



**Department of Planning and Zoning
Planner's Report**

DATE: November 6, 2019
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: **Tree Conservation Ordinance Update**

BACKGROUND

The City of Hapeville has identified a need to promote tree conservation, increase the tree canopy, and offer protection of existing trees within the City. To that end, the City has established a Tree Conservation ordinance with the intent of preserving and expanding Hapeville's urban forest. Staff, in conjunction with a consulting arborist, has prepared a new tree conservation ordinance to replace the existing ordinance in its entirety. Unclear regulations have proven difficult for property owners to follow and for City staff to enforce, rendering the current ordinance less effective at meeting the goals as intended. The ordinance has been carefully designed to simplify compliance and enforcement while applying stricter standards for development that are consistent with other Atlanta-area tree conservation ordinances.

The proposed ordinance and its appendices are attached. Below are changes to other portions of the code made necessary by the new ordinance, and/or where Staff identified opportunities to bring existing code closer to the intent of the ordinance.

SUMMARY

1. All properties in the City of Hapeville shall be required to provide a minimum number of trees on-site measured as 100" of tree caliper per acre. The caliper of new trees planted to meet this requirement shall be measured at time of planting.
2. Properties that are unable to meet the 100" per acre requirement may, with the approval of the Planning Commission, pay into the City's Tree Bank in lieu of planting required trees. Funds from the Bank will be used by the Community Services Department for tree plantings on City property and maintenance of City owned trees.
3. Landmark trees are defined based on species and caliper diameter at breast height. Landmark trees may only be removed with the permission of Staff and with proper justification.
4. The plan includes guidelines for tree planting, replacement, protection, and permitted species depending on the type of project

5. Parking lot trees shall be provided so that no parking space is more than 50' away from a tree.
6. Landscape buffers shall be required to provide necessary evergreen trees and shrubs.
7. To assist staff in determining compliance, Tree Protection and/or Tree Replacement plans shall be provided for all applicable projects.
8. All activities requiring a Land Disturbance Permit or resulting in an expansion of any commercial property will be required to comply with the entirety of the Tree Conservation Ordinance. Exceptions to full compliance will be provided to single-family residential properties removing five or fewer trees, trees required to meet the minimum 100" per acre requirement, or landmark trees.
9. Trees under 3" caliper may be removed without a permit.

AMENDMENTS TO CODE

Chapter 81 - ARCHITECTURAL DESIGN STANDARDS

(UNDER PURVIEW OF DESIGN REVIEW COMMITTEE)

Sec. 81-1-6. - Commercial/mixed-use area.

(a) *Site development standards.*

11. Sidewalks shall be located along all public and private streets. Sidewalks shall be of the widths indicated on the "Commercial/Mixed-use Area Sidewalk Table" and shall consist of two areas: a landscape area and a clear area.

Replace:

- b. The landscape area may be primarily paved adjacent to on-street parking and shall be landscaped in all other areas. Street trees shall be planted a maximum of 40 feet on center, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall be a minimum caliper of two and one-half inches measured 12 inches above ground, shall be limbed up to a minimum height of seven feet and shall have a minimum mature height of 40 feet. Variations to this may be reviewed as approved by the city planning commission.

With:

- b. The landscape area may be primarily paved adjacent to on-street parking and shall be landscaped in all other areas. ***Street trees shall be planted on average 30 feet on center,*** spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees ***shall comply with the requirements of [the Tree Conservation Ordinance],*** shall be limbed up to a minimum height of seven feet and ***shall be of an appropriate Street Tree species found in [the City of Hapeville Tree Species List].***

(c) *Supplemental area and fence standards.*

Replace:

5. "Common yard, porch and fence, terrace or light court," or "forecourt" treatments identified in Figure 3, the supplemental area shall be landscaped and shall include a minimum of one tree every 50 feet of frontage. See list of allowed trees on in section 93-2-14.

