

# Summary of Changes to Tree Protection

## (UDO Article 29 – Tree Protection)

<https://tinyurl.com/cltudoarticle29>

### Applicability

Current Ordinance	Proposed Change	Reference
<p>The Tree Ordinance applies to new development and any instance of cumulative additions or changes to property (since Jan. 2011) that is:</p> <ul style="list-style-type: none"> <li>• Equal to or greater than 5% of the sites existing building square footage or the addition of 1,000 sq ft or more of building</li> <li>• When 10 or more parking spaces are added to the site with no building</li> <li>• Façade changes to 10% or more of any building to the wall facing a public road.</li> </ul>	<p>Applicability was significantly amended to clarify and simplify language. Façade changes of 10% no longer meet the applicability threshold, if they do not meet other applicability criteria. The article will still apply to development where the following occur:</p> <ul style="list-style-type: none"> <li>• New construction of a principal structure,</li> <li>• Cumulative increase in built-upon area (BUA) or building coverage equal to or greater than 5% or 1,000 square feet, whichever is less.</li> <li>• Approval of a subdivision as defined by Article 31.3.A</li> </ul>	<p>29.2.B.1 General Applicability</p>
<p>The tree ordinance exempts “a homeowner of a single family or duplex residence” from the requirements of the Tree Ordinance.</p>	<p>The UDO aligns this exemption with the 2040 Comprehensive Plan by specifying, “Construction of a new single-family detached, duplex, triplex, or quadraplex structure is exempt from Sections 29.5 and 29.7... unless such construction is part of an approval of a new subdivision.”</p> <p>Though exempt from 29.5 and 29.7 these forms of development are still subject to all other sections of the Tree Protection Article. This includes protection of street trees, heritage trees and trees protected by previously approved development plans. In addition, there is a new requirement in Section 29.6 for protection or planting of trees in infill development scenarios.</p>	<p>29.2.B.3 Exemptions</p>
<p>Development on parcels zoned UMUD and UMUD-O within the I-277 loop and development zoned TOD, MUDD or UMUD within transit station areas is exempt from tree save requirements today.</p>	<p>The UDO removes these exemptions to align compliance for all development sites.</p>	<p>Removed from 29.5 Green Area (Formerly Tree Save)</p>

Previously developed commercial sites (prior to 1/1/2011) that redevelop and retain one or more buildings long-term are exempt from tree save requirements today.		
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**Trees on Private Property/Heritage Trees (Internal Trees)**

Current Ordinance	Proposed Change	Reference
Heritage trees are defined as any trees listed in the North Carolina Big Trees List, the American Forest Association's Champion Tree list or any tree that would measure 80 percent of the points of a tree on the North Carolina Big Trees List.	Heritage trees are now defined as “any tree native to North Carolina per the US Department of Agriculture Natural Resource Conservation Service Plants Database with a diameter at breast height (DBH) of 30 inches or greater.”	29.3.C.5
Protected trees may not be cut, removed, pruned, fertilized, topped, subject to grading within close proximity, or subject to other activities that harm or inhibit proper tree growth. Protected trees include street trees, trees included as a part of a previously approved development plan and other city trees.	Protected trees now include all trees previously protected, but also include heritage trees.	29.3.C
Single-family development is required to protect heritage trees from removal within tree save areas. Removal is granted through a permit, when the tree is within the buildable area or yard area where a structure may be placed; the tree is diseased, injured, in danger of falling, creates unsafe sight distance or conflicts with other sections of City Code. The Tree Ordinance also specifies that one five-inch caliper tree or three 2-inch caliper trees must be planted in mitigation for the removal of each healthy tree.	<p>Heritage trees are protected against removal or significant disturbance without a permit <b>unless it is diseased, injured, dead, in danger of falling</b>. In these instances, trees may be removed without a tree removal permit.</p> <p>Permits may be granted only where the <b>tree and critical root zone are located in the buildable area</b> where a structure or improvement may be placed, <b>where the tree creates unsafe sight distance, conflicts with regulations or ordinance requirements, or where preservation of the tree would unreasonably restrict</b> the use of the property.</p> <p>Where a removal permit is granted, those authorized to remove the tree must plant at least one 2-inch caliper tree for every heritage tree removed and pay a Heritage Tree Mitigation Payment as set in the Charlotte Tree Manual. The draft Tree Manual Guideline sets this fee at \$1000 per heritage tree which can be reduced down to \$500 when a tree is planted for every 10 inches of tree diameter removed.</p>	29.3.C.5

