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CHAPTER 15. STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

(1976 South Carolina Code, Title 5, Chapter 27, Generally)

15.101. CONTROL OVER MAINTENANCE AND CONSTRUCTION.

The Town Council shall approve the construction and maintenance of streets and shall employ such number of persons to work on the streets as may be needed.

15.102. MAINTENANCE OF NEW STREETS.

When any application is made to the Council to assume the maintenance of any proposed new street, the following requirements shall be complied with:

1. The right-of-way shall be furnished to the town.
2. Plans and profiles for the proposed street shall be submitted to the Council for review and approval.
3. When plans and profiles are approved by the Council, the applicant shall cause the street to be constructed to line and grade, the necessary drainage structures installed and adequate inlet and outlet ditches constructed in a manner approved by Council. The approved construction plans shall be submitted to the Council at the time the request to accept the street for maintenance is made.

15.103. STREET NAME CHANGES PROHIBITED.

No person shall name any currently unnamed street or change the name of any existing street except by authority of the Council.

15.104. APPROVAL OF NAMES OF NEW STREETS BY COUNCIL.

No person shall construct any new street within the corporate limits without approval of the names to be assigned to such street by the Council.

15.105. Building Street Numbers.

The owner of any building shall affix conspicuously on the front thereof the number assigned to such building by the Town Clerk who shall assign numbers to buildings in accordance with plat on file in the Town Hall, when required by Council.

ARTICLE II. UNLAWFUL ACTS

15.201. DAMAGING PUBLIC PROPERTY.

It shall be unlawful for any person to damage, mutilate or deface any public property within the corporate limits.

15.202. DOORS AND GATES OPENING ONTO SIDEWALKS.

It shall be unlawful for any person or corporation to maintain any door or gate upon his premises so as to swing across or into any sidewalk or street.

(1976 SC Code 5-7-30)

15.203. GAMES IN STREETS.

No person shall play any games, throw any rock or missiles on any public street.

(1976 SC Code 5-7-30)

15.204. DRAINING RAIN WATER ON SIDEWALKS/STREETS PROHIBITED.

It shall be unlawful for any person to build, construct, erect or maintain a house or building of any description in such manner that rain water may flow from the roof, eaves, cornices, gutters, or other part thereof, down any sidewalk or street so as to cause holes, depressions, unevenness, gullies or other defect or damage to such sidewalk or street.

(1976 SC Code 5-7-30)

15.205. LOTS DRAINING TOWARD SIDEWALK.

Every person owning any lot which drains toward a sidewalk, shall provide such suitable and proper drainage under such sidewalk as will deliver the gutter and drainage water from such lot to the drainage system of the adjoining streets.

(1976 SC Code 5-7-30)

15.206. DRAINING WATER, OIL, AND OTHER LIQUIDS ONTO STREETS OR SIDEWALKS PROHIBITED.

It shall be unlawful for any person to permit water, oil or other liquid of any kind, from any store, residence or other building, to fall or flow upon any part of any street or sidewalk; provided, that sprinkling of a street to lay dust is not hereby forbidden.

(1976 SC Code 5-7-30)

15.207. THROWING GLASS, NAILS, DANGEROUS SUBSTANCES ON STREETS OR SIDEWALKS.

It shall be unlawful for any person to throw or place on any of the streets or sidewalks any glass in any shape or form, tin cans, nails, brick, pieces of iron, sticks or any other substance likely to injure any person, animal or vehicle thereon.

(1976 SC Code 57-7-20)

15.208. DAMAGED OR WRECKED VEHICLES.

It shall be unlawful for any person, when removing a wrecked or damaged vehicle from a street, to fail to remove any glass or other injurious substance dropped thereon from said vehicle.

15.209. VEHICLES LEAKING OR SCATTERING LOAD PROHIBITED.

It shall be unlawful for any owner or operator of every vehicle employed in removing or carrying any dirt, sawdust, sand, coal or any other materials liable to be blown by the wind or fall by gravity, or any manure or filth or offensive matter of any kind or description, along or over any public street, to fail to keep the same in such tight and secure condition that such matter shall not be scattered or suffered to fall on any such streets.

(1976 SC Code 5-7-30)

15.210. VEHICLES, BICYCLES, ETC., PROHIBITED ON SIDEWALKS.

It shall be unlawful for any person to ride, propel or park any automobile, motorcycle, wheelbarrow, handcart or other vehicle upon any sidewalk, except as may be necessary in entering or leaving the premises or buildings. This Section shall not apply to children under the age of twelve (12) years who may ride bicycles and tricycles on residential sidewalks, other than in the Main Business District, at a speed less than fifteen (15) miles per hour.

(1976 SC Code 5-7-30)

15.211. SKATING ON SIDEWALK.

It shall be unlawful for any person to skate on any sidewalk in a manner to create a danger to pedestrians.

15.212. BREAKING, REMOVING STREET LIGHTS.

It shall be unlawful for any person to break any lamp or electric light or to remove any electric light bulb or otherwise tamper with street lights.

15.213. BREAKING, DESTROYING CURBS PROHIBITED. PERMIT REQUIRED FOR ENTRANCE TO PROPERTY.

It shall be unlawful for any person to break or destroy the curbing of any street, to otherwise deface the same or to construct any entrance into property on any of the paved streets, unless such person shall have first obtained a permit in writing so to do from the Council.

(1976 SC Code 5-27-120)

15.214. BURNING MATTER ON STREETS OR SIDEWALKS.

It shall be unlawful to burn leaves or other matter on the paved surface of streets or sidewalks.

15.215. OBSTRUCTION OF DRAINS, DITCHES, WATER COURSES, ETC.

It shall be unlawful for any person or persons to obstruct, or cause to be obstructed, any drains, ditches or water courses within the corporate limits. Every person owning, controlling or in possession of land, through which or through part of which a stream, ditch, gully or any natural drain runs, shall keep the bed of same free from obstructions. They shall not allow any growth of weeds or shrubbery on or along the banks thereof which will prevent sunlight from entering therein. When overflows or floods form pools or "back waters" therein, they shall be promptly drained.

15.216. GARBAGE, TRASH, OFFENSIVE MATTER ON STREETS, LOTS, ETC.

It shall be unlawful for any person or persons to throw or cause to be thrown any garbage, trash or other offensive matter onto any sidewalk, street, lot or public place.

15.217. TREES SHALL NOT BE DAMAGED.

No person shall cut, remove or damage any shade tree in a malicious manner.

15.218. REMOVAL OF TREE WASTE.

It shall be unlawful for any person trimming trees, on or over any street or sidewalk, to fail to remove promptly any branches, limbs or other waste caused by such cutting, trimming or digging.

15.219. REPAIR OF FENCES.

It shall be unlawful for the owner or owners of lands, or lots of lands, within the corporate limits to fail to keep in good repair the fences on same, which are adjacent to any street or alley. All dilapidated fences adjacent to streets or alleys are hereby declared a nuisance and may be removed by the town.

(1976 SC Code 5-7-30)

15.220. OBSTRUCTIONS TO VISION AT STREET INTERSECTIONS.

On corner lots in the town there shall be no obstruction to vision between a height of two feet and a height of ten feet measured above the average elevation of the existing surfaces of the intersecting streets at their center lines, within the area formed by joining points on the property lines, measured as follows:

a. On property lines abutting streets fifty feet or less in right-of-way width, the points on the property lines shall be not less than twenty-five feet from the lot corner.

b. On property lines abutting streets more than fifty feet in right-of-way width, the points on the property lines shall be fifty feet from the lot corner.