With:

5. "Common yard, porch and fence, terrace or light court," or "forecourt" treatments identified in Figure 3, the supplemental area shall be landscaped and shall include a minimum of one tree every 50 feet of frontage. ***Each tree shall be of an appropriate Yard Tree species found in the [City of Hapeville Tree Species List].***

8. Where a development adjoins the neighborhood conservation area, the development shall provide a physical barrier between the two to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential area. A smooth transition to the adjacent neighborhood conservation area shall be ensured by providing:

Replace:

- a. A minimum 20-foot landscaped buffer located within the development site along the boundary with the neighborhood conservation area. Said buffer shall be planted with a minimum of one tree per 40 linear feet. Shrubs, flowers or grasses shall also be provided and maintained to a minimum height of four feet to visually screen new development and provide an attractive boundary that encourages continued investment in adjacent residential zones.

With:

- a. A minimum 20-foot landscaped buffer located within the development site along the boundary with the neighborhood conservation area, ***any single-family detached, or any two-family detached residential use***. Said buffer ***shall comply with the buffer requirements of [the tree conservation ordinance]***. Shrubs, flowers or grasses shall also be provided and maintained to a minimum height of four feet to visually screen new development and provide an attractive boundary that encourages continued investment in adjacent residential zones.

Sec. 81-1-7. - Neighborhood conservation area.

(a) Site development standards.

7. Sidewalks shall be located along all public and private streets. Sidewalks shall consist of two areas: a landscape area and a clear area.

Replace:

- c. The above notwithstanding, multifamily developments and all developments along Dogwood Drive shall provide a minimum five-foot landscape zone and a minimum six-foot clear zone.

With:

- c. The above notwithstanding, multifamily developments and all developments along Dogwood Drive shall provide a minimum five-foot landscape zone and a minimum six-foot clear zone. **The landscape zone shall comply with the Street Tree requirements of Sec. 81-1-6.11.**

(b) *Supplemental area and fence standards.*

Replace:

1. Developments shall locate landscape supplemental areas adjacent to first-story residential uses and place a minimum of one tree every 50 feet in the supplemental area. See list of allowed trees in section 93-2-14.

With:

1. Developments shall locate landscape supplemental areas adjacent to first-story residential uses and place a minimum of one tree every 50 feet in the supplemental area. **Each tree shall be of an appropriate Yard Tree species found in the [City of Hapeville Tree Species List].**

Chapter 90 - SUBDIVISIONS

Sec. 90-1-4. - Development prerequisite to final approval.

(b) *Recommended improvements.* The planting of street trees and installation of street name signs is considered a duty of the subdivider as well as good business practice.

- (1) *Street trees.*

Replace:

- a. Street trees are a protection against excessive heat and glare and enhance the attractiveness and value of abutting property. The planning commission will assist the subdivider in location of trees and species to use under varying conditions.
- b. It is recommended that trees be planted inside the property lines where they are less subject to injury, decrease the chance of motor accidents and enjoy more favorable conditions for growth. If trees are to be planted within a planting strip in the right-of-way, their proposed locations and species to be used must be submitted for the planning commission's approval since the public inherits the care and maintenance of such trees.

With:

- a. **Trees adjacent to the sidewalk, in supplemental areas and in landscape strips between the sidewalk and the curb**, are a protection against excessive heat and glare and enhance the attractiveness and value of abutting property. **All tree plantings shall conform to the requirements of [the Tree Conservation Ordinance].**
- b. It is recommended that trees be planted inside the property lines where they are less subject to injury, decrease the chance of motor accidents and enjoy more favorable conditions for growth. If trees are to be planted within a planting strip in the right-of-way, their proposed locations and species to be used must be submitted for the **Community Services Department's** approval since the public inherits the care and maintenance of such trees.

Chapter 93 - ZONING

ARTICLE 2. - GENERAL PROVISIONS

Sec. 93-2-5. - Accessory uses, accessory buildings, yard requirements of accessory buildings, outbuildings and fences.

(3) Materials and landscaping.

Replace:

- a. Fences in the C-1 and C-2 zoning districts must be constructed of ornamental metal, masonry, wood, or other ornamental material specifically made for fence construction. The erection of any fence over four feet in height in these districts shall include a landscaped strip between the fence and the street right-of-way. The landscaped strip shall be a minimum of three feet wide and contain specimen trees with a minimum three-inch caliper and set no less than 35 feet on center. Such landscaping shall be approved by the department of community services prior to the issuance of a building permit.

