

ORDINANCE #21-06

AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO CHAPTER 9, DESIGN AND DEVELOPMENT STANDARDS AND PROCESSES

Whereas, development impacts adjoining uses and properties and can be impacted by adjoining uses and properties through an absence or elimination of vegetative buffering; and

Whereas, development can be impacted by the impacts from activities that occur in adjacent rights-of-way including traffic, noise, dust, and odor through an absence or elimination of vegetative buffering; and

Whereas, development impacts the overall visual character of the Village and the ETJ through the elimination or absence of vegetative buffering; and

Whereas, these regulations will help to mitigate the aforementioned development impacts through creation of vegetated tree lined buffer yards; and

Whereas, these regulations also contain provisions to incentivize the use of existing qualifying vegetation to provide buffering; and

Whereas, these regulations are consistent with Guiding Principle 1 of the 2019 Comprehensive Plan to retain the small-town charm, scale, and character of the community to ensure a high quality life; and

Whereas, these regulations are consistent with Guiding Principle 3 of the 2019 Comprehensive Plan to protect and enhance the quality and character of existing residential neighborhoods; and

Whereas, these regulations are consistent with Guiding Principle 7 of the 2019 Comprehensive Plan to preserve, conserve, and feature Pinehurst's natural resources; and

Whereas, the 2019 Comprehensive Plan was adopted by the Pinehurst Village Council on October 22, 2019 after undergoing a planning process supported by extensive and robust public participation that included residents, business owners, local interest groups, and elected and appointed officials; and

Whereas, the 2019 Comprehensive Plan is the result of thoughtful public conversations spanning over one year and represents a path forward for the Village of Pinehurst to achieve its vision.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in the regular meeting assembled on the _____ day of _____, 2021, makes the following amendments to the Pinehurst Development Ordinance:

Section 1. The Village of Pinehurst Development Ordinance Chapter 9 Section 9.5 Landscaping Requirements, Section 9.14.6 Tree Conservation and Newly Installed Trees and Plants is amended as follows.

Section 9.5 Landscaping and Buffering Requirements

Part 1. General Standards

9.5.1. Purpose and Scope

The regulations of this Section are intended to create buffer yards associated with development of parcels within the Village of Pinehurst and its ETJ. Buffer yards help to moderate visual contact, create spatial separation, and minimize adverse impacts on adjacent properties resulting from development activity. Buffer yards also help to reduce the visual effects and the impacts of traffic, noise, dust, and odor as well as to protect the privacy of neighbors. The Village values its existing tree canopy, and these regulations also provide incentives that allow existing qualifying trees to be used as part of the buffers required by this Section. By doing so, these regulations will preserve and enhance the visual character of Village and the ETJ and lessen the impacts of the development.

9.5.1.1 Definitions, for purposes of this Section include the following:

- (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) Qualifying Tree: Any healthy living 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 through building additions or reconstruction that increase the building footprint 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) Buffer Yards: for the purposes of Sections 9.5 and 9.14.6, buffer yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front buffer 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 buffer 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 buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.
- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and the rear yard.

