

**Code of Ordinances, City of Portsmouth, Virginia
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Chapter 6 BOATS AND WATERWAYS

ARTICLE I. IN GENERAL

Sec. 6-1. Deposit of trash, logs, etc., in city waters or obstructing such waters.

It shall be a class 1 misdemeanor for any person to throw or otherwise dispose of trash, debris, tree laps, logs or fell timber or make or cause to be made any obstruction which exists for more than a week in any river, creek, stream or swamp, so as to obstruct the free passage of boats, canoes or other floating vessels or fish in such waters.

(Code 1973, § 23-507; Code 1988, § 6-1)

Cross reference— Penalty for class 1 misdemeanor, § 1-11; unlawful disposal of trash generally, § 16-3 et seq.

Chapter 9 CEMETERIES

ARTICLE I. IN GENERAL

Sec. 9-4. Malicious mischief.

(a) If any person shall:

- ...
- (2) Destroy, remove, cut, break or injure any tree, shrub or plant within any cemetery or lot of any monumental or memorial association;
- ...

...

(Code 1973, §§ 7-4, 21-119; Code 1988, § 9-4)

Cross reference— Penalty for class 1 misdemeanor, § 1-11; authority of city manager to offer reward in cases involving damage to city property, § 2-167.

State Law reference— Similar provisions, Code of Virginia, § 18.2-127.

Chapter 9.1 CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT

Sec. 9.1-3. Definitions.

The following words and terms used in the overlay district have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined in this chapter but defined in the zoning ordinance as set out in chapter 40 shall be given the meanings set forth therein.

Agricultural lands means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

Best management practice or *BMP* means a practice, or a combination of practices that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer area means an area of natural or established vegetation managed to protect other components of a resources protection area and state waters from significant degradation due to land disturbances.

Chesapeake Bay Preservation Area or *CBPA* means any land designated by the city council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-70 et seq., and Code of Virginia, § 10.1-2107. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.

Diameter at breast height or *DBH* means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

Dripline means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

Land disturbance means 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 state, including, but not limited to, clearing of vegetation, grading, excavating, transporting, and filling of land. Land change shall include, but not be limited to, any activity that causes, contributes to or results in the destruction, removal or covering of the vegetation upon such land including, but limited to, clearing dredging, filling, grading, or excavating. Land change shall not include minor activities such as home gardening, individual home landscaping, and home maintenance.

(Code 1988, § 9.1-3; Ord. No. 2004-02, § 1, 1-13-2004; Ord. No. 2005-04, § 1, 1-11-2005; Ord. No. 2009-88, § 1, 8-25-2009)

Sec. 9.1-10. Performance standards.

(a) Purpose and intent. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural groundcover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential. The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a ten percent reduction in nonpoint source pollution from development on previously developed land where the runoff was not treated by one or more water quality best management practices; and achieve a 40 percent reduction in nonpoint source pollution from agricultural uses.

(b) General performance standards for development and redevelopment.

(1) Land development, redevelopment, or disturbance shall be limited to the minimum area necessary to provide for the proposed use or development.

a. The submitted site plan shall indicate the limits of the proposed land disturbance, including areas for clearing or grading and shall be limited to the minimum area necessary to provide for the construction footprint. These limits shall be clearly shown on submitted plan and physically marked on the development site.

b. Ingress and egress during construction shall be limited to one access point.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the Virginia Erosion and Sediment Control Handbook.

- a. Existing trees over two inches in diameter at breast height (DBH) shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury, as documented in writing to the director of planning by a landscape architect or a certified arborist who holds a current membership in either the International Society of Arboriculture (ISA), the Tree Care Industry Association, or the American Society of Consulting Arborists (ASCA), may be removed.
 - b. Other woody vegetation onsite shall be preserved outside the approved construction footprint.
 - c. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities.
- (3) Prior to clearing or grading, suitable protective barriers, such as fencing of a type detailed in the Landscape Planting and Protection Manual, Portsmouth, Virginia shall be erected five feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- (4) Land development, redevelopment or land disturbance which adds impervious cover shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development. Pervious surfaces where soil conditions and/or water table permit shall be used for any parking area, maneuvering aisle, or other low traffic driveway.

...

(c) Criteria RPAs.

...

- (5) Permitted modifications of the buffer area. In order to achieve the functional value of the buffer, existing vegetation may be removed, subject to approval by the city planning director, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
- a. Trees may be pruned or removed as necessary to provide for reasonable sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 - b. Any path shall be constructed and surfaced as to effectively control erosion.
 - c. Dead, diseased, or dying trees or shrubbery and noxious weeds such as Johnson grass, kudzu and multiflora rose may be removed and thinning of trees may be allowed, pursuant to sound horticulture practice.
 - d. For shoreline erosion projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
 - e. Flower and/or vegetable gardens, or similar amenity as long as no brush and/or trees are removed from the RPA.
- (6) Buffer area requirements for intensely developed areas. In the intensely developed area the director of planning may, after consulting with the city engineer, exercise discretion regarding whether to require the establishment of vegetation in the 100-foot-wide buffer area. However, while the immediate establishment of vegetation in the buffer area may be impractical, consideration to implementing measures that would establish vegetation in the buffer in these areas over time shall be considered in order to maximize water quality protection, pollutant removal and water resource conservation.

(Code 1988, § 9.1-10; Ord. No. 2004-02, § 1, 1-13-2004; Ord. No. 2005-04, § 2, 1-11-2005; Ord. No. 2009-88, § 1, 8-25-2009)

Sec. 9.1-11. Plan of development process.

Any land disturbance, development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this chapter.

Notwithstanding the provisions above, no clearing or grading of any lot or parcel shall be permitted without an approved clearing plan. For existing single-family lots, a clearing line shown on the plat plan normally submitted as part of the building permit application shall satisfy clearing plan requirements. No clearing or grading shall occur on existing single-family lots until a complete building permit application is approved.

...

(3) Landscaping plan. A landscaping plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel shall be permitted without a prior approved landscaping plan.

Landscaping plans shall be prepared and certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

a. Contents of the plan.

1. The landscaping plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site two inches or greater DBH shall be shown on the landscaping plan. Where there are groups of five or more trees, stands may be outlined instead. The specific number of trees two inches or greater DBH to be preserved outside of the construction footprint shall be indicated on the plan. Trees to be removed shall be clearly delineated on the landscaping plan. The plan shall be consistent with chapter 36, article III of this Code.

2. Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this chapter, shall be shown on the landscaping plan.

3. Within the buffer area, trees to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this chapter, shall be shown on the plan. Vegetation required by this chapter to replace any existing trees within the buffer area shall also be shown on the landscaping plan.

4. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this chapter shall be shown on the landscaping plan.

5. The plan shall depict grade changes or other work adjacent to trees, which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.

6. The landscaping plan will include specifications for the protection existing trees during clearing, grading, and all phases of construction, consistent with such measures as described in the Landscape Planting and Protection Manual, Portsmouth, Virginia.

b. Plant specifications.

1. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed in accordance with the specifications referred to in subsection 36-52(9).

2. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

3. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three planted trees to one removed. Replacement trees shall be a minimum of one and one-half inches DBH at the time of planting.

c. Maintenance. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this chapter. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this chapter.

...

(6) Water quality impact assessment.

...

d. Major water quality impact assessment. A major water quality impact assessment shall be required for any development which: (i) exceeds 5,000 square feet of land disturbance within an RPA; or (ii) is located in a RMA and is deemed necessary by the city engineer. The information required in this section shall be considered a minimum. The following elements shall be included in the preparation and submission of a major water quality assessment:

...

3. A landscape element that describes the proposed measures for mitigation of the water quality and land impacts within CBPAs. Possible mitigation measures include:

(i) Replanting schedule for trees and other significant vegetation removed for construction, in accordance with section 36-52 of the City Code.

(ii) Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.

(iii) Demonstration that indigenous plants are to be used to the greatest extent possible.

...

...

(Code 1988, § 9.1-11; Ord. No. 2004-02, § 1, 1-13-2004; Ord. No. 2005-04, § 2, 1-11-2005; Ord. No. 2006-87, § 1, 9-26-2006; Ord. No. 2009-88, § 1, 8-25-2009)

Chapter 11 EROSION AND SEDIMENT CONTROL, EXCAVATION

ARTICLE I. EROSION AND SEDIMENT CONTROL

Sec. 11-2. Definitions.

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

Land-disturbing activity means 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 of land, except that the term shall not include:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

...

