

Petition #: 2019-104

Petitioner: Charlotte Planning, Design and Development Department

Revision 8-19-19

**AN ORDINANCE AMENDING
CHAPTER 21 OF THE CITY CODE**

ORDINANCE NO. _____

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

Section 1. Chapter 21 of the Code of the City of Charlotte is hereby amended as follows:

A. ARTICLE I. – IN GENERAL

1. Amend Section 21-2, “Definitions” by adding two new definitions for “Amenitized tree area” and “Urban retail site” in alphabetical order, and amending the definition for “Urban zones” by adding the names of the zoning districts that are considered urban zoning districts. The new and revised definitions shall read as follows:

Amenitized tree area means an area that serves to meet the tree save requirement for urban sites and includes planted trees and amenities, such as irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.

Urban zones means property zoned as any of the following zoning districts: ~~within the city as listed in the tree ordinance guidelines and as may be amended from time to time by the city.~~ UMUD (uptown mixed use district), MUDD (mixed use development district), TOD (transit oriented development), UR (urban residential), and NS (neighborhood services), as well as any zoning district with a PED (pedestrian overlay) or TS (transit supportive) overlay. Urban zones do not include single-family development, even if developed under an urban zoning district.

Urban retail site means any building site for a building that includes ground-floor non-residential use.

B. ARTICLE IV: - GENERAL LAND DEVELOPMENT REQUIREMENTS

1. Amend Section 21-93, "General tree save requirements", subsection (c), by adding two new sentences at the end of the first sentence. The revised text shall read as follows:
 - (c) Pursuant to the tree ordinance guidelines, any alterations to the tree save area must be accomplished without mechanized equipment and made of organic, environmentally friendly materials, unless approved otherwise by the city. For sites located in urban zones, alterations to the tree save area do not have to meet the above standard. However, if alterations are made or amenities are added, these changes must be made in a manner that is not detrimental to the saved trees or their critical root zone. Alterations and amenitization must be approved by the city.
2. Amend Section 21-93, "General tree save requirements", subsection (e), by adding a newsentence at the end of the second sentence. The revised text shall read as follows:
 - (e) No structure will be allowed within ten feet of the tree save area. A building restriction must be noted on the record plat in accordance with the tree ordinance guidelines. For urban zones the ten-foot building restriction may be counted toward the Tree Save Area requirement as long as this area continuously and directly abuts a Tree Save Area, and remains pervious. However, regulatory trees may not be planted within this ten-foot area.
3. Amend Section 21-93, "General tree save requirements", by adding a new subsection (i), that reads as follows:
 - (i) In local Historic Districts designated by a Historic District Overlay (see Chapter 10, Part 2 of the Zoning Ordinance), the requirements of the Historic District Overlay apply in addition to the regulations of this ordinance.
4. Amend Section 21-94, "Tree save area and tree protection zone requirements for commercial development" by the following:
 - 1) Assign a subsection (a) to the first paragraph. Delete the words, "trees must be re-planted"" and replace it with "tree save area must be provided" in the first paragraph. Add a new sentence at the end of the first paragraph that reads, "Replacement trees must be planted at 36 trees per acre". The second paragraph shall be included in the new subsection (a) as the second paragraph, and is unchanged.
 - 2) Move the third and fourth paragraph into a new subsection labeled (b), as two separate paragraphs. Include subsections under the fourth paragraph.
 - 3) Subsection (b): In the second paragraph, add the words, "and alternatives" to the sentence.
 - 4) Subsection (b)(1): Delete the second paragraph sentence in its entirety that reads: "In all cases any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96".
 - 5) Subsection (b)(2): Delete the second paragraph sentence at the end of the section in its entirety that reads: "In all cases any perimeter tree and parking rea planting requirements must still be met in accordance with section 21-96".
 - 6) Add a new subsection (b)(2)d with new text and associated subsections.
 - 7) Subsection (b)(3): Delete the last paragraph sentence that reads, "In all cases any perimeter tree and parking rea planting requirements must still be met in accordance with section 21-96".
 - 8) Add a new subsection (b)(3)c with new text and associated new subsections
 - 9) Add a new subsection (b)(4) with new text and associated subsections.