With:

- c. Fences in the C-1 and C-2 zoning districts must be constructed of ornamental metal, masonry, wood, or other ornamental material specifically made for fence construction. The erection of any fence over four feet in height in these districts shall include a landscaped strip between the fence and the street right-of-way. The landscaped strip shall be a minimum of three feet wide ***and comply with the requirements of [the buffer requirements of the tree conservation ordinance].*** Such landscaping shall be approved by the department of community services prior to the issuance of a building permit.

Replace:

- d. Fences in the I-1 and I-2 zoning districts must be constructed of ornamental metal, masonry, wood, or other ornamental material specifically made for fence construction. The erection of any fence over four feet in height in these districts shall include a landscaped strip between the fence and the street right-of-way. The landscaped strip shall be a minimum of three feet wide and contain specimen trees with a minimum three-inch caliper and set no less than 35 feet on center. Such landscaping shall be approved by the department of community services prior to the issuance of a building permit.

With:

- d. Fences in the I-1 and I-2 zoning districts must be constructed of ornamental metal, masonry, wood, or other ornamental material specifically made for fence construction. The erection of any fence over four feet in height in these districts shall include a landscaped strip between the fence and the street right-of-way. The landscaped strip shall be a minimum of three feet wide ***and comply with the requirements of [the buffer requirements of the tree conservation ordinance].*** Such landscaping shall be approved by the department of community services prior to the issuance of a building permit.

Sec. 93-2-14. - Tree conservation.

Strike in entirety

Sec. 93-2-16. - Site plan review.

(c) *Submission requirements.* Applications for site plan review shall contain the following information and any additional information the planning commission may prescribe by officially adopted administrative regulations; ten copies of the application shall be submitted:

- (1) *Site and landscape plan.* Maps and site plans shall be submitted (minimum scale of 1" = 50' or larger, e.g., 1" = 40', 1" = 30', etc.) indicating project name, applicant's name, adjoining streets, scale, north arrow and date drawn, showing:

Remove:

- e. The location and general type of all existing trees over six-inch caliper and, in addition, an identification of those to be retained.

Add new (2):

- (2) *Tree Conservation and/or Replacement Plan.* A plan describing all trees over three (3) inch caliper on the site to be retained as well as those to be planted, as required by [the Tree Conservation Ordinance]. When feasible, this plan may be incorporated into the site and landscape plans so long as all required information is present.

And renumber

ARTICLE 3.2 - CONDITIONAL USES

Sec. 93-3.2-6. - Special use permit criteria and standards.

(c) *Car rental agency standards.*

Replace:

3. Perimeter landscaped areas abutting a public right of way shall be the lesser of ten percent of the linear feet of road frontage or 30 horizontal feet. Perimeter landscaping along the common boundary of any residential use shall have a minimum horizontal dimension of 30 feet. All perimeter landscaping shall conform to the landscaping requirements of the ordinance and evergreen tree and shrub species shall comprise one-half or more of the planting requirement.

With:

3. Perimeter landscaped areas abutting a public right of way shall be the lesser of ten percent of the linear feet of road frontage or 30 horizontal feet. Perimeter landscaping along the common boundary of any residential use shall have a minimum horizontal dimension of 30 feet. All perimeter landscaping shall conform to the landscaping requirements of ***[the Tree Conservation Ordinance buffer section]***.

ARTICLE 11.1. - V ZONE (VILLAGE)

Sec. 93-11.1-6. - Area, placement, and buffering requirements.

Insert indicated text into:

- (6) *Residential buffer.* New development shall provide sufficient setback as well as an attractive physical barrier between the residential and nonresidential uses as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential environment. A smooth transition between residential neighbors and nonresidential uses (including all parking lots) shall be ensured by the provision of sufficient screening of more intensive uses (i.e., commercial/offices uses) from residential neighborhoods through the use of decorative landscaping and screened walls. A 15-foot landscaped buffer shall be installed between and along the residential and nonresidential sides of said buffer. The landscaped area shall be planted with trees, flowers, grasses and shrubs ***in compliance with [the Tree conservation Ordinance buffer section]*** to visually screen non-residential areas and provide an attractive boundary that encourages continued investment in the adjacent residential property.

