

ORDINANCE 99-O-66 amending the Murfreesboro City Code, Appendix A-Zoning by adding Section 27 on Landscaping and Screening and by amending other sections of Appendix A-Zoning accordingly.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Section 25 (b)(9) of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting it in its entirety and replacing it to read as follows:

(b)(9) Signs which are subject to the provisions of Murfreesboro City Code Section 251/4 SIGNS.

SECTION 2. Section 18 (c) and (d) of Appendix A--Zoning, Murfreesboro City Code are hereby amended by deleting them in their entirety and designating them as reserved.

SECTION 3. Section 2 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting "Landscaping" and its definition in its entirety.

SECTION 4. Section 2 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting the definition for "Certificate of Occupancy" and replacing it to read as follows:

*Certificate of Occupancy:* A document issued by the building official allowing the occupancy or use of a building and certifying that the structure or use has been inspected for compliance with all the applicable municipal codes and ordinances. A Temporary Certificate of Occupancy may be issued by the building official allowing the occupancy or use of a building, although all required work has not been completed, if the owner posts a bond.

SECTION 5. Section 3 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by adding the following paragraph at the end of the section:

The urban environmental department is authorized to review and inspect landscaping and landscape plans in accordance with Section 27. LANDSCAPING AND SCREENING.

SECTION 6. Section 30 (c) of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting the portion of the first sentence after the word "upon" and replacing it to read as "the various provisions of this article [Appendix A-Zoning]".

SECTION 7. Section 30 (d) of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting the first sentence after the word "Powers" and replacing it to read as follows:

(d) *Powers*. The board of zoning appeals shall have all powers granted in this article [Appendix A - Zoning] including those described in Sections 8, 10, 11, and 12.

SECTION 8. Section 26 (d)(2) c. of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting the subsection in its entirety and replacing it to read as follows:

c. Parking lots, loading spaces, and maneuvering areas shall be designed, landscaped, and screened in accordance with the requirements of Section 27. LANDSCAPING AND SCREENING.

SECTION 9. Section 26 (c)(8) of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting it in its entirety.

SECTION 10. Section 26 (g)(2) of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting the subsection in its entirety and designating it as reserved.

SECTION 11. Chart 1, Footnote 12 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting it in its entirety and replacing it to read as follows:

12. Sites used for the storage of wrecked or partially dismantled vehicles, whether as a principal, accessory, or ancillary use, used in conjunction with automotive repair establishments, motor vehicle service establishments, wrecker or towing services, or wrecker service storage yards, shall provide at a minimum a Type D Buffer Zone as described in Section 27. LANDSCAPING AND SCREENING of this article for screening of the area used for the storage of wrecked or partially dismantled vehicles. Provided, however, the screening requirement shall not be for the entire site unless otherwise required by this article and shall be applicable to only those areas used for such storage. It is the intent of this requirement to screen such storage areas from the view of any adjacent property and from the view of any public R.O.W. adjacent to the site.

SECTION 12. Section 20, OFFICE DISTRICTS, of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting subsection (3) under the OG subsection in its entirety and by deleting subsection (3) under the OG-R subsection in its entirety.

SECTION 13. Section 21 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting subsection (b)(1) under the CF subsection in its entirety and designating it as reserved.

SECTION 14. Section 24, BPD, BATTLEFIELD PROTECTION DISTRICT, of Appendix A--Zoning, Murfreesboro City Code is hereby amended by revising the second sentence of subsection c.4 to read as follows:

Areas for outdoor storage, loading docks, and associated maneuvering areas shall be screened from view of adjacent public R.O.W.s with a Type C Buffer Zone as defined in Section 27. LANDSCAPING AND SCREENING of this article.

SECTION 15. Section 24, BPD, BATTLEFIELD PROTECTION DISTRICT, c.9. of Appendix A--Zoning, Murfreesboro City Code is hereby amended by changing the reference to "Section 18.(c)" to "Section 27" and by changing the words "public R.O.W." in the third sentence to "frontage".

SECTION 16. Section 9 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by changing references to "Section 18 (c)" and/or "Section 26 (g)(2)" to Section 27. LANDSCAPING AND SCREENING in the following subsections: n. 7., m. 7., s. 7., u. 2., w. 2., bb. 2, and bb. 3.

SECTION 17. Section 7 (e)(2) under the LANDSCAPING AND SCREENING subsection of the Planning Commission Site Plan Review Checklist of Appendix A--Zoning, Murfreesboro City Code is hereby amended by deleting numbers 69 through 74 in their entirety and designating them as reserved and by replacing number 68 to read as follows:

\_\_\_\_\_ (68) a separate landscape checklist as required by Section 27. LANDSCAPING AND SCREENING of this article.

SECTION 18. Section 13 of Appendix A--Zoning, Murfreesboro City Code is hereby amended by adding a new subsection (b)(11) which shall read as follows:

(11) Landscaping for Planned Developments shall generally conform to the minimum requirements for landscaping and screening as established in Section 27. LANDSCAPING AND SCREENING of this article [Appendix A - Zoning].

SECTION 19. Appendix A--Zoning, Murfreesboro City Code is hereby amended by creating a new Section 27. LANDSCAPING AND SCREENING which shall read as follows:

## **Section 27. LANDSCAPING AND SCREENING**

### **( a ) Purpose and Scope**

It is the intent of the City of Murfreesboro to promote the health, safety and welfare of existing and future residents by establishing minimum standards for the protection of natural plant communities and features, and for the planting and continued maintenance of installed landscaping, within the City in order to:

(1) Environmental Quality: Improve environmental quality by recognizing the numerous beneficial effects of landscaping upon the environment, including:

- A. Improving the air and water quality through such natural processes as photosynthesis, mineral uptake and chemical conversions that will help promote oxygen production, carbon dioxide reduction and greenhouse effect mitigation;
- B. Maintaining permeable land areas essential to surface water management, aquifer recharge and the conservation of fresh water resources;
- C. Reducing and reversing air, noise, heat and chemical pollution through the biological filtering capacities of trees and other vegetation;
- D. Promoting energy conservation through the creation of shade and reducing heat gain in or on buildings or paved areas;
- E. Providing habitat for urban wildlife,
- F. Reducing the temperature of the microclimate through the process of evapotranspiration; and,
- G. Encouraging the conservation of topsoil resources through the use of site specific plants and various planting and maintenance techniques to prevent erosion.

(2) Land Values: Maintain and increase the value of land by requiring a minimum amount of landscaping to be incorporated into development, thus improving its value as a capital asset.

(3) Human Values: Provide direct and important physical and psychological benefits to human beings through the use of landscaping to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development. To provide a sense of countryside and nature in the City thereby promoting a psychological sense of place for citizens and visitors alike.

(4) Conserve Water: Promote the conservation of potable and non-potable water by encouraging the preservation of existing plant communities, encouraging the planting of natural or uncultivated areas, encouraging the use of site specific plant materials, providing for natural water recharge preventing excess runoff, mitigating flood impacts down stream, and establishing techniques for the installation and maintenance of landscape materials and irrigation systems.

