AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE

Whereas, trees buffer adjoining uses and mitigate impacts of adjoining uses and traffic; and

Whereas, buffers help protect the privacy of neighboring property; and

Whereas, trees are an essential natural resource that contribute to the environment by providing oxygen, purifying air quality, conserving water, preserving soil and providing a habitat for wildlife; and

Whereas, trees contribute to the history and character of Pinehurst making it a special place to live, work, and visit; and

Whereas, urbanization and development that significantly impacts this important element of the environment affects the economic, historic, and aesthetic value of the Village.

Now, be it ordained by the Village of Pinehurst Village Council that:

The following amendments to the Pinehurst Development Ordinance shall be made.

Section 1. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 *Tree Conservation and Newly Installed Trees and Plants* is amended to include the following.

Section 9.5 Tree Preservation and Landscape Requirements

Part 1. Tree Preservation

9.5.1. Purpose and Scope

The natural landscape conditions within the Village of Pinehurst and its extraterritorial jurisdiction typifies the North Carolina Sandhills and Longleaf Pine Ecosystems. These natural conditions (topography, vegetation, and wildlife) are unique within North Carolina and are the strongest visual aspects defining the character of the Village. The Village of Pinehurst encourages and prioritizes tree protection for specimen and protected trees through an incentivized program that encourages preservation of existing trees. The regulations of this Section are intended to preserve trees along the outer perimeter of parcels of land such that buffer yards are retained/created to reduce visual effects and the impacts of traffic, noise, dust, and odor as well as to protect the privacy of neighbors. Such regulations will help to ensure that trees and vegetation along the perimeter of a site are not removed or disturbed prior to consideration of an actual plan for development of the site. By doing so, the regulations will preserve and enhance the visual character of Village and the ETJ, increase the soils ability to absorb and retain water therefore reducing erosion and surface water runoff, enhance air quality, provide energy shading and cooling for canopy roads, and furnish habitat for wildlife.

9.5.1.1 Definitions.

(A) **Clearing and Grading**: any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.

(B) **Development**: Unless the context clearly indicates otherwise, the term means any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
b. The excavation, grading, filling, clearing, or alteration of land.
c. The subdivision of land as defined in N.C.G.S. 160D-802.
d. The initiation or substantial change in the use of land or the intensity of use of land.

(C) **Protected Trees:** Any tree with a diameter breast height of eight inches or greater.

(D) **Redevelopment:** For the purpose of this section, redevelopment is the physical change to a parcel of land that results in the increase of the floor area of the principal building by 50% or more.

(E) **Specimen tree** is any healthy living tree that:

a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
b. A trunk DBH of twelve (12) inches or more in the case of the following species:
    i. Ilex species (holly);
    ii. Magnolia species;
    iii. Longleaf Pine species;
c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
e. Has been cited by the Village Council as being historically significant.

(F) **Tree Preservation Yards**: for the purposes of Sections 9.5 and 9.14.6, tree preservation yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

a. Front: the front yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
b. Rear: the rear yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
c. Side: the side yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.

