

## ARTICLE 16. LANDSCAPING AND BUFFER STRIPS

### Section 16-1. Objective

The governing body, Planning & Zoning Board, and Board of Adjustment of the Town of Calabash recognizes the importance of the contribution made to the community by the abundance of tree's and vegetation. In fact, the present character of Calabash is dependent largely upon the existing trees and plantings in both publicly and privately owned properties. It is this vegetation that gives the Town an aesthetic appeal that contributes to its growth and economic prosperity. As economic growth occurs, the removal of this valued vegetation sometimes results, contributing to a depletion of a most valuable resource. The Town feels it is necessary to both conserve and restore those valuable assets and declares the objective of this Ordinance to be as follows:

- (A) To encourage the conservation of existing trees and vegetation, when practicable;
- (B) To provide visual and spatial buffering between adjoining and competing uses;
- (C) To enhance the beautification of the Town;
- (D) To enhance property values and protect public and private investment;
- (E) To preserve the identity and environment of the Town;
- (F) To provide a habitat for living things that might not otherwise occur in an urban environment;
- (G) To ensure that planting areas are distributed within developing sites in a manner which will provide shade, buffer noise, and filter glare.

### Section 16-2. Landscaping

- (A) General Regulations.
  - (1) The provisions of this section are required to be addressed for all commercial, office and institutional, industrial, multi-family, and townhouse developments proposed in the O/I, CB, HC, and ID districts and all residential subdivisions including clearance of residential lots.  
  
Within the CB (Central Business District) only the requirements for vehicular surface areas shall apply.
  - (2) Whenever the landscaping requirements of this Ordinance are applicable, no site shall be cleared or graded for the purpose of pending construction until a landscape plan including a survey of existing vegetation has been submitted and approved by the Town.
  - (3) Landscape plans shall be completed by a person who has knowledge and experience in the field of landscaping. Landscape plans shall be drawn at a scale no less than one inch equals 50 feet.

- (4) Landscape plans shall be submitted to the Inspections Department and shall be reviewed by the Inspections Department in conjunction with the Administrator. Plans shall be approved by the Inspections Departments and the Administrator for uses by right. They shall review and forward recommendations to the appropriate approval authority for conditional use permit applications.
- (5) The Building Inspector or Administrator shall not issue a permanent certificate of occupancy or certificate of compliance for an approved site plan or part thereof until all applicable requirements of this Section have been satisfied. A temporary certificate of occupancy may be issued for a period not to exceed 90 days, if the Administrator determines there are extenuating circumstances that would affect the seeding or planting of the site.

If a temporary certificate of occupancy is issued, the Administrator may require cash or letter of credit in an amount sufficient to guarantee the completion of all required landscaping.

- (6) The owners and their agents shall be responsible for protecting and maintaining all landscape materials in accordance with the landscape plan approved by the Town.
- (7) To guarantee preservation of all trees to be preserved in the tree preservation policy, the owner(s) are responsible for replacement of tree(s). Should the owner(s) neglect or refuse to abate the condition within 30 days from receipt of the order then the Code Enforcement Officer shall remove the condition. The actual cost incurred by the Town of Calabash in the remedying shall be charged to the owner(s). A statement of the charges shall be submitted to the owner(s) with instruction that the charges are due and payable within 30 days from the receipt thereof. The Town of Calabash shall have the right to inspect the development and/or building site in approved tree preservation policy.
- (8) The cutting down or removal of any oak tree larger than 24 inches in circumference measured at 4.5 feet above ground level shall be prohibited within the town limits due to their historical value on the preservation of natural beautification (see Section 2-2, Landmark Tree Definition). Removal of oak trees may be granted only upon inspection, evaluation, and judgment of the Code Enforcement Officer or town Building Inspector for the following reasons:
- Tree replacement (on another site approved by the Code Enforcement Officer or Building Inspector).
  - The tree is in such position to prevent the reasonable use and development of a property.
  - The tree is deemed dead or diseased beyond repair.
  - The tree considered a safety hazard to the general public or to buildings, foundations, or essential structures that cannot be relocated.
- (9) Exception to the proposed use of canopy trees may be applied to plantings proposed in the vicinity of power lines. The Planning Department, in

conjunction with the Administrator, may suggest a suitable substitution in such case.

