot islands are encouraged to help mitigate stormwater runoff. These applications should follow best management practices for landscape design and planting.



Example of Interior Parking Lot Landscape 19-6.2.1 (D): A naturalized dispersion and spacing of trees and shrubs throughout the site is encouraged. No parking lot trees shall be columnar in form. Street trees are to be 40' o.c. if canopy; or 20' o.c. if ornamental below a power line. Tree and shrub types are required to have a minimum number of different species per 19-6.2.1 (G). No parking stall shall be farther away from a tree by more than 60'. No bay of parking stalls shall be greater than ten spaces without a planter bumpout. Parking median islands are to be minimum 6' width.

19-6.2.3. *Buffering and screening requirements.*

- (A) *Purpose.* Buffer yards and screening are required in order to reduce the impact of a use of land on adjacent uses that are of a significantly different character, density, or intensity. Except as may be provided in other sections of this chapter, the width of the buffer yard shall be the same as the setback requirement in the applicable zoning district and all screening materials shall be located within the required yard. A buffer yard may only be occupied by permitted landscaping and screening materials, underground utilities, and stormwater retention areas. Buffer yards and screening shall be required in addition to any other landscaping requirement listed in this section.
- (B) *Applicability.* Buffer yards and screening shall be installed and maintained by the developer of:

- (1) A nonresidential or multifamily residential development adjoining either:
- (a) A residential use located in a residential zoning district; or
 - (b) A vacant lot in a residential zoning district.
- (2) A parking structure containing ground level parking with the exception of structures having other permitted uses, fences, walls, or similar structures located between the parking structure and adjacent uses.
- (C) *Permitted screening materials.* The following items are permitted for use as screening materials. Alternative screening materials that are not listed may be used if approved by the administrator.
- (1) Evergreen buffer vegetation that is approved by the administrator ~~listed on the acceptable evergreen screen/buffer tree species list, table E in the administrative manual,~~ and meets the minimum planting height and spacing requirements of table 19-6.2-1.
 - (2) An earth berm may be used to achieve a portion of the minimum required six-foot height. Berms shall be covered with grass or mulch and shall be planted with other landscaping materials designed to meet the requirements of subsection 19-6.2.2(A) and (B). The slope of the berm shall not exceed the ratio of 3:1.
 - (3) An opaque fence or wall ~~solid wood fence~~ measuring at least six feet in height, but not more than eight feet in height. If wood is used, only treated or rot resistant wood is acceptable. Chainlink, barbed wire, stock wire, chicken wire, and similar type fences are not permitted.
 - (4) ~~Masonry walls measuring at least six feet in height, but not more than eight feet in height. Walls shall be finished with brick, stone, textured concrete masonry units, or stucco. Natural and painted concrete block walls are not permitted~~
- (D) *Screening standard.* With the approval of the administrator, a developer may use any combination of the screening materials referenced in subsection 19-6.2.3(C), provided the screen provides complete opacity pursuant to the requirements of this section.
- (E) Multifamily developments abutting detached single-family residential dwellings shall follow the buffer standards in Section 19-6.8.9 (L) (8)
- (F) Nonresidential developments abutting detached single-family residential dwellings shall follow the buffer standards in Section 19-6.5.7 (M) (4)
- 19-6.2.4. *Street buffer yards.* In addition to the requirements of subsection 19-6.2.2, landscaping requirements, and subsection 19-6.2.3, buffering and screening requirements, vacant lots created by building demolition in the C-4 district, parking structures, parking lots, and outdoor display areas shall be buffered from streets and rights-of-way according to the following requirements:
- (A) The minimum width for any buffer yard shall be the same as the required district setback, ~~with an average of five feet measured along the property lines at ten-foot intervals; provided, however,~~ .Parking structures located in the C-4 district shall be exempt from the buffer yard requirement when utilizing fences, walls, or similar structures located between the ground level parking and the street or right-of-way.
 - (B) All areas used for required buffer yards shall be located on the property. In unusual or extraordinary circumstances, as determined by the administrator, the public right-of-way may be used to meet the requirements of this section provided the property owner obtains permission from the owner of the right-of-way. Maintenance of the required perimeter buffer yard shall remain the responsibility of the private property owner and shall be maintained

according to the minimum standards of the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations..