	<p>For example, if you removed one 40-inch tree, you could do either of the following as mitigation:</p> <ol style="list-style-type: none"> <li>1) Pay \$1000 mitigation fee and plant one 2-inch caliper tree; or</li> <li>2) Pay \$500 mitigation fee and plant four 2-inch caliper trees</li> </ol>	
<p>“Renovated Sites”- The Tree Ordinance today allows previously developed sites (referred to as “renovated sites”) to reduce their internal planting area by 5% provided the minimum planting areas are 200 sq ft. In addition, the Tree Ordinance today allows renovated sites without an existing planting strip to substitute a 200 sq ft planting area via a pavement cutout to be used to meet perimeter planting requirements instead of a planting strip.</p>	<p>An area of 10% of the site’s built-upon area must be used for internal planting. This will apply to all sites to ensure these sites have trees to mitigate harmful effects of tree canopy loss. Regional Activity Centers will have the ability to reduce internal planting to 5% of its built-upon area</p>	29.7 Tree Planting Requirements
<p>Tree planting standards in the tree ordinance allow more flexibility in the tree planting standards for “urban zones” and less flexibility for “suburban commercial zones”</p>	<p>Translation to Tiers: In general, the sites that are considered to be within “urban zones,” in the Tree Ordinance today will be included as Tier 1 and Tier 2 sites in the UDO’s Tree Protection Article. Likewise, standards for Tier 3 and Tier 4 sites in the new Tree Protection Article are most similar to “suburban commercial zones” in the Tree Ordinance today. Current flexibility for tree planting in “urban zones” will be extended to all tiers.</p>	29.7 Tree Planting Requirements
<p>In the Tree Ordinance today, sites zoned UMUD and MUDD may reduce their required internal planting area to 5% instead of the standard 10% of the impervious area of the site.</p>	<p>The UDO Tree Protection article allows all sites within a Regional Activity Center Place Type to reduce their required internal planting area in this way. This is intended to be a simplification of this standard and generally a one-for-one translation.</p>	29.7.C.1.a.i(A)

### Green Area (Includes Tree Save)

Current Ordinance	Proposed Change	Reference
<p>Commercial sites are required to save 15% of the development site for tree save. Single-family subdivision sites are required to save 10% of their site.</p>	<p>15% Green Area is required for all sites which can include, but is often not limited to traditional tree save.</p> <p>The UDO uses the term “green area” instead of “tree save” to better reflect the options available for compliance.</p>	29.5.B
<p>The Tree Ordinance today sets requirements for tree save based on whether the site is in a Center, Corridor or Wedge and whether</p>	<p>In the UDO Centers, Corridors and Wedges will be replaced by four tiers of Place Types.</p> <p>The Tree Protection Article maintains four tiers of Place Types to roughly mirror the</p>	29.5.A

<p>the site has an “urban” zoning district.</p>	<p>categories of sites established by Tree Ordinance today. For example, a site within an urban zone in a Center today is most similar to a Tier 1 site in the proposed Tree Protection Article. These are the most urban and dense sites which have the most green area credits available to achieve the 15% green area. A site with single-family residential zoning in a Wedge today is most similar to a Tier 4 site in the UDO.</p>	
<p>The Tree Ordinance today allows flexibility for urban sites to meet tree save requirements through: green roofs, off-site mitigation, amenitized tree areas, and payment-in-lieu.</p> <p>Depending on the location of the site and zoning, sites are allowed to use different options.</p>	<p>The Tree Protection Article includes the following green area credits as alternatives and bonuses for Tier 1 and Tier 2 sites (most urban) <i>new options underlined</i>:</p> <ul style="list-style-type: none"> <li>• Traditional Tree Save</li> <li>• Planting trees at 36 trees per acre (when site has less than 15% of site has existing trees)</li> <li>• Planting trees at 36 trees per acre to replace trees that were removed</li> <li>• <u>Donation of tree save land to TCPP</u></li> <li>• Green roof/terrace <u>(2-4 inches planting depth of growth medium)</u></li> <li>• Green roof/terrace <u>(4-8 inches planting depth of growth medium)</u></li> <li>• Green roof/terrace <u>(8 inches or greater planting depth of growth medium)</u></li> <li>• <u>Green walls</u></li> <li>• Off-site mitigation</li> <li>• Payment-in-lieu</li> <li>• Amenitized tree save areas</li> </ul> <p><u>Bonuses (all new to Tree Article)</u></p> <ul style="list-style-type: none"> <li>• <u>Preservation of Specimen Trees</u></li> <li>• <u>Preservation of existing on-site trees:</u> <ul style="list-style-type: none"> <li>• <u>Contiguous with existing tree save conservation areas</u></li> <li>• <u>Contiguous with waterway</u></li> <li>• <u>On steep slopes</u></li> </ul> </li> </ul>	<p>29.5.C</p>
<p>Development on parcels zoned UMUD and UMUD-O within the I-277 loop and development zoned TOD, MUDD or UMUD within transit station areas are exempt from tree save requirements.</p>	<p>The UDO removes this exemption to align compliance for all development sites.</p>	<p>Removed from 29.5 Green Area (Formerly Tree Save)</p>
<p>The Tree Ordinance uses percentages to increase the rate or area required for some sites to use flexibility options (Generally in Corridors outside of transit station areas). For example, some sites are allowed to replant trees to meet tree save requirements but they are required to provide an area equal to 150% of the required 15% tree save.</p>	<p>The UDO uses multipliers instead of percentages. To calculate whether a site has reached its required green area, the area of each green area credit is multiplied by its corresponding multiplier (see table 29.2). The resulting green area credits are added together. The sum of these green area credits is then divided by the total land area of the development or redevelopment site to determine whether the green area percentage is 15% of the site.</p>	<p>29.5.C Green Area Credits</p>

