## ARTICLE III. - LANDSCAPING



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Sec. 14-134. - Definitions.



The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessway means a way of approaching, entering, or leaving a property.

*Board* means the zoning board of appeals, as specified in section 94-86.

Crown means the main point of branching of foliage of a tree or plant, or the upper portion of a tree or plant.

Crown spread means the distance measured across the greatest diameter of a plant.

Development area means the portion of a plot or parcel of land, excluding public right-of-way, upon which a building, structure, pavement, landscape material, or other improvements have been placed.

Encroachment means the protrusion of a vehicle outside of a parking space, display area, storage area, accessway, or access aisle into a landscaped area.

*Ground cover* means natural mulch or low growing plants other than deciduous varieties installed to form a continuous cover over the ground.

*Interior area* means the entire parcel to be developed exclusive of the front, rear and side perimeter **landscape** area.

Outdoor storage areas means an area located on business premises within the city where there is located one or more trash dumpsters or dumpster-like containers used for the purpose of holding garbage, trash and refuse pending pickup by the city or other authorized entity.

Shade tree means any self-supporting woody plant of a species that is well shaped, well branched and well foliated which normally grows to an overall height of at least 35 feet and normally develops an average mature spread of crown greater than 30 feet in the city.

*Shrubs* means a woody plant normally characterized by persistent woody stems, low stature and branching near its base. For purpose of this article, the term "shrub" also includes all woody plants of all species which have developed or which, under normal conditions in the county, will develop trunks of a caliper diameter of less than two inches at a height of six inches above ground level.

Sight triangle means the area of property on both sides of an accessway formed by the intersection of each side of the accessway and public right-of-way with the two sides of each triangle being not less than ten feet in length from the point of intersection and the third side being a straight line connecting the ends of the two other sides.

*Tree means any* self-supporting, woody plant of a species, which normally grows to an overall height of at least 20 feet and normally develops an average mature spread of crown greater than 20 feet in the city and county. (A listing of suggested trees shall be maintained in the city building official's office.)

*Utility service area* means an area, which contains any surface-mounted HVAC equipment or freestanding aboveground devices, such as utility boxes, booster boxes, switchboxes, and transformers that are part of an underground utilities system.

Vehicular use area means any ground surfaces area, excepting public right-of-way, used by any type of vehicle whether moving or at rest for the purpose of, including but not limited to, driving, parking, loading, unloading, storage, or display, such as, but not limited to, new and used car lots; activities of a drive-in nature in connection with banks, restaurants, and other vehicular uses under, on, or within building.

*Visual screen* means a barrier of living or nonliving **landscape** material or other inert material established for the purpose of separating and obscuring from view those areas so screened. Noncreditable species for screening—No species of deciduous shrub shall be credited for purposes of the visual screening requirements.

(Code 1986, § 5-190; Ord. No. O-92-09-28, § 1, 9-28-1992; Ord. No. O-93-06-20, 6-24-1993)

Sec. 14-135. - Applicability.

The requirements and standards for the installation and maintenance of the **landscape** planting areas for the following: off-street parking facilities and other vehicular use areas. This shall apply to all new development and all redevelopment in the city except single- and two-family dwelling units and agricultural uses.

(Code 1986, § 5-191; Ord. No. O-92-09-28, § 2, 9-28-1992)

Sec. 14-136. - Landscape development standards.



(a)

Purpose. To ensure the attainment of the objectives of this article, the design and installation of required landscaping shall be consistent with the standards in this section, unless it can be demonstrated that alternative design and installation plans will meet the objectives of this article. The **landscape** development standards contained herein shall apply whenever a **landscape** permit and plan are required.

(b)

Off-street parking; vehicle use areas. Off-street parking facilities and other ground level vehicle use areas over 2,000 square feet, excepting permitted accessways, shall meet the following requirements:

(1)

Perimeter requirements.

a.

Front perimeter landscape area. A five-foot strip from the property line to the vehicular use area shall be landscaped where an off-street parking facility and other ground level vehicular use areas are in excess of 2,000 square feet in size, but less than 12,000 square feet in size. Any offstreet parking facility area or vehicular use area, which contains 12,000 square feet or more shall contain a ten-foot front perimeter landscape area. The width of sidewalks shall not be included within the five-foot or ten-foot wide front setback perimeter landscape areas required herein; provided, however, that if the landscaped area is located within the street right-of-way with the permission of the city, then such portion as is located within such right-of-way shall be included in calculating the five-foot or ten-foot landscaped areas.

b.