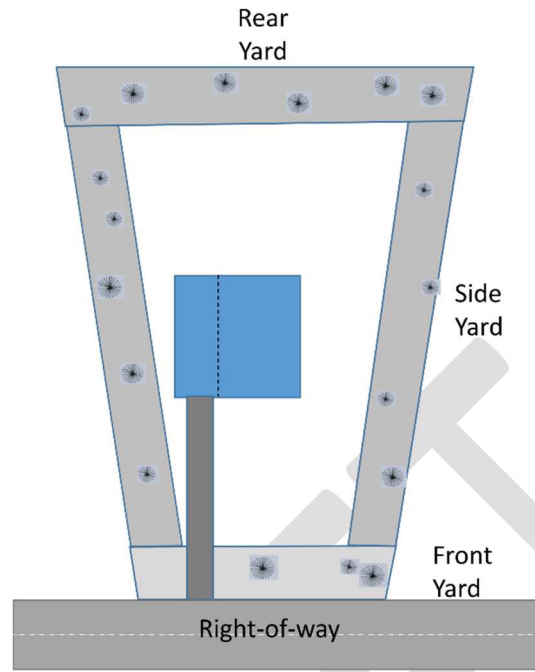


Figure 1. Standard lot yards

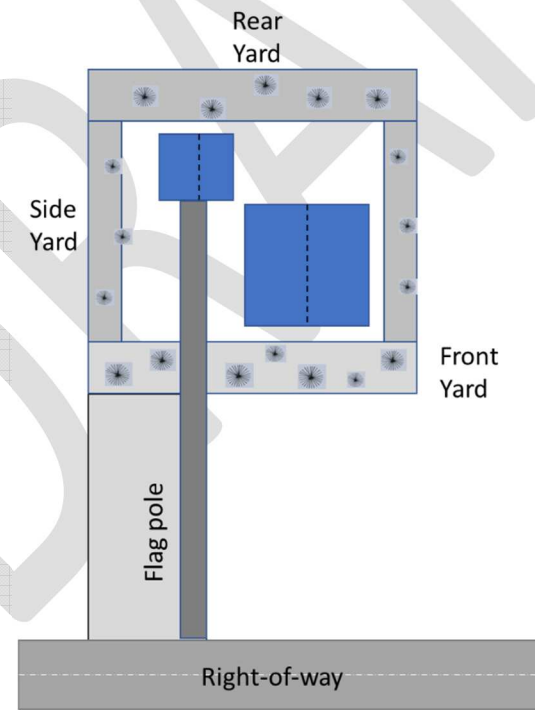


Figure 2. Flag Lot Yards

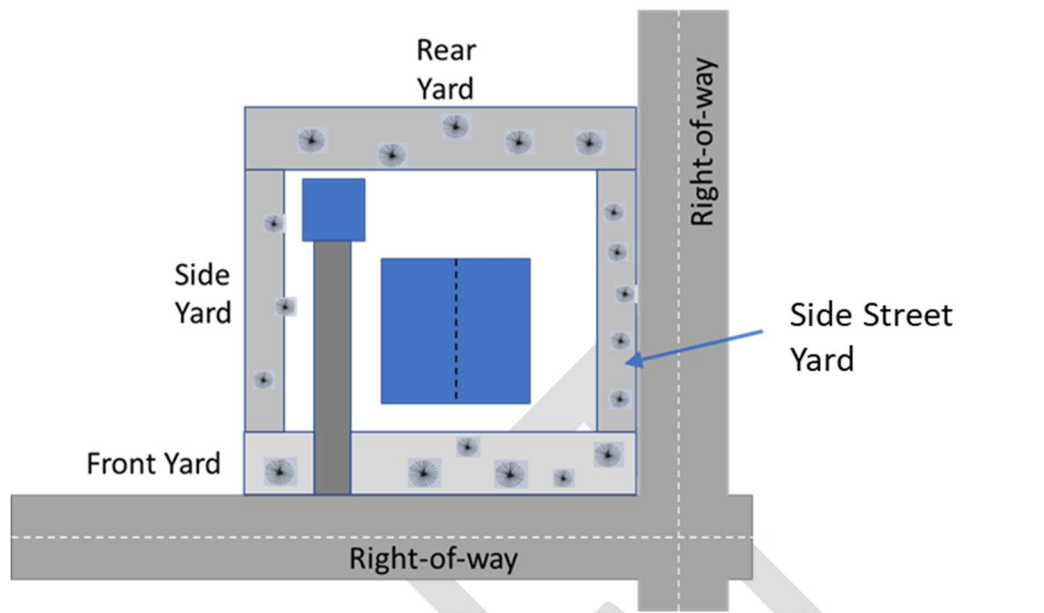


Figure 3. Side Street Buffer Yard

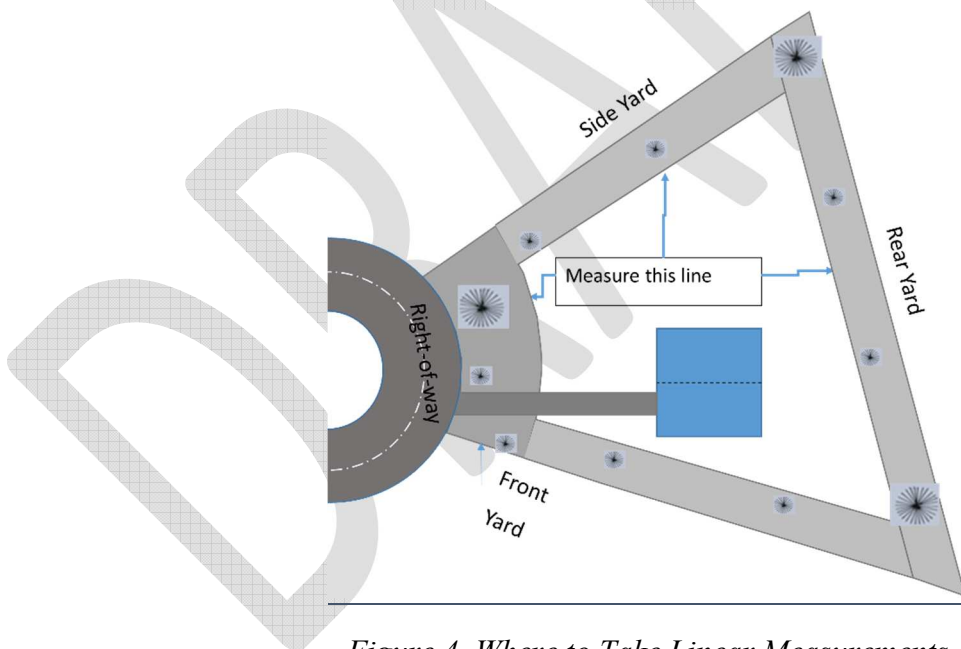


Figure 4. Where to Take Linear Measurements

9.5.1.2 Clearing and Grading Applications and Permits

(A) 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.

(B) A clearing and grading application shall be accompanied by a landscape plan to show compliance with the planted buffer requirements or a tree survey when the applicant seeks to request credit for tree preservation in lieu of planted buffer.

(C) In addition to ensuring that Village standards are met, Village staff may 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 Landscape Plans and Tree Surveys

(A) Landscape plans shall be prepared consistent with Appendix B of this Ordinance.

a. The plan shall contain the following information.

- i. Dimensions of the property lines;
- ii. Location of all required buffer yards;
- iii. Location of construction access/driveways;
- iv. Location of trees to be planted;
- v. Types of trees to be planted;
- vi. Size of trees to be planted; and
- vii. Tree spacing.

(B) Tree surveys shall be prepared by a surveyor licensed in the state of North Carolina. Tree surveys shall reflect the following.

- a. Dimensions of the property lines;
- b. Location of all required buffer yards;
- c. Location of construction access/driveways;
- d. Locate all trees to be protected within required buffer yards to achieve the following:
 - i. Retention of any tree greater than 3" that may be used for 1 to 1 credit when qualifying trees are not present in the buffer.
