

## **ARTICLE 8. RESOURCE PROTECTION STANDARDS**

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#### **8.1. ENVIRONMENTALLY SENSITIVE LANDS.**

##### **A. Definitions.**

The following words, terms and phrases, when used in Article 8, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adjacent to an environmentally sensitive land* means any location immediately abutting the boundary of an environmentally sensitive land, whether the location is on or off the development site.

*Adverse effects.*

1. The term "adverse effects" means any modification, alteration, or effect on waters, associated wetlands or shore lands, including their quality, quantity, hydrology, surface area, species composition or usefulness for human or natural uses which are or may be potentially harmful or injurious to:

- a. Human health, welfare, safety and property;
- b. Biological productivity;
- c. Diversity or stability; or
- d. Which unreasonably interferes with the reasonable use of property, including outdoor recreation.

2. The term "adverse effects" includes secondary impacts, cumulative impacts and direct impacts.

*Associated wetland* means any wetland that is adjacent or contiguous to water, or which has a hydrologic connection to waters.

*Clearing.*

1. The term "clearing" means the removal of trees and brush from the land.
2. The term "clearing" does not include the ordinary mowing of grass.

*Environmentally sensitive lands* means land areas that include:

1. Any wetland areas within the city under the jurisdiction of the state department of environmental protection, the U.S. Army Corps of Engineers, and/or all areas identified as wetlands by the North West Florida Water Management District (NFWFMD); and
2. All flood prone land areas classified by the Federal Emergency Management Agency as A or V Zones on the Flood Insurance Rate Maps.

*Types of buffers* means the buffer may be existing undisturbed natural vegetation or where the natural barrier was altered or no longer exists because of past lawful activities, a planted vegetated buffer supplemented with fencing or other manmade barriers, so long as the function of the buffer and intent of this policy are fulfilled. Fencing can be used to supplement the buffer requirements but may not be used as a replacement to the buffering requirements.

*Water or waters* includes, but is not limited to, water on or beneath the surface of the ground, including natural or artificial watercourses, streams, rivers, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

*Watercourse* means any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks or other discernible boundary.

*Water's edge and wetland's edge* means the water's edge or wetland's edge shall be determined by whichever of the following indices yields the most landward extent of waters or wetlands:

1. The boundary established by the annual mean high water (MHW) mark; or
2. The landward boundary of wetland vegetation as established by the state department of environmental protection or the U. S. Army Corps of Engineers (COE) jurisdictional determination.

*Wetlands* means those areas that fall under the jurisdiction of the U. S. Army Corps of Engineers or the state department of environmental protection. It also means those wetland areas identified by the Northwest Florida Water Management District.

#### **B. Intent.**

It is the intent of this article to provide specific requirements to ensure the protection and conservation of environmentally sensitive lands, including their natural functions.

#### **C. Requirements.**

Any development proposal containing environmentally sensitive lands (ESL), as herein defined, or development activity adjacent to ESL shall be classified as a major development for development review purposes. In addition to the requirements of this article all development activity within areas of special flood hazard must comply with the related requirements and provisions contained in section IV-3, flood damage prevention.

1. The planning and development department shall require that a jurisdictional determination be conducted in consultation with the state Department of Environmental Protection (DEP) and/or the U. S.

Army Corps of Engineers (COE) within proposed development areas deemed to be potentially classified as wetlands. It shall be the responsibility of the developer to obtain such a jurisdictional determination.

2. During the platting of environmentally sensitive lands, the city will allow lot layout and setbacks to vary so that development can be clustered on the upland portions of the site. Any development occurring in wetlands areas must meet state and federal permitting requirements.
3. Site plans for proposed development activity must identify the location and extent of jurisdictional wetlands and FEMA A and V zones.
4. Where the alteration of wetlands is necessary to allow for the reasonable use of the property, the site plans must provide measures to maintain the natural hydrology of the wetlands, such as constructing roadway and/or driveway culverts.
5. In addition to the stormwater management requirements specified in Article 9, the applicable best management practices specified in the state department of environmental protection regulations, shall be utilized during construction activity.
6. The construction of any structure, whether for residential or other purposes, or any use which may in any way impair the flow of floodwater within a designated floodway are prohibited.

**D. Vegetative buffer requirements.**

1. The city shall protect and conserve the natural functions of wetlands and waterbodies through wetland and shoreline protection buffers. The buffer width of wetland and shoreline protection buffers may vary depending upon such factors as slope, elevation and vegetation transition. The minimum required buffers shall be as follows:
  - a. For existing cleared industrial and commercial projects along rivers, streams and regulated wetlands, a minimum 15-foot buffer is to be provided. If there is a significant change to the project's scope of construction, development, or any considerable alteration of circumstance occurs relating to the current state and or use of the land, the buffer shall be increased to a 30-foot buffer of either natural or planted vegetation. Maintenance of the buffer shall be the sole responsibility of the land owner or lease holder.
  - b. **For new commercial projects on undeveloped land located along rivers, streams and regulated wetlands, a minimum 30-foot natural vegetative buffer shall be provided.** Thinning of the underbrush without disturbing the land will be allowed. The definition of underbrush and method of removal of the underbrush shall be as defined by FDEP and USACOE;
  - c. For existing cleared residential property the same requirements as subsection D(1)(a), above, shall apply with a minimum 15-foot buffer and the area between the rear building setback line and the buffer shall be stabilized and/or grassed; and
  - d. For residential development on undeveloped land, the same requirements as subsection D(1)(b) of this section, except the buffer provided shall be 20 feet and the area between the rear building setback line and the buffer shall be stabilized natural vegetation and/or grassed.
2. Allowable development within wetlands and associated wetland buffers includes, piers, docks, elevated walkways, public picnic pavilions, public parks, gazebos, or structures approved and permitted by the FDEP and/or USACOE and an attendant 15-foot wide cleared path through the buffer for

purposes of providing access to such structures. Encroachments are also permitted for roads, utilities and recreational crossings, consistent with permits issued by regulatory agencies. The number of such encroachments shall be minimized by collocation of utilities, roads and other crossings. The wetlands protection buffer shall begin at the state Department of Environmental Protection agency or the U. S. Army Corps of Engineers jurisdictional line, whichever is more landward. In the absence of wetlands along rivers and streams, a buffer extending landward of the mean or ordinary high-water line, as applicable, shall be required as specified in subsection (1)(a) of this section. The buffer zones shall consist of preserved native vegetation, including canopy, understory and ground cover whenever possible. If there is no native vegetation on the site, a planted vegetated buffer as indicated in subsection (1)(a) of this section shall be required as part of the site development. Variances to the buffer requirements shall only be granted when the strict application of the requirements limits all reasonable use of the property as allowed by the future land use map. All allowable development and encroachments shall limit impermeable surface area and shall utilize stormwater BMP's, indicated in Article 9, whenever possible.

3. Where sufficient uplands exist to locate the proposed development in the upland portion of the site, the city may allow the transfer of development at the lesser of the future land use densities established on the future land use map, or the density established for the assigned zoning district in these Land Development Regulations, from the wetland to the upland portion of the site. The transfer of density may occur provided all other plan provisions are satisfied regarding, but not limited to, upland and floodplain resource protection, compatibility of adjacent land use, stormwater management and setbacks. Transfer of development densities shall also satisfy the minimum lot size of the zoning district in which the lot is located.

