

RECODE YORK COUNTY

Zoning & Subdivision Codes Rewrite



CHAPTER 154: LAND DEVELOPMENT CODE

SUBCHAPTER D: GREEN INFRASTRUCTURE STANDARDS

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SUBCHAPTER D: GREEN INFRASTRUCTURE STANDARDS

PART 1: GENERAL PROVISIONS

§ 154.090 PURPOSE.

(A) Preserving and enhancing the County's natural resources, or "green infrastructure," provides environmental, economic, social, and health benefits to the community. Green infrastructure includes forests; water resources, such as rivers, lakes, and wetlands; soils that support agriculture; healthy tree canopy; open space and parks; and low impact development features. These components function optimally and provide the most benefits when they are interconnected.

(B) The purposes of this Subchapter are to:

- (1) Protect human health and life;
- (2) Conserve natural resources;
- (3) Maintain and improve air, water, and soil quality;
- (4) Provide wildlife habitat by reducing forest loss and fragmentation;
- (5) Protect, facilitate, and enhance the aesthetic qualities of the community;
- (6) Preserve, protect, maintain, and increase the County's tree canopy;
- (7) Encourage the protection and planting of native trees;
- (8) Increase the amount of open space in new developments;
- (9) Improve the quality and usability of open space in new developments;
- (10) Improve the quality of stormwater runoff discharge from new development and redevelopment to surface waters and groundwater;
- (11) Moderate temperature and promote energy conservation; and
- (12) Ensure County compliance with all applicable Federal and State regulations.

§ 154.091 APPLICABILITY.

(A) **Organization.** The regulations of this Subchapter include different applicability provisions for low-impact development (Part 2: *Low-Impact Development*), open space (Part 3: *Open Space*),

and tree conservation (Part 4: *Tree Conservation*) based on the different concerns and situations that each Part is designed to address.

(B) **Other Regulations.** This Subchapter should be interpreted in coordination with:

- (1) Chapter 151: Floodplain Management;
- (2) Chapter 152: Stormwater Management and Sediment Control; and
- (3) Chapter 155: Zoning Code.

§ 154.092 RESERVED.

PART 2: LOW-IMPACT DEVELOPMENT¹

§ 154.093 PURPOSE.

(A) Low impact development (LID) is an approach to managing stormwater through systems that use or mimic natural processes for the infiltration, evapotranspiration, or reuse of stormwater and runoff on the site where it is generated..² LID techniques reduce the amount of untreated runoff discharged to surface waters by allowing stormwater to be absorbed and cleansed by soil and vegetation before flowing into groundwater or surface water resources. This reduces stormwater maintenance costs and protects water quality.

(B) This Part establishes incentives for the use of low impact development (LID) techniques to:

(1) Facilitate the design of drainage systems that are consistent with good engineering practice and design and in accordance with the County's overall planning efforts and stormwater management planning;

(2) Minimize the cost of constructing and maintaining engineered stormwater drainage systems by facilitating natural drainage patterns and infiltration of stormwater runoff;

(3) Provide a mechanism that allows development with minimum adverse effects to the natural environment;

(4) Mitigate heat island effects; and

(5) Improve the aesthetic quality of development.

§ 154.094 APPLICABILITY.

The incentives established in this Part are available for any new development in the County that increases the amount of impervious surface on a lot or alters the drainage characteristics of a lot.

¹ This new Part establishes an incentive-based Low Impact Development program. Any development in the County is eligible for the program.

² U.S. Environmental Protection Agency, <https://www.epa.gov/nps/urban-runoff-low-impact-development>

§ 154.095 LOW IMPACT DEVELOPMENT TECHNIQUES.³

(A) Low impact development techniques are typically used in conjunction with on-site detention for larger storm events.

(B) LID techniques may include one or more of the following:

- (1) Bioretention swales and basins;
- (2) Level spreaders and filter strips;
- (3) Porous pavement and permeable pavers;
- (4) Cisterns and water harvesting;
- (5) Pocket wetlands; and
- (6) Rooftop runoff mitigation measures, such as green roofs and rooftop gardens.

§ 154.096 DESIGN STANDARDS.

In order for a development to be eligible for one or more of the incentives listed in § 154.097: *Incentive Allowances*, the low impact development techniques utilized on the site shall meet the requirements of the Land Development Manual, [Chapter 152: Stormwater Management and Sediment Control](#), and the York County Stormwater Management Design Manual.

§ 154.097 INCENTIVE ALLOWANCES.⁴

(A) **Applicability.** An applicant may utilize one or more of the incentives specified in this Section if:

- (1) At least two LID features, using one or more LID techniques specified in § 154.095: *Low Impact Development Techniques*, are approved as part of the Stormwater Permit issued

³ It is anticipated that the County's Land Development Manual will cross-reference SCDHEC and North Carolina guidelines for LID design. The LID techniques listed in this Section are addressed in either the SCDHEC [Stormwater Management BMP Field Manual](#) or [Low Impact Development: A Guidebook for North Carolina](#).

⁴ The [York County Stormwater District Feasibility Report](#) (February 2018) recommends (if a stormwater utility is implemented) "a credit manual to provide for reduced fees for those entities that contribute to NPDES MS4 compliance, that reduce runoff from their sites beyond County standards, or that provide for a higher than required water quality protection." If the County implements this recommendation, the use of the LID techniques specified in this Part may also be eligible for reduced stormwater fees.

pursuant to Chapter 152: Stormwater Management and Sediment Control and manage at least 40%⁵ of the site water quality volume; or

(2) The required width of a riparian buffer is increased by at least 15% (see Zoning Code Subchapter D, Part 3: Buffers and Screening).

(B) **Incentives.**

(1) In any development:

(a) Vegetated LID features may be constructed within:

1. Required perimeter bufferyards; and
2. Required setbacks;

(b) Landscaping used in vegetated LID features may count towards any landscaping required by this Chapter or Chapter 155: Zoning Code; and

(c) Vegetated LID features may count towards required open space, as provided in § 154.103: Minimum Dimensions and Composition of Open Space.

