

SUSSEX COUNTY COUNCIL
PERIMETER BUFFER UPDATE
DECEMBER 12, 2023

OVERVIEW

- County Council ranked Perimeter Buffers as the first item to update for the development design initiative
- Staff developed the following outline of suggested updates for Perimeter Buffers
- After reviewing this outline, staff will begin to define the updates based on Council's feedback

SECTION I. DEFINITIONS

PERIMETER BUFFERS OUTLINE

I. Definitions

This section defines specific terms.

The terms below are provided in high level, summary form; the actual definitions have more details:

- **Forest Assessment** – the process for determining habitat and trees of high value to be preserved
- **Perimeter Buffer** – a managed area around the outer perimeter of any major subdivision that is 30' in width
- **Perimeter Buffer Landscape Plan** – a plan prepared by a licensed professional that depicts specific requirements
- **Perimeter Buffer Protection Area** – the area adjacent to the Perimeter Buffer that contains existing woodlands and remains protected during construction
- **Woodlands** – contiguous area of wood vegetation at least 10,000 sq. feet in size that contains specific tree sizes

**SECTION II.
PERIMETER BUFFER STANDARDS**

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer Standards

This section defines the standards to which a Perimeter Buffer should be planted or preserved, in the case of existing woodlands.

- All trees and shrubs must be native and on the County list [to be developed]
- Plantings to ANSI A300 standards; 70% deciduous and 30% evergreen; 15 trees per 100 feet
- All trees and shrubs must be 6 feet in height at time of planting and obtain a minimum height of 10 feet
- Permanent signage will mark the Perimeter Buffer
- The buffer can include both existing woodlands and planted trees
- When a Resource Buffer (115-193) is required, the Resource Buffer takes precedence over and is not in addition to the Perimeter Buffer

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer Standards cont.

The Perimeter Buffer rules will distinguish when:

1) **EXISTING WOODLANDS** are in place where the Perimeter Buffer is to be located.

OR

2) **NO WOODLANDS** are in place where the Perimeter Buffer is to be located.