Provided, however, that this restriction shall not apply to buildings in business districts.

15.221. SAME. PENALTY.

Whenever it shall be determined by Council that there exists on any privately owned property, located at any street intersection, any tree, bush, shrubbery, plant, fence or other obstruction which obstructs the view of pedestrians or vehicular traffic, interferes with the safe and orderly movement of traffic or creates a dangerous condition, the owner and occupant of such property shall, within ten days after written notice by town officials, remove such obstruction. Any such owner or occupant who shall fail or refuse to remove any such obstruction shall be deemed guilty of a misdemeanor.

(1976 SC Code 5-7-80)

15.222. SAME. TOWN MAY REMOVE. OWNER TO PAY COSTS.

If any such property owner shall fail or refuse to remove any such obstruction, after written notice to do so, as provided above, the Council may have same removed. The costs of such removal shall be charged to the property owner, and it shall be a lien on such property and shall be added to the town taxes on such property.

15.223. LOGS, LUMBER, CROSSTIES AND BARRELS TO BE SECURELY CHAINED.

No person shall haul round logs, pulpwood logs, lumber, crossties or barrels over or upon any street unless they shall be safely and securely fastened, with chains, on such vehicle. The links of such chain shall be made of material of not less dimension than one-half inch in diameter.

15.224. OBSTRUCTION, BLOCKING OF STREETS AND SIDEWALKS PROHIBITED.

a. It shall be unlawful for any person to place any obstruction upon or cause to be obstructed in any manner any street, sidewalk, public way or part thereof, so as to render the passage of persons, vehicles or other travel thereon difficult, inconvenient, dangerous or impossible except as otherwise provided in this Chapter; provided, that this Section shall not apply to any employee of the municipality, county or state while such employee is immediately and actively engaged in the maintenance, improvement or construction of utilities, street, sidewalk or public way.

(1976 SC Code 57-7-210)

b. The blocking by any means of any street, sidewalk or public way without official permission is hereby declared to be a misdemeanor.

15.225. OBSTRUCTIONS TO BE MOVED UPON NOTICE.

It shall be unlawful for any person to refuse or fail to remove, or cause to be removed, any obstruction on any street, highway or other public place within the time for which the Town Council may have given its permission for such obstruction thereof. If no time is set when permission is given, such obstruction shall be removed within such time as the Town Council may require.

15.226. PERMANENT OBSTRUCTIONS PROHIBITED.

No permission shall be granted for the placing of a permanent obstruction on any of the streets, highways or other public places.

15.227. BUILDING MATERIALS IN STREETS, SIDEWALKS AND PUBLIC PLACES. PERMISSION REQUIRED.

Building materials shall not be laid on any sidewalk, street or public place until the consent of the Mayor is first obtained. It shall be the duty of the person desiring so to use the streets to inform the Mayor when permission is desired to lay such material thereon, and otherwise to obstruct such places, for the purpose of erecting a building adjoining said street, where some obstruction thereof is necessary, what space will be needed and for what length of time the

obstruction will be necessary. The Mayor shall give permission accordingly, imposing then and from time to time such reasonable conditions as he may consider necessary or proper for the protection of the public and the public property.

15.228. SAME. PROTECTION BY BARRICADES, LIGHTS.

While the obstructions provided for in this Article remain on the streets, sidewalks or other public places, suitable safeguards by day and by night shall be maintained by the contractor, owner or person in charge of the work, for the protection of the public, by roping off, using lanterns and other proper means.

15.229. VEHICLES WITH FLANGES, OTHER DEVICES DAMAGING TO ROADWAY.

It shall be unlawful for any person to operate, drive or cause to be driven or operated, over, upon or across the paved streets or thoroughfares of the town, any vehicle having wheels with flanges, ribs, clamps, spikes or other devices attached to or a part of the wheel of such vehicle, that would injure or damage the paved surface of said streets or thoroughfares.

15.230. SIDEWALK SALES.

It shall be unlawful for any merchant to display merchandise on the sidewalks along Main Street in such manner as to block more than one-half of the sidewalk, it being the intent of Town Council that at least one-half of the sidewalk in front of the premises of any business in the town shall be free for the flow of traffic unhindered by any display of merchandise.

15.231. VENDING MACHINES, NEWSPAPER RACKS PROHIBITED.

It shall be unlawful for any person, firm or corporation to install a vending machine on the sidewalks along Main Street. The term "vending machines" shall include, but not be limited to, coin operated drink machines and newspaper display racks; provided, however, this Section shall not prohibit the continued use of any vending machine installed on the sidewalk along Main Street by a merchant prior to December 11, 1981, the effective date of this provision by ordinance.

(Ord. 12-11-81)

ARTICLE III. EXCAVATIONS

15.301. EXCAVATION PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to cut or excavate a street or sidewalk in the corporate limits without having first obtained a permit therefor from the town or the South Carolina Department of Highways and Public Transportation except in a bona fide emergency situation.

(1976 SC Code 5-7-30)

15.302. EXCAVATIONS TO BE RESTORED.

Any such cut or excavation shall be restored according to the standards of the Department of Highways and Public Transportation within a period of twenty-four (24) hours. Special consideration may be granted by the town or said department due to extreme weather conditions upon request.

15.303. FAILURE OF EXCAVATION.

In the event that said repair should sink or give away within one (1) year, it promptly shall be repaired by the person, firm, or corporation making the original cut or excavation within seventy-two (72) hours of being notified by the town and/or said department.

15.304. DANGER SIGNALS REQUIRED AT EXCAVATIONS.

It shall be unlawful for any person to allow any trench, ditch or excavation in any street, sidewalk or public place to remain open without a sufficient number of lights or other safety devices properly displayed around same as danger signals to prevent accidents to persons or property. Adequate lights shall be displayed at night.

15.305. REMOVING DANGER SIGNALS AT EXCAVATIONS.

It shall be unlawful for any person to remove or extinguish any warning device or light which may be placed as a signal during daylight hours, or at night, to warn persons of danger from ditches, trenches, building materials, scaffolds, excavations impediments or obstacles of any description whatsoever.

ARTICLE IV. TREE BOARD

Editor's Note. This Article derives from Ordinance No. 84, adopted by the Mayor and Council on December 12, 1991. Sections 14.512, 15.217 and 15.218 of this Code have been reviewed to ascertain any conflicts herewith; none was found.

15.401. DEFINITIONS.

a. **Street Trees** are defined herein as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, ways or avenues within The Town of Chesterfield.

b. **Park Trees** are defined herein as trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by The Town of Chesterfield or to which the public has free access as a park.

c. **Town** shall mean The Town of Chesterfield, South Carolina.

d. **BOARD** shall mean the Tree Board as established herein.

e. **SCDHPT** shall mean the South Carolina Department of Highways and Public Transportation.

Section 15.402. TREE BOARD ESTABLISHED.

There is hereby created a Town a Tree Board which shall consist of seven members who shall be residents of the town. Each Councilmember and the Mayor shall make an appointment to the commission. In the event of removal, a finding of cause shall not be required, as provide by law. (Ord. 2000-8)

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Section 15.403. TERM OF OFFICE.

Terms of office shall be four years. Terms of three members shall expire in the odd years; terms for the other four members shall expire in the even years. A member shall continue to serve until his successor is appointed and qualifies. Any member who resigns shall be replaced by appointment for the unexpired term of that member. (Ord. 2000-8)

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15.404. COMPENSATION.

Members of the Board shall serve without compensation.

