

**CITY OF TEGA CAY  
SOUTH CAROLINA**

**ORDINANCE NO. 97 AMENDED**

**AN ORDINANCE TO ESTABLISH THE OFFICE OF CITY HORTICULTURIST; TO PROVIDE FOR REQUIREMENTS FOR PLANTING, MAINTAINING, AND REMOVAL OF TREES; TO EXEMPT THE CITY, COMMERCIAL AND PASSIVE RECREATIONAL AREAS OR ACTIVITIES FROM THE REQUIREMENTS OF THIS ORDINANCE; TO ESTABLISH A TREE COMMITTEE AND TO PROVIDE FOR THEIR DUTIES; AND TO PROVIDE FOR REMEDIES AND PENALTIES FOR VIOLATION OF THIS ORDINANCE.**

NOW, THEREFORE, be it ordained by the City Council of the City of Tega Cay, South Carolina in meeting duly assembled:

**SECTION 1.**

**PURPOSE:**

This Ordinance specifically deals with requirements for the planting, preservation, maintenance, and removal of trees. This Ordinance specifically deals with tree requirements on residential lots. For requirements in a Commercial District, which are approved during the planning process, see Ordinance No. 77. The Golf Course(s) and all City employees acting on Public Places are excluded from this ordinance. The intent of this Ordinance is the preservation, protection and planting of trees to: aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water run-off and the costs associated therewith and replenish the ground water supply; aid in the removal of carbon dioxide and generation of oxygen into the atmosphere; provide a buffer and screen against noise pollution; provide protection against severe weather; aid in the control of drainage and restoration of denuded soil subsequent to construction or grading; provide a haven for birds which assists in the control of insects; protect and increase property values; conserve and enhance the City's physical and aesthetic environment; and generally protect and enhance the quality of life and the general welfare of the City.

- (a) City Council hereby authorizes the Administrator and/or the Planner/Code Enforcement Officer all powers, including the issuance of summonses, necessary to enforce this Ordinance.

## SECTION 2.

### DEFINITIONS:

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

- (a) "**Administrator**" is the City Horticulturist and such duly appointed agents as may be authorized by the authority of the Mayor.
- (b) "**Cutting of Trees**" is the cutting or removal of any plant with a trunk diameter four (4) inches or greater measured from one (1) foot above the ground.
- (c) "**Frontal Area**" is the open, unoccupied space between the street property line, or closest to the street, and the face building line of a principal building or structure, projected to the side lot lines of a lot.
- (d) "**Horticulturist**" is a specialty trained individual assigned to enforce this Ordinance.
- (e) "**Improved**" is an area where service infrastructure is available and could have one or more buildings.
- (f) "**Master Tree Plan**" shall mean a written plan describing tree pruning and maintenance practices, master tree list and general long range plans for preserving, replacing and planting trees in public areas.
- (g) "**A Nuisance (danger)**" is the act of causing any soil, plants or debris to be deposited outside its original bounds, particularly on the streets, street right-of-ways and adjacent property, utility right-of-ways, any waters or waterways and any other unpermitted activities including unapproved tree removal.
- (h) "**Person**" means any individual, partnership, corporation, contractor, state or instrumentality of a state or the legal representative thereof.
- (i) "**Public Place**" is any publicly owned property or publicly controlled right-of-way, excluding any greenbelt area, located immediately between a rear property line and the 569.4 foot Mean Sea Level contour line within the municipal boundaries of the City of Tega Cay.
- (j) "**Public Trees**" means any tree originating on a public place(s).

- (k) "**Removal**" is the actual removal, or causing the effective removal, through damaging, poisoning or other direct or indirect actions resulting in the death of a tree.
- (l) "**Shrub**" is any woody plant of low height with several stems.
- (m) "**Street Tree**" is any tree close enough to any thoroughfare to impact pedestrian and/or vehicular traffic.
- (n) "**Tree**" is a perennial plant having a permanent, woody, self-supporting main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground.
- (o) "**Tree Permit**" is the document required by the City of Tega Cay and issued through the office of the City Horticulturist regulating the removal, planting, protecting and preservation of plant material, native or otherwise.
- (p) "**Trunk Diameter**" is the diameter of a tree determined by measuring the circumference of the tree with a flexible tape which is divided by 3.1416. A caliper or a Biltmore stick may also be used to determine the diameter.
- (q) "**Unimproved**" means any area not having service infrastructure available and/or no buildings upon it.

**SECTION 3. CITY HORTICULTURIST:**

- (a) There is hereby established the office of City Horticulturist.
- (b) The City Horticulturist shall be hired by the Mayor or a person delegated by the Mayor and under the supervision of the City Administrator.
- (c) The City Horticulturist shall prepare a Master Tree Plan which shall recommend the species of trees to be preserved, replaced or planted on the streets and public places of the city.
- (d) It shall be unlawful for any person to hinder, prevent, delay or interfere with the City Horticulturist while engaged in the lawful execution or enforcement of this Ordinance.

- (e) Although not required by law, all property owners are encouraged to use the City Horticulturist in the preparation of landscaping plans for their individual properties.
- (f) The City Horticulturist may review and make recommendations to the Planning & Zoning Commission on subdivisions where shading, screening, entrance landscaping, and general landscaping concerns are a part of the approval requirement under the Land Development and Zoning Ordinance No. 77, Article 14.

**SECTION 4.**

**A. PUBLIC TREES:**

The City Horticulturist shall have supervision over all trees, shrubs, perennials and annuals, planted or growing in public places. The City Horticulturist shall have the authority to plant, trim, spray, treat, preserve and remove trees and shrubs in public places to insure safety or preserve the symmetry and beauty of such public places. The City Horticulturist may require that trees removed be replaced in accordance with the American Nurseryman's Standards for Nursery Stock.

**B. INJURING PUBLIC TREES:**

Persons who cause injury to any Public Tree shall be liable for the cost of the damages, including but not limited to, assessment and repair or replacement of the damaged tree(s).

- (1) **Latent injury to Public Trees:** It shall be unlawful for any person to take actions or cause actions to be taken which may cause damage or latent injury to any Public Tree. Actions which cause latent injury include any activity within the dripline of a Public Tree which damages tree roots for a period of time sufficient to cause decline in tree health, vigor or structural integrity. Persons who perform such actions without a permit shall be liable as provided by this ordinance.
- (2) **Malicious Injury to Public Trees:** It shall be unlawful for any person to knowingly or willfully cause injury or damage to any Public Tree or portion thereof. This provision shall be construed to include any action which may induce or cause a decline in tree health, vigor, or structural integrity.
- (3) **Vandalism to Public Trees:** It shall be unlawful to vandalize any Public Tree. This provision shall be construed to include theft of Public Trees.

- (4) **Harmful Attachments to Public Trees:** It shall be unlawful for any person to attach, or cause to be attached, any wire, nail, sign, poster or other object to any Public Tree without a Tree Permit.

## **SECTION 5.**

### **DUTIES OF PRIVATE LAND OWNERS:**

It shall be the duty of any person planting or growing a tree to:

- (a) Place no plant so as to be, in the opinion of the City Horticulturist, a traffic hazard.
- (b) Trim trees so as not to cause a hazard to public property or interfere with street lights. The minimum clearance of any overhanging portion of a tree is eight (8) feet above any sidewalk and fourteen (14) feet above any street.
- (c) Treat or remove any tree so diseased, insect infested, damaged or injured as to constitute a hazard to other trees, plants, or other property.
- (d) Obtain a Tree Permit prior to the cutting or removal of any tree or shrub four (4) inches or greater in diameter measured one (1) foot from the ground. The Permit may require that trees removed be replaced. Replacement trees shall conform to the American Nurseryman's Standards for Nursery Stock.
- (e) Property owners of existing waterfront lots (as defined in Ordinance 91) and golf course lots have the right to a reasonably unobstructed view of the viewing area as depicted in Appendix III. Tree removal within the viewing area may be authorized by the City Horticulturist upon the issuance of a tree permit.

## **SECTION 6.**

### **DISEASED, DAMAGED, INJURED, OR INSECT-INFESTED TREES:**

It shall be the responsibility of any person having any tree, shrub, plant, grass or other vegetation on his property to treat or remove any such tree, shrub, plant, grass or other vegetation so diseased or insect-infested as to constitute a hazard to persons, property or other vegetation.

- (a) Upon determining that any tree upon private property is diseased or infested with insects, the City Horticulturist shall notify the property owners in writing, describing the condition, stating the actions necessary for correction and setting forth a reasonable time in which the action must be taken. In the event the property owner fails to take

the required corrective Action, the City Horticulturist is authorized to cite the owner for violation of this Ordinance. The owner will be taken to Court and fines may be assessed by the Court in accordance with Section 12 of this Ordinance.

- (b) If, after utilizing all techniques, methods and procedures which could reasonably be expected to save the tree, the tree is deemed by the City Horticulturist to be dead, dying, in a dangerous condition, unsafe or likely to cause damage, the tree shall be declared a nuisance and abated as set forth in Section 7.

**SECTION 7. REMOVAL OF DANGEROUS TREES:**

It shall be the responsibility of every property owner or occupant to maintain the trees on his/her property in a safe and healthy manner, and to keep trees properly trimmed and pruned so as to avoid hazards to persons, property and other vegetation.

- (a) Upon finding that any tree or part thereof constitutes a nuisance and an immediate danger exists to persons, property or other vegetation, the Horticulturist shall direct the property owner to remove the tree or portion thereof.
- (b) A tree shall be deemed a nuisance if it or any part of it:
  - (1) appears dead, dangerous or likely to fall;
  - (2) is not pruned to a height of eight (8) feet above the sidewalk, or fourteen (14) feet above the street to accommodate vehicles such as garbage trucks, buses and street maintenance trucks; or
  - (3) obstructs a curb, gutter, street or sidewalk.

**SECTION 8. PRESERVATION/REPLACEMENT OF TREES ON CONSTRUCTION SITES:**

For the purpose of replacing trees removed due to construction activities associated with Ordinance No. 96:

- (a) Under Option I, no more than 50% of all trees four (4) inches or greater in diameter may be removed from the frontal area, excluding the driveway, unless they are replaced on a one for one basis per Section 8(c).

- (b) Under option II, sufficient trees four (4) inches or more in diameter shall remain in the frontal area between the street and the house, equivalent to one tree for each five hundred (500) square feet of frontal area excluding the driveway. If there are insufficient trees remaining, additional trees shall be planted to equal one tree per 500 square feet of frontal area per Section 8(c). Previously cleared lots under Option II will also have trees planted in the frontal area at this rate.
- (c) Replacement trees may be selected from a list of trees provided in Appendix I. At least 75% of the total replacement trees must be comprised of trees from the City's list of large trees. (Suitable alternatives approved by the Horticulturist are acceptable.) In order to take advantage of the appropriate planting season, the contractor or homeowner shall have up to one (1) year in which to plant the required replacement trees. The tree(s) when planted will be no less than two (2) inches in diameter and have a root ball no less than twenty-four (24) inches wide. The property owner shall be responsible for maintaining the planted tree(s) in good growing condition for five years. The tree(s) shall be located on a plan to be approved by the City Horticulturist.
- (d) If the owner's certified professional landscape designer recommends fewer trees than required in the frontal area, the City Horticulturist may approve such plan, but there must be at least a minimum of three (3) trees located in the frontal area.
- (e) If tree removal is required in the side or rear setback(s) to permit construction, they shall be replaced anywhere on the lot at the rate of one (1) tree for every three (3) trees, four (4) inches or larger in diameter that were removed. Replacement trees will be according to specifications in (c) above.
- (f) Waterfront lots (as defined in Ordinance 91) and golf course lots have the right to a reasonably unobstructed view within the viewing area as depicted in Appendix III. To provide this view, up to fifty (50%) percent of the trees four (4) inches or greater in diameter may be removed from the viewing area after review and verification by either the City Horticulturist or the Code Enforcement Officer. A tree permit will then be issued indicating the trees that may be removed. Trees directly affected by shoreline stabilization activities may be removed unless they are well rooted into the bank and can be incorporated in the stabilization plan.

**SECTION 9. PRESERVING TREES ASSOCIATED WITH CONSTRUCTION:**

Tree protection shall be defined as the process of saving trees on construction sites.

- (a) Trees which are to be protected may be required to have a construction-free zone delineated around them by a fence and signs designating it as such. A minimum distance of six inches for each inch of trunk diameter shall remain free of any construction activity around the tree. This includes cuts, fill, infringement by equipment, material storage, etc. In order for the tree to survive any root damage, it is essential that the tree receive supplemental water. If gradient changes are unavoidable, the procedures outlined in Appendix II shall be followed.

**SECTION 10. NON-LIABILITY OF CITY:**

Nothing in this Ordinance is intended to or shall be deemed to impose any liability upon the City or upon any of its officers or employees nor to relieve the owner and occupant of any private property from the duty to keep trees and shrubs upon private property or under his control in a safe condition.

**SECTION 11. TREE COMMITTEE:**

The TREE COMMITTEE shall be comprised of no more than six (6) members of which five (5) may be appointed by the Beautification and Conservation Advisory Committee. The City Horticulturist shall be a permanent member of the Tree Committee.

- (a) The Tree Committee shall assist the City Horticulturist in the development and maintenance of technical specifications and guidelines and in the preparation of the Master Tree Plan.

**SECTION 12. EMERGENCIES:**

In case of emergencies involving, but not limited to, hurricanes, windstorms, floods, freezes or other natural disasters, the requirements of the Ordinance may be waived by the Mayor.

**SECTION 13. A. REMEDIES, PENALTIES, UNLAWFUL ACTS AND APPEALS:**

To avoid any hazard or endangerment from pollution or deterioration of the natural land or water, upon finding that any provisions of this

Ordinance have not been adhered to constituting a nuisance and/or an immediate danger exists to persons, property or other vegetation, the Planner/Code Enforcement Officer or City Horticulturist shall direct the property owners to remedy the situation immediately.

- (1) The method of notification shall be in one or more of the following ways:
  - (a) By personal delivery of the order to the person responsible.
  - (b) By mailing the order by certified mail to the last known address of the owner of the premises.
- (2) The order shall set forth the time limit for compliance, but shall in no case be longer than thirty (30) days. The Planner/Code Enforcement Officer or City Horticulturist shall have the authority to require immediate compliance to abate nuisance activities.
  - (a) If at the end of the time period set forth in the order, the property owner has failed to take action, the hazard or endangerment shall be declared a nuisance, and the Planner/Code Enforcement Officer or City Horticulturist shall have the work done. The costs of this service, including labor, equipment, materials, and any liability, shall be assessed to the property owner and shall be due and payable within sixty (60) days.
  - (b) If at the end of the sixty (60) day period the account remains unpaid, the account is said to be delinquent and the City Tax Collector and Chief of Police are authorized to act within the legal limits to begin the process as prescribed by the South Carolina Code of Law to levy all penalties, execution costs, advertising costs and attorney fees necessary to collect all money due this City.

**B. PENALTIES:**

- (1) Any person found in violation of any provisions of this Ordinance shall be fined the maximum amount allowed under Ordinance No. 70 or South Carolina law, but not less than Two hundred Fifty Dollars (\$250) per violation. In addition, the

City may refer the matter to the City Attorney for institution of a civil action in the name of the City for recovery of the costs of correction and all consequential damages, court costs and attorneys fees.

- (2) Each tree removed in excess of the allowable percentage of trees as provided in Section 8, and not replaced within the specified amount of time, shall be a separate violation subject to the penalties provided for by this Ordinance.
- (3) Each replacement tree required by Section 8, but not replaced within one (1) year of occupancy of the residence, shall be a separate violation subject to the penalties provided for by this Ordinance.
- (4) Each tree required to be protected by this Ordinance but not so protected shall be a separate violation subject to the penalties provided for by this Ordinance.
- (5) It shall be unlawful to remove any tree four (4) inches or greater in diameter that is not in accordance with this Ordinance.
- (6) It shall be unlawful to engage in any landscaping activities in public places without the prior approval of the City Horticulturist.
- (7) All appeals to the Tega Cay Board of Appeals must be filed in writing (on a form provided by the City), specifying the reason for the appeal. Such notice of appeal shall be filed within thirty (30) days from the date of the written decision of the Planner/Code Enforcement Officer or City Horticulturist. The appeal must conform to the provisions of Ordinance No. 77. No land disturbance activity, including landscaping and tree removal, shall be undertaken while a decision is under appeal.

**SECTION 14. SEPARABILITY:**

Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

**SECTION 15. EFFECTIVE DATE:**

That this Ordinance shall be and become finally binding immediately after same shall have received first and final reading, given in manner required by law.

**DONE AND RATIFIED** in Council assembled on this 19<sup>th</sup> day of February, 1990.

First Reading: January 15, 1990

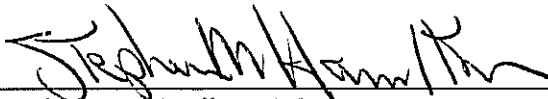
Second Reading: February 19, 1990

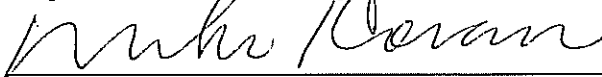
Amended First Reading: May 19, 1997

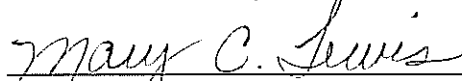
Amended Second Reading: September 15, 1997

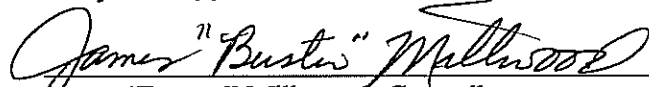
Second Amended First Reading: March 15, 1999

Second Amended Second Reading: April 19, 1999

  
\_\_\_\_\_  
Stephen M. Hamilton, Mayor


  
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Michael Horan, Mayor Pro Tem

  
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Mary Lewis, , Councilwoman

  
\_\_\_\_\_  
James "Buster" Millwood, Councilman

\_\_\_\_\_  
Andy Bregman, Councilman

ATTEST:

  
\_\_\_\_\_  
Jean C. Varner, City Administrator

# Appendix I

According to the American Forests Magazine, if a tree is not cut down, it grows to be worth \$196,250! In 50 years it produces \$62,500 in air pollution control, \$37,500 in water recycling and humidity control, \$31,250 worth of oxygen, \$31,250 in soil benefits, \$31,250 in wildlife shelter and \$2,500 worth of protein in the leaves and bark consumed by wildlife. The following trees are recommended for planting in The City of Tega Cay based on this theory. Required replacement trees shall include, but not be limited to the trees listed. A balance between shade trees and ornamental trees is suggested because large trees lower energy costs for dwellings and ornamental trees increase the aesthetic value of the property.

**Large Trees which produce shade  
and have long lives:**

**Small to medium trees of  
ornamental value with short lives.**

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American Beech  
 American Elm  
 Bald Cypress  
 Black Gum  
 Chinese Elm  
 Deodar Cedar  
 Ginkgo  
 Goldenrain-Tree  
 Green Ash  
 Hackberry  
 Honey Locust  
 Japanese Cedar  
 Kentucky Coffee Tree  
 Lacebark Elm  
 Linden  
 Pine (Any Pine Tree)  
 London Planetree  
 Oak (Any Oak Tree)  
 Red Maple  
 Southern Magnolia  
 Sweet Gum  
 Yellow Poplar  
 Zelkova

Amur Maple  
 Apricot  
 Bradford Pear  
 Carolina Silverbell  
 Chinese Pistache  
 Crabapple  
 Crape Myrtle  
 Dogwood  
 Flowering Cherry  
 Hawthorn  
 Hazel  
 Hornbeam  
 Japanese Maple  
 Plum  
 Redbud  
 River Birch  
 Serviceberry  
 Trident Maple

## Appendix II

**The following material was used by permission of Barlett Tree Expert Company. It was taken from "Preventing Tree Losses on Construction Sites," prepared by Barlett Tree Research Laboratories, 13768 Hamilton Road, Charlotte, NC. We extend our sincere thanks for the use of this material as well as their assistance with our general tree program.**

### **Monitoring:**

Trees should be inspected by an arborist at bi-weekly intervals or more often on large projects. The arborist should inspect fences, cuts and fills, as well as the general health of the trees. Violations and tree problems should be reported to the project coordinator.

### **Tree Maintenance During Construction:**

Trees with root injuries should be irrigated during droughts, especially in summer. Root damaged trees should receive one inch of water per week from rainfall and irrigation. This is equivalent to 750 gallons of water per 1,000 square feet within the root zone (preservation area) of the plant.

Hazardous deadwood, storm damaged limbs and low limbs which interfere with construction should be pruned properly on an "as needed" basis.

Trees also should be monitored for presence of damaging pests. Attention should be given to insect borers, including bark beetles, defoliating pests and canker diseases. Appropriate control procedures should be implemented on an "as needed" basis.

Treatments such as bark tracing wounds, fertilization and corrective pruning (thinning) should be deferred until construction is complete.

### **Grade Changes:**

Grade changes should be avoided around trees whenever possible. Site development should utilize existing contours in order to preserve feature trees. If grade changes are unavoidable, the following procedures will minimize tree mortality.

### **Raising the Grade:**

Most tree species will tolerate up to 6 inches of a sandy fill soil over the root system with minimal adverse effects. (Soil should not cover the root crown of the plant). However, certain species such as beech and tulip tree (*Liriodendron*) are intolerant of even these small additions of fill. Consult an arborist before adding even small quantities of soil over the root system.

Where more than six inches of soil is added, an aeration system should be installed. Figures 2 and 3 provide details for this system.

The well should be large enough to accommodate future growth of the plant (minimum three feet radius around the stem). The retaining walls can be comprised of stone or landscape timbers.

Four inch perforated PVC pipe should be placed on the original grade in a wheel and spoke arrangement. The "wheel" would be performed by the well and the spokes by the PVC pipe.

Vents consisting of 4" PVC pipe should connect the "spokes" to the surface.

Stone (1-2 inch) should cover each spoke. (Do not use limestone).

Geotextile fiber should be placed on top of the stone to prevent "silting in."

Fill soil should be a sandy loam. Avoid compacting the soil or paving over the top. This will restrict the proliferation of new roots into the fill soil.

Ensure that the well has adequate drainage to carry water away from the base of the plant.

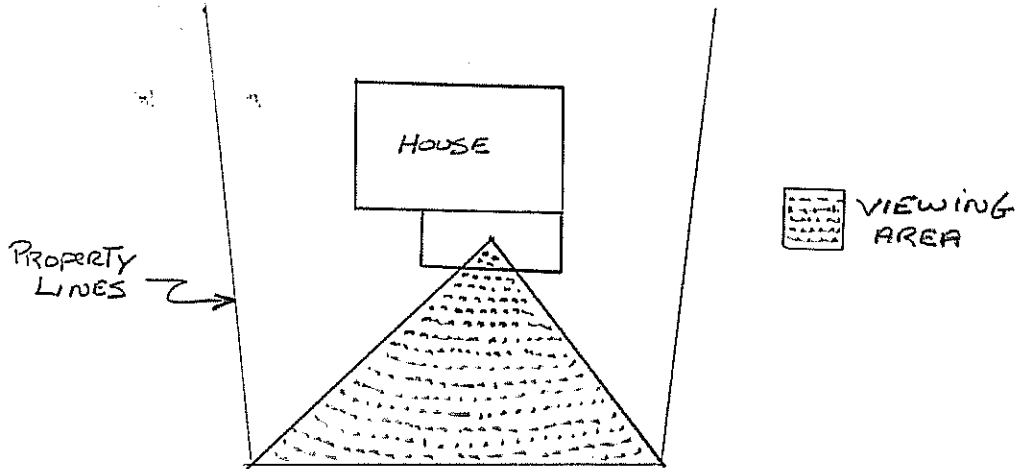
### **Lowering the Grade:**

All grade lowering (Figure 4) should be done outside the dripline of the plant. Consulting arborists can provide minimum surface area required to support a given size of tree. This will allow planning the rooting space requirement to accommodate future growth of the tree.

APPENDIX III

ORDINANCE NO. 97 AMENDED

GOLFVIEW LOTS



WATERFRONT LOTS

WITH GREENBELT AREA

WITHOUT GREENBELT AREA

