

## ARTICLE 9. REGULATIONS FOR LANDSCAPING

### Section 9-1: General

#### *9-1.1 Purpose and Intent*

The importance of trees and shrubbery is recognized for their shade, cooling, noise and wind reduction, soil erosion prevention, oxygen production, dust filtration, carbon dioxide absorption, aesthetic and economic enhancement of all real property and for their contribution to the general well-being of the citizens of the town. Certain streets have a history of significant and attractive vegetative corridors which has contributed to a realization of increased property value and general improvement of that specific neighborhood.

In the interest of public health, safety, and general welfare, this ordinance provides for the preservation, planting, and replacement of trees and shrubbery and is designed to prevent the indiscriminate pruning and removal of trees in town without denying the reasonable use and enjoyment of real property. This ordinance will regulate and control the planting of trees and shrubbery for town property; developing private property including commercial, industrial, and multi-family residential developments; and property clearing. Furthermore, this Ordinance is intended to:

- (A) Improve the quality of the built and natural environments through air quality enhancements; erosion conservation; reduce the amount and duration of stormwater runoff and erosion; stormwater runoff quality improvements; and increase the capacity for groundwater discharge.
- (B) Select, situate, and maintain street trees appropriately to enhance streetscapes by separating pedestrian and motor traffic; abating glare and moderating temperatures of impervious areas; filtering air of fumes and dust; providing shade; attenuating noise; and reducing the visual impact of large expanses of pavement.
- (C) Prevent the indiscriminate removal of trees, facilitate their replacement on public and private property for new and expanding developments, and encourage appropriate pruning and maintenance practices in order to establish and maintain maximum tree cover and urban forest health.
- (D) Safeguard and enhance property value to protect public and private investments through the protection of significant existing trees, the enhancement of appearance, and the augmentation of design compatibility between different land uses, ensuring attractive views from streets and adjacent properties.
- (E) Enact standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the Town while allowing flexibility to promote well-designed and creative landscape plantings, as well as to establish and preserve an optimal level of age and species diversity.

#### *9-1.2 Definitions*

- (A) Caliper. A standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for up to and including four (4) inches in caliper size, and twelve (12) inches above the ground for larger sizes.

- (B) Critical Root Zone (CRZ). A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one (1) foot of radial distance for every inch of tree DBH, with a minimum of eight (8) feet or to the tree's drip line, whichever is greater.
- (C) Developmental Purposes. Site preparation for, and construction of, entirely new structures and/or significant extension to existing structures whether or not the site was previously occupied and any other purposes that would lead to a change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to higher impact: undeveloped, agricultural/forestry, residential, mobile home park, institutional and cultural, commercial, industrial.
- (D) Diameter at Breast Height (DBH). The tree trunk diameter measured in inches at a height of four and one-half (4 ½) feet above the ground.
- (E) Forestry: The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.
- (F) Impervious cover. Buildings, structures and other paved, compacted gravel, or compacted areas, which by their nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.
- (G) New construction. Site preparation for, and construction of, entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied.
- (H) Protected tree. An individual tree having special regulatory procedures for removal on public and private property under development. Protected trees include all trees on public property, regulated trees as defined by this ordinance, and specimen trees as defined by this ordinance. Protected trees can include individuals or all individuals in a stand on a construction site designed to be preserved on the required landscape plan.
- (I) Regulated tree. The subsurface roots, crown, and trunk of:
- a. Any self supporting woody perennial plant such as a large shade or pine tree, which usually has one main stem or trunk, and has a DBH as follows:
    - i. Hardwood tree—eight (8) inches, such as oak, maple, etc.
    - ii. Pine tree—twelve (12) inches, such as a long leaf pine
  - b. Any small flowering tree, such as dogwood, with a measured caliper of at least four (4) inches, measured (6) inches above the root collar.
  - c. Any tree having several stems or trunks, such as crape myrtle, and at least one defined stem or trunk with a measured caliper of at least two (2) inches, measured at six (6) inches above the root collar.
- (J) Specimen Tree. Any healthy living tree that

- a. is a particularly impressive or unusual example of a species due to size, shape, age, or any other trait that epitomizes the character of that species as identified by a current Tree Board inventory.
  - b. has a trunk diameter at breast height (DBH) of six (6) inches or more in the case of the following species: Magnolia species, Oak (*Quercus* species), and Pecan (*Carya illinoensis*).
- (K) Street Yard. The area of a parcel immediately adjacent to a street right-of-way designed to provide continuity of vegetation adjacent to the right-of-way and to soften the impact of development by reducing glare and reflective and visual clutter.
- (L) Tree Board. A commission created pursuant to Town of Burgaw Ordinance, Chapter 34.
- (M) Tree Protection Zone. Those areas designated for the protection of both preserved and planted trees depicted on the required landscape plan.