4. Any new lots created hereafter will have enough buildable upland area to accommodate the level of development appropriate for the designated land use, so that wetland-impacts can be avoided and appropriate buffers accommodated. For lots existing prior to the adoption of the ordinance from which this article is derived, where sufficient upland does not exist to avoid a taking, development in the wetlands shall be restricted to allow the appropriate residential density use at the density of one dwelling unit per five acres. In the event a parcel is less than five acres, a single-family dwelling will be allowed on each parcel, which existed prior to the adoption of the ordinance from which this article is derived. Single-family dwelling development on existing parcels which are permitted pursuant to this policy that cannot meet the buffer requirements, may be reduced proportionately with the parcel dimensions. For lots existing prior to the adoption of the ordinance from which this article is derived, where sufficient depth of the uplands do not exist, to avoid a taking, development shall be restricted to a single-family dwelling subject to a reduced buffer. A lot lacking sufficient depth means a lot that is 100 feet or less. Such lots shall be subject to a minimum buffer of ten percent of the depth of the lot. The buffer may be supplemented with a fence to further protect the wetlands. Access to the river, stream or wetland shall be limited to a 15-foot swath, which shall be maintained in grass or other pervious material.

## **8.2 BLACKWATER RIVER PROTECTION.**

### **A. Definitions.**

The following words, terms and phrases, when used in **section IV-2.1**, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*River's edge* means from the top of bank of the normal stream channel.

### **B. Intent.**

It is the intent of this article to provide specific development requirements to protect the Blackwater River, which is classified as an outstanding Florida water, to include its water quality and recreational resources. Furthermore, it is the intent of this article to protect the Blackwater River from encroachment by development activity.

### **C. Requirements.**

The following protective measures shall be required, as applicable, for any development activity occurring in the vicinity of the Blackwater River:

1. Septic tank systems, including drainfields, shall be prohibited within 150 feet of the Blackwater River. New septic tanks shall only be allowed in areas with soil conditions classified by the Soil Conservation Service (SCS) Soil Survey for the county as acceptable for septic tank absorption fields; provided such systems are setback a minimum of 150 feet from the Blackwater River. Any remaining septic tank systems located within this 150-foot buffer shall be systematically converted to the central sanitary sewer system.
2. Specific development setbacks of 30 feet from the Blackwater River shall be required for both principal and accessory structures, for permitted and **special uses** within the RC-1 district. Boathouses, piers, and elevated walkways, pavilions, gazebos and other substantially similar structures shall be exempt from this provision. Any nonconformities resulting from the application of this article shall comply with the requirements of **section III-11, nonconformities**.

## **8.3. POTABLE WATER WELLHEAD PROTECTION.**

### **A. Definitions.**

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

1. *Protected wellhead* means any wellhead which supplies potable water for public consumption.
2. *Wellhead protection zone* means all land area within a 500-foot radius of an existing or proposed protected wellhead.

## **B. Intent.**

It is the intent of this section to ensure the protection of the public potable water supply through the appropriate site of land uses in proximity to wellheads and adequate capping and/or securing of abandoned wellheads.

## **C. Development restrictions.**

**1. Prohibited uses and development activities within the wellhead protection zone.** Development activities shall comply with all applicable federal, state, and regional regulations; specifically, the Florida Department of Environmental Protection (DEP) and the Northwest Florida Water Management District regulations governing allowable activities in proximity to wellheads. In order to protect water sources, including cones of influence, water recharge areas and water-wells, adverse land uses such as the following are prohibited within a wellhead protection zone:

- a. Sanitary landfills;
- b. Gasoline stations;
- c. Wastewater treatment facilities; or
- d. Other land uses which utilize, store or handle toxic or hazardous materials.

**2. Special restrictions on development allowed within the wellhead protection zone.**

- a. Stormwater management practices shall not include drainage wells for stormwater disposal where recharge is into potable water aquifers. Additional stormwater management requirements are specified in Article 9.
- b. Where prohibited uses and development are proposed in areas with existing protected wells, these wells shall be abandoned, including adequate sealing, plugging and abandonment, according to F.A.C. Ch. 62-528.

## **8.4 HISTORICAL RESOURCE PROTECTION.**

### **A. Definitions.**

The following words, terms and phrases, when used in **section IV-5.1**, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Certificate of appropriateness* means an official document certifying that the Milton Historic Preservation Board has reviewed an application for development approval and has found such application to meet the specific intent and requirements of this section.

*Development approval*, for this section only, means the approval of an alteration and renovation of regulated historic structures.

*Historic property* means any structure within the city limits that is listed on the Florida Master Site File Inventory for Santa Rosa County, included in the Santa Rosa County Historical/Architectural Survey, or listed on the National Register of Historic Places.

*Milton Historic District* means that land area within the city limits geographically defined by a designation on the National Register of Historic Places.

*Regulated historic property* means:

1. Any structure within the Milton Historic District listed as a contributing structure in the city's application for inclusion of the Milton Historic District on the National Register of Historic Places; and
2. Any structure located within the city limits listed on the National Register of Historic Places.

**B. Intent.**

The intent of this section shall be to:

1. Establish a historic preservation board;
2. Identify regulated historic structures;
3. Set forth requirements for the protection and preservation of regulated structures;
4. Define a process for review and appeals; and
5. Encourage the listing of additional properties as historic structures.

**C. Historic preservation board.**

1. *Established; membership.*

a. *Composition.* The Milton Historic Preservation Board is hereby established by the city council. Any restoration or alteration of regulated historic structures will be presented to the board for review and issuance of a certificate of appropriateness prior to the issuance of a development order or building permit by the development approval authority. The board shall be composed of seven members who are city residents and/or persons who own property within the city, appointed by the city council considering the following:

- i. A demonstrated interest in historic preservation;
- ii. A professional mix that provides for expertise in the fields of architecture, planning, engineering, law, or finance, to the extent reasonable and possible; and
- iii. Representation of the community at-large.

The board shall be provided staff support through the planning and development department for the city.

b. *Terms; vacancies, removal.* Members shall be appointed for a term of four years, except in the case of an appointment to fill a vacancy for the four-year period in which event the appointment shall be for the unexpired term only. Any member of the board may be removed from office by the city council in a regular meeting.

c. *Officers.* The board shall elect from among its members a chairman and vice-chairman.