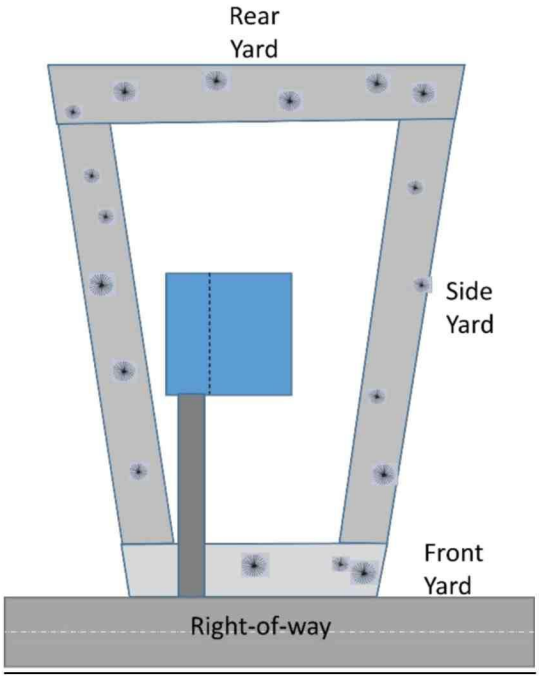


Figure 1. Standard lot yards

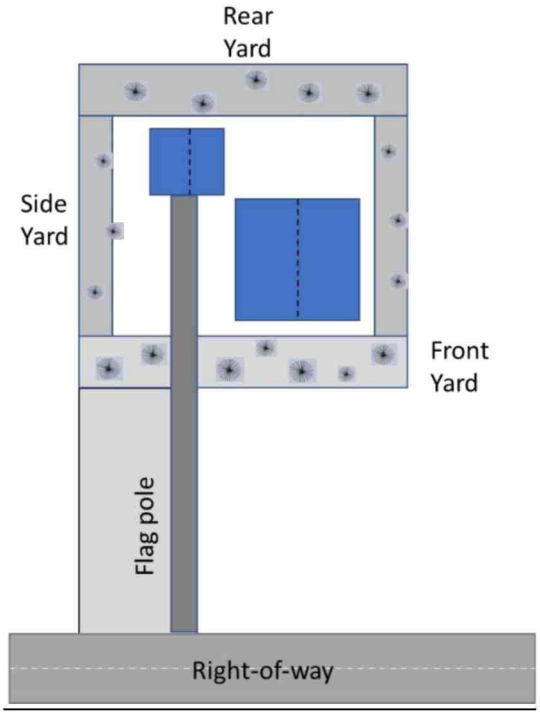


Figure 2. Flag Lot Yards

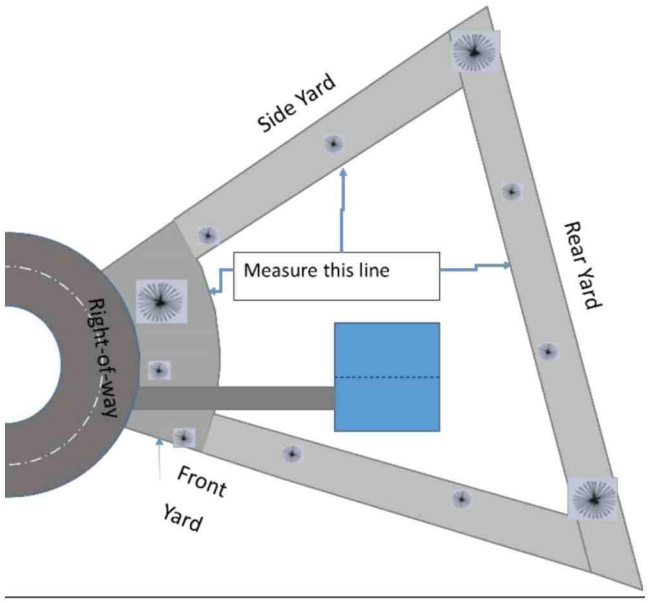


Figure 3. Where to Take Linear Measurements

(G) **Tree Removal:** "Tree removal" shall include, but not be limited to, trees removed by clearing, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; paving with concrete, asphalt or other impervious material within the drip line or such proximity as to be harmful to the tree; or any act of malicious damage to a tree.

9.5.1.2 Clearing and Grading Applications and Permits

When clearing and grading activity is proposed on a vacant parcel and there is no active application for a development permit pursuant to this Ordinance (e.g. Major or Minor Site Plan, Major or Minor Subdivision, Single Family Development), a clearing and grading application must be submitted and a permit issued per the requirements of this Section.

If there is no tree survey on file for the property, then a tree survey must be prepared before any tree removal occurs unless it is subject to the exemptions listed in Section 9.5.1.6. If a landscape plan or tree survey has been prepared that is no older than five (5) years and is on file with the Village, it may be used whenever tree removal/replacement is planned.

Clearing and grading applications shall show the location of the construction entrance. Trees removed from construction entrances and future driveway locations must meet the requirements of Section 9.14.6 for single family development or 9.5 Part 2 for all other development.

In addition to ensuring that Village standards are met, Village staff shall use clearing and grading applications as an educational tool to provide helpful insight to the developer regarding the costs of removing and replanting trees that will be required for buffering uses as well as to provide protection to specimen trees.

9.5.1.3 Tree Survey

Each application for a development or clearing and grading permit shall be accompanied by a tree survey.

If a clearing and grading accompanies an application for any other development permit, the tree survey shall be of the same scale as, and superimposed on, a development site plan or preliminary plat. Trees to be surveyed include all trees greater than or equal to 8" DBH. Identification of trees smaller than 8" DBH is encouraged if the applicant determines that trees smaller than 8" DBH but larger than 3" DBH may be needed for credit. All tree surveys shall include location, number, size (DBH), qualifying trunks and species with a scaled graphic representation of each protected tree, and the trunk location shall be provided. All required tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, landscape architect, or civil engineer registered in the State of North Carolina. The survey shall include all trees to be protected or preserved, and those scheduled to be removed, including dead and damaged trees. Construction access shall be shown on the survey. In cases where a previously approved recorded plat is utilized for the purpose of tree survey, the name, address, phone number, signature and seal of the licensed landscape architect, civil engineer, or surveyor registered in the State of North Carolina shall be provided. A scaled infrared or high resolution black and white aerial photograph or print of equal quality may be substituted in cases where the Village Planner determines that it would provide sufficient information from which a decision may be made. This is typically the case when large contiguous areas of preservation are proposed, and the trees will not need to be counted towards credit.

(A) Existing Lots of Record. Existing lots of record are lots created by final plat prior to the effective date of this Section.
  (1) If an existing lot of record is undeveloped as of the effective date of this section, a tree survey shall be prepared prior to clearing or development.
  (2) If an existing lot of record is developed for single-family residential purposes and is proposed for redevelopment, additions, or modifications, a landscape plan shall be submitted consistent with the requirements of Appendix B. A tree survey is not required.
  (3) If an existing lot of record is developed for nonresidential purposes and is proposed for redevelopment, additions, or modifications, submittal requirements shall comply with Section 9.5, Part 2 and a tree survey is not required.

(4) In the event an existing lot of record is damaged or destroyed due to disasters such as windstorms, ice storms, fire, or hurricanes, the requirements of this section shall not apply.

9.5.1.4 Tree Removal Standards for Undeveloped Lots of Record and Parcels

(A) When a clearing and grading application is required and additional changes to the land are not proposed through a Major or Minor Site Plan or Major or Minor Subdivision, a minimum planted perimeter buffer must be preserved and or created per the Table 9.5.1.4 unless a tree preservation credit is provided as allowed under this Section.

Table 9.5.1.4

Location	Number of Required Trees
Front Yard*	1 Protected/Specimen Tree Per 15 Linear Feet of Street Frontage**
Side Yard	1 Protected/Specimen Tree Per 35 Linear Feet
Rear Yard	1 Protected/Specimen Tree Per 25 Linear Feet

*For the purpose of this section, the front yard is any street facing yard. If a lot is a corner lot, then more than one front yard will apply.