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

(Code 1988, § 11-2; Ord. No. 2005-98, § 1, 11-22-2005; Ord. No. 2009-33, § 1, 4-28-2009)

Chapter 16 GARBAGE AND REFUSE

ARTICLE I. IN GENERAL

Sec. 16-1. Definitions.

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

Bulk refuse means the term "bulk refuse" shall include bulky items such as household construction debris not generated by a contractor, household construction debris not generated by a contractor, furniture, tree trimmings, cuttings, shrubbery and the like.

Yard waste means material derived from leaves, shrubbery trimmings, and lawn trimmings.

(Code 1973, § 14-1; Code 1988, § 16-1; Ord. No. 1988-111, § 2(14-1), 12-13-1988; Ord. No. 1992-14, § 1, 2-25-1992; Ord. No. 1992-84, § 1, 10-27-1992; Ord. No. 1997-15, § 3, 3-11-1997; Ord. No. 2006-85, § 1, 9-26-2006; Ord. No. 2013-32, § 1, 5-28-2013)
Cross reference— Definitions and rules of construction generally, § 1-2.

ARTICLE II. CITY COLLECTIONS

DIVISION 1. GENERALLY

Sec. 16-35. Collection of bulk refuse generally.

Bulk refuse shall be picked up from residential dwellings at such time, and in accordance with such procedures as may be established by the director of general services. Such items shall not be placed for collection as part of the regular collection process for garbage, trash or refuse. Tree branches, tree limbs, parts of trees, bushes, shrubbery and cuttings, or clippings and the like, which cannot be placed in receptacles or refuse bags as required under section 16-34(c), shall be cut into lengths of between four feet and six feet and stacked neatly at curbside in a pile not to exceed eight feet by ten feet by eight feet in height. Tree parts greater than 18 inches in diameter will not be picked up by the city and will be the responsibility of the home owner or tenant for disposal. It shall be the responsibility of the owner or tenant of the premises involved to remove all tree trimmings, cuttings, shrubbery and the like that do not meet these specifications or those contained in section 16-34(c). Tree and shrubbery branches, limbs and trimmings cut by landscape or tree service contractors will not be collected by the city. Owners or tenants placing items for

collection cut by tree and landscape contractors will be subject to the charges and penalties of section 16-31 of this division. Bulk refuse shall not be collected by the city from vacant lots, business and commercial establishments, including multifamily residential complexes. (Code 1973, § 14-21; Code 1988, § 16-35; Ord. No. 1988-111, § 3(14-21), 12-13-1988; Ord. No. 1996-68, § 1, 12-17-1996; Ord. No. 1997-15, § 2, 3-11-1997; Ord. No. 2006-85, § 3, 9-26-2006)

Sec. 16-37. - Positioning of materials for collection.

All garbage, trash, paper, corrugated cartons, paper or pasteboard boxes, and other waste, to be removed by the city under this article shall be placed on the sidewalk as near to the curb as possible or between the sidewalk and the curb, except where public alleys are provided, in which instance, refuse for collection shall be placed in such alley. Bulk refuse shall always be placed as near to the curb as possible or between the sidewalk and the curb and shall not be placed in public alleys even where same are provided. Bulk refuse must be placed clear of water meters, TV cable boxes, power lines, utility poles and tree limbs. (Code 1973, § 14-261; Code 1988, § 16-37; Ord. No. 2006-85, § 3, 9-26-2006)

Chapter 17 HOUSING AND COMMUNITY DEVELOPMENT

ARTICLE II. BUILDINGS AND STRUCTURES MAINTENANCE CODE

DIVISION 1. GENERALLY

Sec. 17-23. Definitions.

(a) For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

Debris means dead or dying standing weeds, dead or dying standing trees, any tree or parts of a tree which have fallen due to natural causes or otherwise, trash, junk, discarded or abandoned parts of vehicles, appliances or machinery, and shall include, but not be limited to the open outdoor storage of personal property of any kind such as appliances or appliance parts, furniture, interior or exterior equipment or machinery, which is no longer used, including antiques, collectables, glassware and crockery, or any other material or substance which may provide a harbor for snakes or rats or anything or any condition which may be a fire menace or breeding place for mosquitoes, give off obnoxious or offensive odors or endanger the health or safety of the residents of the city. Debris shall not include any of the above property openly stored in a junkyard as defined and permitted pursuant to the zoning ordinance.

Rubbish means all combustible and noncombustible waste materials, except garbage; and the term shall include, but not be limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, dust, crockery and abandoned automobiles.

(b) The following words and terms, when used in the code adopted in this article, shall have the following meanings:

...

(3) The word "debris" means dead or dying standing weeds, dead or dying standing trees, any tree or parts of a tree which have fallen due to natural causes or otherwise, trash, junk, discarded or abandoned parts of vehicles, appliances or machinery or any other material or substance which may provide a harbor for snakes or rats or anything or any condition which may be a fire menace or breeding place

for mosquitoes, give off obnoxious or offensive odors or endanger the health or safety of the residents of the city.

...
(Code 1973, §§ 6-19, 17-19, 17-20; Code 1988, §§ 17-21, 17-101; Ord. No. 1988-111, § 5(17-19), (17-20), 12-13-1988; Ord. No. 1991-13, § 1, 2-12-1991; Ord. No. 2008-11, § 1, 2-12-2008)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 17-33. Duties of owner and operator enumerated.

The following duties and responsibilities are hereby imposed upon every owner and operator of any building covered by the provisions of this article:

(1) The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. The items prohibited hereby shall include, but not be limited to: Brush, weeds, broken glass, stump roots, obnoxious growths, filth, garbage, trash, refuse, debris, dead and dying trees and limbs or other natural growth, loose and overhanging objects and ground surface hazards.

...
(Code 1973, § 6-27; Code 1988, § 17-111)

Sec. 17-133. Closure required; care of structure and premises.

...
(e) The premises shall be kept landscaped, and lawns, hedges, bushes and trees shall be kept trimmed.

(f) The above duties and responsibilities are hereby imposed upon every owner of any building covered by the provisions of this article.

(Code 1973, § 6-42; Code 1988, § 17-133)

Chapter 23 NUISANCES

ARTICLE I. IN GENERAL

Sec. 23-1. Definitions.

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

Debris means dead or dying standing weeds, dead or dying standing trees, any tree or parts of a tree which have fallen due to natural causes or otherwise, trash, junk, discarded or abandoned parts of vehicles, appliances or machinery, and shall include, but not be limited to the open outdoor storage of personal property of any kind such as appliances or appliance parts, furniture, interior or exterior equipment or machinery, which is no longer used, including antiques, collectables, glassware and crockery, or any other material or substance which may provide a harbor for snakes or rats or anything or any condition which may be a fire menace or breeding place for mosquitoes, give off obnoxious or offensive odors or endanger the health or safety of the residents of the city. Debris shall not include any of the above property openly stored in a junkyard as defined and permitted pursuant to the zoning ordinance.

Weeds means any grass or plants out of place, wild or uncontrolled growth or vegetation of every kind on any land, alley, sidewalk or street in the city, whether growing or severed

from the land, of such height or of such profusion as to constitute or which is likely to constitute a harborage for rats, a place where mosquitoes or other harmful pests or insect infestations may breed or water may stagnate or which conceals or is likely to conceal deposits of garbage, trash or debris.

(Code 1973, § 39-1; Code 1988, § 23-1; Ord. No. 1988-111, § 6(39-1), 12-13-1988; Ord. No. 1989-86, § 1, 9-26-1989; Ord. No. 1991-13, § 3, 2-12-1991; Ord. No. 2001-31, § 1, 7-10-2001; Ord. No. 2005-61, § 2, 7-26-2005; Ord. No. 2008-11, § 2, 2-12-2008)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Definition of inoperable motor vehicle, Code of Virginia, § 15.2-905; similar definitions, Code of Virginia, § 15.2-907.

Chapter 25 PARKS AND RECREATION

ARTICLE III. GENERAL PARK REGULATIONS

Sec. 25-99. Damaging; removing, etc., flowers, plants, etc.

(a) No person shall remove, destroy, cut down, scar, mutilate, injure, take or gather in any manner any tree, flower, fern, shrub, rock, or plant or mineral in any park, recreational area or playground.

(b) Any violation of this section shall constitute a class 3 misdemeanor.

(Code 1973, § 24-59; Code 1988, § 25-102)

Cross reference— Penalty for class 3 misdemeanor, § 1-11; general prohibition against removing or damaging trees or shrubs on city property, § 36-28.

Chapter 31.2 STORMWATER MANAGEMENT

Sec. 31.2-1. Definitions.

(a) In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this article have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

Best management practice or BMP means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce pollution of surface waters and groundwater systems from the impacts of land disturbing activities.

Chesapeake Bay Preservation Act land disturbing activity means a land disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, Virginia Code § 62.1-44.15:67, et seq.

Impervious surface area means surfaces, such as parking lots, sidewalks, driveways and roofs, on or in a lot or parcel of property which prevent the infiltration of water into the earth.

Land disturbance or land disturbing activity means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation

except that the term shall not include those exemptions specified in subsection 31.2-3(c) of this article.

(Ord. No. 2014-38, § 2, 5-13-2014)

Chapter 32 STREETS, SIDEWALKS AND LOCAL IMPROVEMENTS

ARTICLE II. RIGHT-OF-WAY PERMIT

Sec. 32-56. Definition.

As used in this article, the word "permittee" means a person to whom a permit required by this article is issued.

(Code 1988, § 32-56)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 32-65. Protection of adjoining property.

The permittee shall at all times and at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. The permittee shall, at his or its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure to properly protect and carry out such work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property the appropriate city department or city official having control of such property.

(Code 1973, § 32-52; Code 1988, § 32-65)

Chapter 33.1 SUBDIVISIONS

ARTICLE III. REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS

Sec. 33.1-41. Preservation of noteworthy features.

In all subdivisions, to the maximum degree reasonably possible, efforts shall be made to preserve historic sites, scenic points, trees and other desirable natural growths, watercourses and other water areas, and other features worthy of preservation. Such preserved features shall be noted on the final plat.

(Ord. No. 2010-06, § 2, 1-26-2010)

Chapter 36 VEGETATION

ARTICLE I. IN GENERAL

Sec. 36-1. Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a class 3 misdemeanor.

(Code 1988, § 36-1)

Cross reference— Penalty for class 3 misdemeanor, § 1-11.

Sec. 36-2. Trimming of trees or other plants overhanging right-of-way.

It shall be the duty of any person who owns or occupies any property on which are situated any bushes, shrubs, trees or other plants that overhang any public right-of-way to keep such bushes, shrubs, trees and other plants trimmed so that such overhanging projections shall in no way impede or interfere with the free public passage along such right-of-way. Any person violating any provision of this section shall, in addition to any penalty imposed for the violation, be liable to the city for any expense incurred by the city in having such bushes, shrubs, trees and other plants trimmed in conformity herewith.
(Code 1973, § 32-13; Code 1988, § 36-2)

ARTICLE II. TREES AND SHRUBS ON CITY PROPERTY

Sec. 36-26. - Definition.

As used in this article, the term "director" shall mean the city's director of parks, recreation and leisure services.

(Code 1988, § 36-26; Ord. No. 1997-15, § 2, 3-11-1997)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 36-27. Permit for planting.

No person shall plant any tree or shrub on city property without first having obtained a permit from the director showing the variety, size and location of such tree or shrub. The director shall have authority to trim, prune or remove any tree or shrub planted in violation of this section without serving notice upon the owner of the abutting property.

(Code 1973, § 36-1; Code 1988, § 36-27)

Sec. 36-28. Pruning, removing, damaging, etc., generally.

No person shall, without a permit from the director, prune, spray, remove, destroy, cut, girdle or deface any tree or shrub located on city property or injure the same by root cutting or exposure or by placing any chemical or substance on the ground around such tree or shrub, and no person shall, without such a permit, injure, misuse or remove any device placed to protect such tree or shrub.

(Code 1973, § 36-2; Code 1988, § 36-28)

Cross reference— Authority of city manager to offer reward in cases involving damage to city property, § 2-167; removing or damaging trees or shrubs in parks, § 25-99.

Sec. 36-29. Trimming by utility companies.

No electric light, telephone or telegraph company shall trim any tree or shrub located on city property without a permit from the director.

(Code 1973, § 36-3; Code 1988, § 36-29)

Sec. 36-30. Unauthorized attachments.

No person shall, without a permit from the director, attach or keep attached to a tree or shrub located on city property, or to the guard or stake intended for the protection of such tree or shrub, a sign, rope, wire or any other device.

(Code 1973, § 36-4; Code 1988, § 36-30)

Sec. 36-31. Impeding entrance of air and water to roots.

No person shall, without a permit from the director, place or maintain upon city property any stone, cement or other substance which might impede the free entrance of water and air to the roots of any tree or shrub on such property, without leaving an open space of ground outside the trunk of such tree or shrub. Such open space shall be not less than four square feet in area.

(Code 1973, § 36-5; Code 1988, § 36-31)

Sec. 36-32. Protection from electrical wires.

Every person having any wires charged with electricity running through or over a public street or park or other city property shall securely fasten or protect such wires so that they will not come in contact with any tree or shrub or such street or property, and shall so locate and affix such wires as not to cause damage to any such tree or shrub.

(Code 1973, § 36-7; Code 1988, § 36-32)

Sec. 36-33. Protection during building operations.

In the erection or repair of a building or structure, the owner thereof shall place such guards around all nearby trees and shrubs on the streets as shall effectually prevent injury to them.

(Code 1973, § 36-6; Code 1988, § 36-33)

Cross reference— Building regulations, ch. 7.

Sec. 36-34. Protection from animals.

No person shall fasten an animal to a tree or shrub located on city property or cause an animal to stand so that it can damage such tree or shrub.

(Code 1973, § 36-8; Code 1988, § 36-34)

Cross reference— Animals generally, ch. 4.

ARTICLE III. TREE PLANTING AND REPLACEMENT

Sec. 36-50. Purpose.

(a) The regulations set forth in this article have been made in order to assure the maintenance of an appropriate canopy of trees in the city and in accordance with findings that:

- (1) Trees are proven producers of oxygen, a necessary element for human survival;
- (2) Trees appreciably reduce the level of environmentally dangerous carbon dioxide in the atmosphere and play a vital role in purifying the air;
- (3) Trees have an important role in neutralizing wastewater passing from the surface of the ground to the groundwater aquifers;
- (4) Trees, through their root systems, stabilize the groundwater table and the soil, thereby playing an important role in erosion control and flood control;
- (5) Trees are an invaluable physical, aesthetic and psychological counterpoint to the urban setting, providing shade and cooling the air and land, reducing noise levels and glare, and introducing visual variety into the urban landscape; and
- (6) Trees, for the reasons listed above, have an important impact on the desirability of land and on property values.

(b) The regulations in this article are established pursuant to authority granted under Code of Virginia, § 15.2-961, and reflect a determination that the planting and preservation of trees is essential for the present and future health, safety and welfare of the citizens of the city.

(Code 1988, § 36-50; Ord. No. 1990-50, § 1, 6-11-1990)

Sec. 36-51. Definitions.

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

Caliper means the diameter of a tree measured six inches above existing grade.

Canopy cover means the crown "branch" area of either a single tree or several combined trees.

Construction footprints means the area of all impervious surfaces including, but not limited to, buildings, roads and drives, parking areas, sidewalks, and the area necessary for construction of such improvements.

Critical protection zone (CPZ) means the area of undisturbed natural soil around a tree defined by a concentric circle with a diameter in feet equal to the number of inches of trunk diameter.

Drip line means an imaginary line that extends downward from the outermost tips of a tree's branches to the ground.

Multistem tree means a tree having more than one trunk emerging from the root system.

Street tree means any tree planted within a developed public right-of-way between the curbline of the street and the property line of the site.

Tree means any self-supporting, woody plant of a species which normally grows in the city at maturity to an overall height of a minimum of five feet.

(Code 1988, § 36-51; Ord. No. 1990-50, § 1, 6-11-1990; Ord. No. 1991-31, § 1, 4-8-1991)

Sec. 36-52. - Standards for planting and replacement of trees.

The following standards shall apply to the planting and replacement of trees:

(1) Any preliminary or final subdivision plat submitted in accordance with the subdivision ordinance (chapter 33 of the city Code), which creates a lot any site development plan submitted in accordance with the zoning ordinance (chapter 40 of the city Code), and any application for a building permit for a principal residential structure shall include a landscape plan. The landscape plan must be drawn to the same scale as the plat or site development plan and shall clearly indicate trees to be retained or planted to meet the requirements of this article. Trees to be retained on the site shall be clearly indicated by common and botanical names; their actual location on the site; and the extent of the site covered by the canopy of each tree. Stands of five or more trees may be grouped together and shall indicate the overall area to be encompassed by their canopies. Critical protection zones for all trees to be retained, as well as a description of any protective devices proposed to comply with subsection (10) of this section, shall be indicated. Trees to be planted on the site shall be clearly indicated by botanical and common names, their proposed locations on the site; and caliper and height. The plan shall include a note indicating that trees shall be planted in conformance with subsections (9)a and (9)b of this section. When a landscape plan for a site has already been approved as part of a subdivision or site development plan for a larger development, no new landscape plan shall be required, provided that the development of the site shall comply with all other provisions of this article.

