

## **SECTION 7-5 – DESIGN REGULATIONS**

1. Landscaped area.
  - a. The area to be landscaped shall be 10% of the total available area.
  - b. The total available area shall be calculated by subtracting the land area covered by buildings and structures from the total land area of the site, and then multiplying this difference by 10%.
  - c. This amount of land shall be devoted to vegetative landscaping, which includes trees, shrubs, grass, ground covers, and other plants.
  - d. Any required bufferyards and planted parking islands may be included in the required landscaped area.
2. Lighting.
  - a. Parking lots and vehicular use areas shall be lighted; however, such shall not illuminate, nor cast glare into neighboring properties.
  - b. Lighting fixtures shall be part of the overall project design and contribute to the landscaping effect.
  - c. Certification indicating compliance with this requirement shall be placed on the plans by the developer.
3. Screening.
  - a. All parking lots and vehicular use areas shall be screened from all abutting properties or rights-of-way by the minimum requirements contained in Section 7-6.
  - b. All dumpsters must be screened in by a stockade fence one foot (1') taller than the highest point of the waste container. If the dumpster is located behind the structure or is not otherwise visible from the right-of-way or parking area, no screening is required.

## **SECTION 7-6 – BUFFERYARDS**

1. Definition and purpose of bufferyards.
  - a. Bufferyard is a unit of yard together with the planting required thereon.
    - i. Both the amount of land and the type and amount of planting specified for each bufferyard required by this chapter are designed to ameliorate nuisances between adjacent land uses, or between a land use and a public road.
    - ii. The planting units required of bufferyards have been calculated to insure that they do, in fact, function to "buffer."
  - b. Bufferyards shall be required to separate different land uses from each other, in order to:
    - i. Eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas; or

- ii. Provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.
2. Location of bufferyards.
  - a. Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, except as provided below.
    - i. For those properties designated as having separate lots within a larger development (such as an “outparcel”), the necessity of whether a bufferyard is required and the specific requirements thereof shall be determined during the design review approval process.
  - b. Bufferyards shall not be located on any portion of an existing public or private street or right-of-way.
3. Determination of bufferyard requirements. To determine the bufferyard required between two adjacent parcels or between a parcel and a street, the following procedure shall be followed:
  - a. Identify the proposed land use.
  - b. Identify the use of land adjacent to the proposed use.
  - c. Use of table.
    - i. Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the following Table of Bufferyard Requirements that specify the bufferyard required between streets and adjacent land uses.
    - ii. The letter designations contained in the table refer to the type of bufferyard specified by the illustrations contained in this section.
  - d. Any of the several options contained below shall satisfy the requirement of buffering between adjacent land uses and streets.
4. Bufferyard specifications.
  - a. The requirements are stated in terms of the width of the bufferyard and the number of plants required per 100 feet of bufferyard.
  - b. The “plant unit multiplier” is a factor by which the basic number of plant materials required for a given bufferyard is determined, given a change in the width of that yard.
  - c. The type and quantity of plant materials required by each bufferyard and each bufferyard option are specified by the following.
  - d. Each buffer to be provided on a given property, which is a portion of the total buffer to be provided between two adjoining developed parcels.
  - e. The type of required structure and exact placement of required plants shall be determined through the design approval process, based upon the proposed use of the subject property and the uses of adjoining properties: and in the case of fence structures, the type of materials utilized and maintenance issues; and further provided that evergreen (or conifer) plant materials shall be planted in clusters.

- f. All bufferyard areas shall be seeded with lawn grass or suitable ground cover, except as approved by staff.
5. Bufferyard substitutions. The following plant material substitutions shall satisfy the requirements of this chapter.
  - a. Evergreen canopy or evergreen understory trees may be substituted as follows:
    - i. In the case of deciduous canopy forest trees, up to a maximum of 50% of the total number of canopy trees otherwise required;
    - ii. Evergreen canopy or evergreen understory trees may be substituted for deciduous understory trees and deciduous shrubs, without limitations.
  - b. In all bufferyards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitations.
  - c. Any existing plant material, which otherwise satisfies the requirements of this section, may be counted toward satisfying all such requirement.
  - d. Structures, where required, may be substituted with approval of the zoning administrator.
6. Bufferyard, change of use. When a building or use of land is changed to a more intense use, the buffer yard shall be increased if necessary to meet the requirements for buffer yards between the new use and existing adjacent uses.
7. Use of bufferyards. A buffer yard may be used for passive recreation, however, no plant material may be removed.
8. Bufferyard part of required yards. Where front, side and rear yards are required by this ordinance, buffer yards may be established within such required yards.
9. Requirements for Maintaining Buffers.
  - a. Responsibility. The responsibility for maintenance of a required buffer, to include fences, shall remain with the owner of the property. Maintenance is required in order to ensure the proper functioning of a buffer as a landscaped area which reduces or eliminates nuisance and/or conflict. The owner shall be responsible for installing live, healthy plants. Replacement plants shall be provided for any required plants that die or are removed.
  - b. Maintenance. Maintenance shall consist of mowing, removal of litter, removal of dead plant materials, and necessary pruning. Natural watercourses within a buffer shall be maintained as free-flowing and free of debris. Stream channels shall be maintained so as not to alter floodplain areas.
    - i. Water shall be supplied to each individual planting area.
    - ii. Where pedestrian or bicycle trails are allowed within a buffer, these trails shall be maintained to provide for their safe use. Such maintenance shall include pruning of plants to remove obstructions, removal of dead plant materials, litter, or other hazards.
  - c. Failure to Maintain. Failure to maintain a buffer shall be considered violation of the zoning ordinance.

**SECTION 7-7 – TABLE OF BUFFERYARD REQUIREMENTS**

TABLE OF BUFFERYARD REQUIREMENTS													
Existing Adjacent Land Use													
Proposed Land Use	Dwellings							Religious, Educ., Rec, Nurs. Home	Off. And Inst.	Commercial	Industrial	Vacant Land2	All Other
	Single	Duplexes	Town-houses	Multi-family	Group	Mobile Home	Combination Res/Comm/Off						
Single-Family Detached	*	*	*	*	*	*	*	*	*	*	*	*	*
Duplexes	*	*	*	*	*	*	*	*	*	*	*	*	*
Townhouses	D	C	A	B	B	B	B	B	B	B	B	B/A	B
Multi-Family	D	C	B	A	B	B	B	B	B	B	B	B/A	B
Group Dwellings, Rooming, Boarding, and Lodging Houses	D	D	B	B	A	B	B	B	B	B	B	B/A	B
Mobile Homes	E	D	C	C	C	A	C	C	C	C	C	C/A	C
Combination Uses, i.e. Res/Comm/Off	E	D	C	C	C	A	C	C	C	C	C	C/A	C
Religious, Recreation, Educ., Day Nurseries and Nursing Homes	D	D	D	C	C	C	B	B	B	B	C	B/A	B
Office and Institutional	E	D	D	D	D	C	A	B	A	A	B	C/A	B
Commerical Buildings and Uses	E	D	D	D	D	C	A	B	A	A	B	C/A	B
Industrial Uses1	F	F	F	E	E	E	D	E	D	D	D	D/A	D
All other uses, except those for which buffers and screens are specified elsewhere by this chapter	E	D	D	D	C	A	B	B	A	A	B	C/A	B

\* No bufferyard required.

1First letter designates bufferyard for vacant land zoned Residential, second letter designates bufferyard for all other land.

2Where proposed land uses are to be constructed adjacent to streets, a type "B" bufferyard shall be required between the proposed use and the street.

**SECTION 7-8 – BUFFERYARD TYPES**

Required Plant Units per 100 feet

- Type A: 2 canopy trees, 3 understory trees, 10 shrubs.
- Type B: 3 canopy trees, 5 understory trees, 15 shrubs.
- Type C: 3 canopy trees, 6 understory trees, 20 shrubs.
- Type D: 4 canopy trees, 6 understory trees, 25 shrubs, 10 evergreens/conifers.
- Type E: 6 canopy trees, 9 understory trees, 36 shrubs. 18 evergreens/conifers.
- Type F: 10 canopy trees, 15 understory trees, 60 shrubs, 30 evergreens/conifers.

1. Use of bufferyards. A bufferyard may be used for passive recreation; however, no plant material may be removed.
2. Bufferyards part of required yards. Where front, side, and rear yards are required by this chapter, bufferyards may be established within such required yards.
3. Minimum plant size.

Plant Material Type	Planting in Bufferyards Abutting Vacant Lands	All Other Planting
<b>Canopy Tree</b>		
Single-stem caliper	2-inch caliper	2 <sup>1</sup> / <sub>2</sub> -inch
Multi-stem caliper	8-foot height	10-foot height
<b>Understory Tree</b>		
Understory tree	6-foot height	2-inch caliper
<b>Shrubs</b>		
Deciduous	15-inch height	24-inch height
<b>Evergreens/Conifers</b>		
Trees	4-foot height	5-foot height
Shrubs	15-inch height	24-inch height

4. Special bufferyards.

- a. Natural roadside buffer. A natural buffer shall be established on properties abutting all roadways designated as scenic highways, or as may be determined during the planning process, i.e., impact assessment sketch plan approval by Council, sketch plan approval by Planning Commission, special exception approval by Board of Zoning Appeals, design review approval and staff approvals of smaller projects.

5. Other Regulations

- a. Select clearing may be allowed in these buffers of trees measuring less than ten inches DBH.
  - i. Select clearing shall not include trimming limbs more than 8 feet above ground level.
  - ii. All trees 10 inches DBH or greater shall be indicated on a tree survey.
- b. Additional landscaping, irrigation and/or pedestrian trails must be approved by the Department of Planning and Development. Any plantings allowed or required within this buffer shall be native species.
- c. No cross penetrations of utilities will be allowed.
- d. The boundaries of the natural roadside buffer shall be clearly delineated and identified on all development plans and plats submitted for approval.
- e. Clearing limits shall be staked out in the field in a manner approved by planning staff, prior to and remaining through construction activities.
- f. Buffer width to be determined in the planning process as specified above, but generally, the buffer shall be wide enough to accommodate all required plantings and maintain them in a healthy manner; provided, however, exceptional conditions (such

as project parcel size, the presence, or lack thereof, of existing natural vegetation, the dedication of right-of-way for frontage or access roads on the subject parcel, and the existence of utility or other easements or conditions that effect the buffer) shall be considered in making the buffer width determination.

- g. Buffer limits shall be staked in the field in a manner approved by planning staff, prior to and throughout construction activities.
- h. The following are exceptions to these requirements:
  - i. Lots of record and final plats approved prior to the enactment date of the 1992 zoning ordinance;
  - ii. Valid approved preliminary plats as of the enactment date of the 1992 zoning ordinance; and
  - iii. Valid approved sketch plans adopted prior to the enactment date of the 1992 zoning ordinance shall be exempt for a period of two years from the date of approval of the sketch plan by the town. Subsequent preliminary plats must accurately reflect the sketch plan; otherwise, compliance with this subsection will be required.
- i. Violation of this section or failure to comply with any of the requirements hereof shall be classified as a misdemeanor punishable by a fine in the amount of up to \$500, or imprisonment for not more than 30 days, or both.
  - i. However, no penalty shall exceed the penalty provided by state law for a similar offense.
  - ii. A separate offense shall be deemed committed for:
    - a. Each tree and/or separate plant or shrub identified in this code that is removed; and
    - b. Each day that the violation occurs or continues.
  - iii. Any person, firm, organization, society, association, partnership, corporation, or like entity, or any agent or representative thereof who commits, participates in, or assists in such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- j. Full restoration to a condition comparable to that which was destroyed shall be required within a specified period. If restoration is to be accomplished by the offending party, it shall include posting an acceptable financial guarantee with the town for the full amount of restoration required until the same is completed.
- k. Failure to comply with the terms stated in this section shall also be subject to enforcement in a circuit court of competent jurisdiction.

#### **SECTION 7-9 – INTERIOR LANDSCAPING**

- 1. Interior areas of parking lots shall contain planter islands located so as to best relieve the expanse of paving.

- a. A maximum of 10 parking spaces in a row will be permitted without a planter island.
  - b. However, this section may be modified by the Zoning Administrator, when strict application will seriously limit the function of an area.
2. Planter islands shall have a minimum of 162 square feet in area.
    - a. Planter islands shall contain at least one 2.5-inch-caliper tree, having a minimum clean trunk of five feet and a minimum overall height of eight feet.
    - b. The remainder shall be landscaped with shrubs, ground cover, or other approved material.
    - c. As it presents considerable root competition for trees, the use of lawn within an island should be limited.
  3. Landscaped border areas may be interrupted to provide ingress and egress drives for the property.
  4. Existing plant material.
    - a. The natural landscape shall be preserved according to the provisions of this chapter and the Town Tree Protection Ordinance.
  5. Wherever healthy plant material exists on a site, the above-mentioned standards may be adjusted to allow credit for such plant material, if, in the opinion of the Zoning Administrator, such adjustment is in the best interests of the town, and preserves all intents of this chapter and the Tree Protection Ordinance.