### ***9-1.3 Jurisdiction***

This ordinance shall apply to all public and private properties within the municipal limits of the Town of Burgaw, as well as the town's extraterritorial jurisdiction.

### ***9-1.4 Disclaimer of Liability***

Nothing contained in this section shall be deemed to impose any liability upon the town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley, or public place within the town.

### ***9-1.5 Enforcement***

All penalties and remedies for violations of this article shall be as described in Article 18 of this ordinance.

## **Section 9-2: Planting on Public Property**

### ***9-2.1 Tree and Shrub Planting on Public Property***

The Town encourages the planting of trees and other approved vegetation by private individuals, groups, and businesses on public property and along street rights-of-way. However, to obtain maximum benefit from those efforts, all planting on public rights-of-way or public property owned by the town, its agents, board, or commissions shall be done in accordance with predetermined guidelines set forth by the Board of Commissioners on a per request basis.

### ***9-2.2 Maintenance***

- (A) The Town of Burgaw Public Works Department shall have the authority to maintain trees and shrubbery planted on public rights-of-way or public property owned by the town, its agents, boards, authorities, or commissions.

- (B) The cutting, trimming, destruction, lopping of branches or mutilation in any manner of trees or shrubbery standing along, in, 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 Planning Administrator and/or Public Works Director and covered by the stipulations set forth in this article.
- (C) No person shall, without prior written permission from the Town, place or maintain upon the ground of any Town property any stone, cement, or other impervious matter or any fill material in such a manner that may obstruct the free access of air and water to the roots of any tree or shrub on any such Town property.
- (D) No person shall cut or remove trees on public rights-of-way or public property owned by the town, its agents, boards, authorities, or commissions without prior written permission from the Tree Board in cases of unsafe conditions caused by said trees or dead or diseased vegetation.

### **Section 9-3: Tree Preservation and Replacement during Development**

#### **9-3.1 General**

Preserving trees can improve the aesthetic quality of a site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. Existing vegetation shall be preserved whenever feasible. The decision to preserve regulated and specimen trees shall be made by the Planning Administrator with input from the developer and design team during the project approval process. When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.

The removal or clear cutting of trees and other existing vegetation on undeveloped or underdeveloped sites within the city limits of the Town of Burgaw or its extraterritorial jurisdiction is prohibited except in compliance with Section 9-5 of this article. Any vegetation removal on vacant, undeveloped, or underdeveloped sites must be done in accordance with an approved site and/or approved subdivision plan.

- 1) It is the intent of this provision to promote the retention and replanting of trees consistent with quality development practices. A tree removal permit shall be issued prior to any clearing, grading, or other construction activity beginning on a site which is regulated by these provisions. A tree removal fee shall be assessed for each tree removed from the site, as indicated by the tree removal permit.
- 2) Both regulated and specimen trees, as defined in Section 9-1 of this article, shall be considered protected and removal shall be mitigated as described below if for any developmental purpose.
  - a. Regulated trees shall be preserved to the greatest extent practical and incorporated into required landscaping. If removed, they are to be mitigated with a new tree of the same species or one listed on the Tree Board's species list with a minimum caliper of two (2) inches.
  - b. Specimen trees shall also be preserved to the greatest extent possible. If these trees are removed, regardless of location of the site, they are to be mitigated with replacement trees of the same species with a minimum caliper of two (2) inches for every specimen tree removed, unless the trees are shown to be dead, dying, or greater than fifty percent (50%) damaged or diseased as a result of natural factors.

