

**ORDINANCE (2002) 203 TC 218
TC-5-02**

AN ORDINANCE TO INCORPORATE DEFINITIONS AND REGULATIONS RELATED TO TREE PRESERVATION, THE SCREENING OF MECHANICAL EQUIPMENT AND INCREASED LANDSCAPE BUFFERING ADJACENT TO RESIDENTIAL FOR BUSINESSES UTILIZING AUDIO COMMUNICATION DEVICES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA that:

Section 1. Amend Section 10-2002(b) to add the following new definitions:

“Active tree preservation. Arboricultural practices designed to ensure survival of existing trees within a *protective yard*, including both protective measures (in accordance with §10-2082.5) and maintenance procedures including but not limited to: watering, fertilizing, and pruning of trees, beginning at the issuance of the grading permit and continuing for a minimum of one year following construction, with frequency based on a plan approved by the City Urban Forester.

Mechanical equipment. Outdoor machines and devices, including HVAC units, fans, vents, generators, and elevator motors, integral to the regular operation of climate control, electrical, and similar building systems.

Residential character. Displaying an appearance typical of *dwelling units*, with respect to building height, building mass, building materials, roof form and pitch, and fenestration pattern, and may include landscaping, parking, and related site features. Design elements should relate to the respective characteristics of the closest *residential district* containing dwelling units. This definition shall apply to other similar terms and expressions including, but not limited to, residential appearance, residential style, traditional residential construction, residential design and residential nature.”

Section 2. Amend Section 10-2082.8 by deleting subparagraph “(a)” in its entirety and substituting in lieu thereof the following:

“(a) Screening.

All *loading areas* and *display areas* with a minimum dimension of fifteen (15) feet or more, and *utility service areas* not screened by an intervening *building*, established after the application of this section* and all expansions of preexisting areas which are required by 10-2082.10(b) *shall* be screened from view from all public *street rights-of-way* and adjacent properties for their entire length except for necessary access.

*** Editor's note:** The regulations of this provision first became applicable to public street rights-of-way on January 1, 1987 (Ord. No. [1988] 799-TC267, 6-3-86) and became applicable to adjacent properties on June 1, 2002”.

Section 3. Amend Section 10-2082.9(e)(1) by relettering subparagraph “q” as subparagraph “r.” and adding a new subparagraph “q” which shall read as follows:

“q. Uses with any drive-in service incorporating electronic audio communication which are located adjacent to any *residential district*, or a *lot* line of any *lot* containing any *dwelling, congregate care* or *congregate living structure*, or both.”.

Section 4. Amend Section 10-2082.9(e)(2)a. by deleting the words “uses with any drive-in service, automated teller machines, or both”.

Section 5. Amend Section 10-2082.9(e)(2) by relettering subparagraph “i” as subparagraph “j.” and adding a new subparagraph “i” which shall read as follows:

“i. Uses with any drive-in service, automated teller machines, or both not incorporating electronic audio communication or if incorporating electronic audio communication not otherwise listed as a high impact use.”

Section 6. Amend Part 10 Chapter 2 of the City Code to include the following new Sections:

“Sec. 10-2092.

SCREENING OF MECHANICAL EQUIPMENT

(a) Ground Units.

All *mechanical equipment* located on the ground that is used to serve any commercial, office, institutional, recreational, agricultural, industrial, or multi-family residential *building*, installed after the application of this regulation*, *shall* be positioned, screened, or both so that the *mechanical equipment* is not visible from any public *street* right-of-way and any adjacent property. Screening enclosures *shall* be the same or compatible, in terms of color, texture, quality, and material as the *principal building*, and the screening *shall* form a continuous enclosure around the *mechanical equipment* at least one foot taller than the tallest equipment enclosed.

(b) Rooftop Units.

All *mechanical equipment* located on the roof of any commercial, office, institutional, recreational, agricultural, industrial, or multi-family residential *building*, installed after the application of this regulation*, *shall* be positioned, screened, or both so that the rooftop *mechanical equipment* is not visible from any public street right-of-way and any adjacent property. Screening enclosures *shall* be the same as or compatible with, in terms of color, texture, quality, and material, the *principal building*, and the screening *shall* form a

continuous enclosure around the mechanical equipment at least one foot taller than the tallest equipment enclosed.

(c) Elevator Penthouses.

All elevator penthouses located on the roof of any commercial, office, institutional, recreational, agricultural, industrial, or multi-family residential *building*, installed after the application of this regulation*, *shall* be the same as or compatible with, in terms of color, texture, quality, and material, the *principal building*.

* Editor's note: This provision first became applicable on June 1, 2002; Ord. No. (2002) 203 TC 218, TC-5-02.

Section 7. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 8. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

Section 9. This ordinance has been adopted following a duly advertised joint public hearing of the Raleigh City Council and the City Planning Commission following a recommendation of the Planning Commission.

Section 10. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 11. This ordinance shall be enforced by law as provided in G.S.N.C. 160A-75 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in G.S. 14-4(a) or similar limitations.

Section 12. Sections two and three of this ordinance have been filed with the Wake and Durham County Register of Deeds as required by law.

Section 13. This ordinance shall become effective the first day of the next month following its adoption.

Adopted: 05/07/02

Effective: 06/01/02

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TC 5 02

May 7, 2002

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