 - ii. Retention of any tree greater than 12" that may be used for higher credit ratios.
- e. If the survey incorporates any qualifying trees, they must be shown;
- f. Identify all tree types and sizes;

(C) Tree surveys may be incorporated into concept, major and minor site plans, landscape plans and preliminary plats.

(D) Exemptions. 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 landscape plan shall be prepared prior to clearing or development.
- (2) If an existing lot is developed for single-family residential purposes and is proposed for redevelopment, additions, or modifications, a landscape plan shall be submitted.
- (3) If an existing lot 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 trees are damaged or destroyed on an existing lot of record due to disasters such as windstorms, ice storms, fire, or hurricanes, the requirements of this section shall not apply.

9.5.1.4 Buffer Yard Standards

(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 Buffer Yard | 1 Qualifying Tree Per 25 Linear Feet of Street Frontage |
| Side Street Buffer Yard | 1 Qualifying Tree Per 25 Linear Feet of Street Frontage |
| Side Buffer Yard | 1 Protected Tree Per 35 Linear Feet |
| Rear Buffer Yard | 1 Protected Tree Per 25 Linear Feet |

*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.

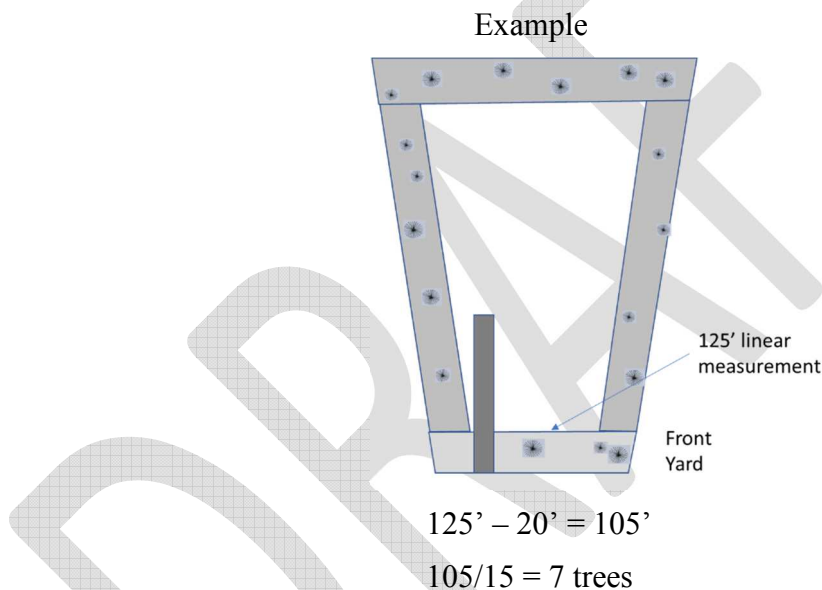
Planted Tree Minimum Size

| Tree Type | Minimum Planting Height | Minimum Caliper |
|-----------|-------------------------|-----------------|
|-----------|-------------------------|-----------------|

| | | |
|-----------------------------|--------|-------------|
| Evergreen Trees | 6 Feet | 2 Inches |
| Tall Trees from Appendix F | 8 Feet | 2 Inches |
| Short Trees from Appendix F | 6 Feet | 1.25 Inches |

