

Petition No. 2016-T001
Petitioner: Engineering and Property Management and
Charlotte-Mecklenburg Planning Department

**AN ORDINANCE AMENDING CHAPTER 21,
OF THE CITY CODE –TREES**

ORDINANCE NO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Chapter 21, “Trees”, Article 1 of the of the Code of the City of Charlotte is hereby amended as follows:

A. ARTICLE I. IN GENERAL

1. Section 21-2. Definitions

- a. Amend Section 2.201, “Definitions” by clarifying the definition of “homeowner”, and “tree protection zone”. All other definitions will remain unchanged. The revised definitions shall read as follows:

Homeowner- ~~a tenant or~~ an owner of an existing single-family or duplex residence.

Tree protection zone- a distance equal to the designated zoning district setback or forty (40) feet from the front property line, whichever is less, or from the side lot line on a corner lot. For urban zones, the tree protection zone shall be the same as the planting strip required for the associated zoning district or as designated in a streetscape plan. This definition does not apply to single-family ~~development~~ subdivisions.

B. ARTICLE IV. GENERAL LAND DEVELOPMENT REQUIREMENTS

1. Section 21-91. Tree survey

- a. Amend Section 21-91, “Tree survey”, by clarifying language and the applicability of requirements in the second paragraph, by replacing the word, “development” with “subdivision”. The revised section shall read as follows:

Sec. 21-91. Tree survey.

Tree save area boundaries shall be required to be surveyed and be described in meets and bounds and be recorded on the final plat.

All applications for grading, building, demolition, land use, change of use or rezoning permits on all property, except single-family ~~development~~ subdivisions shall require a tree survey. The survey shall identify all trees of eight (8) inch dbh or greater and all planted trees of two (2) inch caliper or greater and six (6) feet in height that grow partially or wholly within the city right-of-way.

All applications for grading, building, demolition, land use, change of use or rezoning permits on all property, except single-family subdivision, subject to 21.94 (d) (1) shall require a tree survey. The survey shall identify all trees of eight (8) inch dbh or greater within the tree protection zone.

2. Section 21-92. Tree protection plan.

- (a) Amend Section 21-92, “Tree protection plan” by clarifying language and the applicability of requirements in the second paragraph by replacing the word, “development” with “subdivision” in two places. The revised section shall read as follows:

Sec. 21-92. Tree protection plan.

(a) All applications for grading, building, demolition, land use, change of use, or rezoning shall include a tree protection plan of all tree save areas and tree protection zones. On sites where less than one acre is being graded, tree protection is still required and may be incorporated in the tree planting plan submitted in accordance with section 21-94. A tree protection plan shall include the following:

(1) A tree and root protection zone plan for any existing trees having all or any portion of their trunks in or upon any public property, which are:

- a. All trees of eight (8) inch dbh or larger; and
- b. Any planted trees of two (2) inch caliper or larger.

(2) A tree and root protection zone plan for the following:

- a. Existing trees of two (2) inch caliper and larger in the tree protection zone and tree save area; and
- b. Any trees of two (2) inch caliper or larger being saved for credit toward planting requirements.

(b) All applications for single-family ~~development~~ subdivisions shall include a tree and root protection zone plan for the following:

(1) Heritage trees;

(2) Specimen trees; and/or

(3) Tree save areas being protected for credit toward the tree save requirement for single-family ~~development~~ subdivisions.

3. Section 21-93. General tree save requirements.

- (a) Amend Section 21-93, “General tree save requirements”, subsection (a), by clarifying the language by adding “single family” in the second sentence. The remaining subsections remain unchanged. The revised subsection shall read as follows:

(a) Tree save areas shall be free of invasive plant species unless approved otherwise by the City. If an area proposed for tree save contains invasive plant species at the time of such proposal, such invasive plant species shall be removed prior to the issuance of final certificate of occupancy for commercial and multi-family properties or at final plat approval for single-family subdivisions. Invasive plant species are considered removed if they are no longer living in the tree canopy. Subsequent property owners are required to maintain this condition for compliance with the chapter

4. Section 21-95 Tree save requirements for single-family development.

- (a) Amend Section 21-95, “Tree save requirements for single-family development”, by replacing the word, “development” with “subdivision” in the title of the section and modifying subsection (a) similarly. The revised title and subsection shall read as follows:

Sec. 21-95. Tree save requirements for single-family development subdivisions.

(a) *Percentage of area required.* Whenever the existing tree canopy of a single-family ~~development~~ subdivision site is at least ten (10) percent of the total property area, a tree save area equal to ten (10) percent of the total property area must be saved during development of the site. If the existing tree canopy of the site is less than ten (10) percent but more than five (5) percent, a tree save area equal to ten (10) percent of the total property area must be achieved by saving the entire existing tree canopy and planting new trees to reach the required percentage area. Single-family ~~development~~ subdivision sites with an existing tree canopy of less than five (5) percent of the total property area must have a tree save area equal to five (5) percent of the total property area, which may be achieved by saving the existing tree canopy and planting new trees.

