

ARTICLE 15

TREE PRESERVATION AND LANDSCAPING

Section 15.1 Purpose and Intent

- 15.1.1** Tree Protection and landscaping are essential components of the built urban form of the Town. The purpose of this section is to regulate the protection, preservation, installation, and long-term management of trees, shrubs, and environmental landscaping within the Town of Mineral Springs.
- 15.1.2** Existing trees should be retained to preserve the established tree canopy and to aid in preserving ecological balance by contributing to the preservation of wildlife habitat, the promotion of natural diversity, air quality, groundwater recharge, energy conservation, and storm water runoff, while reducing noise, glare, and heat. Existing vegetation should be retained in order to create an appropriate balance between the built environment and the preservation of existing tree canopy. To preserve and improve property values and promote private and public investment through the preservation and protection of existing tree canopy, providing transition between incompatible uses, and along roadways. To protect the identity and character of Mineral Springs and to enhance the business economy. To enhance the ecological, aesthetic, and economic value by having ample vegetation, especially healthy shade trees, specimen trees, significant vegetation, and tree canopies. To recognize the economic and environmental value gained from the preservation of existing healthy vegetation and undisturbed soils.
- 15.1.3** Existing vegetation should be retained to promote water conservation through preserving natural areas, encouraging good soil management and encouraging the use of native and drought tolerant plant materials.
- 15.1.4** Creative Design: Through the protection of trees and existing vegetation, the Town encourages new development to be creative in design and placement of buildings, structures, parking and other impervious surfaces as to preserve natural features and to compliment the existing topography when practical.

Section 15.2 Applicability

- **New Development:** These regulations shall apply to all property owners/developers proposing new development and to the continued maintenance of all landscapes that were part of a tree/landscape plan required by this Article effective December 14, 2007.
- **Expansions:** These regulations shall apply to all expansion or changes in use which result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25%. Uses which expand over 25% shall be brought into full

compliance for the entire project. All development plans shall comply with the provisions of this section.

- **Change of Use:** If the use for an existing parcel changes in classification or intensity (non-conforming use to a conforming use, residential to commercial, office to retail, or retail to industrial), then the parcel shall comply with the landscaping requirements of this Article.

- **Modification to Standards:** Where necessary to accommodate creativity in site design, or where topographic or physical site conditions make strict adherence not feasible, the Administrator may modify these requirements, provided that the type and amount of landscaping or other features are equivalent in effectiveness and meet the performance criteria of the purpose and intent of these standards.

Exemptions: These regulations shall not apply to single-family residential properties, except for the continued maintenance of all landscapes that were part of a tree/landscape plan required by this Article effective December 14, 2007.

Section 15.3 General Provisions for Tree Protection

15.3.1 Responsibility of the Administrator: The Administrator shall review all request for removal, trimming or cutting of trees in public areas and required plantings for landscaping and screening on private property. The Administrator shall also administer all the provisions of this Article to guaranty that adequate trees and vegetation have been preserved. The Administrator shall oversee and make sure that all development is consistent with approved plans, including trees that have been designated to be saved.

15.3.2 Contract Arborist: The Administrator shall have the authority to contract or require an applicant or property owner to contract services from a ***Town approved arborist*** on a case by case basis for the purpose of education, review, or recommendations pertaining to preservation, protection, removal, cutting, pruning, planting, soils, dangers, and diseased and infected trees and their treatment or removal. ***A list of approved arborists may be obtained from the Town.***

15.3.3 The removal of trees: The Administrator shall have the authority to approve the removal of trees upon public or private property only if one of the following criteria is met:

The tree(s) are in advanced state of decline, dead, irreparably damaged, hazardous, creating damage to public or private property, or has a strong potential of creating damage to public or private property as determined by a certified arborist, horticulturist, or landscape architect.

The tree(s) are located where an infrastructure improvement or structure which complies with all applicable codes is to be located and the applicant

has made all reasonable efforts to relocate the infrastructure improvement or structure in order to preserve the tree(s).

In order to preserve the tree(s), it would render at least 25 percent of the parking or structure unusable or unbuildable.