(B) Landscape Plan Requirements. All landscaping plans shall, at a minimum, provide the following information:

- (1) Proposed location of plant material to be retained or planted on site.
- (2) Planting list that shall include the quantity, size, height, circumference, spacing, and botanical and common names of all plant material to be retained or planted on site.
- (3) Calculation made by the landscape planner to determine that the 20% landscaping requirement will be met.

(C) Additional Requirements.

(1) Any site requiring a landscape plan shall provide a total landscaped area of not less than 20% of the gross acreage of the site or more if required by other sections of this Ordinance.

(2) Minimum height and circumference at planting for the following planting categories shall be as follows:

Canopy Tree	10-12 feet in height; 2-2.5 inch caliper at 4.5 feet above grade.
Understory Tree	6-8 feet in height; 1.5-2 inch caliper at 4.5 feet above grade.
Shrubs	12 inches in height in a 3-gallon pot.

(3) Credit may be given for existing trees located between the proposed principle building and the street right-of-way. The retention of viable natural vegetation is encouraged when practicable. No credit shall be given for any tree which is unhealthy. Credit shall be given on a "tree per tree basis" or "one to one ratio." A protected ground area corresponding to half the circumference of the spread of the tree as measured radially from the trunk outward shall be provided around trees to be retained for credit.

(4) Notwithstanding the provisions of this Section, nothing shall be planted adjacent to an approved driveway and street connection which would impede vision between a height of 2-1/2 and 10 feet in a triangular area formed by a diagonal line between a point on the driveway perimeter and the curb line or pavement edge of the street, 25 feet from where they intersect.

(5) Street Yards.

(a) A street yard shall be provided with a minimum depth of 50% of the required front or corner side yard as measured perpendicular to the street right-of-way, provided that no street yard in excess of 15 feet in depth shall be required.

- (b) Planting requirements. Minimum of one understory tree per every 50 (fifty) linear feet of road frontage; 20 (twenty) shrubs per 100 (one hundred) linear feet of road frontage.
- (c) Does not apply to CB or R/C districts.

(6) Vehicular Surface Areas.

- (a) All vehicular surface areas containing more than 6 (six) spaces shall be landscaped in accordance with the following minimum standards:
  - (i) At least nine percent of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle or triangle.
  - (ii) Trees and shrubbery planted pursuant to this section shall include at least one tree a minimum of eight feet in height and six shrubs at least 18 inches in height at planting.
  - (iii) In support of the above, the following standards shall apply to interior plantings:
    - All plantings shall be evenly distributed throughout the parking facility so that no parking stall shall be located farther than 50 feet from the trunk of a tree.
    - All interior plantings shall be curbed or otherwise physically protected.
    - Consecutive parking spaces shall incorporate landscape peninsulas no more than 15 spaces apart and at least the ends of all parking rows. Peninsulas shall contain at least 100 square feet in area and at least eight feet in width, measured from back of curb/barrier to back of curb/barrier.
  - (iv) For parking facilities containing 5 to 24 spaces or stalls, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:
    - The minimum width of such strip shall be five feet.
    - For every 50 linear feet or fraction thereof the perimeter landscape strip shall contain one canopy tree and a continuous row (at least 6) of evergreen shrubs.
    - Where a perimeter landscape strip overlays a street yard or buffer yard required elsewhere in this section, the more stringent requirements shall apply.

All perimeter landscaping strips shall be planted with a combination of live vegetation, groundcover, grass, trees, and/or shrubs. Vegetation planted pursuant to this section shall be maintained to ensure continued growth.