(2) In a non-residential, mixed use, or multi-family development:

(a) The maximum height specified in Zoning Code Subchapter B, Part 2, Subpart 2.2: Base District Dimensional Standards may be increased by up to 10%;

(b) The development may deviate from the requirements for parking lot circulation, design, and landscaping in Subchapter B, Part 2: Site Design if the deviations are necessary to implement one or more LID techniques; and

(c) The development may reduce the minimum parking ratio specified in § 155.541: Off-Street Parking Table by up to 10%; or

(d) The development may exceed the maximum parking ratio specified in § 155.541: Off-Street Parking Table if all parking spaces above the maximum are constructed of pervious materials.

⁵ This requirement for LID features to manage a minimum percentage of site water quality volume in order to be eligible for incentives is based on San Antonio's Low Impact Development and Natural Channel Design Protocol (UDC § 35-210). San Antonio offers different types of incentives for implementation of LID features, with more incentives available for LID features that manage at least 60% of site water quality volume than for those that manage less than 60%. The County could consider increasing or decreasing the proposed 40%.

(3) In a major residential subdivision, the minimum lot size required by Zoning Code Subchapter B, Part 2, **Subpart 2.2: Base District Dimensional Standards** may be reduced by up to 10%.

§ 154.098 MAINTENANCE.

Low impact development features are subject to the ongoing inspection and maintenance requirements specified in Chapter 152, §§ 152.031 et seq., *On-Going Inspection and Maintenance of Stormwater Facilities and Practices*.

§ 154.099 RESERVED.

PART 3: OPEN SPACE⁶

§ 154.100 PURPOSE.

- (A) Open space is land and/or bodies of water used for recreation, amenity, or buffer.
- (B) The purposes of open space requirements are to:
 - (1) Preserve existing vegetation and important wildlife habitat;
 - (2) Provide active and passive recreational opportunities for residents;
 - (3) Enhance the aesthetic and environmental quality of development; and
 - (4) Connect neighborhoods, open space, and employment areas.

§ 154.101 APPLICABILITY.⁷

- (A) Except as provided in § 154.101(B), below, this Part applies to:
 - (1) New major residential subdivisions, including townhouse subdivisions;
 - (2) New cottage courts;
 - (3) New multi-family developments;
 - (4) New non-residential developments;
 - (5) Additions to an existing non-residential building or structure that result in an increase in the gross floor area of the building or structure of 50% or more; and
 - (6) Expansion of existing multi-family developments by more than 10 dwelling units.
- (B) This Part does not apply to non-residential development located on sites less than three acres in area.

⁶ This Part carries forward the open space requirements adopted by County Council in February 2021 and relocates them from the Zoning Code (§ 155.430). The only proposed changes to the existing text are in § 155.076: *Applicability*, § 155.077: *Minimum Amount of Open Space Required*, § 155.078: *Minimum Dimensions and Composition of Open Space*, and § 155.079: *Location and Design of Open Space*.

⁷ This Section is revised to (1) streamline the existing text, which is somewhat redundant to the tables in § 155.077; and (2) clarify when changes to an existing structure or development triggers compliance with this Part. Paragraph (A)(2) is consistent with the trigger for compliance with building design regulations (see Zoning Code Subchapter F: *Nonconformities*).

§ 154.102 MINIMUM AMOUNT OF OPEN SPACE REQUIRED.⁸

(A) **Base Districts.** Table 154.102-1: *Minimum Amount of Open Space Required in Base Districts* specifies the amount of open space required in each base zoning district, based on the type of development.

Table 154.102-1: Minimum Amount of Open Space Required in Base Districts

Development Type	Zoning District							
	AGC	RUD	RSF-40, RSF-30	RSF-20	RMX-10	RMX-6	RC, NC, OI, OA, GC, UD	RI, LI, ID
Major Residential Subdivision - Conventional	0%	20% ¹	20%	20%	20%	20%	--	--
Major Residential Subdivision - Cluster ⁹	50%	50%	50%	50%	40%	40%	--	--
Major Townhouse Subdivision	--	--	--	30%	30%	30%	--	--
Cottage Court ¹⁰	--	--	--	20%	20%	20%	--	--
Multi-Family Development	--	--	--	--	--	30%	--	--
All Other Development	0%	0%	20%	20%	20%	20%	15%	10%

Key: -- = development type not permitted in zoning district

¹ Only applies to developments within the USB. Developments outside the USB do not require open space.

(B) **Special Districts.** Table 154.102-2: *Minimum Amount of Open Space Required in Special Districts* specifies the amount of open space required in each special zoning district.

⁸ This Section revises the tables for consistency with changes proposed in Zoning Code Subchapter B: *Zoning Districts*, including revised zoning district names, new districts, consolidate of existing districts, and changes to allowed uses in the districts. A second sentence is added to Footnote 1 in Table 154.077: *Minimum Amount of Open Space Required in Base Districts* to clarify the amount of open space required in RUD Districts outside the Urban Services Boundary.

⁹ The current conservation subdivision regulations (§ 155.499) allow this subdivision design technique in the AGC, AGC-I, RUD, and RUD-I zoning districts. Zoning Code Subchapter B, Part 2, Subpart 2.2: *Base District Dimensional Standards* proposes to consolidate the provisions for conservation and cluster subdivisions and to expand the districts where this type of subdivision design is allowed to include the RSF-40 district (formerly RC-I).

¹⁰ Cottage courts are proposed as a new residential development type. A cottage court is a group of small, detached dwellings arranged around a shared courtyard that is visible from the street. Cottage courts are proposed to be subject to both use regulations (Zoning Code Subchapter C) and specific site design standards (LDC Subchapter B).

