

ORDINANCE NO. 2021 -

AN ORDINANCE MOVING LANDSCAPE AND TREE PRESERVATION STANDARDS FROM CHAPTER 19 TO CHAPTER 21; ADDING REFERENCES TO NATIVE LANDSCAPING STANDARDS AND REQUIRED LANDSCAPING AT TWO-FAMILY DWELLINGS; CLARIFYING THE DEFINITION OF SIGNIFICANT TREES IN THE TREE PRESERVATION ORDINANCE; AND UPDATING THE PROHIBITED TREES LIST, THEREBY AMENDING CHAPTERS 10, 18, 19, 21, AND 22 OF THE CITY CODE.

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 10 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

CHAPTER 10: ENVIRONMENTAL CONTROL

ARTICLE VI. WEEDS AND BRUSH

§ 10.38 NUISANCE.

(a) *Weeds and grass.* All weeds or growing grass upon any lot, parcel of land or adjacent right-of-way area in the city to a height greater than eight inches, or which have gone or are about to go to seed, are hereby declared to be a nuisance and a detriment to the good order of the city with the following exceptions:

(1) Native prairie and long grass areas shown on an approved landscape plan in accordance with § ~~[49.52]~~ 21.301.15;

ARTICLE IX. FIREWOOD STORAGE

§ 10.57 FIREWOOD STORAGE.

Except as provided below in subsection (6) below, all firewood located upon a residential property ~~[shall]~~ must be stored for use at that property and not for resale as follows.

(5) All firewood ~~[shall]~~ must be screened from view in accordance with § ~~[49.52]~~ 21.301.15 of the city code, unless the total amount of firewood stored on the premises is less than a fireplace cord and it is stacked next to the home.

Section 2. That Chapter 18 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

CHAPTER 18: TREES

§ 18.03 PROHIBITED TREES.

It ~~[shall be]~~ is unlawful to plant any of the following trees within the city:

Genus	Species	Common Name
Ginkgo	biloba	Ginkgo (maidenhair tree female only)
Acer	negundo	Boxelder (ash-leaved maple)
Populus	deltoides	Eastern cottonwood
Populus	nigra italica	Lombardy poplar
Rhamnus	Cathartica	Buckthorn (common or European)
Rhamnus	Frangula	Buckthorn (glossy, including all cultivars)
Fraxinus	All	Ash (all species, varieties and cultivars)

(a) Exceptions. The Council finds that some prohibited native species are beneficial to local ecosystems. Therefore, the following species are allowed when located in areas guided Conservation, Public, Quasi-Public, Right of Way, or Water by the City Comprehensive Plan.

(1) Populus deltoides

(2) Acer negundo

§ 18.11 PENALTY.

Violation of any provision of this Chapter 18 ~~[shall be]~~ is a misdemeanor. Civil penalties may also be issued pursuant to § 12.15 of the city charter and § 1.19 of this city code. However, nothing in this Chapter 18 may be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

Section 3. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

CHAPTER 19: ZONING

ARTICLE V. PERFORMANCE STANDARDS

§ 19.08 PERMITTED ENCROACHMENTS INTO REQUIRED YARDS AND SETBACK AREAS.

(e) *In nonresidential zoning districts.*

(5) Above-ground equipment appurtenant to underground storage tanks (except fuel dispensing equipment and stations as per § 21.302.15 of this code) is not permitted within a front yard and ~~[shall]~~ must be located only in side and rear yards. The side setback for such equipment not over five feet in height above grade ~~[shall]~~ must be not less than ten feet and the equipment ~~[shall]~~ must be screened from public streets and adjacent properties in accordance with the requirements of § ~~[19.52]~~ 21.301.15 (d). The side setback for such equipment over five feet in height above grade ~~[shall]~~ must be not less than the required side setback of the principal building in the zoning district or ten feet, whichever is greater. The rear setback for all such equipment ~~[shall]~~ must be not less than ten feet. Such equipment ~~[shall]~~ must not encroach into public easements of record.

§ 19.29 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

(l) *Open space and landscaping.*

(1) Landscaping must conform with the requirements of § ~~[19.52]~~ 21.301.15 and other applicable requirements of this code.

§ 19.52 ~~[LANDSCAPING AND SCREENING]~~ RESERVED.

~~[(a) Purpose and intent. The city recognizes the health, safety, aesthetic, ecological and economic value of landscaping and screening. The provisions of this section are intended to:~~

- ~~— (1) Add visual interest to open spaces and blank facades;~~
- ~~— (2) Soften dominant building mass;~~
- ~~— (3) Provide definition for public walkways and open space areas;~~
- ~~— (4) Ensure significant tree canopy shading to reduce glare and heat build-up;~~
- ~~— (5) Improve the visual quality and continuity within and between developments;~~
- ~~— (6) Provide screening and mitigation of potential conflicts between activity areas and more passive areas;~~
- ~~— (7) Protect and improve property values;~~
- ~~— (8) Improve air quality and provide a buffer from air and noise pollution;~~

- ~~— (9) Ensure safe and aesthetic treatment of ponding areas;~~
- ~~— (10) Enhance the overall aesthetic conditions within the city;~~
- ~~— (11) Limit sight line obstructions and drainage conflicts;~~
- ~~— (12) Reduce the potential for criminal and illegal activities; and~~
- ~~— (13) Prevent conflicts with utilities.~~
- ~~— (b) Landscape plans.~~
 - ~~— (1) Except for single family uses, a landscape plan must be submitted:~~
 - ~~— (A) With any application for new development;~~
 - ~~— (B) With any application for additions or modifications to existing development that physically impacts existing landscaping or screening; or~~
 - ~~— (C) When changes are made to an existing landscaping or screening plan on file with the city.~~
 - ~~— (2) Landscape plans must be reviewed and approved by the Planning Manager or designee.~~
 - ~~— (3) Landscape plans must include information on existing and proposed landscaping and screening in accordance with the Planning Manager's *Landscaping and Screening Policies and Procedures* and landscape designers are encouraged to review and follow the policy recommendations therein.~~
- ~~— (c) Landscaping standards.~~
 - ~~— (1) *Soil surface stabilization.* All disturbed areas outside of designated planting beds must be permanently stabilized with an established plant or xeriscaping soil cover. Unstabilized soil surfaces (bare ground, dirt piles and the like) are allowed only when required by a construction project operating under a valid permit if a permit is required. Soil surface stabilization must be completed in conjunction with the construction project within the timeline specified in § 15.201 of this code.~~
 - ~~— (2) *Minimum number of trees and shrubs.* Excluding exceptions specified below in subsection (c)(2)(E) below, development must at a minimum provide the following numbers of trees and shrubs:~~
 - ~~— (A) One tree per 2,500 square feet of developable landscaping area; and~~
 - ~~— (B) One shrub per 1,000 square feet of developable landscaping area.~~
 - ~~— (i) Up to 50% of the required shrubs may be perennial plants.~~
 - ~~— (ii) Four perennial plants equal one shrub.~~
 - ~~— (C) **DEVELOPABLE LANDSCAPING AREA** is defined as the total area of a development site or phase minus the portion of that area within:~~
 - ~~— (i) A natural water body;~~
 - ~~— (ii) A protected wetland;~~
 - ~~— (iii) A permanent significant natural wooded area; and/or~~
 - ~~— (iv) A scenic easement.~~
 - ~~— (D) Existing healthy deciduous trees greater than four caliper inches or existing healthy evergreen trees greater than six feet in height that are located within the developable landscaping area and are not~~

identified on the city's prohibited plant species list (see ~~§ 18.03~~) may be credited toward the minimum required trees on a site.

—— (E) Exceptions:

—— (i) ~~Single and two-family dwellings;~~

—— (ii) ~~In mixed use districts (B-4, C-5, LX) the number of trees and shrubs required in this section may be reduced by up to 25 percent; and~~

—— (iii) ~~Fee in lieu of planting. If landscape planting at required levels results in overcrowding of vegetation due to site constraints, the property owner may reduce the number of proposed trees and/or shrubs on the site at the sole discretion of the City Council; provided a cash fee is deposited into a city designated fund that matches the cost differential between the planting required by this provision and the vegetation actually planted on the site as specified in the *Landscaping and Screening Policies and Procedures* document.~~

—— (3) ~~Minimum tree size. Required trees must meet the following minimum size standards:~~

—— (A) ~~Overstory trees must be at least two and one-half caliper inches at planting;~~

—— (B) ~~Single stem ornamental trees must be at least one and one-half caliper inches at planting; and~~

—— (C) ~~Evergreen trees and multi-stem ornamental trees must be at least six feet in height at planting.~~

—— (4) ~~Minimum landscape yard. An area for landscaping, kept free of parking, storage or storm water ponds, must be provided around the perimeter of a site.~~

—— (A) ~~Standards. Unless otherwise specified in the city code, the landscape yard must be a minimum of 20 feet deep when adjacent to public or private streets and a minimum of five feet deep when not adjacent to streets with the following exceptions:~~

—— (i) ~~In the mixed use districts (B-4, C-5, LX) the landscape yard may be reduced to a minimum of five feet provided the screening standards in subsection (d)(4) below are met; and~~

—— (ii) ~~Outside the B-4, C-5 and LX Zoning Districts, buildings may be located within the landscape yard when otherwise allowed by the city code.~~