- (v) Where more than 200 parking spaces are required by Code for a development, planting areas may be interspersed throughout the site so that no parking stall shall be located farther than 75 feet from the trunk of a shade tree in a planting area with two or more trees, provided a minimum planting area of 400 square feet or more is provided.
  - (vi) The Planning Board may waive all or part of the requirements of this section for any facility which is limited to periodic or intermittent use for vehicular parking, such as parking lots for churches or recreational facilities, provided the facility is completely covered by grass or otherwise presents a landscaped effect.
  - (vii) The Planning Board may waive the requirements of this section for temporary parking lots when determined that a waiver is necessary to relieve hardship and will not violate the purposes of this section. Any such waiver shall not exceed one year.
- (b) Each planting area provided in accordance with this Section may be counted as one parking space when computing the number of spaces required by this Ordinance, provided that the number of parking spaces required by this Ordinance shall not be reduced in excess of 10%.
  - (c) Additional or expanded vehicular surface areas shall meet 100% of the requirement of this Section.
  - (d) The provisions of this Section shall not apply to vehicular surface areas used for authorized commercial vehicular display, provided all other requirements of this Section are met.
- (7) Transition Yards.
- (a) A transition yard is required with a depth of 50% of the required side or rear yard setback to a minimum of eight feet as measured perpendicular to the side or rear lot line.
  - (b) Planting requirements: One canopy tree per every 50 linear feet or one understory tree per every 25 linear feet; 20 shrubs per 100 linear feet.
  - (c) Whenever a buffer strip is required under Section 16-3 of this Ordinance, the requirement for the buffer strip shall be utilized in lieu of transition yard requirements.

- (d) Parking, driveway, and drive aisle improvements associated with a planned center development may encroach into required transition yards that separate two lots within a planned center, when it can be demonstrated that such an encroachment is necessary for the orderly flow of traffic and parking of vehicles within such a development. Developments shall provide all landscaping as required by transition yards to the greatest extent possible.

(8) Loading/Utility/Open Storage Areas.

- (a) All loading, utility, and open storage areas shall be screened from public right-of-way and adjacent properties by suitable fencing or hedge which shall maintain an opacity of at least 75% year round.
- (b) Fencing to be used must be a minimum of six feet in height and made of a material compatible with that of the principal building.
- (c) Shrubs, when utilized must be of an evergreen variety, a minimum of three feet in height at planting and a minimum of six feet in height within three years.
- (d) A combination of fencing and shrubbery may be used when the screening objectives are satisfied.

(9) Manufactured Home Park- Screening Adjoining Properties.

- (a) A landscaping area of ten feet in depth shall be located in between the abutting right-of-way and the closest manufactured home. The ten foot depth cannot be considered as a part of the lot size.
- (b) The property area shall be fenced in accordance with the following standards:
  - (i). A fence, six feet in height, shall be required on each side of the manufactured home park adjoining other person's property. The requirement for the six foot fence may be waived by the Board of Commissioners when the adjoining property owner signs a notarized statement that the requirement be waived. Waiver of this requirement or the use of a fence not solid in appearance may be allowed if suitable landscaping is provided and approved by the Planning Board in consultation with the Administrator during preliminary approval.
  - (ii). The fence may be located six inches off the property line or adjacent to the ten foot buffer area.
  - (iii). A six foot fence consisting of a masonry wall, metal fence of solid appearance or a board fence of solid appearance. Such a wall or fence is appropriate where there is a need to

provide security or to discourage trespassers.

- (iv). The finished fence side must face the adjoining property unless each side of the fence is equal in appearance.

(10) Standards Expressed are Minimum Standards. The standards expressed herein are minimum standards and should not be construed as establishing limitations on the design and submission of landscape plans which contain elements which exceed these standards.

(11) Alternate Means of Compliance. The requirements of this Section have been established as standards which presumptively will result in a better overall appearance of the built environment and enhance or protect the natural resources of the community. The Town recognizes that due to the particular characteristics of a site, the nature of proposed facilities, or other factors, the objectives of this Section may be achieved through unique and creative alternative means of design and implementation.