Sec. 21-94 – Tree save area and tree protection zone requirements for commercial development.

- (a) A minimum of 15 percent of the overall commercial site must be preserved as tree save area (hereinafter for purposes of this section, "commercial tree save area"). If less than 15 percent of the site has existing trees, additional trees shall be planted at a rate of 36 trees per acre to meet the commercial tree save area requirement. In the event any area of the commercial tree save area cannot be protected, tree save area must be provided ~~trees must be re-planted~~ at 150 percent of the area removed. Replacement trees must be planted at 36 trees per acre.

Additions to existing sites that meet the criteria in subsection 21-4(2) shall protect all trees of eight-inch dbh or greater within the tree protection zone or maintain existing tree save areas for sites developed in accordance with the effective date of the ordinance from which this chapter derives.

- (b) In all cases, any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96.

The following exceptions and alternatives to the tree save area requirement apply:

- (1) UMUD & UMUD-O within the I-277 loop and any TOD, MUDD or UMUD zoned parcels in transit station areas, as designated in a transit station area plan, are exempt. If no transit station area plan has been adopted, the transit station area will be designated as the property within one-half mile of an existing or proposed transit station location identified on the approved Metro Transit Commission (MTC) System Plan.

~~In all cases any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96.~~

- (2) In transit station areas, designated mixed-use centers, NS zoning districts (for sites of 12 acres or less), and I-1 and I-2 zoning districts, the following measures may be chosen, individually or in combination, such that the measures are equal to 100 percent of any portion of the commercial tree save area not preserved as required above:

- a. Plant or replant trees at a rate of 36 trees per acre on-site.
- b. Install and maintain a living green roof on the project to be maintained in perpetuity. The owner shall submit an annual inspection and maintenance report pursuant to the tree ordinance guidelines.
- c. Undertake either off-site mitigation, or payment in lieu. Off-site mitigation and payment in lieu may not be used together to meet this requirement.

~~In all cases any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96.~~

- d. In urban zones, create Amenitized Tree Areas that include 36 trees per acre on-site and meet the following:

1. Planting areas shall be a minimum of 10 feet wide, unless otherwise approved by the city.
2. No more than 25% of impervious paved areas within the Amenitized Tree Area will be allowed. Gravel pathways in Amenitized Tree Areas will be considered pervious.

3. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as approved by the city.
 4. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.
- (3) In corridors that are outside of transit station areas the following measures may be chosen, individually or in combination, such that the measures are equal in area to 150 percent of any portion of the required commercial tree save area not preserved as required above:
- a. Install and maintain a living green roof on the project to be maintained in perpetuity. The owner shall submit an annual inspection and maintenance report pursuant to the tree ordinance guidelines.
 - b. Undertake either off-site mitigation or payment in lieu. Off-site mitigation and payment in lieu may not be used together to meet this requirement.
- ~~In all cases, any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96.~~
- c. In urban zones, create Amenitized Tree Areas that include 36 trees per acre on-site and meet the following:
 1. Planting areas shall be a minimum of 10 feet wide unless otherwise approved by the city.
 2. No more than 25% of impervious paved areas within the Amenitized Tree Area will be allowed. Gravel pathways in Amenitized Tree Areas will be considered pervious.
 3. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as otherwise approved by the city.
 4. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as otherwise approved by the City.
- (4) In urban zones located in wedge areas, a minimum of 15% of the overall commercial site must be preserved as tree save area. For any tree save area not preserved the following measures may be chosen, individually or in combination, such that the measures are equal to 150 percent of any portion of the commercial tree save area not preserved as required above.
- a. Plant or replant trees at a rate of 36 trees per acre on-site.

b. Provide Amenitized Tree Area that meets the following:

1. Trees must be planted at 36 trees per acre on-site.
2. Planting areas shall be a minimum of 10 feet wide.
3. No more than 25% of impervious paved areas within the Amenitized Tree Area will be allowed. Gravel pathways in Amenitized Tree Areas will be considered pervious.
4. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as approved by the city.
5. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.