Side and rear perimeter landscaped area. A three-foot-wide strip of land located between the side or rear property lines and the vehicular use area shall be landscaped, where the off-street parking facilities or other ground level vehicular use areas are in excess of 2,000 square feet in size. If the **landscaped** area is located within the street right-of-way with the permission of the city, then such portion as is located within such right-of-way shall be included in calculating the required **landscaped** width.

c.

Other areas. Landscape requirements as to the front perimeter landscaped area shall be followed with respect to any off-street parking facility or ground level vehicular use area located on a corner lot as to the boundary of such property fronting each street bounding the corner lot.

(2)

Material requirements in perimeter area.

a.

*Ground cover.* Grass or other ground cover shall be placed on all areas within the front side and rear setback perimeter **landscape** area not occupied by other **landscape** material, or permitted accessways. A list of plant materials shall be maintained in the city building official's office.

b.

Height of landscaping materials. The owner shall have the discretion to vary the height of landscaping materials used in perimeter setback landscaped areas from certain heights or to a densely planted barrier or hedge; however, within at least one year from the date of planting, a portion of the planted material used for landscaping, no less than 15 percent thereof, excluding trees, of the linear footage of the landscaped area shall be at least 24 inches in height. Such requirement shall not be applicable to permitted accessways.

c.

*Trees.* Trees shall be placed in the off-street parking and vehicular use areas in accord with the provisions of this subsection. The total tree requirement within the perimeter **landscape** areas shall be determined by using a ratio of one tree for each 30 linear feet of required perimeter **landscaped** area, or any fraction thereof. In interior planting areas, one tree shall be planted for each 480 square feet of required interior **landscaped** area or any fraction thereof. This provision is not intended to require that trees be equally spaced 30 feet apart. Creative design and spacing shall be permitted. All trees planted pursuant to this subsection shall be at least five feet in height at the time of planting.

(3)

Visual screen in perimeter area.

a.

*Perimeter setback landscape areas.* A visual screen shall be placed within the perimeter setback **landscaped** area and shall run the entire length of such abutting property line, except at permitted accessways.

b.

Light penetration and height. A visual screen shall be installed not lower than 30 inches except as permitted accessways.

(4)

*Use of perimeter landscape areas.* Vehicles may overhang no more than two feet into perimeter **landscape** areas.

(5)

*Cross-visibility standards of setback areas*. A sight triangle shall be provided at those points where an accessway intersects a public right-of-way. The area within the sight triangle shall be provided at those points where an accessway intersects a public right-of-way. The area within the sight triangle shall be maintained in accordance within this section.

a.

*Cross-visibility level*. An unobstructed cross-visibility between two and ten feet above the level of the centerline of the public right-of-way shall be maintained in accordance within the sight triangle.

b.

*Trees*. Trees having limbs and foliage trimmed so that the cross-visibility is not obscured, shall be allowed to overhang within the sight triangle, provided the location of the tree itself does not create a traffic hazard.

(c)

Outdoor storage area screening standards. Any outdoor storage area which is not screened by a building or other approved structure shall be screened as required herein. Such screening, at a minimum, shall be as follows:

(1)

A fence or wall of the minimum height of six feet, opaque and constructed of masonry, stone, wood or some other material approved in the permitting process provided under this article.

(2)

Natural evergreen plant materials at a minimum height of six feet at planting spaced at least five feet apart and planted in staggered double rows.

(3)

This subsection shall apply to all existing outdoor storage areas as herein defined and as existed on the official date of the adoption of the ordinance from which this article is derived, which was September 28, 1992. In addition, any property owner where an outdoor storage area is located shall meet the requirements of this section no later than December 28, 1993.

(4)

The dimensions for an outdoor storage area screen shall be not less than 12 feet long by 12 feet wide. Where more than one dumpster or dumpster-like container are to be located in the same outdoor storage area, there shall be a minimum three-foot separation between each dumpster or dumpster-like container.

(5)

Nothing shall be installed or planted in connection with such outdoor storage areas so as to interfere with the removal of the contents of the dumpsters by the city or other authorized entity.

(d)

*Utility service areas*. All utility service areas having vertical dimensions exceeding three feet or horizontal dimensions exceeding five feet and located within 100 yards of any street right-of-way shall be screened. Screening shall be done by planting of locally adapted evergreen species or constructed of an opaque fence or wall.

(1)

Planting shall have a minimum installation height of 18 inches, spaced edge to edge and be expected to reach a mature height equal to or greater than the utility service structure to be screened.

(2)

Fences or walls shall be constructed of opaque material of masonry, stone or wood and of a height and width equal to or greater than the utility service structure to be screened.

