

**Code of Ordinances, City of Martinsville, Virginia  
Abstracted April 2016**

[https://www.municode.com/library/va/martinsville/codes/code\\_of\\_ordinances](https://www.municode.com/library/va/martinsville/codes/code_of_ordinances)

**CHARTER**

**CHAPTER 1. INCORPORATION, BOUNDARIES AND POWERS**

**Sec. 2. Powers of the city.**

In addition to the powers mentioned in the preceding section, the said city shall have power:

...

(17) To establish, open, widen, extend, grade, improve, construct, maintain, light, sprinkle and clean, public highways, streets, alleys, boulevards and parkways, and to alter, or close the same; to establish and maintain public parks, playgrounds and other public grounds; to construct, maintain and operate public bridges, viaducts, subways, tunnels, sewers and drains, and to regulate the use of all such highways, parks, public grounds and works; to plant and maintain shade trees along the streets and upon such public grounds; to prevent the obstruction of such street drains and highways; to regulate the operation and speed of all locomotives, cars, and vehicles using the streets or railroads within the city; to regulate the services to be rendered and rates to be charged by public busses, motor cars, taxicabs and other public vehicles used for hauling passengers and baggage for hire, except when prohibited by the State Corporation Commission of Virginia, or the Interstate Commerce Commission; to require any telephone and telegraph wires and any wires and cables carrying electricity to be placed in conduits under ground and to prescribe rules and regulations for the construction and use of such conduits; and to do all other lawful things whatsoever adapted to make said streets and highways safe, convenient and attractive.

...

**CHAPTER**

**Chapter 8 EROSION AND SEDIMENT CONTROL**

**ARTICLE I. IN GENERAL**

**Sec. 8-1. Definitions.**

As used in this chapter, unless the context clearly indicates otherwise, certain terms, titles and phrases shall be defined as follows:

*Clearing*: Any activity which removes the vegetative ground cover including, but limited to, root mat removal and/or topsoil removal.

*Land-disturbing activity*: Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling land. The phrase shall not include:

- (1) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, and maintenance work.

...

*Transporting*: Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or buildup of earth materials, to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

(Ord. of 2-23-82, § 2.1; Ord. No. 90-15, 11-27-90; Ord. No. 2008-06, 5-13-2008)  
State Law reference— Similar definitions, Code of Virginia, § 21-89.3.

## Chapter 9 FIRE PREVENTION AND PROTECTION

### ARTICLE IV. OUTDOOR FIRES

#### Sec. 9-61. General conditions.

(a) It shall be unlawful for any person to do any open burning outdoors in the city, unless the following conditions are complied with:

(1) Only paper, cardboard, leaves, and tree, yard and garden trimmings located on the premises of private residences may be burned;

...

(3) Unless all material burned is fully contained within a box or cage of metal or other noncombustible material or consists only of leaves or of tree, yard and garden trimmings, in a pile less than five (5) feet in diameter and less than three (3) feet in height, prior approval for the burning must be obtained from the fire chief or an on-duty fire department officer;

...

(5) All open burning, except leaves from trees, shall be done at least three hundred (300) feet from any occupied building, unless the occupant of the building has given prior permission for burning closer to the building. All open burning of leaves from trees shall be done at least fifty (50) feet from any occupied building, unless the occupant of the building has given prior permission for burning closer to the building;

...

(Ord. of 8-24-82, § 8-7; Ord. of 5-10-83, § 8-7)

## Chapter 13 OFFENSES—MISCELLANEOUS

#### Sec. 13-29. Damaging or defacing property in or on streets, lanes or public squares.

Every person who shall maliciously, wantonly or carelessly mark with chalk or daub with paint, cut, break or otherwise injure or deface any fence, wall, post, lamppost, lamp or lantern, utility pole, tree, tree box, show window, house or other building or sidewalk in or upon any of the streets, lanes or public squares of the city shall be guilty of a Class 1 misdemeanor.

Cross reference— Penalty for Class 1 misdemeanor, § 1-11; permit to cut, trim, etc., street trees, § 19-10.