5. Amend Section 21-96, "Tree planting requirements" by the following:

- 1) Subsection (d): Add a new sentence at the end, after the second sentence, that reads, "However, for urban zones, the following standards apply. Light poles taller than 15 feet must be a minimum of 20 feet away from a tree, and light poles 15 feet or less in height must be at least 10 feet away from a tree."
- 2) Re-letter subsection (e) to (f) (perimeter planting requirements).
- 3) Insert a new subsection (e) with new text and associated subsections.
- 4) Subsection (f)(3)a: Add a new sentence after the first sentence that reads, "The planting strip requirement may be met using tree pits as detailed in Charlotte Land Development Standards 4000 series.
- 5) Create a new subsection (f)(3)a.1 that shall contain the following sentences located in subsection (f)(3)a: "If large maturing trees are planted, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof."
- 6) Create a new subsection (f)(3)a.2 that contains new text and associated subsections.
- 7) Subsection (f)(3)b.1: Amend the subsection reference from (e)(3) to (f)(3).
- 8) Subsection (f)(3)b.2: Amend the subsection reference from (e)(3) to (f)(3).
- 9) Subsection (f)(6): Amend the subsection reference from (e)(1), (2), and (3) to (f)(1), (2), and (3).
- 10) Subsection (f)(7): Amend the subsection reference from (e)(2), (3) and (5) to (f)(2), (3), and (5).
- 11) Re-letter subsection (f) to (g) (internal planting requirements)
- 12) Subsection (g)(1) (planting areas): Leave the words "Planting areas", but move the first three sentences into a new subsection (g)(1)a. Delete the last two sentences.
- 13) Add a new subsection (g)(1)b, titled, "Urban zones", with new text and associated subsections.
- 14) Subsection (g)(2)a.3: Change the reference to subsection (f)(2)a.4 to (g)(2)a.4.
- 15) Subsection (g)(2)b.1: Change the reference from (f)(2)b.2 to (g)(2)b.2.
- 16) Add a new subsection (g)(2)b.iii with new text.

Sec. 21.96 – Tree planting requirements

- (a) Tree planting plan. All applications for building permits or land use permits shall

include a tree planting plan. The tree planting plan shall be submitted in written/design form and shall conform to the general provisions of this section and all specifications set out in the applicable tree ordinance guidelines as issued by the city.

- (b) Tree and soil specifications. All trees planted pursuant to this article must be planted in amended soils as specified in the tree ordinance guidelines. The trees also must be from an approved list supplied by the city. Trees not on the list may be approved by the city on a case-by-case basis. Where trees are specified to be two-inch caliper, the minimum height shall be eight feet. If a multi-stem tree is used, it must have three to five stems and be eight to ten feet tall at the time of planting. Where three-inch caliper trees are specified, the minimum height shall be ten feet tall, and multi-stem trees shall be ten to 12 feet tall. All trees must comply with the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- (c) A minimum of 50 percent of new trees must be native species, and sites with more than 20 trees required will have to install multiple species pursuant to the tree ordinance guidelines.
- (d) Site lighting must be a minimum 30 feet away from a tree. If pedestrian scale lighting is being used, then lighting must be a minimum of 15 feet away from a tree, unless approved otherwise by the city. However, for urban zones, the following standards apply. Light poles taller than 15 feet must be a minimum of 20 feet away from a tree, and light poles 15 feet or less in height must be at least 10 feet away from a tree.
- (e) For urban zones, the following standards apply:
 - (1) Required trees, with the exception of perimeter trees, must be located at least 10 feet from on-site underground utilities unless otherwise approved by the city. For the purposes of this standard, underground utilities means main service lines for water, sewer, city-maintained stormwater, electric and gas lines.
 - (2) Required trees must be located at least 10 feet from buildings unless otherwise approved by the city.
 - (3) The minimum spacing between large maturing trees may be reduced from 40 feet to 30 feet. The minimum spacing between small maturing trees may be reduced from 30 feet to 20 feet. Tree species identified for reduced spacing may be found in the Tree Ordinance Guidelines or as otherwise approved by the city.
- (e-f) Perimeter planting requirements. Requirements for perimeter planting are as follows:
 - (1) *Single-family development zones.* Trees of a minimum two-inch caliper must be planted within 20 feet of the back of the curb on new streets, and any existing streets with lot frontage, in new single-family development. Trees may be planted between the sidewalk and the curb if a minimum six-foot planting strip is provided. Spacing will be an average of 40 to 50 feet apart for large maturing shade trees, and 30 to 40 feet apart for small maturing shade trees. Where a single-family development is directly across the street from multifamily development, the spacing between trees will be an average of 40 feet. Existing two-inch caliper or greater large maturing shade trees preserved within 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.