(2)

a. The landscape plan shall provide for the planting or replacement of trees on the site to the extent that, after 20 years, minimum tree canopy cover percentages will be provided as specified in the Table 36.1, which table has been printed at the end of this article.

b. Canopy cover calculations shall be made based upon data provided in "Trees and Shrubs for Virginia Landscapes," Volume 1, 1989, by Bonnie Lee

Appleton and Terri Chappell for the Virginia Nurserymen's Association; "Handbook of Landscape Tree Cultivars," 1989, by Willet N. Waddell; and "Landscape Plants in Design," 1983, by E. C. Martin, Jr. If a range of distance is provided for the width of a tree, the average of the range shall be used. In cases of conflict among the references, the larger width specification shall be used. The determined width shall then be divided by two to determine the radius of the tree canopy. This radius shall be multiplied by two-thirds to obtain the 20-year radius. The area of the canopy cover of the tree shall be calculated using the 20-year radius. If no data is provided in the references for a tree proposed to be used, canopy cover of the proposed tree and the reference source used to calculate that canopy cover shall be indicated on the landscape plan. To encourage the planting of a variety of tree species, the following credit will be given for each tree:

Calculated 20-Year Tree Canopy (Square Feet)	Allowed Credit (Square Feet)
0—300	300
300—1,000	1,000
1,001 +	2,000

(3) The area of a site to be used in calculating canopy cover shall be the area of the zone lot as defined in chapter 40.

(4)

a. Trees shall be selected from those listed in the "Landscape Planting and Protection Manual, Portsmouth, Virginia," which may be amended as necessary by the city manager or his designee. Substitutions using trees not on the list may be made with the approval of the director or the director's designee. No tree from the list of nonacceptable trees may be used.

b. Small trees with single stems must have a caliper of 1½ inches at the time of planting. Multistem trees must be a minimum of five feet in height at time of planting. Medium trees must have a minimum caliper of 1½ inches and large trees must have a minimum caliper of two inches at time of planting. All trees must be planted in accordance with the planting specifications of subsection (9) of this section.

(5) Trees existing on the site may be used to satisfy the canopy coverage requirements of subsection (2) of this section. The landscape plan must identify such trees. Trees must be physically and structurally in good condition. All such trees on the site during construction must be protected in accordance with the provisions of subsection (10) of this section. Stands of five or more trees shall be credited canopy area equal to that covered at the time of application for approval of the landscape plan.

(6) Existing or proposed street trees planted or to be planted along the street in the public right-of-way may be used to satisfy the canopy coverage requirements. All trees must be approved by the director or the director's designee as required in subsection (7) of this section.

(7) No landscape plan shall be approved unless the director or the director's designee makes the following certifications:

a. All existing trees to be retained in compliance with the requirements of this article are physically and structurally sound;

b. Where street trees are proposed, the landscape plan provides for acceptable spacing, lawn area and species selection in relation to streets, sidewalks, utilities, traffic sight lines and parking areas.

(8) No certificate of occupancy shall be issued for any part of the development until the trees required by subsection (1) of this section for that part have been planted

and all such trees have been determined to be physically and structurally sound by the director or by the director's designee. In lieu of actual planting, an applicant for a certificate of occupancy may post a bond or other form of security acceptable to the city attorney to ensure the timely completion of the approval tree planting plan.

(9) All trees to be planted shall be installed in conformance with the following criteria:

- a. All trees to be planted in accordance with "American Standards for Nursery Stock," published by the American Association of Nurserymen. All trees shall be balled and burlapped or container-grown.
- b. All trees shall be installed in accordance with the road and bridge specifications of the Virginia Department of Transportation and "Landscape Planting and Protection Manual, Portsmouth, Virginia."
- c. The owner of the property shall be responsible for the continued proper maintenance of all trees located on the property. Where trees are installed in accordance with the provisions of this article, it shall be the responsibility of the lot owner to maintain the trees. The trees must be maintained, alive, for a period of one year. If any of the trees dies during the first year after planting, it must be replaced by the owner.

(10) Trees to be retained on the lot in accordance with the approved landscape plan shall be protected utilizing methods prescribed in "Landscape Planting and Protection Manual, Portsmouth, Virginia."

- a. Trees or tree areas that are to be retained shall be marked visibly in the field prior to clearing or construction by use of one of the methods specified in the "Landscape Planting and Protection Manual, Portsmouth, Virginia."
- b. Protection devices shall be installed prior to clearing or construction and shall be shown on the submitted landscape plan. Such devices shall be evident and effective and shall be maintained at all times. Failure to maintain such devices shall be cause for the issuance of a stop work order. Construction personnel shall be notified of the purpose and presence of the protection devices.
- c. If it becomes necessary subsequent to clearing to remove additional trees which were shown on the approved plan to be retained, such trees may be removed if compliance with the required canopy coverage and all other requirements of this article are maintained and a revised landscape plan is approved.

(Code 1988, § 36-52; Ord. No. 1990-50, § 1, 6-11-1990; Ord. No. 1991-31, § 2, 4-8-1991; Ord. No. 1993-13, § 1, 2-8-1993; Ord. No. 1997-15, § 2, 3-11-1997)

TABLE 36.1 CANOPY COVER REQUIREMENTS

Zoning District	Not Applicable	10% Canopy	15% Canopy	20% Canopy
M-2, Industrial		X		
M-1, Industrial		X		
M-1-R, Industrial		X		
CP, Commerce Park		X		
C-2, General Commercial		X		

W-1, Waterfront		X		
POP, Planned Office Park		X		
OR-75, Office Residential		X		
RM-60, Residential		X		
RM-75, Residential			X	
RS-75, Residential				X
RS-100, Residential				X
RS-125, Residential				X
RS-150, Residential				X
RMH, Mobile Home Residential			X	
USG, U.S. Government	X			
P-1, Preservation	X			
HR, Historic Residential		X		
HLB, Historic Limited Business		X		
HLO, Historic Limited Office		X		
D-1: T4, T5, T6 and SD subdistricts	X			
Downtown D-2 subdistricts and Downtown D-1 T3 subdistrict		X		
BP, Business Park		X		

(Code 1988, Table 36.1; Ord. No. 1991-31, § 3, 4-8-1991; Ord. No. 2000-35, § 1, 9-26-2000; Ord. No. 2009-115, § 8, 11-24-2009, eff. 1-1-2010)

Sec. 36-53. Exceptions.

The planning director may grant a partial exception to the requirements of this article under the circumstances listed in this section:

- (1) Such exception shall reduce the required tree canopy by the minimum extent necessary to provide a reasonable buildable area.
- (2) Exceptions may be granted under the following conditions:
 - a. Where the planning director finds that the combined requirements of this article, the zoning ordinance, any ordinances adopted in compliance with the Chesapeake Bay Preservation Act, or the requirements of chapter 39 of the city Code for the protection of tidal wetlands would result in the elimination of a reasonably developable area on the site.
 - b. Where the proposed use of the property is agriculture, outdoor recreation, or aviation and the planning director finds that full compliance with this article would unreasonably reduce the unwooded area of the site necessary for such use.
 - c. Where the proposed development is an expansion of an existing development on the same zone lot, the procedure for calculating required tree

canopy coverage shall be modified by substituting the term "construction footprint" for the term "zone lot" in section 36-52(3).

(Code 1988, § 36-53; Ord. No. 1990-50, § 1, 6-11-1990; Ord. No. 1991-31, § 2, 4-8-1991; Ord. No. 1993-13, § 1, 2-8-1993)

Sec. 36-54. Exemptions.

A lot that is dedicated as a school site or a playing field or similar nonwooded recreation area is exempt from the requirements of this article.

(Code 1988, § 36-54; Ord. No. 1990-50, § 1, 6-11-1990)

Sec. 36-55. Penalties.

Any person who violates any of the provisions of this article, upon conviction thereof, shall be fined not less than \$10.00 nor more than \$250.00. Each day's continuance of such violation shall constitute a separate offense.

(Code 1988, § 36-55; Ord. No. 1990-50, § 1, 6-11-1990)

Sec. 36-56. Appeals.

(a) The planning commission may also hear and decide appeals where it is alleged there is an error in any requirement, decision or determination made by any city official in the enforcement or interpretation of this article. The appeal shall be limited to the correctness of the city official's application of the article and shall not be used to grant an exception or variance thereto.

(b) Applications for appeals shall be made in writing to the planning director and shall be accompanied by a fee as set forth in appendix A to this Code to cover this cost of reviewing and processing the application.