- (C) A property shall have a continuous evergreen landscape buffer along the entire street frontage of the lot, excluding driveways. The landscape buffer must not interfere with any adjacent sidewalks and/or roadways located within the right of way. Plant material must meet the minimum planting height listed in table 19-6.2-1.
- (D) Vacant lots resulting from the demolition of buildings within the C-4 district, and have no immediate plans for redevelopment, shall provide plantings consistent with the provisions of the following:
 - (a) Provide required street trees (subsection 19-6.2.2).
 - (b) Provide continuous ~~evergreen buffer~~ screening (subsection 19-6.2.3(C)).

19-6.2.5. *Additional screening requirements.* In addition to the landscaping and screening required in this section, evergreen screening shall be required to conceal specific areas of high visual impact or hazardous areas. Plants and a solid fence or wall, at least the height of the item being screened, but not more than eight feet tall, shall be installed around all sides, excluding access areas. Plant material must meet the minimum planting heights listed on table 19-6.2-1 and shall be installed around the following areas:

- (A) Loading and service areas.
- (B) Refuse collection points/recycling drop-off centers.
- (C) Ground level mechanical, heating and air-conditioning equipment (except for single-family detached dwellings, unless that equipment is visible from the public right-of-way).
- (D) Outdoor electrical or other aboveground utility equipment.
- (E) Outdoor storage lots.
- (F) Storage tanks.
- (G) Communication towers and associated equipment structures.

Access gates to these areas shall be solid and, to the extent practical, not oriented to a public street.

19-6.2.6. *Alternative landscape plan.* At the discretion of the administrator, alternate landscaping plans, plant material, planting methods, or landscape design may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation, or where a more creative plan is proposed which substantially complies with the intent of these requirements. ~~Landscaping requirements may be reduced if existing trees or other types of existing vegetation are preserved. Alternative plans, materials, or methods may be justified from natural conditions such as streams, natural rock formations, topography, and other physical conditions related to the site. Lot configuration and the presence and location of utility easements may justify an alternative landscaping plan.~~

(Code 1997, § 19-6.2; Ord. No. 2007-52, § 19-6.2, 7-9-2007; Ord. No. 2009-22, § 3(exh. C), 3-23-2009; Ord. No. 2009-64, § 2(exh. B), 8-3-2009; Ord. No. 2011-18, 1-24-2011; Ord. No. 2012-23, § 3, 4-9-2012; [Ord. No. 2015-05](#), exh.(19-6.1.3), 1-26-2015; [Ord. No. 2015-24](#), exh., 3-23-2015)