ARTICLE 11.2. - U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-7. - Area, placement, and buffering requirements.

Replace:

- (8) *Residential buffer.* Where this district adjoins a residential zone, specifically when a commercial or mixed use in the U-V district abuts the residential district, all new developments must provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:
- a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line. Said buffer shall be planted with a minimum of one tree per 40 linear feet. Shrubs, flowers or grasses shall also be provided and maintained to visually screen non-residential areas and provide an attractive boundary that encourages continued investment in the adjacent residential zones.
 - b. A permanent opaque wall between six and eight feet in height and faced in wood, stacked stone, brick or hard-coat true stucco. Said wall may be located anywhere within the required landscaped buffer.
 - c. Where an alley separates this zone from a residential zone, the required landscape buffer and permanent opaque wall shall be provided on the portion of the U-V-zoned property adjacent to the alley.

With:

- (8) *Residential buffer.* ***Where any use other than a single-family detached use in this district adjoins a residential zone,*** all applicable new developments must provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:
- a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line. Said buffer ***shall comply with the requirements of [the Tree Conservation Ordinance buffer section].*** Shrubs, flowers or grasses shall also be provided and maintained to visually screen non-residential areas and provide an attractive boundary that encourages continued investment in the adjacent residential zones.

- b. A permanent opaque wall between six and eight feet in height and faced in wood, stacked stone, brick or hard-coat true stucco. Said wall may be located anywhere within the required landscaped buffer.
- c. Where an alley separates this zone from a residential zone, the required landscape buffer and permanent opaque wall shall be provided on the portion of the U-V-zoned property adjacent to the alley.

Sec. 93-11.2-8. - Supplemental area requirements.

- (3) Adjacent to ground floor dwelling units, excluding live-work dwellings, the supplemental area:

Replace:

- b. Shall be planted with one canopy tree, as established in [section 93-2-14\(k\)\(11\)](#), an average of 40 feet on-center as measured parallel to the front lot line.

With:

- b. Shall be planted with one canopy tree, as established in **[the Tree Conservation Ordinance]**, an average of 30 feet on-center as measured parallel to the front lot line.

Sec. 93-11.2-9. - Sidewalk requirements.

- (1) *Sidewalk landscape area requirements.*

Replace:

- c. Street trees shall be planted a maximum of 40 feet on center, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall be a minimum caliper of 3½ inches measured 12 inches above ground, shall be limbed up to a minimum height of seven feet and shall have a minimum mature height of 40 feet. Trees shall have a minimum planting area of 40 square feet. The city planning commission may approve an alternate for street tree requirement subject to constraints such as overhead or underground utilities or underground utility easements.

With:

- a. Street trees shall be planted **on average 30 feet on center**, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees **shall comply with the requirements of [the Tree Conservation Ordinance]**, shall be limbed up to a minimum height of seven feet and **shall be of an appropriate Street Tree species found in [the City of Hapeville Tree Species List]**. The city planning commission may approve an alternate for street tree requirement subject to constraints such as overhead or underground utilities or underground utility easements.

ARTICLE 11.5. - RMU ZONE (RESIDENTIAL MIXED USE)

Sec. 93-11.5-6. - Area, placement, and buffering requirements.

Replace:

- (9) *Residential buffer.* Where this district adjoins a residential zone without an intervening street, new development shall provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:
- a. A minimum 15-foot landscaped buffer located within the RMU zone along the district line. Said buffer shall be planted with a minimum of one tree per 30 linear feet. Evergreen shrubs, flowers or grasses shall also be provided and maintained to visually screen nonresidential areas and provide an attractive boundary that encourages continued investment in the adjacent residential zones.
 - b. A permanent opaque wall between six and eight feet in height and faced in wood, stacked stone, brick or hard-coat true stucco. Said wall may be located anywhere within the required landscaped buffer.
 - c. The tree spacing and wall placement requirements of subsections a. and b. above may be adjusted by the planning and zoning manager where the applicant wishes to preserve existing specimen trees within the required buffer. This may include alternative arrangements that minimize the impacts of the screening requirements on the health of existing trees.