(Code 1988, § 36-56; Ord. No. 1991-31, § 4, 4-8-1991)

Chapter 38 WATER, SEWERS AND SEWAGE DISPOSAL

ARTICLE I. IN GENERAL

Sec. 38-3. Depositing filth, etc., on property of department of public utilities.

No person shall deposit, directly or indirectly, any debris, yard waste, rubbish, garbage or filth of any nature on the property, in the waters, into the sewers or upon the facilities of the department of public utilities. No person shall deposit, directly or indirectly, any contaminant, including microbial substances, oils, greases, nitrates, nitrites, synthetic organic compounds, volatile organic compounds, radioactive compounds and inorganic compounds, regulated by the state department of health, state department of environmental quality, Hampton Roads Sanitation District or the United States Environmental Protection Agency on the property, in the waters, into the sewers or upon the facilities of the department of public utilities.

(Code 1973, § 38-51; Code 1988, § 38-4)

ZONING ORDINANCES

ARTICLE 40.1-3: ZONING DISTRICTS

40.1-3.5 ACTIVITY CENTER (AC) ZONING DISTRICTS

...

(E) Procedure

Applications for establishment of an AC district shall be reviewed as an amendment to the Official Zoning Map in accordance with Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the following standards:

...

(2) Statement Design Standard Required

In addition to a master plan, applications for an AC district shall also provide a statement of design standards in the form of graphics and explanatory text illustrating how buildings, circulation systems, landscaping, and other elements of the master plan will meet the general and district-specific standards of the AC district and other relevant requirements in this Ordinance. The statement of design standards shall, at a minimum, address all of the following:

...

(g) Street tree planting, landscaping, and drainage;

...

(F) General Standards for All Activity Center Districts

...

(8) Street Trees

(a) Except where topographic or other conditions make it impractical, street trees shall be located:

- (i) Along both sides of all streets;
- (ii) Between the curb and the sidewalk;
- (iii) Within appropriately-sized tree lawns or tree pits; and
- (iv) With a maximum on-center spacing of 40 feet.

(b) Except beneath overhead utilities, street trees shall be canopy trees.

...

...

40.1-3.6 SPECIAL BASE ZONING DISTRICTS

...

(B) Waterfront (WF) District

...

(5) Development Standards

...

(e) Streetscapes

Buildings along streets shall form a consistent line of building facades, relative to the street edge. Street trees, sidewalks and pedestrian-scaled lighting of no greater than 14 feet in height shall be included in streetscape areas to create a comfortable walking environment. Pedestrian amenities (such as benches) shall be consistent with city standards for outdoor furniture downtown and shall also be provided, as appropriate, throughout the development site.

(f) Street Trees

Street trees shall be located in tree pits or tree lawns established between the curb and the sidewalk along all streets except alleys. The distance between street trees shall be determined by the design of the development, as needed to provide an integrated landscaped theme. Spacing and tree selection shall reflect the district's urban character and enhance views of the waterfront and downtown areas.

...

...

...

ARTICLE 40.1-5: DEVELOPMENT STANDARDS

40.1-5.1 OFF-STREET PARKING, LOADING, AND CIRCULATION

...

(M) Vehicular Circulation

...
(7) Primary Drive Aisles Primary drive aisles within off-street surface parking lots with 400 or more spaces shall be designed to appear as an extension of the public street network extending from the public right-of-way along the full length of the primary facades of structures being served by the drive, and shall meet the following standards:

...
(d) Street trees shall be provided along both sides of the primary drive aisle every 50 feet, although understory trees may be used adjacent to the building façade within 40 feet of building entrances.

...

40.1-5.2 LANDSCAPING AND SCREENING

(A) Section Organization

These landscaping standards are organized into eight main sub-sections:

- (1) Section 40.1-5.2(B), Purpose and Intent, sets out the purpose and intent for the standards;
- (2) Section 40.1-5.2(C), General Requirements for Landscaping, includes the applicability provisions, requirements for landscaping plans, and standards for new plantings;
- (3) Section 40.1-5.2(D), Vehicular Use Area Landscaping, includes the standards for landscaping around the perimeter and within vehicular use areas;
- (4) Section 40.1-5.2(E), Perimeter Buffers, includes the landscaping buffer standards applied to the edges of some base zoning districts;
- (5) Section 40.1-5.2(F), Screening, includes the screening requirements for site features like refuse, loading, and service areas;
- (6) Section 40.1-5.2(G), Site Landscaping, includes the standards for foundation plantings around some buildings;
- (7) Section 40.1-5.2(H), Alternative Landscaping Plan, includes the procedures and standards for review of alternative landscaping plans; and
- (8) Section 40.1-5.2(I), Other Landscaping Standards, includes the other standards for landscaping installation, timing, maintenance, monitoring for compliance, and incentives.

(B) Purpose and Intent It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs, and other plants within the city. The intent of this section is to promote this purpose by:

- (1) Ensuring and encouraging the planting, maintenance, restoration and survival of trees, shrubs, and groundcover;
- (2) Ensuring the protection of community residents and visitors from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs, or other plants;
- (3) Mitigating against erosion and sedimentation;
- (4) Reducing stormwater runoff and the costs associated therewith;
- (5) Preserving and protecting the water table and surface waters;
- (6) Reducing audible noise from automobiles and land uses;
- (7) Restoring soils and land denuded as a result of construction or grading;
- (8) Increasing the tree canopy to provide shade and moderate the effect of urban heat islands;
- (9) Limiting glare created by exterior lighting;

- (10) Reducing visual pollution from the urban environment and increasing privacy between incompatible uses;
 - (11) Protecting and enhancing property values and aesthetic qualities;
 - (12) Helping to differentiate streets and other areas of the public realm from private lands;
 - (13) Providing additional improvements to air quality through the carbon dioxide uptake process provided by trees and landscaping; and
 - (14) Providing visual screening, where appropriate.
- (C) General Requirements for Landscaping
- (1) Applicability of Landscaping Standards
 - (a) General Except where exempted by Section 40.1-5.2(C)(1)(c), Exemptions, these standards shall apply to all development in the city.
 - (b) Review for Compliance Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3 (C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.
 - (c) Exemptions Development in the D1 and D2 districts in addition to the general requirements applicable to all landscaping and screening set forth in this article, shall comply with the regulations of the sections found in Appendix sections 1 and 2 where they apply. The more restrictive regulations shall apply in cases of conflict.
 - (d) Landscape Plan
 - (i) To ensure compliance with the standards of this section, a landscape plan demonstrating how landscaping will be planted on a development site shall be included as a part of any application an Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.
 - (ii) New developments not required to provide landscaping (e.g., new single-family detached residential development adjacent to existing single-family detached residential development) are exempt from the requirement to provide a landscape plan.
 - (2) Planting Standards Plantings provided in accordance with this section shall comply with the following standards:
 - (a) Deciduous and evergreen canopy or shade trees shall be a minimum of two inches in caliper at the time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended, and shall be a minimum of eight feet in height above ground level at the time of planting.
 - (b) Understory, small maturing, or ornamental trees shall have a caliper of one-and-one-half inches at time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended, and shall be a minimum of six feet in height above ground level at the time of planting.
 - (c) Deciduous or evergreen shrubs shall be upright in nature and be a minimum of 24 inches in height at the time of planting.
 - (d) In cases where an aggregate caliper inch (ACI) requirement is utilized to derive a required amount of vegetation, and the ACI figure includes a fraction, an applicant may:

- (i) Utilize a tree or trees with a caliper inch measurement exceeding the minimum size at time of planting standard of this subsection in order to meet the required ACI; or
- (ii) Round the ACI figure upwards until the figure corresponds with a whole number of trees meeting the minimum size at time of planting standard.

When trees exceeding the minimum size at time of planting standard are proposed, the minimum calipers of such trees shall be clearly noted on the Master Plan, Development Plan, or Preliminary Subdivision Plat, as appropriate.

(e) In cases where application of the requirements in this subsection result in a fraction in the number of shrubs to be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

(f) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1, as amended). Plant material shall be of standard quality or better, true to name and type of species or variety.

(g) The use of native, drought tolerant vegetation is encouraged to reduce dependency upon irrigation.

(h) To curtail the spread of disease or insect infestation in a plant species, new tree plantings shall comply with the following standards:

(i) When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions.

(ii) When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions.

(iii) When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions.

(iv) Nothing in this subsection shall be construed so as to prevent the utilization of a larger number of different species than specified above.

(i) All planting materials shall correspond to the city's approved plant materials, unless alternative materials are proposed as part of an alternative landscape plan (See Section 40.1-5.2(H), Alternative Landscape Plan).