EXHIBIT B

19-6.3 Tree Protection and Replacement**19-6.3.1 General**

- (A) *Purpose.* The purpose and intent of subsection 19-6.3 is to protect existing tree cover; facilitate the incremental growth of the city's tree canopy; enhance and preserve the environmental and aesthetic qualities of the city; encourage site design techniques that preserve the natural environment and enhance the developed environment; control erosion, slippage, and sediment runoff into streams and waterways; increase slope stability; improve air quality; protect wildlife habitat and migration corridors; and reduce homeowner energy costs.
- (B) *Applicability.* Except as stated herein, the requirements of this section shall apply to all land-disturbing activities that require permit for existing and new development.
- (C) *Exemptions.* The following developments and activities shall be exempt from this section except where otherwise noted below:
- (1) Residential property consisting of an existing single-family home provided the owner acquires title to said developed lot on or before June 30, 2021 (for purposes of this ordinance, inter-spousal or inter-family transfers of interest, whether by operation law, deed or the creation of a trust does not constitute acquisition of title);
 - (2) The removal of diseased, dead or naturally fallen trees, or trees that are found by the administrator to be a threat to the public health, safety, or welfare;
 - (3) The selective and limited removal of vegetation or trees under ten inches diameter at breast height necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing authorized field survey work;
 - (4) The selective and limited clearing of utility easements to maintain their intended function; and
 - (5) The removal of trees or vegetation on land zoned or lawfully used for:
 - i. Stand-alone commercial garden centers, greenhouses, or nurseries; or
 - ii. Agricultural and forestry activities, including tree farms and approved forestry management practices, except that if a site is substantially cleared of trees pursuant to legitimate agricultural or forestry activities, no development applications shall be accepted for 36 months from the date the clearing is completed. It shall be the burden of the property owner to prove that any timber harvesting or land clearing is conducted as a commercial timber operation. A forestry plan shall be submitted that demonstrates that the intended forestry activities will contribute to the long-term production of marketable forest products and ensure the continued existence of forests through regeneration. Conducting a

timber sale as the sole timber management activity does not constitute a “commercial timber operation.”

(6) Residential property consisting of an existing single-family home where the owner acquires title on or after July 1, 2021, except for the Heritage Tree protections provided for below in Section 6.3.2 (H) which shall apply to said property (for purposes of this ordinance, inter-spousal or inter-family transfers of interest, whether by operation law, deed or the creation of a trust does not constitute acquisition of title).

(7) Tree clearing or cutting performed in order to comply with aeronautic safety requirements mandated by federal or State law or regulation.

(8) A residential lot created by minor subdivision where the underlying zoning designation is R-6 or R-9.

(D) Definitions:

For purposes of this Section 19-6.3, the following definitions shall apply; in the event of a conflict with those definitions set forth in Section 19-1.11, the definitions set forth below shall control:

- (1) Administrator means the department director who is the final authority for the application and interpretations of the ordinance.
- (2) Arborist means any person certified by the International Society of Arboriculture (ISA) as an arborist and a member in good standing with the ISA.
- (3) Boundary tree means a tree on adjacent property whose critical root zone intrudes across the property line of the site under consideration.
- (4) Buildable area means that area of the lot available for the construction of a dwelling and permissible accessory uses after having provided the required front, side, rear and any other special yards required.
- (5) Caliper means the diameter of a sapling to be planted measured six inches above the top of the root flare up to and including four-inch caliper size. If the caliper at six inches above the top of the root flare exceeds four inches, the caliper should be measured at 12 inches above the top of the root flare.
- (6) Construction means any new construction, renovation, expansion, clearing or other activity that requires a site permit or impacts the site’s ability to support a tree canopy.
- (7) Cover area means that area which falls within the drip line of any tree.
- (8) Critical root zone means is represented by a concentric circle centering on the tree trunk with a radius equal in feet to one times the number of inches of the trunk diameter: (CRZ in ft = 1 x diameter inches)

- (9) Destroy means any intentional or negligent act or lack of protection that is likely to cause a tree to die within a period of five years.
- (10) Diameter at Breast Height (DBH) means the diameter of a tree measured at 4.5 feet above the ground.
- (11) Heritage Tree (See section 19-6.3.2 (H)).
- (12) Impacted tree means a tree that will suffer injury or destruction of 20 to 33 percent of its critical root zone.
- (13) Invasive plant means any plant that has been introduced to the region and has been shown to disrupt ecosystem processes. Reference lists for plants invasive in the Greenville area are available in Appendix E of the Administrative Manual.
- (14) Land-disturbing activities means any activity involving the clearing, cutting, excavating, filling, or grading of land or any other activity that alters land topography or vegetative cover.
- (15) Native or naturalized plant means any plant that was in existence in this region prior to European settlement or has since become thoroughly established without disrupting ecosystem processes.
- (16) Overstory/Canopy tree means a tree that normally attains a DBH in excess of 25 inches and a height in excess of 45 feet at maturity.
- (17) Pruning means the definition of the term as set forth in both the most recent International Society of Arboricultural pruning standards and guidelines and American National Safety Institute 300.33. At no time shall trimming, topping, tipping or flush cutting of trees be deemed a form of “pruning.”
- (18) Saved tree means any healthy tree that is to be protected and not destroyed or injured during construction as required by this article.
- (19) Tree inventory means a survey provided by a certified arborist or licensed landscape architect, and a licensed surveyor that shows the location, species, and DBH of all trees greater than 3 inches DBH on site to be saved; and all trees on site greater than 6 inches to be destroyed, or impacted.
- (20) Tree protection plan means a document showing a visual plan for all existing trees that are to be saved and protected, and showing new trees required to meet replacement quantities.
- (21) Understory/Ornamental tree means a tree that normally attains a DBH of less than ten inches and a height of less than 45 feet at maturity.