—— (B) ~~Elements permitted in landscape yard:~~

—— (i) ~~Rain gardens included in an approved landscape plan;~~

—— (ii) ~~Sidewalks, bus shelters and entrance drives; and~~

—— (iii) ~~Buildings when otherwise allowed by the city code.~~

—— (5) ~~Streetscape. In areas where a district or street specific streetscape plan has been adopted by the City Council, development must provide streetscape plantings as set forth in the district or street specific streetscape plan. Streetscape plantings located within the property lines of the site may be credited toward the required number of trees and shrubs. Streetscape plantings in the public right-of-way shall not be credited toward the required number of trees and shrubs. Landscaping placed or removed in the public right-of-way must receive city approvals for right-of-way plantings (see ~~§ 18.07~~) and must conform with city right-of-way planting policies.~~

—— (6) ~~Parking island trees. A minimum of one deciduous tree must be provided per parking lot island, with the following exceptions:~~

—— (A) ~~No trees are required in parking islands used for storm water management purposes;~~

~~—(B) No trees are required in parking islands within structured parking facilities; and~~

~~—(C) No trees are required in parking lots with 50 or fewer spaces.~~

~~—(d) Screening standards.~~

~~—(1) Perimeter screening designed to buffer incompatible uses. Perimeter screening designed to buffer incompatible uses is required:~~

~~—(A) Along any off-street parking area containing over six parking spaces that lies within 30 feet of an abutting site that is residentially used and either residentially zoned or guided;~~

~~—(B) Along any driveway to an off-street parking area containing over six parking spaces when the driveway is within 15 feet of an abutting site that is residentially used and either residentially zoned or guided;~~

~~—(C) On industrial sites, along any property line that directly abuts a site that is residentially used and either residentially zoned or guided and along any side or rear property line that faces across a street a site that is residentially used and either residentially zoned or guided;~~

~~—(D) Around outdoor merchandise, materials and equipment stored, kept or displayed with the following exceptions:~~

~~—(i) In the General Industry (I-3) Zoning District, no perimeter screening is required around outdoor merchandise, materials and equipment except when required through a condition of approval or abutting or across the street from a site that is residentially used and either residentially zoned or guided;~~

~~—(ii) In the Limited Industry (I-2) Zoning District, no perimeter screening is required around outdoor merchandise, materials and equipment when open storage has been approved as a principal use except when required through a condition of approval or abutting or across the street from a site that is residentially used and either residentially zoned or guided;~~

~~—(iii) No perimeter screening is required around materials and equipment being used for construction occurring on the site;~~

~~—(iv) No perimeter screening is required around merchandise displayed for sale on convenience facility with fuel sales pump islands; and~~

~~—(v) No perimeter screening is required around merchandise displayed for sale when otherwise allowed by the city code and located in an area approved for such use on the site plan.~~

~~—(E) Where required by the City Council through a condition of approval; and~~

~~—(F) On institutional use sites, along any property line that directly abuts a site that is used for single-family residential uses and either zoned or guided for single-family residential use, except that the approving body may waive the perimeter screening requirement where all property owners along the abutting property line or lines sign an affidavit agreeing to exempt the property from the perimeter screening requirement.~~

~~—(2) Perimeter screening standards.~~

~~—(A) Perimeter screening must be a minimum of five feet in height above grade.~~

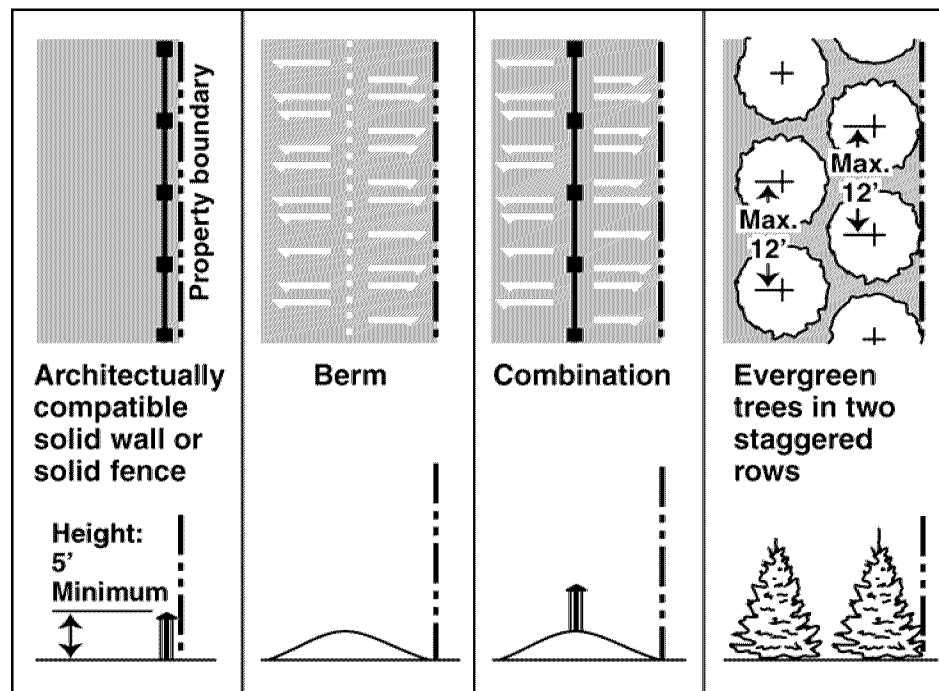
~~—(B) Perimeter screening (see Figure 19.52(a) below) must consist of:~~

~~—(i) An architecturally compatible opaque wall or opaque fence;~~

~~—(ii) A berm;~~

- (iii) ~~Two staggered rows of evergreen trees with trees in each row spaced at a maximum of 12 feet; or~~
- (iv) ~~A combination of the above.~~

~~Figure 19.52(a)~~



— (3) ~~Parking lot screening.~~ Parking lot screening designed to reduce the visual impact of surface parking lots; mitigate glare from headlights; improve the aesthetic quality of the area for users of the site, adjacent sites, roadways and sidewalks; and define the perimeter of the parking lot is required:

- (A) ~~Between those portions of an off-street parking area containing five or more parking spaces and a public street where the separation between the parking area and public street is 40 feet or less; and~~
- (B) ~~Where required by the City Council through a condition of approval.~~

— (C) ~~Parking lot screening requirements may be waived in circumstances where perimeter screening is provided or where the elevation of the parking area relative to the elevation of the street and sidewalk would make the screening ineffectual as determined by the Planning Manager.~~

— (4) ~~Parking lot screening standards.~~

— (A) ~~Parking lot screening must be placed where it will most effectively screen the perimeter of the parking lot to be screened.~~

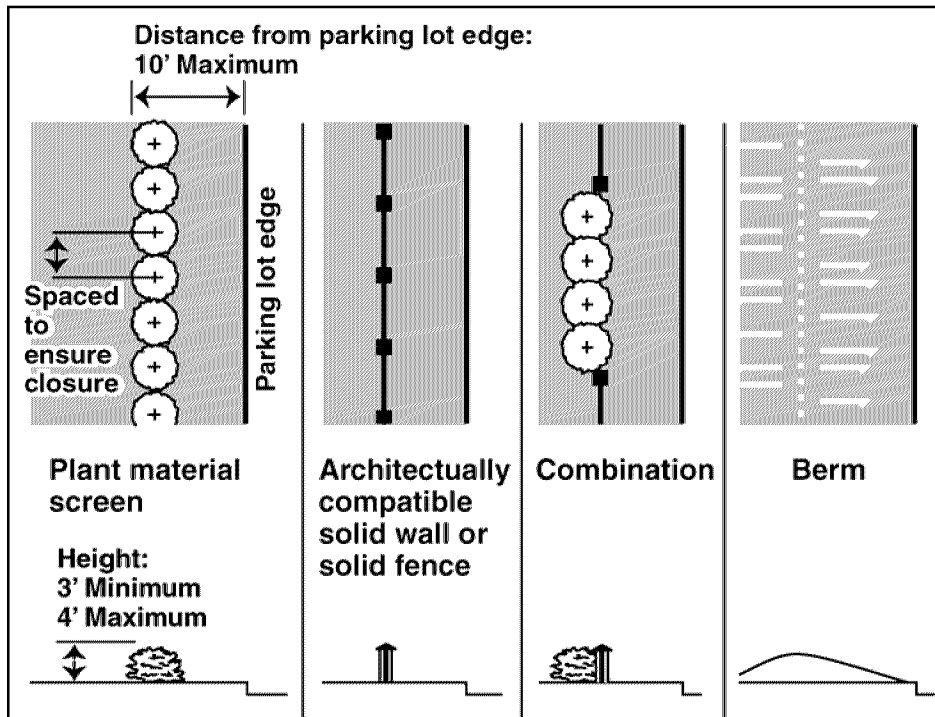
— (B) ~~Parking lot screening must be a minimum of three feet and a maximum of four feet in height as measured from the adjacent finished surface of the parking area. When shrubs are used to provide the screen, such shrubs must be at least two feet tall at planting and anticipated to grow to at least three feet tall at maturity.~~

— (C) ~~Parking lot screening (see Figure 19.52(b) below) must consist of:~~

- (i) ~~A compact hedge of evergreen or densely twigged deciduous shrubs spaced to ensure closure into a solid hedge at maturity;~~

- (ii) ~~Perennial plants, including grasses, that form a continuous visual screen;~~
- (iii) ~~An architecturally compatible wall or fence;~~
- (iv) ~~A berm; or~~
- (v) ~~A combination of the above.~~
- (vi) ~~Overstory trees, transit shelters, benches, bicycle racks and similar features may be integrated as a part of the screen.~~

~~Figure 19.52(b)~~



— (e) ~~Special design features.~~ The city allows and encourages use of xeriscaping, rain gardens, lakescaping, native prairie and long grasses in appropriate locations. Use of these materials is further discussed in the Planning Manager's *Landscaping and Screening Policies and Procedures* document.