(5) Aesthetics: Improve the aesthetic appearance of commercial, industrial, and public areas through landscape design which incorporates living plant material, appropriate non-living landscape materials and other site elements in open space development in ways that harmonize and enhance natural and built environments in a way that is conducive to economic development.

(6) Preservation and Addition of Vegetation: Preserve existing natural vegetation and encourage the incorporation of plant materials, especially native plants, plant communities and ecosystems into landscape design, where possible.

(7) Improved Community Design: Promote innovative and cost-conscious approaches to the design, installation and maintenance of landscaping.

### **( b ) Responsibility**

(1) The owner as defined in this section is solely responsible to the City of Murfreesboro for compliance with the provisions of this section.

(2) The contractor or landscape installer and the owner are responsible for submitting a Landscape Certificate of Compliance as described in subsection (s) below before a final inspection will be conducted.

( c ) Applicability

The provisions of this section shall apply to all uses, except Single Family and Duplex Dwellings.

(1) New Developments: No new building, structure or development shall hereafter be constructed, or parking area created, unless landscaping is provided as required by this section.

(2) CBD Exemption: The provisions of this section shall not apply to any building, structure, or use located in the CBD zoning district.

(3) Changes to Existing Buildings, Structures and Developments: The requirements of this section shall be applicable to existing buildings, structures and developments under the following circumstances.

- A. If an existing building, structure or development is expanded by fifty percent (50%) or more, then the entire building, structure or development shall comply with the requirements of this section.
- B. If the estimated cost of a renovation of an existing building, structure, or development equals fifty percent (50%) or more of the total assessed value of the existing building, structure, or development (including land), then the entire building, structure or development including parking area shall comply with the requirements of this section.
- C. If there is change in use of an existing building, structure or development which requires issuance of a Special Use Permit, then the entire building, structure, or development including parking area shall comply with the requirements of this section.
- D. If there is change in use of an existing building, structure or development, which requires rezoning of the property from one zoning district to another zoning district, other than to or from a planned development district, to allow the new use, then the entire building, structure, or development including parking area shall comply with the requirements of this section.
- E. If the number of existing parking spaces for an existing building, structure or development is expanded by twenty-five percent (25%) to forty nine percent (49%), then the area of expansion shall comply with the requirements of this section.
- F. If the number of existing parking spaces for an existing building, structure or development is expanded by fifty percent (50%) or more, then the entire parking lot shall comply with the requirements of this section.
- G. If a new and separate building, structure or development is constructed on the same lot of record as an existing building, structure or development, only the separate and new building, structure or development must meet the requirements of this section. However, if the new building, structure or development is connected physically to the existing building or structure so as to make it appear the existing and new building or structure are part of the same business or establishment, this exception shall not apply.

( d ) Definitions

The following definitions shall apply to the regulation and control of landscaping within this article [Appendix A - Zoning] in addition to those definitions in Section 2.

(1) Access way: A paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off street parking area.

(2) Board of Zoning Appeals: An appointed board that has the authority to grant variances and to hear administrative appeals arising under this section.

(3) Bond: Money or a form of monetary security issued to the City of Murfreesboro by an owner to insure that the required site work will be performed completely and correctly within a certain time frame. This bond shall be in the form of a cashiers check, letter of credit from a banking institution, certificate of deposit, or performance bond from an insurance company. The posting of a bond satisfactory to the City will be a condition for the issuance of a Temporary Certificate of Occupancy.

(4) Buffering: The use of landscaping (other than mere grass on flat terrain), or the use of landscaping with berms, walls, or decorative fences, that at least partially obstructs the view from the street or adjoining properties of vehicular use areas, parking lots and their parked cars, loading areas, and refuse containers.

(5) Buffer Zone: The required installation of landscaping between land uses. (See subsection (l) for further explanation).

A. Type A Buffer Zone: A planting strip having a minimum width of 10 feet which is intended to separate uses, provide vegetation in densely developed areas, and enhance the appearance of individual properties.

B. Type B Buffer Zone: A low density screen having a minimum width of 10 feet which is intended to partially block visual contact between zoning classifications and create spatial separation.

C. Type C Buffer Zone: A medium density screen having a minimum width of 12 feet which is intended to partially block visual contact between zoning classifications and create spatial separation.

D. Type D Buffer Zone: A medium-high density screen having a minimum width of 15 feet which is intended to partially block visual contact between zoning classifications and create spatial separation.

E. Type E Buffer Zone: A high density screen having a minimum width of 20 feet which is intended to substantially block visual contact between zoning classifications and create spatial separation. A Type E Buffer Zone reduces lighting and noise that would otherwise intrude upon adjacent zoning classifications.

(6) Caliper: A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.

(7) Critical Root Zone (CRZ): A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of 8 feet.

(8) Certificate of Landscape Compliance: A document that the contractor or installer and the owner shall submit to the City of Murfreesboro before final inspection that certifies that the landscape plan has been substantially implemented in its entirety.

(9) Certificate of Occupancy: A document issued by the building official allowing the occupancy or use of a building and certifying that the structure or use has been inspected for compliance with all the applicable municipal codes and ordinances. A Temporary Certificate of Occupancy may be issued by the building official allowing the occupancy or use of a building, although all required work has not been completed, if the owner posts a bond.

(10) DBH: Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

(11) Detention Area: Area used for temporary storage and controlled release of stored storm water.

(12) Designer: Person, persons, or firms responsible for the preparation of the landscape plan.

(13) Deciduous: Those plants that annually lose their foliage.

(14) Drip line: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

(15) Evergreen: Those plants that retain their foliage throughout the year.

(16) Evergreen Screen: Plants that retain their foliage year round that are planted to provide a dense vegetative screen for purposes of visual mitigation between zoning districts.

(17) Ground Cover: A prostrate plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides.

(18) Island: In road and parking area design, a raised planting area, usually curbed, and placed to guide traffic, separate lanes, limit paving (impervious surface), preserve existing vegetation and increase aesthetic quality.

(19) Land Clearing: Operations where trees and vegetation are removed and which occur prior to construction of buildings, road right-of-way excavation, utility excavation, grubbing, and any other necessary clearing operation.

(20) Landscaping: The process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover. Includes any combination of living plants, such as trees, shrubs, vines, ground covers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences, benches.

(21) Landscape Ordinance: The sections of the zoning ordinance which regulate landscape design, landscaping, and landscape installation and maintenance.

(22) Landscape Plan: The preparation of graphic and written criteria, specifications, and detailed plans to arrange and modify the effects of natural features with plantings, ground and water forms, circulation, walks and other landscaping features to comply with the provisions of this ordinance.

(23) Loading Areas: An area which contains trash collection areas of dumpster type refuse containers, outdoor loading and unloading spaces, recycling bins, docks, outdoor shipping and receiving areas, outdoor bulk storage of materials or parts thereof, or outdoor repair areas of any service stations, safety equipment, inspection stations or dealers, including but not limited to loading spaces as defined in Section 2.

(24) Off Street Parking and Other Vehicular Use Area: Any area, excluding public right-of-way, used for the purpose of driving, maneuvering, parking, storing or display of motor vehicles, boats, trailers, mobile homes and recreational vehicles, including new and used automobile lots, and other parking lot uses, excluding minimum parking requirements for single family residences or duplexes.