(3)

No screening shall be installed which would impair the safe operation, maintenance or function of the utility equipment.

(e)

Interior planting areas.

(1)

Size. In vehicular use areas within the interior of a site, a planting area shall be required which will be equal to four percent of the paved area. Shade trees and other landscaping material shall be planted within such planting area. Interior planting areas shall be located to most effectively relieve the monotony of large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic. All development having paved areas of 12,000 square feet or less shall be exempt from the interior planting requirements.

(2)

Overhang. Vehicles shall not overhang more than two feet into any interior planting area.

(3)

Interior landscaping functional waiver. In vehicular use areas, when the city has determined that the strict application of this section will interfere with the function of the vehicle use area, the required interior landscaping may be located near the perimeter of the paved area, including such perimeters which may be adjacent to a building site.

(Code 1986, § 5-192; Ord. No. O-92-09-28, § 3, 9-28-1992; Ord. No. O-92-12-109, 12-28-1992; Ord. No. O-93-06-20, 6-24-1993; Ord. No. O-93-11-36, 11-22-1993; Ord. No. O-95-12-45, 12-21-1995)

Sec. 14-137. - Maintenance, preservation and use standards.



(a)

Maintenance.

(1)

All required plant material shall be maintained in good condition at all times.

(2)

Structural elements related to nonliving landscape material shall be maintained in good condition at all times.

(b)

Replacement. Dead plant material shall be replaced in accordance with the provision of this article and within a time period appropriate to the growing season of the species in question, not exceeding 90 days.

(c)

Protection of landscape material. All required landscape areas shall be protected from unpermitted vehicular encroachment by the use of wheel stops, curbing or other suitable methods.

(d)

Use of landscape area. No required landscape area shall be used for parking except encroachment as provided in this article, or for accessway structures, garbage or trash collection or any functional uses contrary to the intent and purposes of this article.

(Code 1986, § 5-193; Ord. No. O-92-09-28, § 4, 9-28-1992)

Sec. 14-138. - Permit procedure.



Whenever the provisions of this article are applicable, a landscape permit shall be required.

(1)

*Plan required.* A landscape plan shall be submitted upon application for a landscape permit. The landscape plan shall include sufficient information for the city building official to determine whether the proposed landscape improvements are in conformance with the landscape standards and other requirements of this article.

(2)

Contents. The landscape plan shall be submitted to the city and shall include at a minimum a description of the species, size, quantity and location of all trees, shrubs and landscape material and a depiction of the site including proposed structures, vehicle use areas and relationships of the site to adjacent public or private streets and properties.

(3)

Application procedure. The following procedures and requirements, shall be adhered to by the applicant and the city:

a.

Applications for approval of landscape plans shall be made to the city. Upon approval of an application, the city shall issue a landscape permit.

b.

The city shall have 15 working days after receipt of a completed application filed pursuant to this section in which to approve or deny the application. If the city disapproves the application, the

city shall specify to the applicant in writing, the reason for the city's action. If no final action with regard to a completed application is taken within the required 15 working days, the application for approval of a **landscape** plan, shall be deemed to be approved.

c.

No building permit, if required, shall be issued unless and until the city has approved the application for a landscape plan.

d.

No certificate of occupancy shall be issued unless and until the city has determined after final inspection that required site improvements have been installed according to the approved application and plan. The city may require a performance bond or other security in the amount of no more than 110 percent of the cost of the required improvements in lieu of withholding a certificate of occupancy, and may further require that improvements be satisfactorily installed within a specified length of time.

e.

Any applicant aggrieved by the action of any official charged with the enforcement of this article shall have the right to appeal the action to the zoning board of appeals. The appeal shall be filed with the city building official, in writing, and be heard at the next scheduled meeting of the board. A meeting of the board will be scheduled no later than 15 days from the date when the appeal is filed with the building official. It will not be necessary to place a notice in the local newspaper for an appeal made concerning this section. The decision by the board will be final.

f.

A copy of the approved permit and plan shall be available on site during installation of landscape improvements.

(Code 1986, § 5-194; Ord. No. O-92-09-28, § 5, 9-28-1992)

Sec. 14-139. - Variances.



(a)

The zoning board of appeals upon written application by the developer, may grant a written variance from any requirement of this article using the following criteria:

(1)

Where granting of the variance will not impair the attainment of the objectives of this article; or

(2)

Where literal enforcement of this article would result in unnecessary and undue hardship.

(b)

Applications for variances shall be filed with the city building official and heard at the next scheduled meeting of the board.