— (f) ~~Restrictions.~~ The following restrictions on landscaping and screening apply to protect the public health, safety and welfare.

— (1) ~~Public easements.~~ Landowners are advised that landscaping features placed in a public easement may be removed without compensation if it is necessary to install, replace or maintain a public utility, sidewalk or drainage way within the easement. Trees, irrigation lines, berms, walls or fences must not be placed in a public easement where public improvements are located without the written approval of the Director of Public Works.

— (2) ~~Scenic easements.~~ No earth moving, construction of improvements, planting of new vegetation or removal of existing vegetation shall take place within scenic easements held by the city unless authorized by the city in accordance with the easement.

— (3) ~~Clear view triangle.~~ Landscaping and screening must not interfere with the clear view triangle as specified in §§ ~~17.31 and 17.32.~~

~~—(4) *Crime prevention through environmental design (CPTED)*. In support of CPTED principles designed to reduce the fear and incidence of crime and to improve the quality of life, landscaping must support the objectives of natural surveillance, territorial reinforcement, access control and maintenance. These CPTED objectives are further discussed in the Planning Manager's *Landscaping and Screening Policies and Procedures* document.~~

~~—(5) *Fire hydrant and utility clear zone*. The area three feet in radius around all fire hydrants, fire hose connections and utility boxes must be kept free of any trees, shrubs or other landscaping feature that could impede access to or use of the hydrant, fire hose connection or utility box.~~

~~—(g) *Authority of Planning Manager*. The Planning Manager shall have the authority to adopt and implement *Landscaping and Screening Policies and Procedures* for the purpose of specifying landscape plan submittal requirements, establishing surety rates and procedures, establishing landscape material costs for fees in lieu of planting on constrained sites, and offering landscaping and screening material and design recommendations.~~

~~—(h) *Maintenance*.~~

~~—(1) *Material maintenance*. The property owner must maintain all landscaping and screening materials shown on the approved landscape plan in a manner consistent with the intent and purpose of the plan and city code requirements. Approved landscaping and screening materials that die, become diseased or are significantly damaged must be replaced at the next appropriate planting period with new materials in conformance with the approved landscape plan and applicable city code standards.~~

~~—(2) *Structure maintenance*. Landscaping and screening structures such as fences and walls must be maintained in good condition, free of graffiti, peeling paint, decay or warping, must be repaired when needed and replaced periodically to maintain a structurally sound condition.~~

~~—(3) *Ground cover maintenance*. Ground cover must be maintained in accordance with §§ 10.37 through 10.42 of this code.~~

~~—(4) *Removal*. Unless a modified landscape plan is approved, landscaping and screening materials and structures approved on a landscape plan must not be removed except when replaced in accordance with this section.~~

~~—(5) *Surety*. To ensure that landscaping and screening is installed as proposed and survives through at least one full growing season, a landscape performance surety must be submitted prior to issuance of building permits for new development where a landscape plan is required. The landscape surety rate and procedures are set forth in the Planning Manager's *Landscaping and Screening Policies and Procedures* document. The surety may consist of a bond, an irrevocable letter of credit, cash deposit or other instrument which provides an equal performance guarantee to the city.~~

~~—(i) *Redevelopment compliance*.~~

~~—(1) *Redevelopment or large addition*. When either full redevelopment of a site is proposed or an addition that would increase total floor area on a site by 25% or more, a landscape plan for the entire site, demonstrating compliance with the requirements of this section, must be submitted for approval.~~

~~—(2) *Small addition*. When an addition is proposed that would increase total floor area on a site by less than 25%, but would physically impact existing landscaping, a modified landscape plan for the portion of the site affected by the addition, demonstrating compliance with the requirements of this section, must be submitted for approval.~~

~~—(3) *Reserved*.~~

~~—(4) *Additional requirements.* Additional requirements for nonconformities are set forth in § 21.504 of this code.]~~

§ 19.53 [TREE PRESERVATION] RESERVED.

~~(a) *Purpose.* The City Council recognizes that preservation and replanting of trees is important on new single-family residential development sites in order to maintain a healthy and desirable community. The City Council also recognizes that a certain amount of tree loss is an inevitable consequence of the residential development process. The City Council finds that these tree preservation regulations help to establish a balance between an individual's rights to develop his or her property and the needs of the community to protect the natural environment. The purpose of these tree preservation regulations includes, but is not limited to:~~

~~—(1) Prevention of soil erosion and sedimentation;~~

~~—(2) Improved air quality;~~

~~—(3) Reduced noise pollution;~~

~~—(4) Energy conservation through windbreaks and shading;~~

~~—(5) Control of the urban heat island effect;~~

~~—(6) Increased property values;~~

~~—(7) Protection of privacy by maintaining and establishing buffers between conflicting land uses;~~

~~—(8) Enhanced aesthetics; and~~

~~—(9) Providing habitat for wildlife.~~

~~(b) *Applicability.* The regulations contained in this section shall apply to all proposed single and two-family residential lots for which a plat application was received after August 31, 2006, with the exception of plats that create only lot line adjustments and do not alter the number of lots. The regulations continue to apply for a period of two years after the date the plat was recorded with the county.~~

~~(c) *Definitions.* The following definitions supplement those in § 19.03 and apply only to this section of this code.~~

~~—**CRITICAL ROOT ZONE.** The area within a radius surrounding the tree trunk of one foot per one inch DBH of tree diameter. For example, a 20 inch DBH tree has a **CRITICAL ROOT ZONE** with a radius of 20 feet.~~

~~—**DBH.** Diameter at breast height. The diameter of a tree measured four and one-half feet above grade level.~~

~~—**DISTURBANCE ZONES.** That part of a site disturbed by tree clearing, grading, trenching or any other construction activities.~~

~~—**HEALTHY TREE.** Any significant tree except those deemed diseased by a certified forester, arborist or the City Forester.~~

~~—**SIGNIFICANT TREE.** Any healthy deciduous hardwood tree (except willow, boxelder, aspen, silver maple and multiple-stem cottonwood) measuring 12 inches DBH or greater (or six inches DBH or greater in the case of oak, sugar maple, ironwood and hickory) and any healthy coniferous tree (except multiple stem white cedar) measuring eight inches DBH or greater.~~

~~— **TREE TRUNK.** The stem portion of a tree from the ground to the first branch thereof.~~

~~— (d) *Removal threshold.*~~

~~— (1) Removal or disturbance of significant trees on lots or proposed lots in the R-1, R1-A and RS-1 Zoning Districts beyond 50% of the total inches DBH of significant trees on the lot or proposed lot requires reforestation as specified in this section. The following trees are not counted toward the calculation of significant trees:~~

~~— (A) Trees within existing or proposed conservation and protective easements;~~

~~— (B) Trees within 100-year floodplains;~~

~~— (C) Trees within wetlands;~~

~~— (D) Trees on slopes greater than 25%; and~~

~~— (E) Trees deemed diseased by a certified forester.~~

~~— (2) Significant trees within existing conservation and other protective easements, floodplains, wetlands or on slopes greater than 25% must be preserved and may only be removed upon issuance of a permit from the City Forester.~~

~~— (e) *Reforestation requirement.* When reforestation is required, the landowner is required to prepare a reforestation plan and must mitigate the loss of significant trees by planting 1.25 caliper inches of replacement trees for each inch DBH of significant trees removed beyond the removal threshold.~~

~~— (f) *Tree preservation standards.* To receive credit for preserving existing significant trees, significant trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following preservation standards apply:~~

~~— (1) Construction activities including parking, material storage, dirt stockpiling, concrete washout and other similar activities must not occur within the critical root zone of any significant tree to be preserved.~~

~~— (2) There shall be no changes to the grade within the critical root zone of any significant tree to be preserved.~~

~~— (3) A reasonable effort must be made to have utility line trenches and similar uses avoid the critical root zone of any significant tree to be preserved. Due to certain site conditions, where disturbance is unavoidable, the City Forester may approve underground tunneling or directional boring of utilities within the critical root zone of any significant tree to be preserved. Trenching, when approved by the City Forester, must be used only as the last alternative and root pruning equipment specifically designed for that purpose must be used. Pruned roots must be sealed with nontoxic wound sealant.~~

~~— (4) Prior to issuance of building or grading permits, protective fencing must be installed around the limits of the disturbance zone or around the critical root zone of significant trees to be preserved. Such fences must be at least four feet high and must consist of orange polyethylene safety fencing. Fencing must remain in place until construction is completed or other landscaping has been installed and the City Forester has approved the removal of the fencing.~~

~~— (5) Owners pruning oak trees between April 15 and July 1 must apply an appropriate nontoxic tree wound sealant to any cut areas.~~