- 3) No tree removal permit shall be issued in conjunction with projects involving new construction unless the project has met one of the minimum standards outlined below:
  - a. If a protected tree exists in the front, rear, or side yard of any development affected by this section, it shall be retained. The total number of trees to be retained shall be at least fifteen (15) protected trees per acre. For sites proposed for partial development, only the acreage of that portion of the site to be developed shall be utilized in calculating the number of trees to be preserved. The undeveloped portion shall not be utilized in calculating the number of trees to be preserved or in determining the number of retained protected trees.
  - b. If there are fewer than fifteen (15) protected trees per acre on the site, then the difference shall be replaced with new or existing trees, to a total of fifteen (15) trees per acre equaling at least two (2) caliper inches per tree planted or retained.

Protected trees that are retained may be used to fulfill some of the landscaping requirements of the street yard, parking facilities, or buffer yard sections, provided they are adequately protected from damage by construction activities or the intended use of the property.

- 4) If any new, retained or protected tree, shown on the approved site plan dies for any reason within twelve (12) months after the issuance of the certificate of occupancy, it shall be replaced by planting a new tree with a minimum caliper of two (2) inches.
- 5) For unauthorized removal of a new, retained, or protected tree during construction or within twelve (12) months after the issuance of the certificate of occupancy, its replacement shall be the planting of a new tree, with a minimum caliper of five (5) inches, or no more than three (3) new trees with a combined minimum caliper of five (5) inches, in addition to any other enforcement provision available in this ordinance.
- 6) Unauthorized removal of a new, retained, or protected tree during construction or within twelve (12) months after the issuance of the certificate of occupancy may also be subject to a fine as specified in the Fee Schedule for the Town of Burgaw for each tree removed. Such decision is appealable to the Town Manager.
- 7) For permitted removal of a new, retained, or protected tree during construction or within twelve (12) months after the issuance of the certificate of occupancy, its replacement shall be planting of a new tree with a minimum caliper of two (2) inches.

### ***9-3.2 Tree Removal Permit***

- (A) All persons seeking a permit for removal of a protected tree shall make application to the Planning Administrator. The *Tree Removal Permit Application* shall be in writing and include the information specified herein.
- (B) Applications for tree removal permits shall include the following information: Name and address of property owner of the site; address of the construction site or site of tree removal if different from property owner's legal address; name, address, and telephone number of applicant if different from property owner; description of protected trees to be removed or a site plan, as required herein, for trees to be retained.

(C) The Planning Administrator shall review all properly submitted applications for tree removal permits and shall grant or deny a permit in accordance with the provisions of this section within five (5) working days of submittal. In applying the provisions of this section, he shall follow normal landscaping practices. In the event that additional time may be needed to determine the issuance or denial of the application, a delay period not to exceed thirty (3) days is allowable in order for the Planning Administrator to seek technical assistance from landscaping professionals.

(D) The issuance of a required tree permit shall be based on the following standards:

- (1) The protected tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed structures;
- (2) The protected tree is causing disruption of existing utility service or causing drainage or passage problems upon the right-of-way;
- (3) The protected tree violates state or local safety hazards; or
- (4) Removal of the protected tree is necessary to enhance or benefit the health or condition of adjacent trees.

A tree removal permit shall be issued for an application meeting at least one (1) of these standards and shall apply to the specifics of that request.

(E) The Town may withhold or withdraw any town-issued permits, certificates, and any other authorizations, including but not limited to, building permits, driveway permits, and certificates of occupancy, until a tree removal permit is obtained. A tree removal permit, as required by this ordinance, must be obtained before a building permit may be issued.

(F) Tree removal permits are valid for a period of ninety (90) days unless otherwise explicitly stated on the tree permit application. The Planning Administrator may grant permit extensions based upon evidence that the delay was due to circumstances beyond the control of the applicant.

(G) A tree removal fee shall be applied if the request as described in the tree removal permit application does not meet one of the four standards outlined in (D) above. The tree removal fee shall be included in the Town of Burgaw Fee Schedule as part of the fiscal year budget.

(H) The property owner and, if applicable, tree removal company are equally responsible for obtaining required tree removal permit(s) prior to tree removal.

### *9-3.3 Tree Survey*

(A) All applications for grading, building, demolition, land use, change of use, or rezoning on all property greater than five (5) acres shall include a tree survey in addition to the information required for a tree removal permit as outlined in Section 9-3.2 of this article.