(B) Driveway Allowance

Each parcel shall be given an allowance for one 20' driveway connection. In the event a driveway intersects two different yards, the property owner shall select which yard receives the credit. This allowance 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 for the yard through which the connection is made.



(C) Existing Tree Preservation Credits.

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

- (1) Tree credits shall apply to the buffer yard in which the tree is located.
- (2) One additional tree credit will be granted for every four (4) inch increase in tree girth above 12" DBH in the buffer yard in which the tree is located.

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

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

(E) Minor Modifications for Alternate Spacing and Grouping

The Village Planner may authorize a minor modifications 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 buffer yard depth when insufficient trees are available for preservation.

9.5.1.5 Buffer Yard Standards for Developed Lots

(A) Single-family lots undergoing redevelopment shall comply with Section 9.5.1.4(A).

(B) Single-family lots undergoing redevelopment that is less than 50% of the floor area of the principal structure 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 not proposed for single family development 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 photographic documentation, observation by the Village Planner, or by the submittal of a report prepared by an arborist or other landscape professional.
- (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 160D-903 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, RD, 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.

9.5.1.7 Trees Removed In Violation

- (A) Replacement trees shall be planted according to Section/Table 9.5.1.4 when the following occurs.
 - a. Clearing without clearing and grading permit if required.
 - b. Clearing without an approved landscape plan or tree survey if required.
 - c. Failing to follow an approved landscape or clearing and grading plan.
- (B) In addition, other remedies up to and including penalties may apply in accordance with Chapter 7 of this Ordinance.

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 by the Village Planner. 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

| <i>REQUIRED PLANTED BUFFER WIDTH IN FEET BASED ON BUFFER CLASSIFICATION AND ADJACENT PROPERTY USE AND ZONE</i> | | | | |
|---|-----------------------------------|---|------------------------------------|---------------------------------|
| 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 hedge-like 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.
- (2) Credit given for existing, healthy, protected trees, regardless of species, shall be according to 9.5.2.7 of this Section;
- (3) 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;

- (4) 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.
- (5) 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;
- (6) 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 9.5.2.7 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 based on an estimate from a nursery or qualified landscape professional;
- (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 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 shall be 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. When trees exceed 12" in diameter, credit may be granted in accordance with Section 9.5.1.4(C). 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:

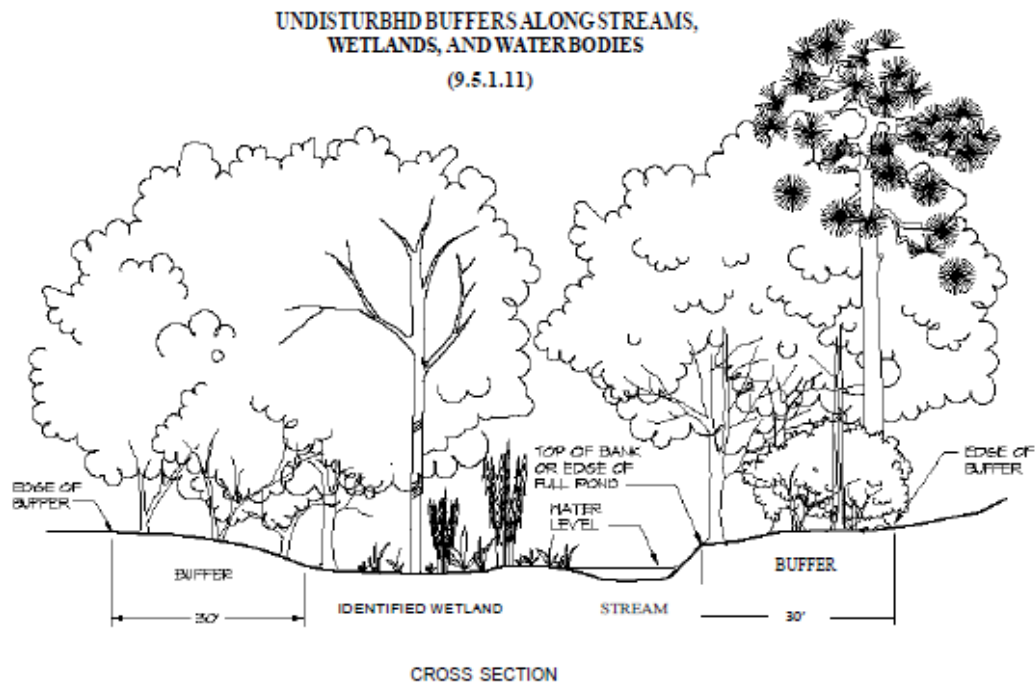
- (1) Specimen trees shall be shown on all preliminary commercial and residential site plans submittals and located by survey on final site or Landscape Protection Plans. The Village Planner can inspect the site to determine the accuracy of identification. The location and identification of specimen 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.