#### Sec. 13-37. Excessive growth of grass, weeds, etc., on vacant property.

(a) It shall be the duty of the owner of any parcel of land in the city to cut or cause to be cut all grass, weeds or like vegetative growth which exceeds a height of eighteen (18) inches above the ground and which is deemed by the director of public works to create a potential threat to public health or safety; and it shall be the duty of the owner of any legally established lot situated in the city fronting a city-maintained public street to cut thereon any weeds, brush, grass or like vegetative growth if an occupied building or residence is situated on an adjacent lot, subject to the following:

(1) Applicable growth shall be cut to a height of eighteen (18) inches above ground for a depth of eighty (80) feet from the street line measured at ninety (90) degrees with the street line; and

(2) Such vegetative growth shall be cut two (2) times per year between May 15 and June 15; and between August 1 and September 1.

The director of public works may grant a variance from these requirements if, in his opinion, steep slopes or terrain make it impractical to cut such vegetative growth as described above provided that the intent of these requirements is complied with. Should the owner of any such property fail or refuse to abide by this requirement, the director of public works shall give a written notice to such owner requiring him to cut or have cut such grass, weeds or vegetative growth within fifteen (15) days after the date of the notice.

...

(e) Nothing in this section shall be construed to require the cutting of any tree or ornamental shrubbery, unless it is creating a safety hazard.

(Ord. of 8-24-82, § 8-2; Ord. No. 87-1, 1-13-87)

Charter reference— Authority of city to require premises be kept clean, sanitary and free from weeds, Ch. 1, § 2(20).

Cross reference— Penalty for Class 4 misdemeanor, § 1-11; removal or screening of accumulations of waste material on private property, § 18-2.

State Law reference— Authority for above section, Code of Virginia, §§ 15.1-11, 15.1-867.

## **Chapter 15.5 PROPERTY MAINTENANCE**

### **ARTICLE II. PROPERTY GROUNDS MAINTENANCE**

#### **Sec. 15.5-21. Nuisances prohibited; term defined.**

It shall be unlawful for the owner or owners, occupant or occupants of any property or premises located in the city to create, cause, or permit the continuation of any nuisance. The term "nuisance" to include, without limitation, the examples set forth as follows:

- ...
- (2) Any place of weeds, grass or other noxious vegetation over eighteen (18) inches in height that is within fifty (50) feet of an inhabited residence or business firm.
- ...

The code official heretofore designated by council to enforce the building maintenance code in the city and alternatively the city attorney are hereby vested with discretionary authority to decline to undertake enforcement of this section with respect to nuisances which are (a) deemed to be of a private nature between neighboring property owners, or (b) deemed not to constitute a public nuisance, or (c) not visible to the unaided eye from street or ground level outside the boundaries of the property on which the subject nuisance exists.

(Ord. No. 95-11, 12-12-95; Amend. of 5-13-2008)

## **Chapter 18 SOLID WASTE**

### **ARTICLE II. REFUSE**

#### **Sec. 18-13. Definitions.**

For the purpose of this article, the following words and terms shall have the meanings ascribed to them in this section:

*Rubbish:* Nonputrescible solid wastes consisting of paper, cardboard, wood, cans, glass, yard clippings, bedding, crockery, metals, trash, sweepings, litter, plaster and debris.

*Refuse:* Ashes, garbage and rubbish.

(Ord. of 8-24-82, § 8-8)

## **Chapter 19 STREETS AND SIDEWALKS**

### **ARTICLE I. IN GENERAL**

#### **Sec. 19-10. Trees on streets or sidewalks.**

(a) Shade trees may be planted along a sidewalk pursuant to a permit issued by the director of public works and at such points as he shall designate, but no cottonwood, poplars and silver maples shall be planted along any sidewalk within the city.

(b) No person shall cut, trim, deface or injure in any manner or remove any tree on the streets, sidewalks or other public property in the city, unless permission in writing is obtained from the director of public works. Upon such permission being granted, the cutting, trimming or removal shall be done in accordance with such regulations and instructions as may be given by the director of public works. The person obtaining such a permit shall pay to the city the

actual cost of the city representative in supervising the cutting, trimming or removal of the tree.

(Code 1971, § 15-8)

Cross reference— Damaging street trees generally, § 19-29.

