

**TOWN OF HOPE MILLS
BOARD OF COMMISSIONERS REGULAR MEETING
MONDAY, OCTOBER 7, 2019 5:30 P.M.
BILL LUTHER BOARD MEETING ROOM**

CALL TO ORDER – Mayor Warner

INVOCATION –

PLEDGE OF ALLEGIANCE – Mayor Warner

- 1. APPROVAL OF AGENDA**
2. Workshop on creating a new Tree Ordinance.
- 3. ADJOURNMENT.**

Town of Hope Mills Tree Preservation

As it relates to tree preservation in the Town Hope Mills Planning Staff has the following suggestions that could add to the enhancement of lots proposed for commercial, mixed use, and multi-family development.

ORDINANCE:

Any proposed changes should be incorporated into the existing Town of Hope Mills Zoning Ordinance in Section 102A-1202(n) Landscaping and Section 102A-1202(o) Tree Preservation. A stand alone ordinance tied to the preservation of trees and landscaping would remove the development controls currently in place that tie to the coordination with Cumberland County Planning and Inspection Staff. As they provide a great deal of oversight and enforcement of development controls and regulations for plans required to be submitted to their department for the facilitation of development, a standalone ordinance removes them from the process.

LANDSCAPING REQUIREMENT AMENDMENTS:

Hope Mills Planning Staff is proposing the following amendments to the existing landscaping requirements in Section 102A-1202(n) of the Hope Mills Zoning Ordinance:

Section 102A-1202(n)2a

Streetscape Provisions: Current Language: 1 shade tree in front yard setback (10 feet in height) or 3 flowering or ornamental trees per each 50 linear feet of street frontage. (credit given for trees saved at 2inch caliper)

Amendment: 2 shade trees in front yard setback (10 feet in height) or 6 flowering or ornamental trees per each 50 linear feet of street frontage. (credit given for trees saved at 2inch caliper)

Section 102A-1202(n)2b

Yard Space: *Also considered to be the building envelope (all areas that do not include the setback areas) Landscaping must be installed in building areas adjacent to a public street. Required plan materials must be locate between the structure and the required setback line and contained in the buildable envelope.*

Current Language: 1 ornamental tree for every 50 feet of building length and/or width and 2 shrubs for every 10 linear feet of building length and/or width. Measurements taken from the side of the building facing any public street.

Amendment: 2 ornamental trees for every 50 feet of building length and/or width and 4 shrubs for every 10 linear feet of building length and/or width.

Section 102A-1202(n)2c

Off-Street Parking Areas:

Current Language: 1 ornamental tree for every 50 feet of building length and/or width and 2 shrubs for every 10 linear feet of building length and/or width.

Measurements taken from the side of the building facing any public street. Required plan materials must be locate between the structure and the required setback line and contained in the buildable envelope.

Amendment:

2 ornamental trees for every 50 feet of building length and/or width and 4 shrubs for every 10 linear feet of building length and/or width.

Measurements taken from the side of the building facing any public street. Required plan materials must be locate between the structure and the required setback line and contained in the buildable envelope

Hope Mills Tree Preservation Ordinance

Section I – General Provisions

A. Short Title

This ordinance shall be known as the Town of Hope Mills Tree Protection Ordinance. It is referred to herein as “this ordinance.”

B. Authority

This ordinance is adopted pursuant to N.C. Gen. Stat. §160A-174 and §160A-381.

C. Effective Date

This ordinance takes effect on August 5, 2019.

D. Purposes and Goals

The purpose of this ordinance is to preserve, protect, maintain and increase tree canopy to protect the public health, safety, and welfare and enhance the quality of life within the Town of Hope Mills. Protection of tree canopy is intended to:

1. Reduce storm water runoff.
2. Moderate temperature and promote energy conservation.
3. Emphasize the importance of trees and vegetation as both visual and physical buffers.
4. Improve air quality.
5. Reduce the harmful effects of wind, heat, noise, and the glare of motor vehicle lights.
6. Improve surface drainage and aquifer recharge.
7. Prevent soil erosion while promoting soil stabilization and enrichment.
8. Provide shade, and energy conservation
9. Improve water quality.
10. Conserve natural resources and maintain tree canopy.
11. Provide wildlife habitat.
12. Encourage the protection and planting of native trees.
13. Require the preservation and planting of trees on site to maintain and enlarge the tree canopy cover across the Town of Hope Mills.
14. Protect, facilitate, and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.

E. Relationship to Other Laws, Regulations, and Ordinances

1. The regulations contained in this ordinance are not intended to be substituted for other general zoning district provisions or building construction and land development requirements and standards, but should be considered as additional requirements to be met by applicants prior to project approval. This ordinance is intended to provide the Town with additional review and regulation to specify how land use and development, permitted by the Town's primary zoning districts, affects tree canopy coverage in the Town.

2. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by another ordinance, rule, regulation, or other provision of law, whichever is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

F. Interpretation

1. Meaning and intent – All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in this ordinance. If a different or more specific meaning is given for a term defined elsewhere in the Town's Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application to this ordinance. Any term not defined herein or elsewhere in the Town's Code of Ordinances shall be defined as it is defined in Webster's New International Dictionary most recent edition, unless the result does not accomplish the intent of the governing bodies, leads to absurd or illogical results, or is inconsistent with the surrounding textual context.

2. References to statutes, regulations, and documents – Whenever reference is made to a resolution, ordinance, statute, regulation, manual, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

3. Usage

a. Mandatory and discretionary terms – The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

b. Conjunctions – Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items,

conditions, provisions, and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions, or events apply.

c. Tense, plurals, and gender – Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in a particular gender include all other genders and vice versa.

G. Conflicts and Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance are adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

Section II - Applicability

A. General

This ordinance applies to all developers and/or owners of real property in the Town of Hope Mills. Beginning with and subsequent to its effective date, the provisions of this ordinance apply to all building construction and land development that requires a development permit approval in the Town, unless the development is expressly exempted by law, or as provided herein.

B. Permits

No *person* shall cut, remove, or relocate any *regulated trees* on any public or private property within the Town of Hope Mills, unless a tree protection plan has been approved OR a valid tree permit has been issued by the Town of Hope Mills pursuant to the provisions of this ordinance.

1. *Persons* requesting to do any removal of trees subject to this ordinance, or any of the activities prohibited by this ordinance, shall secure a permit for such activities from the Town Planning Department before the activities commence. For purposes of this ordinance, a *tree protection plan* approved by the Town Planning Department constitutes a permit.

2. The Town Planning Department shall have the authority to review all requests for permits and to grant or deny permits or attach reasonable conditions to the permits.

C. Exemptions

A permit or tree protection plan shall not be required for the following:

1. Routine maintenance of existing trees outside the public right-of-way, including pruning done in a manner consistent with established arboricultural standards;
2. The removal of dead, severely damaged, or diseased trees.
3. Any activity which constitutes the legitimate practice of forestry as defined by

D. Emergencies

In an emergency such as a wind storm, ice storm, or other disaster, the provisions of this ordinance shall be waived during the emergency period if compliance would impede the rescue of life, protection of property from immediate danger, or the repair of utilities. Any emergency work shall follow as closely as possible the standards outline herein. This shall not be interpreted to be a general waiver of the intent of this chapter.

E. Non-Liability of the Town

Nothing in this ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the Town or upon any of its officers or employees. Persons in possession of any property shall have a duty to keep the trees upon the property and under their control in a safe, healthy condition. Any person who feels a tree located on property possessed, owned or controlled by them presents a risk to the safety of themselves, others or structural improvements on-site or off-site shall have an obligation to secure the area around the and mitigate the risk as appropriate to safeguard both persons and improvements from harm.

Section III – Tree Protection Standards

A. Minimum Tree Canopy Requirements

The Town of Hope Mills desires to protect, preserve, and maintain the maximum *tree canopy* cover across all land uses in its jurisdiction. The following minimum tree coverage percentages are required within zoning lot boundaries exclusive of public rights-of-way:

Land Use/District	Minimum Canopy Coverage
Multi-Family	30%
Commercial	30%
Institutional	40%
Mixed Use, Other	40%

B. Tree Preservation Requirements

Regulated trees for the purposes of this section include *{specimen trees, and trees of __ inches or more in diameter at breast height}*. To the maximum extent practicable, *regulated trees* and *significant tree stands* *{and associated native vegetation within the significant tree stands}* shall be preserved and incorporated into site design.

Once a tree protection plan has been approved, no regulated tree shall be removed unless the Town Development and Planning Administrator determines that there is no reasonable way the property can be otherwise developed, improved or properly maintained, and the tree itself retained.

C. Modifications

If strict compliance with the standards of this chapter conflict with existing federal or state statutory or regulatory requirements, or when planting is required by this ordinance and the site design, topography, natural vegetation, or other special considerations exist relative to the proposed development, the developer may submit a specific alternate plan for planting to the Town for consideration. This plan must meet the purposes and standards of this ordinance, but may suggest measures other than those in section III.E and section IV of this ordinance. In addition, if the developer seeks a modification of planting requirements based upon a contention that the planting required by this ordinance would pose a threat to health and safety due to a conflict with existing federal or state statutory or regulatory requirements, a modification will only be considered upon receipt of a written explanation of the alleged conflict created by the planting requirement and a copy of the statute or regulation that creates the conflict. The Town shall review the alternate proposal and advise the applicant of the disposition of the request within fifteen (15) working days of submission by the applicant.