19-6.3.2 Tree Protection and Replacement

(A) *Tree inventory*: The tree inventory and protection plan shall be submitted as part of a site plan permit application for any land disturbing permit activity, and all developments listed in subsection 19-6.3.1(B).

(1) A legible tree inventory shall be submitted as part of an application for any land disturbing permit or activity, including storage or staging of equipment. The inventory shall show all trees greater than six inches DBH to be removed (or for residential property consisting of an existing single-family home where title to such property is acquired on or after July 1, 2021, trees that meet the heritage tree definition), and any tree three inches DBH or greater to be retained. Trees shall be clearly identified as either to be removed or retained. The inventory shall be in a form approved by the administrator and contain the information as required in Appendix E of the Administrative Manual.

(a) The tree inventory shall include any boundary trees, i.e. trees on neighboring properties, which may experience any land disturbance, including storage of equipment or other material, within their critical root zone.

(b) Invasive tree and prohibited tree species as defined in Appendix E of the Administrative Manual and all *pinus* species are exempt from tree protection requirements.

(c) Encroachment within the critical root zone of trees located on adjacent properties is not allowed without written approval from that adjacent property's owner. If the limits of disturbance or land disturbance activity may reasonably be expected to occur within the critical root zone of trees located on adjacent properties, a letter from the tree's owner may be provided in lieu of tree protection for the tree. The letter must clearly state that the tree's owner is aware of the risk to the tree, that the land disturbing activity may result in the immediate or long-term death or demise of the tree, and that the City shall not be responsible for any damage or removal of the tree or its parts. The letter must be signed by the adjacent property owner and included with the landscape plan.

(B) *Tree Removal and Replacement*: Development or activity that results in the removal or injury of trees six inches or greater in DBH (or for residential property consisting of an existing single-family home, trees that meet the heritage tree definition), that are not recognized invasive species as defined in Appendix E of the Administrative Manual, shall provide replacement or mitigation equal to or greater than the cumulative DBH of the trees removed and/or injured.

(1) Trees required to meet landscape requirements, such as those specified in 19-6.2, may be used to meet tree replacement requirements.

(2) Tree loss mitigation may be provided by retaining existing trees on site which meet the following criteria:

(a) Trees are between 3 inches and 6 inches DBH;

(b) Trees are in good health and are free of damage or disease, as verified by a certified arborist; and