- (b) Amend Section 21-95, “Tree save requirements for single-family development”, subsection (e), “Incentives for increasing area”, and subsection (f), “Incentive limits” by adding clarifying language. Also, replace the word, “development” with “subdivisions” and “residential lots” with “subdivision sites”. All remaining subsections are unchanged. The revised subsection shall read as follows:

(e) *Incentives for increasing area.* Incentives for increasing tree save areas are designed to achieve the specific objective to:

- (1) Enhance the city's tree canopy in residential settings.

(2) Improve the overall quality of life within ~~the larger residential areas including single-family subdivisions.~~

(3) Further the land use policies and area plans of the city, including encouragement of open spaces and the preservation of wooded sites.

(4) Discourage clear cutting of sites before and during construction of single-family ~~development~~ subdivisions.

(f) Incentive limits.

(1) Reduced Yards. For single family ~~residential lots- subdivisions~~ requiring a tree save area, setback requirements as specified in Sections 12.805(3) (a), (b), and (c) of the zoning ordinance are reduced as follows:

(a) Front setbacks can be reduced to a minimum of fifteen (15) feet for all lots; front loaded garages must maintain a minimum setback of twenty (20) feet.

(b) Rear yards can be reduced to thirty (30) feet on all internal lots. Rear yards forming the outer boundary of a project must conform to the minimum rear yard of subsection 9.025(1) (g) for the zoning district in which the ~~development~~ single family subdivision is located.

(2) Density Bonus. Single-family ~~development~~ subdivision projects may be granted a density bonus provided the entire tree save area is dedicated to common open space. Such dedication must be to a homeowners' association or a public or private agency that agrees to accept ownership and maintenance responsibilities for the space. The density bonus is calculated as follows: the entire dedicated tree save area in acres multiplied by the maximum residential density number of the underlying zoning district.

(3) Reduced Lot Sizes. A ~~development~~ single family subdivision need not meet the minimum lot area and lot width requirements set forth in table 9.205 of the zoning ordinance if it complies with one of the following incentives:

(a) Sites with more than ten (10) percent and up to twenty-five (25) percent of tree save area or areas in common open space may apply the cluster provisions for lot size and lot width of that zoning category.

(b) Sites with greater than twenty-five (25) percent of tree save area or areas in common open space may apply the cluster provisions for lot size and width of the next lower zoning category as shown in the following table and in accordance with section 9.205(5) of the zoning ordinance.

	R-3	R-3 Cluster	R-4	R-4 Cluster	R-5	R-5 Cluster	R-6	R-6 Cluster
Min. Lot Area	10,000	8,000	8,000	6,000	6,000	4,500	4,500	3,500
Min. Lot Width	70'	60'	60'	50'	50'	40'	40'	40'

5. Section 21-96 Tree planting requirements.

- (a) Amend Section 21-96, “Tree planting requirements”, subsection (e), “Perimeter planting requirements”, subsection (1) by replacing the term, “development” with “subdivisions” in three places, and adding “a” in the fourth sentence. Other subsections remain unchanged. The revised subsection shall read as follows:

(1) *Single-family ~~development~~ subdivision zones.* Trees of a minimum two (2) inch caliper must be planted within twenty (20) feet of the back of the curb on new streets, and any existing streets with lot frontage, in new single-family ~~development~~ subdivisions. Trees may be planted between the sidewalk and the curb if a minimum six (6) foot planting strip is provided. Spacing will be an average of forty (40) to fifty (50) feet apart for large maturing shade trees, and thirty (30) to forty (40) feet apart for small maturing shade trees. Where a single-family ~~development~~ subdivision is directly across the street from multifamily development, the spacing between trees will be an average of forty (40) feet. Existing two (2) inch caliper or greater large maturing shade trees preserved within twenty (20) feet of the back of the curb may be counted towards the street tree requirement if they are adequately protected during construction. The City may grant a modification for other existing trees on a case-by-case basis.

- (b) Amend Section 21-96, “Tree planting requirements”, subsection (f), “Internal planting requirements excluding single-family development”, by replacing the term, “development” with “subdivisions” in the title and in the sentence following the title. The subsections within subsection (f) remain unchanged. The revised title shall read as follows:

(f) Requirements for internal planting, excluding single-family ~~development~~ subdivisions. Requirements for internal planting, excluding single-family ~~development~~ subdivisions, are as follows:

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

City Attorney

I, _____, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the _____ day of _____, 2016, the reference having been made in Minute Book _____, and recorded in full in Ordinance Book _____, Page(s)_____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this _____ day of _____, 2016.