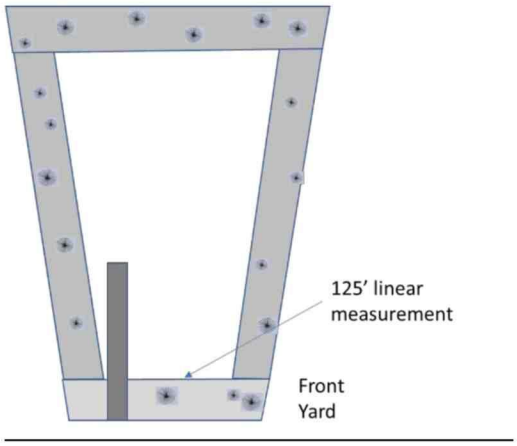
**If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

The number of required trees shall be measured in whole numbers. The applicant shall round down when calculating the number of trees.

(B) Driveway Allowance

Each parcel shall be given an allowance for one 20' driveway. This shall be applied by subtracting twenty (20) feet from the linear foot calculation for number of required trees as shown in Table 9.5.1.4.

Example



125′ – 20′ = 105′

105/15 = 7 trees

(C) Existing Tree Preservation Credits.

To help maintain the existing overall tree canopy and to encourage preservation of existing specimen and protected trees, credits may be given towards the requirements of Table 9.5.1.4 for existing preserved trees as follows.

(1) Tree credits shall apply to the particular yard in which the tree is located.
(2) No tree credit will be granted for trees less than 12″ DBH.
(3) The first tree credit will be granted for trees that are 12″ to 16″ DBH.
(4) One additional tree credit will be granted for every four (4) inch increase in tree girth above 12″ DBH.

Example. The front tree preservation yard contains a 24″ oak. Preservation of this tree grants credits in the front yard for four (4) trees.

Trees subject to the preservation credit may be grouped and are not required to meet spacing requirements in the side and rear yards. In order to ensure adequate street yard buffer and to maintain street tree canopy, trees may be grouped in the front yard; however, there shall be no space less than one tree per every 35 linear feet.

(D) Credit for Trees Less than 8″ DBH

At the discretion of the Village Planner, credit may be provided for trees smaller than 8 inches DBH but no less than 3 inches DBH when there are insufficient trees present on the property to meet the requirements of Table 9.5.1.4.

(E) Minor Modifications for Alternate Spacing and Grouping

The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

(1) To satisfy tree preservation credits described in 9.5.1.4.(C).
(2) To allow the preservation of trees within the building envelope if they are within a distance no greater than the required yard depth when insufficient trees are available for preservation.

9.5.1.5 Tree Removal for Modifications of Developed Lots of Record

(A) Single-family lots of record undergoing redevelopment of single-family shall comply with Section 9.5.1.4(A).
(B) Single-family lots of record undergoing physical change to a parcel of land that results in construction of an additional building, building replacement or an expansion in the size of an existing building that is less than 50% shall comply with the landscape table below.

Zoning District	# of Trees per Dwelling	Size of Tree
R-5, R-8 and R-10	4	3" DBH
R-15, R-20, R-30	8	3" DBH
R-210	16	3" DBH

(C) All other lots shall comply with 9.5 Part 2.

9.5.1.6 Exemptions

(A) This Article shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines, and existing easements in accordance with applicable state laws.
(B) Removal of dead or naturally fallen or severely damaged trees or vegetation, or the removal, by an approved method, or trees or vegetation that are a threat to the public health, safety, or welfare based on observation by the Village Planner or by the submittal of an arborist's report.

(C) Removal of trees for the purpose of conducting bona fide agricultural and forestry operations shall be exempt from the provisions of this Article. This exemption applies to forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes (NCGS) and activities conducted in accordance with an approved forestry management plan subject Chapter 89B of NCGS and extends to any activity defined as a bona fide farm operation in NCGS 160-D-9-3 within the extraterritorial jurisdiction of the Village. If an exempt timber harvest occurs as described above, the Village may withhold approval of a building permit, site plan, or subdivision plat for the site for three (3) years following the harvest and up to five (5) years if the removal is deemed willful.

(D) Properties located in the VC, PC, and VMU Zoning Districts are exempt.

(E) The North Carolina Department of Transportation (NCDOT) shall be exempt from the tree protection and preservation requirements of this Ordinance within NCDOT rights-of-way. Tree removal in the Village rights-of-way must be approved by the Village Manager or designee.

(F) All real properties owned by the Village of Pinehurst are exempt if tree removal is authorized by the Village Manager or designee.

9.5.1.7 Trees Removed In Violation

(A) Protected Trees Removed in Violation**.** When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Village Planner in a ratio not to exceed 2:1 of two inches of caliper per inch removed. As an example, if six 8" trees are removed, 96 inches of caliper shall be planted. No tree planted shall be smaller than 3" caliper. The size of the tree removed shall be determined from the size of the remaining base or stump or an existing tree survey on file for the property. If the size of the tree cannot be determined but its removal can be documented by photographic evidence or the use of aerials, then the violator shall replant three 3" trees for every tree removed.

Tree preservation standards are incorporated in 9.5 Part 2 Landscape Requirements for Multi-family, Commercial and Industrial projects and in 9.14.6 for Single Family Residential Use.

Section 2. Amend Section 9.5 to insert a new part and renumber the existing text.

Part 2.