- (c) Trees are not a recognized invasive or prohibited species as defined in Appendix E in Administrative Manual, or of the *pinus* species.
- (3) Where appropriate site conditions exist as determined by the administrator, replacement trees shall be canopy trees. Tree spacing shall be minimum 15 feet for canopy trees, 10 feet for understory trees. Replacement trees should be distributed and spaced with a naturalized pattern.
- (4) In cases where tree mitigation is required but planting is not preferred by the applicant, the administrator shall approve a fee-in-lieu-of mitigation via a payment to the city's Tree Fund. Fees shall be based on market rates and updated periodically in Appendix E in Administrative Manual. Fee-in-lieu-of mitigation fees shall be capped at \$25,000 per acre, to be adjusted upward or downward on a pro rata basis based upon the size of the parcel. By way of example, the fee-in-lieu would be capped at \$12,500 for a one-half acre parcel and capped at \$37,500 for a one and one-half acre parcel. The Tree Fund shall be managed by the City and shall be used solely for the purposes of:
- (a) Tree purchase and installation of new trees;
 - (b) Maintenance of existing tree canopy on public property and rights-of-way;
 - (c) Purchase of real property for the purposes of tree plantings; or
 - (d) Administration of the above.
- (C) *Tree density minimum.* All properties subject to this subsection 19-6.3 shall provide and maintain at minimum one tree per 2,000 square feet minus building footprints and the area of athletic fields and courts.
- (D) *Tree Protection Plan:* A landscape plan shall be submitted for all existing trees that are to be saved and protected, and showing new trees required to meet landscape standards and replacement quantities.
- (1) A tree credit table shall be included in the tree protection plan, shall conform to the table standards as shown in Appendix E in Administrative Manual, and shall summarize:
- (a) Acreage of site excluding building footprint, athletic fields, and courts;
 - (b) Square-footage of parking lot;
 - (c) Trees planted to meet all landscape requirements, including parking, screening, street trees, and tree density minimum;
 - (d) Cumulative DBH of trees greater than 6 inches to be removed;
 - (e) Cumulative DBH of trees between 3 inches and 6 inches to be saved and used as mitigation for removal of trees greater than 6 inches;
 - (f) Cumulative DBH of trees greater than 6 inches to be saved;

- (g) Total DBH to be mitigated;
- (h) Trees to be planted for 1:1 mitigation, and/or fee-in-lieu-of option total; and
- (i) Heritage trees being removed.

(E) *Tree Planting Standards.* The form, size, quality, and proportions of proposed trees must meet the guidelines outlined in the ANSI Z60.1 American Standard for Nursery Stock. Installation and maintenance must meet ANSI A300 Standards. Existing trees on a property that are to be protected should be healthy and disease free.

(F) *Tree Protection During Construction*

- (1) Protective fencing is required for any tree to be retained following construction. Protective fencing shall be a minimum of four feet high and of durable construction; such as wood or metal fencing. Protective fencing shall completely encircle the critical root zone of all trees to be preserved. Protective fencing be in place prior to any earth disturbing activity begins and stay in place for the duration of the project. Fencing shall be required around the critical root zone of trees on adjacent properties or trees located in a public right-of-way. At no time shall silt fencing be used to provide tree protection.
 - (a) Signs shall be installed on the protective fence visible on all sides of the fenced-in area (minimum one on each side and/or every 300 linear feet). The size of each sign must be a minimum of one foot by 1.5 feet and shall contain the following bilingual text in both English and Spanish: "TREE PROTECTION ZONE: KEEP OUT."
 - (b) Groups of trees may be protected by one perimeter fence meeting the specifications outlined in this section.
 - (c) No construction, grading, parking, equipment, or material storage, or any other activity, shall be allowed within the fenced area at any time during the project.
 - (d) Trenching shall not be allowed without administrator's approval. Boring shall be allowed with consultation by an arborist and approval of the administrator.
 - (e) Where compaction might occur due to traffic or materials through the tree protection zone, the area must first be mulched with a minimum four-inch layer of processed pine bark or wood chips or a six-inch layer of pine straw. Equipment or materials storage shall not be allowed within tree protection areas.

(G) *Inspections and Ongoing Maintenance*

- (1) Final landscape inspections will be conducted to ensure plant material is in good condition and planted correctly, as outlined in ANSI A300 and Z60.1.
- (2) Trees shown on a permitted landscape plan must be maintained to ANSI A300 standards for the duration of the site.