**Sec. 19-11. Shrubbery or tree limbs extending from private property across sidewalk or right-of-way or obstructing vision at intersection.**

The owner or occupant of any lot adjacent to any paved sidewalk, public right-of-way or street intersection within the city shall not permit thereon any shrubbery or tree limbs which extend across the line of the sidewalk or public right-of-way or which obstruct the vision of motorists or pedestrians at such intersection so as to create a hazardous condition. It shall be unlawful and a Class 4 misdemeanor for any person to violate this section after due notice from the city manager.

(Code 1971, § 15-10)

Cross reference— Penalty for Class 4 misdemeanor, § 1-11.

**Sec. 19-13. Deposit of cuttings on streets.**

It shall be unlawful and a Class 4 misdemeanor for a first offense and a Class 3 misdemeanor for any subsequent offense for any person to rake, deposit or place leaves, grass clippings, brush trimmings or branches or other green waste or cuttings of vegetative matter in or on any street, alley or other public property within the city, without first having obtained the consent thereto of the director of public works. This section shall not prohibit the placement of such material at the curb for pickup by the city as a part of its refuse collection service.

(Ord. No. 2010-06, 7-13-2012)

Cross reference— Penalty for Class 4 misdemeanor, § 1-11; littering streets, § 18-1.

## **Chapter 21.5 TREES**

**Sec. 21.5-1. Purpose.**

It is the purpose of the chapter: to conserve and protect public land, water, air, vegetation and other natural resources of the City of Martinsville, to promote and protect the public health, safety and general welfare by providing for the regulation of planting, maintenance, and removal of trees, shrubs, and other plants on public property within the City of Martinsville; and to preserve and protect such trees and other vegetation, during all phases of any land-disturbing activity.

(Ord. No. 2004-20, § I, 1-25-2005)

**Sec. 21.5-2. Authority.**

There is hereby created and established a city tree board for the City of Martinsville, which shall consist of five (5) members and shall be appointed by the city council. Members shall serve without compensation.

(Ord. No. 2004-20, § II, 1-25-2005)

**Sec. 21.5-3. Duties and responsibilities.**

The board, in collaboration with the city manager and superintendent of schools or their designees, shall consider, investigate, make findings, reports, and recommendations regarding any special matter coming within the scope of its work.

It shall be the routine responsibility of the board to study, investigate, and develop recommendations for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other publicly owned areas.

(Ord. No. 2004-20, § III, 1-25-2005)

**Sec. 21.5-4. Term of office.**

The term of the five (5) persons appointed by city council shall be three (3) years, except that the term of one member appointed to the first board shall be for one year and the term of two (2) members of the first board shall be for two (2) years. In the event a vacancy should occur

during the term of any member, his/her successor shall be appointed for the un-expired portion of the term. All persons appointed to the board shall be governed by the policy for appointments to boards and commissions adopted by city council.  
(Ord. No. 2004-20, § IV, 1-25-2005)

**Sec. 21.5-5. Operation.**

The tree board shall choose its own officers, make its own rules and regulations and keep minutes of its meetings. A majority of the members shall constitute a quorum for the transaction of business.  
(Ord. No. 2004-20, § V, 1-25-2005)

**Sec. 21.5-6. Applicability.**

This chapter shall apply to trees, plants and shrubs located within street rights-of-way, parks and public places of the city. Trees, plants and shrubs located on private property that constitute a public nuisance shall be governed by the city's property maintenance code.  
(Ord. No. 2004-20, § VI, 1-25-2005)

**Sec. 21.5-7. Definitions.**

The following words are hereby defined for use in the administration and enforcement of this chapter:

*Caliper.* American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of trunk shall be taken six (6) inches above the ground for and up to including four-inch size, and twelve (12) inches above the ground for larger sizes.

*Canopy cover.* The crown branch area of a single tree or several combined trees.

*Critical root zone (CRZ).* The area of undisturbed natural soil around a tree measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. CRZ is one foot of radial distance for every inch of tree DBH, with a minimum of eight (8) feet.