In light of these considerations, the body or department charged with plan review and approval may approve, in writing or by plan, modifications of these requirements.

(D) Landscaping on Public Property. It shall be unlawful without approval of the Town for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the Town any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground.

(E) Trees and Shrubbery in or along Streets and Sidewalks.

(1) Citizens may plant trees in front of their lots and along the sidewalks adjacent to their property, but no trees shall be planted in the streets, gutters, or ditches of the Town without Town approval.

(2) The cutting, trimming, destruction, lopping of branches or mutilation in any manner of trees or shrubbery within or extending over the street right-of-way of any municipal or state maintained street by any person is hereby prohibited, except when done under the supervision and according to the direction of the Administrator. In addition, all other public service or utility companies shall also follow the guidelines for acceptable pruning standards and shall notify the Town prior to maintenance within the jurisdiction.

### **Section 16-3. Buffer Strips**

Whenever a buffer strip is required by this Ordinance, such strip shall meet the specifications of this Section, unless different specifications are given in the Section where the buffer strip is required:

- (A) A buffer strip shall consist of a planted strip which shall be a minimum of 15 feet in width, shall be composed of evergreen bushes, shrubs, and/or canopy trees such that at least two rows of coverage are provided from the ground to a height of six feet within six years and foliage overlaps. A buffer strip may also be constructed of stone, block, brick, or other suitable building material, with a minimum height of 6 (six) feet. The 15 feet required for the buffer strip can be included in all normal front, rear, and side yard setback requirements of this chapter.
- (B) Buffer strips shall be required in the following situations, as well as in any others specified in other sections of this Ordinance: whenever a manufacturing, processing, retail, wholesale trade, or warehousing use or public utility installation is established, a buffer strip shall be provided wherever the lot on which the use is established abuts or is across an easement or right-of-way from land zoned for residential use.
- (C) All buffer strips shall become part of the lot on which they are located, or in the case of commonly owned land, shall belong to the homeowners' or property owners' association.
- (D) The buffer strip shall be maintained for the life of the development. Maintenance shall be the responsibility of the property owner, or, if the property is rented, the lessee.
- (E) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Administrator shall be obtained before removing an existing natural buffer in the location of the required buffer strip.
- (F) Where it is clear that a different buffer will protect neighboring property from harmful effects, the Board of Adjustment or Board of Commissioners, for conditional uses, may modify the buffer up to 5 feet and one row of vegetation.
- (G) For conditional uses, the Board may require a maintenance bond for the buffers, as a condition of approval.
- (H) In certain situations a fence can be used as a buffer. Such specific situations will be reviewed and approved at the discretion of the Administrator.

**~~Section 16-4. Tree Protection~~ SECTION REPEALED 9-11-2012**

~~This article is established in order to lessen air pollution, promote clean air quality by decreasing dust infiltration, reduce noise and glare, prevent soil erosion, improve surface drainage and minimize flooding. It will emphasize the importance of trees as a visual buffer and beautify/enhance undeveloped and developed land. It will also maintain the ambiance of the town; minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface rain water.~~