Landscaping Requirements for All Development Requiring a Permit Other than Single-Family Residential and Clearing and Grading

9.5.2.1 Landscape Plan Required

A landscape plan shall be submitted to the Village Planner and its approval is a prerequisite for the issuance of a development permit where required.

9.5.2.2 Planted Buffers

(A) Permitted Uses Within Planted Buffer Areas: Planted Buffers should be left in an undisturbed natural vegetative state and provided with supplemental plantings. Selective thinning of vegetation and removal of dead vegetation may be permitted as long as the intent of the planted buffer requirement is maintained. Driveways and utilities may cross a planted buffer at or as near a perpendicular angle as practical. Paths and walkways may pass through the planted buffer and pedestrian walkways (greenways) may be installed within the buffer area. Grading in the designated planted buffer may be allowed with site plan approval, if the re-vegetation plan is determined to meet the intent of this Section;

(B) Location of Planted Buffers: Required planted buffers shall be provided along the perimeter of development unless alternate locations are approved. Planted buffers shall be designated and dimensioned on all site plans and subdivisions plans, where applicable;

(C) Public Pedestrian Easement Required: The full width of all buffer areas shall be designated as a public pedestrian easement and shown on a recorded plat;

(D) Application:

(1) These standards apply to all non-residential and multi-family uses (including townhouse unit development) located within the Village of Pinehurst and its extraterritorial jurisdiction except for properties containing only museums and/or libraries as the primary use and located within the PC zoning district. Additionally, the Village Council may waive some or all of these standards for developments and uses located within the VC, VMU, VCP and VR Zoning Districts when determined to be in the best interest of the public. In waiving these standards, the Village Council may require an alternate means of buffering if agreed upon by the property owner. When nonresidential and multi-family uses submit a site plan for locations next to property zoned for primarily residential use, planted buffers shall be provided near the perimeter of the nonresidential or multi-family property. One half of the planted buffers requirements shall apply when a public street or railroad right-of-way separates a nonresidential or multi-family uses from a residential property. If a greenway passes through a landscape buffer the area of the greenway shall be subtracted from the total buffer area for plant count purposes.

(2) The required planted buffer width is based on the classification shown on Table 9.5.2.2;

(3) If said project is adjacent to property that is zoned non-residential or multi-family but is used for single family purposes, half the required planted buffer width along the perimeter of the property adjoining that property shall be required;

(4) A class 3 planted buffer shall be installed along and adjacent to NC 2, Midland Road east of the Traffic Circle to the zoning jurisdictional boundary of Pinehurst, on the west side of Hwy. 15/501 from the northern extent of the zoning jurisdictional boundary of Pinehurst southward to the western extent of the traffic circle and the intersection with Hwy. 211, Hwy. 211 from the intersection of Mckenzie Rd. to the western extent of the zoning jurisdictional boundary of Pinehurst, Murdocksville Rd. from the intersection of Hwy. 211 to the northern extent of the zoning jurisdictional boundary of Pinehurst and on the west side of Hwy 5 from the intersection of Lake Hills Rd. south to the intersection with Trotter Hills for all non-single family residential uses.

(5) If the adjacent property is zoned for residential use but is vacant at the time of the proposed development, the full required planted buffer width shall be provided;

(6) If the proposed development is non-residential and the adjacent property is zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, but not less than ten (10) feet;

(7) If the proposed development is for multi-family dwellings adjacent to property zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, whether the property is occupied or not.

(E) Planted Buffer Classifications and Width:

(1) Planted buffer width is based on uses in the following classifications:

(a) Class 1 - 10 feet: Cemeteries, golf courses, passive recreational areas, and;

(b) Class 2 - 20 feet: Offices, churches, schools, public facilities including playgrounds, ball fields, community swimming pools, and similar facilities, day care facilities, multi-family, residential, hotels;

(c) Class 3 - 30 feet: Neighborhood commercial and service activities including, but not limited to, retail operations, funeral homes, restaurants, banks, convenience stores;

(d) Class 4 - 50 feet: Commercial activities with higher vehicle activities including, but not limited to, vehicle repair, theatres, outdoor recreation centers, and outdoor storage

Table 9.5.2.2

REQUIRED PLANTED BUFFER WIDTH IN FEET BASED ON BUFFER CLASSIFICATION AND ADJACENT PROPERTY USE AND ZONE				
ADJACENT PROPERTY USE AND ZONE				
Planted Buffer Class	Developed Residential Zone	Principal Residential Use in Nonresidential Zone	Developed Multi-Family Zone	Vacant Multi-Family Zone
Class 1	10 feet	10 feet	10 feet	10 feet
Class 2	20 feet	20 feet	10 feet	10 feet
Class 3	30 feet	30 feet	15 feet	15 feet
Class 4	50 feet	50 feet	25 feet	25 feet

(2) The required setbacks may be used to meet landscape planted buffer width requirements in all districts. When planted buffers are required for residential uses, the planted buffer requirements shall be designated open space, or common area;

(3) Planted buffer widths and required plantings may be reduced by thirty percent (30%) if the site plan indicates berming, alternate landscaping, walls, opaque fencing in combination with landscaping or topographic features which will, in the opinion of the Village Planner, achieve the intent of this Section as outlined in Section 9.5.1 and result in equal or better performance. In no case shall a buffer width be less than ten (10) feet. Berms may not have a slope steeper than two (2) horizontal to one (1) vertical and must have a crown width of at least two (2) feet and a minimum height of two (2) feet;

(F) Requirements for Planted Buffer Areas:

(1) Existing Vegetation. Existing vegetation, regardless of species, 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 9.5.2.7 for protection measures and calculation of credits for existing trees);

(2) Planting requirements: Planting requirements for planted buffers include both trees (large and small) and shrubs as described below. (See Appendix F for a listing of native/water

conserving trees and shrubs.) In calculating buffer planting requirements, areas of driveways are excluded;

(a) Tree Standards: This requirement may be satisfied as follows:

1. One longleaf pine tree with a minimum size of three (3) inch caliper at planting are required per two hundred (200) square feet of buffer area.