*DBH.* Diameter-at-breast-height (DBH) is tree trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

*Dripline.* A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

*Land disturbance permit.* An official authorization issued by the city engineer that allows defoliation or alteration of a site, or the commencement of any construction activities.

*Multi-stem tree.* A tree having more than one trunk emerging from the root system.

*Public property.* All streets, public rights-of-way, parks, and real property owned either by the city or the city school board.

*Public nuisance.* Any tree, plant, or shrub which has an infectious disease or insect problem; is dead or dying; is obstructing streetlights, traffic signs, or the free passage of pedestrians or vehicles; poses a threat to the public health, safety, or welfare by imminent collapse onto public property.

*Shrub.* A woody plant that usually remains low in height and produces roots or stems from the base, and is usually not tree-like or single-stemmed.

*Street tree.* A tree planted within the developed street right-of-way between the curb line of the street and the property line of the site.

**Tree.** Any self-supporting woody plant growing upon the earth that usually provides one main trunk and produces more or less a distinct and elevated head with many branches.

**Vine.** A woody plant whose stem climbs by tendrils or twining or creeps along the ground.

(Ord. No. 2004-20, § VII, 1-25-2005)

**Sec. 21.5-8. Licensing.**

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or to otherwise treat trees, shrubs or vines on public property within the city without first producing evidence of a City of Martinsville business license.

(Ord. No. 2004-20, § VIII, 1-25-2005)

**Sec. 21.5-9. Insurance.**

All contractors in the business of planting, cutting, trimming, pruning, removing, spraying, and otherwise treating trees, shrubs or vines on public property within the city shall show proof of liability insurance. This certificate of insurance shall be in the amount as required by the responsible city department. This coverage shall be for bodily injury or death and property damage, indemnifying the city or any person injured or damages resulting from the pursuit of such endeavors, as herein described.

(Ord. No. 2004-20, § IX, 1-25-2005)

**Sec. 21.5-10. Public tree care.**

The city shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public property, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of public property.

The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to public property, public buildings, sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with this chapter.

(Ord. No. 2004-20, § X, 1-25-2005)

**Sec. 21.5-11. Tree planting, maintenance, and removal.**

**Tree species:** The city tree board develops and maintains a list of desirable trees for planting along streets in three sizes: small, medium and large.

**Spacing:** The spacing of street trees will be in accordance with the three species size classes listed in this chapter, and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet; except in special plantings designed or approved by a landscape architect.

**Utilities:** No street trees other than those species listed herein as small trees may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, gas line, transmission line or other utility.

**Distance from curb and sidewalk:** The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three (3) species size classes listed in this chapter, and no trees may be planted closer to any curb or sidewalk than the following: small trees two (2) feet, medium trees three (3) feet, and large trees four (4) feet.

**Topping:** It shall be discouraged as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the

severe cutting back of limbs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where pruning practices are impractical shall be exempted from this chapter as determined by the chief of electrical operations, manager of business and technical services or the director of financial and general services.

(Ord. No. 2004-20, § XI, 1-25-2005)

**Sec. 21.5-12. Adjacent landowner responsibility.**

No person shall plant, remove, cut above the ground, or disturb any tree on or within any city street right-of-way, park, or other public place without first filing an application and procuring a permit from the zoning administrator. The person receiving the permit shall abide by the standards set forth in this chapter.

(Ord. No. 2004-20, § XII, 1-25-2005)

**Sec. 21.5-13. Private trees.**

The property maintenance code allows the zoning administrator, or his/her designee, the authority to enter private land whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary.

(Ord. No. 2004-20, § XIII, 1-25-2005)

**Sec. 21.5-14. Permits.**

No person other than the zoning administrator, his/her designee, or a contractor hired by the city, may perform any of the acts described in this chapter without first obtaining permits as required in this chapter, for which no fee shall be charged.

(Ord. No. 2004-20, § XIV, 1-25-2005)

**Sec. 21.5-15. Enforcement.**

The zoning administrator, or his/her designee, shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants, subject to this chapter.