- 15.3.4 Pre-Construction Conference:** Prior to the commencement of any activities requiring a non-residential zoning permit an on-site pre construction conference shall take place with the developer, **a Town approved arborist** and the Administrator to review procedures for the protection and management of all protected landscape elements identified on the landscape protection plan.
- 15.3.5 Protection During Surveying or Speculative Grading:** No tree greater than twelve (12) inches in diameter at breast height (DBH) located on public property or within a required tree protection area shall be removed for the purpose of surveying or speculative grading without an approval from the Administrator.
- 15.3.6 Tree Trimming:** Any tree on public property, designated right-of-ways, required tree save areas, landscaping, and screening may be trimmed to up to 25 percent of its overall canopy unless otherwise approved by the Administrator. All ornamental trees and shrubs shall be trimmed to horticultural standards and shall reach at least eighty-five (85) percent of their natural height, spread, and form.
- 15.3.7 Tree Topping:** Tree topping shall be prohibited on all trees on public property, designated right-of-ways, required tree save areas, landscaping and screening.
- 15.3.8 Dead Trees:** The Administrator shall approve the removal of trees that are dead, infected by disease, or determined to be a hazard to public safety and welfare. In rendering a decision the Administrator may seek the services of a certified arborist. Should any tree designated in a tree save area, required landscaping, or screening die, the owner shall replace it within 180 days with a tree (s) of equal size.
- 15.3.9 Prohibited Trees:** Any tree by nature of their fruit, root system, brittleness of wood, susceptibility to disease, or deemed undesirable by the Town shall not be planted in any public right-of-way, on public property, or as part of any required landscaping or screening. A list of approved trees can be found in Appendix 1.
- 15.3.10 Trees on Public Property, Right of Ways, and Utility Easements:** The Town is authorized to remove and/or trim trees and shrubs from public properties, public rights-of-ways, and public utility easements. North Carolina

Department of Transportation is authorized to remove and or trim trees and shrubs in the public right of ways owned by the State of North Carolina. All other trimming, cutting, removal, or treatment of a tree in any public right-of-way or on public property requires approval from the Administrator when applicable. Trees designated for removal must be dead, diseased, irreparably damaged, hazardous, creating potential danger to public or private property, or public utilities.

15.3.11 Canopy raising (Limbing Up): Raising the canopy of a tree shall not exceed fifty (50) percent of the overall height of the tree. On understory and small canopy trees limbs may be removed within 12 feet from grade to ensure safe passage of pedestrians and vehicles.

15.3.12 Land Suitability: Existing vegetation shall be preserved whenever feasible. The decision to preserve trees shall be made jointly by the Administrator, Developer and the contract arborist during the project approval process. The need to preserve significant vegetation should be focused within the areas of suitability. Emphases should be placed on the function of the sites buildable area or potential for development as suggested below:

- 1) *Prime Buildable Land:* Land with little or no building restrictions resulting from slope conditions, site conditions or topography. These areas contain slopes less than 10 percent and generally offer the least opportunity for the preservation of the existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- 2) *Secondary Buildable Land:* Areas with slopes of 10 to 15 percent where site preparation techniques should minimize grading. Selective clearing and grading is required. Limited opportunities exist for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- 3) *Conserved Land:* Areas with slopes of 15 to 25 percent with severe slope restrictions. Optimal opportunities exist for the preservation of the existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- 4) *Preserved Land:* Natural floodplain and flood areas, wetlands, existing tree canopy, forest stands, or significant vegetation on slopes exceeding 25 percent, and which present severe or prohibitive slope conditions for development should be preserved.

Trees and existing vegetation shall be preserved in accordance with the table below. Exceptions to tree protection in the additional tree areas shall be reviewed by the approving authority on a case-by-case basis. Conservation subdivisions shall follow the requirements of Section 4.22.

Tree Save Areas

	Priority Tree Save Area	Required Protection
Required Tree Save areas and Undisturbed Natural Areas	100 Year Floodplains Required Watershed Buffers Required Stream Buffers Wetlands	See Section 4.21 (Stream Buffers) and Chapter 14 (Floodplains, Drainage, Stormwater Management and Wetland Protection.)
Additional Tree Save Areas in Accordance with Section 15.4.3	Required Buffers 50% of the Required Setbacks Slope Areas Greater than 25% Required Landscaping Areas Required Open Space Slope Areas of 15-25%	All Trees 12" DBH or Greater & Ornamental Trees 4" DBH or Greater (Dogwood, Redbud, Holly, Ironwood) All Trees Greater than 12" DBH& Ornamental Trees 4" DBH or Greater <i>(Replacement trees, if permitted, shall be planted at a rate of 1 tree per each 12" DBH)</i>