(3) Existing Vegetation Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of this section, provided the vegetation meets the minimum size standards of this Ordinance, and is protected before and during development of the site in accordance with Section 40.1-5.3(B), Tree Protection During Construction, and maintained thereafter in a healthy growing condition.

(4) Stabilization All required landscape planting areas shall be stabilized and maintained with lawn, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

(5) Berms

All berms shall comply with the following design standards:

(a) The slope of all berms shall not exceed a two-to-one (2:1) ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.

(b) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

(c) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.

(d) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

(6) Easements Nothing except groundcover shall be planted or installed within any underground or overhead utility, drainage, gas easement, or within five feet of a fire protection system without the consent of the utility provider, easement holder, or the city, as appropriate.

(D) Vehicular Use Area Landscaping Except where exempted by Section 40.1-5.2(D)(1), Exemptions, all vehicular use areas shall include landscaping both within the interior of the vehicular use area and around its perimeter, as a means of mitigating the parking area's microclimate and visual impacts.

(1) Exemptions The following uses shall be exempt from the requirements to provide vehicular use area landscaping:

- (a) Single-family detached residential development;
- (b) Two- to four-family dwellings; and
- (c) Off-street surface vehicular use areas with four or fewer spaces.

(2) Interior Landscaping Standards

All vehicular use areas shall provide and maintain landscaped planting areas within the interior of the vehicular use area in accordance with the standards in this subsection. These standards shall not apply to parking structures or vehicle display areas.

(a) Configuration

Interior planting areas shall be designed in accordance with the following standards:

- (i) Islands shall be located at the end of parking bays and have a minimum size of 153 square feet for single loaded parking bays, and a minimum size of 306 square feet for double loaded bays.
- (ii) Off-street surface parking areas with 100 or more spaces shall be organized into a series of modules of 15,000 square feet or less per module, and be visually separated by eleven-foot-wide continuous landscaped islands containing pedestrian pathways located at least every six parking bays (see Figure 40.1-5.1(D)(2): Interior Planting Configuration).
- (iii) No single row of parking spaces shall exceed 12 spaces without including an island.
- (iv) Landscaped planting areas shall be distributed throughout the parking area for the purpose of heat abatement.
- (v) Driveway and primary drive aisle medians shall have a minimum width of four feet for medians with shrubs and six feet for medians with shrubs and understory trees.
- (vi) Each interior planting island shall contain at least one canopy or understory tree per every 153 square feet, or portion thereof, of the total landscape island area.
- (vii) Shrubs shall be planted within landscaping islands at a minimum rate necessary to ensure that at least 25 percent of the total land area occupied by landscaping islands is planted with shrubs.

(b) Screened Backfill

Soil utilized in vehicular use area islands, driveway medians, and other areas internal to a vehicular use area shall be screened prior to deposition in planting areas.

(c) Protection of Planting Areas

All planting areas shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods. This standard shall

not prohibit the use of planting areas as on-site stormwater management devices.

(3) Perimeter Landscaping Standards

Where a vehicular use area serving a use subject to these standards abuts a street right-of-way, vacant land, or any other development (except another vehicular use area), perimeter landscaping strips shall be provided and maintained between the vehicle use area and the abutting right-of-way or property line in accordance with the following standards.

(a) Location

(i) Perimeter landscaping strips shall be located on the same land where the vehicular use area is located, and shall be placed to assure visibility and safety of pedestrians on the public street, as well as those within the vehicular use area.

(ii) Perimeter landscaping strips may not be placed within future street rights-of-way as identified in the Master Transportation Plan.

(b) Minimum Width

When a vehicular use area is located within 50 feet of a street right-of-way, the perimeter landscaping shall be located within a planting strip at least ten feet wide. In all other instances, the strip shall be the minimum width necessary to assure required landscaping is not damaged by vehicles or other on-site activity. In no instance shall the strip be less than three feet wide.

(c) Continuous, Opaque Visual Screen Required

Perimeter landscaping for vehicular use areas shall form a continuous, opaque visual screen, excluding required sight clearances at driveways. The perimeter landscaping strip shall meet all city, state, and federal highway sight distance standards.

(d) Protection of Landscaping Strip

The perimeter landscaping strip shall be protected from vehicular damage by the installation of curbing, wheel stops, extra width in the landscaping strip, or other method approved by the Planning Director. Nothing in this subsection shall prevent the configuration of vehicular use area landscaping as a stormwater management device.

(e) Required Materials

(i) In cases where the visual screen is comprised of vegetation, evergreen shrubs shall be used to form the continuous, opaque visual screen in the perimeter landscaping strip.

(ii) A decorative fence or wall with a minimum transparency of 50 percent or more may be substituted for the evergreen shrubs (see Figure 40.1-5.1(D)(2): Alternative Perimeter Screening). In no instance shall chain link fencing qualify as decorative fencing for the purpose of providing vehicular use area landscaping.

(iii) In addition to the evergreen shrub requirements, each perimeter landscaping strip shall include at least eight aggregate caliper inches (ACI) of canopy trees per 100 linear feet of landscaping strip. Understory trees may be used beneath overhead utilities.

(f) Minimum Height

(i) Shrubs associated with the perimeter landscaping shall be maintained at a minimum height of at least three feet above the surface elevation of the adjacent vehicular use area pavement within four years of planting.

(ii) Fences or walls used in-lieu of shrubs shall maintain a height of 48 inches above the adjacent grade, except where there is a requirement

for a lower height because the fence or wall is located within a sight triangle.

(g) Adjacent to Perimeter Buffers Perimeter landscape strips associated with a vehicle use area may be credited towards perimeter buffer standards (See Section 40.1-5.2(E), Perimeter Buffers), provided the minimum buffer standards of this section are met.

(h) Adjacent to Off-Street Surface Parking on Other Lots Where two or more off-street surface vehicular use areas are located adjacent to one another, but upon different lots, no perimeter landscaping strip shall be required between the two vehicular use areas.

(i) Stormwater Management Generally

(i) The location of Stormwater retention and detention ponds shall be in accordance with this section for all development, except single family lots. Slight swales used to channel water to another portion of the lot or bio-retention swales, filters and basins are not regulated by this section.

(ii) Only Stormwater retention and detention facilities below ground shall be located in between the building and any street.

(iii) Stormwater retention ponds not designed and landscaped as a site amenity shall be fully screened from off-site views.

(iv) Landscape plantings may be used to increase infiltration and decrease runoff. Alternative designs, such as landscaping islands configured with a lower grade than adjacent parking, or rain gardens are encouraged.

(4) Incentives

The total aggregate caliper inch requirements for canopy and understory trees in this subsection may be reduced by five percent when:

(a) At least 65 percent of the provided parking is located to the side or rear of the building;

(b) At least 30 percent of the total required parking is subject to a shared parking agreement (See Section 40.1-5.1(J)(2), Shared Parking; and

(c) When pervious parking surfacing is used for 20 percent or more of the total vehicular use area. Nothing shall prohibit the combination of these incentives or the resulting cumulative reduction in the amount of required tree ACI.

(E) Perimeter Buffers

(1) Purpose and Intent

Perimeter landscape buffers are intended to mitigate potential negative effects of different contiguous uses.

(2) Applicability

Except for single-family detached residential uses and uses in the D1 and D2 districts, all development shall provide a perimeter landscape buffer to separate it from uses in a different use classification in accordance with Table 40.1-5.2(E)(3), Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application.

(3) Types of Buffers

Table 40.1-5.2(E)(3), Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required in Table 40.1-5.2(E)(4), Buffer Type Application, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2.

Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 40.1-5.10, Fences and Walls.

TABLE 40.1-5.2 (E)(3): BUFFER TYPES

BUFFER TYPE AND C ONFIGURATION ACI = AGGREGATE CALIPER INCHES	Min. Perimeter Buffer [1][2][3]	
	Option 1: Min. Width 20 Feet	Option 2: Min. Width 10 Feet [4]
TYPE A – BASIC This perimeter buffer functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of ten feet.	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	
TYPE B – AESTHETIC This perimeter buffer functions as an intermittent visual obstruction from the ground to a height of at least 20 feet, and creates the impression of spatial separation without eliminating visual contact between uses.	8 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	2 ACI of canopy trees + 14 ACI understory trees + 35 shrubs per 100 linear feet
TYPE C – OPAQUE This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.	12 ACI of canopy trees + 14 ACI of understory trees + 25 shrubs per 100 linear feet	One 4-foot-high berm or one 4-foot-high solid fence + 2 ACI of canopy trees + 16 ACI understory trees per 100 linear feet
TYPE D – OPAQUE This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.	18 ACI of canopy trees + 20 ACI of understory trees + 55 shrubs per 100 linear feet	One 6-foot-high solid fence + 12 ACI of canopy trees per 100 linear feet
<p>NOTES:</p> <p>[1] Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height, along with ten large shrubs per every 100 linear feet.</p> <p>[2] Perimeter buffer widths (but not vegetation amounts) may be reduced in accordance with Section 40.1-2.3(H), Administrative Adjustment.</p> <p>[3] In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees.</p> <p>[4] Fences and walls shall comply with the standards in Section 40.1-5.10, Fences and Walls.</p>		

(4) Buffer Type Application

Table 40.1-5.2(E)(4), Buffer Type Application, specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the zoning district of the development site and that of the adjacent property. The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.