- (2) *Suburban commercial zones.* A continuous perimeter planting strip, located in the public right-of-way between the curb and sidewalk or on private property abutting the public right-of-way, with a minimum width of eight feet, shall be required. If large maturing trees are planted, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, the same conditions apply, but the increment drops to 30 feet.
- (3) *Urban zones.* Planting requirements for urban zones are as follows:
 - a. *Planting strip.* A continuous perimeter planting strip, located between the street and sidewalk, with a minimum width of eight feet, shall be required. The planting strip requirement may be met using tree pits as detailed in Charlotte Land Development Standards 4000 series.
 1. If large maturing trees are planted, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof.
 2. If the required number of trees cannot be planted as required by Section 21-96(f)(3)a.1 due to site constraints, the alternatives listed below, individually or in combination, may be used. Site constraints include, but are not limited to, driveway locations, sight triangles, sight lines, and above ground utility locations, as determined by the city.
 - i. Spacing between large maturing trees may be reduced to 30 feet. Spacing between small maturing trees may be reduced to 20 feet. Tree species identified for reduced spacing may be found in the Tree Ordinance Guidelines or as otherwise approved by the city.
 - ii. Trees that cannot be planted in the perimeter planting strip may be planted in alternative locations within 20 feet of the future back of curb, or in locations otherwise approved by the city.
 - iii. A payment in lieu may be made to the city for trees that cannot be planted in the perimeter planting strip.
 - b. *Urban retail sites.* The following options are available for urban retail developments:
 1. *Relocation of trees.* The number of perimeter trees required in subsection ~~(e)~~(f)(3) may be reduced by up to 50 percent if the same quantity of trees reduced are planted elsewhere on the site and at least one perimeter tree is

installed.

2. *Tree pits.* The perimeter trees required in subsection (e-f)(3) may be installed in tree pits with irrigation and sub-drainage as specified in the tree ordinance guidelines in lieu of a continuous perimeter planting strip. If large maturing trees are planted in the pits, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted in the pits, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof and as long as at least one perimeter tree is installed.
- (4) *Renovated sites.* When a building permit is requested for renovation of a previously developed site where the required perimeter planting strip does not exist, trees are still required. However, in lieu of a minimum eight-foot wide planting strip, a pavement cutout equal to 200 square feet and with a minimum width of five feet may be substituted.
- (5) *Railroad or utility rights-of-way.* When a railroad or utility right-of-way separates the perimeter planting strip from a city right-of-way, the perimeter planting strip and tree planting requirements must still be met.
- (6) *Large shade trees required.* In locations without overhead power distribution lines that obstruct normal growth, 75 percent of the trees required under subsections (e-f)(1), (2), and (3) shall be large maturing shade trees.
- (7) *Streetscape plans.* In applicable cases where the city council has approved a streetscape plan, its provisions shall supersede those set forth in subsections (e-f)(2), (3) and (5).
- (f-g) Internal planting requirements, excluding single-family development. Requirements for internal planting, excluding single-family development, are as follows:
 - (1) *Planting areas.*
 - a. Suburban commercial zones. Whenever the impervious cover exceeds 10,000 square feet, a planting area equal to ten percent of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and in urban zones shall be in addition to any perimeter planting and tree save area requirements. ~~In the mixed-use development district (MUDD) and the uptown mixed-use district (UMUD) outside the I-277/I-77 loop, the planting area may equal five (5) percent of the total impervious surface. The planting requirements for UMUD-zoned sites within the I-277/I-77 expressway loop are set out in subsection 9.906(4)(e) of the zoning ordinance in appendix A to this Code.~~
 - b. Urban zones. Whenever the impervious cover exceeds 10,000 square feet, a planting area for landscape purposes and tree planting is required as follows:
 1. The planting area shall equal ten percent of the total

impervious surface for all urban zoning districts except for UMUD and MUDD.