15.3.13 Protective Measures During Construction: Protective barricades shall be placed around all protected trees designated to be saved prior to the start of development activities or grading. Protective barricades shall remain in place until development activities are completed. The area within the protective barricade shall remain free of all building materials, dirt or other construction debris, construction traffic, storage of vehicles and materials, and grading shall not take place within one (1) foot of the drip line of the existing trees to be protected. Barricades shall be erected one (1) foot past the drip line for any tree to be saved or tree save areas

- Except for driveway access points, sidewalks curb and gutter; no paving with concrete or other impervious materials within five (5) feet of a tree drip line shall be allowed unless otherwise approved.
- Barricades may consist of 2"x 4" posts with 1"x 4" rails, orange safety fence, or a similar treatment and shall remain in place until development activities are complete.
- Construction access to a site should occur where an existing or proposed entrance/exit is located.
- Where grading within a tree dripline cannot be avoided, cut and fill shall be limited to 1/3 of the area within the dripline, and tree roots must be pruned with clean cuts at the edge of the disturbed area. (No fill shall be placed within the dripline of a tree without venting to allow air and water to reach the roots.)

- 15.3.14 Modification to Standards:** Where necessary to accommodate creativity in site design, or where topographic or physical site conditions make strict adherence not feasible, the Administrator, under the direction of a certified arborist, may modify these requirements, provided that the type and amount of landscaping or other features are equivalent in effectiveness and meet the performance criteria of the purpose and intent of these standards.

Section 15.4 Required Landscaping in New Residential Subdivisions

As a requirement of subdivision approval, the subdivider shall plant trees in the front setback of each lot, on both sides of all existing and proposed public and private right-of-ways in the subdivision.

- 15.4.1** In calculating the number of trees required per lot frontage, tree types have been assigned a value in linear feet based on the average mature canopy spread. The values are 40' for canopy trees and 30' for understory trees. Each lot, including approved recreation/open space areas, must have one (1) canopy tree per street frontage (value of 40'). The number of trees to be planted on the remaining frontage (total frontage less value for one canopy tree) is determined by dividing the remaining frontage by the value(s) assigned to tree types selected for planting by the subdivider.

For example, the number of trees required on a lot having a frontage of 130' would be calculated as follows:

Total Lot Frontage:	130'
<u>Less Value of Required Canopy Tree</u>	<u>-40'</u>
Equals Remaining Lot Frontage	90'

Option 1: All Understory Trees

90' divided by 30' (value for understory tree) = 3 trees

Total number of required trees = 3 understory trees and 1 canopy tree.

Option 2: All Canopy Trees

90' divided by 40' (value for canopy tree) = 2.3 or 2 trees

Total number of required trees = 3 canopy trees

Option 3: Combination of Canopy and Understory Trees

90' minus 40' (value for canopy tree) = 50' = 1 canopy tree

50' divided by 30' = 1.6 or 2 understory trees

Total number of required trees = 2 canopy trees and 2 understory trees.

- 15.4.2** Street trees shall be planted within the required front yard setback. Selection and location of trees shall consider existing and future site conditions including, but not limited to, overhead and/or underground utility lines, vehicular access drives, the location and extent of existing vegetation, and

soil suitability. Selection of tree types shall be made from the list of acceptable plant materials found in Appendix 1.

- 15.4.3 Each canopy tree shall have a minimum of two inches caliper (measured 6" above ground) and have a minimum height of eight feet from the ground surface.
- 15.4.4 Understory trees shall be a minimum of one inch caliper (measured 6" above ground) and have a minimum height of six feet from the ground surface.
- 15.4.5 Existing trees in the front yard setback which meet the minimum size specifications of an be substituted towards meeting the planting criteria. The Zoning Administrator shall determine on a case-by-case basis whether the developer shall supplement the plantings.
- 15.4.6 Nothing in this section shall be interpreted to require the removal of existing trees and vegetation.

Section 15.5 Street Yards and Screening

15.5.1 Street Yards

A "street yard" consists of a planting area parallel to, and adjacent to, a public or private right-of-way designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road. These regulations shall apply to all newly developed properties as well as expansions or changes in use which result in the expansion of gross floor area or land surface area over 25%.