TABLE 40.1-5.2 (E)(4): BUFFER TYPE APPLICATION

PROPOSED USE TYPE [2][3]	EXISTING USE TYPE ON ABUTTING LAND
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	SINGLE-FAMILY RESIDENTIAL	ALL OTHER RESIDENTIAL	MIXED-USE & PUBLIC/INSTITUTIONAL	COMMERCIAL	INDUSTRIAL
Single-Family Residential	N/A	N/A	N/A	N/A	N/A
All other Residential	A	N/A	N/A	N/A	N/A
Mixed-Use and Public/Institutional	B	A	N/A	N/A	N/A
Commercial	C	B	A	N/A	N/A
Industrial	D	D	D	C	N/A
<p>NOTES:</p> <p>[1] Letters in cells correspond to the buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.</p> <p>[2] Development in AC districts is subject to perimeter buffer requirements in the AC district standards. In cases where development is proposed next to an existing PD district having no perimeter buffer, the proposed development shall provide a perimeter buffer that is consistent with the type of buffer required if the adjacent use was in a differing base district appropriate for the type of use.</p> <p>[3] Multi-family, townhouse, multi-building campus, or shopping center developments shall provide buffers around the perimeter of the development instead of around individual buildings.</p> <p>A = Type A Buffer, B = Type B Buffer, C = Type C Buffer, D = Type D Buffer, N/A = Not Applicable (No Buffer Required)</p>					

(5) Location of Buffers

- (a) Perimeter buffers required by this section shall be located only along the outer perimeter of the parcel where it abuts another parcel, and shall extend to the parcel boundary line or right-of-way line.
- (b) Perimeter buffers are not required along lot lines abutting streets, except as needed to screen outdoor industrial operations or storage on lots in an industrial district. Industrial uses with outdoor operations or storage components shall include perimeter buffers as necessary to screen outdoor use areas from off-site views.
- (c) A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

(6) Responsibility for Buffer Installation

Where a developing parcel is adjacent to an existing use and a perimeter buffer is required in accordance with this section, the developing parcel shall provide the full perimeter buffer required adjacent to the existing use in accordance with Table 40.1-5.2(E)(3) Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application, unless a portion or all of a perimeter buffer that complies with the standards of this section already exists between the lots. Where all or part of a perimeter buffer exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing all the additional planting material necessary to meet the standards of this section.

(7) Development within Required Buffers

- (a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in this Ordinance.
- (b) Sidewalks, trails, and other elements associated with passive recreation may be placed in perimeter buffers if all required landscaping is provided and

damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the city are permitted to cross a required buffer in a perpendicular fashion, but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this Ordinance.

(8) Sight Triangles

No fencing, berms, walls, or other landscaping features may exceed 36 inches above grade within required sight triangles for streets, alleys, or driveways(See Section 4.1-8.2(C)(4).

(9) Credit for Existing Vegetation

Existing vegetation meeting the size standards of Section 40.1-5.2(C)(2), Planting Standards, located within the perimeter buffer area may be preserved and credited toward the perimeter buffer standards.

...
(G) Site Landscaping

(1) Purpose and Intent Site landscaping material is intended to soften the visual impact of building foundations and provide for the even dispersal of trees across a development site.

(2) Distinguished from Other Required Landscaping Site landscaping, for the purpose of this section, is landscaping that is not:

- (a) Required vehicular use area landscaping;
- (b) Located within a required perimeter buffer strip; or
- (c) Required screening.

(3) Site Landscaping Standards

Except for single-family detached residential and two- to four-family dwellings, site landscaping shall be required for all development, and shall be supplied in the amounts identified in Table 40.1-5.2(G)(3), Required Site Landscaping Plantings. Site landscaping shall meet the minimum size standards for new planting specified in Section 40.1-5.2(C)(2), Planting Standards.

TABLE 40.1-5.2(G)(3): REQUIRED SITE LANDSCAPING PLANTINGS USE TYPE

USE TYPE [1]	REQUIRED PLANTINGS PER SITE [2][3]
Multi-family dwellings	16 caliper inches of canopy trees (including at least 5 evergreen trees) per acre + at least 2 shrubs per each 10 feet of building perimeter
Public and Institutional uses	14 caliper inches of canopy trees (including at least 2 evergreen trees) per acre + at least 1 shrub per each 10 feet of building perimeter
Commercial and mixed-uses	10 caliper inches of canopy trees (including at least 1 evergreen tree) per acre, + at least 2 shrubs per each 10 feet of outer building perimeter
Industrial uses	4 caliper inches of canopy trees (including at least 1 evergreen) per acre + at least 1 shrub per every ten feet of building wall facing a public right-of-way
<p>NOTES:</p> <p>[1] See Table 40.1-4.1(A), Use Table.</p> <p>[2] At least one-half of the required shrubs shall be of an evergreen variety.</p> <p>[3] Each evergreen tree meeting the minimum size standards of this section shall count as two caliper inches towards the total number of required canopy tree caliper inches.</p>	

(4) Shrub Placement

Required shrubs shall be placed around the building perimeter, a minimum of three feet from the building, with emphasis placed on building foundations visible from the public right-of-way. Required shrubs may be planted up to 15 feet from the building provided there is a sidewalk located between the planting area and the building wall.

(5) Tree Placement

Trees serving as site landscaping shall be dispersed across a site in accordance with good planting practice and the following priority listing:

- (a) In yards between a building façade and a street right-of-way where no vehicular use area landscaping is required;
- (b) Between a building and an adjacent lot with an existing use that provides more than 50 percent of the vegetative material associated with a required perimeter buffer;
- (c) Between a building façade and an abutting lot with the same or a more intense zoning district classification (where no perimeter buffering is required);
- (d) Within open-space set-aside areas with no existing or reforested trees;
- (e) Adjacent to on-site areas of pedestrian or vehicular circulation where no other vegetative material is required (e.g., drive-throughs or stacking lanes);
- or
- (f) Other areas near accessory structures or accessory uses.

...

40.1-5.3 TREE PROTECTION

(A) Protection of Specimen Trees

(1) Applicability

(a) General All development in the city, except that exempted in accordance with Section 40.1-5.3(A)(1)(b), Exemptions, shall be required to protect specimen trees in accordance with this section.

(b) Exemptions The following development shall be exempt from these standards:

- (i) Land within the Downtown D1 and D2 districts; and
- (ii) Existing single-family detached residential dwellings on lots of record established prior to May 1, 2010.

(2) Depiction on Landscaping or Development Plan The location, species, and size of all specimen trees to be retained in accordance with this section shall be depicted on the development plan or landscaping plan associated with the development.

(3) General Requirement

No specimen tree may be removed, except in accordance with Section 40.1-5.3(A)(4), Removal of a Specimen Tree. In addition, all specimen trees shall have the following protections, whether located on public or private land:

(a) Cutting, Removal, or Harm Prohibited Specimen trees shall not be cut, removed, pushed over, killed, or otherwise harmed.

(b) Paving or Soil Compaction Prohibited The area within the dripline of any specimen tree shall not be subject to paving or soil compaction

(4) Removal of a Specimen Tree Specimen trees may be removed if the landowner demonstrates to the Planning Director one of the following conditions:

(a) Removal of a Healthy Specimen Tree

A specimen tree is in healthy condition, and all of the following standards are met:

- (i) The landowner is otherwise in compliance with this section;
- (ii) The specimen tree prevents development of a lot platted prior to May 1, 2010 in a way that limits building area to less than otherwise

allowed, or hinders compliance with the standards in Article 40.1-3: Zoning Districts, Article 40.1-4: Use Standards, or Article 40.1-5: Development Standards.

(iii) Mitigation is provided in accordance with Section 40.1-5.3(A)(5), Replacement/Mitigation of Specimen Trees.