~~— (g) *Tree survey and tree preservation plans.* All plat applications that would create one or more new parcels in the R-1, R-1A and RS-1 Zoning Districts must include both a tree survey and a tree preservation plan. Tree survey and tree preservation plans must be prepared and signed by a registered surveyor and must include the following information:~~

- ~~— (1) Location, diameter and species of all significant trees on the site as well as significant trees within ten feet of the site that will be impacted by the development.~~
- ~~— (2) Plans must be at the same scale as the plat plans and must show the proposed lots, existing and proposed structures, driveways, retaining walls and other construction, existing and proposed utilities, existing topography and proposed grading, existing and proposed easements, slopes over 25%, wetlands, conservation or restrictive easements, 100-year floodplains and setbacks.~~
- ~~— (3) Plans must identify which significant trees are:

 - ~~— (A) To be protected, preserved and undisturbed;~~
 - ~~— (B) To be removed or disturbed; and~~
 - ~~— (C) Not counted in the calculation as discussed in subsection (d)(1) above.~~~~
- ~~— (4) Plans must identify proposed disturbance zones by cross-hatching or gray colored shading on the plan and must identify areas of clearing, grading, trenching and similar activities.~~
- ~~— (5) Plans must identify the location of the critical root zone of any significant trees to be saved within 30 feet of proposed disturbance zone.~~
- ~~— (6) Plans must identify the location and dimensions of building pads, construction zones for each lot and proposed street layout and grading contours of the site.~~
- ~~— (7) Plans must identify the proposed locations and details of tree protection fencing or other tree protection measures to be installed for all significant trees to be preserved.~~
- ~~— (8) Signature and registration number of the registered surveyor preparing the plan.~~
- ~~— (9) Calculation of total significant tree inches DBH proposed to be removed or disturbed on the site (excluding exempt tree inches) divided by the total significant tree inches DBH on the site (excluding exempt tree inches); showing the net percentage of removal/disturbance.~~
- ~~— (10) Plans must identify the location of trees proposed to meet reforestation requirements.~~
- ~~— (h) *Reforestation plan.* All plat applications that would create one or more new parcels in the R-1, R-1A and RS-1 Zoning Districts must include a reforestation plan if the amount of significant tree caliper inches to be removed or disturbed as shown on the tree survey and tree preservation plans exceeds the removal threshold. The reforestation plan must be prepared and signed by a registered landscape architect or forester and must comply with the following criteria.~~
 - ~~— (1) The plan must indicate the location and caliper inches or height of all trees to be planted.~~
 - ~~— (2) No more than one-half of the trees to be planted may be from any one species.~~
 - ~~— (3) Trees are encouraged to be of similar species as found on the site.~~
 - ~~— (4) No more than 15% of the required tree inches may be of ornamental species.~~
 - ~~— (5) The minimum planting size for deciduous trees is two and one-half caliper inches.~~
 - ~~— (6) The minimum planting size for coniferous trees is six feet in height.~~
 - ~~— (7) Trees must be planted a minimum of 15 feet apart from one another and from existing trees, except where approved by City Forester.~~
 - ~~— (8) Trees to be planted must be from certified nursery stock as defined and controlled by M.S. Chapter 18H, as it may be amended from time to time, the Plant Pest Act.~~

~~—(9) The plan must include a planting schedule with a tree key, botanical and common tree names, the quantity and size of each tree species to be planted, the total caliper inches of trees to be added and the anticipated heights and spread at maturity.~~

~~—(10) Unless approved by the City Engineer, trees must not be planted within 15 feet of city curb and gutter or sidewalk, must not be planted in a clear view triangle and must not be planted in a public utility easement.~~

~~—(i) Authority of the City Forester.~~

~~—(1) The tree survey, tree preservation plan and any related reforestation plan must be reviewed and evaluated by the City Forester.~~

~~—(2) The City Forester shall have the authority to approve, deny, condition or reject as incomplete a tree survey, tree preservation plan and reforestation plan.~~

~~—(3) A tree preservation plan and reforestation plan may be amended after it has been approved. The City Forester shall have authority to approve amendments, except that a change resulting in removal of more than 10% of the significant tree inches DBH that were shown as preserved on an approved tree preservation plan shall require further review by the City Council. As part of any amendment to a tree preservation plan, the required reforestation shall be increased or reduced accordingly. Requests for amendments must be submitted prior to removal of any trees shown as preserved on an approved plan.~~

~~—(4) The City Forester shall have the authority to establish surety rates.~~

~~—(j) Surety. When a reforestation plan is required, a reforestation surety must be submitted prior to issuance of a grading permit, or building permit if no grading permit is required, to ensure that proposed trees shown on a reforestation plan are installed as proposed and survive through at least one full growing season. The reforestation surety must reflect the average market rates for providing, installing and warranting plant materials that equal or exceed the total required reforestation caliper inches multiplied by the average value per caliper inch of trees as determined by the City Forester. The minimum surety amount is \$1,000. The surety must be maintained at the calculated level until one year passes from the time of tree planting and the city has inspected the site for conformance to the plan and authorized a reduction or release. The surety may consist of a bond, an irrevocable letter of credit, cash deposit or other instrument which provides an equal performance guarantee to the city.~~

~~—(k) Inspection and enforcement of the tree preservation plan.~~

~~—(1) Field staking and pre-grading inspection. When a tree preservation plan is required, all sites must be staked and fenced for tree preservation pursuant to the approved tree preservation plan prior to removal of any trees and prior to issuance of a grading permit, or prior to commencement of any grading operations if no grading permit is required, or prior to issuance of a building permit if no grading operations are required. A copy of the approved tree preservation plan must be submitted with an application for a grading permit or with an application for a building permit if no grading permit is required. Upon staking of the site and installation of the tree protection fencing, but prior to issuance of any permits or commencement of any grading operations, the subdivider must contact the City Forester to schedule an inspection of the staking and fence installation on the site. No permits may be issued, nor may any grading or grubbing operations commence without first receiving authorization by the City Forester. Tree protection fencing must remain in place until after the permanent certificate of occupancy is issued for the building on the site.~~

~~—(2) Post grading inspection. Upon completion of the preliminary site grading operations, but prior to any further issuance of permits upon the site, the subdivider (or builder if different than the subdivider) must contact the City Forester to schedule a second inspection of the site to verify the preservation of trees as shown on the approved tree preservation plan.~~

~~—(3) *Final inspection.* Prior to issuance of a certificate of occupancy, the subdivider (or builder if different than the subdivider) must contact the City Forester to schedule a final tree preservation inspection to verify the preservation of significant trees and the planting of any reforestation trees as shown on the approved tree preservation plan.~~

~~—(l) *Violations.* Violation of any provision of this section shall be a misdemeanor. Provisions of this section may be enforced by injunction or other appropriate civil remedy. In the case of a violation of the provisions of this section, additional permits or certificates of occupancy must not be issued for the lot or lots that have violations until the violation is mitigated through reforestation or other appropriate measures.~~

§ 19.63 PLACES OF ASSEMBLY.

(b) *Screening.* Where a place of assembly is adjacent to a residential use screening must be provided along the boundary adjacent to any property used for residential purposes. Such screening ~~[shall]~~ must consist of a solid fence or wall not less than five feet high, but ~~[shall]~~ may not extend within 15 feet of any street or driveway. Such screening will not be required along a public street. The provisions of § ~~[19.52]~~ 21.301.15 (d)(1) ~~[shall]~~ apply to place of assembly sites. This provision may be waived by the City Council at the time of approval of site plans if the Council finds that no adverse impact on adjacent properties will be created by such waiver, or if the Council finds that requiring such screening would have an adverse impact on adjacent residential properties.

Section 4. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

CHAPTER 21: ZONING AND LAND DEVELOPMENT

ARTICLE II. DISTRICTS AND USES

DIVISION E. INDUSTRIAL ZONING DISTRICTS

§ 21.206.04 INDUSTRIAL PARK (IP) DISTRICT.

(c) *Standards.* Development in the IP District must comply with the following standards:

(6) Loading docks and freight handling areas may not be on a street frontage or in a front yard. All freight handling facilities, whether by railroad or truck, must be on elevations that do not face on any street or proposed street.

(A) Loading docks and freight handling area must be screened, pursuant to perimeter screening requirements contained in § ~~[49-52]~~ 21.301.15, from public view from street rights-of-way and adjacent residential uses.

(d) *Off-street parking.* Off-street parking for the IP District must be provided in accordance with the requirements of §§ 21.301.06 and ~~[49-52]~~ 21.301.15 of this code and with the following additional design standard:

ARTICLE III. DEVELOPMENT STANDARDS

DIVISION A. GENERAL STANDARDS

§ 21.301.05 DRIVE THROUGH FACILITIES.

Drive through facilities must comply with the following standards.

(d) *Screening.* All elements of the drive through service area, including, but not limited to, menu boards, order stations, teller windows and vehicle lights from the stacking lanes, must be screened from view of residential properties zoned R-1, R-1A, RS-1, R-3, R-4, RM-12, RM-24, RM-50 or RM-100 located within 300 feet. Screening must comply with the perimeter screening standards specified in § ~~[49-52]~~ 21.301.15 (d).

§ 21.301.06 PARKING AND LOADING.