Table 154.102-2: Minimum Amount of Open Space Required in Special Districts

Zoning District	Required Open Space (min)
BT, MU, BV	25%
PD	30%

Key: min = minimum required

(C) How to Calculate the Required Amount of Open Space.

(1) The minimum amount of required open space is calculated by multiplying the percentage specified in Table 154.102-1: *Minimum Amount of Open Space Required in Base Districts* or Table 154.102-2: *Minimum Amount of Open Space Required in Special Districts* by the total area of the site proposed for development, less the area of any electric or gas transmission line easements.

(2) The following equation represents this calculation:

$$\text{minimum \% required} \times (\text{total site area} - \text{area of electric or gas transmission line easements}) = \text{minimum area of open space}$$

§ 154.103 MINIMUM DIMENSIONS AND COMPOSITION OF OPEN SPACE.¹¹

(A) Minimum Dimensions.

(1) All required open space shall be at least 40 feet in width and 40 feet in depth, except for greenways which shall be at least 20 feet in width.

(2) At least 40% of required open space must be comprised of dry land with a slope less than 10%.

(B) Areas Counted as Open Space.

(1) *Types of Open Space.* Open space shall be comprised of two or more of the types described in Table 154.103-1: *Types of Open Space*, except in cottage courts where the central courtyard shall comprise at least the minimum amount of required open space (see Subchapter B, Part 6: *Cottage Courts*).

¹¹ This Section carries forward current requirements and adds cottage courts.

Table 154.103-1: Types of Open Space

Type of Open Space	Description	Min. Size ¹
Natural Area	An area of undisturbed or minimally disturbed vegetation. Examples include woodlands and wetlands. A natural area may contain multi-use paths to accommodate pedestrians, bicyclists, and equestrians, but typically does not contain structures or other improvements.	1,600 sf (min)
Regional Park	Large park that serves as a destination to all county residents. Contains a range of active and passive recreation opportunities.	100 ac (min)
Community Park	An open space available for civic and recreational purposes. Serves multiple neighborhoods or developments. May contain a limited number of athletic fields.	10 ac (min)
Neighborhood Park	An open space available for civic purposes, unstructured recreation, and limited amounts of structured recreation. Typically serves a single neighborhood or development.	0.5 ac (min)
Greenway	A linear open space that links multiple neighborhoods, developments, or open spaces. May follow natural corridors, such as rivers and creeks. Greenways often contain multi-use trails to accommodate pedestrians, bicyclists, and equestrians.	none
Active Recreation Area	An open space designed for specific, active recreational uses such as tennis courts, swimming pools, ballfields, and similar uses.	1,600 sf (min)
Square/Green	An open space available for civic purposes, unstructured recreation, and limited amounts of structured recreation. Typically serves a single neighborhood or development in a prominent location. Includes landscaped areas and lawns with or without trees and shrubs. May include limited hardscaping.	0.25 ac (min)
Plaza	A formal open space available for civic purposes or commercial activity. Located in commercial and mixed use areas, typically at the intersection of important streets or other significant locations. Predominantly hardscaped.	0.5 ac (min)
Pocket Park	An open space available for informal activities in close proximity to dwellings and/or workplaces. Often contains benches or other seating areas.	1,600 sf (min)

Key: min = minimum required | max = maximum allowed | sf = square feet | ac = acres | mi = miles

¹ The minimum area of any type of open space located in a cottage court is 1,600 sf.

(2) *Buffers, Bufferyards, and Tree Save Areas.* Buffers and bufferyards required by [Chapter 155: Zoning Code](#) and designated tree save areas, as may be required by Part 4: *Tree*

Conservation, may constitute up to 50% of required open space, provided that contributing areas meet the other requirements of this Part.

(3) *Golf Courses*. Neighborhood amenity golf courses may constitute up to 50% of required open space.

(4) *Undevelopable Areas, LID Features, and Stormwater Facilities*. Undevelopable areas, vegetated LID features, and other stormwater facilities may constitute up to 50% of required open space.

(a) Undevelopable areas include:

1. Natural water bodies;
2. Wetlands; and
3. Historical, cultural, and archaeological sites.

(b) Up to 100% of the site area that contains vegetated LID features may be counted as open space.

(c) Stormwater facilities may be counted as open space, if such facilities:

1. Are wet basins designed to provide safe access to water;
2. Are amenitized with a walking trail around the perimeter of the facility and a fountain or similar water feature;
3. Encompass at least 10,000 square feet of area with less than 2% grade;
4. Have side slopes with at least six feet of horizontal run for each one foot of vertical rise;
5. Are not obscured from sight or enveloped by a chain-link or similar fence; and
6. Do not comprise, in sum, more than 20% of required open space.

(C) **Areas Not Counted as Open Space**. The following areas do not count towards the minimum required open space:

- (1) Private lots, yards, balconies, and patios dedicated for use by a specific unit;
- (2) Electric and gas transmission line easements;

- (3) Public right-of-way and private streets and drives;
- (4) Parking areas and driveways;
- (5) Land covered by structures, except for ancillary structures associated with the use of the open space such as gazebos and picnic shelters;
- (6) Designated outdoor storage areas; and
- (7) Undevelopable areas and stormwater facilities, except as provided in § 154.103(B)(4), above.

§ 154.104 LOCATION AND DESIGN OF OPEN SPACE.¹²

(A) **Generally.** All open space shall:

- (1) Be an integral part of the overall development design, with the specific layout of open space designed to be sensitive to the physical and design characteristics of the site;
- (2) Be contiguous and connected with other open space both within the development and on abutting properties;
- (3) Not be occupied by structures unless the structures are an integral part of the open space;
- (4) Have direct access to the pedestrian network; and
- (5) Be accessible to all residents, occupants, and tenants of the development.

(B) **Connectivity Required.** To the maximum extent practicable, open space shall be organized to create integrated systems of open space that connect with the following types of land uses located within or adjacent to the development:

- (1) Dedicated public park or greenway lands;
- (2) Dedicated school sites;
- (3) Other dedicated open spaces;
- (4) Open space located adjacent to the development;

¹² This Section carries forward current requirements and adds cottage courts to Table 154.104-1: *Number and Type of Required Amenities*.