(B) A tree survey is a description of the existing vegetation on the site. This is necessary to ensure protection of native ornamental species and significant vegetation within required protection areas. The tree survey must be performed and certified by a registered land surveyor, professional engineer, or registered landscape architect. The survey shall, at a minimum, provide the following information:

- (1) The shape and dimensions of the real property to be developed, together with the existing and/or proposed locations of structures and improvements; existing and/or proposed utility services, roadways, bikeways, walkways, and parking areas;
  - (2) The location, caliper and species of all protected trees to be retained or new trees to be planted in accordance with the provisions of this section;
  - (3) The proposed relocation of any existing protected tree with a statement of how the tree is to be relocated and maintained;
  - (4) Any proposed grade changes which might adversely affect or endanger any protected tree to be retained with a statement of how the tree is to be protected and maintained; and
  - (5) The proposed method of protecting the remaining protected trees during construction, including the Critical Root Zone(s) of each individual tree or group of individual trees, in accordance with this section.
- (C) All applications for grading, building, demolition, land use, change of use, or rezoning permits on all property five (5) acres or less shall not include a tree survey. However, specimen and regulated trees shall be flagged and either preserved or approved for removal by the Planning Administrator. Property shall be cleared of underbrush sufficiently so planning staff can inspect the property without impediment when performing a physical review of site and trees. The Planning Administrator may waive the requirements for a certified tree survey based on the size of the property, number of trees, and accessibility.

#### ***9-3.4 Retention Standards for Protected Trees***

Protected trees may be removed only if essential site improvements cannot be accommodated elsewhere on the site or unless one of the criteria of 9-3(D) of this article is met, as determined by the Planning Administrator. If any protected trees are to be cleared from the site for essential site improvements, the proposed removal must be indicated, the reasons for doing so shall be clearly stated on the tree survey, and a tree removal permit must be obtained from the Planning Administrator. Such factors as non-selective clearing by bulldozers are less expensive than selective clearing by chainsaw or removal to accommodate non-essential site improvements shall not be valid reasons for removal of protected trees. Clearing of sites shall be limited to areas approved for construction.

#### ***9-3.5 Negligence***

If a tree required to be protected is destroyed, substantially damaged, or dies as a result of negligence or failure to comply with the requirements of this section on the part of any property owner and/or agent of the owner, within four (4) years of commencement of construction, then replacement of trees of a similar species with a caliper of at least two (2) inches, as approved by the Planning Administrator, shall be planted on this site.

### **Section 9-4: Property Clearing for Non-developmental Purposes**

#### ***9-4.1 Forestry***

- (A) In accordance with §160A-458.5, the Town may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:

- a. Three (3) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under the Town's regulations governing development from the tract of land for which the permit or approval is sought.
- b. Five (5) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under city regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the Town's regulations.

A harvest may be considered a willful violation of the Town's regulations in cases where Town staff has written evidence of an individual's or entity's notification of town regulations prior to harvesting and in cases where an individual or entity has already suffered a three-year approval moratorium for unintentional violation of the Town's regulations.

- (B) To maintain the visual character of the site from adjoining properties and rights-of-way, a vegetated perimeter buffer shall be maintained while tree harvesting for forestry occurs. A ten (10) foot wide buffer of naturally existing vegetation shall be maintained along all boundaries of the property being forested that adjoin other developed properties or those approved for development. Along public rights-of-way, a twenty (20) foot buffer of naturally occurring vegetation shall be maintained, exclusive of areas required for access to the site.

#### ***9-4.2 Lot Repair***

Upon completion of the property clearing, the owner must remove all cut timber and related vegetative debris from the property and repair any damage that may cause standing water and a potential breeding point for mosquitoes. The Town will not be responsible for removal of any vegetative debris or trees. Lot repair must be completed within ninety (90) days from the date of permit issuance or from the end of property clearing.

### **Section 9-5: Landscaping**

#### ***9-5.1 Applicability and Exemptions***

- (A) The landscaping requirements of this section shall apply to any new public or private development with the exception of single or two-family homes. However, single and two-family homes are required to stabilize all yardage with a viable and sustainable grass/groundcover before a certificate of occupancy can be issued.
- (B) Requirements of this Section 9-6 do not apply to:
- Existing residential properties.
  - Properties within the Central Fire District as defined by the Town of Burgaw Code of Ordinances, Section 6-6.