Ocean Meadows

No Woodlands

Existing Woodlands

Cardinal Grove



Cardinal Grove

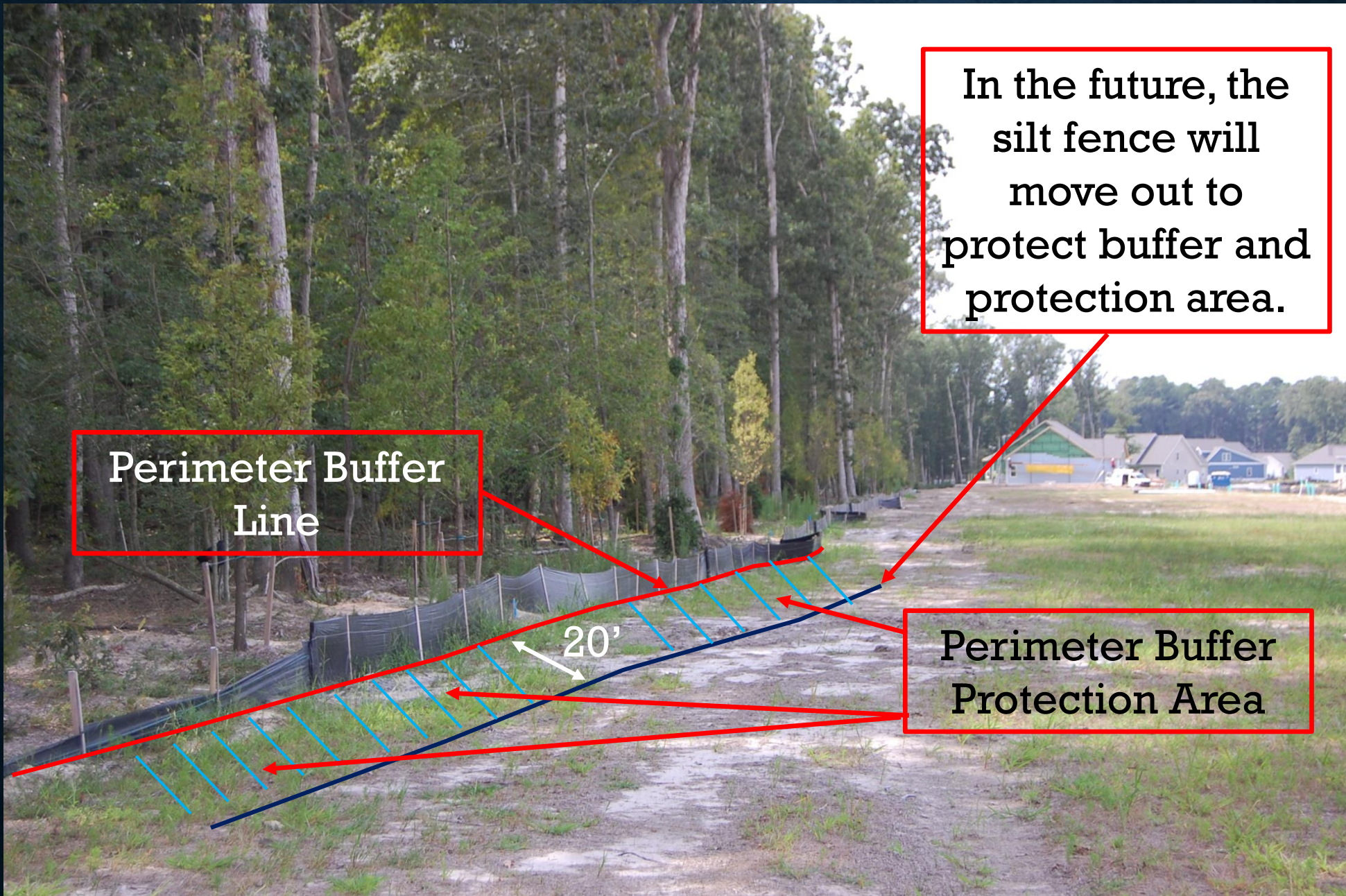
Existing Woodlands

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer Standards cont.

The following lists the rules for **EXISTING WOODLANDS** to be used for the Perimeter Buffer:

- Requires a forest assessment by certified professional
- The woodlands will be shown on the site plan and landscape plan
- Woodlands shall remain in its natural state with limited activity within
- The Perimeter Buffer woodlands will be protected by an area that “buffers-the-buffer” by 20’ and is called the Perimeter Buffer Protection Area
- The buffer and protection area will be fenced-off/marked during construction
- Selective clearing, removal of invasive species and dead trees in the woodlands is permitted
- Walking trails in the woodlands is permitted
- All Perimeter Buffer (existing or planted) will have a two-year guarantee



In the future, the silt fence will move out to protect buffer and protection area.

Perimeter Buffer Line

Perimeter Buffer Protection Area

20'