- (5) Portions of the regional trail and open space system;
- (6) Neighborhood shopping and activity centers; and
- (7) Adjacent employment centers.

(C) **Accessibility Required.**

(1) Open space must be accessible to all of the residents, occupants, and tenants by providing pedestrian access to open space within 1,320 feet of every dwelling unit in the development.

(2) The County may require access to be restricted if it would degrade, destroy, or adversely interfere with sensitive environmental or natural areas or with significant historic or cultural resources.

(3) Where provided, access to open space shall:

- (a) Include a pedestrian connection such as a trail or sidewalk;
- (b) Be a minimum of 20 feet in width;
- (c) Be located where such access is visible to dwelling units and other buildings in the development; and
- (d) Not be isolated by walls, screening, landscaping, or any other kind of barrier that would prevent resident, occupant, or tenant surveillance of the open space.
- (e) Not be located on individual residential lots.

(D) **Amenities Required.**

(1) *Number and Type of Amenities.* To ensure that open space is functional and usable, required open space shall contain the number and type of amenities specified in Table 154.104-1: *Number and Type of Required Amenities.*

(2) *Design of Amenities.*

- (a) In all developments, amenities shall be:
 - 1. An integral part of the overall development and open space design;
 - 2. Located not more than 1,320 feet from dwelling units, major buildings, major tenants, or any transit stops; and

3. Constructed of materials similar in quality to the principal materials of the primary buildings and landscape.

(b) In multi-family and non-residential developments, buildings, trees, walls, topography, and other site features should be oriented and arranged to enclose open spaces and site amenities.

(3) *Occupied Phases.* To ensure that residents or employees of a phase under development have access to amenities during buildout, the required amenities for each phase of development must be completed prior to issuance of 50% of the certificates of occupancy for the phase.

Table 154.104-1: Number and Type of Required Amenities

	Number of Amenity Types Required (min)	Type of Amenities Permitted
Major Subdivisions (including Townhouses), Cottage Courts, & Multi-Family Developments		
7-49 du	1	<ul style="list-style-type: none"> • Landscaped seating area; • Gazebo or other covered shelter; • Multi-use trail; • Community garden; • Fenced dog park with a minimum area of 5,000 sf; • Bicycle storage and repair station; • Basketball, volleyball, or other sports court; • Public swimming pool sized to comply with NRPA standards; • Public or private golf course; • Canoe and kayak launch, or boat ramp; • Resident clubhouse; • Playground with a minimum area of 2,500 sf; and • Picnic area with a minimum size of 2,500 sf per area that includes at least two picnic tables and at least one barbeque grill or pit.
50-99 du	2	
100-149 du	3	
150+ du	4 + 1 per each additional 50 du	
Non-Residential Developments		
99 or fewer parking spaces	1	<ul style="list-style-type: none"> • Seating area; • Gazebo or other covered shelter;
100-149 parking spaces	2	

Table 154.104-1: Number and Type of Required Amenities

	Number of Amenity Types Required (min)	Type of Amenities Permitted
150+ parking spaces	3 + 1 per each additional 50 parking spaces	<ul style="list-style-type: none"> • Multi-use trail; • Water feature; • Memorial; • Clock tower; • Public art; • Community garden; and • Any other similar, deliberately designed amenity or focal feature that adequately enhances the development and serves as a gathering place.

Key: min = minimum required | du = dwelling unit | sf = square feet

§ 154.105 OPEN SPACE PLAN REQUIRED.

(A) **When Required.** An applicant shall submit an open space plan as a part of the application for a building permit, site plan, or preliminary plat, as applicable.

(B) **Contents of Plan.** An open space plan shall include the following information:

- (1) Designate open space areas;
- (2) Designate the type of open space that will be provided;
- (3) Specify the manner in which the open space will be owned, preserved, and maintained as required by § 154.106: *Long Term Preservation and Maintenance of Open Space*;
- (4) Specify open space maintenance requirements, which include that:
 - (a) Open space shall be free from hazards, nuisances, or unhealthy conditions;
 - (b) Landscaped areas shall be regularly mowed, trimmed, cleaned, and weeded to ensure neatness;
 - (c) Hardscaped areas shall be maintained in good repair;
 - (d) Maintenance of natural areas is limited to removal of litter, dead trees, plant materials, and brush. Natural water courses shall be maintained as free flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels, nor violate U.S. Army Corps of Engineers or S.C. Department of Health and Environmental Control requirements; and

(e) Include a statement acknowledging that open space will be maintained subject to § 154.106: *Long Term Preservation and Maintenance of Open Space*.

§ 154.106 LONG-TERM PRESERVATION AND MAINTENANCE OF OPEN SPACE.

(A) **Generally.** Land designated as open space to meet the requirements of this Part shall:

- (1) Be platted as a lot;
- (2) Remain as open space in perpetuity; and
- (3) Be maintained so that its use and enjoyment as open space is not diminished or destroyed.

(B) **Permanent Protection Required.**

(1) Open space shall be permanently protected through deed restrictions, covenants, or other legal instruments to:

- (a) Ensure the open space is used for its intended purpose; and
- (b) Provide for the continued and effective management, operation, and maintenance of the open space.

(2) Open space may be owned, preserved, and maintained as required by this Part by any of the following mechanisms or combinations thereof:

- (a) Common ownership of the open space by a property owners' association that assumes full responsibility for its management and maintenance;
- (b) Conveyance of the open space to a third-party organization, such as a land trust or civic organization, that is capable of and willing to accept responsibility for managing and maintaining the open space for its intended purpose;
- (c) Upon request of the applicant, dedication to a public agency that is capable of and willing to accept responsibility for managing and maintaining the open space for its intended purpose; or
- (d) Private ownership, if the owner is capable of and willing to accept responsibility for managing and maintaining the open space for its intended purpose.