The Tree Ordinance maintains a strict prohibition on structures in the tree save areas.	The Tree Protection Article allows certain elements to be permitted in the tree save area including benches, trails, gazebos, sheds, and fences.	29.5.D.5
Payment-in-lieu standards are in the Tree Ordinance Guidelines today. The land value used to calculate the fee is set at 2011 tax value.	Payment-in-lieu standards are listed under Section 29.5. The tax value used for this calculation is now tied to each County property tax reevaluation. The ordinance also specifies that money collected from this option shall be deposited into the Tree Conservation Fund.	29.5.E Payment-In-Lieu
Off-site mitigation standards are in the Tree Ordinance Guidelines today.	Off-site mitigation standards are listed under Section 29.5. The UDO will clarify that this option may be used where forested land is conveyed to a land conservation group, or adequately protected by deed restrictions on a tree save plat map and recorded with the County Register of Deeds .	29.5.F
The Tree Ordinance today offers incentives for “cluster development” that developments can use when tree save area is increased. Cluster development options include reduced yards, a density bonus and reduced lot sizes.	This incentive has been adjusted and moved into the zoning standards for Neighborhood 1 in Article 4.	n/a

### Perimeter Trees (Street Trees)

Current Ordinance	Proposed Change	Reference
New property owners of properties already in compliance must maintain compliance with the Tree Ordinance.	The UDO clarifies that it is the property owners’ responsibility to maintain amenity zone streetscape elements, including tree pits as required by approved development plans.	29.3.B.6
Street tree mitigation payment is allowed by the Tree Ordinance Guidelines.	The street tree mitigation payment process is now specified in the UDO. Mitigation funds shall be deposited into the Street Tree Planting Fund.	29.3.B.7
Most developments are required to plant perimeter trees within the planting strip between the sidewalk and the curb. Single-family zones are allowed to plant their perimeter trees within 20 ft of the back of curb.	For any development within NCDOT rights-of-way, the Tree Protection Article allows trees to be planted in alternate locations (generally within 20 ft of the right of way) when NCDOT planting guidelines or other standards prohibit perimeter tree planting on NCDOT-maintained streets.	29.7.B.4.C NCDOT Maintained Street Rights-of-Way

### Frontage Tree Planting Requirement (Infill Redevelopment)

Current Ordinance	Proposed Change	Reference
Single-family, and duplex dwellings whose construction is not subject to a subdivision approval are exempt from the tree ordinance today.	The UDO retains this exemption from green area requirements in 29.5 and tree planting requirements in 29.7 for these sites, but requires construction of a new single-family, duplex, triplex, or quadraplex dwelling to plant a minimum of one tree for every 40 feet of lot width between the residential building and the public street right-of-way. This requirement may be fulfilled by properly protecting and preserving at least a 2-inch caliper tree on-site.	29.6 Frontage Tree Planting Requirement
Infill redevelopment is required to preserve any trees protected as city trees or trees that are a part of an approved development plan.	The UDO requires all development, including infill redevelopment of single-family, duplex, triplex and quadraplex, to preserve city trees, trees included in an approved development plan and healthy, native heritage trees greater than 30 inches DBH.	29.3.C (See table above on Trees on Private Property/Heritage Trees)

### Administration and Plan Submittal

Current Ordinance	Proposed Change	Reference
The Tree Ordinance today allows alternate plans to be submitted when standards conflict with other state, federal or regulatory requirements or when planting is required and the “site design, topography, natural vegetation, or other special considerations exist relative to the proposed development.” These alternate plans may propose “measures other than those in article IV [GENERAL LAND DEVELOPMENT REQUIREMENTS]”.	<p>The Tree Protection Article no longer allows for alternate plans due to “site design, topography, natural vegetation, or other special considerations” but has a new process for administrative adjustments.</p> <p>Table 29-4 provides greater clarity and specificity on the standards that may be adjusted by administrative staff. Adjustments to standards not listed in Table 29-4 or adjustments greater than 10% would need to be made through a variance process under this approach.</p>	29.9.A Administrative Adjustments
The current Tree Ordinance requires a tree survey and tree protection plan for all rezonings, and applications for grading, demolition, change of use, and other development. Platting and recording of tree save is also required for tree save.	<p>The UDO still requires a tree survey and protection plan for all of these forms of development but breaks the plans out into four categories with different applicability thresholds and requirements to align standards with the common process for each.</p> <p>Four categories of plan submittal include:</p> <ol style="list-style-type: none"> <li>1) Tree Survey for Conditional Zoning Map Amendment (today called rezoning)</li> <li>2) Tree Compliance Plan (includes all the surveys and submittals for applicable forms of development)</li> <li>3) Tree As-Built Plan (new)</li> </ol>	29.4 Plan Submittal and Process

	4) Platting and recording of green area	
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