With:

- (9) *Residential buffer. **Where any use other than a single-family detached use in this district adjoins a residential zone***, all applicable new developments must provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:
- a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line. Said buffer shall ***comply with the requirements of [the Tree Conservation Ordinance buffer section]***. Shrubs, flowers or grasses shall also be provided and maintained to visually screen non-residential areas and provide an attractive boundary that encourages continued investment in the adjacent residential zones.
 - b. A permanent opaque wall between six and eight feet in height and faced in wood, stacked stone, brick or hard-coat true stucco. Said wall may be located anywhere within the required landscaped buffer.
 - c. The tree spacing and wall placement requirements of subsections a. and b. above may be adjusted by the planning and zoning manager where the applicant wishes to preserve existing specimen trees within the required buffer. This may include alternative arrangements that minimize the impacts of the screening requirements on the health of existing trees.

Sec. 93-11.5-7. - Supplemental area requirements.

- (4) Adjacent to ground-floor dwelling units, excluding live-work dwellings, the supplemental area:

Replace:

- b. Shall be planted with canopy trees, as established in subsection 93-2-14(k)(11), at a minimum of one tree per 30 linear feet on-center as measured parallel to the front lot line.

With:

- b. Shall be planted with canopy trees, as established in **[the Tree Conservation Ordinance]**, **an average of 30 feet on-center** as measured parallel to the front lot line.

Sec. 93-11.5-8. - Sidewalk requirements.

(1) *Sidewalk landscape area requirements*

Replace:

- c. Street trees shall be planted a maximum of 40 feet on center, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall be a minimum caliper of two and one-half inches measured 12 inches above ground, shall be limbed up to a minimum height of seven feet, and shall have a minimum mature height of 40 feet. Trees shall have a minimum planting area of 40 square feet. The city planning commission may approve an alternate street tree plan subject to constraints such as overhead or underground utilities or underground utility easements.

With:

- C. Street trees shall be planted **on average 30 feet on center**, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall **comply with the requirements of [the Tree Conservation Ordinance]**, shall be limbed up to a minimum height of seven feet, and shall **be of an appropriate Street Tree species found in [the City of Hapeville Tree Species List]**. The city planning commission may approve an alternate for street tree requirement subject to constraints such as overhead or underground utilities or underground utility easements.

Sec. 93-11.5-10. - Greenspace and open space requirements.

Replace:

In addition to the requirements of sections 93-2-14, Tree preservation, and 93-23-18, Landscape requirements for vehicular use areas, of the Hapeville Code of Ordinances, master planned developments in excess of two acres shall be required to provide and maintain a minimum of 20 percent greenspace/open space. Calculations for greenspace/open space shall exclude required sidewalks and landscape strips along streets, but may include the following...

With:

In addition to the requirements of **[the Tree Conservation Ordinance]**, **the Tree conservation ordinance**, and 93-23-18, Landscape requirements for vehicular use areas, of the Hapeville Code of Ordinances, master planned developments in excess of two acres shall be required to provide and maintain a minimum of 20 percent greenspace/open space. Calculations for greenspace/open space shall exclude required sidewalks and landscape strips along streets, but may include the following...

ARTICLE 23. - OFF-STREET PARKING AND LOADING

Sec. 93-23-12. - Location

Replace:

If the required off-street parking spaces cannot reasonably be provided on the same lot as the building it serves, the board of appeals may permit that space to be provided on other off-street property. That property shall be within 400 feet of the premises to which it is appurtenant, as measured along the nearest pedestrian walkway.

With:

If the required off-street parking spaces cannot reasonably be provided on the same lot as the building it serves, the board of appeals may permit that space to be provided on other off-street property. That property shall be within 400 feet of the premises to which it is appurtenant, as measured along the nearest pedestrian walkway. ***If the property providing the additional parking contains more than ten (10) parking spaces, the parking area of that property shall be brought into compliance with the requirements of Sec. 93-23-18 and [the tree conservation ordinance].***

Sec. 93-23-18. - Landscape requirements for vehicular use areas.