(25) Owner: Any individual, corporation, partnership or entity, which owns property that is subject to the provisions of this ordinance and any individual, corporation, partnership or entity which succeeds to such ownership. The obligations of an owner under this ordinance, including perpetual maintenance in accordance with an approved landscape plan, are binding on any successor owner.

(26) Parking Lot Island: An area of ground within the boundary of any parking lot, which has curbing adjacent to all paved areas. Parking lot islands are used for traffic control and as planting areas to screen and shade parking lots to minimize the detrimental environmental impacts of large paved areas.

(27) Planting Area: The area prepared for the purpose of accommodating the planting of plants.

(28) Plant: A combination of vegetation in a designed, specific application which meets the purpose of this ordinance. Vegetation may include: trees, shrubs, groundcovers, vines and grasses. For purposes of this ordinance it does not include flowers or weeds.

(29) Planting Yard: A planting area around the perimeter of a property separating the access way and vehicular use area from adjoining property and/or public right-of-way. Its purpose is to enhance the visual appearance of the site and to provide screening of the vehicular use area and certain other activities from the public right-of-way and abutting property.

(30) Plans Review Staff: A committee consisting of staff members from various city departments and public utilities whose purpose is to review plans submitted for compliance with the City of Murfreesboro's development requirements and ordinances.

(31) Retention Area: Area used for storage of storm water without controlled release of stored water.

(32) Shrub, Large: An upright plant growing 10 feet to 20 feet in height at maturity planted for ornamental or screening purposes.

(33) Shrub, Medium: A plant growing 5 feet to 9 feet in height at maturity planted for ornamental or screening purposes.

(34) Shrub, Small: A plant growing to less than 5 feet in height at maturity planted for ornamental or screening purposes.

(35) Sight triangle: Area at the intersection of the road right-of-way and an access point to property where driver visibility must be maintained as required in this ordinance [See subsection (p) for further explanations].

(36) Street Tree: A tree planted along the street within the right-of-way.

(37) Tree Board: An appointed board consisting of five members that hears appeals of administrative decisions concerning Tree Work Permits.

(38) Tree, Ornamental: A small to medium tree, growing 15 feet to 40 feet at maturity used for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage. Ornamental trees must be used for planting under or near overhead utility lines.

(39) Tree Protection Zone: The area around a tree corresponding to the drip line or ten (10) feet, whichever is greater, in all directions from the trunk.

(40) Tree, Shade: A large tree growing to over 40 feet in height at maturity, usually deciduous, planted to provide canopy cover shade.

(41) Tree Work: The act of pruning, removing, spraying or planting of any tree or portion thereof within the City's right-of-way.

(42) Tree Work Permit: Application that must be completed and submitted to the Urban Environmental Department prior to any tree work within the City's right-of-way.

(43) Vehicular Use Areas: All areas subject to vehicular traffic including access ways, driveways, loading areas, service areas, bicycle lanes and parking stalls for all types of vehicles. This definition does not include covered parking structures or underground parking lots.

(44) Vines: A woody plant that has a spreading pattern of growth. Vines may be used on the ground, on walls and on trellises.

( e ) Submittal of Landscape Plan

A landscape plan meeting all requirements specified in subsection (f) below must be submitted, reviewed and approved by the Urban Environmental Director or the Director's designee as part of the site plan approval process. No building permit shall be issued until the site plan (including the landscape plan) has been submitted, reviewed and approved, provided, however, that a grading and/or a foundation building permit may be issued upon the approval of the planning director or designee and the chief building official or designee but any such grading or foundation building permit issuance shall be at the risk of the applicant and does not constitute site plan approval.

( f ) Landscape Plan Requirements

A separate landscape plan must be submitted; provided that, if the site plan is for a building of less than 15,000 square feet, and is on a lot of less than 2 acres, then the landscape plan may be combined with the site plan if the scale of the site plan is not less than 1 inch = 30 feet. Any landscape plan must have the same scale as the site plan. All items on the following checklist which are applicable shall be depicted on the landscape plan or the combined site and landscape plan. A copy of the checklist shall accompany the plan when it is submitted for review:

1. \_\_\_\_\_ A Plant Schedule. The Plant Schedule must contain:
  - A) \_\_\_\_\_ Quantity of each plant material;
  - B) \_\_\_\_\_ Common and botanical name of plant material;
  - C) \_\_\_\_\_ Size and spacing of all proposed landscape material at time of planting;
  - D) \_\_\_\_\_ General plant comments;
2. \_\_\_\_\_ Any tree(s) or plant materials that are located in the public right-of-way;
3. \_\_\_\_\_ Total linear feet of frontage;
4. \_\_\_\_\_ Existing plantings on site that were previously required by the City of Murfreesboro;
5. \_\_\_\_\_ Existing plant materials to be left in natural state (non disturbed areas only);
6. \_\_\_\_\_ Methods and details for protecting existing plants (tree protection zones must be designated and established in order to receive credit for required landscaping);
7. \_\_\_\_\_ Erosion control plan;
8. \_\_\_\_\_ Location and description of required landscape improvements, including perimeter landscaping, landscaping within parking lots, and buffer zones if the

parking area is two (2) or more acres, (the description shall include the size of the parking area and the actual percentage of the parking area used for landscaping);

9. \_\_\_\_\_ Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, courtyards or paved areas;
10. \_\_\_\_\_ Planting and installation details to ensure conformance with all required standards;
11. \_\_\_\_\_ Location and type of irrigation system compliance;
12. \_\_\_\_\_ Location of proposed buildings;
13. \_\_\_\_\_ Layout of parking and traffic patterns;
14. \_\_\_\_\_ Plan drawn to scale with North arrow and any interpretative legends;
15. \_\_\_\_\_ Location of all overhead and underground utilities;
16. \_\_\_\_\_ Location of all public or private easements ( The owner must submit an Agreement to Landscape in Utility Easement letter as described in subsection (w) if landscaping within an easement);
17. \_\_\_\_\_ Location of all existing and proposed ground signage. (Note: Approval of the Landscaping Plan shall not constitute any approval as to location that may be required under the sign ordinance.);
18. \_\_\_\_\_ Connections to existing streets; and,
19. \_\_\_\_\_ Zoning designation of the subject property and the adjacent properties.

#### ( g ) Changes and Resubmittals

A change to a previously approved landscape plan requires resubmittal and reapproval before the installation of plant materials. Such changes may occur as a result of, but are not limited to a:

- (1) Reduction in the quantity of required landscape materials;
- (2) Reduction in the size of plant materials (if adding larger plant materials of the same category, resubmittal and reapproval are not necessary);
- (3) Change in location of plant materials (no revisions are necessary if minor field adjustments, not to exceed 3 feet, must occur);
- (4) Change in design, layout or location of design elements such as: earth berms, buffer zones, walls, fences etc.;
- (5) Change in location of overhead or underground utilities; or, a
- (6) Change in appropriateness of plant materials upon maturity.

Changes to a previously approved landscape plan will not require resubmittal and reapproval before the installation of plant materials if such changes occur as a result of change in species due to lack of plant availability. However, the new plants must be of the same general category, i.e. Shade tree, Ornamental tree, Evergreen tree, deciduous shrub, or evergreen shrub, and shall maintain the same general design characteristics, such as form, mature height, crown spread and intent, as the plants on the originally approved landscape plan.

#### ( h ) Landscape Requirements

- (1) To be approved by the Urban Environmental Director or the Director's designee, a landscape plan submitted under subsection (e) must comply with the landscape requirements of the ordinance. These landscape requirements include subsections (i), (j), (k), (l), (m), and (n).

- (2) If application of these landscape requirements to a particular lot would be unreasonable or impractical, or would damage or eliminate existing vegetation, a subsection (f) landscape plan may be submitted with a request for approval of an alternate and equivalent means of providing landscaping. The need for alternative means of landscaping might arise from unusual site conditions, including streams, natural rock formations or topography; or from an unusual lot configuration or development design; or, from the presence of utility easements. The request for approval of an alternative to the landscape requirements must specify the reason for requesting the alternative and the landscape plan must demonstrate the equivalency of the proposed alternative to the requirements. The Urban Environmental Director, or the Director's designee, will determine if the proposed alternative is equivalent and whether it meets the intent and purpose of the ordinance. This determination may take into account the land use classification of adjacent properties; the number of plantings, species, arrangement and coverage proposed; the location of the plantings on the lot; and the level of screening, height, spread, and canopy of the plantings at maturity.
- (3) If, for the same reasons an alternative plan is necessary, an applicant is unable to achieve the required number of trees on a proposed alternative plan, the applicant may achieve the necessary equivalency by making a commitment to the City's Tree Bank. This provision is not intended to allow an applicant to avoid the minimum Landscaping requirements if compliance is feasible. The commitment shall be in an amount equal to the number of omitted trees multiplied by the Tree Replacement Rate unless, based on the alternative Landscape Plan proposed, the Urban Environmental Director, or the Director's designee, determines that a lesser commitment amount would be sufficient to achieve equivalency. The City Council shall approve and, from time to time, adjust the Tree Replacement Rate; it shall be the dollar amount deemed equivalent to the cost of purchasing, planting and maintaining a required tree as recommended by the Urban Environmental Director. The commitment to the Tree Bank shall be paid when the building permit is issued. Payments received by the Tree Bank shall be used solely to landscape public properties and rights of way. Landscaping improvements made using funds from the Tree Bank shall be designed to achieve the purposes and goals of Section 27(a).

( i ) Landscape Standards and Specifications

- (1) The owner shall furnish and install all plant materials listed on the approved plant schedule.
- (2) Plant materials shall conform to the requirements described in the latest edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen, a copy of which is on file with the City Recorder and Urban Environmental Director.
- (3) At the time of planting, Shade trees must be a minimum of 2½ inches in caliper, Ornamental trees must be a minimum of 1½ inches in caliper and Evergreen trees must be a minimum of 6 feet tall.
- (4) At the time of planting, when planted as part of a required Buffer Zone, small shrubs must have a minimum height of 18 inches, medium shrubs must have a minimum height of 2 feet, and large shrubs must have a minimum height of 3 feet.
- (5) If staking materials are used, then the owner should, for reasons of tree health and longevity, remove them after one growing season.
- (6) The Urban Environmental Director or Director's designee may be consulted to determine the proper time to move and install plant material so that stress to the plants is minimized. All planting must be completed by the next planting season

not to exceed 6 months time after the Temporary Certificate of Occupancy is issued.

- (7) The owner shall ensure that all Planting Areas, e.g. tree pits, hedge trenches and shrub beds, are excavated appropriately. All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth of the ball to be above existing grade. Soil within the planting areas should be reasonably free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Plants shall rest on a well-compacted surface.
- (8) Existing trees shall be preserved whenever feasible (See subsection (q)).
- (9) All Planting Areas shall be mulched with a three to four inch layer of bark, pine needles, or other similar material to cover the complete Planting Area, and other areas shall be in grass or ground cover.
- (10) No plantings of trees are allowed within a dedicated drainage easement without the written consent of the City Engineer. No plantings of trees are allowed within any recorded sewer or water easement without the written consent of the Director of the Water and Sewer Department. The owner must submit an Agreement to Landscape in City Easement as described in subsection (w). Plantings of items other than trees within a dedicated drainage easement or a recorded sewer or water easement shall be at the owner's risk and shall not waive or modify the easement.
- (11) Landscape plans shall not include any tree on the Do Not Plant Tree List. This list shall be compiled by the Urban Environmental Director and maintained on file with City Recorder.
- (j) Required Perimeter Landscaping

An owner is required to have Planting Yards around the perimeter of a property except where vehicular access ways are provided. A Planting Yard shall be a uniform minimum width of:

- (i) 5 feet where the site is 1 acre or less;
- (ii) 8 feet on a front Planting yard and 5 feet on other Planting Yards where the site is between 1 and 2 acres;
- (iii) 8 feet where the site is more than 2 acres and less than 5 acres or more.
- (iv) 10 feet where the site is 5 acres or more.

The width of the Planting Yard shall not affect any other requirement of this section.

- (1) Planting Yards shall be placed along the front, side and rear property lines except where access ways are provided or where a building is built up to the side or rear lot line. If there is less than five (5) feet, between the building and the side or rear lot line, shrubs and/or small ornamental trees shall be planted and maintained. If there is more than five (5) feet between the building and the side or rear lot line, the planting requirements for Planting Yards shall be applicable. A property bounded by two or more public rights-of-way has two or more front yards.
- (2) Along a side or rear property line, this requirement for Perimeter Landscaping may be satisfied by the creation and maintenance of a single Planting Yard with the adjacent property owner. A Planting Yard used to meet the perimeter landscaping requirements for two properties must have a uniform minimum width of ten (10) feet and the number of trees shall be the same as required as if it was only one (1) perimeter landscaping for the common Planting Yard. Both property owners must present and execute an enforceable written agreement for the perpetual maintenance of the Planting Yard and record it in the Register of

Deeds office, all at no expense to the City, which agreement shall be binding on any successor owner of either property. No such shared Planting Yard shall be used to reduce the Buffer Zone Requirement contained in subsection (l).

- (3)(i) Planting Yards shall contain one (1) Shade tree every 40 linear feet, excluding any vehicular access way. Ornamental trees may be substituted for up to forty percent (40%) of otherwise required Shade trees. Ornamental trees shall be planted not more than 25 linear feet from another tree. Only Ornamental trees may be planted under overhead utility lines. These trees shall be generally equally distributed along the property lines, but they are not required to be at absolutely equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees. To increase viewsheds to the building(s) and/or sign(s), the owner may submit an alternate plan under subsection (h)(2) to provide for an alternate arrangement of trees within the Planting Yard.
- (ii) Owners of lots with limited street frontage may also meet the requirement for Perimeter Landscaping in front Planting Yards as specified below. Shrubs required to be planted within a front Planting Yard under this provision may be planted anywhere within the front Planting Yard and may be mass planted to achieve a more naturalistic appearance; ground cover is not considered a shrub. Shrubs shall be of at least two different types (small, medium or large being the types) and at least 50% of the shrubs shall be evergreen. The shrubs shall have a minimum height of 24 inches from ground level at the time of planting.
  - a. 150 linear feet or less of lot frontage:
    - with a 5 foot front Planting Yard, no trees are required but 1 shrub is required for every 12.5 square feet of Planting Yard;
    - with an 8 foot front Planting Yard, 1 shade tree or 2 ornamental trees are required and 1 shrub is required for every 20 square feet of Planting Yard.
  - b. 250 linear feet or less, but more than 150 linear feet, of lot frontage:
    - with a 5 foot front Planting Yard, 1 shade tree or 2 ornamental trees are required and 1 shrub is required for every 12.5 square feet of Planting Yard;
    - with an 8 foot front Planting Yard, 2 shade trees or 4 ornamental trees are required and 1 shrub is required for every 20 square feet of Planting Yard.
  - c. 350 linear feet or less, but more than 250 linear feet, of lot frontage:
    - with a 5 foot front Planting Yard, 2 shade trees or 4 ornamental trees are required and 1 shrub is required for every 12.5 square feet of Planting Yard;
    - with an 8 foot front Planting Yard, 3 shade trees or 6 ornamental trees are required and 1 shrub is required for every 20 square feet of Planting Yard.

A front Planting Yard planted in accordance with this subsection (ii) is not subject to the provisions of subsection (6).

- (4) No one tree species shall comprise more than sixty percent (60%) of the total number of trees provided however that this provision is still met if an uneven number of trees is required and there is one (1) tree more than 60% of a given species.
- (5) All trees in a Planting Yard shall be planted no closer than two and one half (2 ½) feet from any public right-of-way.

- (6) A front Planting Yard shall contain a number of shrubs equal to one (1) shrub for five (5) linear feet of frontage. These required shrubs may be small, medium, or large. They may be planted anywhere within a front Planting Yard and may be mass planted to achieve a more naturalistic appearance. Up to fifty percent (50%) of the required number of shrubs for a front Planting Yard may be located in the immediate vicinity of the building, structure or development.
- (7) If any landscaping required by this subsection is set back from any lot line, the area between the lot line and the landscaping shall be landscaped with grass or other appropriate plants, except for sidewalks.
- (8) For reasons of safety and security, this subsection shall not require the placement of a tree or, shrub or bush within 20 feet of a door to a building or structure when it could reasonably create a security risk but this shall not reduce the number of trees required.
- (9) In the case of a group development where out-parcels of the same zoning classification exist, the outer boundaries shall be landscaped according to all landscape requirements. The interior boundaries abutting undeveloped out-parcels are not required to be landscaped initially but such out-parcels within the group development must comply with all the landscape requirements at the time of their development.

( k ) Required Landscaping within Parking Lots

Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights, to delineate driving lanes, aid the control of storm water run off, and to define rows of parking. Parking lots should be adequately shaded in order to reduce the amount of reflected heat.

(1) Landscape requirements for new parking lots:

- A. Off-street parking and other vehicular use areas shall be designed and constructed using the design standards in this subsection for landscape islands and shall also be designed and constructed so that not less than four percent (4%) of any parking area of two (2) acres or more in size, and six percent (6%) of any parking area of five (5) acres or more in size, is used for landscaping. In calculating area size for this minimum use percentage, landscaped areas used for required Perimeter Landscaping and Buffer Zones shall not be included, nor shall any Loading Area to the rear of a building used exclusively for deliveries be included. Any landscaped area which is immediately adjacent to off-street parking and vehicular use areas and which is not required Perimeter Landscaping may be used to satisfy the minimum landscaping percentage of this subsection. The off-street parking and other vehicular use area shall consist of all paved areas inside the edge of Perimeter Landscaping, including access ways.
- B. Off-street parking areas with a single access aisle shall be designed and constructed with landscape islands dividing rows of parking spaces such that no more than twenty (20) spaces shall exist in a row without the row being divided, begun and or terminated with a landscape island; off-street parking areas with multiple access aisles shall be designed and constructed with landscape islands dividing at least every twelve (12) parking spaces in a row. Such islands shall have a minimum width of eight (8) feet and shall have a minimum depth equal to the depth of the adjacent parking stall(s). In addition to being designed with landscape islands dividing the rows, large parking areas with multiple rows of parking aisles shall be divided into sub-lots (sub-areas) containing no more than thirty-six (36) spaces along either side of an aisle. Such sub-lots shall be divided by cross-access aisles allowing for cross circulation

between aisles. The minimum width of such cross-access aisles shall be twenty-two (22) feet.

C. All landscape islands shall be designed and constructed to include continuous curbing around their perimeter and shall be back filled with topsoil to a depth of 18 inches and shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. All such landscape islands shall be planted with Shade trees or, in appropriate circumstances, Ornamental trees as specified in subsection (j) of this ordinance.

D. The storm water drainage plan and Landscaping Plan shall be coordinated so the Landscaping Plan enhances storm water drainage.

(2) Landscape requirements for existing parking lots:

A. In parking lots required to be landscaped according to subsection 27 (c)(3), trees shall be planted at the rate of one (1) Shade tree or two (2) Ornamental trees for every 12.5 spaces.

B. Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces in a manner such that no parking space is located more than 100 feet from a parking lot tree.

C. The landscape requirements for parking lots are in addition to the requirements for Buffer Zones and Perimeter Landscaping. Trees located within the Buffer Zones or required Perimeter Landscaping cannot be credited toward the parking lot requirements.

(1) Buffer Zone Requirements

(1) Buffer Zones are intended to separate different land uses and zoning districts from each other and are intended to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas. Buffer Zone types are determined by five different levels based on zoning districts. The zoning districts have been divided into the following levels:

Residential Districts

RS-15, Single-Family-Residential District  
RS-12, Single-Family-Residential District  
RS-10, Single-Family-Residential District  
RS-8, Single-Family-Residential District  
RS-4, Single-Family-Residential District  
RZ-14, Residential Zero-Lot Line District

RD, Duplex Residential District

RM-12, Residential Multi-Family District  
RM-16, Residential Multi-Family District  
RM-22, Residential Multi-Family District  
RMO, Mobile Home District

Office Districts

O-G, General Office District  
OG-R, General Office District-Residential  
CM-RS-8, Medical District-Residential-Single Family  
CM-R, Medical District Residential  
CM, Medical District Commercial

Commercial Districts

C-L, Local Commercial District  
C-H, Commercial Highway District  
CBD, Central Business District  
CF, Commercial Fringe District

Industrial Districts

H-I, Heavy Industrial District  
L-I, Light Industrial District

Special Purpose District

CU, College and University District  
Park District

(2) Table 1 shows how the different levels of zoning classifications relate to one another to determine the type of Buffer Zone that is required. Each Buffer Zone shall be designed and planted in the manner specified in Table 2. Additionally, the Planning Commission and Planning Director retain their authority under Section 7. SITE PLAN REVIEW to require that the owner meet other conditions of approval in order to mitigate any other adverse impact that might affect adjacent landowners.

(3) A wall or solid fence, a minimum of six (6) feet in height (constructed of masonry, rock, pressure treated lumber or vinyl) may be used to reduce the amount of Buffer Zone landscaping by 50%.

(4) All trees in a Planting Yard shall be planted no closer than two and one half (2 ½) feet from any public right-of-way.

( m ) Irrigation Requirements

Irrigation: All required landscaping shall be watered by one of the following methods, subject to the provisions of Section 33-101 et. seq. dealing with the Mayor's declaration of a water shortage emergency :

- (1) An under ground or above ground irrigation system; or
- (2) A hose attachment, within 300 feet of all landscaping.

( n ) Landscape Installation

Installation: All landscaping materials shall be installed in accordance with accepted and professional planting procedures. Any landscape material which fails to meet the minimum requirements or standards of this ordinance at the time of installation shall be removed and replaced with acceptable materials.

( o ) Maintenance Requirements

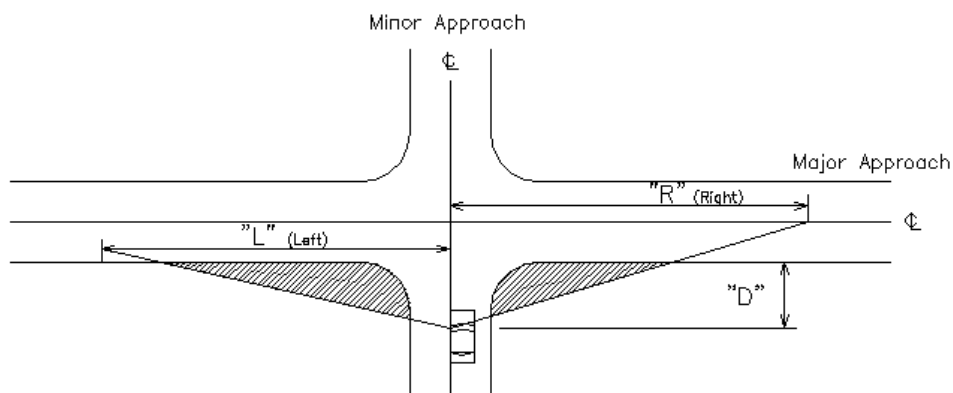
- (1) After the Installation Bond described in subsection (t) is satisfied or forfeited, the owner shall submit a Maintenance Bond to the City in an amount equal to twenty-five percent (25%) of the Installation Bond. The Maintenance Bond shall be held by the City to assure the maintenance of all required landscaping for a period of three (3) years. During the three year Maintenance Bond period the owner: shall keep required Landscaping in a proper, neat and orderly appearance, free from weeds and debris; shall replace any required plantings that die with plantings that have similar characteristics and form; and, shall not top trees or cut tree limbs to stubs larger than three (3) inches of diameter within the tree crown so as to remove the normal canopy. Maintenance during the three year Maintenance Bond period shall be subject to oversight and enforcement by the Urban Environmental Director, Planning Director, or designee. If all required landscaping is in reasonable order and condition according to the originally approved plan at the end of the three (3) year period, the Maintenance Bond shall be returned to the owner; if it is not, it shall be forfeited to the City

(2) An owner shall be responsible for the perpetual maintenance of all landscaping materials in a required Buffer Zone and shall keep them in a proper, neat and orderly appearance, free from weeds, refuse and debris at all times. Should a plant or portion of the required Buffer Zone landscaping die, the owner shall be responsible for replacing said plantings with a plant or plants that have similar characteristics and form. For example, an Evergreen tree shall be replaced with another Evergreen tree, a Shade or Ornamental tree shall be replaced with another Shade or Ornamental tree, and evergreen shrubs or flowering shrubs shall be replaced with similar types. The replacement plants shall be the same size as was originally approved on the Landscape Plan or larger. Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy is not proper maintenance of trees as required by this ordinance. This maintenance requirement shall be subject to oversight and enforcement by the Urban Environmental Director or designee. An owner shall not be responsible for the perpetual maintenance of landscaping on land subsequently acquired by a government. Should the owner of a property discover that there is insufficient space to replace the landscaping due to the maturing of the originally planted materials, then the owner shall contact the Urban Environmental Department and request that a site inspection be conducted. The Urban Environmental Director, or the Director's designee, will evaluate each site on a case by case basis to determine what plants, if any, shall be replanted according to the originally approved Landscape Plan.

( p ) Landscape Restrictions - Sight Triangle Standards

(1) A sight triangle is that area located at the intersection of two public streets or a public street and private driveway through which an unobstructed view of approaching traffic is necessary for motorists. Except as permitted in this section, no landscaping or vegetation, or fence, structure, or object shall be included in a sight triangle in a subsection (e) landscape plan, nor shall any such landscaping or object be planted, erected or maintained within a sight triangle. A sight triangle shall be defined by the table and illustration below:

**Sight triangle**



The distance "D" shall measure twenty (20) feet and fifteen (15) feet from the edge of the nearest travel lane for a public street and private driveway, respectively. The distance "L" shall be measured from the centerline of the minor approach to a point at the edge of the nearest travel lane. The distance "R" shall be measured from the centerline of the minor street to a point on the centerline of the major street approach.

**Minimum Required Sight Distances for Different Posted Speed Limits**

Posted Speed Limit <sup>A</sup>	Minimum Sight Distance (L and R)
---------------------------------	----------------------------------

25 mph	200 ft
30 mph	250 ft
35 mph	325 ft
40 mph	400 ft
45 mph	475 ft
50 mph	550 ft
55 mph	650 ft

<sup>A</sup> Posted speed limit on the major approach. Except at a signalized intersection, the speed limit of the approach from which the sight distance is being measured is ignored.

Sight triangles shall be measured from the minor leg of the intersection of two public streets where the minor approach shall be defined as that approach whose right-of-way is controlled by a stop sign and whose major approach is uncontrolled. At a signalized intersection of two public streets, sight triangles shall be measured for all approaches. For an intersection of a public street and private driveway, the sight distance is only measured from the private driveway.

(2) No landscaping object or plant material, except those meeting the requirements set forth below, shall be allowed within the sight triangle at an elevation greater than thirty (30) inches above the crown of pavement on the adjacent roadway.

- A. Trees used in the sight triangle may exceed thirty (30) inches in height provided they have an acceptable minimum branching clearance of seven (7) feet from the ground to the first branch. Trees with a naturally high branching pattern are preferred, but trees with low branching patterns may be used if pruned to eliminate lower branches. Trees with normally low branching patterns that would be adversely affected by heavy pruning shall be unacceptable. Trees with descending branches such as weeping willow and weeping cherry shall be unacceptable.
- B. Trees that normally develop a mature trunk with a diameter exceeding twelve (12) inches shall not be acceptable. A maximum trunk diameter of eight (8) inches shall be preferable. The estimated mature trunk size of the tree shall be considered, not the trunk size at the time of installation. Notwithstanding the foregoing, existing trees in the sight triangle with a trunk diameter greater than twelve (12) inches may remain unless the City Engineer, or the Engineer's designee, determines there is a threat to public safety.
- C. When multiple trees are planted within the sight triangle, they shall be planted in staggered positions to avoid a "picket fence" effect where visibility is reduced by a solid row of tree trunks. Multiple trees located in the sight triangle shall be placed no closer than twenty (20) feet on-center from one another.