- ~~(A) — Some clearing of trees may be required to prepare a site for sale or survey or minimal septic evaluation or in order to stake out the proposed building site. A permit to clear such trees shall not be required for pine trees having a diameter less than 6 inches or a circumference less than 18.5 inches at ground level and for oak and hardwood trees having a diameter less than 4 inches or a circumference less than 12.5 inches at ground level.~~
- ~~(B) — All lot clearing not meeting the requirements of this section or if undertaken without a valid permit shall be considered in violation.~~
- ~~(C) — Generalized lot clearing, modification of a drainage system, grading or filling, or bush hogging, not meeting the limits set forth above, requires a development permit. Generalized lot clearing means removal of pine trees having a diameter greater than 6 inches or a circumference greater than 18.5 inches and the removal of oak and hardwood trees having a diameter greater than 4 inches or a circumference greater than 12.5 inches at ground level or outside survey sight lines or exceeding minimum necessary for septic evaluation for undeveloped parcels of land.~~
- ~~(D) — A property owner (or his assignee), including a developer shall submit a “Tree Protection Plan” drawn to scale and clearly indicating trees proposed to be removed as well as trees proposed to be saved on the property. Trees proposed to be saved shall be physically marked or tagged on the lot and shall match the “Tree Protection Plan.” Corners of the lot shall be physically marked, based on a property survey. No development permit shall be issued until the code official has reviewed and approved the plan and conducted an inspection of the property to verify accuracy and affirm appropriate marking or tagging of trees to be saved.~~
- ~~(E) — All properties being cleared or prepared for the addition of any structure whether permanent or temporary shall conform to the following:
  - ~~(1) — Clearing fill and grade permits must be obtained from the zoning/building inspection department before any land disturbing activity commences. Trees shall be marked via different colored tags indicating which shall be removed and which shall remain via a color tag legend placed on site.~~
  - ~~(2) — Before a zoning or building permit is issued, a plan must be submitted and approved that shows the footprint for the principal building, septic system, accessory structures, driveways or any other alterations on the proposed site. Trees meeting the protected requirements as outlined for pine and~~~~

~~hardwood/oak trees may not be removed in setback areas unless allowed elsewhere in this section.~~

- ~~(3) — Removal of any tree greater than or equal to 18.5 inches (pine trees) and 12.5 inches (oak/hardwood trees) in circumference at ground level shall be restricted to those which cannot comply with this section.~~
- ~~(4) — Cutting a tree that is not clearly marked on the plan submitted and/or without the approval of the administrator/inspector will be viewed as a serious violation and subject to penalties.~~
- ~~(5) — In addition to the footprint for the principal building, allowances of a 10 foot buffer shall be made for the removal of trees around septic systems, accessory buildings and driveways. There shall also be an allowance of a 15 foot perimeter around the principal building structure where trees may be removed.~~
- ~~(6) — Every reasonable effort shall be made to protect and save any hardwood tree greater than 12 inches in diameter at ground level, particularly oak trees, by placement of the primary structure, driveway, accessory structures, and, if possible, by the placement of the septic system.
  - ~~(a) — If after meeting the requirements of the preceding paragraph and it is determined that no other reasonable means is available but to cut a tree or trees, then the owner shall be required to plant a canopy tree at least 10-12 feet high and 2.5 inches in diameter at ground level and the same must be approved by the administrator. This tree or trees shall be protected and maintained and afforded the same protection of trees as outlined in paragraph E.3 and E.4.~~
  - ~~(b) — Replacement trees as described above shall be indicated on the plan submitted or in the case of existing property structures, shall be indicated on a plan submitted to the zoning/building inspectors to be filed and recorded.~~~~

~~(F) — All properties containing existing homes shall conform to the following:~~

- ~~(1) — Any tree with a circumference less than 18.5 inches (pine tree) and 12.5 inches (oak) at ground level may be cut down without a permit after receiving written approval of the building inspector/Code Enforcement Officer.~~
- ~~(2) — Any tree with a circumference of 18.5 inches (pine tree) and 12.5 inches (oak/hardwood) at ground level or greater may only be removed by permit. To obtain a permit, an application containing the specific tree location on the property and reason(s) for removal must be submitted and~~

~~approved by the building inspector. Acceptable reasons to remove a tree include:~~

~~(a) — Any tree which is substantially injured by disease, drought, or storm which in the opinion of the inspector is likely to not survive and is likely to cause injury to person or property if not removed.~~

~~(b) — The tree interferes with a public utility, including but not limited to, electricity, water, sewer line, stormwater, etc. and in the opinion of the inspector, it is not practical for the tree to be trimmed or modified in a similar manner.~~