Replace section with the following:

- (a) *Intent.* The objective of this section is to provide space for the use of landscape beautification and natural plant growth for developments where off-street parking and open lot sales, displays, and service areas are provided. The intent is to improve and protect the appearance, environmental and ecological condition, character, design, and value of the total urban area, thereby promoting the public health, safety, and welfare.
- (b) *Areas subject to the requirements of this section.* Vehicular use areas, except those less than 10 parking spaces, parking garages, and public rights-of-way shall conform to the minimum landscaping requirements hereinafter provided.
- (c) *Procedure for the development of vehicular use areas.*
 - (1) *Permit requirements.* No building grading, or tree removal permit shall be issued until approval of a required landscape plan for vehicular use areas. Prior to submission of building plans, the requirements of this section must be met. In cases where a vehicular use area is located on a lot other than that of the principal building, building plans may be submitted for review.
 - (2) *Submission of a required survey and proposed landscape plan.*
 - a. The applicant or his authorized agent shall submit to the Planning & Zoning Department three copies of each survey and landscape plan at a scale no greater than one inch equals 50 feet. The proposed landscaping may be superimposed on the proposed site plan or on a separate sheet, provided all drawing are the same scale.
 - b. Each survey and landscape plan shall include the following:
 - 1. Name, signature, address, and telephone number of property owner, surveyor, and or designer;
 - 2. North arrow and scale;
 - 3. All dimensions; and

4. All required information and data listed on drawings.
- (3) *Survey*. The required survey shall include the following information:
 - a. Legal description of the property.
 - b. All trees and survey data as defined in this chapter.
 - c. Existing structures, buildings, parking spaces, accessways, and public streets.
 - d. Aboveground and belowground utility lines and easements.
 - e. Existing natural features and topography at one-foot contour intervals. In areas where slopes are 20 percent or greater, a five-foot contour interval may be substituted.
 - (4) *Landscape plan*. The proposed landscape plan shall include the following information:
 - a. All trees, natural features, man-made appurtenances and structures to be retained upon the site and all topographic changes.
 - b. All proposed landscaping improvements and planting or landscaping areas identified. The grade, spacing, size, and name of proposed landscape materials shall be listed on the plan.
 - c. Comments regarding site preparation, tree preservation, methods of installation, and methods of maintenance shall be listed on the plan in accordance with [the Tree Conservation Ordinance].
 - d. Required plans shall identify all vehicular use areas, aisles, driveways, sidewalks, wheel stops, and or curbs and other vehicular use controls. The location of the curb cuts, median openings on abutting streets, lighting, underground irrigation system, hose bibs, proposed planting areas, decorative and or screening walls, and related buildings shall be shown.
- (d) *Landscape requirements*. All vehicular use areas subject to these regulations shall be required to have the following maintained perimeter and interior landscaped areas:
- (1) *Tree requirements*. Interior and exterior tree plantings are to be provided in accordance with the [Tree Conservation Ordinance]. Trees must be planted in interior portions of parking lots so that no parking space is more than fifty (50) feet from a parking lot Tree.
 - (2) *Perimeter landscape requirements*.
 - a. All exterior perimeters of all vehicular use areas shall have a perimeter landscaped area with no horizontal dimension less than five feet. A decorative masonry wall, earth berm, natural landscaping screen in accordance with the [buffer requirements of the tree conservation ordinance], and or combinations of the above shall be installed in such a manner as to screen the vehicular use area from adjacent properties or public rights-of-way. Screening areas shall be maintained at a minimum height of three feet.
 - b. Where other provisions of this chapter required a six-foot screening wall of masonry construction, such screening wall may totally or in part be substituted with a natural landscape screen and or earth berm upon approval of the planning commission. Such natural screening shall be at least three feet in height at time of planting and maintained at a height of five feet with a visibility obstruction of at least 75 percent.