(3) Notwithstanding the table and illustration provided in this section, the City Engineer or the Engineer's designee may recommend variances of this ordinance to the Board of Zoning Appeals, which shall have the authority to grant variances upon application by the owner. Any variance for landscaping shall take into account roadway conditions as they relate to traffic control devices, alignments, geometrics, or other unique circumstances that are supported by generally accepted engineering practices or principles, or actual on site studies.

(4) No landscape plan shall be approved if the landscaping proposed for the intersection of a public street and a vehicular use area would create an unsafe obstruction in the opinion of the Urban Environmental Director or designee or the City Engineer or designee. No landscaping or vegetation, or fence, structure, or object, shall be planted, erected, or maintained by an owner at the intersection of a public street and a vehicular use area if it creates a safety hazard by obstructing the view of a motorist.

( q ) Credit towards Landscaping for Preserved Trees

(1) Credits for preserved trees are offered when a tree preservation plan is submitted and approved along with the site plan prior to commencing any grading or construction activity on a site. A tree preservation plan may be submitted as part of the landscape plan. A tree preservation plan must show that there will be no substantial disturbance in the critical root zone (CRZ). A substantial disturbance is considered compaction of soil, trenching, placing backfill in the CRZ, grading or dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the tree(s).

(2) The Urban Environmental Director and/or the City Arborist or their designee will review each tree preservation plan on a case by case basis and shall visit the site to confirm the accuracy of the survey and tree protection plan. Only those trees that are determined to be viable and savable will receive tree credits. A tree(s) that is found to be hazardous, diseased or severely injured will not receive tree credits. Likewise, if it is found that a large portion of the root system of a tree(s) will be disturbed or destroyed by grading, trenching etc. then no tree credits will be granted. Only those trees that exhibit a reasonable chance of survival will receive tree credits. Should the owner of the property wish to receive credit for a tree that did not initially qualify for credit, then said owner may provide documentation from a certified arborist regarding the particular tree's health and survivability. This documentation shall include any and all corrective measures, including long-term maintenance that would be effective toward saving the tree(s). The City will review any such additional documentation.

(3) Protective barricades shall be placed around all trees designated in the tree preservation plan prior to the start of development activities, and shall remain in place until development activities are complete. The area within the protective barricade shall remain free of all building materials, dirt or other construction debris, vehicles and development activities. Failure to comply with this requirement will result in the denial of tree credits and the landscape plan will have to be modified to include new tree plantings.

(4) Decisions regarding tree credits may be the subject of an administrative appeal to the Board of Zoning Appeals.

(5) The following information shall be submitted and/or indicated on the tree preservation plan:

- A. Tree survey at the same scale as the site plan or landscape plan, showing location of each existing tree(s) to be preserved that is 1½ inches in diameter or larger;
- B. Groups of trees in close proximity (those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated;
- C. Species, size and condition of each tree(s);
- D. Trees which are noteworthy due to size, age, historic, cultural or aesthetic value;
- E. Trees to be removed;
- F. Location and type of tree protection barrier;
- G. Any proposed changes in grade or drainage around tree(s) to be preserved;
- H. Location of all existing utilities and proposed utilities; and
- I. Location of all existing and proposed structures, improvements, rights-of-way, and easements on the property (driveways, alleys, walkways, bicycle paths, parking lots, etc.).

(6) Credits for existing trees will be given at the following rate:

<b>Diameter of Existing Tree (inches)</b>		<b>Tree Credit</b>
Greater than: 1½	Up to and including: 6	1

6	12	2
12	24	3
24	36	4
36	48	5
48	60	6
		1 additional tree for each additional 12 inches diameter

Minimum size requirement to qualify for tree preservation is 1½ inch caliper.

(7) Upon approval of a tree preservation plan, an owner shall receive tree credits for a tree within the surveyed portion of the property for which a site plan was submitted. An owner may include an existing tree straddling an adjacent property line in a tree preservation plan but tree credits for any such tree shall only be half of the amount otherwise applicable. If an owner receives a one-half ( ½ ) tree credit for any tree and that tree dies, the owner is required to replace that one-half (½) with one (1) new tree. For example, if an owner received two and one-half (2 ½) tree credits for one 46 inch diameter tree and it dies, the owner will be required to replant three (3) trees.

(8) Only if a preserved tree for which tree credits are given is located within a parking area may those tree credits be used to satisfy the landscaping requirements for parking lots under subsection (k). Tree credits may be used to satisfy the landscaping requirements for perimeter landscaping under subsection (j) only for the front, side or rear property line nearest the preserved trees; e.g. preserved trees in a fence row on a rear property line may be used to satisfy the perimeter landscaping requirement for the rear but not the front or side property lines.

(9) Should any tree designated on the tree preservation plan die or be removed at anytime after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient Landscaping equal to the tree preservation credit within 6 months and shall notify the Urban Environmental Director or designee in writing of the tree(s) lost and the number, location, and species of the replacement tree(s). The replacement tree(s) shall be a minimum of 2½ inches in caliper for a Shade Tree, a minimum of 1½ inches of caliper for an Ornamental Tree and a minimum of 6 feet in height for an Evergreen tree.

(10) For trees to receive tree credit they must be adequately protected during construction. Adherence to tree protection procedures described in the Guidelines promulgated by the Urban Environmental Director shall be sufficient.

( r ) Tree Permits

(1) No tree or portion thereof that lies within the City’s right-of-way may be removed or maintained, and no new tree(s) may be planted, without prior approval from the Urban Environmental Department. The applicant must first obtain a non-fee Tree Work Permit to be reviewed by the Urban Environmental Department. The City shall review and notify said applicant within 3 working days as to whether the permit has been approved or denied.

(2) If the Tree Work Permit is denied by the Urban Environmental Department, the applicant may elect to schedule a hearing before the Tree Board.

(3) Upon approval of the permit, the applicant is responsible for all costs associated with the project including but not limited to tree removal cost, stump removal, corrective pruning etc.

( s ) Inspections for Certificate of Occupancy

Site inspections for the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy will occur only after the contractor or installer and the owner have submitted a Landscape Certificate of Compliance as described below to the

Building and Codes Department. No Certificate of Occupancy for any development on a site subject to the landscaping requirements of this ordinance shall be issued until all landscaping materials are in place in substantial compliance with the approved landscape plan. However, should conditions reasonably occur beyond the reasonable control of owner that would delay the installation of the landscaping, the owner may request a Temporary Certificate of Occupancy from the Building and Codes Department. No Temporary Certificate of Occupancy will be issued until a bond complying with subsection (t) has been received by the City. The Landscape Certificate of Compliance shall be as follows:

**LANDSCAPE CERTIFICATE OF COMPLIANCE**

(For use by the contractor or installer and the owner)

Landscape Plan for: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Approval: \_\_\_\_\_

Approved by: Murfreesboro Planning Commission \_\_\_\_\_  
 Administrative Approval \_\_\_\_\_

**GENERAL CONTRACTOR OR INSTALLER**

As the contractor for said development, or as the installer of the landscaping for said development, I represent that the landscaping has been installed in substantial compliance with the approved Landscape Plan and with the landscaping requirements of the Zoning Ordinance. I personally inspected this location on \_\_\_\_\_ (date)

and I have verified that the plantings are correct as to their location, size, number, and species. All required planting yards, parking lot plantings, and buffer zones have been installed. The installation system meets the irrigation requirements and the site does not violate the sight triangle prohibitions.