~~(c) — For any other reason(s) noted elsewhere in this section.~~

~~(G) — Any person, not being on their own land, who shall without the written consent of the owner willfully commits any damage or injury to or upon any tree, or removes any tree shall be subject to a violation. If appropriate, the offender shall also be responsible for the cost to repair or replace any damaged tree.~~

~~(H) — It is the responsibility of the property owner to maintain all trees required by this Article. Any person, firm or corporation violating this section shall be guilty of a civil violation and shall be fined \$500 per tree. No fine shall be less than \$500. Each day a violation continues shall be a separate and distinct offense. If the stump of a pine tree exceeds 18.5 inches in diameter at ground level a violation has occurred and the civil violation of \$500 per tree based upon the number of stumps shall apply. If the stump of an oak or any other hardwood tree exceeds 12.5 inches in diameter at ground level a violation has occurred and the civil violation of \$500 per tree based upon the number of stumps shall apply. Should trees be removed without the Town having been provided any information (i.e. a Tree Protection Plan or tree removal permit application) as to the species and/or size of the trees removed and the stumps have been removed, ground, or covered up (or something of the like) making it unreasonably difficult or impossible to accurately determine the number of trees removed a fine of \$15,000 per acre shall be applied (if half an acre or less is disturbed the fine shall be \$7,500). Should the Town need to contract with a surveyor to determine the acreage, surveyor fees will also be applied to the violator as a part of the fine. The Administrator shall have the authority to negotiate tree replacement in lieu of one half of any monetary fine; the tree replacement value shall be equivalent to the portion of the monetary fine released. In no such case should the Administrator have the authority to release the entire monetary fine for tree replacement. In addition to the civil violations contained in this section other penalties may apply; such as but not limited to conducting work without a permit.~~

## **Section 16-5. Tree Protection During Construction**

Except by permit, construction activities under the drip line of a tree are prohibited. Activities include, but are not limited to, treating or grading, storage of materials or equipment,

passage or heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

When applying for a permit, the party doing construction work under the drip line of a tree shall submit a plan showing in full detail the method or means by which a tree or trees will be protected during the entire construction process. The plan shall be subject to the approval of the Administrator or his/her designee. The plan must be approved prior to a permit being issued.

### **Section 16-6. Wetlands and Riverfront Protection**

The purpose of this section is to protect and conserve wetlands by promoting avoidance of alterations to wetlands and the river as the optimum goal or where avoidance is not possible, to limit the alteration of existing wetlands and riverfront and to restore and maintain the integrity of these lands in as near a natural state as possible.

- (A) Buffers shall serve as an ecological transition zone from non-wetlands to wetlands as sediment and stormwater control zone to reduce the impacts of development upon wetland and wetland species.
- (B) A buffer zone of 35 feet from the wetlands or river edge shall be established in which the natural vegetation and trees shall remain untouched, except for possible bush hogging and manicuring.

### **Section 16-7. Maintenance**

- (A) All planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the occurrence of such condition. If, in the opinion of the Administrator, there are seasonal conditions which will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting), this requirement may be administratively waived until a time certain.
- (B) Nonliving screening buffers shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.

### **Section 16-8. Authority of Administrator to Treat or Remove Trees on Private Property**

No foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of eight feet above the grade of the sidewalk at the property line, or, if no sidewalk grade has been established the height shall be measured vertically above the center of the roadway. The Administrator may cause or order corrective action to prevent any such condition from existing.

## **Section 16-9. Exemptions**

- (A) The Administrator may waive the requirements of Article 16 during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood, or other act of God.
- (B) If any tree shall be determined to be in a hazardous condition so as to (a) immediately endanger the public health, safety, or welfare, or (b) cause an immediate disruption of public service, the Administrator may determine that replacement with additional trees is necessary. In making determinations, the Administrator shall utilize such professional criteria and technical assistance as may be necessary.
- (C) This section shall not apply to single family residences, except for the construction of single-family residences in subdivisions prior to the recording of a final plat for the subdivision.