- a) Street Yards and landscaping shall be required along developed properties in all business and industrial zones.
- b) The Street Yard's total length shall be equal to the total length of the property line adjacent to the public right-of-way, exclusive of access drives.
- c) Trees shall be planted, if not existing, within the Street Yard according to one of the following requirements:
 - 1) Canopy trees shall be spaced no greater than 40' apart with a minimum of one tree planted on all properties with a frontage greater than 40'.
 - 2) Understory trees shall be spaced no greater than 30' apart. Each tree shall be a minimum of one inch caliper (measured 6" above ground) and have a minimum height of six feet from the ground surface.

- 3) A combination of both canopy and understory trees spaced no greater than 40' apart for canopy trees, and 30' apart for understory trees, and 40' apart between canopy and understory trees.
- d) Parking, merchandise display and off-street parking loading are prohibited in the Street Yard.
- e) Trees shall be planted a minimum of 10' from edge of right-of-way of the road to which it abuts. When it is necessary to locate landscaping required by this section on the right-of-way of a state maintained road, an encroachment agreement shall be obtained from the NCDOT and recorded with the Zoning Administrator
- f) Trees shall be selected from an approved species list which is provided in Appendix A.
- g) Existing trees along the Street Yard which meet the minimum size specifications can be substituted towards meeting the planting criteria. The Zoning Administrator shall determine on a case-by-case basis whether the developer shall supplement the plantings.
- h) Nothing in this section shall be interpreted to require the removal of existing trees and vegetation.

15.5.2 Screening

- a) Business, commercial and light industrial uses adjacent to residential zoning and all Essential Services shall provide screening to materially screen the subject use from the view of all adjoining residential zoning districts.
 - 1) A combination of trees and shrubs shall be arranged along the rear and side perimeters. This landscaping will consist of a minimum of one tree and ten shrubs for each 50 feet.
 - 2) The planting may be arranged in a single row around the perimeter or may be clustered or otherwise arranged anywhere within 15 feet of the property line to allow for maximum flexibility and landscaping design.
 - 3) In no case shall berms be used as screening.
- b) All solid waste dumpsters shall be designed and located, or otherwise screened, so as to not be visible from a public street or from the view of adjacent properties (irrespective of zoning). If screening of the dumpster is provided it shall consist of a solid opaque device that is at least six (6) feet in height, or at least one (1) foot higher than the height of the dumpster, whichever is greater, and have latching gates to provide access. Dumpsters shall not be located in the front yard and must be placed entirely on a concrete slab.

- c) For open-air storage, or an un-enclosed structure within one hundred (100) feet of a road, consisting of a roof, but no walls, used for storage of materials, products, wastes or equipment associated with business, screening shall be provided. Such screening may be located anywhere on the subject property provided the storage is effectively screened.

Section 15.6 Landscaping in Parking Lots

15.6.1 Landscaping in the interior of parking lots for properties located in all business, office, industrial zones, multi-family, and other non-residential uses in a residential zoning district as well as all conditional uses, shall comply with the following regulations:

15.6.2 In addition to the landscaping provided adjacent to the road right-of-way, any off-street parking area containing ten (10) or more off-street parking spaces shall be landscaped as herein provided.

For each ten (10) off-street parking spaces, the following number of trees shall be provided, at a minimum, with a least 50% of required trees being canopy within the interior of the parking lot:

Canopy Trees: One (1)

OR

Understory Trees: Two (2)

No parking space shall be further than 50' from a tree.

Canopy trees shall have a minimum of two inches caliper (measured 6" above ground) and have a minimum height of eight feet from the ground surface. Understory trees shall be a minimum of one inch caliper (measured 6" above ground) and have a minimum height of six feet from the ground surface. All trees shall be selected from an approved species list which is provided in Appendix 1.

15.6.3 Such landscaped areas shall be separated from parking spaces, driveways, and maneuvering areas by a curb at least six (6) inches in height designed to minimize damage by vehicles to plants located in the landscaped area. For an area to be considered as satisfying the landscaping provision of this Ordinance, it must contain a minimum contiguous area of one-hundred eighty (180) square feet, and be at minimum of 12' wide.

15.6.4 All plant material shall be free from disease when planted and shall be maintained in a healthy condition. All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth. All trees shall be properly guyed and staked at the time of

planting. All plant materials shall be planted in a manner which is not intrusive to utilities or pavement.