(Circle A or B, whichever is applicable)

- A. The site is complete and ready for final inspection, approval, and issuance of a Certificate of Occupancy.
- B. The site is ready for issuance of a Temporary Certificate of Occupancy. The Landscape Plan is incomplete as follows:

\_\_\_\_\_.

I estimate the cost of the landscaping still to be completed, including labor costs, to be \$\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship to Development

**OWNER**

As the owner of said development, I represent that I have personally inspected the property as of \_\_\_\_\_ and have reviewed this Certificate after completion by my contractor or landscape installer and I join in all its representations.  
 \_\_\_\_\_  
 (date)

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Date

**( t ) Bond Requirements**

(1) A bond for 110% of the cost of any uncompleted landscaping, including labor, as determined by the Urban Environmental Department shall be submitted to the City by

an owner seeking a Temporary Certificate of Occupancy. For the City to determine the total cost, the owner or the owner's designee shall furnish a cost estimate prepared by a qualified landscape contractor or nurseryman using prevailing material and labor costs. The landscape bond may, with City's approval, be combined with other site work requiring bonding, i.e., paving, curb and gutter, seeding and strawing.

(2) The life of the bond shall not exceed twelve (12) months. The Urban Environmental Department, for good cause, may approve a reasonable extension of time for installation of the landscaping upon the posting of a bond for the period of the extension. If the approved landscaping is not properly installed within the time allotted, the bond shall be forfeited to the City. Forfeiting the bond shall not relieve the owner of the duty to comply with this ordinance.

(3) Bonds may be in the form of a cashiers check, letter of credit, certificate of deposit or a performance bond. No personal or corporate checks will be accepted.

(4) Failure to install said landscaping within twelve (12) months without proper extension, shall be considered a violation of this article [Appendix A - Zoning].

#### ( u ) Administration and Enforcement

The rules and regulations of this ordinance will be administered and enforced by the Urban Environmental Director or designee, by the Planning Director or designee, and by the Building and Codes Official or designee. Interpretations of this ordinance will be made under Section 11 of this article [Appendix A - Zoning]. Appeals from administrative decisions made under this ordinance will be made in accordance with Section 12 of this article [Appendix A - Zoning].

#### ( v ) Variances

(1) Variances from the provisions of this ordinance will be made in accordance with Section 10 of this article [Appendix A - Zoning] provided, however, that the provisions of subsections 2 and 3 shall be substituted for the provisions of subsection (e) of Section 10.

(2) A variance from the landscape requirements in subsections (i), (j), (k), (l), (m), and (p) may be requested if a lot contains a building, structure, development, or parking area that was in existence as of the effective date of this ordinance. A variance from these requirements may be requested for an unimproved lot only if the lot was in existence as of the effective date of this ordinance or, if the lot was not in existence as of the effective date of this ordinance, if the conditions or configurations of the lot changed after the effective date of the ordinance and the change was not created by the owner, the owner's representative, or the owner's predecessor in title, e.g. condemnation of a portion of the lot.

(3) Each applicant for a variance shall have the burden of proving that compliance with the landscape requirements would be extraordinarily difficult because of one or more unusual characteristics of the property. Generally such characteristic may not have been created by deliberate action of the owner or the owner's representative. Each applicant for a variance must prove that an alternative and equivalent means of landscaping is not viable. In considering a variance request, cost alone is not an extraordinary difficulty and it does not justify granting a variance.

#### ( w ) Agreement to Landscape in City Easement

Whenever landscaping is proposed to be located within a dedicated drainage or a dedicated water and/or sewer easement, the owner shall obtain written permission from the City by using the following form:

#### AGREEMENT TO ALLOW LANDSCAPING IN CITY OF MURFREESBORO EASEMENT

Name of Owner: \_\_\_\_\_  
 Name of Development: \_\_\_\_\_  
 Address of Development: \_\_\_\_\_  
 Plat Book: \_\_\_\_\_ Page \_\_\_\_\_ Lot \_\_\_\_\_  
 Easement: Drainage \_\_\_\_\_ Sanitary Sewer \_\_\_\_\_ Water \_\_\_\_\_  
 Location of Easement: \_\_\_\_\_

The Owner hereby requests permission to place landscaping in the above-referenced dedicated easement. Owner acknowledges that any permission given by City to Owner to plant landscaping in a dedicated easement does not waive or modify the City of Murfreesboro's rights as the easement holder. Owner understands and agrees that the City of Murfreesboro or its authorized contractor may at any time and for any reason perform work within the dedicated easement and that the City shall have no liability to Owner for any damage to landscaping in the easement. Owner may be held responsible for the removal of the landscaping to enable work to be done by City. Owner shall be solely responsible for any costs incurred in repairing or replacing the landscaping. Owner understands that the City of Murfreesboro reserves the right to limit or to totally withdraw this permission to place landscaping within a dedicated easement if such landscaping is impairing drainage, or interfering with the City's use of the easement, or for any other appropriate reason. If this permission is withdrawn, Owner will be responsible for finding an alternative location for any landscaping required under the City of Murfreesboro's Zoning Ordinance. Owner shall inform any successor Owner of the terms and conditions of this Agreement.

\_\_\_\_\_  
 Owner's Signature Date

The City of Murfreesboro hereby grants \_\_\_\_\_ permission to plant landscaping within its easement at this location subject to these terms and conditions.

**CITY OF MURFREESBORO**

By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

For a drainage easement, this Agreement must be signed by the City Engineer or designee. For a water or sanitary sewer easement, this Agreement must be signed by the Director of Water & Sewer Department or designee.

SECTION 20. Section 12 (c)(1) of Appendix A--Zoning, Murfreesboro City Code is hereby amended by changing the number "five (5)" in the first sentence to "fifteen (15)".

SECTION 21. Section 1, EFFECTIVE DATE of Appendix A--Zoning, Murfreesboro City Code is hereby amended by adding a second sentence to the subsection to read as follows:

The effective date of Section 27. LANDSCAPING AND SCREENING shall be September 8, 2000.

SECTION 22. The provisions of this ordinance shall not apply to any structures or developments for which a building permit, other than a grading permit, has been issued as of the effective date of this ordinance.

SECTION 23. Section 34-10 of the Murfreesboro City Code, "Sight Triangle", is hereby deleted in its entirety and the section number reserved for future use.

SECTION 24. That this Ordinance take effect fifteen (15) days after its passage upon third and final reading or September 1, 2000, whichever shall last occur, the public welfare and the welfare of the City requiring it.

PASSED AND SIGNED, this 24th day of August, 2000.

/s/ W. Richard Reeves  
W. Richard Reeves, Mayor

ATTEST:

/s/ James B. Penner  
James B. Penner, City Recorder  
The foregoing Ordinance approved as to form, this the 24<sup>th</sup> day of August, 2000.

/s/ Thomas L. Reed, Jr.  
Thomas L. Reed, Jr., City Attorney