1.
 - i. When abutting a public street right-of-way, landscaped areas along a public street shall have a minimum dimension of five feet and a minimum average dimension of ten feet from the right-of-way line to the vehicular use area.
 - ii. In addition, the requirements of section 93-2-7, "Vision clearance at corners," shall be met.
 2. When abutting adjacent properties. Required perimeter landscaped areas which would abut adjacent, existing nonresidential properties may be allocated as additional interior or other additional perimeter landscaping.
- (3) *Permitted modification to the landscaping requirements.*
- a. In cases where the landscaped area requirements of subsection (d)(2) may exceed 20 percent of the vehicular use area, the applicant may be allowed to reduce dimensions of landscaped areas other than those abutting a public street right-of-way or adjacent to the residential uses or zones to equal a 20 percent maximum provided a method of vegetative and or masonry screening is maintained and is approved by the Planning & Zoning Department.
 - b. In instances where proposed innovative designs, landscaping techniques, and site amenities are believed to fulfill the intent of subsection (a) above, the strict requirements of this section may be waived by the planning commission.
 - c. In instances where healthy plant material exists, the requirements outlined in subsections (d)(2) of this article may be adjusted thereby allowing credit for the preservation of existing plant material. The planning commission may make such adjustments so long as the intent of this section is preserved.
 - d. Open lot sales of vehicles may be excluded from the perimeter screening requirements adjacent to public rights-of-way by the planning commission, provided the tree requirements and area requirements are met.
- (4) *Landscape installation requirements.* All landscaping shall be installed in accordance with accepted good planting procedures.
- a. *New plant materials.*
 1. All separate landscaped areas shall have a minimum variety of two living plant materials other than trees; total landscaping areas required shall include a minimum variety of three landscape materials other than trees.
 2. Paving (other than walks) and artificial plants shall not be permitted within landscaping areas.
 3. Trees, hedges, and shrubs must meet the requirements of the [Tree Conservation Ordinance]
- hall
5. Lawn grass and ground covers. Grass may be sodded, plugged, sprigged, or seeded except that solid sod shall be used in swales or other areas subject to erosion. In areas where plant materials other than solid sod or grass is used, a fast-growing grass seed shall be sown for immediate effect and protection until coverage is otherwise achieved. Grass sod shall be clean and reasonably free of weeds and noxious pests or disease. Ground covers which

present a finished appearance and reasonable complete coverage at time of planting may be used in lieu of grass sod.

- b. *Existing plant materials.* Existing living plant materials to be preserved shall be in accordance with of this chapter and the [Tree Conservation Ordinance]
 - c. *Earthwork.* Earth berms shall be of variable height and slope. Swales and ponds shall be permitted for onsite retention of stormwater provided they are approved by the city's Planning & Zoning Department.
 - d. *Encroachment.* Landscaped areas, walls, structures, and walks shall require appropriate protection from vehicular encroachment by utilizing wheel stops, curbs, posts, wood, brickwork, and/or other devices. Placement of these devices shall be located at least 2½ feet from walks, walks, and structures and may be placed one foot from landscaped areas to prevent a vehicular overhang of no more than 1½; feet of landscaping area may be counted as part of the required depth of each parking space.
 - e. *Maintenance.* The owner or his agent shall be responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse and debris. The owner shall replace all landscaped materials required if, for any reason, they die or are severely damaged within one year of the final approval of the installation. The owner is thereafter responsible to maintain the landscaping in a healthy manner.
 - f. *Planting bed.* The planting bed for all landscaping materials shall be free of weeds, debris, and noxious material and shall consist of a healthy plant growth medium. The planting bed soil shall provide adequate support, drainage, and nutrients for the plants and thus may require the incorporation of sand, peat, and or topsoil into the soil. Such planting soil shall be placed throughout the planting hole for each plant, and this hole shall be at least twice as wide as the width of the plant ball and 1½ as deep as the depth of the plant ball.
- (e) *City review of landscape plan.* The Planning & Zoning Department shall approve or reject the required landscape plan. The decision of the Planning & Zoning Department shall be deemed final administrative action, but may be appealed to the Board of Appeals provided such appeal is made in writing at least thirty days prior to the next regular Board of Appeals meeting. Developments which require site plan approval by the The Planning Commission shall be reviewed and approved by the planning commission for compliance to this section.
- (f) *Certification of compliance.* Upon completion of the landscape improvements, the site shall be inspected for compliance to the approved landscape plan. A certificate of compliance must be issued before a certificate of occupancy can be issued for any related structures. When occupancy of a related building is desired prior to completion of the required landscaping, a temporary certificate of occupancy may be issued if a financial guarantee in the amount equal to 100 percent of the cost for landscaping improvements is provided and acceptable in form to the city attorney.