

P&Z Review: \_\_\_\_\_ 08/15/12  
Public Notice: \_\_\_\_\_ 09/12/12  
Public Hearing: \_\_\_\_\_ 10/01/12  
Ord. No.: \_\_\_\_\_ 011-12

**AN ORDINANCE TO AMEND APPENDIX B “SUBDIVISION AND LAND DEVELOPMENT” OF THE TOWN CODE OF THE TOWN OF SMYRNA BY AMENDING ARTICLE 5, DESIGN STANDARDS, BY DELETING SECTION 5.17, “SUBDIVISION TREES,” AND ADDING A NEW SECTION 5.17, TREE PLANTING STANDARDS AND REQUIREMENTS.**

**WHEREAS**, the Town Council of the Town of Smyrna has determined that trees are a valuable asset to the Town and play an important role in maintaining the health, safety, and welfare of the population; and

**WHEREAS**, the Town Council of the Town of Smyrna has determined that regulations are needed to protect existing trees and require new trees be planted as new homes are constructed.

**BE IT HEREBY ENACTED** by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Section 1.** Amend Appendix B “Subdivision and Land Development”, Article 5 “Design Standards”, by deleting section 5.17 “Subdivision trees” in its entirety and inserting in its place thereof the following:

**Sec. 5.17. - Tree planting standards and requirements**

- a. *Purpose.* The purpose of this section is to establish standards and requirements for the protection and planting of trees in all non-residential site and residential subdivision plans requiring the approval of the Town of Smyrna because it is recognized that trees are not only desirable, but are essential to the health, safety, and welfare of the population. Trees provide oxygen, stabilize soil, cleanse the air by removing carbon dioxide and airborne pollutants, cleanse water passing into the ground through the root system, provide a natural habitat for wildlife, provide shade, reduce visual and noise pollution, increase property values, and provide an important physical, aesthetic, and psychological balance to the built environment.
- b. *Tree planting plan required.* All non-residential site and residential subdivision plans requiring the approval of the Town of Smyrna shall be required to submit, with its application and plans, a tree planting plan as set forth in Section 5.17(g).
- c. *Tree density.* On each property for which a tree planting plan is required by this section, existing trees may be retained and new trees shall be planted such that the lot(s) shall attain or exceed a tree density of one tree per 3,000 square feet of lot area or fraction thereof. Trees needed to meet buffer requirements shall not be counted towards tree density.

- d. *Minimum standards for new trees.* For new trees to be counted towards the required tree density, they must have a minimum caliper of two inches.
- e. *Recommended Trees for New Planting:* The following characteristics shall be considered in selecting new trees to plant: size, tolerance to pollution, ability to withstand drought and soil conditions, as well as landscape and ornamental value. It is recommended that individuals contact the Delaware Forest Service for assistance in identifying which tree species would be most appropriate for the area.
- f. *Minimum standards for existing trees.* For existing trees to be counted toward the required tree density, the tree shall have a minimum caliper dimension of two inches. No trees over eight inches in caliper shall be removed unless within an area of thirty feet from the proposed building foundation, off-street parking lot, utility placement and/or isclassified as a hazard tree.
- g. *Tree plan specifications.* A tree plan, prepared by or in conjunction with a design professional, shall be shown on a copy of a preliminary plat, sketch, or site plan, as appropriate to the proposed development, drawn to the same scale and covering the same area as the other plan documents prepared for town review. The plan may be combined with a required buffer and landscape plan for the project, at the option of the developer. The plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this section will be fully satisfied. The plan shall contain, but need not be limited to, the following:
  - 1) Project name, zone, parcel number, north arrow and scale.
  - 2) Developer's name, address and telephone number.
  - 3) Name, address, and telephone number of the design professional responsible for the preparation of the plan.
  - 4) Delineation of all lot lines, minimum yard areas, buffers, and landscape areas as required by the zoning ordinance.
  - 5) Total acreage of the site and total lot area for each lot delineated.
  - 6) Delineation of all wetlands and woodlands.
  - 7) Designation and delineation of all lots in areas expected to retain existing trees to meet the tree density requirement.
  - 8) Designation of any tree(s) having an historic value, as determined by the State Historic Preservation Officer, or that are of an outstanding nature due to type or species, age, or other criteria as determined by the Delaware Forest Service, if applicable.
  - 9) The location, spacing, caliper, and species of new trees proposed to meet tree density requirements.
  - 10) A summary table of the number of new trees to be planted and minimum number of existing trees to be retained to meet the tree density requirement, if any, along with calculations showing that the tree density requirement has been achieved. Groupings of trees may be keyed to the

summary table by area rather than having each tree individually labeled on the plan.

11) There shall be a note on the plan indicating that a one-year full price replacement guarantee on all new trees planted is held by the applicant.

h. *Council Waiver.* Council may waive the provisions of section 5.17(c), Tree Density, and allow tree mitigation efforts to occur on-site within the submitted non-residential site or residential subdivision plan.

The applicant shall demonstrate the following:

1. A physical hardship related to the land which would otherwise prohibit compliance on the subject lot(s)
2. The mitigation plan proposed by the applicant is superior in terms of environmental benefits, tree quantity or aesthetic qualities compared to compliance with this section.
3. It is in the interest of preserving, protecting and promoting the public health, safety, welfare and/or public convenience.

SYNOPSIS

This ordinance replaces the existing tree requirements found in the Subdivision Ordinance with new tree planting requirements. All development plans requiring Town approval must submit a tree planting plan that includes, among other items, the location, spacing, caliper, and species of new trees. This ordinance requires one tree per 3,000 square feet of lot area and requires new trees have a minimum caliper of two inches. Individuals are encouraged to contact the Delaware Forest Service to determine which species of trees are most appropriate. Existing trees with a caliper greater than 8 inches may not be removed except under extenuating circumstances outlined in the ordinance. This ordinance authorizes Council to grant exceptions to the tree density requirements.

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This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

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This shall certify that the title and synopsis of this Ordinance was published in “The Smyrna /Clayton Sun Times” on \_\_\_\_\_, 2012 and posted at the Town Hall on \_\_\_\_\_, 2012.

So Certifies:

\_\_\_\_\_  
Town Clerk

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This shall certify that the title, effective date and synopsis of this Ordinance was published in "The Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2012 and posted at the Town Hall on \_\_\_\_\_, 2012.

So Certifies:

\_\_\_\_\_  
Town Manager