2. Two Understory trees a minimum of two-inch caliper are required per five hundred (500) square feet of buffer area, one of which is to be an evergreen species that is not a pine tree.

3. Trees shall be distributed along the entire length and width of the planted buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes and spacing may be approved by the Village Planner.

(b) Shrub Standards: Shrubs, a minimum of twenty-four (24) inches in height, of a variety that can be expected to reach four (4) to five (5) feet in height and three (3) feet in width within three (3) years of planting, shall be provided. Shrubs shall not be planted closer than six (6) feet to newly planted trees, nor within the drip line of existing hardwood trees. Shrubs shall be distributed along the entire length and width of the planted buffer, preferably in naturalistic groupings so as not to create a hedgelike condition. Shrubs shall be provided at one per seventy-five (75) square feet of buffer area.

9.5.2.3 Landscape Screens

(A) The purpose of a screen is to use plants and/or other landscape or architectural elements to obscure views from all corridors or adjacent properties.

Structures such as loading docks, mini-warehouses, service courts, dumpster areas, mechanical equipment, and outside storage of material stocks or equipment, either for sale or not for sale on the premises, such as, but not limited to, motor vehicles, equipment, or construction equipment shall be screened from unobstructed off-site views. Uses requiring screening as noted in this Ordinance shall be screened according to the requirements of this Section. This screening requirement does not pertain to outdoor display of merchandise located within the Historic Preservation Overlay District that complies with the regulations and design guidelines of that district.

(1) Landscape Screen Standards: Features and uses specified above and/or others requiring screens shall provide a visual obstruction from all corridor and adjacent properties in conformance with the following standards: The screen may be composed of view-obscuring vegetation, wall, fence, or berm. The items may be used individually or in combination. The minimum result shall be a semi- opaque seventy-five percent (75%) screen that obscures views from the ground to a height of the object being screened. Evergreen screening plants shall be at least five (5) feet tall at the time of installation and reach the desired height within three (3) years of planting. Additionally, screen areas shall be sufficient size to allow for the mature growth of plant materials when used.

9.5.2.4 Parking Area Landscaping

(A) Purpose: In order to reduce reflected sunlight and headlight glare from parked vehicles, as well as to maintain a separation between vehicles and other uses and to reduce the effects on the environment of vehicle parking facilities, the following standards apply;

(B) Required Perimeter Landscape Plants:

(1) Large trees (unless subject to overhead power lines): Longleaf pines shall be planted at the rate of one three (3) inch caliper tree per twenty (20) linear feet of property line abutting a street and/or adjoining property, less driveways and sight distance triangles. Trees must be a minimum of five (5) feet and a maximum of twenty (20) feet from the parking lot edge to meet this requirement.

Credit given for existing, healthy, protected trees, regardless of species, shall be according to 9.5.2.7 of this Section;

(2) Evergreen shrubs at the rate of one (1) 24-inch height minimum shrub per three (3) linear feet of parking lot edge abutting streets and adjoining property, less driveways, of a species expected to reach a minimum height of 36 inches and a minimum spread of thirty (30) inches within three (3) years of planting. This rate may be varied based upon size of installed plant materials. Shrubs must be a minimum of five (5) feet and a maximum of ten (10) feet from the parking lot edge to meet this requirement.

Shrubs shall be planted such that no less than seventy-five percent (75%) of the length of the parking lot edge, to a height of thirty-six (36) inches, is obscured from view after three (3) years of growth. Shrubs planted within sight distance triangles shall be of a type with a maximum mature height of eighteen (18) inches.

Additionally, shrubs shall not be planted within six (6) feet of the trunk of a tree;

(3) A brick or stone wall, or fence, at least thirty-six (36) inches tall and of a material compatible with the building, may be substituted for the requirements of shrubs.

(4) Berms may be installed within the highway (front) or interior (side or rear) yards with a minimum two (2) foot height, two (2) foot minimum crown width, and side slopes of not steeper than two horizontal to one vertical. Berms shall be planted with live vegetation, and may be used with smaller plants to meet the required screening area, provided that the combination of the berm and the shrubs obscures no less than seventy-five percent (75%) of the length of the parking area, to a minimum height of thirty-six (36) inches after three (3) years of growth;

(5) Areas used for vehicle sales and/or service, parking, and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive-up service, shall be considered parking areas and shall comply with the requirements of this Section.

(C) Landscaping Within Parking Areas:

(1) Location: Parking areas shall provide and maintain landscaped areas based upon the parking area. Areas under canopies, loading and service areas, and portions of drives with no parking on either side for a distance longer than twenty-five (25) feet and/or used exclusively as access to loading or service areas, are exempt from this requirement. The landscaping within parking areas shall be provided in addition to planted buffer requirements of this Ordinance.

Areas used for landscaping shall be provided in the amount equivalent to at least ten (10) percent of the parking area, and shall be used for planting either trees and/or shrubs according to the requirements below. Tree planting areas shall be located such that no parking space is farther than seventy-five (75) feet from a tree trunk.