(b) *Location.*

(2) *Prohibited locations.* Accessory off-street parking is prohibited in the following locations:

(B) On grass or landscaped areas pursuant to § ~~[19.52]~~ 21.301.15 of this code, in addition to the restrictions set out in Chapter 8 of the city code; and

(c) *Design.*

(2) *Other land uses.*

(G) *Light pollution and glare.*

(i) *Vehicle headlights.* Parking lots and parking structures must comply with the screening standards of § ~~[19.52]~~ 21.301.15 of this code.

(H) *Parking islands.*

(iii) A minimum of one deciduous tree must be provided per parking lot island, with exceptions as set forth in § ~~[19.52]~~ 21.301.15 of this code.

(I) *Setbacks for surface parking.*

(i) The required setback for surface parking is a minimum of 20 feet from a planned widened right-of-way line and a minimum of five feet from a property line not abutting a street. In mixed use districts (B-4, C-5, LX), setbacks from streets may be reduced if screening is provided that meets the standards in § ~~[19.52]~~ 21.301.15 (d).

(h) *Parking structures.*

(2) *Screening and design requirements.*

(A) *Screening.* Above grade parking structures must meet the applicable zoning district requirements regarding screening of surface parking. Where the roof or any portion of the roof of an underground structure or a qualifying structure is used for surface parking, such parking must meet the applicable zoning district requirements regarding screening of surface parking. Parking garage structures which are abutting a single-family or two-family use must provide and maintain a visual screen at the entrance and exit areas to the structure. See § ~~[19.52]~~ 21.301.15 of this code for screening requirements.

§ 21.301.06 FENCES.

(4) *Screening.* See §§ 8.16, 10.05, 10.29.05, 10.38, 10.57, 19.31.01, 19.49, ~~[19.52]~~ 21.301.15, 19.62.01, 19.63, 19.63.07, 21.206.04, 21.301.05, 21.301.06, 21.301.13, 21.301.16, 21.301.17, 21.302.01, 21.302.02, 21.302.13, 21.302.16, and 21.302.31 for specifications on required screening standards, to include fences as a method of screening.

§ 21.301.14 [RESERVED] TREE PRESERVATION.

(a) Purpose. The City Council recognizes that preservation and replanting of trees is important on new single-family residential development sites in order to maintain a healthy and desirable community. The City Council also recognizes that a certain amount of tree loss is an inevitable consequence of the residential development process. The City Council finds that these tree preservation regulations help to establish a balance between an individual's rights to develop his or her property and the needs of the community to protect the natural environment. The purpose of these tree preservation regulations includes, but is not limited to:

- (1) Prevention of soil erosion and sedimentation;
- (2) Improved air quality;
- (3) Reduced noise pollution;
- (4) Energy conservation through windbreaks and shading;
- (5) Control of the urban heat island effect;
- (6) Increased property values;
- (7) Protection of privacy by maintaining and establishing buffers between conflicting land uses;
- (8) Enhanced aesthetics; and
- (9) Providing habitat for wildlife.

(b) Applicability. The regulations contained in this section apply to all proposed single- and two-family residential lots for which a plat application was received after August 31, 2006, with the exception of plats that create only lot line adjustments and do not alter the number of lots. The regulations continue to apply for a period of two years after the date the plat was recorded with the county.

(c) Definitions. The following definitions supplement those in § 19.03 and apply only to this section of this code.

CRITICAL ROOT ZONE. The area within a radius surrounding the tree trunk of one foot per one inch DBH of tree diameter. For example, a 20 inch DBH tree has a **CRITICAL ROOT ZONE** with a radius of 20 feet.

DBH. Diameter at breast height. The diameter of a tree measured four and one-half feet above grade level.

DISTURBANCE ZONES. That part of a site disturbed by tree clearing, grading, trenching or any other construction activities.

HEALTHY TREE. Any significant tree except those deemed diseased by a certified forester, arborist or the City Forester.

SIGNIFICANT TREE. Any healthy deciduous hardwood tree (except willow, boxelder, aspen, silver maple and multiple stem cottonwood) measuring 12 inches DBH or greater (or six inches DBH or greater in the case of oak, sugar maple, ironwood and hickory) and any healthy coniferous tree (except multiple stem white cedar) measuring eight inches DBH or greater. For the purposes of this Section 21.301.14, a prohibited tree species identified in Section 18.03 may be considered a significant tree, unless otherwise specified.

TREE TRUNK. The stem portion of a tree from the ground to the first branch thereof.

(d) Removal threshold.

(1) Removal or disturbance of significant trees on lots or proposed lots in the R-1, R1-A and RS-1 Zoning Districts beyond 50% of the total inches DBH of significant trees on the lot or proposed lot requires reforestation as specified in this section. The following trees are not counted toward the calculation of significant trees:

(A) Trees within existing or proposed conservation and protective easements;

(B) Trees within 100-year floodplains;

(C) Trees within wetlands;

(D) Trees on slopes greater than 25%; and

(E) Trees deemed diseased by a certified forester.

(2) Significant trees within existing conservation and other protective easements, floodplains, wetlands or on slopes greater than 25% must be preserved and may only be removed upon issuance of a permit from the City Forester.

(e) Reforestation requirement. When reforestation is required, the landowner is required to prepare a reforestation plan and must mitigate the loss of significant trees by planting 1.25 caliper inches of replacement trees for each inch DBH of significant trees removed beyond the removal threshold.

(f) Tree preservation standards. To receive credit for preserving existing significant trees, significant trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following preservation standards apply.

(1) Construction activities including parking, material storage, dirt stockpiling, concrete washout and other similar activities must not occur within the critical root zone of any significant tree to be preserved.

(2) There must be no changes to the grade within the critical root zone of any significant tree to be preserved.

(3) A reasonable effort must be made to have utility line trenches and similar uses avoid the critical root zone of any significant tree to be preserved. Due to certain site conditions, where disturbance is unavoidable, the City Forester may approve underground tunneling or directional boring of utilities within the critical root zone of any significant tree to be preserved. Trenching, when approved by the City Forester, must be used only as the last alternative and root pruning equipment specifically designed for that purpose must be used. Pruned roots must be sealed with nontoxic wound sealant.

(4) Prior to issuance of building or grading permits, protective fencing must be installed around the limits of the disturbance zone or around the critical root zone of significant trees to be preserved. Such fences must be at least four feet high and must consist of orange polyethylene safety fencing. Fencing must remain in place until construction is completed or other landscaping has been installed and the City Forester has approved the removal of the fencing.

(5) Owners pruning oak trees between April 15 and July 1 must apply an appropriate nontoxic tree wound sealant to any cut areas.

(g) Tree survey and tree preservation plans. All plat applications that would create one or more new parcels in the R-1, R-1A and RS-1 Zoning Districts must include both a tree survey and a tree

preservation plan. Tree survey and tree preservation plans must be prepared and signed by a registered surveyor and must include the following information.

- (1) Location, diameter and species of all significant trees on the site as well as significant trees within ten feet of the site that will be impacted by the development.
 - (2) Plans must be at the same scale as the plat plans and must show the proposed lots, existing and proposed structures, driveways, retaining walls and other construction, existing and proposed utilities, existing topography and proposed grading, existing and proposed easements, slopes over 25%, wetlands, conservation or restrictive easements, 100-year floodplains and setbacks.
 - (3) Plans must identify which significant trees are:
 - (A) To be protected, preserved and undisturbed;
 - (B) To be removed or disturbed; and
 - (C) Not counted in the calculation as discussed in subsection (d)(1) above.
 - (4) Plans must identify proposed disturbance zones by cross-hatching or gray colored shading on the plan and must identify areas of clearing, grading, trenching and similar activities.
 - (5) Plans must identify the location of the critical root zone of any significant trees to be saved within 30 feet of proposed disturbance zone.
 - (6) Plans must identify the location and dimensions of building pads, construction zones for each lot and proposed street layout and grading contours of the site.
 - (7) Plans must identify the proposed locations and details of tree protection fencing or other tree protection measures to be installed for all significant trees to be preserved.
 - (8) Signature and registration number of the registered surveyor preparing the plan.
 - (9) Calculation of total significant tree inches DBH proposed to be removed or disturbed on the site (excluding exempt tree inches) divided by the total significant tree inches DBH on the site (excluding exempt tree inches); showing the net percentage of removal/disturbance.
 - (10) Plans must identify the location of trees proposed to meet reforestation requirements.
- (h) *Reforestation plan.* All plat applications that would create one or more new parcels in the R-1, R-1A and RS-1 Zoning Districts must include a reforestation plan if the amount of significant tree caliper inches to be removed or disturbed as shown on the tree survey and tree preservation plans exceeds the removal threshold. The reforestation plan must be prepared and signed by a registered landscape architect or forester and must comply with the following criteria.
- (1) The plan must indicate the location and caliper inches or height of all trees to be planted.
 - (2) No more than one-half of the trees to be planted may be from any one species.
 - (3) Trees are encouraged to be of similar species as found on the site.
 - (4) No more than 15% of the required tree inches may be of ornamental species.
 - (5) The minimum planting size for deciduous trees is two and one-half caliper inches.
 - (6) The minimum planting size for coniferous trees is six feet in height.