(Ord. No. 2004-20, § XV, 1-25-2005)

**Sec. 21.5-16. - Penalties, claims and appeals.**

Public employees, performing assigned duties, shall be exempt from penalties and claims that proceed from violation of any section of this chapter. Any person, firm, or corporation whether a principal, agent, employed or otherwise, knowingly and willfully violating or causing or permitting the violation of this chapter, shall be guilty of an unclassified misdemeanor, punishable by a fine as set forth by the court, not to exceed two thousand five hundred dollars (\$2,500.00). Failure to remove or abate such violation within the specified time period set by the court upon conviction, shall constitute a separate unclassified misdemeanor offense punishable by a fine as set forth by the court, not to exceed two thousand five hundred dollars (\$2,500.00). Any such failure during any succeeding thirty-day period shall constitute a separate unclassified misdemeanor offense for each thirty-day period punishable by a fine as set forth by the court, not to exceed two thousand five hundred dollars (\$2,500.00).

Any financial and/or material cost of damage to trees, shrubs, plants or landscaping that results from violation of any provision of this chapter shall be the responsibility of the party in violation. The value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

(Ord. No. 2004-20, § XVI, 1-25-2005)

**Sec. 21.5-17. - Review.**

The city council shall have the right to review the conduct, acts and decisions of the city tree board, and to reverse or amend them by majority vote.

(Ord. No. 2004-20, § XVII, 1-25-2005)

## **Chapter 23 WATER, SEWERS AND SEWAGE DISPOSAL**

### **ARTICLE I. IN GENERAL**

#### **Sec. 23-4. Water emergencies.**

...

(e) Water conservation measures. Upon a determination by the city manager or their designee of the existence of the following conditions, the city manager or their designee shall take the following actions that shall apply to all water users in the city:

...

(3) Drought Emergency - Stage 1: As drought conditions continue to worsen, a drought emergency - stage 1 may be declared by the city manager or their designee in accordance with the drought response and contingency plan. When a drought emergency - stage 1 exists, the following will be prohibited:

- Watering lawns, grass, shrubbery, trees, flower, and vegetable gardens except by hand held hose, container, or drip irrigation system, except persons regularly engaged in the sale of plants will be permitted to use water for irrigation of their commercial stock and golf courses may water greens;

...

(4) Drought Emergency - Stage 2: As drought conditions continue to worsen, a drought emergency - stage 2 may be declared by the city manager or their designee in accordance with the drought response and contingency plan. When a drought emergency - stage 2 exists, in addition to the restrictions imposed under the drought emergency - stage 1, the following will be prohibited:

- Watering lawns, grass, shrubbery, trees, or flowers, except persons regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock;
- Watering any vegetable garden, except by hand held hose, container, or drip irrigation system;

...

## **APPENDIX A LAND SUBDIVISION ORDINANCE**

### **SECTION 5. GENERAL REGULATIONS**

#### **5-31. Street trees.**

Trees shall only be located and planted in accordance with Zoning Ordinance Section XIV, Landscaping Standards and the Tree Ordinance of the City of Martinsville.

## **APPENDIX B ZONING ORDINANCE**

### **SECTION II: DEFINITIONS**

For the purpose of this ordinance, the following words and terms shall have the meanings indicated herein. All words used in the present tense shall include the future tense; all words used in the singular number shall include the plural number; and all words in the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise. The word "occupied" includes the words "arranged, intended or designed to be occupied"; the word "used" includes the words "arranged, intended or designed to be used"; the word "structure" includes the word "building"; the word "shall" is mandatory; and the word "may" is permissive.

*Common area.* This term shall include the term "open space" and shall mean all areas of land not subdivided into specific lots and/or commercial areas.

*Screening.* Material, consisting of wood, metal, masonry, vegetation or other approved substances, constructed or planted to be sufficiently high and dense so as to effectively obscure certain permitted uses from the view of adjacent properties and/or public rights-of-way.

*Yard.* An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as may be otherwise provided herein. The measurement of a yard shall be termed its depth.

*Front yard.* A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building of any projection thereof, other than steps.

*Rear yard.* A yard extending across the rear of a lot between side lot lines and being the minimum horizontal distance between the rear lot lines and the rear of the main building or any projection other than steps. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

*Side yard.* A yard between the building and the side line of the lot and extending from the front yard line to the rear yard line and being the minimum horizontal distance between a side line and the side of the main building or any projections thereof other than steps.