(2) Required Landscape Plants: Trees shall be used at the following rates, either in combinations of small and large trees, or with large trees only, to add up to the required landscape area:

(a) One three (3) inch caliper, large hardwood or pine tree per two hundred fifty (250) square feet of required landscaped area. Each large tree shall be located within a minimum growing area of two hundred fifty (250) square feet un-encroached upon by shrubs or impervious pavement, with a minimum dimension of ten (10) feet;

(b) One understory tree less than three (3) inch caliper at the rate of one eight (8) foot tall tree per one hundred twenty-five (125) square feet of required landscaped area. Understory and evergreen trees shall be located within a minimum growing area of one hundred twenty-five (125) square feet, with a minimum dimension of seven and one half (7½) feet, un-encroached upon by shrubs or impervious pavement. Understory trees may be used to fulfill up to one third (1/3) of the required trees.

(3) Islands and Medians:

(a) Minimum curb radii of five (5) feet are required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. (See the Village of Pinehurst Engineering Standards and Specifications Manual). All islands shall have raised curbing around them meeting the Village of Pinehurst Engineering Standards and Specifications Manual to further protect plants from being run over by motor vehicles. Medians without curbing shall include devices to stop vehicles from driving into the planted areas;

(b) No more than one tree may be provided per island, unless there is at least the minimum growing area per tree as required above. Large trees shall not normally be planted less than eighteen (18) feet apart, and small trees/large shrubs shall not normally be planted less than twelve (12) feet apart.

(4) Existing Trees:

(a) Credit given for existing, healthy, protected trees shall be according to 9.5.~~1~~2.7 of this Section. Trees used to meet other requirements of this Ordinance may not be used to meet the requirements of this Section.

(5) Sight Distances: Trees and shrubs shall be either pruned or located to facilitate safe sight distances within parking lots.

(D) Parking Area Landscaped Yards: Any new or expanded off-street parking areas shall provide landscaped areas meeting the requirements below:

(1) New or expanded parking areas shall provide a landscaped area, adjacent to and outside of the street right-of-way, and/or adjacent residential property line edge, less driveways, of a minimum of ten (10) feet in width and adjacent non-residential property line edge, less driveways, of a minimum of five (5) feet. Proposed locations of plants and parking spaces shall be arranged to protect plants from vehicles;

(2) Planted buffers and/or screens provided adjacent to right-of-way, as required under Sections 9.5.2.2 and/or 9.5.2.3 of this Section, and located between parking lots and streets and/or adjoining residential property may be considered in fulfilling these requirements.

(E) Street Trees Required

(1) For all non single-family developments one three (3) inch caliper, large hardwood or pine tree per forty (40) lineal feet of street frontage minus driveways shall be planted in the road right of way. These street trees shall be approved by the Village Engineer as being acceptable street trees. These trees shall be planted outside of site triangles and not conflict with any utilities. Alternate type and size trees may be approved by the village engineer based on existing site conditions and constraints.

9.5.2.5 Maintenance Responsibility

Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the maintenance of all required plant material and continued compliance with this Section.

9.5.2.6 Request for Extension of Compliance

(A) A letter of request for extension of compliance with landscaping requirements may be filed with the Village Planner that states the reasons why the request is being made. If the Village Planner finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed for a period not longer than ninety (90) days. The letter shall also acknowledge that the property owner is aware of all landscaping and screening requirements, and will comply with those requirements within ninety (90) days, or discontinue use of the property;

(B) If an extension is allowed by the Village Planner, the applicant shall provide to the village a financial guarantee as set forth in Section 9.17.1.26 sufficient to cover one hundred twenty-five percent (125%) of the installed landscaping costs;

(C) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, the applicant may request one (1) additional extension of up to ninety (90) days. Failure to comply with the provisions of this Section within the time noted in the letter of request for the extension of compliance with landscaping requirements shall be deemed a violation of this Ordinance. In addition, failure to perform in accordance with this Section shall result in default and the forfeiture of the financial guarantee as set forth in Section 9.17.1.26.

9.5.2.7 Existing Vegetation Credits

(A) Existing healthy trees and shrubs shall be retained when possible and may be credited toward landscape requirements. Vegetation to be saved shall be identified on submitted plans. Protection measures shall be installed to maintain tree health and such protective measures shall be shown on the submitted plan.

(B) Credit given for existing, healthy, protected trees shall be on a tree-for-tree basis, for planted buffer areas, and on the basis of fulfilling the requirements for parking areas. Existing trees will not be allowed to be counted towards landscape screen requirements. Trees so credited must be at least three (3) inch caliper.

9.5.2.8 Specimen Trees

(A) Specimen trees include all of the following:

A specimen tree is any healthy living tree that:

(1) Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;

(2) A trunk DBH of twelve (12) inches or more in the case of the following species:

(a) Ilex species (holly);

(b) Magnolia species;

(c) Longleaf Pine species;

(3) Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;

(4) Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or

(5) Has been cited by the Village Council as being historically significant.

9.5.2.9 Preservation and Removal on Private Property

(A) Specimen Trees On Private Land:

(1) Specimen trees shall be shown on all preliminary commercial and residential site plans submittals and located by survey on final site or Landscape Protection Plans. The Village Planner may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a development site where soil disturbance or construction activity is proposed;

(2) Proposed development shall be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities shall be pursued in order to save them;

(3) Notwithstanding any provision of this Ordinance to the contrary, saving of a specimen tree shall constitute evidence that the requirements for a case have been met for a variance application;

(4) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during the review of the site and/or Landscape Protection Plan it is determined there is no reasonable way the property can be developed without such disturbance.

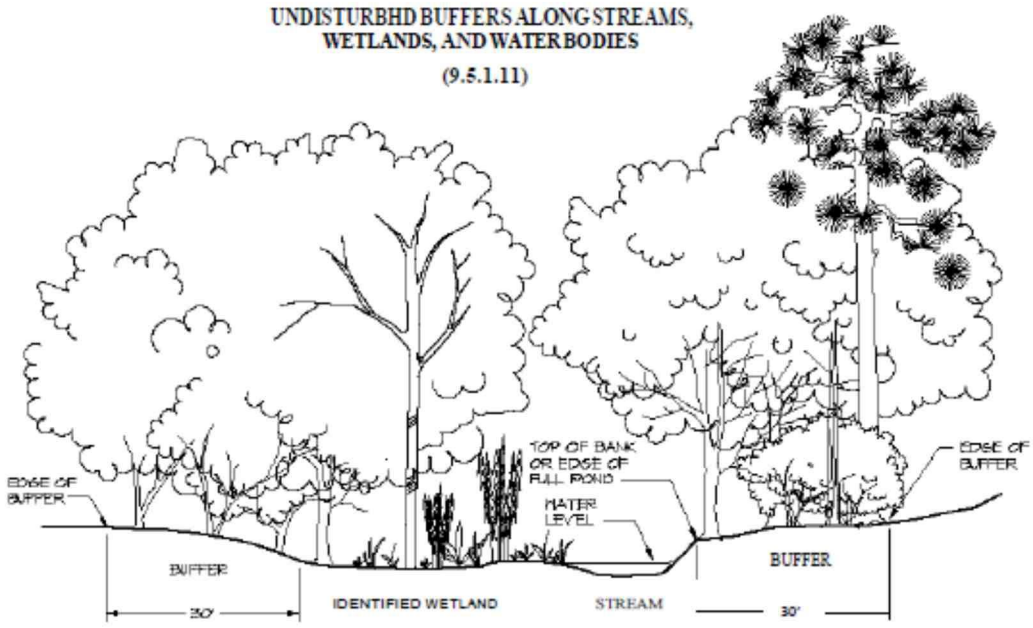
(B) Voluntary Protection Of Specimen Trees On Existing Residential Lots:

(1) Specimen trees which are located on individual lots with single homes shall be protected if voluntarily registered by the property owner;

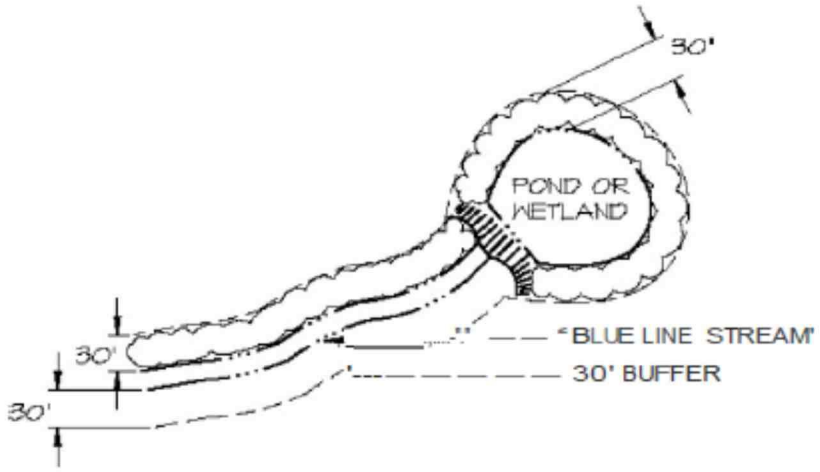
(2) Registration of such trees shall render the owner of the lot the following privileges: If a permitted accessory structure or addition to a house is being planned, notwithstanding any provision of the Ordinance to the contrary, saving of a specimen tree may constitute evidence that requirements for a case have been met for a variance application.

9.5.2.10 Undisturbed Buffers Along Streams, Wetlands, and Water Bodies

(A) Notwithstanding any other provisions of this Ordinance regarding buffers, landscaping or setbacks, all development, other than development of existing single family lots shall maintain a thirty (30) foot undisturbed buffer measured from the top of the bank along all streams that are shown as "blue lines" on the most recent versions of U.S. Geologic Survey 1:24,000 scale topographical maps; along the edge of identified wetlands as established by the North Carolina Department of Environmental Resources as defined by N.C.G.S. §143.212(6); and along the edge of the full pond of any water body that is fed by or connected to a "blue-line" stream, other setbacks such as wetland and watershed (Section 8.3.3) may also apply;



CROSS SECTION



PLAN VIEW

(B) The Village Council may permit as a special exception water dependent structures, pedestrian facilities and other similar structures where the Council finds that only minimal disturbance will result. In permitting such facilities, the Council may attach such reasonable conditions as the Council deems appropriate.

Section 3. Amend Chapter 10 of the Pinehurst Development Ordinance to replace the definition of "development" and alphabetically insert the following additional definitions.

Clearing and Grading: any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.

Development: Unless the context clearly indicates otherwise, the term means any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
b. The excavation, grading, filling, clearing, or alteration of land.
c. The subdivision of land as defined in N.C.G.S. 160D-802.
d. The initiation or substantial change in the use of land or the intensity of use of land.

Protected Trees: Any tree with a diameter breast height of eight inches or greater.

Redevelopment: For the purpose of Section 9.5, redevelopment is the physical change to a parcel of land that results in construction of an additional building, building replacement or an expansion in the size of an existing building by 50% or more.