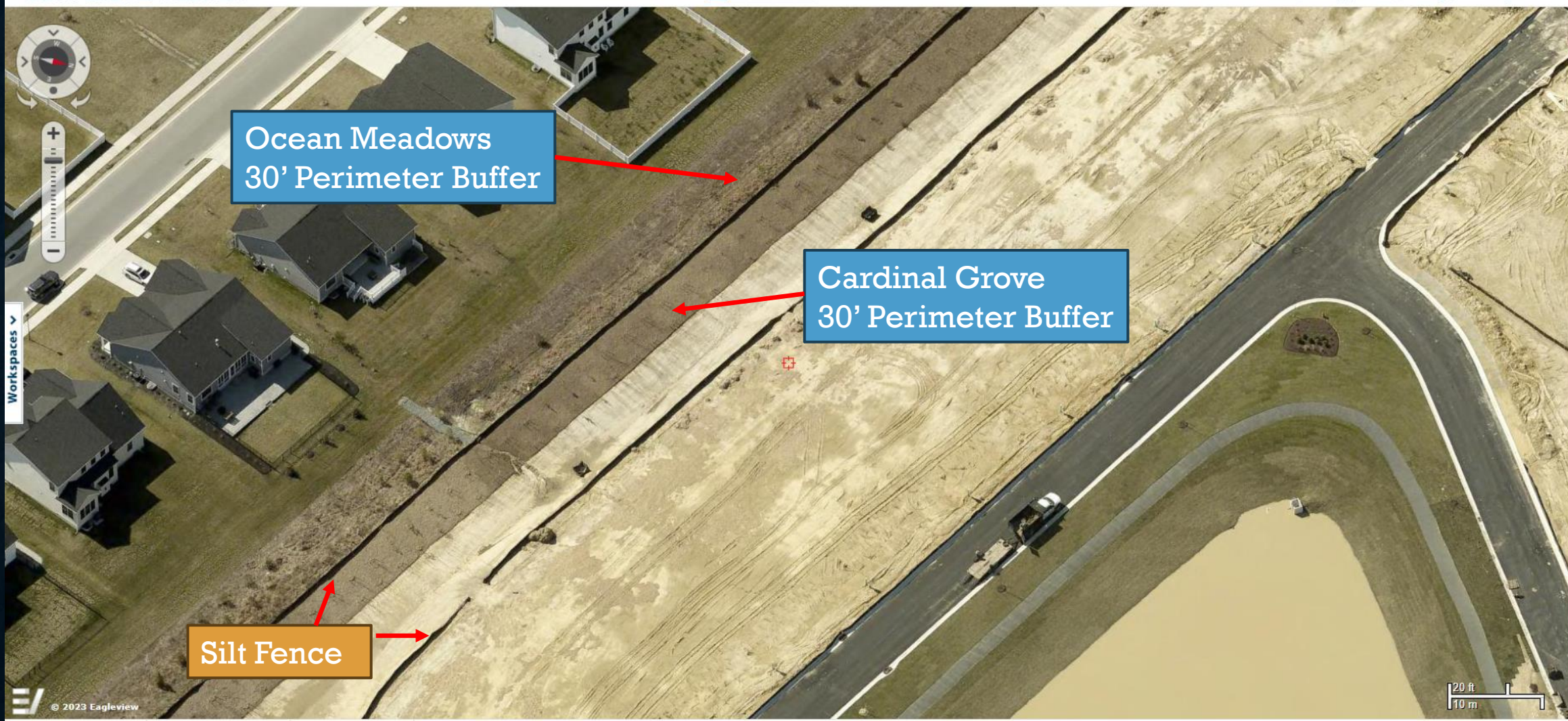
Perimeter Buffer of Existing Woods

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer Standards cont.

The following lists the rules when **NO WOODLANDS** exist to be used for the Perimeter Buffer:

- The developer must comply with the Perimeter Buffer standards and landscape plan
- The newly planted buffer will be fenced off/marked during construction
- All Perimeter Buffer (existing or planted) will have a two-year guarantee



Cardinal Grove &
Ocean Meadows

No Existing Woodlands

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer Standards cont.

The Perimeter Buffer rules aim to incentivize saving **EXISTING WOODLANDS** to be used for the Perimeter Buffer. The rules will have a five year “look back” for the area to be used for the Perimeter Buffer.

The following steps will happen if the Perimeter Buffer area is harvested up to five years prior to the application:

1. The woodlands area of the Perimeter Buffer will be measured to determine the area harvested – only the area of the 30’ Perimeter Buffer is measured; and
2. The Perimeter Buffer will be replanted with double the density of trees (15 trees every 50 feet); and
3. A new area must be planted or preserved that is double the size of the area harvested; and
4. The new area can be planted or preserved on the development property or at another property that is off-site and within the same HUC-12.



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Search by Address ▾

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Property Line



30'