(Ord. No. 2007-04, 8-14-2007; Ord. No. 2008-07, 5-27-2008; Ord. No. 2010-07, 11-9-2010; Ord. No. 2007-05, Att., 8-14-2007)

## **SECTION V: GENERAL DIMENSION REQUIREMENTS**

### **D. Awnings.**

In addition to building code requirements, in no case shall awnings extend over a sidewalk so as to block or interfere with public facilities including but not limited to street signs, utility poles, street trees and planters and traffic control signs in accordance with guidelines of the city's engineering and inspection departments.

## **SECTION XII: COMMERCIAL DISTRICTS**

### **C. Uses permitted by special use permit in the C-1 District.**

- ...
- 6. Adult bookstore, subject to following conditions:
  - ...
  - f. The preservation of cultural and historical landmarks and trees;
  - ...

...  
(Amend. of 4-24-2012)

### **G. Uses permitted by special use permit in the C-1A District.**

- ...
- 6. Adult bookstore, subject to following conditions:
  - ...
  - f. The preservation of cultural and historical landmarks and trees;
  - ...

...  
(Amend. of 4-24-2012)

### **O. Uses permitted by special use permit in the C-3 District.**

- ...
- 6. Adult bookstore, subject to following conditions:
  - ...
  - f. The preservation of cultural and historical landmarks and trees;

...  
...  
(Amend. of 4-24-2012)

**SECTION XIII: BUSINESS AND MANUFACTURING DISTRICTS**  
**G. Uses permitted by special use permit in the M-1 District.**

- ...  
6. Adult bookstore, subject to following conditions:  
...  
f. The preservation of cultural and historical landmarks and trees;  
...

...  
(Amend. of 4-24-2012)

**SECTION XIV: LANDSCAPING STANDARDS**

**A. Purpose and goals.**

The purpose shall be to provide landscaping and buffering guidelines for developers and builders to follow in the design, installation, and maintenance of proposed high density residential, commercial and industrial development projects.

The goal shall be to promote quality landscaping design throughout the city while integrating various elements of site design, preserving and enhancing the particular identity of the site, and creating a pleasing site character.

Landscaping may include plant materials such as trees, shrubs, ground covers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

**B. Applicability and exemptions.**

1. Applicability: These requirements shall apply to:
  - a. New principal building or use. Principal buildings or open spaces of land constructed, reconstructed, or established after the adoption of this ordinance.
  - b. Changes in use which result in higher intensity use that may be deemed incompatible with abutting property or properties.
  - c. Expansions. All expansions of buildings, parking areas, or open uses of land, except the first five hundred (500) square feet of expansion.
2. Exemptions: These requirements shall not apply to:
  - a. Existing and proposed single-family detached dwellings or two-family dwellings on their own lots.
  - b. Property lines abutting railroad rights-of-way and utility easements in excess of sixty (60) feet in width.
  - c. Property lines abutting dedicated street right-of-way which has remained open for a period of at least fifteen (15) years.

**C. Landscape plan.**

A landscape plan shall be submitted with each site plan application, unless the zoning administrator determines the project is of a minor nature or would cause minimum impact on surrounding private or public facilities. The administrator may waive any or all of the landscape plan requirements.

The plan shall identify:

1. Existing and proposed trees.
2. Shrubs and ground covers.
3. Natural features such as rock outcroppings.
4. Landscaping elements.
5. Location of proposed plantings.
6. Construction details.
7. Where existing plantings are to be retained
8. Proposed methods of protecting existing plantings during construction.