Specimen tree is any healthy living tree that:

a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
b. A trunk DBH of twelve (12) inches or more in the case of the following species:
    i. Ilex species (holly);
    ii. Magnolia species;
    iii. Longleaf Pine species;
c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
e. Has been cited by the Village Council as being historically significant.

Tree Preservation Yards: for the purposes of Sections 9.5 and 9.14.6, tree preservation yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

a. Front: the front yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
b. Rear: the rear yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
c. Side: the side yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.

Section 4. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 *Tree Conservation and Newly Installed Trees and Plants* is amended as follows.

General Intent. The regulations of this Section are intended to preserve trees along the outer perimeter of development sites such that buffer yards are retained/created to buffer uses from adjacent properties and to reduce visual effects and the impacts of traffic, noise, dust, and odor. Where buffer yards do not exist or have been previously cleared, the planting requirements of this section apply.

(A) All development, including clearing and grading activities, shall consider conservation of existing specimen and protected trees. Where such trees exist, flexible approaches such as adjustment to placement of buildings and paved surfaces and location of utilities may be permitted by the Village Planner to preserve them. The conservation of existing trees that do not conflict with the placement of buildings, drives, walks, patios, or other site amenities is encouraged. A tree survey shall be submitted with an application for development approval that identifies all protected, heritage and specimen trees in accordance with Section 9.5. Part 1.

(B) Tree Retention/Planting Requirements.

(1) The number of trees to be retained/planted is per the requirements of Table 9.14.6 below that establishes the minimum number of trees per yard within an individual lot. If a yard does not contain enough qualifying trees per Table 9.14.6, then the required number of trees shall be installed per the requirements of 9.14.6.(C). Tree preservation credits may be provided per Section 9.14.6 (B)(2).

Table 9.14.6

Setback Location	Quantity	Spacing for Planted Trees
Front Yard*	1 Protected/Specimen Tree Per 15 Linear Feet of Street Frontage**	7.5' on center
Side Yard**	1 Protected/Specimen Tree Per 35 Linear Feet	17.5' on center
Rear Yard	1 Protected/Specimen Tree Per 25 Linear Feet	12.5' on center

*For the purpose of this section, the front yard is any street facing yard. If a lot is a corner lot, then more than one front yard will apply.

**If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

(2) Tree Preservation Credits.

Tree preservation credits shall be in accordance with 9.5.1.4. (C) and (D).

(3) Driveway Credit.

Driveway credit shall be in accordance with Section 9.5.1.4.(B).

(C) Tree Placement and Planting.

(1) Planted trees shall be evenly spaced within required yards. and may be staggered in alignment throughout the length of the required yard based on recommended spacing in Table 9.14.6.
(2) At least one-half of the planted trees shall be Longleaf Pines. The remaining trees shall be selected from Appendix F of the Pinehurst Development Ordinance. Tall trees shall be used in the front protected yard; however, short trees may be used under powerline easements. Tall or short trees may be used in the side and rear yards. Substitutions may be made at the discretion of the Village Planner.
(3) Landscaping should be of sufficient size so that mature appearance will be achieved within five (5) years of installation of trees.

Planted Tree Minimum Size

Tree type	Minimum Planting Height	Minimum Caliper
Evergreen trees	6 feet	2 inch
Tall trees from Appendix F	8 feet	2 inch
Short trees from Appendix F	6 feet	1.25 inch

(4) The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.
   a. To satisfy tree preservation credits described in 9.5.1.4.(C).
   b. To allow the preservation of trees within the building envelope if they are within a distance no greater than the required yard depth when insufficient trees are available for preservation.
   c. Small trees as identified in Appendix C may be used to avoid conflicts with overhead infrastructure.

(D) Protected Trees Removed in Violation**.** When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Village Planner in a ratio not to exceed 2:1 of two inches of caliper per inch removed. As an example, if six 8" trees are removed, 96 inches of caliper shall be planted. No tree planted shall be smaller than 3" caliper. The size of the tree removed shall be determined from the size of the remaining base or stump or an existing tree survey on file for the property. If the size of the tree cannot be determined but its removal can be documented by photographic evidence or the use of aerial photography, then the violator shall replant three 3" caliper trees for every tree removed.

(E) Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the continual maintenance of all required plant material and continued compliance with this Section. This requirement shall run with the property and shall be binding upon all future property owners.

(F) As part of the required single-family site plan the approximate location, size and type of trees to be used to meet this standard shall be shown.

(G) All trees used to meet the intent of this section shall be healthy and well protected during construction. See Appendix F for a listing of trees which are known to be adaptive and naturalized in the Sandhills of North Carolina. Any of these trees can be used in meeting the tree conservation standards of this section.

(H) HVAC units, pool equipment, well houses, and other structures on the property shall be screened with landscaping material or fencing so as to be seventy-five percent (75%) opaque.

(I) Foundation Plantings Required: Foundation plantings shall be provided for all principal and accessory buildings and structures, including storage sheds. The number of plants or plant groupings shall be provided based on the linear footage of foundation along the front and sides of ~~the~~ each structure minus doorways, and steps at a rate of one (1) shrub or plant grouping per six (6) linear foot of foundation. A minimum of fifty percent (50%) of the required plantings shall be five (5) gallon or larger at the time of planting, the remainder shall be a minimum of three (3) gallon in size. Said plantings are not required to be placed in a uniform, linear arrangement when installed and plant groupings or ground cover beds may be used to meet the intent of this section.

(J) The site shall be designed to minimize the removal of mature specimen trees, for example, Longleaf Pine, Dogwood, American Holly and Southern Magnolia.