(C) **Failure to Maintain Open Space.** In the event that any private owner of open space fails to maintain the same, the County, in accordance with the open space plan and following reasonable notice and demand that deficiency of maintenance be corrected, may enter the open

space to maintain the same. The cost of the maintenance will be charged to those persons having the primary responsibility for maintenance of the open space.

§ 154.107 RESERVED.

PART 4: TREE CONSERVATION¹³

§ 154.108 PURPOSE.¹⁴

- (A) The purpose of this Part is to preserve, protect, maintain, and increase tree canopy to enhance the quality of life within York County and to protect the public health, safety, and welfare.
- (B) Protection of the tree canopy is intended to:
- (1) Conserve natural resources and maintain an ecologically significant tree canopy;
 - (2) Require the preservation and planting of trees on sites across York County;
 - (3) Protect, facilitate, and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values;
 - (4) Prevent soil erosion while promoting soil stabilization and enrichment;
 - (5) Reduce the harmful effects of air pollution, wind, heat, noise, and the glare of motor vehicle lights;
 - (6) Provide shade for the citizens of York County;
 - (7) Emphasize the importance of trees and vegetation as both visual and physical buffers;
 - (8) Reduce water pollution;
 - (9) Minimize the cost of constructing and maintaining engineered stormwater drainage systems by facilitating natural drainage patterns and infiltration of stormwater runoff;
 - (10) Improve surface drainage and aquifer recharge;
 - (11) Moderate temperature and promote energy conservation;

¹³ This Part carries forward and significantly revises the Tree Conservation regulations contained in current Zoning Code §§ 155.530 through 155.539 and Appendices A through D.

The Zoning & Subdivision Codes Assessment recommends complete revision of the Tree Conservation requirements. This Part moves tree conservation regulations from the Zoning Code to the Land Development (Subdivision) Code. This Part implements York Forward Strategy LU-3.3.2 (Common Low Impact Development practices include tree preservation) and Codes Assessment Recommendations 03-45 (Completely revise the Tree Conservation subchapter), Update related Appendices as needed); 04-3 (Consider whether Tree Conservation regulations should be relocated as well) and 04-21 (Clarify exceptions to street tree location requirement).

¹⁴ This Section carries forward and expands the Statement of Purpose in § 155.530.

- (12) Encourage the protection and planting of native trees; and
- (13) Provide wildlife habitat by reducing forest loss and fragmentation.

§ 154.109 APPLICABILITY.¹⁵

(A) In General.

(1) The provisions of this Part apply to all new commercial, industrial, or multi-family land developments and all subdivisions of land created after the effective date of this Part, within all unincorporated areas of York County.

(2) This Part applies to single-family residential lots created along existing road frontages, newly developed roads, and other lots created through the provisions of this Chapter.

(3) This Part applies to street trees in residential subdivisions as provided in § 154.048: *Street Trees*.

(B) Exemptions.

(1) *Generally.* Agriculture, silviculture, horticulture, nursery operations, and the land development activities identified in § 152.007(B): *Prohibitions and Exemptions* of Chapter 152: *Stormwater Management and Sediment Control Ordinance* are exempt from the provisions of this Part.

(2) *Limitations.* Clearing trees through exempt activity as a means to prepare a site for non-exempt development to circumvent the requirements of this Part, including the requirements for tree save areas and preservation of grand trees, is prohibited.

(a) If all or substantially all trees are removed that would otherwise be protected by this Part pursuant to an application for a development permit, no such application shall be accepted for a period of one year after completion of the exempt activity.

(b) If the tree removal for an exempt activity constitutes a willful violation of this Part, no development application shall be accepted for a period of five years.

¹⁵ This Section carries forward and clarifies the current applicability provisions in § 155.531: JURISDICTION and § 155.530: INTRODUCTION AND STATEMENT OF PURPOSE. The Section exempts the exempt land development activities under Chapter 152: *Stormwater Management and Sediment Control Ordinance*. Clarifies penalty for use of exempt land clearing for development site preparation.

§ 154.110 TREE PLANTING AND RETENTION USED FOR OTHER REQUIREMENTS.¹⁶

- (A) **In General.** As specified in this Section, tree save areas and tree counts required or allowed by this Part may be the same areas reserved for tree counts required by other land development and zoning requirements.
- (B) **Bufferyards.** Retention of existing tree canopy for bufferyard plantings required by [Chapter 155, Subchapter D, Part 3: Buffers and Screening](#) is encouraged. Retention of existing trees for use as mandatory bufferyards of at least 25 feet in width may be used to satisfy tree save area and tree count requirements at 100% of the land area or tree number preserved.
- (C) **Open Space.** Retention of existing tree canopy for open space required by Part 3: *Open Space* of this Subchapter may be used to calculate tree save areas and tree counts. In order to qualify for inclusion as a tree save area, required open space must meet the standards for Natural Areas or Greenways as defined in § 154.103: *Minimum Dimensions and Composition of Open Space*. Retention of existing trees for Natural Areas and Greenways may be used to satisfy tree save area requirements at 100% of the land area preserved. Tree counts in all open space designations may be used to calculate tree count requirements.
- (D) **Floodplain and Wetlands.** Retention of existing tree canopy on land that is undevelopable because it is located within a Flood Hazard Area as defined by [Chapter 151: Floodplain Management](#) or within an area designated as wetlands by any State or Federal agency may be used to calculate tree save areas and tree counts. Retention of existing trees in floodplain and wetland areas may be used to satisfy tree save and tree count requirements at 100% of the land area or tree number preserved.
- (E) **Low Impact Development.** Retention of existing tree canopy on land that is used for low impact development techniques as defined in Part 2: *Low-Impact Development* may be used to calculate tree save areas and tree counts. Retention of existing trees in areas used for low impact development may be used to satisfy tree save and tree count requirements at 100% of the land area or tree number preserved.
- (F) **Street Trees.** Voluntary planting of street trees as provided in § 154.111: *Street Trees*. may be used for tree count requirements at 100% of the number of street trees planted.

¹⁶ This new Paragraph establishes the relationship between tree planting and retention requirements and other mandatory land development requirements, such as open space preservation. In general, all areas preserved and tree counts may be used to satisfy another land development requirement. Not all tree preservation is reciprocal. For example, only 50% of tree save area may be used to satisfy open space requirements under § 154.103(B)(2).

§ 154.111 STREET TREES.¹⁷

The planting of street trees in residential subdivisions is not required. Additional standards relating to street trees are provided in **§ 154.048: Street Trees.**

§ 154.112 TREE CONSERVATION AND REPLACEMENT.¹⁸

(A) Tree Save Areas

(1) *In General.* Tree save areas required by this Section shall meet the following requirements:

(a) *Calculated Area.* The acreage required for tree save area may be calculated through the use of aerial photography to estimate the existing tree canopy.

(b) *Minimum Area and Width.* All tree save areas shall be at least 2,000 square feet in area and 25 feet in width.

(c) *Identification.* Tree save areas shall be identified and tabulated on any preliminary or final plat, site plan, civil construction plan, or stormwater/grading plan.

(d) *Tree Survey Required.* A tree survey must be submitted along with any preliminary plat, site plan, civil construction plan, or stormwater/grading plan unless the development meets the conditions of § 154.112(A)(1)(d)2, below.

1. The tree survey shall specify the species, size, location, and health of all trees over six inches in diameter.

2. For each noncontiguous tree save area of three acres or greater, or for any development in the Rural Development District that is located entirely outside of the Urban Services Boundary, a 100-foot x 100-foot sample survey may be submitted in lieu of a full tree survey.

(e) *Trees to be Maintained.* Trees in a designated tree save area are to be maintained in their natural condition and may not be removed if they are healthy and in good condition. Removal of healthy trees from tree save areas will require mitigation by planting of new trees equal to at least 100% of the cumulative DBH of the trees removed.

¹⁷ This Section relocates the current street tree regulation to Subchapter C: *Infrastructure Standards*, Part 2: *Streets*. Implements Codes Assessment Recommendation 04-21 (Clarify exceptions to street tree location requirement).

¹⁸ This Section carries forward and expands the requirements of § 155.533: RESIDENTIAL DEVELOPMENT STANDARDS. Limits tree survey requirement to smaller sites. Expands tree save requirement to commercial developments.

(f) *Fee-in-Lieu of Tree Save Areas.*

1. In cases where tree preservation or planting is required but planting is impractical or would compromise the health of preserved or planted trees, as determined by the Planning and Development Services Director, the Director may approve a fee-in-lieu of tree save areas by payment to the York County Tree Fund.

2. The fee-in-lieu for tree save areas subject to this Subparagraph will be deposited in the York County Tree Fund and used for the purposes identified in § 154.117: *York County Tree Fund Established*.

3. The fee-in-lieu of required tree save areas is \$200/acre or a proportional fee per acre for lots that include fractions of an acre.

(2) *Residential Tree Save Requirements.*¹⁹

(a) Residential developments requiring preliminary plat approval and multi-family developments must retain a minimum of 20% of the existing onsite tree canopy as tree save area.

(b) To ensure the presence of significant stands of trees throughout a residential development, tree save area shall be separated into at least four non-contiguous areas, except in cases where existing trees are concentrated in less than four areas.

(c) Tree save areas must be preserved as tree save areas in perpetuity pursuant to the requirements of § 154.106: *Long-Term Preservation and Maintenance of Open Space*.

(3) *Non-Residential Tree Save Requirements.*²⁰

(a) New non-residential developments must retain a minimum of 15% of the existing onsite tree canopy as tree save area.

(b) If less than 15% of the total site has existing trees, additional trees must be planted at a rate of 36 trees (minimum 2-inch DBH) per acre to meet the 15% requirement.²¹

(c) In the event any existing tree canopy cannot be protected for the tree save area, then the tree save area must be provided at 150% of the area removed. Replacement trees of at least three inches DBH must be planted at 36 trees per acre.

¹⁹ This Subparagraph carries forward the mandatory 20% residential tree save requirement in recently amended § 155.533(B)(8): *Tree Preservation and Tree Surveys*. An illustration will be added to depict the 20% tree save requirement.

²⁰ This Paragraph creates a new non-residential tree save requirement of 15% based on staff feedback. It is modeled on Charlotte Zoning Ordinance § 21-94(a): *Tree Save Area and Tree Protection Zone Requirements for Commercial Development*.

²¹ An illustration will be added to demonstrate this requirement.

(B) Trees Provided on Individual Residential Lots.²²

(1) *Generally.* A developer or builder is required to provide trees on each individual residential lot in the minimum amounts established by this Subsection.

(a) When practical, this requirement should be met by retention of existing trees. However, supplemental plantings or entirely new plantings may be utilized.

(b) The Building Official will confirm compliance with the tree requirements for individual lots at the time of the inspection for the Certificate of Occupancy as described in § 154.118: Administration. Any new trees required by this Section must be trees listed in the **Approved Species List**.

(2) *Trees Required for Minor Subdivisions and Individual Plats.* On any lot that is part of a minor subdivision or individual plat pursuant to **§ 154.004: Applicability**, 15 cumulative inches (DBH) cumulative trees per acre are required on a residential lot. At least 70% of newly planted trees must be large maturing trees as defined in the **Approved Species List**.

(3) *Tree Required for Major Subdivisions.* For individual lots within a major subdivision, the following tree cover is required:

Table 154.112-1: Trees Required for Lots in Major Subdivisions

Lot Size	Required Large Maturing Trees	Required Small Maturing Trees
0-10,000 sf	2	1
10,001-20,000 sf	3	2
20,001-30,000 sf	4	2
30,001 sf – 1 acre	5	3
More than 1 acre	7	3

§ 154.113 PROTECTION OF GRAND TREES.²³

(A) Grand Trees.