2. In MUDD and UMUD zoning districts outside the I-277/I-77 loop, the planting area may equal five (5) percent of the total impervious surface. The planting requirements for UMUD zoning districts within the I-277/I-77 expressway loop are set out in subsection 9.906(4)(e) of the zoning ordinance in appendix A to this Code.
3. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and shall be in addition to any perimeter planting, tree save area, and tree amenity area requirements.
4. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as otherwise approved by the city.

(2) *Parking areas.* Internal planting requirements for parking areas are as follows:

- a. *Suburban commercial zones.* Planting in suburban commercial zones shall be in accordance with the following:
 1. Trees must be planted so that each parking space is no more than 40 feet from a tree trunk, unless the parking lot has continuous islands running the length of the parking lot with minimum eight feet width; then the requirement will increase to 60 feet from a tree trunk.
 2. Bus and tractor-trailer lots will be required to plant trees 40 feet apart around the perimeter of the parking lot in a minimum ten-foot wide planting strip. If there is parking on the perimeter of the bus and tractor-trailer lots, bollards or wheel stops are required.
 3. Seventy-five percent of the trees planted must be large maturing shade trees except as provided in subsection (f-g)(2)a.4. Minimum planting area per tree shall be 274 square feet with a minimum width of eight feet. The entire planting area must contain amended on-site soil or a soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches.
 4. Where small maturing shade trees are used, the minimum planting area shall be 200 square feet, with a minimum width of eight feet. The entire planting area must contain amended on-site soil or a soil mix, as specified in the tree ordinance guidelines, to a depth of

18 inches. Small maturing shade trees may be planted where overhead power distribution lines would interfere with normal growth (normally within 25 feet of overhead power distribution lines or within the Duke Power right-of-way for overhead transmission lines).

b. *Urban zones.* Planting in urban zones shall be in accordance with the following:

1. Trees must be planted so that each parking space is no more than 40 feet from a tree trunk. Trees planted must be large maturing shade trees except as provided in subsection (f-g)(2)b.2.

i. Minimum planting area per large maturing shade tree shall be 274 square feet with a minimum dimension of eight feet. The entire planting area must contain amended on-site soil, as specified in the tree ordinance guidelines, to a depth of 18 inches.

ii. Minimum planting area per large maturing shade tree may be reduced to a minimum surface area and a minimum dimension of eight feet, if the entire planting area contains an approved soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches.

iii. For parking spaces located in driveways for individual single-family attached dwellings or multi-family attached dwellings (as defined by Chapter 15 of the Zoning Ordinance), the required trees may be located elsewhere on the site as approved by the city. The number of trees shall equal the quantity required by Section 21- 96(g)(2)b.1.

2. Small maturing trees may be planted where overhead power distribution lines would interfere with normal growth. Minimum planting area per small maturing tree shall be 200 square feet with a minimum dimension of eight feet. The entire planting area must contain amended on-site soil, as specified in the tree ordinance guidelines, to a depth of 18 inches.

(3) *Renovated sites.* When a building permit is requested for the renovation of a site previously developed, internal tree planting is still required, and the minimum planting area shall be 200 square feet per tree. However, only five percent of the total impervious cover must be set aside for landscape purposes.

(4) *Existing trees.* In meeting these internal planting requirements, credit may be given for existing trees if the following are met:

a. The property owner must include in the tree survey referenced in section 21-91 all existing trees of two-inch dbh or greater which he/she proposes to satisfy these planting requirements.

- b. Only healthy trees and those that have been protected during the entire development period, beginning prior to the commencement of site work and continuing through to issuance of the certificate of occupancy in accordance with approved tree protection requirements, may satisfy these tree planting requirements.
- c. If the minimum protection standards are not met, or if trees are observed by the city to be injured or threatened, it may be deemed ineligible for meeting these requirements. The city shall have the authority to modify the planting requirements of this subsection to preserve existing trees.

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 _____, 20____, 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 the _____ day of _____, 20____.