- 15.6.5** The plantings that constitute a landscaped area must be properly maintained in order for the landscaped area to fulfill the purposes for which it is established. The owner of the property and/or any tenant on the property where a landscaped area is required shall be jointly and severally responsible for the maintenance of all plant material located within the landscaped area. Such maintenance shall include all actions necessary to keep the landscaped areas free of litter and debris and to keep plantings healthy and orderly in appearance. Any vegetation that constitutes parts of the landscaped area shall be replaced by the tenant or property owner in the event that it dies. Replacement trees shall be a minimum of two inches caliper (measured 6" above ground) for a canopy tree and have a minimum height of eight feet from the ground surface. Understory trees shall be a minimum of one inch caliper (measured 6" above ground) and have a minimum height of five feet from the ground surface.

Section 15.7 Preservation of Existing Vegetation

- 15.7.1** Existing trees and vegetation shall be preserved unless there is no other alternative. Deciduous trees at least 12" inches DBH, all coniferous trees at least 12" DBH and all understory trees greater than 2" DBH anywhere on the site shall be preserved to the greatest extent practical and incorporated into the required landscaping. Any removal of trees with 12" DBH or greater requires approval from the Town.
- 15.7.2** Tree preservation is encouraged on all properties located in business, office, industrial, multi-family, and non-residential uses in a residential zoning district, as well as conditional use districts. Compliance with these provisions is determined at time of site plan submittal for individual lots greater than 1 acre and not part of a recorded subdivision plat. For subdivisions, compliance is determined at the time of subdivision. A tree landscape plan must be submitted prior to grading. A tree landscape plan must show that there will be no disturbance in the Critical Root Zone. A disturbance is considered trenching, placing backfill in the Critical Root Zone, driving or parking equipment in the Critical Root Zone, and dumping of trash, oil, paint or other materials detrimental to plant health in close proximity of the tree(s).
- 15.7.3** When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.
- 15.7.4** Should any tree designated for preservation in the tree landscape plan die at any time after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient landscaping equal to the tree within 180 days. In the event of a restricted site, the owner may request review by the

Zoning Administrator. Replacement trees shall be a minimum of two inches caliper (measured 6" above ground) for a canopy tree and have a minimum height of eight feet from the ground surface. Understory trees shall be a minimum of one inch caliper (measured 6" above ground) and have a minimum height of five feet from the ground surface.

Section 15.8 Planting Standards for Trees and Shrubs

- 15.8.1** All new plant material should be of good quality, installed in a sound, workmanship-like manner.
- 15.8.2** See Appendix 1 for tree and shrub planting detail.
- 15.8.3** All trees shall be properly planted and organically mulched (3"-4" layer) in accordance with accepted practices in the landscape industry (ANSI Z60 American Standard for Nursery Stock, ANSI A-300 Standard Practices for Tree Care Operations - Tree, Shrub and other Woody Plant Maintenance ANSI Z133 Safety Requirements for Tree Care Operations - Pruning, Trimming, Repairing, Maintaining and removing Trees and Cutting Brush), to prevent winds from loosening the roots.
- 15.8.4** No large, maturing trees having a mature height of 15' or higher shall be placed within a transmission power line right-of-way.
- 15.8.5** The owner of the property is responsible for the continued proper maintenance of all landscaping materials and should keep them in a proper, neat and orderly appearance, free from refuse and debris. All dead or unhealthy plant material should immediately be replaced to maintain the quality of the landscaping.
- 15.8.6** Where new landscape materials are to be installed, the type of material used should be compatible with plant materials existing on the property and on adjoining properties. Use of native plant materials is encouraged. No synthetic plants should be used to satisfy the requirements.
- 15.8.7** At installation, canopy trees should not be less than 8' in height with a minimum 2" caliper (measured 6" above the ground). Understory trees shall be a minimum of one inch in caliper (measured 6" above ground) and have a minimum height of 5' from the ground. Installation and construction practices should be utilized which preserve and replace existing topsoil.
- 15.8.8** At installation, shrubs shall be at least 3 gallons in size. Installation and construction practices should be utilized which preserve and replace existing topsoil.