#### ***9-5.2 Street Yard Landscaping***

- (A) A street yard, as defined herein, must be provided for new construction of principal structures or expansions to such structures or uses whenever additional off-street parking is required. However, no such street yard improvements shall be required for those portions of lot frontage used for driveways. The purpose of street yards is to provide continuity of vegetation along the

street right-of-way, creating a pleasing view from the road, and establishing a transition from vehicular thoroughfares, pedestrian areas, or the built environment.

(B) When a street yard is required, it must be at least twelve (12) feet in width and extend the entire length of all adjacent street rights-of-way. Width shall be measured from the respective right-of-way/property line. Where street yards turn at street corners, the length measurements determining plant quantities shall not be required to overlap. It is intended that street yards be landscaped by meeting the requirements of either (1) or (2) as follows in order to provide continuity of vegetation and a pleasing view from the road:

(1) Minimum standards—

- i. For every thirty (30) linear feet of frontage, or fraction thereof, the street yard shall contain
  - a. One (1) tree, eight (8) feet in height, OR
  - b. Three (3) flowering trees, five (5) feet in height only when approved by the Planning Administrator in cases where there are height constrictions due to public power lines.
- ii. For every thirty (30) linear feet of frontage, or fraction thereof, the street yard shall contain five (5) shrubs

(2) Creative standards—to promote creative designs, a street yard may consist of trees and shrubbery which cover at least fifty percent (50%) of its area and are selected in accordance with subsection (E) below as long as there is no net reduction in the number of plants as outlined in the minimum standards.

(C) No more than fifteen percent (15%) of the required street yard shall be covered with an impervious surface for properties with at least one hundred seventy (170) feet of linear frontage. This portion of the street yard may be used for walkways, fountains, walls or fences, but not for parking or storage.

(D) Sidewalks, when constructed, shall be exempt from impervious limits as specified in section (C).

(E) If there are existing trees in the proposed street yard area, the Planning Administrator may grant credit toward meeting the landscaping requirements of this section for the preservation of those healthy and sustainable trees provided their caliper is at least two (2) inches or more.

(F) All street yards shall be landscaped with a combination of live vegetation, groundcover, grass, trees, and shrubs. Vegetation to be planted pursuant to this section shall be selected from the list approved by the Tree Board. After the landscaping has been planted, the owner shall maintain the street yard to ensure that the material lives and prospers. When the total number of trees required under the provisions of this article equals twenty (20) or more, then no single tree species shall compromise more than twenty-five percent (25%) of the trees planted on the development site.

(G) Corner lots, and in situations where driveways and alleys interact with street rights-of-way, shall be kept free of landscaping and plant materials that interfere with the vision of a motorist or pedestrian.

(H) Street yards, as required by this ordinance, may be used to accommodate setbacks as stated in Section 14-8, Table of Area, Yard, and Height Requirements.

### *9-5.3 Parking Facilities Landscaping*

- (1) All parking facilities containing more than four (4) spaces shall submit the site plan required by this Ordinance to the Planning Administrator for review and approval of the landscaping requirements of the section.
- (2) Minimum standards: At least eight percent (8%) 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.
  - (1) Trees and shrubbery planted pursuant to this section shall include at least one (1) tree a minimum of eight (8) feet in height and six (6) shrubs at least eighteen (18) inches in height at planting. At least fifty percent (50%) of the trees planted shall be of a shade/canopy species as outlined by the Tree Board.
  - (2) The minimum planting size for trees under this section shall be the same as established in Section 9-4.3.
  - (3) In support of the above, the following standards shall apply to interior plantings:
    - i. All plantings shall be evenly distributed throughout the parking facility.
    - ii. All interior plantings shall be curbed or otherwise physically protected.
    - iii. Consecutive parking spaces shall incorporate landscape peninsulas no more than fifteen (15) spaces apart and at least at the ends of all parking rows. Peninsulas shall contain at least one hundred (100) square feet in area and at least eight (8) feet in width, measured from back of curb/barrier to back of curb/barrier.
  - (4) For every protected tree, as defined herein, that is retained in a parking facility in addition to the requirements of Section 9-4, a reduction of the above eight percent (8%) interior planting requirement may be allowed equaling one-half of one percent (0.5%) per protected tree retained. The reduction shall be limited to a maximum credit of two percent (2%) or four (4) protected trees retained.
- (3) For parking facilities containing five (5) to twenty-four (24) spaces or stalls inclusive, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:
  - (1) The minimum width of such strip shall be twelve (12) feet.
  - (2) For every thirty (30) linear feet or fraction thereof the perimeter landscape strip shall contain one (1) canopy tree of at least eight (8) feet in height, and a continuous row of at least six (6) evergreen shrubs at least eight (18) inches in height.
  - (3) When a perimeter landscape strip overlays a street yard or buffer yard required elsewhere in this ordinance, the more stringent requirements shall apply.