**D. Site protection and general planting requirements.**

1. *Topsoil preservation.* Topsoil moved during the course of construction shall be redistributed on all re-graded surfaces so as to provide at least four (4) inches of even cover to all disturbed areas of the development and shall be stabilized by seeding and planting.
2. *Removal of debris.* All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the site within thirty (30) days of notification by the zoning administrator and disposed of in accordance with the law. No tree stumps, or portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site within thirty (30) days of notification by the zoning administrator. If trees or limbs are reduced to chips, they may be used as mulch in landscaped areas, subject to approval by the administrator.
3. *Protection of existing plantings.* Maximum effort should be made to save fine specimens. No material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated on the landscape plan to be retained. Protective barriers or tree wells shall be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants they are protecting, but shall be self supporting. They shall be a minimum of four (4) feet high and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.
4. *Slope plantings.* Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot vertically to three (3) feet horizontally shall be planted with ground cover appropriate for the purpose and the soil conditions, water availability and environment.
5. *Additional landscaping.* In high density residential developments, besides the screening and street trees required, additional plantings or landscaping elements may be required where necessary for privacy, or other reasons in accordance with the landscape plan approved by the planning commission and taking into consideration cost restraints. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other ground cover, shrubs, and trees as part of the landscape plan approved by the planning commission.
6. *Planting specifications.* Deciduous trees shall have at least a two-inch caliper at planting. Size of evergreens and shrubs shall be allowed to vary depending on setting and type of shrub. Only nursery grown plant materials shall be acceptable, and all trees, shrubs, and ground covers shall be planted according to accepted horticultural standards. Dead and dying plants shall be removed from the site within thirty (30) days of notification by the zoning administrator and shall be replaced by the developer during the following planting season.
7. *Plant species.* The plant species selected should be hardy for this climactic zone and growing season and appropriate in terms of function and size.

**E. Shade trees.**

1. *Location.* Shade trees shall be installed in accordance with the approved landscape plan. Trees shall be either massed or spaced evenly as design and/or topographic considerations may determine.

When trees are planted at predetermined intervals along streets, spacing shall depend on tree size, as follows.

Tree size (in feet)	Planting interval (in feet)
Large trees (40+)	50-70
Medium trees (30-40)	40-50
Small trees (to 30)	30-40

When the spacing interval exceeds forty (40) feet, small ornamental trees can be placed between the larger trees. If a street canopy effect is desired, trees may be planted closer together following the recommendations of a landscape professional. The

trees shall be planted so as not to interfere with utilities, roadways, sidewalks, sight easements, or street lights. Tree location, landscaping design, and spacing plan shall be approved by the planning commission as part of the landscape plan.

2. Tree type. Tree type may vary depending on overall effect desired, but as a general rule, all trees on a street shall be the same kind except to achieve special effects. Selection of tree type shall be approved by the planning commission.

3. Planting specifications. All trees shall have a caliper of two (2) inches and be nursery grown, of substantially uniform size and shape, and have straight trunks. Trees shall be properly planted and staked and provision made by the applicant for regular watering and maintenance until they are established. Dead and dying trees shall be removed from the site within thirty (30) days of notification by the zoning administrator and shall be replaced by the applicant during the next planting season.

#### **F. Buffering.**

1. Function and materials. Buffering shall provide a year round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or combinations thereof to achieve the same objectives.

2. When required. Every development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and when the planning commission determines that there is a need (1) to shield neighboring properties from any adverse external effects of a development; or (2) to shield the development from negative impacts of adjacent uses such as streets or railroads. In high density residential developments, when building design and siting do not provide privacy, the planning commission may require landscaping, fences, or walls to screen dwelling units for privacy. Buffers shall be measured from side and rear property lines, excluding driveways.

3. Amount required.

a. Where a professional or business zoned development abuts a residential zoning district, a natural buffer strip twenty-five (25) feet in width shall be required. Where site considerations do not allow a natural buffer of twenty-five (25) feet width, a solid privacy fence or wall may be substituted for all or a portion of that buffer, as determined by the zoning administrator.

b. Where a commercial zoned development abuts a residential zoning district, a natural buffer strip of fifty (50) feet in width shall be required. Where site considerations do not allow a natural buffer of fifty (50) feet width, a solid privacy fence or wall and twenty-five (25) feet natural buffer strip may substitute.

c. Where an industrial zoned development abuts a residential zoning district, a natural buffer strip of one hundred (100) feet in width shall be required. Where site considerations do not allow a natural buffer of one hundred (100) feet width, a solid privacy fence or wall and fifty (50) feet natural buffer strip may substitute.

d. Parking lots, garbage collection and utility areas, and loading and unloading areas shall be screened around their perimeters by a buffer strip a minimum of five (5) feet width or privacy fence or wall, as determined by the zoning administrator.

e. Where residential subdivisions abut higher order streets (collectors or arterials), adjacent lots shall front on lower order streets, and a landscaped buffer area shall be provided along the property line abutting the road. The buffer strip shall be a minimum of twenty-five (25) feet wide or wider where necessary for the health and safety of the residents. It shall include both trees and shrubs.

4. Design. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material. Possible arrangements include planting in parallel, serpentine, and broken rows. If planted berms are used, the minimum top width shall be four (4) feet, and the maximum side slope shall be 2:1.

5. Planting specifications. Plant materials should be sufficiently large and planted in such a fashion that a year-round screen at least eight (8) feet in height shall be produced within one growing season. All plantings shall be installed according to accepted horticultural standards.
6. Maintenance. Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead and dying plants shall be removed within thirty (30) days of notification by the zoning administrator and shall be replaced by the property owner during the next planting season. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, weeds, and tall grass.

**G. Parking lot standards.**

1. Amount. In parking lots the interior parking area shall be landscaped with plantings of one tree for each ten (10) parking spaces. Parking lot street frontage screening and perimeter screening shall be a minimum of five (5) feet wide. Planting required within the parking is exclusive of other planting requirements, such as shade trees planted along the street.
2. Location. The landscaping should be located in protected areas, such as along walkways, in center islands, at the end of bays, or between parking stalls. All landscaping in parking areas and on street frontage shall be placed so that it will not obstruct sight distance.
3. Plant type. A mixture of hardy flowering and/or decorative evergreen and deciduous trees may be planted. The evergreens should be used along the perimeter of the lot for screening, and the deciduous trees for shade within the lot. The area between the trees shall be mulched, planted with shrubs or ground cover, or covered with paving materials. Any area that will extend under the overhang of vehicles shall be mulched or covered with paving material.

**K. General requirements and minimum standards.**

1. All required landscaping shall be installed prior to the issuance of a permanent certificate of occupancy.
2. There shall be a minimum street frontage planting strip of five (5) feet in width across the entire lot frontage. This may be a combination of scrubs, trees, grass, and varied landscaping elements. There shall be a minimum of one medium sized shade tree required per each forty (40) feet of lot frontage. All shade trees shall be a minimum of two-inch caliper at time of planting.
3. Existing trees preserved on the site may be used to satisfy the requirements for landscaping. Any tree used to meet the requirements of this ordinance must be at least three (3) inch caliper, in healthy condition, and be protected from construction activity.
4. The owner of the property upon which the required landscaping or buffering is installed shall be responsible for perpetual maintenance and replacement. If any required tree, shrub, or other landscaping element shall die or be removed after issuance of the certificate of occupancy, the developer, his or her successors or assigns, shall replace each by the end of the next planting season with trees or shrubs of like character.
5. Species of trees shall not be planted if the roots cause damage to public works, the branches are subject to high incidence of breakage, and the fruit is considered a nuisance or high maintenance as determined by the director of public works.
6. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety. Whenever the enforcement of the provisions of this ordinance may be deemed a traffic hazard, the zoning administrator may waive any or all requirements.

**L. Suggested trees and shrubs.**

1. Street and shade trees: Green Ash, Red Maple, Norway Maple, Sugar Maple, Red Oak, Willow Oak, Japanese Pagoda Tree, Silver Linden, Zelkova, Yellowwood, Bald Cypress.
2. Ornamental or flowering trees: Amur Maple, Dogwood (Kousa), Washington Hawthorn, Plum, Serviceberry, Redbud, Callery Pear, Crepe Myrtle, Gingko Tree, Crab Apple.
3. Evergreen or flowering shrubs: English Yew, Japanese Yew, Azalea, Chinese Holly, Rhododendren, Abelia, Cotoneaster, Forsythia, Viburnum, Winged Euonymus, Flowering Quince, Shadbow.
4. Buffering/screening: Austrian Pine, Norway Spruce, American Holly, Arborvitae, Foster Holly, White Pine.