(b) Removal of a Severely Diseased, High Risk, Damaged, or Dying Specimen Tree A specimen tree is certified by an arborist or other qualified professional as severely diseased, high risk, damaged by an act of God, or dying. Removal of a severely diseased, high risk, or dying specimen tree shall not require mitigation in accordance with Section 40.1-5.3(A)(5), Replacement/Mitigation of Specimen Trees.

(5) Replacement/Mitigation of Specimen Trees Those causing the destruction or removal of a healthy specimen tree, unless exempted in accordance with Section 40.1-5.3(A)(4), Removal of a Specimen Tree, shall be responsible for the following mitigation:

(a) Replacement Trees Required

Each healthy specimen tree removed or destroyed shall be replaced with three replacement trees, measuring at least six inches in diameter by American Nurseryman Standard. The replacement trees shall be replanted within 12 months of the removal or destruction of the specimen tree.

(b) Location of Replacement Trees

Replacement trees shall be either planted on the parcel of land from which the specimen tree was removed if sufficient space is available, or placed on nearby lands in accordance with Section 40.1-5.2(H), Alternative Landscape Plan.

(c) Establishment Period

Replacement trees shall be maintained through an establishment period of at least three years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

(B) Tree Protection During Construction

(1) Owner's Responsibility

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(2) Tree Protection Fencing

(a) Where Required Specimen trees and other existing trees being used for credit towards landscaping requirements in accordance with Section 40.1-5.4(A)(1)(b), Credit Applied Towards Required Plantings, shall be fenced with a sturdy and visible fence before grading or other development activity begins. Fencing shall be erected no closer than one linear foot to the tree's dripline. The Planning Director shall consider the existing site conditions in determining the exact location of tree protection fencing. Areas located inside of tree protection fencing are considered as "tree save areas".

(b) Inspection All tree protection measures shall be inspected and approved by the city prior to start of any land disturbing activities. Failure to have tree protection measures prior to the commencement of construction is a violation of this Ordinance.

(c) When Required No construction, grading, equipment or material storage, or any other activity shall be allowed within the fenced area. Fencing shall be maintained until after the final site inspection.

(3) Encroachments into Tree Save Areas Encroachments into specimen tree save areas shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed:

(a) Soil Compaction

Where compaction might occur due to construction traffic or materials delivery through a tree save area, the area must first be mulched with a minimum four inch layer of wood chips. Equipment or materials storage shall not be allowed within a tree save area.

(b) Fill No fill shall be placed within a specimen tree save area without adequate venting to allow air and water to reach the roots.

(c) Chemical Contamination Trees located within a specimen tree save area shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

(d) Paving Limitations Except for driveway access points, sidewalks, curb, and gutter, no paving shall occur within a tree save area unless authorized through an alternative landscaping plan (See Section 40.1-5.2(H), Alternative Landscaping Plan).

(C) Tree Preservation Incentives

(1) Tree Preservation Credits

In order to encourage the preservation of as many trees as practical on a development site, credit towards the minimum landscaping requirements shall be applied to all existing trees retained on a site that are not specimen trees that comply with the credit standards of this subsection. Credits are offered only for trees that are not required to be retained by other sections of this Ordinance.

Credits shall be granted in accordance with the following standards:

(a) Credit Amount

A credit of one-and-one-quarter (1.25) multiplied by the aggregate caliper of trees that are not specimen trees shall be credited and applied towards the landscaping standards in Section 40.1-5.2, Landscaping and Screening, when the trees that are saved complies with the following minimum size standards:

(i) Canopy Trees Canopy trees, whether deciduous or evergreen, of seven inches in caliper or greater, measured six inches above ground level.

(ii) Understory/Ornamental Trees

Understory or ornamental trees, whether deciduous or evergreen, of four inches in caliper or greater, measured four inches above ground level.

(b) Credit Applied Towards Required Plantings The credit shall be applied to the aggregate tree caliper inch standards for landscaping. In no case shall credits substitute for more than 75 percent of the required landscaping material.

(2) Reduction in the Minimum Number of Required Parking Spaces

Up to a five percent reduction in the number of off-street parking spaces required on a development site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy specimen trees. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Planning Director.

Alternative paving materials (See Section 40.1-5.1(D)(4), Alternative Materials) may be required by the Planning Director in cases where required parking areas encroach upon root zones.

40.1-5.6 COMMERCIAL DEVELOPMENT STANDARDS

...

(F) General Commercial Standards

Except otherwise noted, these general commercial standards are intended to apply for all commercial development in the city.

...

(3) Street Trees

(a) Buildings subject to the standards in this section shall provide canopy trees along all street frontages (except alleys) located between the curb and sidewalk, or within five feet of the right-of-way when no sidewalk exists.

(b) Street trees shall be placed a maximum of 40 feet on-center.

(c) Understory trees may be used in cases where overhead utilities will remain after development is complete.

...

ARTICLE 40.1-8: DEFINITIONS

40.1-8.3 DEFINITIONS

ARBORETUM OR BOTANICAL GARDEN

A garden or place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational, or passive recreational purposes, not including the harvest of plants or their produce.

ARBORIST

A person who is licensed (either a professional certification or International Society of Arboriculture Certified Arborist) to perform arboricultural work in the city.

BUFFER

An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking.

BUFFER, PERIMETER

Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including but not limited to the Type A Basic, Type B Aesthetic, Type C Semi-opaque, and Type D Opaque described in Section 40.1-5.2(E), Perimeter Buffers.

CALIPER

A horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inches in diameter, 12 inches above the ground for trees greater than four inches and up to ten inches in diameter, and at breast height (4½ feet) for trees ten inches or greater in diameter.

CANOPY TREE

A tree that has an expected height at maturity of 30 feet or more.

DIAMETER AT BREAST HEIGHT (DBH)

The measurement of the diameter of a tree trunk over ten inches in diameter taken at a height of four-and-one-half feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.

DRIPLINE

A vertical line that extends from the outermost branches of a tree's canopy to the ground around the circumference of the tree.

EASEMENT

A grant by a landowner to another landowner or to the public, of a right to occupy or use designated land for specific purposes, such as access, drainage, conservation, the location of public improvements, or other specified purpose. An easement does not constitute fee simple ownership of the land.

EXISTING TREE CANOPY

The crowns of all healthy self-supporting canopy trees with a diameter at breast height (DBH) of ten inches or greater and understory trees with a caliper size of four inches or greater at breast height.

GREENHOUSE

A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

HIGH RISK TREE

Any tree with structural defects sufficient to render the tree or part of the tree likely to fail and cause damage to persons, property, or other significant vegetation, as determined by a qualified arborist or other tree professional.

IMPERVIOUS SURFACE

Buildings; parking areas; driveways; streets; sidewalks; areas of concrete, asphalt, gravel, or other compacted aggregate; and areas covered by the outdoor storage of goods or materials which do not absorb water.

LAND-DISTURBING ACTIVITY

Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes, for which any permit or approval is required under the provisions of the city code.

LANDSCAPING

The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and objects designed and arranged to produce an aesthetically pleasing effect.

LANDSCAPE STRIP, PERIMETER

Vegetative material associated with the perimeter landscaping required for a vehicular use area.

PLANTING SEASON

That period during which a particular species of vegetation may be planted for maximum survivability and healthy growth as established by the local agricultural extension office.

PLANTING STRIP

Areas intended for the placement of vegetation within the interior of vehicular use areas or along street right-of-way edges, typically between the back of the curb and the inside edge of the sidewalk.

SPECIMEN TREE

Any canopy tree with a DBH of 42 inches or more and any understory or ornamental tree with a DBH of ten inches or more that is not exempted as a specimen tree by this Ordinance.

TOPPING

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.

TREE SAVE AREA

The area around a specimen tree that extends one linear foot around the tree's dripline.

UNDERSTORY TREE

A tree that has an expected height at maturity of no greater than 30 feet.

VEGETATION, NATIVE

Any indigenous tree, shrub, ground cover or other plant adapted to the soil, climatic, and hydrographic conditions occurring on the site.

VEHICULAR USE AREA LANDSCAPING, INTERIOR

Vegetative material, structures (walls or fences), berms, and associated ground cover located within the interior of a parking lot, or other vehicular use area for the purposes of providing visual relief and heat abatement. (See Section 40.1-5.2(D)(2))

VEHICULAR USE AREA LANDSCAPING, PERIMETER

Vegetative material, structures (walls or fences), berms, and associated ground cover located around the perimeter of a parking lot, or other vehicular use area when such areas are adjacent to a street right-of-way or land in a residential district or residentially developed lands, used property for the purposes of screening the vehicular use area from off-site views. (See Section 40.1-5.2(D)(3))