- (7) Trees must be planted a minimum of 15 feet apart from one another and from existing trees, except where approved by City Forester.
- (8) Trees to be planted must be from certified nursery stock as defined and controlled by M.S. Chapter 18H, as it may be amended from time to time, the Plant Pest Act.
- (9) The plan must include a planting schedule with a tree key, botanical and common tree names, the quantity and size of each tree species to be planted, the total caliper inches of trees to be added and the anticipated heights and spread at maturity.
- (10) Unless approved by the City Engineer, trees must not be planted within 15 feet of city curb and gutter or sidewalk, must not be planted in a clear view triangle and must not be planted in a public utility easement.
- (i) *Authority of the City Forester.*
 - (1) The tree survey, tree preservation plan and any related reforestation plan must be reviewed and evaluated by the City Forester.
 - (2) The City Forester has the authority to approve, deny, condition or reject as incomplete a tree survey, tree preservation plan and reforestation plan.
 - (3) A tree preservation plan and reforestation plan may be amended after it has been approved. The City Forester has authority to approve amendments, except that a change resulting in removal of more than 10% of the significant tree inches DBH that were shown as preserved on an approved tree preservation plan requires further review by the City Council. As part of any amendment to a tree preservation plan, the required reforestation may be increased or reduced accordingly. Requests for amendments must be submitted prior to removal of any trees shown as preserved on an approved plan.
 - (4) The City Forester has the authority to establish surety rates.
- (j) *Surety.* When a reforestation plan is required, a reforestation surety must be submitted prior to issuance of a grading permit, or building permit if no grading permit is required, to ensure that proposed trees shown on a reforestation plan are installed as proposed and survive through at least one full growing season lasting one year. The reforestation surety must reflect the average market rates for providing, installing and warranting plant materials that equal or exceed the total required reforestation caliper inches multiplied by the average value per caliper inch of trees as determined by the City Forester. The minimum surety amount is \$1,000. The surety must be maintained at the calculated level until one year passes from the time of tree planting and the city has inspected the site for conformance to the plan and authorized a reduction or release. The surety may consist of a bond, an irrevocable letter of credit, cash deposit or other instrument which provides an equal performance guarantee to the city.
- (k) *Inspection and enforcement of the tree preservation plan.*
 - (1) *Field staking and pre-grading inspection.* When a tree preservation plan is required, all sites must be staked and fenced for tree preservation pursuant to the approved tree preservation plan prior to removal of any trees and prior to issuance of a grading permit, or prior to commencement of any grading operations if no grading permit is required, or prior to issuance of a building permit if no grading operations are required. A copy of the approved tree preservation plan must be submitted with an application for a grading permit or with an application for a building permit if no grading permit is required. Upon staking of the site and installation of the tree protection fencing, but prior to issuance of any permits or commencement of any grading operations, the subdivider must contact the City Forester to

schedule an inspection of the staking and fence installation on the site. No permits may be issued, nor may any grading or grubbing operations commence without first receiving authorization by the City Forester. Tree protection fencing must remain in place until after the permanent certificate of occupancy is issued for the building on the site.

(2) *Post grading inspection.* Upon completion of the preliminary site grading operations, but prior to any further issuance of permits upon the site, the subdivider (or builder if different than the subdivider) must contact the City Forester to schedule a second inspection of the site to verify the preservation of trees as shown on the approved tree preservation plan.

(3) *Final inspection.* Prior to issuance of a certificate of occupancy, the subdivider (or builder if different than the subdivider) must contact the City Forester to schedule a final tree preservation inspection to verify the preservation of significant trees and the planting of any reforestation trees as shown on the approved tree preservation plan.

(l) *Violations.* Violation of any provision of this section is a misdemeanor. Provisions of this section may be enforced by injunction or other appropriate civil remedy. In the case of a violation of the provisions of this section, additional permits or certificates of occupancy must not be issued for the lot or lots that have violations until the violation is mitigated through reforestation or other appropriate measures.

§ 21.301.15 [RESERVED] LANDSCAPING AND SCREENING.

(a) *Purpose and intent.* The city recognizes the health, safety, aesthetic, ecological and economic value of landscaping and screening. The provisions of this section are intended to:

- (1) Add visual interest to open spaces and blank facades;
- (2) Soften dominant building mass;
- (3) Provide definition for public walkways and open space areas;
- (4) Ensure significant tree canopy shading to reduce glare and heat build-up;
- (5) Improve the visual quality and continuity within and between developments;
- (6) Provide screening and mitigation of potential conflicts between activity areas and more passive areas;
- (7) Protect and improve property values;
- (8) Improve air quality and provide a buffer from air and noise pollution;
- (9) Ensure safe and aesthetic treatment of ponding areas;
- (10) Enhance the overall aesthetic conditions within the city;
- (11) Limit sight line obstructions and drainage conflicts;
- (12) Reduce the potential for criminal and illegal activities; and
- (13) Prevent conflicts with utilities.

(b) *Landscape plans.*

(1) Except for single family uses, a landscape plan must be submitted:

(A) With any application for new development;

(B) With any application for additions or modifications to existing development that physically impacts existing landscaping or screening; or

(C) When changes are made to an existing landscaping or screening plan on file with the city.

(2) Landscape plans must be reviewed and approved by the Planning Manager or designee.

- (3) Landscape plans must include information on existing and proposed landscaping and screening in accordance with the Planning Manager's *Landscaping and Screening Policies and Procedures* and landscape designers are encouraged to review and follow the policy recommendations therein.

(c) *Landscaping standards.*

- (1) *Soil surface stabilization.* All disturbed areas outside of designated planting beds must be permanently stabilized with an established plant or xeriscaping soil cover. Unstabilized soil surfaces (bare ground, dirt piles and the like) are allowed only when required by a construction project operating under a valid permit if a permit is required. Soil surface stabilization must be completed in conjunction with the construction project within the timeline specified in § 15.201 of this code.

- (2) *Minimum number of trees and shrubs.* Excluding exceptions specified in subsection (c)(2)(E) below, development must at a minimum provide the following numbers of trees and shrubs:

(A) One tree per 2,500 square feet of developable landscaping area; and

(B) One shrub per 1,000 square feet of developable landscaping area.

(i) Up to 50% of the required shrubs may be perennial plants.

(ii) Four perennial plants equal one shrub.

- (C) **DEVELOPABLE LANDSCAPING AREA** is defined as the total area of a development site or phase minus the portion of that area within:

(i) A natural water body;

(ii) A protected wetland;

(iii) A permanent significant natural wooded area; and/or

(iv) A scenic easement.

- (D) Existing healthy deciduous trees greater than four caliper inches or existing healthy evergreen trees greater than six feet in height that are located within the developable landscaping area and are not identified on the city's prohibited plant species list (see § 18.03) may be credited toward the minimum required trees on a site.

- (E) Exceptions:

(i) Single -family dwellings;

(ii) Two-family dwellings subject to the standards in Section 21.302.04;

(iii) In mixed use districts (B-4, C-5, LX) the number of trees and shrubs required in this section may be reduced by up to 25 percent; and

(iv) Fee in lieu of planting. If landscape planting at required levels results in overcrowding of vegetation due to site constraints, the property owner may reduce the number of proposed trees and/or shrubs on the site at the sole discretion of the City Council; provided a cash fee is deposited into a city designated fund that matches the cost differential between the planting required by this provision and the vegetation actually planted on the site as specified in the *Landscaping and Screening Policies and Procedures* document.