Section 15.9 Tree/Landscape Plan

A tree/landscaping plan shall be required on all business, conditional-use, office-institutional, industrial, multi-family, and non-residential uses in a residential district. The plan must contain the following information

- 15.9.1** A conceptual tree/landscaping plan shall be submitted to the Town of Mineral Springs for administrative approval if greater than 1 acre prior to site disturbance.
- 15.9.2** An accurate drawing of property boundaries.
- 15.9.3** An orthographic or polarized plan showing existing vegetation and trees shall be overlaid on the conceptual drawing depicting areas of mature trees 12 inches DBH and large specimen or champion trees.
- 15.9.4** The conceptual plan shall also include actual grade and finished grade.
- 15.9.5** The conceptual plan shall including the total acres in the development, proposed use(s), required parking and provided parking spaces and total building square footage
- 15.9.6** The location of proposed buildings, driveways, parking areas, required parking spaces, and traffic patterns.
- 15.9.7** Location of overhead and underground utilities.
- 15.9.8** Plan of required landscaping.
- 15.9.9** Plant lists with common names, quantity, spacing and size of all proposed landscaping and plant material at the time of planting.
- 15.9.10** Name of the project, owner, name and address of engineer, scale, date, legend and north arrow.
- 15.9.11** Minor changes or additions to existing development or approved plans may submit an abbreviated site plan. An abbreviated site plan shall be allowed when a proposed change is physically limited to only a contained portion of the site. An abbreviated site plan shall include, but not be limited to, items listed in 15.9.3 and 15.9.4 of this section. The Administrator shall determine when an abbreviated site plan may be submitted for a detailed site plan and what items must be included.

Section 15.10 Modifications

- 15.10.1** Under certain circumstances the application of the standards of this Ordinance is either inappropriate or ineffective in achieving the purposes of

this Ordinance. When planting is required by this Ordinance, and the site design, topography, unique relationships to other properties, natural vegetation, or other special circumstances exist relative to the proposed development, the developer may submit a specific alternative plan for planting to the Administrator. This plan must demonstrate how the purposes and standards of this Ordinance will be met by measures other than those found in the Ordinance. The Administrator shall review the alternate proposal and advise the applicant of the disposition of the request within 15 working days of submission by the applicant. An appeal of the Administrator's decision may be made to the Town of Mineral Springs Board of Adjustment.

- 15.10.2** Requests for a delay in complying with this Ordinance due to poor weather conditions for planting will be considered following written request directed to the Administrator. Certificates of Compliance will be issued with the approval of a request for planting delay, if deemed reasonable. Such request for a delay shall note the time frame during which the planting shall be completed. The preferred planting season shall be October through March.

Section 15.11 Inspection of Sites

- 15.11.1** Staff, agents, and authorized representatives of the Town may periodically inspect sites subject to the provisions of this Ordinance.
- 15.11.2** If, through inspection, it is determined that a person has failed to comply or is no longer in compliance with the provisions of this Ordinance, a notice to comply shall be served upon that person by registered mail, with return receipt, or other means from the Town. The notice shall set forth that which will be necessary to comply with the Ordinance.
- 15.11.3** The Town shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

Section 15.12 Emergencies

- 15.12.1** In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this Ordinance may be waived by the Town during the emergency period so that the requirements of this Ordinance will in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be a general waiver of the intent of this Ordinance.

Section 15.13 Violations and Penalties

- 15.13.1** Any person who violates any of the provisions of this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance shall be subject to any

one or all of the combination of the penalties authorized and prescribed by this Section. If a party continues to fail to comply with a particular provision, the party shall continue to remain subject to the penalties prescribed by this Section for the continued violation of the particular provision. Penalties assessed under this Article are in addition to, and not in lieu of, compliance requirements of this Ordinance. The Town may employ any of the remedies authorized for a municipality pursuant to G.S. 160A-175. Civil penalties for violation of this Ordinance shall be listed on the Town of Mineral Springs fee schedule.

- 15.13.2** A non-monetary penalty, in the form of increased or additional planting requirements may be assessed in addition to or in lieu of any monetary penalties prescribed under this Section.
- 15.13.3** The Town may designate specific employees of the Town, or an agent of the Town, to enforce the provisions of this Ordinance. Those individuals so designated shall have the authority to assess monetary and/or non-monetary penalties and to issue notices setting forth in detail a description of such violation for any violation of this Ordinance.
- 15.13.4** If payment of assessed penalties is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the Town Attorney for initiation of a civil action in the name of the Town for recovery of the penalty.