

LEXINGTON COUNTY



LANDSCAPE ORDINANCE

August 25, 2004

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Landscape Ordinance Lexington County, South Carolina

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Article 1 – Authority

1.1 Authority and Jurisdiction

In accordance with the authority conferred by the 1994 “South Carolina Local Government Comprehensive Planning Enabling Act,” S.C. Code Sections 6-29-310 through 6-29-1200, the County of Lexington does hereby establish and enact the following Landscape Ordinance for the unincorporated area of Lexington County, South Carolina.

1.2 Intent

The purpose of this Ordinance is to protect and enhance the character, appearance, and image of Lexington County through attractive and creative landscape design; to ensure land-use compatibility through proper use of vegetation as a transition area and screen; and to preserve scenic, canopied tree corridors.

1.3 Scope of Regulations

Except as otherwise stated, the regulations set forth herein shall apply to all Residential Attached (3 or more) dwelling units, as defined within the Lexington County Zoning Ordinance, and all non-residential development within the unincorporated area of Lexington County, with the exception of the following development conditions/activities:

- a. Any public road construction or utility construction project, except as described in Article 3, Section 4, “Service Areas and Utilities.”
- b. Any land used for Crops and Animal Raising, as defined in the Lexington County Zoning Ordinance. This definition includes the raising of trees, vines, field, forage or other plant crops intended to provide food or fiber. However, processing areas, buildings, and retail or wholesale activities related to crops and animal raising are not exempt from the terms of this Ordinance.
- c. Non-residential development containing a parking lot that is used as a display/storage area greater than ten thousand (10,000) square feet shall be exempt from the provisions of Article 3, Section 3, “Parking Lots”, within the display area only. (i.e., Automobile, Boat and Craft dealerships; truck terminals; etcetera).

Some of the residential activities, exempted above from the scope of these regulations, must follow the requirements of Section 7, Scenic Corridor Protection.

1.3.1 New Activities

Upon the effective date of this Ordinance any building, structure, or tract of land shall be used, constructed, or developed only in accordance with the applicable regulations contained herein.

1.3.2 Existing Activities

Any activity legally established prior to the effective date of this Ordinance which does not comply with its regulations shall be subject to the Nonconforming Use provisions of Article 4.

1.3.3 Existing Permits

Building permits or zoning permits lawfully issued before the effective date of this Ordinance or subsequent amendment shall remain in effect provided that such building, structure, or activity is substantially underway and being diligently pursued within six months of the issuance of the permit. If such does not occur, then the permit shall automatically lapse and the provisions of this Ordinance shall apply.

1.4 Establishment of Districts

1.4.1 Road and District Classifications

In order to implement the provisions of this Ordinance, the following road classification and districts are hereby established:

LU - Land Use District (See Article 3, Section 2)
PL - Parking Lot District (See Article 3, Section 3)
SA - Service Areas/Utilities District (See Article 3, Section 4)
BD - Building Design District (See Article 3, Section 5)
RC - Road Corridor District (See Article 3, Section 6)

Scenic Corridor - Those roads designated as Scenic Corridors will carry the extension "/S" after their road classification as created by the Zoning Ordinance. (e.g. "A/S", "C/S", or "L/S").

1.4.2 Landscape Maps

The Landscape Maps will show the portions of the County within which each of the provisions applies.

1.5 Incorporation of Maps

The location and boundaries of Scenic Corridors and of Landscape Districts established to implement the provisions of this Ordinance are shown on the Landscape Maps, which are hereby incorporated into the provisions of this Ordinance. These maps in their entirety, including all map amendments, shall be as much a part of this Ordinance as if fully set forth and described herein.

1.6 Exclusions

Because such activities are developed with benefit of public hearings and other input, any facility or activity established or expanded by Lexington County is exempt from the provisions and administrative procedures of this Ordinance. However, the development plan for all such exempt activities shall be devised with a diligent effort to meet the requirements of this Ordinance.

Article 2 – Definitions

2.1 Interpretation

This Ordinance shall be interpreted according to its literal terms. Words shall be construed as defined in a standard dictionary and syntax shall be understood according to conventional rules. Final interpretation shall be by the Landscape Administrator. Any appeal of that interpretation may be made to the Lexington County Board of Zoning Appeals.

Unless the context requires otherwise:

- a. The present tense of verbs shall include the future tense;
- b. The masculine gender shall include the feminine;
- c. The singular shall include the plural, and the plural shall include the singular; and,
- d. The word “shall” denotes a mandatory requirement; the word “may” denotes permission.

2.2 Definitions

The following terms shall have the following definitions:

Activity – the performance of a function or operation which constitutes the use of the land; specific activities referred to in the Landscape Ordinance shall be considered as defined in the Zoning Ordinance for the County of Lexington.

Arterial, Collector, or Local Roads – any roads bearing these road classifications as defined in the Lexington County Zoning Ordinance and shown on the Zoning Maps.

Berm – A hill or slope (man-made or natural) which represents a change in elevation and serves as a screening tool.

Building Area – That portion of a structure that is defined by the “footprint” and/or total square footage.

Caliper – The diameter of nursery stock, taken at six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes.

Critical Root Zone – A protection zone measured as one foot in radius around a tree for every one inch in diameter (D.B.H.) of the tree.

Diameter Breast Height (D.B.H.) – The accepted measurements of established trees in the ground is their diameter at breast height, measured at 4 ½ feet above grade. To obtain the D.B.H., measure the circumference of the tree in inches and divide by 3.14 (pi).

Groomed Condition – refers to a manicured, adorned, prepared, or otherwise formally landscaped setting; not in a natural state.

Landscape Administrator – The county official assigned to administer, interpret, and enforce the Landscape Ordinance.

Natural Condition – refers to a native, indigenous, unpruned, unaltered setting or planting.

Parking Lot – Any parcel of land, or portion thereof, which is used for parking, loading, or associated circulation, whether paved or unpaved.

Road Frontage – Area of land adjacent to a road right-of-way.

Screen, Screening – Any structure or vegetative stand, or combination of both, which is used for the purpose of blocking views, noise, and light or glare from neighboring properties and, where required, road rights-of-way. Total and partial screening is further defined in the Lexington County Zoning Ordinance.

Shrub – Any hard-wooded perennial plant of a species which normally reaches a height between twelve inches and eight feet.

Stabilizing Vegetation – Any plant material which serves to prevent soil erosion by covering large areas of ground, and which does not grow beyond twelve inches in height. May also be referred to as “ground cover.”

Transitional Area – Area of land, improved by landscaping and/or screening, designed to minimize the impact of high-intensity land uses on neighboring, lower-intensity uses.

Tree – Any hard-wooded perennial plant, whether coniferous or deciduous, of a species which normally reaches a height of eight feet or more at maturity.

Tree, Canopy, Large – Any single-stem tree of a species which normally reaches a height of thirty feet or more and a crown spread of twenty feet or more at maturity.

Tree, Understory, Small – Any single- or multi-stem tree of a species which normally reaches a height of between eight and thirty feet and a crown spread of less than twenty feet at maturity.

Trophy Tree – A tree of significance due to its size, relative to its species. See Appendix.

Underbrush – Naturally occurring vegetation and vines that are not necessarily shrubs or trees.

Vision Clearance Triangle – as described in the Lexington County Zoning Ordinance.

Article 3 – Landscaping Requirements

Section 1. General

Improving the aesthetics of thoroughfares and other public spaces contributes to the general welfare, prosperity, and pride of a community, while mitigating potential environmental damage and promoting harmonious activities.

The following landscape requirements are established in order to preserve and enhance existing vistas; provide shade; improve appearance; break up large expanses of impervious surfaces; improve ground water discharge; promote air purification and oxygen regeneration; and to promote adequate light, air, and open space for the citizens of Lexington County and its visitors.

It is the intent of this article to encourage creativity and good practice in design, as well as flexibility in the application of design standards, by placing emphasis on the use of a variety of elements and diverse planting groups to achieve the desired results.