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

selected from the list approved by the Tree Board and shall be maintained to ensure continued growth.

- (4) When a parking facility is within fifty (50) feet of the public right-of-way a perimeter planted strip shall be installed, consisting of a low buffer incorporated into the street yard.
- (5) The Planning Administrator 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.

**9-5.4 Landscaping Required for Expansions to Existing Principal Structures**

(A) For expanding principal structures the following table shall be utilized in calculating the extent of the landscaping upgrade required for the previously developed portions of the site (up to the maximum landscaping requirements of this section). All newly developed portions of the site shall be subject to the full landscaping requirements of this section. For expansions where options are listed for street yard and parking facility landscaping, the higher option shall be utilized except where Town Planning Department staff have determined that practical difficulties in site development exist in which the lower option is preferable.

Amount of Expansion	Tree Preservation	Street Yard	Parking Facilities
10-25% increase in gross floor area or 5-20 new parking spaces as required by zoning ordinance, whichever is more restrictive	15 per acre	8 feet	4%
25-50% increase in gross floor area; or over 10,000 square feet increase in gross floor area; or 21-50 new parking spaces new parking spaces as required by zoning ordinance, whichever is more restrictive	15 per acre	10 feet	8%
Greater than 50% increase in gross floor area; or over 20,000 square feet increase in gross floor area; or more than 50 new parking spaces required by zoning ordinance, whichever is more restrictive	15 per acre	12 feet	10%

- (B) When subdivision of previously developed property occurs and a building permit for new construction is obtained for any newly created tract within two (2) years of the effective date of the subdivision, all parcels of the original tract shall be subject to the above provisions for expansions to existing structures or uses.
- (C) For consecutive expansion occurring within a two (2) year period, the amount of the expansions shall be summed and the maximum landscaping requirements for the total extent of the expansions shall be provided.
- (D) Notwithstanding the above requirements, expansions to existing structures or uses amounting to not more than a total increase of five hundred (500) square feet in gross floor area over a two (2) year period shall be exempt from meeting the street yard and parking facility landscaping requirements.

#### ***9-5.5 Tree Protection during Construction***

- (A) Except by permit, construction activities under the drip line of a regulated tree are prohibited. Activities include, but are not limited to, treating or grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.
- (B) To preserve existing trees specified on the required landscape plan to remain on the site as a function of fulfilling the purposes of this section, the critical root zone shall be protected by proper installation of barricades and signage from vehicular movement, material storage, compacting, grading, excavating, and other development related activities during construction and in the final landscape design.
- (C) When applying for a permit, the party doing construction work under the drip line of a regulated 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 Planning Administrator. The plan must be approved prior to a permit being issued.
- (D) If the entire CRZ cannot be preserved, the disturbed areas shall extend no closer to the protected tree trunk than one half (1/2) the radius of the CRZ. In no case can more than forty percent (40%) of the CRZ be disturbed. Disturbance of the CRZ will only be allowed with prior approval by the Planning Administrator.
- (E) No equipment is allowed on the site until all tree protection fencing and silt fencing has been installed and approved by the Planning Administrator. The protective fencing shall remain in place through completion of construction activities.

#### **Section 9-6: Maintenance**

- (A) All planted and retained living material, required to meet the provisions of this ordinance, 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 thirty (30) days of the occurrence of such condition. If, in the opinion of the Planning Administrator, there are seasonal conditionals which will not permit the timely replacement of vegetation (e.g., too hot or too cold 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 9-7: Exemptions**

- (A) The Planning Administrator may waive the requirements of this section 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 Public Works Director or Planning Administrator may determine that replacement with additional trees is also necessary. In making determinations, these officials shall utilize such professional criteria and technical assistance as may be necessary.