(c)

A meeting of the board will be scheduled no later than 15 days from the date the application for a variance is received by the city building official. It will not be necessary to place a notice in the local newspaper for an application for a variance to this section.

(d)

The decision by the board will be final.

(Code 1986, § 5-195; Ord. No. O-92-09-28, § 6, 9-28-1992)

Sec. 14-140. - Enforcement.



(a)

Written notice required. Whenever the city determines that a violation of this article exists, the city shall give written notice of the violation to the occupant, applicant and the owner shown on the most recent tax roll of the city. A copy of such written notice shall be transmitted to the city attorney.

(b)

Content. The notice shall include but not be limited to:

(1)

A description of the location of the property involved, either by street address or by legal description.

(2)

A statement indicating the nature of the violation.

(3)

A statement showing the time within which all necessary remedial action must be accomplished which time may not be less than ten days nor more than 90 days from the date of such written notice.

(4)

The name of the person upon whom the notice of violation is served.

(5)

A statement advising that upon the failure to comply with the requirements of the notice, the city shall take such enforcement procedures as may be required under this article.

(c)

Service. The written notice required in subsection (a) of this section shall be served upon the person violating this article and the person owning the land by either personal delivery or certified mail.

(d)

Compliance. If such notice is not complied with within the time specified in the notice, then the city shall use all available means of enforcement in order to secure compliance with the provisions of this article.

(Code 1986, § 5-196; Ord. No. O-92-09-28, § 7, 9-28-1992)

Sec. 14-141. - Applicability of existing areas.



(a)

In accord with section 14-135, the provisions of this article are applicable to all off-street parking areas and all vehicular use areas constructed within the city after the date of approval by the city council of Ord. No. O-95-12-45. With respect to such areas existing within the city as of the effective date of Ord. No. O-95-12-45, the following provisions shall apply:

(1)

This article shall apply only to those off-street parking areas and vehicular use areas which have in excess of 150 existing parking spaces, where the major paved parking surface and vehicular use area is situated in one contiguous area, is not separated by medians, existing nonconforming landscaping, buildings, walls or fences, and which area exceeds 50,000 square feet in size.

(2)

This article shall apply only to those off-street parking areas and vehicular use areas located in an industrial "I" district of the city where the off-street parking areas or vehicular use areas are adjacent to a major street as defined in section 94-214 and, in such event, landscaping as required hereunder would only be required in the front perimeter landscape area.

(3)

Notwithstanding the provisions of subsection (a)(1) and (2) of this section, no landowner shall be required to reduce the number of parking spaces located in such off-street parking area or vehicular use area existing on such effective date, by more than seven percent, in order to comply with the provisions of this article.

(4)

As to those off-street parking areas and vehicular use areas existing within the city on such effective date that are subject to Ord. No. 95-12-45, pursuant to this section, the owners of such off-street parking areas and vehicular use areas shall have until January 1, 1999, to comply with the requirements of this article; provided, however, that unless a variance is granted by the city's zoning board of appeals in accord with section 94-88(3), at least one-third of the off-street parking area and vehicular use area must be **landscaped** in accord with this article on or before January 1, 1997, and at least two-thirds shall be **landscaped** in accord with this on or before January 1, 1998.

(b)

As to the business locations where compliance with the **landscape** ordinance is required, the finance director shall not be authorized to issue a city business license to any occupant or tenant of such business location until proof of compliance with the **landscape** requirements applicable to such business location has been submitted to the finance director.

(c)

All costs of compliance with this article shall be the responsibility of the owner of the area to be **landscaped**, but nothing herein shall prohibit such owner from sharing such costs of compliance with such owner's tenants or others.

(d)

Notwithstanding any other provision of this article to the contrary, off-street parking areas and vehicular use areas of churches, and synagogues, public, private and parochial schools, and federal, state or other governmental entities shall not be required to comply with the terms of this article.

(e)

All off-street parking areas and all vehicular use areas, which are associated with real property annexed into the city shall only be required to comply with the **landscape** ordinance if such property is annexed into the city with an effective date for ad valorem tax purposes on or after December 31, 1997. The owner of such property shall have a period of six months after the effective date of such annexation for ad valorem tax purposes to fully comply with the terms of this subsection, unless a variance with respect to such time limitation is granted by the city

zoning board of appeals in accord with section 94-88(3), before the expiration of such six-month period.

(Code 1986, § 5-197; Ord. No. O-95-12-45, 12-21-1995; Ord. No. O-97-08-30, 8-21-1997; Ord. No. O-97-08-31, 8-21-1997)

Secs. 14-142—14-165. - Reserved.