3.1.1 Pre-Development Activity

- a. The appropriate land disturbance permit(s) must be obtained prior to the removal of any stumps, root systems, or stabilizing vegetation.
- b. Clearing and Landscape Plans may be required as part of the Landscape Review process. The plans must demonstrate how the developer will meet the requirements of the Ordinance as well as show various existing conditions. Clearing and Landscape plans will contain, at a minimum, the following information:
 - a. Total acreage of parcel;
 - b. Area to be developed;
 - c. All trophy trees on the parcel;
 - d. Proposed location of any structures;
 - e. Proposed location of service areas, such as garbage collection; and,
 - f. Proposed location of detention/retention ponds.
- c. Once necessary development approvals have been granted and permits obtained, and prior to the commencement of any clearing, grading, tree removal or construction on a site, the developer shall cause all protected trees to be marked with surveyor's flagging in a uniform manner that clearly identifies those trees to be retained. At the discretion of the Landscape Administrator, passive forms of marking may be used (i.e. continuous rope or flagging for areas which are remote from human activity or heavily wooded).

3.1.2 Planting and Maintenance

- a. To the greatest extent possible, the development plan should address the location of excavation for activities such as utilities to avoid root damage to trees being preserved or planted.
- b. There shall be no construction, paving, grading, trenching, digging, excavation, operation of equipment or vehicles, cement rinsing, chemical usage or storage of materials within the critical root zone of any tree being preserved.

- c. New trees must be planted properly, to include soil/site preparation and protection of roots. See Appendix.
- d. New trees and preserved trees must be properly maintained. Any trees required by this Ordinance that die must be replaced within 45 days. The Landscape Administrator may extend this replanting period based on the climactic and planting conditions of the season, or other unusual conditions.

3.1.3 Species Selection

- a. The Landscape Administrator shall approve the number, type, size and location of all trees required by the Ordinance. This shall be accomplished in a manner that ensures creativity and variety in design, height, texture and color and that discourages single rows of identical plantings, with the exception of street trees along major road corridors which may have to be planted/retained in a single row. To the greatest extent possible, required landscaping shall replicate the surrounding natural conditions.
- b. Tree specimens proposed for planting shall be hardy for the particular soil and climate conditions they will encounter and located in such a manner as to encourage mature growth.
- c. The minimum required caliper of trees to be planted as required by this Ordinance shall be 12' tall and 2" caliper for canopy trees and 6' tall for understory trees, with no minimum caliper for understory.
- d. The thinning of understory trees and other vegetation within a development may be approved or required by the Landscape Administrator to encourage the healthy maturation of preferred trees.
- e. Except as otherwise provided for within this Ordinance, all trees identified as trophy trees shall be preserved.
- f. To encourage diversity and flexibility of design, no more than 60% of any one species of tree may be used in the overall development plan.

3.1.4 Location

- a. The provisions of this Ordinance are not intended to create a conflict with signs or entrances to any residential or non-residential development. All signs and entrance ways should be designed and located in such a manner as to be enhanced by the landscaping requirements and existing vegetation. All locations of signs and driveways must meet the requirements of the Lexington County Zoning Ordinance.
- b. Trees, planted or raised islands, berms, shrubs and service areas shall be placed outside the vision clearance triangle at any intersection with a road right-of-way, with the full mature size of the plant being taken into account. In addition, these features shall be located in such a manner as to not create a vision hazard for those citizens navigating internal travel lanes, driveways, and parking lots. Regular maintenance of these features to ensure a clear line of sight is required.

- c. The presence of underground or overhead utilities shall be taken into consideration when determining the type and placement of required trees.

3.1.5 Exceptions to Location Requirements

- a. In the event that a trophy tree is located on a lot within the proposed building footprint and no reasonable redesign of the building to preserve the tree can be identified, the Landscape Administrator has the authority to allow the trophy tree to be removed.
- b. Within the development process, any tree that has been certified in writing as being hazardous to public health, safety or welfare shall be removed, to include trees identified as trophy trees.

3.1.6 Planting Islands

All planting islands must be designed with a minimum 160 square feet of pervious area for each tree. Each tree trunk in a planting island must be at least 4 feet from any impervious area, to include curbing.

Section 2. Land Use Compatibility

To meet the demands of the consumer in both the residential and non-residential marketplace, there are often land uses located adjacent to or in the proximity of one another that are not necessarily compatible. The following requirements are set forth both to address privacy and aesthetic considerations, as well as minimize the effects of differing or incompatible land uses through the use of vegetated transition areas, screening and noise control. Design considerations will include the visibility between such uses, existing topography, and existing natural elements. The design review process will encourage creative site design, building design, and building arrangement.

3.2.1 Application

- a. This section shall apply where there is a buffer and/or screening requirement of the Lexington County Zoning Ordinance.
- b. No improvements required by this section may encroach upon a public or private road right-of-way.

3.2.2 Pre-Development Activity

There shall be no clear-cutting or other removal of vegetation within any buffer required by the Lexington County Zoning Ordinance, without the submission of a clearing plan for approval by the Landscape Administrator.

3.2.3 Clearing Plan

Clearing plans submitted for development involving a buffer shall include the following, in addition to the general plan requirements:

- a. Location of buffer as required by the Zoning Ordinance;
- b. Location of screening as required by the Zoning Ordinance;
- c. Location and identification of all canopy trees with a D.B.H. eight inches or greater, and of all understory trees with a D.B.H. of four inches or greater; and,
- d. Location and identification of all trophy trees.

3.2.4 Preservation Within Buffers

- a. Except as otherwise provided for in this Ordinance, there shall be no removal of canopy trees, understory trees, or underbrush within the buffer.
- b. Where there is not sufficient existing vegetation, or where topography requires encroachment into the buffer during the development process, vegetation shall be planted or re-planted within the buffer at a minimum average density of one group for every 35 feet, or portion thereof, of buffer area.
- c. Groupings of materials shall be any approved combination of the following:
 - One large canopy tree and three understory trees
 - One large canopy tree and three large evergreen shrubs
 - Equivalent combination as approved by the Landscape Administrator

- d. In all cases, preservation and planting of underbrush, understory trees, and canopy trees that are appropriate for the setting is encouraged. The preservation or planting of undesirable underbrush, understory trees, and canopy trees is discouraged.

3.2.5 Screening

- a. The use of vegetation for screening is strongly encouraged. However, where a wall, fence or berm is proposed or being used to satisfy the screening requirements of the Lexington County Zoning Ordinance, at least 50% of the line of screening must be vegetation in front of or in place of the wall, fence or berm to soften the effect. The vegetation must be placed on the protected property line side of the structure.
- b. Whether installed to meet the screening requirements of the Zoning Ordinance or not, all walls, fences or berms visible from the road and less than 500' from the road right-of-way shall also have vegetation in front of at least 50% of the structure.
- c. Access and room for maintenance must be incorporated into the design and placement of the structure and subsequent vegetation.

Section 3. Parking Lots

Parking lots are a natural product of most land uses. The intent of this section is not to fully screen or hide them from view, but to enhance their appearance, break up vast flat visual expanses, provide shade, promote air circulation, and reduce stormwater runoff.

3.3.1 Design Requirements

- a. A parking lot design plan shall be included in the landscaping plan submitted to the Administrator as part of the review process.
- b. Parking spaces that are adjacent to a sidewalk, pedestrian/bike path, or road right-of-way shall be designed such that there is some natural or other element to prevent the bumpers, fenders or doors of vehicles from intruding into the path of pedestrian or vehicular traffic outside the parking space.
- c. All parking lots shall adhere to the minimum space requirements of the Lexington County Zoning Ordinance and the minimum accessible space requirements of the Lexington County Building Code.

3.3.2 Islands

- a. Parking lots that are designed with planted or raised islands shall include an obvious means of pedestrian egress through or between islands at reasonable intervals.
- b. Parking lots that are designed with planted or raised islands shall design the location of the islands so as not to interfere with the opening of car doors in adjacent spaces.

3.3.3 Trees

- a. All developments with greater than eight surface spaces of parking area and associated circulation must include the use of large canopy trees throughout the parking area. In no case shall a parking space be greater than 50 feet from the trunk of a tree. Trees shall be provided at a minimum average density of 1 tree per every 8 spaces.
- b. Where overhead utilities exist or are planned, understory trees may be required instead of large canopy trees, at a replacement density of three understory trees for each canopy tree.

Section 4. Service Areas/Utilities

This section is intended to safeguard the public from the dangers of attractive nuisances, improve community appearance, and minimize noise associated with the operation of service areas and maintenance of utilities while recognizing the necessity of service areas for public health, welfare, and personal conveniences.

3.4.1 Application

- a. The requirements of this Section shall apply to all service areas, equipment, and structures related to garbage collection, utilities and communication, as well as all detention and retention ponds, or other similar stormwater holding areas, to include those in residential subdivisions.
- b. This section shall not be construed to deny access by vehicles and equipment to service areas or for maintenance of detention and retention ponds.

3.4.2 Service Areas and Utilities

- a. Service areas and equipment/structures related to garbage collection, utilities, and communication (i.e. voice, data, or visual) must be screened from view from public rights-of-way and adjoining property through the use of landscaping, berming and/or fencing, or a combination thereof.
- b. All garbage collection sites and containers shall be shielded on all sides by screening that is 100% opaque and at least one foot higher than the item, but not less than six feet regardless of the height of the container. One side may remain open to accommodate receptacle pick-up, provided the open side is positioned to have the least visible impact on surrounding properties and roads. Nothing in this provision implies or allows non-compliance with the maximum permitted noise levels as found in the Lexington County Zoning Ordinance.
- c. Non-power utility fixtures, substations and exposed metal cabinets greater than five feet in height shall be screened from view from any private or public street and from adjoining developed property to the extent practicable after consideration of proper equipment operation, code compliance, security, access and maintenance.

3.4.3 Detention/Retention Ponds

- a. Detention and retention ponds, or other holding areas that are part of a storm/surface water system, should be enhanced as an amenity of the development.
- b. Unless designed as an integral part of a landscape plan or featured as an amenity (i.e., water features in a wet bottom basin or recreation/open space in a dry bottom basin) all detention ponds, retention ponds, or other similar holding areas shall be screened from view from any existing or future private or public street and from adjoining property.
- c. The development of any system shall be in accordance with the provisions of the Lexington County Stormwater Management and Sediment Erosion Control Ordinance, to include the requirement of fencing for safety purposes.

3.4.4 Screening

The use of vegetation for screening is strongly encouraged, however, if fencing or a wall is used for screening of service areas, utilities, or ponds, at least 50% of the structure shall be softened with shrubbery or other vegetation. The vegetation must be placed on the outside property line of the structure. Access and room for maintenance must be incorporated into the design and placement of the structure and subsequent vegetation.

Section 5. Building Design

Landscape features are typically used to visually improve large expanses of concrete or other building materials, mask blandness and blank walls, and compensate for a lack of architectural elements. This section recognizes that good building design and placement can also accomplish this, thus turning landscape features into a frame or enhancement of the building.

3.5.1 Application

- a. Non-residential and Residential Attached (3 or more dwelling units) activities, as described in the Lexington County Zoning Ordinance, shall have all facades visible from the road and less than 500 feet from the right-of-way designed or landscaped in accordance with this section.
- b. Where it is determined by the Landscape Administrator that a building is designed to have all visible facades architecturally enhanced (coining, window treatments, lighting features, etcetera), landscaping may not be a requirement.

3.5.2 Design Elements

- a. Developments whose buildings include great expanses of unadorned, blank walls typical of an industrial, retail, or warehouse use shall include a landscape enhancement plan to screen these walls as part of the development review process.
- b. Acceptable architectural elements in lieu of landscaping should relate to surrounding building materials and scale.
- c. Landscape elements should be of varying heights, textures, and number. They should be spaced intermittently along the designated wall and should not produce the visual effect of a straight hedge.
- d. Landscape design is not intended to hide signage or entrances, rather to frame, enhance, and invite. Signs and driveways should be located in such a manner as to not be obstructed by landscaping or architectural features.

Section 6. Road Corridors

It is recognized that a number of thoroughfares in Lexington County have lost their natural canopies and scenic qualities due to development and road widening projects. It is important then, to the greatest extent practical, that trees in public spaces along the main byways through the community be preserved or reestablished.

3.6.1 Identification of Road Corridors

Any road identified as an Arterial, Collector, or Local Road by the Lexington County Zoning Ordinance shall be considered a road corridor. Where any road corridor or portion thereof is also identified as a scenic corridor, the requirements of Section 7, "Scenic Corridor Protection," shall prevail.

3.6.2 Pre-Development Activity

Recognizing that in some instances lot-clearing and replanting may be the most cost-effective method of development, and that some existing trees are not suitable or desirable as street-frontage trees, developers are encouraged to identify those trees along road corridors that may be preserved during the clearing and development process. The Landscape Administrator may approve preservation of these trees in lieu of or in combination with specific re-planting efforts.