15.405. DUTIES AND RESPONSIBILITIES.

a. It shall be the responsibility of the Board to study, investigate, counsel, develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented to the Mayor and Council annually and, upon its acceptance and approval, it shall constitute the Official Town Tree Plan for the Town.

b. The Board, when requested by the Mayor and Council, shall consider, investigate, make findings, report and recommend upon any special matter or question within the scope of its work or as may be requested by the Mayor and Council.

15.406. QUORUM. RECORDS TO BE MAINTAINED.

- a. A majority of the members shall constitute a quorum to conduct business.
- b. The Board shall keep a record of its proceedings.

15.407. STREET TREE SPECIES DEFINED. CLASSES.

The following list shall constitute examples of classes of official Street Tree species, but it shall not be limited to these species:

<u>CLASS I</u> Small Trees	<u>CLASS II</u> Medium Trees	<u>CLASS III</u> Large Trees
Crab Apple; Flowering	Mulberry; Red	Cypress
Crape Myrtle	(fruitless, male)	Magnolia
Dogwood	Oak; Red	Maple
Pear; Bradford	Pecan	Oak
Plum; Purpleleaf	Persimmon	Poplar
Rain Tree; Golden	Poplar; White	Sycamore
Redbud	Sassafras	

15.408. SPACING OF TREES.

Spacing of Street Trees shall conform to the regulations of the SCDHPT.

15.409. DISTANCE FROM CURBS AND SIDEWALKS.

The distance Street Trees may be planted from curbs, curblines or sidewalks shall conform to the regulations of the SCDHPT.

15.410. DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

- a. The distance Street Trees may be planted from street corners shall conform to regulations of the SCDHPT.
- b. No Street Tree shall be planted closer than ten (10) feet of a fire hydrant.

15.411. UTILITIES.

No Street Tree, other than those species listed as Small Trees in Section 14.407 hereof, may be planted under or within ten (10) feet of any overhead utility wire or over or within five (5) lateral feet of any underground transmission, water, sewer or other utility line.

15.412. PUBLIC TREE CARE.

- a. The Town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes and public grounds, as may be necessary to insure public safety or to preserve/enhance the symmetry and beauty thereof.
- b. The Board may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature may be injurious to utility lines/public improvements or is affected with any injurious fungus, insect or other pest.

15.412. PUBLIC TREE CARE. (continued)

c. This Section shall not prohibit the planting of Street Trees by adjacent property owners, provided the selection and location thereof comply with requirements of Sections 14.407 - 14.411 hereof.

15.413. TREE TOPPING. SEVERELY DAMAGED TREES.

a. It shall be unlawful, as a normal practice, for any person, firm or Town department employee to top any Street or Park Tree or other tree on public property. (Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown, to such a degree as to remove the normal canopy and disfigure the tree.)

b. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this Article, at the determination of the Board.

15.414. PRUNING. CORNER CLEARANCES. STREET LIGHTS. TRAFFIC CONTROL DEVICES.

a. Every owner of any tree overhanging any street or public right-of-way shall prune the branches so that such branches shall not obstruct the view of any street intersection. There shall be a clear space of eight (8) feet above any surface of a street or sidewalk. Owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the public safety.

b. The Town shall have the right to prune any tree or shrub on private property when it interferes with the visibility or the proper spread of light along the street from a street light or which interferes with the visibility of any traffic control device or sign, under the general police powers of the Town.

15.415. DEAD OR DISEASED TREES. OWNERS TO BE NOTIFIED.

a. The Town shall have the right to cause the removal of any dead or diseased tree on private property, when such tree constitutes a hazard to life and property, or harbors insects or diseases which constitute a potential threat to other trees.

b. The Board shall notify the owners of such trees, in writing by certified mail. Removal shall be accomplished by said owners at their own expense within sixty (60) days after the delivery of the notice.

c. In the event of failure to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost thereof to the property tax notice of the owners to be collected therewith.

15.416. REMOVAL OF STUMPS.

All stumps of Street and Park Trees shall be removed below the surface of the ground.

15.417. INTERFERENCE WITH TREE BOARD UNLAWFUL.

It shall be unlawful for any person to prevent, delay or interfere with the Board or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing any Street or Park Tree or trees on private grounds, as authorized by this Article.

15.418. ABORISTS. LICENSE. BOND.

a. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removal of Street or Park Trees, without first applying for and procuring a business license from the Town Clerk.

b. Such license shall be required of any public service company and or its agents performing such work in pursuit of its public service endeavors.

c. Before a license can be issued, each applicant shall first file with the Town Clerk evidence of liability insurance in the minimum amount of \$50,000 for bodily injury and \$100,000 for property damage which might result from the pursuit of such endeavors as herein described.

15.419. REVIEW BY MAYOR AND COUNCIL. APPEALS.

a. The Mayor and Council shall have the right to review the conduct, acts and or decisions of the Board.

b. Any person or firm may appeal any ruling or order of the Board to the Mayor and Council, and any such appeal shall be heard and a final decision rendered.

15.420. PENALTY.

Any person, firm or corporation violating any provision of this Article, upon conviction or a plea of guilt, shall be subject to a fine not to exceed \$100.00.

Editor's Notes:

1. See Chapter 12 for regulations, generally, as to Parks and Playgrounds.
2. See Sections 15.217 and 15.218 as to damaging trees, generally, and the removal of tree waste.
3. Section 14.512 relates to landmark and boundary trees.
4. None of the above appears to be in conflict with this article.

**ARTICLE V
COMMUNITY APPEARANCE, BUFFERING,
SCREENING, LANDSCAPING, COMMON
OPEN SPACE AND TREE PROTECTION REGULATIONS**

The regulations contained in this Article are intended generally to ensure land use compatibility, improve aesthetics, ensure adequate provision of open space, and protect trees within the Town of Chesterfield.

15.421 DEFINITION. A buffer area is a unit of yard, together with planting, fences, walls, and other screening devices required thereon.

15.422 PURPOSE. The purpose of a buffer area is to ameliorate any potential adverse impact between adjacent land uses and streets, and promote land use compatibility.