²² This Subparagraph Carries forward the current tree requirements for residential lots in § 155.533: *Residential Development Standards*.

²³ This Section carries forward the current requirements for grand trees in § 155.533(B)(7): RESIDENTIAL DEVELOPMENT STANDARDS. The revision clarifies that it is broadly applicable for all uses. The revision also redefines grand tree based on tree species as suggested by staff. The current standard of 24" DBH is maintained as a catch-all for species that are not listed.

- (1) A grand tree is a tree or group of trees considered to be important community assets due to their unique or noteworthy characteristics.
- (2) A tree in fair or better health is considered a grand tree based on its species and size as shown in Table 154.113-1: *Grand Trees*.
- (3) A grand tree includes any tree that appears on the [South Carolina Champion Tree Inventory](#) maintained by the Clemson University Department of Forestry and Environmental Conservation.
- (4) Any tree that is an invasive species listed on the [State Plant Pest List](#), as maintained by the Clemson University Regulatory Services, is not a grand tree regardless of its size.

Table 154.086-1: Grand Trees	
Tree Type	DBH (inches)
Loblolly and shortleaf pine	32
American holly	12
Dogwood	9
Blackjack oak, redbud, sassafras, sourwood	6
Rare or endangered species	Any size
State champion trees	Any size
Invasive species	DNQ
All other species	24

Key: DNQ = Does Not Qualify

- (B) **Preservation of Grand Trees.** All grand trees must be retained on any development site except in the AGC District.
- (C) **Identification of Grand Trees.** Each grand tree located within the proposed limits of disturbance or fewer than 24 feet from the limits of disturbance must be located on all submittals, including but not limited to, preliminary and final plats, site plans, civil construction plans, and stormwater/grading plans. The species, size, and health information of the located grand trees must also be provided.
- (D) **Removal of Grand Trees.**
 - (1) *Penalty.* If a grand tree is removed without administrative approval, the grant of a waiver by the Planning Commission, or payment of a fee-in-lieu of tree preservation with

mitigation as set out in this Section, any non-agricultural development will be prohibited as provided in § 154.109(B)(2).

(2) *Administrative Approval.* The Planning and Development Services Director may grant the removal of certain grand trees. The Director may approve the request based on, but not limited to, the following:

(a) The location of grand trees on the property would cause detriment to public well-being in regard to sight visibility onto existing streets and hinder widening and enhancement plans for existing streets;

(b) The location of grand trees on the property would cause detriment to public well-being in regard to the placement of proposed utilities (electric, gas, water, sewer and the like);

(c) The location of grand trees on the property would cause detriment to public well-being in regard to drainage and stormwater measures;

(d) The location of grand trees on the property conflict with necessary elements of the site design that unreasonably impede or diminish the objectives of the development or prevent the provision of necessary features; or

(e) A professional arborist or landscape architect indicates in writing that the tree(s) is diseased, or the soil and climate are not suitable for proper growth and health of the tree(s), or the tree(s) is prone to cause property damage or personal injury.

(3) *Waiver by Planning Commission.* The Planning Commission may approve a waiver request under **Subchapter H, Part 10: Waivers** when strict application of the provisions of this Section would result in an unnecessary hardship.

(4) *Mitigation and Fee-in-Lieu.* Any grand tree that is removed, including those subjects to administrative approval or a waiver, must be replaced based on the criteria of this Subparagraph and a fee-in-lieu of preservation must be paid as stated in this Subparagraph.

(a) *Tree Mitigation Requirement for Removal of Grand Trees.* Land development activity that results in the removal of grand trees shall provide replacement or mitigation by planting of new trees equal to at least 75% of the cumulative DBH of the trees removed.

(b) *Fee-in-Lieu for Removal of Grand Trees.*²⁴ The fee-in-lieu for grand trees for grand trees that are subject to this Subparagraph will be deposited in the York County Tree Fund and used for the purposes identified in § 154.117: *York County Tree Fund Established*.

²⁴ This provision is new. Refer to § 154.090: *York County Tree Fund Established* for further details.

1. A grand tree that is removed shall be assessed with a fee of \$45 per caliper inch.
2. In no case shall the total fee-in-lieu requirement be more than \$25,000 per acre or a proportional fee per acre for lots that include fractions of an acre.

§ 154.114 PRESERVATION AND PLANTING REQUIREMENTS.²⁵

- (A) **New and Replacement Trees.** Any new trees required by this Subchapter must be trees listed in the **Approved Species List** provided in the Land Development Manual.
- (B) **Tree Planting Standards.** The form, size, quality, and proportions of proposed trees must meet the guidelines outlined in the American National Standards Institute (ANSI) Z60.1 American Standard for Nursery Stock. Installation and maintenance of new and replacement trees must meet the standards provided in the Land Development Manual.
- (C) **Healthy Trees.** Planted trees or existing trees on a property that are to be protected should be healthy, disease free, and clear of invasive species of flora or fauna.

§ 154.115 TREE PROTECTION DURING CONSTRUCTION.²⁶

(A) **Protective Fencing Required.**

(1) Protective fencing is required for any tree to be retained following construction. Protective fencing shall:

- (a) Be at least 4.5 feet in height and constructed of durable material, such as wood, plastic, or metal;
- (b) Completely encircle the critical root zone, defined as one foot of radius per inch of DBH, of all trees to be protected; and
- (c) Be in place prior to any earth disturbing activity begins and remain in place for the duration of the project.

(2) Groups of trees may be protected by one perimeter fence meeting the specifications outlined in this Section.

²⁵ This new Section summarizes and references the technical requirements that are currently located in the Appendices that will be moved to the Land Development Manual.

²⁶ This Section significantly expands the tree protection measures contained in § 155.289(C): LANDSCAPING based on the criteria in the current Appendices.

- (B) **Signs Required.** Signs must be installed on the protective fence visible on all sides of the fenced-in area (minimum one on each side or every 300 linear feet). The sign must contain the following or similar text in both English and Spanish: "TREE PROTECTION ZONE: KEEP OUT."
- (C) **Development Activity Within Fenced Area Prohibited.** No construction, grading, parking, equipment, material storage, or any other land development activity is allowed within the fenced area at any time during the project.
- (D) **Trenching and Boring.** Trenching will not be allowed without the Director's approval. Boring may be allowed with consultation by an arborist and approval of the Director.
- (E) **Compaction.** Where compaction might occur due to the necessity of moving traffic or materials through the tree protection zone, the area must first be mulched with a minimum four-inch layer of processed pine bark or wood chips or a six-inch layer of pine straw.
- (F) **Additional Requirements.** Additional technical specifications for tree protection during construction is provided in the Land Development Manual.

§ 154.116 TREE MAINTENANCE.²⁷

- (A) **Applicability.** This Section provides for the ongoing maintenance of trees required under this Part. The maintenance requirements of this Section do not apply to tree save areas, which are to be maintained in a natural condition.
- (B) **Non-Residential Development.** The owner of non-residential property where trees have been preserved or installed pursuant to this Part is responsible for the maintenance and protection of all plant and screening material for the duration of use of the premises.
- (C) **Residential Development.** For residential developments, trees that have been preserved or installed pursuant to this Part will be maintained by the developer or the homeowners or property owners association in perpetuity pursuant to the repair and maintenance requirements of [154.013: Required Covenants, Conditions, and Restrictions](#).
- (D) **Maintenance Standards.**
- (1) All landscape material, maintenance, and management must conform to the minimum standards of the ANSI A300 Standards for Tree Care Operations.

²⁷ This Section significantly expands the details for tree maintenance required by current § 155.537 MAINTENANCE REQUIREMENTS AND REINSPECTIONS FOR NONRESIDENTIAL SITES. Expands maintenance requirements from only non-residential sites to include residential development.

(2) Mulch should be installed and maintained according to ANSI A300 Standards for Tree Care Operations. The tree's root flare should always be visible with correct mulching techniques.

(3) Trees may not be severely trimmed and should only be pruned according to the standards of ANSI A300 Standards for Tree Care Operations. If aggressive trimming occurs, the property will be considered nonconforming and required to replace the trees with trees meeting the minimum size, spacing, and quantity standards of this Part.

§ 154.117 YORK COUNTY TREE FUND ESTABLISHED.²⁸

(A) The York County Tree Fund will be established as a separate, interest-bearing account managed by the County, and will be used solely for the purposes of:

- (1) Tree purchase and installation of new trees on public property and rights-of-way;
- (2) Maintenance of existing tree canopy on public property and rights-of-way;
- (3) Purchase of real property for the purposes of tree plantings;
- (4) Purchase conservation credits for public development projects; and
- (5) Administration of the activities authorized by this Section.

(B) In cases where tree preservation or mitigation is required but planting is impractical or would compromise the health of preserved or planted trees, as determined by the Planning and Development Services Director, the Director may approve a fee-in-lieu of mitigation by payment to the York County Tree Fund. Fees will be calculated based on the requirement for fee-in-lieu payments in the applicable Section of this Part.

§ 154.118 ADMINISTRATION.²⁹

(A) **Tree Protection and Tree Planting Plans.**

(1) *Tree Protection Plans.* The applicant must submit a tree protection plan that conforms with the requirements of the Land Development Manual and **Chapter 152: Stormwater Management and Sediment Control Ordinance.**

²⁸ This new Section proposes a York County Tree Fund for deposits from any fee-in-lieu payments made by developers. It is based on feedback from Staff.

²⁹ This Section combines administrative and submittal requirements from § 155.533 (tree surveys and grand tree identification); and § 155.536 PERMITTING AND VERIFICATION REQUIREMENTS, as well as the current Appendices.

(2) *Tree Planting Plans.*

(a) *For Individual Residential Lot Trees.* No written tree planting plans are required from developers, builders, or lot owners. Instead, the standards in § 154.112(B) shall apply to residential lots upon submission of a construction plan or building permit and will be evaluated prior to the Certificate of Occupancy upon completion of dwellings on each lot.

(b) *For Compliance with Other Standards.* For any other tree planting or replacement requirement of this Part, the Applicant must submit a tree planting plan indicating locations, counts, sizes, and species of all trees. The tree planting plan must be prepared by a landscape architect licensed in the state of South Carolina, The Land Development Manual includes additional standards.

(B) **Review.**

(1) Upon submission of a preliminary plat or site plan, the Planning and Development Services Department staff will verify that the plan complies with the requirements of this Part.

(2) In the event the plantings identified in the submittal do not meet the required overall minimums, additional plantings will be required in order to meet the minimum.

(C) **Inspections and Compliance.**

(1) An inspection of all sites must be conducted prior to the issuance of a Certificate of Occupancy. The Certificate will be withheld if the lot is not in compliance with the requirements of this Part.

(2) For any required tree preservation, planting, or replanting, if trees are observed by the inspector to be injured or threatened, they may be deemed ineligible to satisfy the requirements of this Part.

§ 154.119 ENFORCEMENT.³⁰

(A) **Violations.** Violations of this Part will be processed, enforced, and penalized as provided in [Subchapter J: Enforcement](#).

(B) **Mitigation.** In addition to the enforcement and penalties in [Subchapter J: Enforcement](#), through actions that result in a removed or compromised tree in violation of this Part, a property owner may be required to replant trees at a rate not to exceed one inch DBH of trees for each one inch DBH of trees that are removed or compromised.

³⁰ This Section carries forward the language of § 155.538: ENFORCEMENT with an updated cross-reference.

§ 154.120 RESERVED.