3.6.3 Trees

- a. Street frontage trees shall average at least one tree per forty (40) feet of frontage, or portion thereof.
- b. Where there are not sufficient existing street frontage trees at development sites on road corridors, the Landscape Administrator shall require the addition of canopy or understory trees, or a combination of the two, in order to enhance the street-scape and public space created by development along road frontage.
- c. Street frontage trees required to be planted shall be setback at least 10 feet, but not greater than 20 feet, from the future road right-of-way as established in the Right-of-Way Plan and set forth in the Lexington County Zoning Ordinance.
- d. Large canopy trees to provide shade will be required except where there exist overhead utilities. Where overhead utilities exist or are planned, understory trees may be required instead of large canopy trees, at a replacement density of three understory trees for each canopy tree.
- e. The location of signs and driveways as part of the development shall take into account the required addition of trees. Signs should be designed and placed in a manner so as not to be obstructed by the required street frontage trees along a road corridor.

Section 7. Scenic Corridor Protection

Certain roads in the County, or portions thereof, shall be established for preservation because of their unique character, to include the existence of long-standing natural tree canopies. These scenic roads have an important role in environmental quality, sense of community and history, and economic development. The following provisions are established in order to preserve and protect the natural vistas of certain thoroughfares and byways within the County. Development along these corridors shall be designed with the principal purpose of accommodating and preserving existing tree canopies, to the greatest extent possible. The intent of this Ordinance is not to prohibit extensive development along these corridors, but to retain the unique character in the process of development.

3.7.1 Identification of Scenic Corridors

Criteria for identifying scenic road corridors under this section shall be established by the Lexington County Planning Commission and approved by Lexington County Council. Criteria may include, but not be limited to, the presence of extremely significant tree canopy or cover.

The Landscape Maps identifying roads or sections of roads in the unincorporated area of Lexington County that meet the established criteria will be recommended by the Planning Commission and approved by County Council.

Scenic corridors may be removed from or added to the map upon a recommendation of the Planning Commission and approval of County Council.

3.7.2 Scope of Regulations

This section shall apply to activities as outlined in Section 1.3. Additionally, the following residential activities shall also be required to follow the restrictions in this section on Scenic Corridor Protection:

- a. Residential subdivisions that have lots developed with frontage on a Scenic Corridor. The requirements of this section shall not apply if the portion of the lot that fronts the road is the front yard of the residence.
- b. Developments that contain Residential Attached (two dwelling units) activities.
- c. Mobile Home Parks.

3.7.3 Pre-Development Activity

There shall be no clear-cutting, timbering, or other removal of canopy trees, understory trees, or underbrush within 50 feet of any existing right-of-way along a scenic corridor without the submission of a clearing plan for approval by the Landscape Administrator.

3.7.4 Clearing Plan

Clearing plans submitted for activities along scenic corridors shall include the following, in addition to the general plan requirements:

- a. Location and identification of all canopy trees with a D.B.H. of eight inches or greater, and all understory trees with a D.B.H. of four inches or greater.

- b. Location and identification of all trophy trees.

3.7.5 Preservation Requirements

- a. Except as otherwise provided for in this Ordinance, there shall be no removal of canopy trees, understory trees, or underbrush within the first 25 feet along a Scenic Corridor. The only development allowed within the first 25' behind the road right-of-way shall be a sign and an entrance driveway regardless of any buffering requirements of the Lexington County Zoning Ordinance.
- b. Except as otherwise provided for in this Ordinance, all canopy trees with a D.B.H. of eight inches or greater, and all understory trees with a D.B.H. of four inches or greater, shall be preserved within the area 26 - 50 feet deep along a scenic corridor.
- c. Parking, groomed conditions, and natural conditions may be utilized within the area 26 - 50 feet deep along a scenic corridor to augment the preserved trees.
- d. Where the imposition of a 50-foot zone represents greater than 20% of the area of a parcel, as platted prior to the enactment date of this ordinance, the combined natural and landscaped zone may be reduced from 50 feet to 20% of the parcel area. This reduced area shall be proportionately shared between the natural conditions and other uses as described above.
- e. Where there is a significant break or gap in an existing tree canopy along an identified Scenic Corridor, the Landscape Administrator shall require that the first twenty five feet be preserved in as natural a condition as possible with an opportunity for the area to re-vegetate naturally in a manner similar to other portions of the corridor. Where there are no substantial trees in this area, the Landscape Administrator may require street frontage trees (as required in Section 6. Major Road Corridors) to average at least one tree per twenty (20) feet of frontage, or portion thereof.
- f. In all cases, preservation of underbrush, understory trees, and canopy trees that are appropriate for the setting is encouraged. The preservation or planting of undesirable underbrush, understory trees, and canopy trees is discouraged.

3.7.6 Signs and Entranceways

Proper preservation of scenic corridors is compatible with the economic feasibility and visibility of development. The placement of signs and entranceways along a scenic corridor shall be designed in such a manner as to minimize the impact on preserved trees.

3.7.7 Additional Zoning Requirements

Where there is a scenic corridor designation, additional restrictions are contained in the Lexington County Zoning Ordinance.

Article 4 – Nonconformity

4.1 Purpose

The purpose of this Article is to control, improve or terminate activities which do not conform to one or more provisions of this Ordinance. If an activity was legally established with all required local, state and federal land use permits and approvals, yet does not currently conform to one or more provisions of this Ordinance, it may qualify as a legal nonconformity.

4.2 Right to Continue a Nonconformity

A legal nonconformity may be continued without compliance with this ordinance if the degree of nonconformity is not increased. This means that modifications, enlargements, expansions, extensions, substitutions or other changes in the nonconforming activities or facilities must comply with the provisions of this Ordinance as follows:

Any building enlargements, expansion of parking facilities, and other expansions of use must meet the applicable sections of this Ordinance, for the expansion or enlargement only.

Any substituted use that must meet a greater buffer or screening requirement under the Lexington County Zoning Ordinance than the legal nonconformity will be required to meet the requirements of Article 3, Section 2, "Land Use Compatibility."

4.3 Required Conformance of Legal Nonconformities

All properly permitted activities which are nonconforming as of the date of the implementation of this Ordinance shall be allowed to remain as developed.

4.4 Required Notice

Notice must be given by the Landscape Administrator at least six months prior to the enforcement of any of the provisions of this Article.

Article 5 – Administration

Section 1. General Provisions

5.1.1 Landscape Administrator

The administration and enforcement of this Ordinance shall be the responsibility of the Lexington County Landscape Administrator.

a. Duties

1. Administer and enforce all applicable provisions of this Ordinance.
2. Administer and enforce the actions of the Board of Zoning Appeals as related to this Ordinance.
3. Attend all meetings of the Board of Zoning Appeals related to this Ordinance.
4. Maintain current and permanent records relative to the adoption, amendment, administration, and enforcement of this Ordinance.
5. Provide information to the public on all matters relating to this Ordinance.

b. The Landscape Administrator, or persons engaged by him to perform tests or any other duties, may enter upon any land within the jurisdiction of this Ordinance and make examinations and surveys. They may also place or remove public notices as required by these regulations. However, there shall be no right of entry into any building without the consent of the owner.

5.1.2 Site Plan Review

Buildings, structures, or activities within the unincorporated area of the County which fall under the provisions of this ordinance must submit a site plan for review and approval prior to construction or development. The site plan should include information and exhibits as deemed necessary to determine that the proposed development of the property complies with this Ordinance. The Landscape Administrator may alter those requirements in order to avoid the submission of either unnecessary or inadequate information.

5.1.3 Compliance

No building, structure, or activity for which a landscape review shall be completed shall be used or occupied until the Landscape Administrator has indicated that compliance has been made with all applicable provisions of this Ordinance.

5.1.4 Fees

A fee established by County Council shall be assessed for every site plan reviewed for compliance with the provisions of this Ordinance. This fee shall be paid to Lexington County before or upon the issuance of any plan approvals, except when deemed unnecessary by the Landscape Administrator for purposes of enforcement of this Ordinance.

Section 2. Variances and Appeals

- 5.2.1** The Lexington County Board of Zoning Appeals shall serve as the appeal body for any variance requests or appeals sought under the provisions of this Ordinance.
- 5.2.2** A written application for a variance or appeal shall be filed with the Landscape Administrator by the property owner or his designated agent or the aggrieved party. Copies of the application shall be transmitted to members of the Board. A fee established by County Council shall accompany every application.
- 5.2.3** Procedures governing the Board of Zoning Appeals shall be as determined in the Lexington County Zoning Ordinance.
- 5.2.4** The County shall have the option of having its own independent expert(s) review materials submitted by the applicant and advise the Board in its deliberations.