- (3) With approval from the administrator, a project may be granted a temporary CO, or bond their landscape for a limited time, to allow planting to occur in the dormant season of October through March.
- (4) Trees not meeting ANSI A300 and ANSI Z60.1 standards at time of right-of-way dedication may be rejected and require replacement prior to accepting the roadway dedication.
- (5) Trees located within the public right-of-way or on public land are the responsibility of the city and may not be trimmed or maintained by unauthorized personnel.

(H) *Heritage Tree Protections*

- (1) In order to protect significant trees, the city has established the Heritage Tree designation. The purpose of the heritage tree designation is to encourage the early identification of significant trees to be saved, thus resulting in developments that are more responsive to their environments and appear more mature upon completion.
- (2) A heritage tree is a tree that is in a healthy and disease-free condition, and is:
 - (a) 20 inches or greater DBH, located within the setback or buffer area of any property within the city
 - (b) 40 inches or greater DBH, located anywhere within the city; or
 - (c) determined to be of cultural importance by the administrator located anywhere within the city. "Cultural importance" for the purposes of this subsection shall mean the historic significance of the tree as it may relate to an event or person.
- (3) In addition to the tree mitigation outlined in section 19-6.3.2(B), a heritage tree which is removed shall be assessed with a fee of \$45 per caliper inch.
- (4) In no case shall the total of fee-in-lieu of mitigation together with heritage tree mitigation be greater than \$25,000 per acre or a portion thereof.
- (5) No construction, grading, equipment, material storage, or any other activity, shall be allowed within the critical root zone of a heritage tree unless the steps taken to adequately ensure the health of the tree are submitted to the planning department in writing.
- (6) A *Heritage Tree Disturbance Form* shall be developed by the administrator and shall be submitted for the trimming, pruning, encroachment upon, or removal of any Heritage Tree, which may fall outside of development activities. The form shall be posted online on the city website and be made available upon request by contacting the administrator.
 - (a) Heritage Trees shall not be cut, removed, pushed over, killed, harmed, trimmed, sprayed, or destroyed without written approval via the Heritage Tree Disturbance Form.
 - (b) The administrator shall approve Heritage Tree disturbance only upon a finding that the tree is in a dangerous or deteriorating condition and poses a risk to health, safety, or welfare.

- (I) *Tree Variance*. If a landowner believes it is not possible to comply with the requirements of subsection 19-6.3.2(B) and/or (H), the landowner may apply for a tree variance from the administrator, which shall be approved only on a finding that the landowner demonstrates all the following standards are met:
- (a) *Exceptional conditions*. There are extraordinary and exceptional conditions (e.g., size, shape, topography) relevant to the particular piece of property for which the tree variance is sought which do not generally apply to other properties subject to subsection 19-6.3.
 - (b) *Not result of action by landowner*. The special circumstances are not the result of actions by the landowner.
 - (c) *Strict application deprives use*. The application of the requirements of subsection 19-6.3.2(B) and/or (H) would effectively prohibit or unreasonably restrict the utilization of the property.
 - (d) *Minimum variance*. The approval of the tree variance is the minimum action that will make possible the reasonable use of the land that is not contrary to the public interest and that will carry out the purpose and intent of subsection 19-6.3.
 - (e) *Not detrimental*. The approval of the tree variance will not result in substantial detriment to adjacent property or to the public good.
 - (f) *Consistent with the intent of subsection 19-6.3*. The tree variance is consistent with the purpose and intent of the provisions of subsection 19-6.3, particularly subsection 19-6.3.2(B) and/or (H), as applicable.

The fact that the subject property could be utilized more profitably if a tree variance permit were granted does not constitute grounds for a tree variance. Appeals from the decision of the administrator may be taken to the Planning Commission in accordance with Section 19-2.1.2(A)(8) and Section 19-2.3.16(A)(1).

- (J) *Mandatory Review*. As the purpose and intent of this ordinance is to protect existing tree cover and facilitate the incremental growth of the city's tree canopy, The Planning Commission shall review this ordinance every two years from the date of its passage to determine if its purpose is being effectively met and the Planning Commission shall recommend any changes that it deems necessary or appropriate.