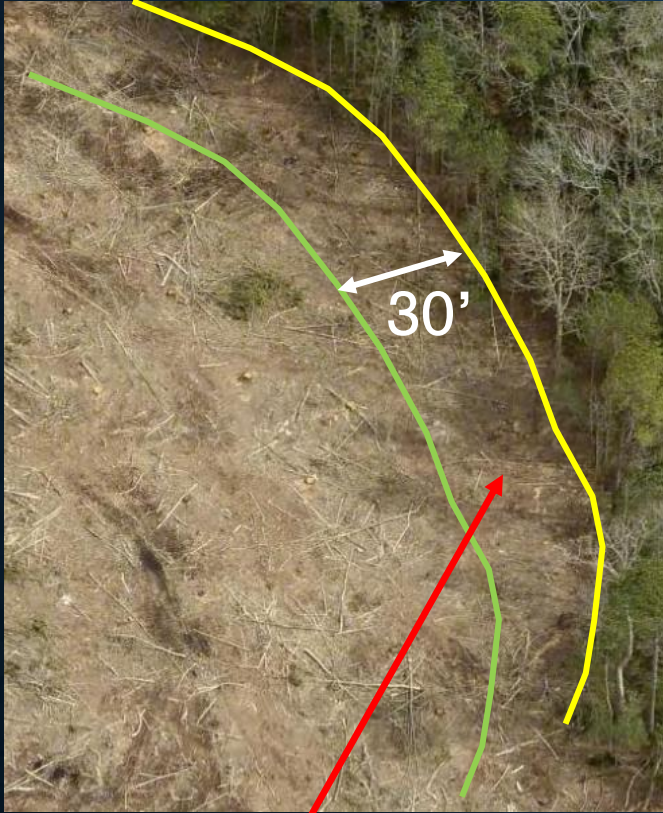
Existing Development

Buffer Line

The area harvested is between the property line and buffer line

New Development





This area where the woodlands were harvested within the future perimeter buffer is known as the “area harvested”.

- The new rules will look back to see if the perimeter buffer was harvested up to 5 years prior to the development.
- The woodlands area of the Perimeter Buffer will be measured to determine the area harvested – only the area of the 30' Perimeter Buffer is measured.
- Thus, if the example to the left is 1.0 acre, the developer will be required to plant or preserve 2.0 acres of woodlands on the development property or at another property that is off-site and within the same HUC-12.

SECTION III.
PERIMETER BUFFER LANDSCAPE PLAN

PERIMETER BUFFERS OUTLINE

III. Perimeter Buffer Landscape Plan

This section defines the information and detail to be demonstrated on the plan to meet the requirements and standards of the Perimeter Buffer and Protection Areas.

- The approximate location of the protective fencing
- The locations, spacing, height, and species of new trees and shrubs
- The location of the Perimeter Buffer signage
- A summary table of the new trees to be planted and existing trees to be retained
- A planting schedule for the installation of the Perimeter Buffer
- The Perimeter Buffer, per phase, must be planted prior to the first residential building permit for the respective phase
- Provides a “miscellaneous clause” allowing the PZ Commission to approve a plan with other features along the roadway frontage not necessarily part of the Perimeter Buffer requirements.

SECTION IV.
TIMING; BONDS & GUARANTEES

PERIMETER BUFFERS OUTLINE

IV. Timing; Bonds & Guaranties

This section defines the timing of the Perimeter Buffer installation and the guaranties required for the protection of the buffer's trees and shrubs.

- The Perimeter Buffer, per phase, must be planted prior to the first residential building permit for the respective phase
- When Woodlands exist, the Perimeter Buffer and Protection Area shall be protected and marked prior to the Notice to Proceed for site work or construction
- The developer is responsible for the removal of all stakes, guy wires and protective fencing
- A Performance Bond or other guaranty to cover the Perimeter Buffer in the amount of 125% (or \$50,000, whichever is greater) of the cost of the installation and value of the replacement plantings
- All guaranties for the Perimeter Buffer (existing or planted) will be for two years

**SECTION V.
PERIMETER BUFFER MAINTENANCE**

PERIMETER BUFFERS OUTLINE

V. Perimeter Buffer Maintenance

This section defines the responsibility for the health and survival of the Perimeter Buffer.

- The developer is responsible for the survival of the Perimeter Buffer for two years
- The perpetual maintenance of the Perimeter Buffer will be a recorded declaration or restrictive covenant

SECTION VI.
PERIMETER BUFFER TREE MITIGATION

PERIMETER BUFFERS OUTLINE

VI. Perimeter Buffer Tree Mitigation

This section defines what happens when trees or shrubs are removed or damaged without authorization.

- Tree mitigation will be required when the Perimeter Buffer or Protection Area or existing woodlands is damaged without authorization
- An Act of God or natural causes is exempt and subject to the Perimeter Buffer Maintenance Requirements
- A mitigation plan must be developed by a licensed professional
- Tree replacement will be at a rate of 3 trees for every 1 tree removed or damaged
- All trees and shrubs will meet the Perimeter Buffer standards and landscape plan requirements

**SECTION VII.
VIOLATIONS AND PENALTIES**

PERIMETER BUFFERS OUTLINE

VII. Violations and Penalties

This section defines the penalties for violations of the new requirements that may be imposed.

- The penalties apply to a violation by a person, the landowner, the HOA, or developer
- A fine of \$10,000 per quarter acre, pro rata, of disturbance to the Perimeter Buffer and/or Protection Area may be imposed
- A tree mitigation plan for the disturbance will be required
- All building permits, zoning permits, and inspections will be held until the tree mitigation is complete and approved by the PZ Commission