Section 3. Amendments

5.3.1 Purpose

The Lexington County Council may, from time to time, amend the text of this Ordinance in the manner set forth below, where it is alleged that there was an error in the original Landscape Ordinance, where conditions have changed so as to warrant a change in landscape requirements, or where in the opinion of the Lexington County Council, such change shall serve to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of Lexington County.

5.3.2 Procedures

Amendments to this Ordinance may be proposed by the Lexington County Council, the Lexington County Planning Commission, or by an interested party.

- a. An application for amendment shall be filed with the Landscape Administrator.
- b. These regulations may be amended after notice and public hearing in the same manner as prescribed by law for their original adoption.

5.3.3 Extent of Amendment Granted

The County Council may grant a more restrictive landscape amendment, but not a less restrictive amendment, than formally requested by the applicant.

5.3.4 Enactment

Upon enactment of an amendment by County Council, the Landscape Administrator shall immediately cause said amendment to be inserted into the text of the Ordinance.

Section 4. Enforcement

5.4.1 Violations

Wherever the Landscape Administrator, or his authorized representative, finds a violation of this Ordinance, he shall direct compliance as he deems necessary, to include the issuance of verbal and/or written compliance orders. Additional enforcement actions may include the following:

- a. The revocation of any site plan approvals issued;
- b. The withholding of any related permits, plats, inspections, or other permissions, approvals, or privileges authorized by any County ordinances; or
- c. Redress through legal action as described in the following Section.

5.4.2 Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person, firm, or corporation who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than the maximum allowable penalty under the jurisdiction of the Magistrate's Court. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided for herein.

Notice of violation shall be sufficient if directed to the owner or the agent of the owner and left at his known place of residence or place of business.

The Landscape Administrator or other appropriate County official may also seek injunctive relief or any other appropriate action in courts of competent jurisdiction to enforce the provisions of this Ordinance.

5.4.3 Liability

Any Board member, the Landscape Administrator, or other employee charged with the enforcement of this Ordinance, acting for Lexington County in the discharge of his duties, shall not thereby render himself liable personally. He is hereby relieved from all personal liability and shall be held harmless by Lexington County of any damage that may accrue to persons or property as a result of any act required or permitted in the proper discharge of his duties. Any suit brought against a Board Member, the Landscape Administrator, or employee charged with the enforcement of this Ordinance because of such act performed by him in the enforcement of any provision of this Ordinance shall be defended by legal representatives furnished by Lexington County until the final termination of such proceedings.

Section 5. Legal Status

5.5.1 Conflict with Other Laws

Whenever the provisions of the Ordinance impose regulations that are in conflict with those of other County ordinances, other governmental agencies, or privately executed restriction, the more restrictive regulations shall apply. The same shall be true if there is a conflict between provisions within the body of this Ordinance.

5.5.2 Separability

Should any article, section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any other article, section, clause, or provision of this Ordinance.

Appendix

This Landscape Ordinance was created by Lexington County with a focus on the preservation or planting of trees for shade, erosion control, and transition between land uses, while balancing the needs and demands of a quickly developing community.

The selection of trees to be planted to meet the specific requirements of this ordinance should be limited to native species, in order to help assure hardy and mature growth. In order to limit the potential for maintenance problems and poor growth, hybrids, non-native species, and aggressive or invasive species should be avoided, as well as species outside their normal range.

Trophy Trees

The Ordinance describes the category of trophy trees as those trees that are significant by their size and as such should be preserved wherever possible. Guidelines detailed within the Ordinance address the circumstances in which preservation of trophy trees is not feasible. The specifications for determining trophy trees are as follows:

Hardwoods	>24"D.B.H.
Pines	>30"D.B.H.
Understory Trees	>12"D.B.H.

The specifications for trophy trees may be revised by staff upon direction by Lexington County Council as part of a regularly scheduled meeting.

Additional Resources

The following is a list of resources for information on proper planting and maintenance:

SC Forestry Commission
P.O. Box 21707
Columbia, SC 29221-1707

Clemson Extension Service
Lexington County Office
605 West Main Street, Suite 109
Lexington, SC 29072

SC Forestry Association
P.O. Box 21303
Columbia, SC 29221