2. *Duties and procedures.*

a. *Purpose.* The board shall have as its purpose the preservation and protection of buildings of historic significance. It shall be the board's duty to act upon plans for the alteration, renovation, or restoration of regulated historic structures to ensure conformance with the U.S. Secretary of the Interior's Standards for Rehabilitation. During the review process, the board shall also consider conformance to the development guidelines established for the city historic district.

b. *Plan submission procedure.*

i. *Required.* Every application for development approval to alter, renovate, or restore a regulated historic building located in the historic district or buildings listed on the National Register which are located outside the historic district, shall be required to submit plans for the proposed work in sufficient detail to allow for review by the board.

ii. *Plans defined; certificate of appropriateness.* Plans for renovations to nonregulated historic properties may, at the owner's election, be submitted for review by the historic preservation board in order to obtain a certificate of appropriateness. As used herein, the term "plans" means drawings or sketches with sufficient elevations to show the architectural design of the building (both before and after the proposed work is done in the case of altering or renovating a building or structure), including proposed materials, textures and colors, and the site plan or site layout, site improvements of features such as walls, walks, terraces, landscaping, that meet the requirements of subsection III-12.6(c), accessory buildings, signs, lights and other appurtenances.

iii. *Board meeting; notice.* Such plans shall be submitted to the planning and development department, who will forward such plans to the historic preservation board. Upon submittal of an application for development approval to the planning and development department, the applicant for any proposed development found to be under the jurisdiction of the historic preservation board, shall be notified of the time, date and place of the board's meeting. The applicant or authorized agent is encouraged to appear at the meeting at which the request is being considered by the board to review the alteration, renovation or restoration of the regulated historic structure which is under consideration.

c. *Review and decision.* The board shall promptly review such plans and make a determination as to conformance with the Secretary of the U. S. Department of Interior's Standards for Rehabilitation.

d. *Notification; building permit.* If the board finds the plans in conformance with the requirements of this section, a certificate of appropriateness will be issued. If the board does not find the plans in conformance, the applicant may resubmit plans to the board with the necessary changes, as specified by the board in its finding of nonconformance.

e. *Voting.* Decisions may be rendered when a quorum is present, by a simple majority of the board members present and voting.

#### **D. Standards for rehabilitation of historic structures.**

The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Regulated Historic Buildings and the City of Milton's Pattern Book are hereby adopted as review guidelines for the rehabilitation of regulated historic structures located within the city historic district, and those listed at the National Register, but located outside the historic district.

#### **E. Supplementary design review regulations.**

1. In the historic district, where a characteristic development pattern and distinctive architectural style have already been established, new development shall be planned to reinforce this special character. The early 1900's architectural style is the established theme for the historic district. In issuing land use certificates, the downtown redevelopment board shall review development plans, including exterior facades and sign construction and renovation, for conformance with the guidelines established in this section.

2. The adoption of guidelines herein are intended to provide flexibility in the development of property within the district in a manner which balances the interest of the property owner with the public's need for assurance that development will be orderly and aesthetically compatible with neighboring structures and historic resources.

3. Each development proposal within the historic district will be considered by the downtown redevelopment advisory board based upon the following guidelines:

a. *Site planning.* The historic character of the district shall be reflected as closely as possible in the site planning of new development. Site planning should also respect the precedents set by other buildings on a block. For example, the placement of new buildings on a lot should correspond to the setbacks, orientation, and spacing of adjacent buildings to ensure maximum consistency and compatibility of the overall streetscape.

b. *Architecture.* The early 1900's architectural theme is hereby established for the city historic district. The scale, height, massing, materials, textures, and colors of new buildings shall be compatible with those of existing structures to which such new construction or renovation is visually related. Architectural details which are similar to the details of adjacent existing buildings will have a unifying effect and are encouraged.

c. *Landscaping.* Landscaping and tree protection within the district shall be regulated in accordance with [section V-5](#). New landscaping should be consistent with the existing landscape character of the district. Courtyard and sidewalk paving material shall be consistent with the neighboring areas. The use of brick as a paving material is encouraged. Walls and fences shall be consistent with the approved fencing materials. Where common or centralized solid waste containers are proposed, such facilities shall be screened with vegetation, fencing or other appropriate materials.

d. *Fences.* Article 7, Section M(2) controls.

e. *Signs.* Signs in the historic district shall be regulated in accordance with [section V-7](#) and with the following specific requirements, or as otherwise approved by the downtown redevelopment advisory board.

i. On residential structures, one non-illuminated name plate designating the name of the occupant of the property is allowed. The name plate should not be larger than 100 square inches and may be attached to the building or be freestanding.

ii. Sign patterns and colors have been established for use in the historic district. Sign patterns shall be colonial design, semi-custom sign patterns, or the equivalent. Sign colors include those specified in [subsection III-12.6\(c\)\(6\)](#) for structures.

iii. Portable signs mounted on a trailer-type vehicle, and specifically designed to be temporary in nature are prohibited in the historic district.

iv. Within the historic district, signs projecting into or overhanging the public right-of-way are permitted subject to approval by the downtown redevelopment advisory board, and are subject to removal on 30 days notice if the city requires the space for any public purpose. Such signs shall be consistent with other sign criteria for the district and must be of a character and size consistent with the historic theme. Approval shall also be required for the hanging mount.

If the sign is to project over the state department of transportation's right-of-way (Caroline Street), approval would also be required of that agency prior to city approval.

All other criteria will be regulated in accordance with [section V-7 \(sign regulations\)](#).

4. *Exterior structure colors.* Historic period colors have been established for buildings in the historic district. These colors include, but are not limited to, Heritage Colors (authentic exterior colors for American buildings (1820-1920 by Sherwin Williams), or equivalent historic period colors by other paint brands.

#### **F. Incentives for preservation.**

1. Substantial rehabilitation (50 percent or greater of appraised value) of structures in flood zones is normally restricted; however, if a property is listed as significant on the Florida Master Site File, National Register, or by local designation, the restriction does not apply.

2. Owners of historic structures may petition the board of adjustment for a special exception for use, regardless of the zoning district. This allows buildings in residential districts to convert to office uses if the board of adjustment determines that the use is not injurious to the character of the neighborhood.

3. For designated properties, variances to parking requirements, lot size or other zoning requirements may be requested from the board of adjustment without proving a hardship. It must be shown that the granting of the variance will not injure the public health and safety of the area. Filing these types of petitions usually carries a fee, but this is waived for regulated historic structures.

#### **G. Appeals.**

Decisions of the historic preservation board may be appealed to the city council, sitting as the community redevelopment agency as provided for in [section II-6](#).

### **8.5 ARCHAEOLOGICAL RESOURCE PROTECTION.**

#### **A. Definitions.**

The following words, terms and phrases, when used in section 8.5, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Development activity* means an activity which involves the construction of a principal or an accessory structure, or which involves the alteration of the ground surface or subsurface.

## **B. Intent.**

It is the intent of this section to provide for the protection of archaeologically significant resources within the city's jurisdiction.

## **C. Requirement for construction activity.**

In the event that a proposed development plan has been identified by the planning and development department to be in the vicinity of an archaeologically significant site, the department shall require the owner to alert construction personnel in regards to this information. If at any time, a potentially significant archaeological site or artifact is uncovered during the development process, the owner shall notify the city. The city shall contact and consult with the University of West Florida, Office of Cultural and Archaeological Research and/or other appropriate state officials to determine the significance of the resource and identify the need for mitigation measures.

## **8.6 TREE PROTECTION**

### **A. Definitions.**

The following words, terms and phrases, when used in Section 8.6 and 8.7 of this Article shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Canopy* is a term used to refer to the reach or extent of the outer layers of leaves of a tree or group of trees.

*Canopy Trees*, also referred to as *Shade Trees*, are larger trees with foliage or canopy coverings. Well-known Canopy tree species include oaks, birches, crepe myrtles, elms, and others.

*Drip line* means the peripheral limits of a tree's horizontal crown spread projected vertically to the ground.

*Ground cover* means low growing plants planted in such a manner as to form a continuous cover over the ground and usually growing no higher than two feet.

*Heritage tree* means any tree with a trunk diameter of 36 inches or more, measured 4½ feet above grade, excluding Water Oaks, Laurel Oaks and pines.

*Landscape material.*

(1) The term "landscape material" means living material including, but not limited to:

- a. Trees, shrubs, vines, lawn grass and ground cover;
- b. Landscape water features; and
- c. Nonliving durable material commonly used in landscaping including, but not limited to:
  1. Rocks and pebbles;
  2. Sand weed barriers including, but not limited to:

- i. Polypropylene and jute mesh;
- ii. Brick paver;
- iii. Earthen mounds.

(2) The term "landscape material" does not include impervious surfaces for vehicular use.

*Open space* means:

- (1) Any vegetated nonuse area, including landscaped buffer zones;
- (2) Landscaped separation strips between roadways and off-street parking areas; and
- (3) Other landscaped areas, including undeveloped park and conservation areas.

*Parking lot* means an area of land use for the storage or parking of vehicles.

*Planting area* means that area within a development site designated or available for landscaping.

*Protected Tree* means any tree with a trunk diameter of ten inches or more measured 4½ feet above grade with the exception of Water Oaks and Laurel Oaks. Pine trees with a diameter less than 24 inches measured 4½ feet above grade and invasive or "trash" trees as designated by county or state authorities are not protected, nor are trees determined by the City's Planning and Development Department or Certified Arborist, if the City is unable to make the determination, to be diseased or injured trees or trees constituting a threat to public health and safety.

*Shade Tree* see *Canopy Tree*.

*Shrub* means shrubs shall be a minimum of one foot in height above grade when measured immediately after planting.

*Site development area* means the portion of a parcel where site and building improvements are located, including the required yard setback areas.

*Size*, where the term "size" is referenced in relationship to trees, it means the trunk diameter measured 4½ feet above grade.

*Tree* means any living, self-supporting, woody perennial plant which has a trunk diameter of no less than three inches measured at a height of 4½ feet above grade at the time of planting, and which normally grows to an overall height of no less than 15 feet in northwest Florida.

*Understory Tree* are typically those species of trees that will grow under larger canopy tree, they will usually stay short even into old age.

*Xeriscaping* is a landscaping concept which utilizes water efficient landscaping designs while remaining aesthetically pleasing

*Yard setback area* means the front, side and rear yard setbacks as required by applicable provisions of these Land Development Regulations.

## **B. Heritage tree preservation.**

- a.** Heritage trees shall be preserved within the city, unless removal is mitigated as set forth below. All land uses shall comply with the requirements of this section.
- b.** Protective measures during construction activity shall be afforded to heritage trees consistent with the requirements contained in subsection 8.6(C)(8).
- c.** Any application to remove a heritage tree shall specify the location and size of such tree and detail the reasons necessitating its removal. Such applications shall be reviewed and acted upon by the planning and development department.

## **C. Protected Trees.**

**1. Intent.** It is the intent of this section to:

- a.** Provide for the preservation of protected trees;
- b.** Help preserve the environment's ecological balance;
- c.** Reduce heat and glare; and
- d.** Reduce the degrading effects of thermal pollution and storm water runoff. It is not the intent of this section to prevent the cutting of trees for agricultural purposes.
- e.** Protected trees shall be preserved within the city unless removal is mitigated as set forth below.

**2. Applicability.** This section shall apply to all land area and districts, excepting single-family and duplex residential uses and agricultural uses.

**3. Exemptions.** The following trees are exempt from the provisions of this section:

- a.** Any tree located within utility easements and public rights-of-ways; which endanger the public safety and/or welfare; which interferes with utility service; which is required by a local, state or federal agency; or which is required to be removed to qualify for state or federal financial aid.

**4. Powerline easements.** The development approval authority may grant a waiver from the requirements of this section to the extent necessary to prevent interference with power company access on or to utility easements; provided that such waiver does not allow the unnecessary destruction or removal of heritage trees as defined above.

**5. Emergency exemptions.** During emergency conditions caused by a hurricane or other natural disaster, the provisions of this section may be suspended by direction of the city manager or mayor until the end of the emergency period. Notice of such emergency suspension shall be posted at city hall and in a newspaper of local circulation.

**6. Permit required; contents.** No person shall cut down, destroy, remove, relocate or destructively damage or cause to be cut down, destroyed, removed, relocated or destructively damaged any protected tree without first obtaining a permit from the city as herein provided. The information to be provided by the owner shall include:

- a.** The number, species, size and location of the affected protected tree; and

b. A brief statement of the reasons for the requested action.

**7. Application.** A permit application for the removal of a protected tree shall be made to the planning and development department. Such application shall only be approved if one of the following conditions exists, as determined by the zoning coordinator

a. A site plan submitted by the applicant shows that a proposed structure, permissible under all applicable laws and regulations, can be situated on a subject parcel only if specific protected trees are removed or relocated;

b. The protected tree is located in such proximity to existing or proposed structures that the utility or structural integrity of such structures is materially impaired;

c. The protected tree materially interferes with the location, servicing or functioning of public utility lines or service; and

d. The protected tree obstructs views of oncoming ground traffic or otherwise creates a substantial hazard to such traffic, or where the removal of the protected tree is necessary to comply with state and federal requirements or is necessary to obtain state or federal financial assistance.

**8. Protection during construction.**

a. During development activities, protected trees shall be safeguarded from activities which may injure or kill them.

b. At least 50 percent of the area within the drip line or the area within ten feet of the tree trunk, whichever is greater, shall be preserved in a natural state or provided with pervious landscaping. Within this area the soil shall be maintained at its original grade with no trenching or cutting of roots allowed. Any land clearing activities done in this area shall be done by hand. Beyond ten feet of the tree trunk and within the drip line, a light fill of porous gravelly material up to six inches deep may be added but no grade lowering shall occur. To accomplish deeper filling a drainage system shall be installed within the area defined in the drip line of the tree and a drywall shall be constructed at a distance at least ten feet from the trunk of the tree before gravel and porous fill are added.

c. Within the drip line there shall be no storage of fill or soil compaction as from heavy equipment, or any spilling, storage, or disposal of concrete, mortar, paint, solvents, chemicals, or other potentially harmful substances.

d. All trees to be protected shall be staked or fenced and conspicuously flagged throughout the construction process. A minimum of 50 percent of the area within the drip line and/or the area within ten feet of the tree trunk, whichever is greater, shall be staked and conspicuously flagged.

**9. Review.**

**1.** Permit applications for the removal of protected trees, including heritage trees, shall be made to the planning and development department. The department shall have ten working days in which to review the site plan and permit application, and make a determination as to whether the proposed removal of the protected tree is consistent with the provisions of this section. Upon a finding that the site plan and permit application is consistent with the provisions of this section, a city development permit shall be issued.

2. Upon finding that the site plan and permit is inconsistent with the provisions of this section, the planning and development department shall notify the applicant in writing as to what action must be taken to conform the site plan and permit application to the requirements of this section.

3. Additional requirements and review may apply within the Historic District and Downtown Community Redevelopment Areas.

**10. Mitigation requirements.**

1. All trees not considered heritage or protected, based on species or diameter, must be relocated or replaced on a two for one basis (two replacement trees for each removed) within all land uses and districts with the exception of single family and duplex uses. Heritage and Protected trees shall be replaced with an additional replacement tree required for every two-inch gain in diameter over the protected or heritage size threshold as specified in 8.6(A) above.

a. Species recognized as an "invasive" exotic and those whose health is confirmed to be "fair" or worse as determined by the city's planning department working in conjunction with a certified arborist shall be exempt from mitigation.

2. Where it is not possible to plant replacement trees onsite, tree impacts shall be offset by contributing to a mitigation fund used to plant new trees or for green-space enhancement projects in appropriate locations throughout the community. When every effort to incorporate existing trees into designs is exhausted and there is still not ample room within the project site for all of the required replacement plantings, the offsite mitigation fee shall be calculated using the formula found herein with a value of \$250.00 per replacement tree. (For example, a four-inch diameter tree that is replaced 2:1 would require a fee of  $\$250.00 \times 2 = \$500.00$ , while a 39-inch diameter heritage tree would be replaced 4:1 equal to  $\$250.00 \times 4 = \$1,000.00$ .) These values shall be used when seeking a tree removal permit. Unauthorized tree removal is prohibited and shall increase the required mitigation twice the rate applied to authorized removals. The table below provides the value of offsite mitigation fees including heritage trees.

**Table 8.5.1. On-Site and Off-Site Tree Mitigation Schedule.**

Tree Size	Cost to Mitigate Protected Trees (Ratios Incorporated)	Cost to Mitigate Heritage Trees (Ratios Incorporated)	Onsite Tree Replacement Schedule (# of Trees)
10	N/A	N/A	0
11	N/A	N/A	0
12	\$500.00	N/A	2
13	\$500.00	N/A	3
14	\$500.00	N/A	3
15	\$500.00	N/A	3
16	\$750.00	N/A	3
17	\$750.00	N/A	4
18	\$750.00	N/A	4
19	\$750.00	N/A	4
20	\$1,000.00	N/A	4
21	\$1,000.00	N/A	5
22	\$1,000.00	N/A	5

23	\$1,000.00	N/A	5
24	\$1,250.00	N/A	5
25	\$1,250.00	N/A	6
26	\$1,250.00	N/A	6
27	\$1,250.00	N/A	6
28	\$1,500.00	N/A	6
29	\$1,500.00	N/A	7
30	\$1,500.00	N/A	7
31	\$1,500.00	N/A	7
32	\$1,750.00	N/A	7
33	\$1,750.00	N/A	8
34	\$1,750.00	N/A	8
35	\$1,750.00	N/A	8
36	N/A	\$2,000.00	8
37	N/A	\$2,000.00	9
38	N/A	\$2,250.00	9
39	N/A	\$2,250.00	10
40	N/A	\$2,500.00	10
41	N/A	\$2,500.00	11
42	N/A	\$2,750.00	11
43	N/A	\$2,750.00	12
44	N/A	\$3,000.00	12
45	N/A	\$3,000.00	13
46	N/A	\$3,250.00	13
47	N/A	\$3,250.00	14
48	N/A	\$3,500.00	14
49	N/A	\$3,500.00	15
50	N/A	\$3,750.00	15

All trees greater than 50 inches DBH will use the same ratios for all columns.

**D. Tree planting and preservation—off-street parking areas.**

The requirements of this section shall be in addition to the requirements of all other applicable sections of these regulations.

**1. Intent.** It is the intent of this subsection to provide for tree preservation and planting in off-street, paved parking areas and other development, to help preserve the ecological balance of the environment, to reduce heat and glare, to provide a buffer from street noise and incompatible land uses, and to reduce the degrading effects of thermal pollution and/or stormwater runoff. The requirements of this section shall be in addition to the requirements of Section 8.7 below and other places within these regulations.

**2. Applicability.**

The following requirements shall apply to all land uses and districts within the city, with the exception of single-family and duplex residential and agricultural uses.

**a. Tree planting.** Any expansion of paved areas constructed or undertaken after the adoption of the ordinance from which these regulations are derived shall require the planting of a minimum of one *tree*, as defined in subsection 8.6(A) for each additional 1,750 square feet of pervious paved area or fraction thereof and three trees for each additional 1,750 square feet of impervious paved area or fraction thereof.

i. The tree planting areas shall have the minimum width necessary to support the future growth of the specific tree planted. In no case, shall such width be less than width of the surrounding parking spaces if an island or less than 5 feet wide if provided elsewhere.

ii. Acceptable pervious materials found in Appendix \_\_\_\_.

**b. Tree preservation.**

i. Credit schedule. Any existing tree with a crown located within the paved area or within ten feet of the parking area shall be eligible for credit toward the required tree planting, provided that the trunk is located within the property being developed.

ii. Where new or expanded paved areas are constructed, the following credit schedule may be applied for existing trees on-site which will be preserved. Such credits shall be subject to the approval of the planning and development department.

<b>City of Milton, Florida Credit Schedule</b>		
<b>Diameter of Existing Crown Spread of Preserved Tree (in feet)</b>	<b>Diameter of Trunk of Preserved Tree (in inches)</b>	<b>Number of Trees Credited</b>
90 or greater	36 or greater	7
60—89	30—35	6
50—59	26—29	5
40—49	20—25	4
30—39	13—19	3
20—29	8—12	2
16—19	4—7	1

NOTE—Crown spread measurements shall be rounded off the nearest whole foot, and the tree trunk diameter measurement shall be rounded off to the nearest whole inch.

**4. Reduction Schedule.**

A reduction of required parking spaces in any zoned area in the city may be allowed when the reduction would result in the preservation of a tree with a trunk diameter of 12 inches or greater. The following reduction schedule shall apply:

City of Milton, Florida Reduction Schedule	
Number of Required Parking Spaces	Reduction of Required Parking Spaces Allowable
0—4	0
5—9	1
10—19	2
20 or above	10 percent

**5. Installation and protection.**

a. Where new trees are installed, a continuous curb or other acceptable means of protection shall be provided to prevent injury to both the tree trunk and to vehicles using the parking area. Such curb will be installed so that an unpaved ground surface around the tree trunk will be retained to allow percolation of water to the root system. Such unpaved ground surface shall include at a minimum the area within ten feet of the tree trunk of 50 percent of the area within the drip line, whichever is greater.

b. Where existing trees are preserved, tree wells, tree islands or a continuous curb shall be utilized to protect the trunk and root system from alterations to surrounding grade elevations and damage from automobiles. A drainage system, sufficient to allow percolation into permeable soil, shall be provided in the area defined by the drip line of the tree.

c. Trees shall not be located in such a manner as to create a hazard to automobile traffic either entering or exiting the parking area. Use of tree planting areas as elements of vehicular control (e.g., medians, traffic or parking separators, etc.) is encouraged.

**6. Tree replacement.**

Any tree planted per the requirements of this section, which dies shall be replaced by the owner with a tree having a minimum diameter of three inches at time of planting within 60 days.

**7. Maintenance.**

It shall be the duty of the property owner on whose land off-street parking or other vehicular use area is installed to provide proper maintenance of the landscape plantings. This includes, but is not limited to, the replacement of plants damaged by insects, diseases, other natural acts, vehicular traffic, or vandalism. Necessary replacement shall be made within a time period not to exceed 30 days after notification by a code enforcement officer or other designated City representative.

**8.7. LANDSCAPING REQUIREMENTS.**

A. Development of any parcel of land, except for the construction of residential structures containing two dwelling units or less, unless a part of a larger planned development, shall require that a minimum of ten percent of the site development area of the parcel be devoted to landscape material. Generally, detention and retention ponds shall not qualify as landscape area, however, retention and detention ponds less than three feet in depth may qualify as landscaped area; provided that the fencing

requirements stated in Article 9 do not apply. The total number of parking spaces required by these Land Development Regulations may be reduced as determined by the appropriate development approval authority, to the extent necessary to comply with this section.

**B.** Retention and detention ponds required to have protective fencing, as per Article 9, shall be aesthetically screened from the public view by providing a landscaped buffer along the edge of the fencing. This buffer zone shall be landscaped with shrubs and trees at a minimum of one tree or shrub per five linear feet.

**C.** Landscaping requirements shall be strictly adhered to in all districts. A waiver from the Planning Director, City Manager, and City Engineer (if applicable) may be obtained provided three (3) of the following bonus criteria are met:

1. The provision of acceptable landscaping in excess of requirements by a minimum of 10%;
2. The renovation of an existing building;
3. The provision of an acceptable amount or area of open space and/or outdoor seating;
4. The provision of improved pedestrian access, including but not limited to sidewalk, walkway, and pedestrian bridges
5. The provision of an acceptable building mural as per guidelines;
6. The revocation of an existing building to “historic” architecture in keeping with the standards outlined in Section 8.4 above;
7. Compliance with and Homogenization to the Downtown theme or motif as determined by the Planning Director; and
8. The provision of on-site parking where none had existed prior to development
9. The provision of approved pervious materials in lieu of pervious pavement.

#### **D. Landscape Plan Required**

A **landscape plan is required** as part of a site plan review application for multi-family, and non-residential (including mixed-use) development, and planned development projects. The landscape plan must be approved prior to the issuance of a building permit. Landscape plans must be prepared by a landscape architect or civil engineer licensed in Florida.

#### **E. Content of Landscape Plan**

Landscape plans must contain a scale drawing showing the following:

1. The location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, rights-of-way, refuse disposal and recycling areas, pedestrian and bicycle paths, fences, mechanical equipment, overhead utility wires, retention/detention facilities, and other drainage facilities, such as drainage swales.

2. The location, quantity, size, name, and condition, both botanical and common, of all existing plant materials on-site, indicating plant material to be retained and to be removed. All protected and heritage trees must be specifically identified on the plan.
3. The location, quantity, size, and name, both botanical and common, of all proposed plant material.
4. The existing and proposed grading of the site indicating contours at one foot intervals. Proposed berming must also be indicated using one foot contour intervals.
5. Elevations of all proposed fences, stairs, and retaining walls.
6. **A certified irrigation-sprinkler plan.** Plans including only those species identified as native and drought resistant and which do not require irrigation or watering in addition to what occurs naturally in this region, as verified by a landscape or civil engineer, shall not require a certified irrigation-sprinkler plan in lieu of submittal of a certified letter from the landscape or civil engineer to include a statement that the species identified in the plan shall not require irrigation or watering in addition to what naturally occurs in the region.
7. Any other details as determined necessary by the reviewing body.

#### **F. Stormwater Management**

In accordance with **Article 9** of this Code, certain development and redevelopment actions require onsite stormwater management. In addition to the requirements of this Article for landscape plans, a stormwater management plan may also be required.

#### **G. Minor Changes to Approved Landscape Plans**

Minor changes to the landscape plan that do not result in a reduction in the net amount of plant material as specified on the approved landscape plan may be approved by the Planning Director. Major changes must be approved by the body granting approval of the landscape plan initially.

#### **H. Intent.**

It is the intent of this section to establish protective regulations for trees within the city, in order to better control problems associated with flooding, soil conservation, air and noise pollution, and to make the city a healthier, safer and more beautiful place in which to live. It is further the intent of this section to establish landscaping requirements for off-street parking areas and other developed areas.

Justifications for such requirements include the following:

1. To aid in controlling vehicular and pedestrian traffic in parking areas;
2. To enhance the community's ecological and aesthetic qualities; and
3. To protect and enhance property values.

#### **I. Landscape Design Standards**

##### **1. Selection of Plant Materials**

a. Plant materials must be selected from the **approved plant palette found in Appendix \_\_\_: Plant Palette**. The **Planning Director may approve** plants not included in the list if the species are native or

naturalized to the area, and capable of withstanding the seasonal temperature variations of the City of Milton, as well as the individual site microclimate.

**b.** All plant materials must be of good quality and meet the most current *American Standard for Nursery Stock* (ANSI Z60.1) published by the American Association of Nurseryman and approved by the American National Standards Institute, standards for minimum acceptable form, quality, and size for species selected. Size and density of plant material, both at the time of planting and at maturity, are additional criteria that must be considered when selecting plant material.

**c.** Low impact site design and Xeriscape design practices, such as preserving existing native trees and vegetation, shall be used where appropriate and feasible.

**d.** Where appropriate, the use of drought tolerant plant material is preferred.

**2. Installation of Plant Materials**

All landscape materials must be installed in accordance with the current planting procedures established by the American Association of Nurserymen. All plant materials must be free of disease and installed so that soil of sufficient volume, composition, and nutrient balance are available to sustain healthy growth. Installation of plant materials during the appropriate growing season is encouraged.

**3. Minimum Planting Size Requirements**

**a.** For the purposes of this Code, where shade trees are required, broad-leaf evergreens are considered a shade tree.

**b.** Large shrubs are those shrubs that reach five or more feet in height at maturity. Small shrubs are those shrubs that may grow up to five feet in height if left unmaintained, but are generally maintained at heights of 18 to 36 inches.

<b>Plant Type</b>	<b>Minimum Plant Height</b>	<b>Minimum Trunk Size at Diameter at Breast Height (DBH)</b>
Shade Trees (including broad leaf evergreens)	6 feet	3 inches
Conifer Trees	6 feet	~
Single stem ornamental trees	~	2 inches
Multiple stem ornamental trees	8 feet	~
Large shrubs	3 feet	~
Small Shrubs	18 inches	~

**J. Irrigation System Design Standards**

**1.** Irrigation systems shall be designed to meet the needs of the plants in the landscape.

**2.** When feasible, irrigation systems shall be designed to separately serve turf and non-turf areas.

**3.** The Landscape plans and specifications shall identify the materials to be used and the construction methods.

4. The design shall consider soil, slope, and other site characteristics on order to minimize water waste, including overspray, the watering of impervious surfaces, and other non-vegetated areas, and off-site runoff.
5. The system shall be designed to minimize free flow conditions in case of damage or other mechanical failure.
6. The system shall be designed to use the lowest quality water feasible.
7. Rain switches or other devices, such as soil moisture sensors, to prevent unnecessary irrigation, shall be incorporated.

**K. Species Diversity**

Diversity among required plant material is mandatory for visual interest and to reduce the risk of losing a large population of plants due to disease. Table 8.6-1: Diversity Requirements indicates the percentage of diversity required based on the total quantity of species being used. For example, if a development requires 45 shade trees, no more than 18 trees (40%) and no less than five trees (10%) can be of one species, and there must be a minimum of five different species within the 45 trees. When the calculation of plant diversity requirements results in a fraction, said fraction is rounded up.

**TABLE 8.6-1. DIVERSITY REQUIREMENTS**

Total Number of Plants Per Plant Types	Maximum Amount of One Species	Minimum Amount of One Species	Minimum Number of Species
1-4	100%	N/A	1
5-10	60%	40%	2
11-15	45%	20%	3
16-75	40%	10%	5
76-500	25%	5%	8
500-1,000	30%	5%	10
1,000+	15%	4%	15

**L. Maintenance**

1. Landscape material depicted on approved landscape plans is considered a required site element in the same manner as structures, parking, lighting, and other improvements. As such, the property owner is responsible for the maintenance, repair, and replacement of all landscape material, fences, walls, steps, retaining walls, and similar landscape elements.
2. All landscape material must be maintained in good condition, present a healthy, neat, and orderly appearance, and be kept free of refuse and debris. Any dead, unhealthy, or missing plants must be replaced within 60 days.

**M. Required Parking Lot Landscape**

1. *Required Parking Lot Landscape Abutting Street Lot Line*

The following standards are applicable in all districts. Landscape is required along the edges of any parking lot that abuts a street lot line. The landscape treatment must run the full length of that street lot line, outside of the planned right-of-way. The landscaped area must be improved as follows:

- a.** The landscape area in any district must be a minimum of ten (10) feet wide.
  - i.** A minimum four foot wide sidewalk is required at street lot lines, outside of the planned right-of-way. See additional Access Management standards in Article 10 for sidewalk requirements.
- b.** There must be a minimum linear distance of 18 inches between any wheel stops or curbs to accommodate vehicle bumper overhang. This area is not included in the minimum landscape area calculation.
- c.** One shrub, measuring a minimum of 18 inches in height at planting and reaching a minimum of three feet in height at maturity, must be planted for every five feet of landscape area length, spaced linearly. Any one or more of the following alternatives to shrub plantings are also permitted:
  - i.** A low pedestrian wall a minimum of three feet to a maximum of four feet in height may be used instead of shrubs. Where feasible, plant materials shall be installed between the sidewalk and the wall to provide a softening effect on the fence or wall.
  - ii.** The landscape area may be planted with a mix of shrubs, perennials, native grasses, and other planting types that provide screening of a minimum of three feet in height.
  - iii.** Stormwater management techniques, such as rain gardens and bioswales, that provide screening of a minimum of three feet in height.
  - iv.** Additional alternatives may be approved by the Planning and Development Department on a case by case basis, in keeping with the requirements of this subsection.
- d.** One shade tree is required every 30 linear feet.
- e.** Landscape areas outside of shrub masses must be planted in live groundcover, perennials, or grass.



#### N. Required Parking Lot Interior Landscape

All parking lots of 10 or more spaces require interior parking lot landscape as described in this section. When the calculation of interior parking lot landscape requirements results in a fraction, said fraction is rounded up to the nearest whole number.

1. One parking lot island must be provided between every 10 parking spaces. As part of the landscape plan approval, parking lot island locations may be varied based on specific site requirements or design scheme, but the total number of islands must be no less than the amount required of one island for every 10 spaces.
2. The minimum total landscape area of a parking lot, including parking lot islands, must be 20% of the total parking lot area. Parking lot landscape along a street lot line, as required in item 1 above, is excluded from the calculation of total parking lot area.
3. All rows of parking spaces must terminate in a landscape area.
4. Parking lot islands must be the same dimension as the parking stall. Double rows of parking must provide parking lot islands that are the same dimension as the double row.
5. A minimum of one shade tree must be provided for every parking lot island or landscape area. The remaining area of a parking lot island must be planted in ornamental trees, live groundcover, shrubs, perennials, or grass.
6. The use of stormwater management elements such as rain gardens and bioswales is encouraged in landscape areas. When a parking lot island is designed for stormwater management, the tree requirement may be exempted as part of landscape plan approval when such trees are not typically part of such design.



## O. Required Buffer Yard

This section establishes standards for the dimension and landscape for required buffer yards.

1. Buffer yards are located within rear and interior side yards, including the required rear or interior side setbacks, and must be reserved for the planting of material and installation of screening as required by this section. No parking spaces or accessory structures are permitted within the required buffer yard(s).
2. Additional Residential Subdivision and Multi-family development requirements as per Article 4 apply.
3. A buffer yard must be a minimum of 10 feet in width.
4. **Buffer yards shall consist of one or both of the following elements:** A fence or wall, constructed of approved materials to a minimum height of six (6) feet and to a maximum height of eight (8) feet, unless otherwise provided by these regulations, and the approved combination of landscaping materials.
  - a. A Buffer yard, must at minimum be comprised of one shade tree planted for every 30 linear feet of buffer yard length. As part of the landscape plan approval, trees may be spaced at various intervals based on specific site requirements, but the total number of trees planted must be no less than the equivalent of one per 30 linear feet of buffer yard length.
  - b. One shrub, measuring a minimum of 18 inches in height at planting and reaching a minimum of three feet in height at maturity, must be planted for every three linear feet of buffer yard length, spaced linearly.
  - c. The remainder of the buffer yard must be planted in live groundcover, perennials, or grass.
5. **Natural and undisturbed vegetation**, if satisfying the height and area aspects of the buffer and screening requirements of this section, may be an acceptable alternative to the above if maintained in its natural state. Failure of the natural vegetative buffer to provide acceptable screening and buffering

will result in a nonconformity. In this instance, the above buffer and screening requirements shall be met within 60 days. The land use initially requiring the buffer, as indicated in these regulations, shall be responsible for the maintenance and conformity upon failure of the natural vegetative buffer.

**6.** As of the effective date of this Code, buffer yards are required for new construction along interior side and rear yards in the following cases:

**a.** Where, in any district, a residential use abuts a mixed use or non-residential use.

**b.** Where, in any district, a multi-family development occurs.

**c.** Where a non-residential use is located within a residential district.

**d.** Where a non-residential district abuts a residential district.

**e.** A solid fence or wall, a minimum of six feet and a maximum of eight feet in height, must also be erected along 100% of the yard length in the following instances:

**i.** Where a non-residential use within a non-residential district abuts a residential use.

**ii.** Where a multi-family dwelling is located within an R-1AA, R-1A, R-1, C-2, or C-3 District.

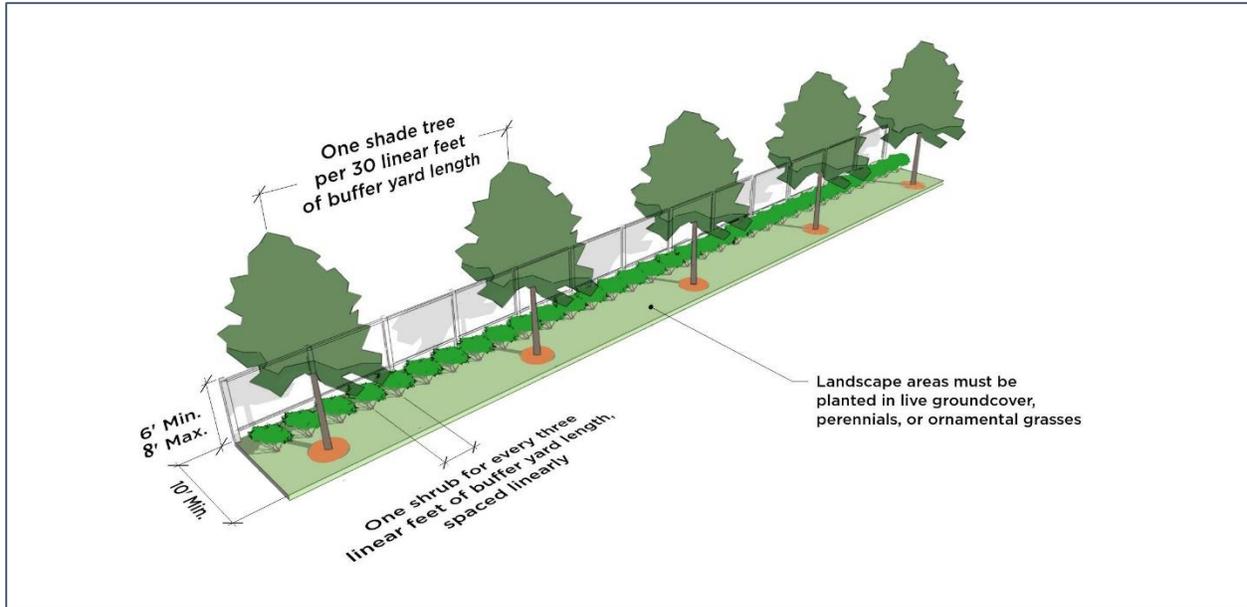
**iii.** Where a non-residential use is located within a residential district.

**1)** Park and recreational uses may require a solid masonry wall or other sound attenuation wall material.

**iv.** Where a non-residential district abuts a residential district.

**7.** When the calculation of minimum buffer yard requirements results in a fraction, the fraction is rounded up to the nearest whole number.

**a.** When new commercial construction locates next to an existing residential use, the commercial use must provide the buffer yard. Conversely, if a new residential use locates next to an existing commercial use, the existing commercial use is not required to provide a buffer yard and is not considered nonconforming.



**P. Additional Landscape and screening standards within the R-C1 Zoning District.**

1. The following standards are in addition to the above requirements and apply to all mixed-use, multifamily, and non-residential development within the R-C1 Zoning District. When these standards and requirements conflict with the above landscaping and buffer requirements, these standards take precedence within the R-C1 District.

2. The overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas.

a. Where screening is required by this section, it shall be at least three feet in height, unless otherwise specified. Required screening shall be at least 50 percent opaque throughout the year. Required screening shall be satisfied by one or some combination of: a decorative fence no less than 50 percent opaque behind a continuous landscaped area, a masonry wall, or a hedge.

**3. Street trees.**

A minimum of one deciduous canopy tree per 25 feet of street frontage, or fraction thereof, shall be required. Trees can be clustered but every effort shall be made to have them evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk. Additional landscaping is to be found on the landscape plan.

**4. Parking area landscaping and screening.**

a. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses shall provide:

- i. A landscaped area at least five feet wide along the Public Street or sidewalk; and
- ii. A ten foot wide buffer yard when abutting a residential use to include the requisite trees and shrubbery as per subsection O, above;
- ii. Screening at least three feet in height and no less than 50 percent opaque; and
- iii. One tree for each 25 linear feet of parking lot frontage.

**b. Parking area interior landscaping.** The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking. At least 25% of the parking area interior shall be landscaped in parking lots with more than 10 spaces.

**c.** In large parking lots containing more than 100 spaces, an additional landscaped area of at least 400 square feet shall be provided for each 25 spaces or fraction thereof, containing at least two canopy trees. The remainder shall be covered with turf grass, native grasses or other perennial flowering plants, vines or shrubs.

**5. Installation and maintenance of landscaping materials.**

**a.** All landscape materials shall be installed to current industry standards found in the most current addition of the American Standard for Nursery Stock (ANSI Z60.1) approved by the American National Standards Institute. .

**b.** Maintenance and replacement of landscape materials shall be the responsibility of the property owner.

**6. Materials.**

All plant materials must meet the minimum standards set in the most current addition of the American Standard for Nursery Stock (ANSI Z60.1) approved by the American National Standards Institute. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species. The term "invasive plant species" includes those plants that grow quickly and aggressively, spreading and displacing other plants. Examples of invasive plant species include, but are not limited to, Kudzu vine and Chinese tallow. Plant materials shall comply with the following standards:

**a.** Minimum plant size shall be as specified in the landscape plan in keeping with the general guidelines found in the table following this subsection.

<b>Plant Type</b>	<b>Minimum Size</b>
Evergreen tree (conifer)	6—8 feet in height
Deciduous canopy tree	4—5 inches caliper at dbh*
Small deciduous tree	1—2 inches caliper at dbh*
Evergreen or deciduous shrubs	18—24 inches in height

- b.** Landscape materials shall be tolerant of specific site conditions.
  - c.** Existing healthy plant material may be utilized to satisfy landscaping requirements; provided it meets the minimum plant size specified in this section.
  - d.** Landscape materials that are used for screening shall be of a size that allows growth to the desired height and opacity within one year.
- 7.** Additional requirements and review may apply within the Historic District and Downtown Community Redevelopment Areas.

**Q. Additional Landscape and Screening Standards in the D-CM Zoning District.**

**1.** The following standards are in addition to the above requirements and apply to all mixed-use and non-residential development within the D-CM Zoning District. When these standards and requirements conflict with the above landscaping and buffer requirements, these standards take precedence within the D-CM District.

**a.** Street Trees.

- i.** The provision of street trees is required as per P(3) above, upon development within the D-CM District.
- ii.** If hardship can be demonstrated, the provision of open space, outdoor seating, or other acceptable alternative may be utilized in lieu of street trees with development approval from the Planning Director and/or the City Manager,

**b.** Additional requirements and review may apply within the Historic District and Downtown Community Redevelopment Areas.

**R. Care of trees on public property.**

It shall be the city manager's responsibility to administer a plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in all other public areas.

**S. Review.**

**1.** Permit applications for the removal of protected trees, including heritage trees, shall be made to the planning and development department. The department shall have ten working days in which to review the site plan and permit application, and make a determination as to whether the proposed removal of the protected tree is consistent with the provisions of this section. Upon a finding that the site plan and permit application is consistent with the provisions of this section, a city development permit shall be issued.

**2.** Upon finding that the site plan and permit is inconsistent with the provisions of this section, the planning and development department shall notify the applicant in writing as to what action must be taken to conform the site plan and permit application to the requirements of this section.

## **T. Enforcement**

No building permit shall be issued for any building or structure, unless exempt from the provisions of this section, until the developer has demonstrated through submission of a site plan to the planning and development department that said development is in compliance with the requirements of this section. No certificate of occupancy shall be issued for any building or structure until a determination has been made by the planning and development department that the development is in compliance with this section. Any site plan required by this section may be combined with any site plan required for lot coverage purposes. The site plan shall indicate all protected trees on the site and which protected trees shall be preserved and those proposed to be destroyed. If the development is subject to the requirements contained in subsection Q of this section; the site plan shall also indicate the location and type of landscape material.

## **U. Penalty**

Any violation of these regulations, including the failure to obtain or abide by the provisions of a permit, is declared to be unlawful; and whenever these regulations require the doing of any act, the failure to do the act is declared to be unlawful. The code enforcement officer may, in his discretion, pursue an enforcement action through the code enforcement board. The code enforcement board may establish a schedule of fines for the violation of these Land Development Regulations.