D. Incentives for Increasing Area in Single-Family Residential

Incentives for increasing the *tree canopy* protection area are designed to enhance the Town's tree canopy in residential settings, improve overall quality of life in larger residential areas, encourage open space and wooded site protection, and discourage removal of all trees on site before and during construction of single-family development. Incentives include:

E. Implementation of Standards

The highest priority for all development and redevelopment projects shall be to maintain existing tree canopy. If the existing *tree canopy* is insufficient to meet the required canopy protection, planting new trees on site to reach the required percentage area is preferred. Mitigation by fee in lieu payment shall be used when providing canopy on-site is not practicable.

1. Demonstration of Compliance

Compliance with tree protection standards is demonstrated by the following:

- a. Approval and implementation of a *tree protection plan* that complies with the provisions of this ordinance;

- b. Approval and implementation of a planting plan prepared in accordance with the standards set out in ANSI A300 Tree Care Operations: Standard Practices for Tree, Shrub, and Other Woody Plant Maintenance;
- c. Maintenance of protected and planted trees; and
- d. Tree mitigation payments as provided in section **[insert section number here]** of this ordinance.

2. Methods of Compliance

Compliance with the tree protection standards shall be accomplished by the following methods:

- a. Protection of existing *tree canopy*. The extent of existing tree canopy retained at the time of permit application shall be documented by survey and evaluated by a *Certified Arborist* as to the health of the trees and their ability to provide long-term benefits.
- b. Tree canopy deficit. If the existing *tree canopy* is less than the minimum standards required herein or not able to provide long-term benefits, the required minimum canopy coverage shall be established by planting new trees. The *tree canopy* deficit shall be determined by subtracting the area of retained tree canopy as shown on the *tree protection plan* from the minimum area of canopy coverage required.
- c. Relocation of regulated trees. A regulated tree may be relocated in a manner to ensure survivability if there is no reasonable alternative that allows incorporation of the tree into the site design, as determined by the project's *Certified Arborist* in consultation with the Town Development & Planning Administrator. The developer and/or owner of the property shall provide all practical means (including irrigation, mulch, etc.) to ensure survival of a relocated tree. If a relocated tree does not survive within a period of two years, it shall be replaced according to the provisions of this ordinance.
- d. Planting and replacement of canopy. If a regulated tree cannot be retained or relocated or if trees must be planted to make up a tree canopy deficit, the developer and/or owner of the real property shall install trees subject to the following:
 - i. One (1 tree per 500 square feet} for a small canopy tree, One (1) tree per 800 square feet} for a medium canopy tree, and One (1) tree per 1200 square feet} for a large canopy tree of tree canopy coverage deficit shall be planted in accordance with an approved planting plan.
 - ii. Trees planted to complete the canopy coverage requirements shall be planted no less than twenty (20) feet from any other proposed or existing small or medium mature canopy tree and forty (40) feet from any other proposed or existing large mature canopy tree. Tree plantings should also comply with all applicable landscape design standards regarding setbacks from curbs, fire hydrants, pavement, sidewalks, and similar infrastructure as set out in **[insert local government landscape design standards title here]**.

- iii. All required plantings shown on an approved planting plan shall be prepared, installed, and maintained according to ANSI A300 Tree Care Operations: Standard Practices for Tree, Shrub, and Other Woody Plant Maintenance must be placed with the Town in order to satisfy compliance with the requirements of this ordinance.
- iv. Replacement tree *caliper* shall be a minimum of two and one-half (2.5) inches at installation. All trees must comply with the American Standard for Nursery Stock, ANSI Z60.1–2004, published by the American Nursery and Landscape Association.
- e. Maintenance of *tree canopy*. The property owner is responsible for assuring that the site in its entirety will continue to meet minimum tree canopy coverage after issuance of a Certificate of Occupancy.
- f. Mitigation by fee. If an applicant chooses not to plant replacement trees, payments shall be made to **[insert local government name here]**'s Tree Mitigation Fund.
 - i. The payment amount shall be based on the average cost of the purchase, installation, and maintenance for **[insert term here]** of a replacement trees based on the tree planting standards in this ordinance or the actual cost of removing and replanting regulated trees.
 - ii. The primary objective of the Tree Mitigation Fund is to use payments for the installation and maintenance of trees on public property. The **[insert name of local government here]** shall also use all such payments for the cost associated with the implementation of this ordinance, for **[local government]** sponsored tree management programs, and for the study, inventory, maintenance, or treatment of public trees requiring the services of a *Certified Arborist* or other qualified consultant.