

ARTICLE IV. LANDSCAPING, BUFFERING AND CLEARING

Sec. 66-211. Enforcement, violations and penalty.

(a) *Enforcement.* The provisions of this article shall be enforced by the director of planning and development.

(b) *Penalty.* Any person who violates, neglects, or refuses to comply with any provisions of this article, or any owner or general agent of a building or premises where a violation of any provision of the article has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violations have been committed or exist, or any contractor or craftsman who violates, neglects, allows to exist, or refuses to comply with any provisions of this article, or the owner, general agent, contractor, lessee or tenant of any part of the building in which such violation has been committed or exists, or who commits, takes part in or assists in such violations, shall be in violation of this section.

(Code 1988, § 440.110; Code 1996, § 450.110; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998)

Sec. 66-212. Purpose; responsibility for administration.

(a) *Purpose.* The purpose of this article is:

(1) To provide good visual appeal to buildings and paved areas through the use of trees, shrubs and plants.

(2) To encourage areas of established native forest to be preserved within a project/development site and to properly protect preserved areas during construction.

(3) To encourage, fund and staff a city program to replant trees and vegetation lost to land development activity and to fund acquisition of forest preserves.

(4) To preserve healthy environmental condition by providing shade, air purification and oxygen generation, groundwater recharge, stormwater runoff retardation, and noise, glare and heat abatement through preservation of areas of native forest and installation of landscape.

(5) To buffer uncomplementary land use.

(6) To require timely replacement of landscape components lost after installation.

(b) *Responsibility for administration.* The provisions of this article shall be administered by the director of planning and development.

(Code 1988, § 440.010; Code 1996, § 450.010; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998; Ord. No. 2001-131, § 1, 10-8-2001)

Sec. 66-213. Landscape plan.

(a) *Applicability.* Landscaping consisting of trees, shrubs, ground cover, and screening as deemed applicable shall be required for any new construction or expansion of existing uses. Hereafter, all plans submitted in support of a final development or building permit shall include a landscape plan and include screening where appropriate.

(b) *Information required.* All plans submitted for approval of a landscape plan shall have the following information included:

- (1) North point and scale.
- (2) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- (3) The location, size and surface of materials of all structures and parking areas.
- (4) The location, size and type of all aboveground and underground utilities and structures within the property and notation, where appropriate, as to any safety hazards to avoid during landscape installation.
- (5) Complete and accurate botanical and common names of each plant material, the number and location of trees or plants to be placed, the size at planting and areas to receive seed or sod. The size, grading and condition shall be specified according to the American Association of Nurserymen Standards.
- (6) An estimated count and approximate location of all existing trees, six inches caliper or larger measured at 4 1/2 feet above ground level, on sites that are proposed for removal, and the location of planned requirements. In lieu of this count, the developer may use 40 trees per acre.
- (7) Mature sizes of plant material shall be drawn to scale and called out on the plan by common name or appropriate key.
- (8) Location of hose connections and other water sources.
- (9) The location, size and type of required screening methods as required in section 66-218.
- (10) Any proposed retaining walls, indicating location, size and material to be used in the construction of the wall.
- (11) Regarding the landscaping plan, single-family dwellings need only supply a plan that supplies a count of the number of trees to be removed, six inches in diameter and larger measured at 4 1/2 feet above the ground, and meets the residential landscape design requirements under section 66-215(3), with proposed plantings as in subsection (b)(7) of this section, and meeting the general standards of section 66-214.

(Code 1988, § 440.020; Code 1996, § 450.020; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998)

Sec. 66-214. General standards.

The following criteria and standards shall apply to landscape materials and installation:

- (1) *Quality.* All trees and shrubs used in conformance with the provisions of this article shall have well-developed leaders and tops and roots characteristic of the species, cultivar or variety and shall show evidence of proper nursery pruning. All plant materials must be free of insects, diseases, mechanical injuries and other objectionable features at the time of planting.
- (2) *Coverage.* Grass, ground cover, shrubs and other living landscape materials shall be used to cover all open ground. Landscaping materials, such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate.
- (3) *Trees.* Trees referred to in this section shall be a species common to or adapted to this area of the state and on a tree list provided by the director of planning and

development. Caliper measurements shall be taken six inches above grade. Trees shall have the following characteristics:

- a. Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of at least two inches at time of planting.
 - b. Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of at least 1 1/2 inches at time of planting.
 - c. Ornamental trees shall be flowering deciduous trees. All ornamental trees shall have a caliper width of at least one inch at time of planting.
 - d. Evergreen or conifer trees shall have a minimum height of 20 feet at maturity. All evergreen or conifer trees shall be at least four feet high at time of planting.
- (4) *Shrubs and hedges.* Shrubs shall be a minimum of 18 inches in height when measured immediately after planting. Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be at least three feet high within one year after time of planting.
- (5) *Ground cover.* Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year after time of planting.
- (6) *Lawn grass.* Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales, berms or other areas subject to erosion.
- (7) *Credit for existing trees.*
- a. Any trees preserved on a site in required landscaping areas and meeting the specifications in this section may, at the discretion of the director, be credited toward meeting the tree requirements of any landscaping provision of section 66-215. Any tree for which credit is given shall be in a condition that encourages longterm survival and in a location that conforms to the intent and standards of this section.

TABLE INSET:

Existing Tree	Size*	Credit**
Canopy	2--3 inches	1
	3--6 inches	2
	>6 inches	3
Understory	1.5 inches	1
	3--6 inches	2
	>6 inches	3
Ornamental	1--2 inches	1
	2--5 inches	2
	>5 inches	3
Evergreen	5--8 feet	1
	8--12 feet	2
	>12 feet	3

*Size in inches is the diameter of the tree measured 4 1/2 feet above grade.

**To receive credit, trees must be located in the landscape area. Each credit may

be used in lieu of the planting of one tree. The existing tree must satisfy the requirements of this section.

b. Trees of exceptional quality due to size, large canopy cover, trunk diameter, rareness, age or species located anywhere on the site may, at the discretion of the director, be credited as three in computing the minimum requirements in landscaping areas.

c. Existing trees which are preserved and receive credit shall be marked on the landscape plan and the amount of credit shall be indicated. Any trees which receive credit and are later removed shall be replaced with the number of trees for which credit was received.

d. Existing trees that are to receive credit for preservation shall be protected during construction as follows. The conditions shall also apply to existing trees included in natural forest area preserved section.

1. A temporary fence shall be constructed around the root zone of each tree to be preserved prior to any grading or construction on the property.

2. No heavy equipment shall be used or stored within the area enclosed by the temporary fence.

3. No building materials or soil shall be stored within the area enclosed by the temporary fence.

4. Installation of underground utilities should be avoided within the area enclosed by the temporary fence. If installation of underground utilities is necessary, tunneling shall be used as soon as roots one inch or greater in diameter are encountered, except that in the vicinity of trees less than six inches in diameter at 4 1/2 feet above grade, tunneling shall be used under the entire canopy. Tunneling must occur below the main lateral level of roots or at least two feet below the surface, whichever is greater. Tunneling shall be done from both directions. Soil shall be backfilled in the tunnels to the same compactness as before removal. Fertilizer shall be added to the backfill in tunnels.

5. Road and grade cuts (for basements and foundations) shall be outside the area enclosed by the temporary fence and at least one foot away from the tree bole (trunk) for each one foot of depth of the cut.

6. No grading shall be done that impounds water during wet periods or increases the drainage rate so that water tables are lowered.

7. Fill may be placed within the area enclosed by the temporary fence provided the fill material consists of good topsoil, high in organic matter and of loamy texture, and does not exceed six inches of depth.

(Code 1988, § 440.030; Code 1996, § 450.030; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998)

Sec. 66-215. Minimum requirements for off-street parking lots and vehicular use areas.

The interior and perimeter of parking lots and vehicular use areas, for uses requiring site plans, shall be landscaped in accordance with the following criteria. Areas used for parking or vehicular storage which are under, on, or within buildings are exempt from these standards.

- (1) *Interior landscaping.* For sites containing parking and vehicular use areas totaling 15 or more parking spaces or where the gross area is 6,000 or more square feet, a

minimum of ten percent of the parking or vehicular use area shall be devoted to living landscaping which includes grass, ground cover, plants, shrubs and trees. Gross parking area shall be determined by calculating the total area used for parking, including circulation aisles. Five percent of the landscaped interior shall be located at the street wall (any building facing a street) to the street wall line (street line). These plantings may be grouped in such a way as to provide visual relief to those building elevations the public views of the project. Additional criteria shall apply to the interior of parking and vehicular use areas:

- a. Interior landscape areas shall be protected from vehicular encroachment or overhang through appropriate wheel stops or curbs.
- b. There shall be a minimum of one canopy tree or two understory trees or ornamental trees planted for each 15 parking spaces or 6,000 square feet of parking or vehicular use area, or fraction thereof. For every tree planted in the required ten percent area, four shrubs shall be planted. The planted areas may be sodded or mulched.
- c. Interior areas of parking and vehicular use areas shall contain planting islands located so as to best relieve the expanse of paving. Interior planting areas shall be a minimum of 100 square feet for each understory tree and 200 square feet for each canopy tree dimensioned in such a way as to provide a suitable area for planting.

(2) *Perimeter landscaping.*

- a. Perimeter landscaping shall be provided where a parking lot or vehicular use area is within 50 feet of a public right-of-way and there is not an intervening building.
- b. Perimeter landscape areas shall contain one canopy tree, one understory, ornamental or evergreen tree and four shrubs per 100 linear feet. Where utility lines, easements, the width of the landscape area or other conditions not under the control of the developer would not allow canopy trees, each required canopy tree may be replaced by two understory, ornamental or evergreen trees, or in this area, in lieu of one tree, eight shrubs (measured at 18 inches after planting) or eight perennial bed plantings (measured at one-gallon size at planting) will meet the landscape requirements. Where a perimeter landscape area is less than 50 linear feet only one canopy tree or two understory, ornamental or evergreen trees are required in addition to four shrubs. Required trees and shrubs may be clustered to allow for the most effective use of landscaping. The remaining area shall be landscaped with grass or other ground cover.
 1. Whenever an off-street parking or vehicular use area abuts a public right-of-way, a perimeter landscape area at least five feet in depth shall be maintained between the abutting right-of-way and the off-street parking or vehicular use area.
 2. Necessary accessways from the public right-of-way shall be permitted through all landscaping.

(3) *Residential landscape areas.* Residential landscape areas shall contain two canopy trees, two understory, ornamental or evergreen trees and eight shrubs per 100 linear feet, or portion thereof, of front yard street frontage. Where this street frontage is less than 50 linear feet only one canopy tree or two understory, ornamental or evergreen trees and four shrubs are required.

(Code 1988, § 440.040; Code 1996, § 450.040; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998; Ord. No. 2001-131, § 2, 10-8-2001)

Sec. 66-216. Exemption for property in downtown zoning district.

Due to the unique nature of those properties located in the D zoning district, the director of planning and development may allow a buy-out of the perimeter and interior landscape requirements as set forth in section 66-215. This buy-out shall be at the rate of \$150.00 per tree and \$75.00 per shrub. These are the actual costs that would be incurred by the city for the installation of such plantings.

(Code 1988, § 440.041; Code 1996, § 450.045; Ord. No. 94-114, § 1, 9-26-1994; Ord. No. 98-041, 4-13-1998)

Sec. 66-217. Requirements for areas outside city receiving city services and voluntarily annexed areas.

In areas beyond the city limits, where the owner/developer of such property that has not been cleared enters into an agreement with the city for provision of sewer, water or other city services, and in areas voluntarily annexed for whatever reason into the city after the date of enactment of the ordinance from which this article is derived, the landscaping requirements shall be as set forth in section 66-215 multiplied by a factor of two. Any areas as outlined in this section shall be exempt from the requirements of section 66-219. However, should the owner/developer of any such areas desire to be governed by section 66-219 the provisions of sections 66-214 and 66-215 shall be applied without a multiplying factor.

(Code 1988, § 440.050; Code 1996, § 450.050; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998)

Sec. 66-218. Buffering and screening requirements.

(a) *Applicability.* All plans submitted in support of a final development plan, building permit or special use permit shall include a detailed drawing of applicable screening methods. Such drawing may be included as part of the landscape plan. No buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen, or allowed to be used in a trade-off or modification of a standard.

(b) *Screening generally; trash bin screening.* All multifamily residential projects, mobile home parks, and all commercial, office and industrial projects shall include on the landscape plan a detailed drawing of enclosure and screening methods to be used in connection with trash bins, storage yards, parking lots and equipment areas on the property. No trash bin shall be visible from off the property, and a permanent masonry or frame enclosure shall be provided for each such bin.

(c) *Buffering requirements by zoning classification.*

(1) At the time of development of property zoned C commercial, a minimum of a 100-foot buffer shall be provided along all rear and side property lines which are common to property zoned R-1, R-2, and R-3. When a new structure and/or development is proposed in a C commercial zoning district which directly abuts a one-family, two-family, or multiple-family dwelling district, the proposal shall be submitted to the planning and zoning commission for its decision in accordance with appendix A to this Code (the zoning regulations). All required buffers shall include planted screening pursuant to subsection (e) of this section.

(2) At the time of development of property zoned R-3, a minimum of a 25-foot buffer shall be provided along all rear and side property lines which are common to property

zoned R-2 and R-1. All required buffers shall include planted screening pursuant to subsection (e) of this section.

(3) At the time of development of property zoned R-2, a minimum of a 20-foot buffer shall be provided along all rear and side property lines which are common to property zoned R-1. All required buffers shall include planted screening pursuant to subsection (e) of this section.

(4) These requirements are in addition to those of section 66-215. However, when circumstances prevent appropriate installation of landscaping to satisfy both requirements, the director of planning and development may relax requirements as he/she sees fit.

(d) *Parking lot screening on rear and side yards.* Any off-street parking area providing space for five or more vehicles shall be effectively screened on any side or rear yard which abuts a residential lot by acceptable screening standards as specified in subsection (g) of this section.

(e) *Screening standards.* A screen shall consist of a screen wall, fence, earth berm, or densely planted evergreens to effectively restrict 50 percent to 75 percent of the view to adjoining property to a height of not less than eight feet.

(f) *Screen types--Definitions.* For the purposes of this section the following terms shall be deemed to have the meaning indicated below:

Berms. A berm screen constructed of earthen materials shall not exceed a slope steeper than 2 1/2 feet horizontal to one foot vertical. A berm shall be so designed that drainage from said slope shall be directed away from paved areas and sidewalks and shall be sodded and landscaped as necessary to provide topsoil stabilization. Berms shall not exceed eight feet in height.

Fence, open. An open weave or mesh type fence, constructed of wood or other approved materials shall be not less than six feet in height, nor more than eight feet.

Fence, solid. A solid fence shall not be less than six feet in height, nor more than eight feet and shall be constructed of wood or other approved materials.

Retaining walls. A structure constructed or erected between lands of different elevations. A retaining wall, which directly abuts and faces a residential zoning district, shall not have an exposed wall face greater than eight feet in height. In the event that more than one eight-foot retaining wall is needed, there shall be at least a three-foot off-set between wall faces to allow for landscaping. A retaining wall, which directly abuts and faces any zoning district, other than residential, shall not have an exposed wall face greater than 12 feet in height. In the event that more than one 12-foot retaining wall is needed, there shall be at least a four-foot off-set between wall faces to allow for landscaping. When special property conditions exist, which make it unfeasible to meet these requirements, applicants may present alternative recommendations to the administrative review team of the planning and development department for consideration. The recommendation of administrative review team shall be presented to the director of planning and development for consideration. No permit for any alternative method shall be issued without final approval from the director of planning and development.

Walls. A wall screen consisting of concrete, stone, brick, tile or other approved solid masonry material shall be not less than six feet in height, nor more than eight feet.

(g) *Screen design.*

(1) *Height.* Where there is a difference in elevation on opposite sides of the screen within ten feet of the screen the height shall be measured from the highest elevation.

(2) *Sight triangle.* On a corner lot in any district, no planting, berm, fence or wall shall be placed in such a manner as to impede vision within the intersection clear sight triangle as shown in the City of Branson Design Criteria for Public Improvement Projects.

(h) *Existing screening.* No existing screening or landscape buffer shall be removed from any developed or undeveloped commercial property which directly abuts a residentially zoned property without first submitting and obtaining approval for a landscaping plan which plan provides for replacement screening conforming to all provisions of this section.

(Code 1988, § 440.060; Code 1996, § 450.060; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 97-009, § 515.060, 4-28-1997; Ord. No. 98-041, 4-13-1998; Ord. No. 2001-131, § 3, 10-8-2001; Ord. No. 2004-106, § 1(450.060), 8-9-2004)

Sec. 66-219. Preservation of trees and natural forest; replacement of trees removed for development.

(a) *Preservation of trees and natural forest.*

(1) Any person who files an application to change the land use of a piece of property must preserve and properly protect an area of natural vegetation during the development and construction of the project. An inventory of all trees six inches and greater in diameter must be shown on the landscape plan.

(2) The number of the existing trees protected (as outlined in section 66-214(7)) on the site and shown on the landscape plan tree inventory shall be one for each 250 square feet of impervious surface.

(3) If a person preserves at least 20 percent of his/her total project area as natural forest, then he/she would qualify to be exempted from subsections (b) and (c) of this section. A site plan must be submitted and approved identifying the areas to be protected, and measures to protect areas from damage during construction (as outlined in section 66-214(7)d) will be required to be approved by the director of planning and development or his/her designated official. If a person preserves at least 20 percent of his/her total project area as natural forest, he/she will not need to provide a tree inventory.

(4) Natural forest shall be defined as a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.

(b) *Replacement of trees removed for development.* Existing trees six inches and greater in diameter measured at 4 1/2 feet above the ground that are removed from the site must be replaced with one tree of like kind, of minimum size as outlined by section 66-214(3).

(c) *Payment for trees being removed .* Payment to the city in the amount of \$50.00 per tree shall be made prior to the issuance of a landscaping or land disturbance permit. A refund of payment for trees removed will only occur if those trees are replaced in accordance with the standards set forth in subsection (b) of this section. Refunds will be made on a tree-by-tree basis after the issuance of a certificate of occupancy. If no tree replacement activity occurs within six months after the issuance of a certificate of occupancy, or if a building, landscaping or land disturbance permit expires, all fees held by the city under this section shall be surrendered to the city and shall be used by the city for the purpose of obtaining, replanting and maintaining trees and vegetation on public land, and for acquisition of green space, parks, and natural forest land preserves.

If a development is submitted and approved to be completed in phases, and one combined payment of fees for all phases of the development is paid to the city, those fees shall be surrendered to the city, if there is failure by the applicant to complete all phases as submitted and approved. Surrender of the fees to the city shall occur within six months after the issuance of the final certificate of occupancy or upon expiration of the final building, landscaping, or land disturbance permit for the final phase of the project.

(d) *Certificate of credit for exemption from tree replacement requirements.* Upon inspection of the land development project where preservation of trees six inches and greater and natural forest (subsection (a) of this section) allows for exemption from tree replacement, a certificate of credit will be issued and recorded on the final plat for an amount equal to the number of trees of six inches or greater in diameter measured at 4 1/2 feet above the ground removed from the site multiplied by \$50.00. Should future development in that site require removal of trees in the preserved area, the certificate of credit shall abate and credited funds shall become due and payable in full to the city within 30 days of tree removal.

(e) *Unauthorized removal of trees.*

(1) No person shall cause, permit, or allow removal of a tree on property that is under his/her ownership without issuance of a landscaping or building permit. No trees six inches and greater in diameter measured at 4 1/2 feet above ground shall be removed prior to issuance of a landscaping or building permit, and receipt of payment for trees removed as outlined in subsection (c) of this section. If a tree is removed without first obtaining a permit or is intentionally killed by means of grading, grubbing, placement of fill, or other unacceptable construction methods, the following fees per tree shall be added to the building permit, or, if no building permit is issued, tree fees immediately become due and payable to the city and enforceable at law. Sizes should be measured four inches above ground.

6 inches to 8 inches . . . \$100.00

8 inches to 10 inches . . . 200.00

10 inches to 12 inches . . . 300.00

12 inches to 14 inches . . . 450.00

14 inches to 16 inches . . . 600.00

Over 16 inches . . . 750.00

(2) This fee shall be in addition to the tree removal charge in subsection (c) of this section.

(3) Subject to approval by the director of planning and development or his/her designated official, trees that are standing dead or severely damaged by termites, lightning, or other acts of God and are removed as a safety precaution are exempt from replacement requirements in subsections (c) and (e) of this section.

(f) *Time limit for commencing construction after clearing land.* Where land is cleared through issuance of a signed permit issued by the city and construction does not begin within three months from the date of clearing permit issuance, the owner shall be required to replant the cleared property to its original natural state based on tree counts and other information originally submitted to the city. A three-month extension of this limit may be issued at the discretion of the director of planning and development or his/her designated official.

(g) *Exemption for single-family homes.* When a building permit has been issued for a single-family home, the lot on which the construction is approved is exempt from the provisions of subsections (a) through (c) of this section.

(Code 1988, § 440.070; Code 1996, § 450.070; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 96-24, § 1, 2-26-1996; Ord. No. 97-025, § 515.070, 8-11-1997; Ord. No. 98-041, 4-13-1998; Ord. No. 2001-131, § 4, 10-8-2001; Ord. No. 2006-173, § 1, 12-11-2006)

Sec. 66-220. Permit; security; maintenance; open burning.

(a) *Permit required.* A permit shall be required for all landscaping plans submitted for approval. The rate of such permit shall be the same as that for a building permit.

(b) *Landscaping to be in place prior to issuance of occupancy permit.* All landscaping and screening material, living and nonliving, shall be healthy and in place prior to issuance of the certificate of occupancy. If seasonal limitations prevent planting and if security, as described in subsection (c) of this section, is provided, a certificate of occupancy may be issued by the director of planning and development, or his/her designated official.

(c) *Security required.*

(1) *Commercial projects.* Security in the form of cash, a performance bond, cashier's check, or irrevocable letter of credit equal to the cost of the landscaping shall be provided by the permittee prior to issuance of a permit. Upon completion of the landscaping and with final approval by the director of planning and development, or his/her designated official, the security will be returned to the permittee. Should the permittee fail to complete landscaping as required by the plan submitted and approved, the city shall use the security to complete the landscaping as required by the plan. Any excess funds from the security not used to complete the landscaping shall be returned to the permittee.

(2) *Single-family residential projects.* Security in the form of cash, a performance bond, cashier's check, or irrevocable letter of credit equal to the cost of the landscaping shall be provided by the permittee prior to issuance of the certificate of occupancy. Upon completion of the landscaping and with final approval by the director of planning and development, or his/her designated official, the security will be returned to the permittee. Should the permittee fail to complete landscaping as required by the plan submitted and approved, the city shall use the security to complete the landscaping as required by the plan. Any excess funds from the security not used to complete the landscaping shall be returned to the permittee.

(d) *Maintenance.*

(1) The owner of the property shall be responsible for maintaining, in a neat and orderly manner at all time, the landscaping required by this article. Plant materials shall be maintained in a healthy and growing condition that is appropriate for the season of the year. Plant materials which die shall be replaced with healthy plant material of similar variety and meeting the size requirements of this article.

(2) The developer, his/her successor and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping.

(3) Plant material which exhibits evidence of insects, pests, disease, and/or damage shall be appropriately treated, and dead plants properly removed and replaced within the next planting season.

(4) All landscaping may be subject to periodic inspection.

(5) Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and his/her agent shall be considered in violation of the terms of the building permit and this article.

(e) *Burning.* No open burning of brush, timber and/or vegetation, except as permitted by article III of chapter 38, shall be allowed except by special permit issued by the fire official or his/her designee.

(Code 1988, § 440.080; Code 1996, § 450.080; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 97-052, § 515.080, 10-13-1997; Ord. No. 98-041, 4-13-1998; Ord. No. 2002-042, § 1, 5-13-2002)

Sec. 66-221. Credit for improvements in subdivisions; exemption of rights-of-way and utility easements.

(a) In subdivisions where some or all of the requirements of this article have been met by the original developer, credit shall be extended for such improvements (on a pro rata basis) to each parcel within the subdivision.

(b) Public road right-of-way and utility easements are exempt from the provisions of this article.

(Code 1988, § 440.090; Code 1996, § 450.090; Ord. No. 95-1999, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998)

Sec. 66-222. Existing developed areas.

As of the effective date of the ordinance from which this article is derived, all property with existing development which is not in compliance with the provisions of this article shall be considered nonconforming uses and allowed to continue so long as no building permit is issued for enlargement of a structure or building. At the time that such a permit is issued, the following requirements shall be met:

(1) No additional landscaping areas shall be required if existing buildings and structures are replaced with new buildings or structures with the same total floorspace provided a building permit for replacement is applied for within one year after the existing buildings are removed.

(2) No additional landscaped area shall be required if a use expands into or is established in existing floor area that was previously unfinished or otherwise not available for occupancy.

(3) No landscaped area shall be required if:

a. The lot is enlarged by less than 25 percent of the existing lot or by less than 20,000 square feet, whichever is greater; or

b. The new floor area is enlarged by less than 25 percent of the existing floor area or by less than 2,000 square feet, whichever is greater.

(4) One hundred percent of the landscape area required for the entire property by the zoning district is required after the enlargement exceeds the thresholds in subsection (3) of this section.

(5) Location of landscape areas shall be determined by the director of planning and development as part of the site plan review.

(6) Enlargement of the lot or floor area shall be cumulative, and when the thresholds in subsection (3) of this section are reached, the required open space shall be provided.

(7) The thresholds in subsection (3) of this section shall also apply to the landscaping requirements in the C district.

(8) If a landscaped area is required on the property, a six-foot solid wood fence, masonry/brick wall or evergreen hedge shall be provided if the minimum landscaped area required is not provided as a result of the enlargement or replacement of floor area.

(Code 1988, § 440.100; Code 1996, § 450.100; Ord. No. 95-99, § 1, 9-11-1995; Ord. No. 98-041, 4-13-1998; Ord. No. 2001-131, § 5, 10-8-2001)