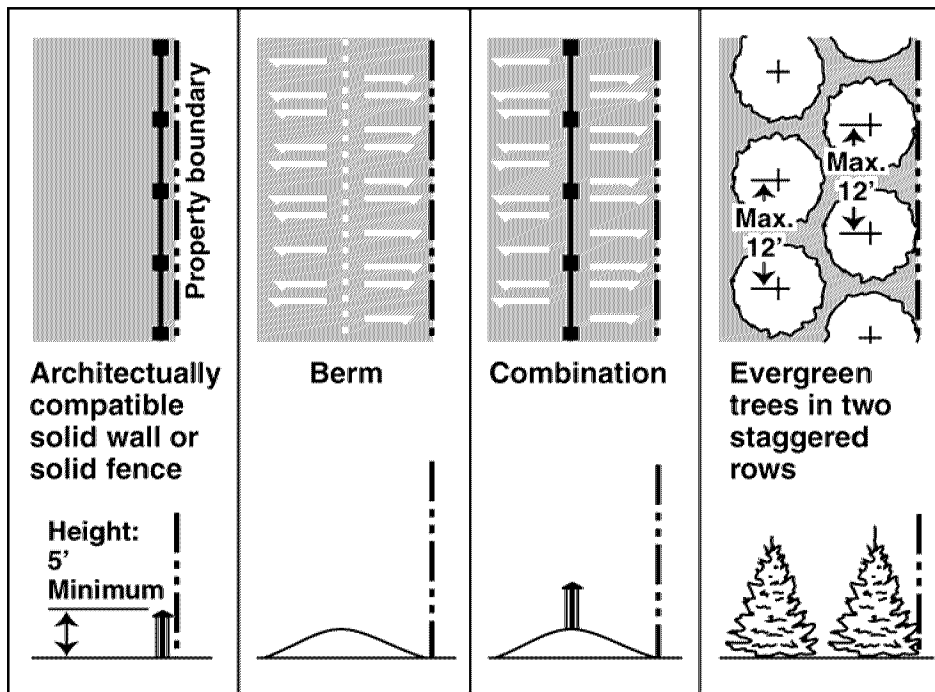
- (3) Minimum tree size. Required trees must meet the following minimum size standards:
 - (A) Overstory trees must be at least two and one-half caliper inches at planting;
 - (B) Single stem ornamental trees must be at least one and one-half caliper inches at planting; and
 - (C) Evergreen trees and multi-stem ornamental trees must be at least six feet in height at planting.
- (4) Minimum landscape yard. An area for landscaping, kept free of parking, storage or storm water ponds, must be provided around the perimeter of a site.
 - (A) Standards. Unless otherwise specified in the city code, the landscape yard must be a minimum of 20 feet deep when adjacent to public or private streets and a minimum of five feet deep when not adjacent to streets with the following exceptions:
 - (i) In the mixed use districts (B-4, C-5, LX) the landscape yard may be reduced to a minimum of five feet provided the screening standards in subsection (d)(4) below are met; and
 - (ii) Outside the B-4, C-5 and LX Zoning Districts, buildings may be located within the landscape yard when otherwise allowed by the city code.
 - (B) Elements permitted in landscape yard:
 - (i) Rain gardens included in an approved landscape plan;
 - (ii) Sidewalks, bus shelters and entrance drives; and
 - (iii) Buildings when otherwise allowed by the city code.
- (5) Native Prairie and Long Grasses. These plants are allowed as specified in Chapter 10, Article VI Weeds and Brush.
- (6) Streetscape. In areas where a district or street specific streetscape plan has been adopted by the City Council, development must provide streetscape plantings as set forth in the district or street specific streetscape plan. Streetscape plantings located within the property lines of the site may be credited toward the required number of trees and shrubs. Streetscape plantings in the public right-of-way are not credited toward the required number of trees and shrubs. Landscaping placed or removed in the public right-of-way must receive city approvals for right-of-way plantings (see § 18.07) and must conform with city right-of-way planting policies.
- (7) Parking island trees. A minimum of one deciduous tree must be provided per parking lot island, with the following exceptions:
 - (A) No trees are required in parking islands used for storm water management purposes;
 - (B) No trees are required in parking islands within structured parking facilities; and
 - (C) No trees are required in parking lots with 50 or fewer spaces.
- (d) Screening standards.
 - (1) Perimeter screening designed to buffer incompatible uses. Perimeter screening designed to buffer incompatible uses is required:
 - (A) Along any off-street parking area containing over six parking spaces that lies within 30 feet of an abutting site that is residentially used and either residentially zoned or guided;

- (B) Along any driveway to an off-street parking area containing over six parking spaces when the driveway is within 15 feet of an abutting site that is residentially used and either residentially zoned or guided;
- (C) On industrial sites, along any property line that directly abuts a site that is residentially used and either residentially zoned or guided and along any side or rear property line that faces across a street a site that is residentially used and either residentially zoned or guided;
- (D) Around outdoor merchandise, materials and equipment stored, kept or displayed with the following exceptions:
 - (i) In the General Industry (I-3) Zoning District, no perimeter screening is required around outdoor merchandise, materials and equipment except when required through a condition of approval or abutting or across the street from a site that is residentially used and either residentially zoned or guided;
 - (ii) In the Limited Industry (I-2) Zoning District, no perimeter screening is required around outdoor merchandise, materials and equipment when open storage has been approved as a principal use except when required through a condition of approval or abutting or across the street from a site that is residentially used and either residentially zoned or guided;
 - (iii) No perimeter screening is required around materials and equipment being used for construction occurring on the site;
 - (iv) No perimeter screening is required around merchandise displayed for sale on convenience facility with fuel sales pump islands; and
 - (v) No perimeter screening is required around merchandise displayed for sale when otherwise allowed by the city code and located in an area approved for such use on the site plan.
- (E) Where required by the City Council through a condition of approval; and
- (F) On institutional use sites, along any property line that directly abuts a site that is used for single-family residential uses and either zoned or guided for single-family residential use, except that the approving body may waive the perimeter screening requirement where all property owners along the abutting property line or lines sign an affidavit agreeing to exempt the property from the perimeter screening requirement.

(2) Perimeter screening standards.

- (A) Perimeter screening must be a minimum of five feet in height above grade.
- (B) Perimeter screening (see Figure 21.301.15(a) below) must consist of:
 - (i) An architecturally compatible opaque wall or opaque fence;
 - (ii) A berm;
 - (iii) Two staggered rows of evergreen trees with trees in each row spaced at a maximum of 12 feet; or
 - (iv) A combination of the above.

Figure 21.301.15(a)



(3) Parking lot screening. Parking lot screening designed to reduce the visual impact of surface parking lots; mitigate glare from headlights; improve the aesthetic quality of the area for users of the site, adjacent sites, roadways and sidewalks; and define the perimeter of the parking lot is required:

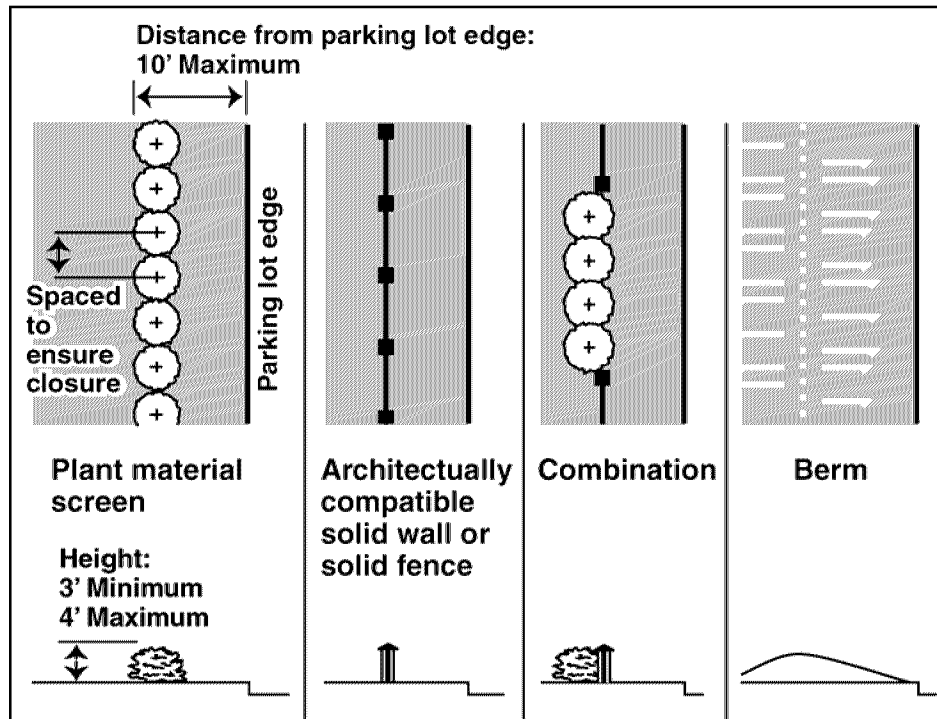
- (A) Between those portions of an off-street parking area containing five or more parking spaces and a public street where the separation between the parking area and public street is 40 feet or less; and
- (B) Where required by the City Council through a condition of approval.
- (C) Parking lot screening requirements may be waived in circumstances where perimeter screening is provided or where the elevation of the parking area relative to the elevation of the street and sidewalk would make the screening ineffectual as determined by the Planning Manager.

(4) Parking lot screening standards.

- (A) Parking lot screening must be placed where it will most effectively screen the perimeter of the parking lot to be screened.
- (B) Parking lot screening must be a minimum of three feet and a maximum of four feet in height as measured from the adjacent finished surface of the parking area. When shrubs are used to provide the screen, such shrubs must be at least two feet tall at planting and anticipated to grow to at least three feet tall at maturity.
- (C) Parking lot screening (see Figure 21.301.15(b) below) must consist of:
 - (i) A compact hedge of evergreen or densely twigged deciduous shrubs spaced to ensure closure into a solid hedge at maturity;

- (ii) Perennial plants, including grasses, that form a continuous visual screen;
- (iii) An architecturally compatible wall or fence;
- (iv) A berm; or
- (v) A combination of the above.
- (vi) Overstory trees, transit shelters, benches, bicycle racks and similar features may be integrated as a part of the screen.

Figure 21.301.15(b)



- (e) Special design features. The city allows and encourages use of xeriscaping, rain gardens, lakescaping, native prairie and long grasses in appropriate locations. Use of these materials is further discussed in the Planning Manager's *Landscaping and Screening Policies and Procedures* document.
- (f) Restrictions. The following restrictions on landscaping and screening apply to protect the public health, safety and welfare.
 - (1) Public easements. Landowners are advised that landscaping features placed in a public easement may be removed without compensation if it is necessary to install, replace or maintain a public utility, sidewalk or drainage way within the easement. Trees, irrigation lines, berms, walls or fences must not be placed in a public easement where public improvements are located without the written approval of the Director of Public Works.
 - (2) Scenic easements. No earth moving, construction of improvements, planting of new vegetation or removal of existing vegetation may take place within scenic easements held by the city unless authorized by the city in accordance with the easement.