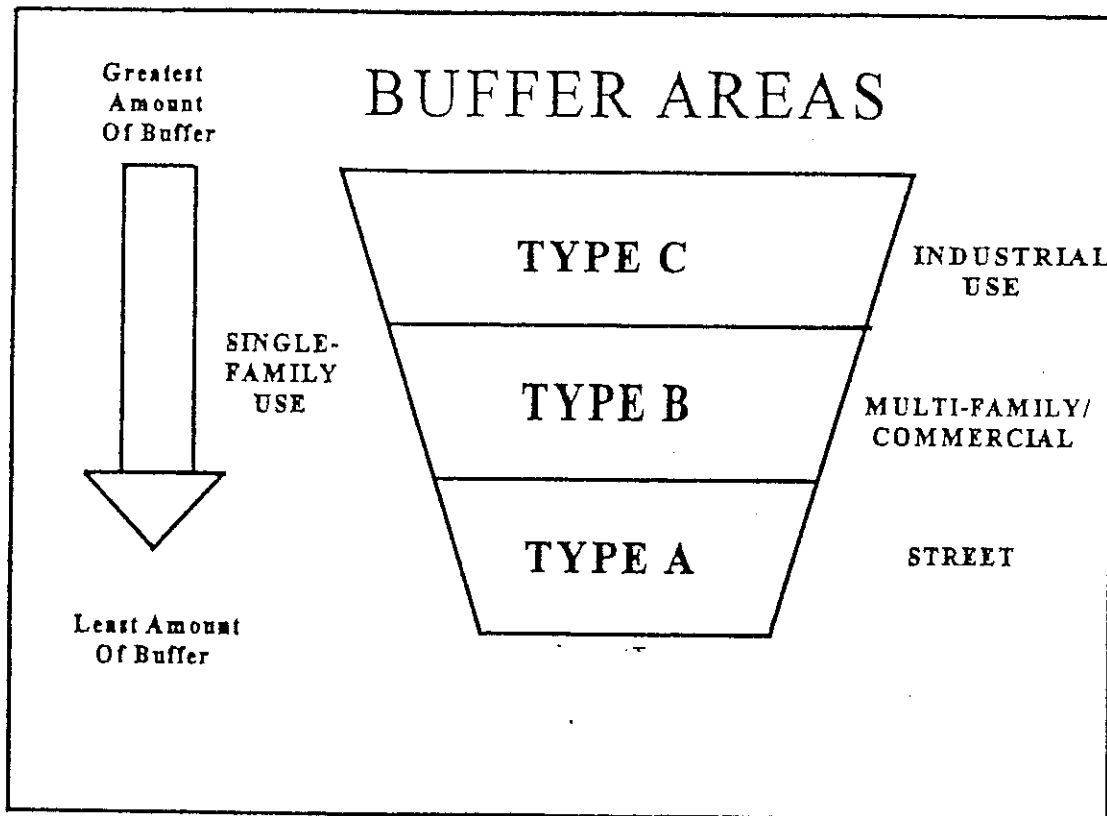
15.423 LOCATION. Buffer areas shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. For purpose of complying with this section, they shall not be located on any portion of an existing street or right-of-way; however, they may occupy part or all of any required front, side or rear yard setback. Where specified by this section, buffer areas and/or buffer area structures shall be developed as an integral part of the proposed use.

15.424 Determination of Buffer Area Requirements. Buffer Areas shall be required under the following circumstances.

(1) **Type A Buffer Area Required.** Wherever a multi-family building, mobile or manufactured home park, or non-residential use is proposed, a Type A buffer area shall be provided along the street right-of-way boundary of the proposed use, separating it from the adjoining street, except for driveways, and uses in the CC District.

(2) **Type B Buffer Area Required.** Wherever a mobile or manufactured home park, multi-family building, mini-warehouse, institutional or commercial use is proposed for a site or lot adjoining a single-family or duplex residential dwelling in the Residential Districts with no intervening public or private street or right-of-way of twenty-five (25) feet or greater, a Type B Buffer Area shall be provided along the boundary of the adjoining residential property line.

(3) **Type C Buffer Area Required.** Wherever an industrial, warehouse, outdoor storage, or related use is proposed for a site or lot adjoining any residential use in the Residential Districts with no intervening public or private street or right-of-way of twenty-five (25) feet or greater, a Type C Buffer Area shall be provided along the boundary of the adjoining residential property line.

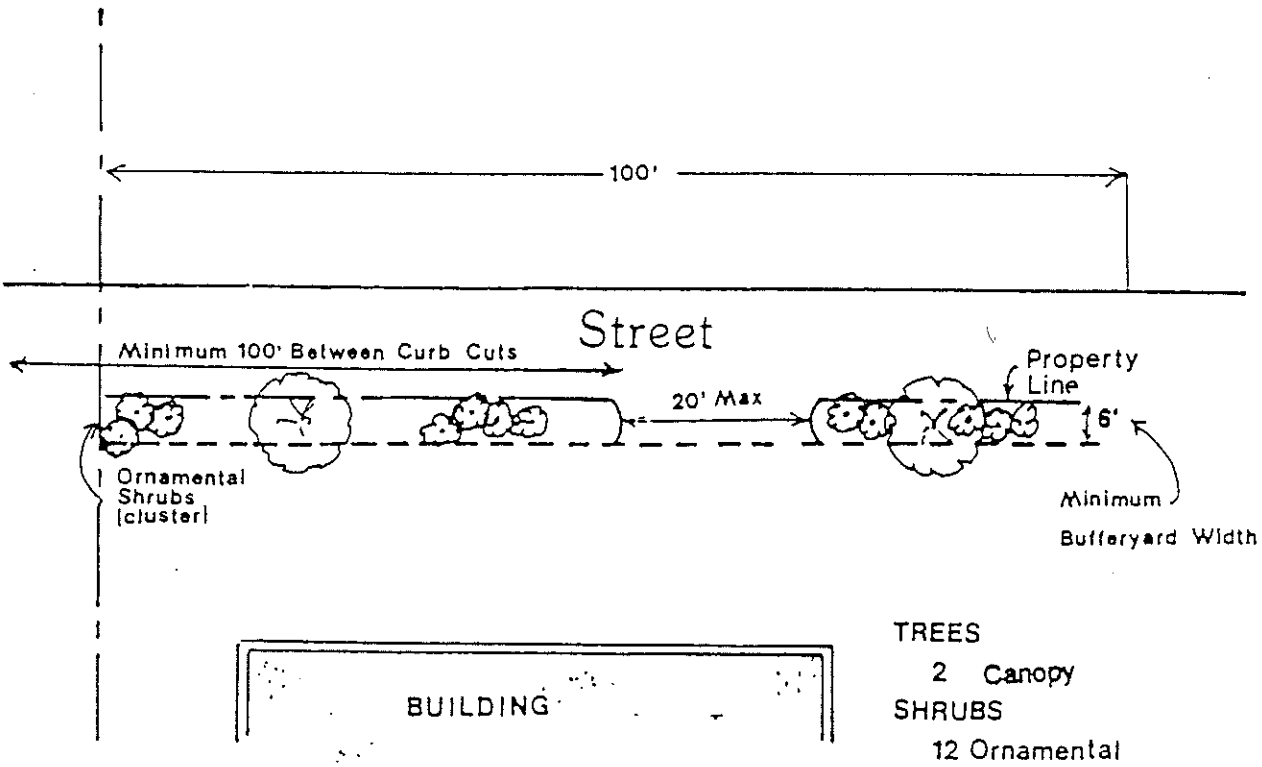


15.425 Design Standards. Three types of buffer areas are required by this Ordinance, Type A, Type B, and Type C. A description of each follows:

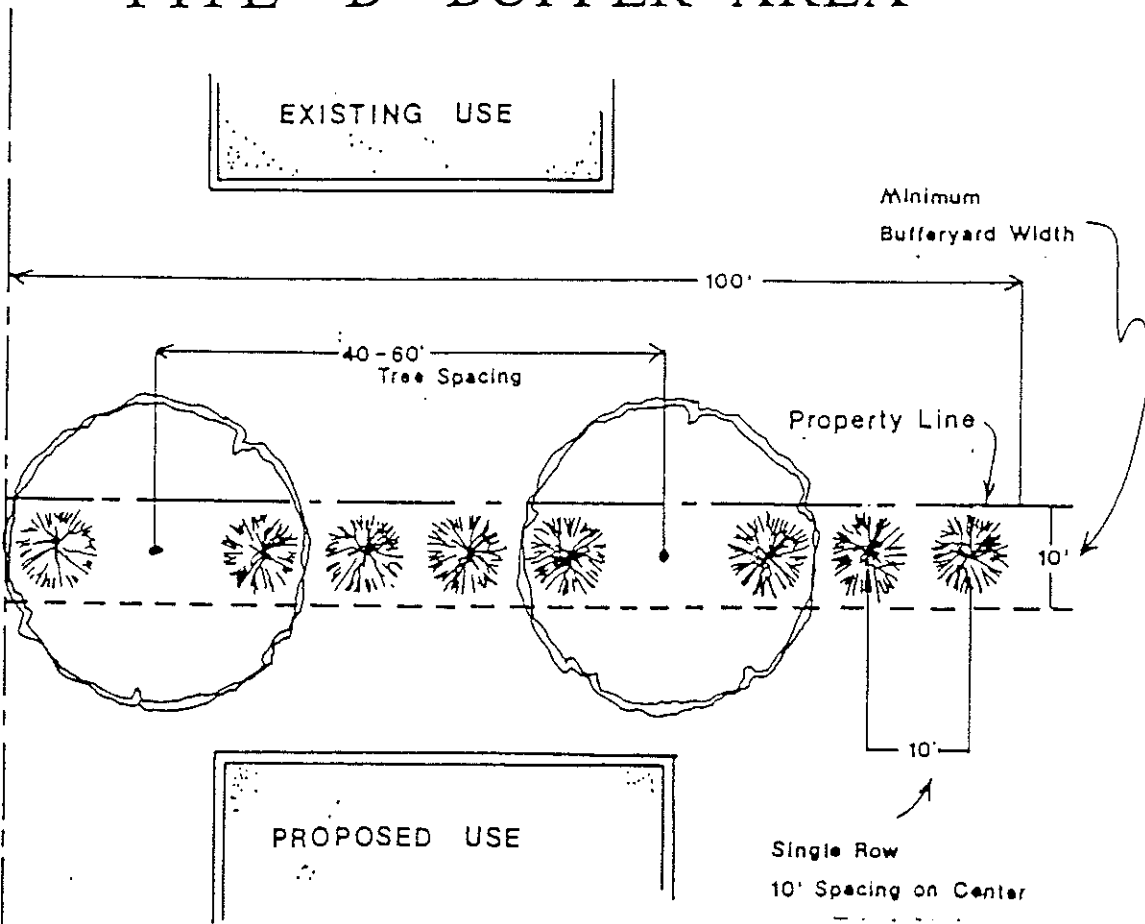
(1) **Type "A" Buffer Area.** The Type A Buffer Area consists of low density landscaping and minimal acceptable separation between uses. The buffer area shall be not less than six (6) feet in width. Per 100 lineal feet of frontage, the buffer area shall consist of a combination of not less than 12 ornamental shrubs, 2.5 canopy trees and landscaped grass areas, or other appropriate ground cover. The shrubs may be clustered to ensure their survival. An example site plan is illustrated by the following diagram.

(2) **Type "B" Buffer Area.** The Type B Buffer Area is a medium density screen intended to block visual contact between uses and to create spatial separation. The buffer are shall be a minimum width of 10 feet. Per 100 lineal feet the screen shall consist of a combination of 2.5 deciduous trees planted 40 to 60 feet on center and 8 evergreen plants 10 feet on center. An example site sit plan is illustrated by the following diagram.

TYPE "A" BUFFER AREA

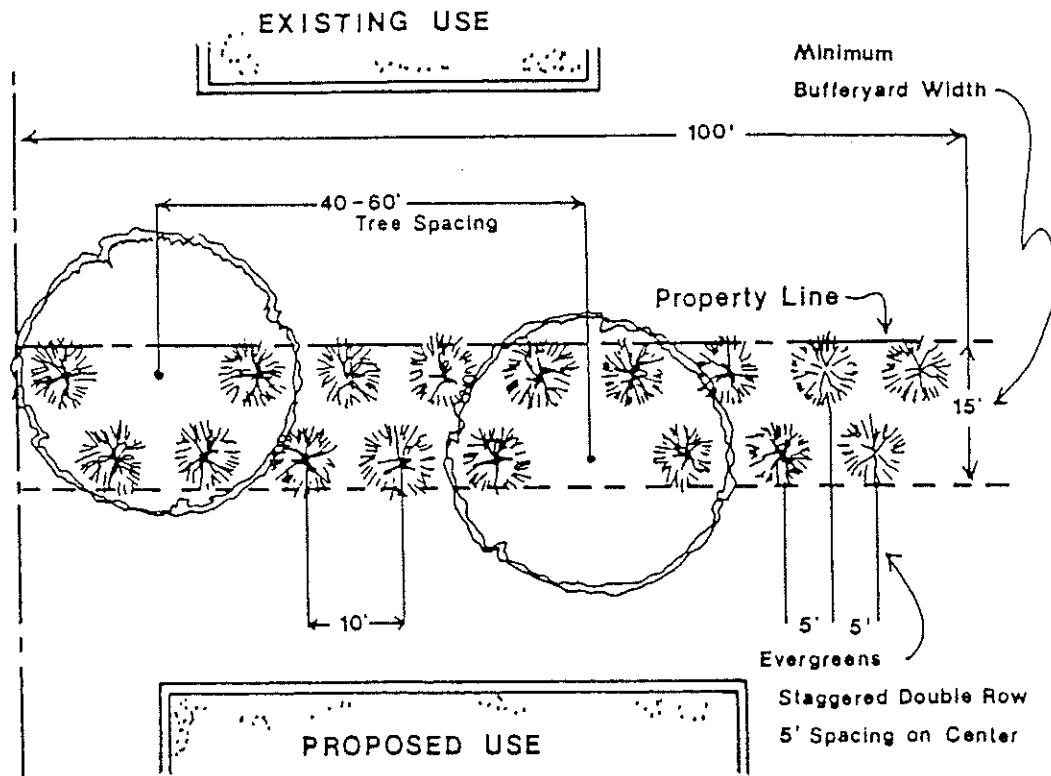


TYPE "B" BUFFER AREA



(3) **Type "C" Buffer Area.** The Type C Buffer Area is a high density screen intended to exclude all visual contact between uses and to create spatial separation. The buffer area shall be a minimum width of 15 feet. Per 100 lineal feet the screen shall consist of a combination of 2.5 deciduous trees planted 40 to 60 feet on center and 17 evergreen plants of which at least 8 shall be understory trees planted in a double-staggered row 10 feet on center. An example site plan is illustrated by the following diagram.

TYPE "C" BUFFER AREA



15.426 Buffer Area Specifications

(1) **Minimum Installation Size.** At installation or planting, all evergreen (understory) trees and/or plants used to fulfill buffer area requirements shall be not less 6 feet in height, and all deciduous (canopy) trees shall be not less than 8 feet in height, except for ornamental shrubs for Type A Buffer Areas.

(2) **Minimum Mature Size.** At maturity, evergreen plant material used for screening shall form a continuous opaque screen averaging 10 feet in height, and deciduous plant material used for screening shall average 30 feet in height.

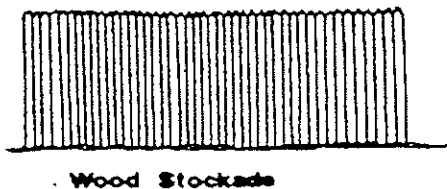
15.427 **Substitutions.** The following substitutions shall satisfy the requirements of this section:

(1) **Existing Plant Materials.** Existing trees of 4 inches DBH (Diameter Breast High) or more in diameter, within the required buffer area may be included in the computation of required buffer area planting, with approval of the Town Planner.

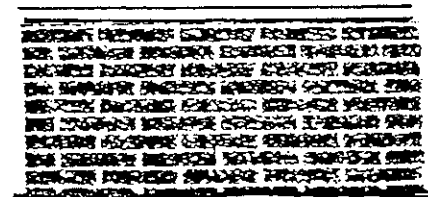
(2) **Fence or Wall.** Where, owing to existing land use, lot sizes, or configurations, topography, or circumstances peculiar to a given piece of property, the buffer area requirements of this section cannot reasonably be met, the developer(s) may request and the Town Planner may approve the substitution of appropriate screening, in the way of a fence or wall structure along the property line of the proposed use in accord with the provisions of this Section.

An eight-foot fence or wall, as illustrated below, may be substituted for a Type "B" or "C" Buffer Area.

Fence and Wall Illustrations



Opaque Fence [non-perishable supports]

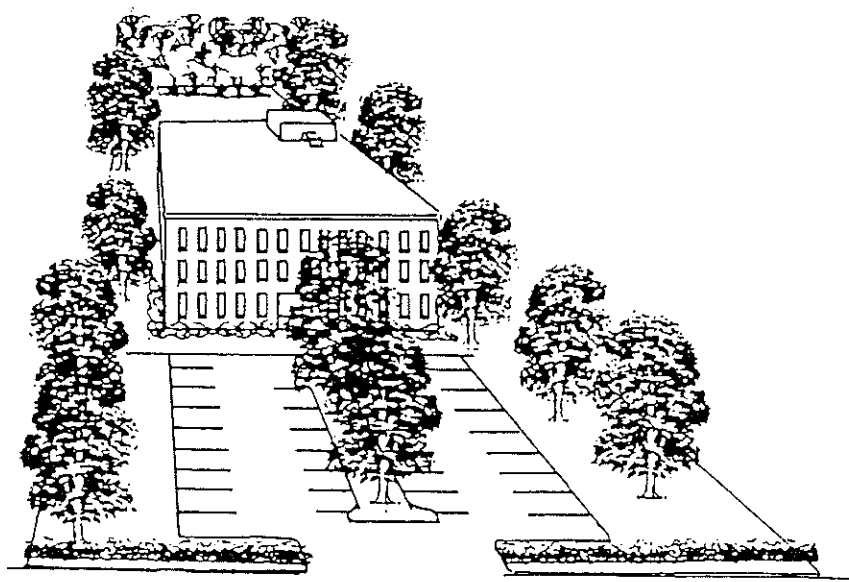
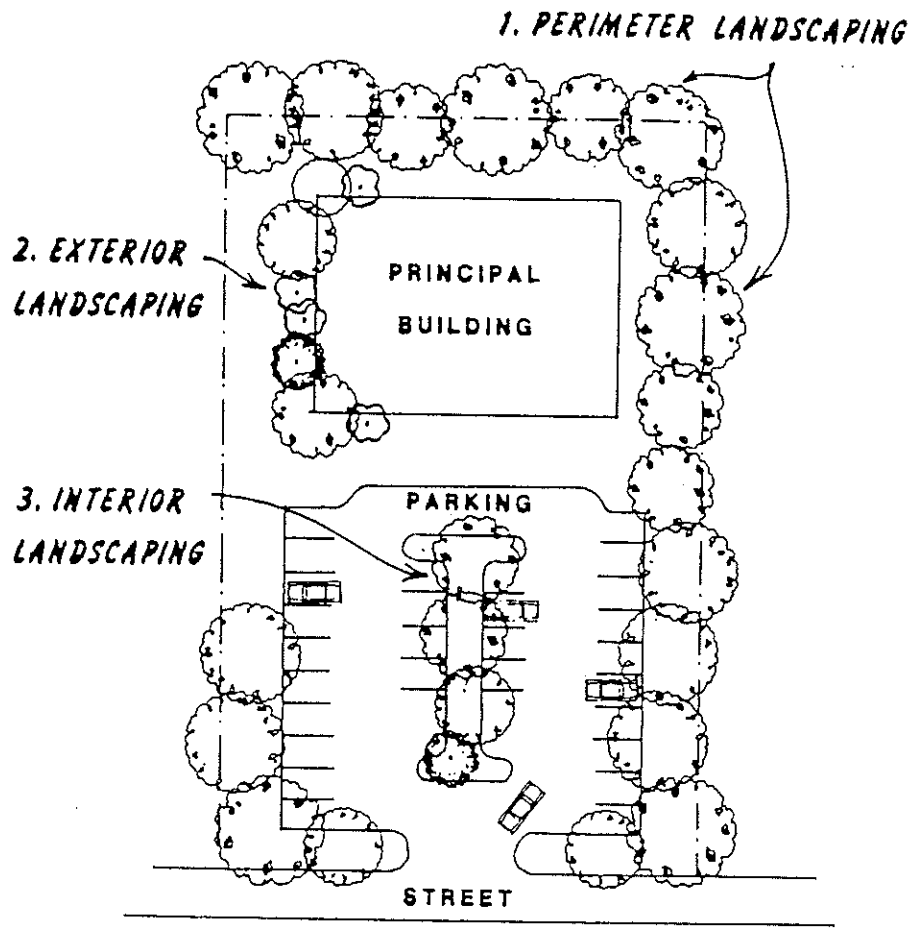


[poured concrete, stucco concrete, brick, etc.]

Masonry Wall

All fences and walls used as part of the buffer area requirements must have a finished side that is facing adjoining property. The interior side of the fence or wall may be finished as owner deems appropriate. Chain link fences, with or without slats, are not acceptable substitute and not permitted as such.

15.428 **Responsibility.** It shall be the responsibility of the proposed new use to provide the buffer area where required by this Ordinance, except that no new detached single-family dwelling or duplex shall be required to provide such buffer area.



15.429 Required Maintenance. The maintenance of required buffer areas shall be the responsibility of the property owner. All such areas shall be properly maintained so as to ensure continued buffering. All planted areas shall be provided with an irrigation system or a readily available water supply inspected and approved by the Town Planner to ensure continuous healthy growth and development. Dead trees shall be removed; debris and litter shall be cleaned; and berms, fences, and walls shall be maintained at all times. Failure to do so is a violation of this Ordinance, and may be remedied in the manner prescribed for other violations. Owners shall take no action to prevent trees from reaching mature height.

15.430 Use of Buffer Areas. A buffer area may be used for passive recreation; however no plant material may be removed. All other uses are prohibited, including off-street parking.

Screening

15.431 Definition. Screening is a type of buffer that is designed to block or obscure a particular element or use from view.

15.432 Purpose. The purpose of screening is to minimize or eliminate the visual impact of open storage areas and refuse disposal facilities.

15.433 Where Required. Screening specified by this section shall be required of all open storage areas not devoted to retail sales visible from any public street, including open storage areas from building materials, appliances, trash containers of 4 or more cubic yards, salvage materials and similar unenclosed uses.

15.434 Type Screening Required. Screening shall be accomplished by an opaque divide not less than eight (8) feet high. Screening may be accomplished by the use of sight obscuring plant materials (generally evergreens), earth berms, walls, fences, proper siting of disruptive elements, building placement or other design techniques approved by the Town Planner.

Landscaping.

15.435 Definition. Landscaping is a type of open space permanently devoted and maintained for the growing of shrubbery, grass, other plants and decorative features to the land.

15.436 Purpose. The purpose of landscaping is to improve the appearance of vehicular use areas and development abutting public rights-of-way; to protect, preserve, and promote the aesthetic appeal, scenic beauty, character and value of land in the city; to promote public health and safety through the reduction of noise pollution, storm water run off, air pollution, visual pollution, and artificial light glare.

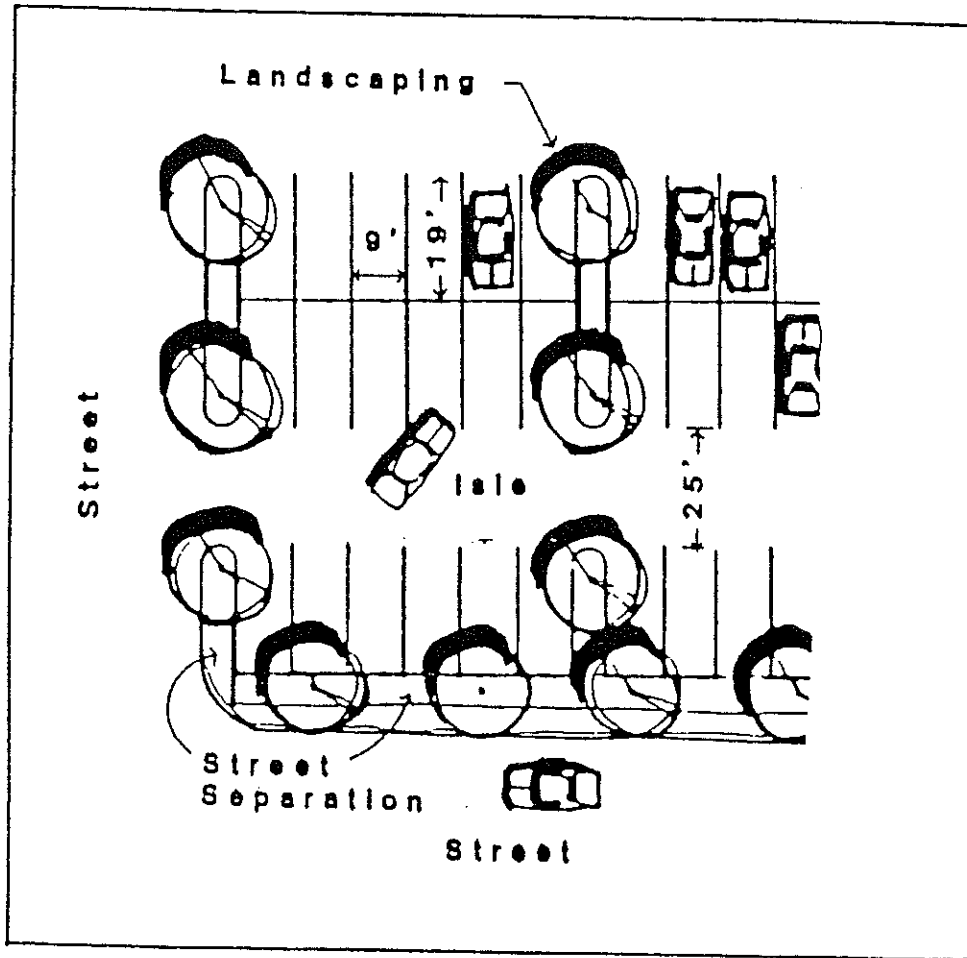
15.437 Where Required. No proposed commercial, institutional, industrial or other non-residential use shall hereafter be established and subsequently used unless landscaping is provided in accord with the provisions of this section. No existing building, structure or vehicular use area shall be expanded or enlarged by 50 percent or more unless the minimum landscaping required by the provisions of this section is provided throughout the building site. Enlargement involving less than 50 percent shall meet the minimum requirements for the enlargement only. Landscaping is not required for existing uses, nor is it required in the CC District.

15.438 Landscaping Plan. A landscaping plan shall be submitted as part of the application for a building permit. The plan shall:

- (1) Designate areas to be reserved for landscaping. The specific design of landscaping shall be sensitive to the physical and design characteristics of the site.
- (2) Indicate the location and dimensions of landscaped areas, plant materials, decorative features, etc.
- (3) Identify all existing trees 10" DBH (Diameter Breast High) in required setback (yard) areas.

15.439 Landscaping Requirements. Required landscaping shall provided as follows:

- (1) **Along the outer perimeter of a lot or parcel,** where required by the buffer area provisions of this Article to buffer and separate incompatible land uses. The amount specified shall be as prescribed by Section 15.424-15.425.
- (2) **Within the interior,** Peninsula or island type landscaped areas shall be provided for any open vehicular use area containing 20 or more parking spaces. Landscaped areas shall be not less than 5' x 5' and located in such a manner as to divide and break up the expanse of paving and at strategic points, but not less than one canopy tree per 10 parking spaces, to guide travel flow and directions. Elsewhere, landscaped areas shall be designed to soften and complement the building site.



At a minimum, interior lot landscaping shall be provided in the following amounts:

<u>Use</u>	<u>% of lot</u>
Institutional	15%
Industrial/wholesale/storage	10%
Office	10%
Commercial-retail-service	5%

Buffer area landscaping may provide up to 50 percent of the above requirement. Landscaping along exterior building walls and structures is suggested to separate with greenery the building from the vehicular surface area.

15.440 Landscaped Areas

(1) All landscaped areas in or adjacent to parking areas shall be protected from vehicular damage by a raised concrete curb or an equivalent barrier of six inches in height. The barrier need not be continuous.

(2) Landscaped areas must be at least 25 square feet in size and a minimum of three feet wide to qualify.

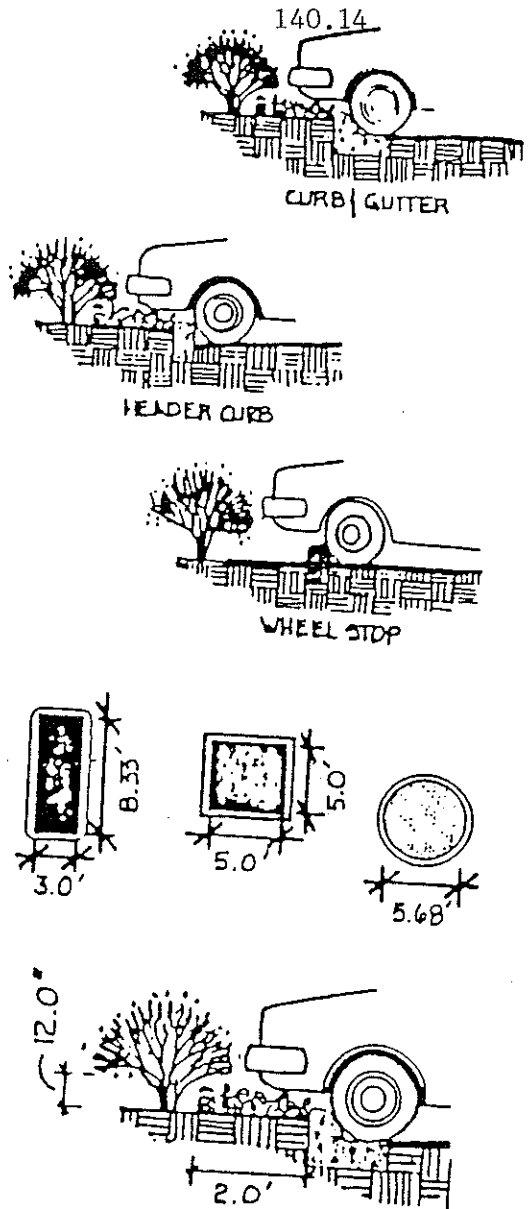
(3) Landscaped areas adjacent to parking spaces shall be landscaped so that no plant material greater than 12 inches in height is located within two feet of the curb or other protective barrier. (Plant material greater than 12 inches in height would be damaged by the automobile bumper overhang or by doors swinging open over the landscaped areas.

15.441 Required Maintenance. The maintenance of required landscaped areas shall be the responsibility of the property owner. All such areas shall be properly maintained so as to assure their survival and aesthetic value, and shall be provided with an irrigation system or a readily available water supply. Failure to monitor such areas is a violation of this Ordinance, and may be remedied in the manner prescribe for other violations. Owners shall take no action to prevent trees from reaching mature height.

Section Common Open Spaces

15.442 Definition. Common open space is land and/or water bodies for recreation, amenity or buffer; it shall be freely accessible to all residents and property owners of a development, where required by this Ordinance. Open space shall not be occupied by buildings or structures other than those in conjunction with the use of open space, roads, or parking nor shall it include the yards or lots of residential dwelling units required to meet minimum lot area or parking area requirements.

15.443 Purpose. The purpose of this section is to ensure adequate open space for high density residential development; to integrate recreation, landscaping, greenery and/or natural areas into such projects; to promote the health and safety of residents of such



projects; and to compensate for the loss of open space inherent in single-family residential projects.

15.444 **Where required.** The following uses/projects consisting of nine or more units shall provide common open space in the amounts prescribed:

<u>Proposed Uses/Projects</u>	<u>Common Open Space Ratio (% Lot)</u>
Cluster Developments	15%
Townhouse Projects	15%
Mobile/Manufactured Home Parks	15%
Multi-family Projects	20%

(1) **New Sites.** No proposed development, building or structure in connection with above shall thereafter be erected or used unless common open space is provided in accord with the provisions of this section.

(2) **Existing Sites.** Expansion or enlargement of an existing building or structure of 50 percent or more shall meet in full the minimum common open space requirements of this section for the entire site. Expansion or enlargement involving less than 50 percent shall meet the minimum requirements for the enlargement only.

15.445 **Common Open Space Plan.** Proposed uses/projects setforth in 15.444 shall submit an open space or landscaping plan as part of the application for a building permit. The plan shall:

- (1) Designate areas to be reserved as open space. The specific design of open space shall be sensitive to the physical and design characteristics of the site.
- (2) Designate the type of open space which will be provided, and indicate the location of plant materials, decorative features, recreational facilities, etc.
- (3) Specify the manner in which common open space shall be perpetuated, maintained and administered.

15.446 **Types of Common Open Space and Required Maintenance.** The types of common open space which may be provided to satisfy the requirements of this Ordinance together with the maintenance required for each are as follows:

(1) **Natural areas** are areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands and wetlands are specific types of natural areas. Maintenance is limited to removal of litter, dead trees, plant materials, and brush. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

(2) **Recreational areas** are designed for specific active recreational uses such as tot lots, tennis courts, swimming pools, ballfields, and similar uses. Recreation areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

(3) **Greenways** are linear green belts linking residential areas with other open spaces areas. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged. Maintenance is limited to a minimum of removal and avoidance of hazards, nuisances, or unhealthy conditions.

(4) **Landscaped areas, lawns and required buffer areas**, including creative landscaped areas with gravel and tile, so long as the tile does not occupy more than two percent of the required open space. Lawns, with or without trees and shrubs shall be watered regularly to ensure survival, and mowed regularly to ensure neatness. Landscaped areas shall be trimmed, cleaned, and weeded regularly.

15.447 Preservation of Open Space

Land designated as common open space may not be separately sold, subdivided or developed. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained as required by this section by any of the following mechanisms or combinations thereof:

- (1) Dedication of and acceptance by the city.
- (2) Common ownership of the open space by a home-owner's association which assumes full responsibility for its maintenance.
- (3) Deed restricted, private ownership which shall prevent development and/or subsequent subdivision of the open space land and provide the maintenance.

In the event that any private owner of open space fails to maintain same, the town may in accordance with the Open Space Plan and following reasonable notice, demand that deficiency of maintenance be corrected, and enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space.

Section Tree Protection

15.448 Purpose. The purpose of this section is to prevent the clear cutting of building sites, a practice which destroys the balance of nature, leads to sedimentation and erosion,

contributions to air and water pollution, and unnecessarily robs the community of valuable natural resources.

15.449 Existing (Significant) Trees. Because any healthy tree greater than ten (10) inches DBH (Diameter Breast High) is a valuable natural resource, by virtue of its age and size and its contribution to the environment, all said trees meeting this measurement shall be referred to as "significant trees" and protected to the extent practical and feasible.

All existing significant trees located in all required yards shall be flagged and shown on the plat or site plan for a building permit or grading permit. Also existing significant trees measuring 16 inches DBH in the buildable area shall be flagged and shown on the plat or site plan.

No more than 25 percent of said trees shall be felled and removed from the required yards and no significant tree measuring 16 inches DBH shall be removed from the lot except by order of the Board of Zoning Appeals owing to unique circumstances surrounding the development of the property.

15.450 Removal of Existing (Significant) Trees. Removal of existing significant trees shall be prohibited unless and until approved by the Town Planner prior to securing a grading and/or building permit. However, in the event that a tree poses a severe or imminent threat to public safety or property, the Town Planner may waive the requirements of this section. Written findings must later be issued, outlining the threat which initiated the removal. The Town Planner or his designee may require replacement of any trees which are removed where it is determined that the threat resulted from negligence.

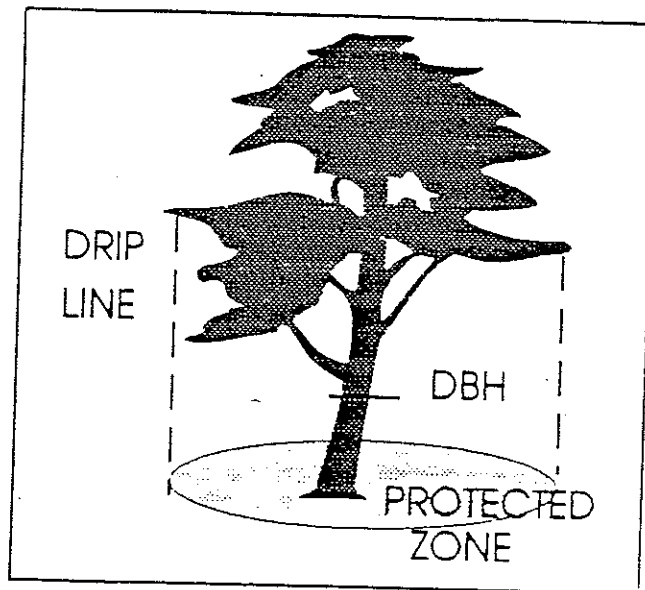
15.451 Significant Trees Removed Without Permits

Where significant trees have been removed or where removal is necessitated at any time due to acts of negligence, or where sites were cleared of significant trees in violation of this section, replacement scheduled approved by the Board of Zoning Appeals. The Town Planner shall recommend the number, species, DBH, and location of replacement trees, according to the following criteria:

- (1) Combined DBH of replacement trees is equal to or greater than three (3) times the DBH of the tree removed or;
- (2) individual replacement trees are the largest transplantable DBH available.

Where significant tree removal is necessitated by emergencies or death and disease of trees due to natural causes, as determined by the Town Planner, such tree(s) shall be replaced one to one with canopy trees measuring not less than 12 feet in height.

15.452 Development Precautions. After the necessary permit approvals have been granted, and before any site work has begun, the developer shall cause protected trees to be marked with surveyor's flagging. During development, a minimum protective zone, marked by barriers, shall be established (erected) a the "drip line" and maintained around all trees to be retained as required by this section. There shall be no construction, paving, grading, operation of equipment or vehicles, or storage of materials within this protected zone.



15.453 Cutting, etc. of Significant Trees Prohibited. No person shall cut down, remove, relocate, damage, destroy, or in any manner abuse any significant tree 16" DBH on any lot or tract or public right-of-way in the town unless authorized by the terms in this section and approved by the Town Planner.