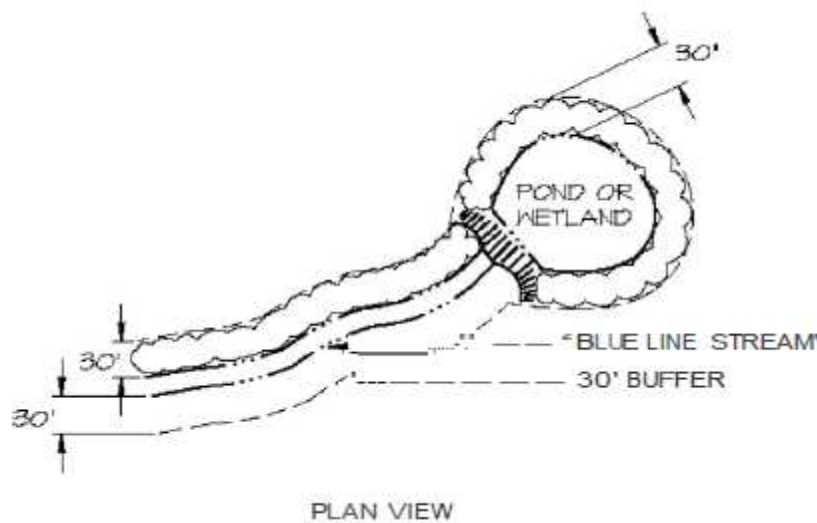
- (B) Voluntary Protection Of Specimen Trees On Existing Residential Lots:

- (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;





(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 through reconstruction of the principal structure or successive building additions equaling 50% or more of the heated square footage of the principal structure as of the effective date of this Ordinance.

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.

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

- a. Front: the front buffer 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 buffer 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 buffer yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.
- d. Side Street: the side street buffer yard is equal to the width of the side street setback from where it intersects both the front and 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.

(B) Buffer Yard Standards

- (1) A minimum planted perimeter buffer must be planted or preserved per the requirements of Table 9.14.6 below which establishes the minimum number of trees per buffer yard within an individual lot or parcel. If a buffer 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 |
|-------------------------|--|
| Front Buffer Yard | 1 Qualifying or Planted Tree Per 25 Linear Feet of Street Frontage |
| Side Street Buffer Yard | 1 Qualifying or Planted Tree Per 25 Linear Feet of Street Frontage |
| Side Buffer Yard | 1 Qualifying or Planted Tree Per 35 Linear Feet |
| Rear Buffer Yard | 1 Qualifying or Planted Tree Per 25 Linear Feet |

*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 staggered in alignment throughout the length of the required buffer yards provided that no spacing between trees exceeds thirty-five (35) feet. At least one-half of the planted trees in front and side-street yards 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 power line easements. Tall or short trees may be used in the side and rear yards. Substitutions may be allowed by the Village Planner that will result in equal or better performance.
- (2) 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 |

- (3) The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.
- To satisfy tree preservation credits described in 9.5.1.4 (C).
 - To allow the preservation of trees within the building envelope if they are within a distance no greater than the required buffer yard depth when insufficient trees are available for preservation.
 - Small trees as identified in Appendix C may be used to avoid conflicts with overhead infrastructure.
- (D) Trees Removed. When required trees are removed, they shall be replaced in accordance with Table 9.14.6 and the provisions of this Section such that the total number of required trees is always maintained.
- (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 approval process, the approximate location, size and type of trees to be used to meet this standard shall be shown on the required landscape plan.
- (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 all sides of 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, Lingleaf Pine, Dogwood, American Holly and Southern Magnolia.

SECTION 5. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

VILLAGE OF PINEHURST
VILLAGE COUNCIL

(Municipal Seal)

By: _____
John C. Strickland, Mayor

Attest:

Approved as to Form:

Kelly Chance, Village Clerk

Michael J. Newman, Village Attorney