- (3) Clear view triangle. Landscaping and screening must not interfere with the clear view triangle as specified in §§ 17.31 and 17.32.
 - (4) Crime prevention through environmental design (CPTED). In support of CPTED principles designed to reduce the fear and incidence of crime and to improve the quality of life, landscaping must support the objectives of natural surveillance, territorial reinforcement, access control and maintenance. These CPTED objectives are further discussed in the Planning Manager's *Landscaping and Screening Policies and Procedures* document.
 - (5) Fire hydrant and utility clear zone. The area three feet in radius around all fire hydrants, fire hose connections and utility boxes must be kept free of any trees, shrubs or other landscaping feature that could impede access to or use of the hydrant, fire hose connection or utility box.
- (g) Authority of Planning Manager. The Planning Manager has the authority to adopt and implement *Landscaping and Screening Policies and Procedures* for the purpose of specifying landscape plan submittal requirements, establishing surety rates and procedures, establishing landscape material costs for fees in lieu of planting on constrained sites, and offering landscaping and screening material and design recommendations.
- (h) Maintenance.
- (1) Material maintenance. The property owner must maintain all landscaping and screening materials shown on the approved landscape plan in a manner consistent with the intent and purpose of the plan and city code requirements. Approved landscaping and screening materials that die, become diseased or are significantly damaged must be replaced at the next appropriate planting period with new materials in conformance with the approved landscape plan and applicable city code standards.
 - (2) Structure maintenance. Landscaping and screening structures such as fences and walls must be maintained in good condition, free of graffiti, peeling paint, decay or warping, must be repaired when needed and replaced periodically to maintain a structurally sound condition.
 - (3) Ground cover maintenance. Ground cover must be maintained in accordance with §§ 10.37 through 10.42 of this code.
 - (4) Removal. Unless a modified landscape plan is approved, landscaping and screening materials and structures approved on a landscape plan must not be removed except when replaced in accordance with this section.
 - (5) Surety. To ensure that landscaping and screening is installed as proposed and survives through at least one full growing season lasting one year, a landscape performance surety must be submitted prior to issuance of building permits for new development where a landscape plan is required. The landscape surety rate and procedures are set forth in the Planning Manager's *Landscaping and Screening Policies and Procedures* document. The surety may consist of a bond, an irrevocable letter of credit, cash deposit or other instrument which provides an equal performance guarantee to the city.
- (i) Redevelopment compliance.
- (1) Redevelopment or large addition. When either full redevelopment of a site is proposed or an addition that would increase total floor area on a site by 25% or more, a landscape plan for the entire site, demonstrating compliance with the requirements of this section, must be submitted for approval.

(2) Small addition. When an addition is proposed that would increase total floor area on a site by less than 25%, but would physically impact existing landscaping, a modified landscape plan for the portion of the site affected by the addition, demonstrating compliance with the requirements of this section, must be submitted for approval.

(3) Reserved.

(4) Additional requirements. Additional requirements for nonconformities are set forth in § 21.504 of this code.

§ 21.301.16 EXTERIOR STORAGE.

(a) *In Residential (R) Districts.*

(3) Exceptions listed herein must not be construed to avoid the restrictions of §§ ~~[49.52]~~ 21.301.15 or 21.301.17, or of any conditions imposed on any conditional use permit.

(4) All screening must be consistent with the standards in § ~~[49.52]~~ 21.301.15. Before the erection of any screening required by this section, the plans for such screening must be approved by the Planning Manager.

(b) *In Industrial Districts.*

(1) *Exterior storage, incidental.*

(C) Exterior storage must be fully screened from public right-of-way and any non-industrially zoned or guided property in a manner consistent with § ~~[49.52]~~ 21.301.15 of the city code.

DIVISION B. USE STANDARDS

§ 21.302.04 TWO-FAMILY DWELLINGS.

(c) *Standards.*

(9) *Landscaping.* Two-family dwellings must submit a landscape plan prior to building permit issuance that includes at least two trees per unit located within the front yard and at least one shrub per 1,000 square feet of developable landscaping area as defined in city code § ~~[49.52]~~ 21.301.15 (c)(2)(C).

§ 21.302.06 INSTITUTIONAL USE STANDARDS.

(b) *Standards.*

(4) *Screening/buffering.* A perimeter landscape buffer is required pursuant to screening requirements contained in city code § ~~[49.52]~~ 21.301.15 (d)(2), where the institutional site directly abuts property that is used for single-family residential uses and either zoned or guided for single-family residential uses, unless a waiver is obtained pursuant to standards in § ~~[49.52]~~ 21.301.15 (d)(1)(F).

§ 21.302.08 TOWNHOUSE STANDARDS.

(c) *Standards.*

(15) *Landscaping.* Townhouse development landscaping must meet the landscaping requirements of § ~~19.52~~ 21.301.15.

§ 21.302.09 MULTIPLE-FAMILY DWELLING DESIGN AND PERFORMANCE STANDARDS.

(d) *Performance standards.*

(11) *Compliance with other sections.* Multiple-family developments must meet applicable standards within city code, including but not limited to:

(B) Landscaping (§ ~~19.52~~ 21.301.15);

§ 21.302.10 MANUFACTURED HOME PARK.

(c) *Standards.*

(7) *Landscape buffer.* Where the manufactured home park directly abuts property that is used for single-family residential uses or is either zoned or guided for single-family residential uses a perimeter landscape buffer is required pursuant to screening requirements in city code § ~~19.52~~ 21.301.15 (d)(2).

(10) *Compliance with other sections.* Manufactured home parks must meet applicable standards within city code, including but not limited to:

(B) Landscaping (§ ~~19.52~~ 21.301.15);

§ 21.302.17 MAJOR COMMERCIAL GOLF FACILITY.

(d) *Compliance with other sections.* Major commercial golf facilities must meet applicable standards within city code, including but not limited to:

(2) Landscaping (§ ~~19.52~~ 21.301.15);

§ 21.302.23 RESIDENTIAL CARE FACILITIES.

(d) *Standards.*

(1) *All facilities.*

(B) *Compliance with other sections.* Residential care facilities must meet applicable standards within city code, including but not limited to:

(ii) Landscaping (§ ~~19.52~~ 21.301.15);

(3) *Facilities serving seven or more persons.*

(B) *Landscape buffer.* A perimeter landscape buffer is required pursuant to screening requirements contained in § ~~[19.52]~~ 21.301.15 (d)(2), where the facility site directly abuts property that is either zoned or guided for single-family residential use.

§ 21.302.24 CONGREGATE LIVING FACILITIES.

(d) *Standards.*

(4) *Landscape buffer.* A perimeter landscape buffer is required pursuant to screening requirements contained in § ~~[19.52(d)(2)]~~ 21.301.15(d)(2), where the facility site directly abuts property that is used for single-family residential use that is either zoned or guided for single-family residential use.

(5) *Compliance with other sections.* Congregate living facilities must meet applicable standards within city code, including but not limited to:

(B) Landscaping (§ ~~[19.52]~~ 21.301.15);

§ 21.302.25 SCHOOLS AND COLLEGES.

(d) *Performance standards.*

(2) *Landscape buffer.* A perimeter landscape buffer is required pursuant to screening requirements contained in § ~~[19.52(d)(2)]~~ 21.301.15(d)(2), where the facility site directly abuts property that is used for single family residential and either zoned or guided for single-family residential use, unless a waiver is obtained pursuant to standards in § ~~[19.52(d)(1)(F)]~~ 21.301.15(d)(1)(F).

(6) *Compliance with other sections.* Schools and colleges must meet applicable standards within city code, including but not limited to:

(B) Landscaping (§ ~~[19.52]~~ 21.301.15);

§ 21.302.27 DAY CARE FACILITIES.

(c) *Standards.*

(4) *Day care facilities serving 13 or more persons.*

(D) *Landscape buffer.* Day care facilities serving 13 or more persons located adjacent to a single family residential district or a single family residential use must have a perimeter landscape buffer pursuant to screening requirements in city code § ~~[19.52(d)(2)]~~ 21.301.15(d)(2), unless a waiver is obtained pursuant to standards in § ~~[19.52(d)(1)(F)]~~ 21.301.15(d)(1)(F).

(6) *Compliance with other sections.* Day care facilities must meet applicable standards within city code, including but not limited to:

(B) Landscaping (§ ~~[19.52]~~ 21.301.15);

ARTICLE V. ADMINISTRATION AND NONCONFORMITY

DIVISION A. APPROVALS AND PERMITS

§ 21.501.01 FINAL SITE AND BUILDING PLANS.

(f) *Content.* Final site and building plan applications must include the following information, unless exempted by the Planning Manager:

(5) Plans, in a number of sets, sizes and formats specified by the Planning Manager, that include:

(V) A preliminary landscaping plan (see city code § ~~[19.52]~~ 21.301.15 and adopted landscape procedures);

Section 5. That Chapter 22 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

CHAPTER 22: SUBDIVISION AND PLATTING

DIVISION C. PROCESS

§ 22.05 PRELIMINARY PLATS.

(f) *Application content.*

(2) Type II and III preliminary plat applications must include all information required for Type I preliminary plat applications plus the following additional items:

(A) Where applicable, tree preservation plans in accordance with city code § ~~[19.53]~~ 21.301.14;

Passed and adopted this _____ day of _____, 2021.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney