

## Article 10. Landscaping, Buffers and Open Space Requirements

### 1000. APPLICABILITY.

The requirements of Article 10 shall apply to all new developments and redevelopments where an expansion or redevelopment of a property results in an increase in the value of the property by 50 percent or more of the pre-development appraised value for tax purposes, or an increase of 50 percent or more of the building or parking areas within the City of Newberry jurisdiction. However, the enlargement or repair of any single-family detached dwelling is exempt from these requirements.

### 1001. LANDSCAPING REQUIREMENTS.

In order to maintain and enhance the existing tree coverage in the City of Newberry, promote careful landscaping of outdoor areas, soften and enhance the manmade environment, reduce summer heat and provide shade, and to assist with stormwater drainage, the following minimum standards shall apply in all zoning districts unless otherwise noted. The landscaping standards included in this subsection shall apply, as appropriate, to all required landscaped areas in this article.

#### 1001.1. General Requirements.

- A. All required plantings installed, including those replacing existing plants, shall be:
  - 1. Nursery grown stock that is free from disease, pests or growth problems;
  - 2. Installed and maintained according to best management practices and standards set forth by the *American Nursery and Landscape Association, ANSI Z60.1-2004*, as amended;
  - 3. Installed in a manner that ensures the availability of sufficient soil and water for healthy growth and that is not intrusive to above and below ground utilities and pavement; and
  - 4. Selected from the *List of Preferred Plant Species for the City of Newberry* unless otherwise certified by a licensed landscape architect or arborist as suitable for the City of Newberry's climate and comparable in habit and growth rate to a plant included in the *List of Preferred Plant Species for the City of Newberry* as maintained by the Zoning Administrator.
- B. All required landscaping shall be included in the required site plan as provided in §403.4 – *Application requirements for permits*, per the requirements of §1001.2 – *Landscaping Plan Required*.

- C. The use of native species and related cultivars is encouraged. Drought resistant plants should be used wherever possible. All vegetation shall be watered sufficiently to ensure healthy growth and longevity in the landscape. The installation and use of an irrigation system is encouraged where non-drought resistant plants are used or regular watering by other methods is not possible or practical.
- D. Vegetation used in landscaping or screening should be planted during the appropriate season for the plants to ensure plant growth and health.
- E. Clustering or random spacing of plants and trees is encouraged to produce a natural appearance in the landscape, except where uniformity is required for opaque screening.
- F. A variety of different species, including both deciduous and evergreen species, shall be incorporated into the site design to provide visual interest.
- G. Landscaping, including berms, shall be installed and maintained so as not to interfere with the sight distance requirements of this Zoning Ordinance or the sight distance needs of vehicular traffic in parking areas and at entrance and exit locations.
- H. The following installation requirements shall be met unless stipulated otherwise in this Ordinance.
  - 1. Shrubs and trees shall be installed no closer than two feet to a curb, gutter, or sidewalk.
  - 2. Small maturing trees shall be planted no closer than 10 feet to a building.
  - 3. Medium maturing trees shall be planted no closer than 20 feet to a building.
  - 4. Large maturing trees no closer than 25 feet to a building.
  - 5. Shrubs shall not be planted within six feet of tree trunks.
  - 6. In landscaped areas adjacent to parking spaces or street curbs, no plant material with the potential to reach over six inches in height may be located within twelve inches of the curb or other protective barrier. This is intended to protect planted materials from damage by car bumpers and car doors.
  - 7. Plant materials should be placed intermittently against long expanses of building walls, fences and other barriers to create a softening effect.

8. Sod or ground cover plants shall be used to provide coverage and soil stabilization. On sites over one acre in size sod is required on front and side yards. Rear yards may be seeded, using perennial grass seed, unless fronting on a secondary street or public/private access. Seeding is required to provide full coverage within the first growing season. Ground cover plants shall be planted in a number as appropriate by species to provide 50 percent surface coverage.
  9. All landscaped islands must be covered with living material including grass, groundcover, and shrubs, except for marked areas directly around the trees, so that no soil is exposed. No stone or synthetic mulch is permitted. All other planting areas not covered by trees or shrubs shall be covered by grass, mulch and ground covers.
  10. Detention/retention basins and ponds shall be landscaped to identify the basin or pond area for safety reasons and to enhance the appearance of the basin or pond. Such landscaping shall include appropriate plant materials such as canopy and understory trees, evergreens, shrubbery, hedges, and other plant materials as needed.
  11. Incorporation of earthen berms and existing topography in landscaping is encouraged whenever practical.
- H. The Zoning Administrator shall conduct inspections as needed to determine that required landscaping is properly installed and maintained as provided in this Article.
- I. The Zoning Administrator may require changes to any planting schedule or plant size requirement and may require plant substitution when, in his/her opinion, the size, nature, or spacing of plantings will compromise the safety and security of the public.

**1001.2. Landscaping Plan Required.** In addition to the site plan requirements from other sections of this Zoning Ordinance or the City of Newberry Land Development Regulations a landscaping plan is required for all landscaped areas as required by this Ordinance. The landscaping plan must be drawn to scale and shall include the following elements.

- A. North arrow and scale bar.
- B. Property boundaries of the project site.

- C. Topographic information and final grading adequate to identify and properly specify planting for areas intended to provide erosion control needed due to slope.
- D. The location and one-foot interval contours of all proposed berms.
- E. The location and dimensions of all existing and proposed structures, parking lots, driveways, landscaped islands and strips, sidewalks, service areas, screening, fences, walls, berms, above or underground utilities and storm drainage systems, freestanding electrical equipment, recreational facilities, required setbacks and buffer yards, and other freestanding structural features as determined necessary by the City. Information is required only for those existing structures and features proposed to remain on the site.
- F. Location, dimensions, and composition of all required landscaping, including plant species (botanical and common names), size at installation, spread (width) at installation and at maturity, number-of plants, and other information as needed to describe plant selection.
- G. Structures and features, both onsite and on adjacent properties, within 50 feet of the project site lot lines and the land use(s) of adjacent parcel(s).
- H. Location of trees with a DBH of 8" or greater that are to be incorporated as part of required landscaping.
- I. Location and description of any existing vegetation that is to be preserved and incorporated into required landscaping.
- J. Such other information as may be deemed necessary by the Zoning Administrator because of the landscaping requirements or physical characteristics specific to the particular development.

**1001.3. Plant Size.** The following standards shall apply to all required plants at the time of planting. However, small maturing trees must be substituted for required large or medium maturing trees when overhead utility lines are present or planned. The size of individual plants will be determined by measurements provided by the most recent addition of the American National Standards Institute's *American Standard for Nursery Stock*.

**Required Plant Size at Time of Planting**

Type	Min. Caliper <sup>1</sup>	Min. Height <sup>2</sup>
Medium and Large Maturing Tree (canopy)	2 inches	10 feet
Small Maturing Tree (understory/ornamental)	1.5 inches	5 feet
Evergreen Tree	<sup>3</sup>	6 feet
Shrubs	---	18 inches

<sup>1</sup> Caliper shall be measured six inches above the ground

<sup>2</sup> Height shall be measured from the ground to the highest extent of the plant

<sup>3</sup> Required caliper per the size of tree – small, medium or large

**1001.4. Use of Existing Vegetation Encouraged.** The use of existing trees or shrubs to meet landscaping requirements is strongly encouraged.

- A. If existing plants are incorporated and include established trees, the Zoning Administrator may reduce the amount of required landscaping by up to 50 percent based on the following table.

**Credits for Existing Trees**

Existing Tree Size (saved)	Trees Credited
2 to 6 inch caliper tree	1 tree
7 to 12 inch caliper tree	2 trees
13 to 18 inch caliper tree	3 trees
19 to 24 inch caliper tree	4 trees
25+ inch caliper tree	5 trees

- B. In order to receive credit for the preservation and incorporation of existing vegetation, the preserved vegetation must meet the following criteria:
  - 1. It must be in good health and condition and free from pests or structural problems;
  - 2. It must be clearly shown on the Landscaping Plan;
  - 3. It must be approved by the Zoning Administrator prior to the development as meeting the intent of the landscaping and buffer requirements;
  - 4. It must not be considered invasive or noxious; and
  - 5. It must be adequately protected before and during grading and development of the site.
- C. A plan for the protection of existing vegetation must be submitted and approved by the Zoning Administrator. For trees designated to be preserved, adequate

protective barriers must be provided during grading and construction and must be noted on the landscaping and grading plans. If a preserved tree dies during construction or after work on the development is completed it must be replaced with the total number of trees that were credited to the existing tree per the table in § 1004.1(A).

- D. Every reasonable effort shall be made by the developer, builder, and owner of any property that is to be developed to identify, protect, and preserve all trees with a diameter of at breast height of 8" or greater located on the lot.
- E. Existing vegetation in the buffer may be counted toward the required plantings. The specific numbers and types of required plantings for each buffer type may be varied if the Zoning Administrator determines that the existing vegetation meets the landscaping and buffering requirements of this Ordinance.
- F. In no instance shall any paved area within a parking area extend closer to any existing tree used for landscaping than its drip line.

**1001.5. Landscape installation and maintenance responsibility.**

- A. All required landscape materials and those installed voluntarily by the developer shall be properly installed and maintained by the property owner. Maintenance includes all actions necessary to keep landscaping materials healthy, neat, and orderly in appearance and free of litter and debris. Any landscape material lost, stolen, or vandalized, or which has died or become irreparably or irreversibly damaged by disease, pests, or for another reason shall be removed and replaced per the requirements of this article unless, in the determination of the Zoning Administrator, the maturity of the remaining vegetation compensates for the loss of an individual shrub or tree, thereby causing the intent of the landscape or buffer standard to be met without replacement.
- B. All landscape planting areas shall be stabilized to prevent soil erosion immediately upon planting, with such stabilization maintained both during and after construction and development.
- C. In the event that plant material is severely damaged due to an unusual weather occurrence or other act of nature, the owner shall have until the end of the appropriate planting season to ensure plant growth and health to replant. The Zoning Administrator will determine the deadline for replanting based on information from landscape or nursery professionals or Clemson Cooperative Extension as provided by the owner.
- D. In the event that installation or replacement of a plant must be delayed until the appropriate season per §1001.1(D) and §1001.5(C), a temporary certificate of

occupancy may be issued until the requirements detailed in §1006 – *Enforcement* are met.

**1001.6. Landscaped Yards.**

- A. A perimeter landscaped yard averaging ten feet in depth, but no less than six feet in depth at any point, shall be required along the entire length of all property boundaries. For property boundaries adjacent to a street (street yard), the area shall be measured perpendicular to the adjacent street right-of-way.

Measurement for all property boundaries not adjacent to a street (perimeter yard) shall be measured perpendicular to the appropriate property boundary. Table 10-3 provides plant requirements for street and perimeter yards. Fractions generated by applying the minimum number of plants to the actual linear footage of the street or perimeter yard shall be rounded to the closest whole number (for example, 145 feet of street yard length would be required to have 6 trees).

**Street and Perimeter Yard Plant Requirements\***

	<b>Street Yard</b>	<b>Perimeter Yard</b>
<b>Trees per 100 linear feet</b>	4	3
<b>Shrubs per 100 linear feet</b>	12	8

\* Subject to the exemptions of § 1001.6(C) and (D)

- B. Street Yards.-Large maturing trees shall be planted unless overhead utility lines or other factors require the use of medium or small maturing trees, as approved by the Zoning Administrator.
- C. Perimeter Yards. Trees used to satisfy these requirements may be of any type as provided for by this Ordinance. A buffer yard may be required in lieu of a perimeter yard in some situations.
- D. Zoning Setbacks. Required landscaped yards shall not prohibit the location of buildings, structures, or shared drives otherwise specifically allowed by the underlying zoning setbacks and may be reduced accordingly by the Zoning Administrator.
- E. Maximum Requirement. The landscaped yard should not result in requiring more than 35 percent of the lot. If this percentage is exceeded, the requirement may be reduced by the Zoning Administrator.

**1002. BUFFER YARDS.**

- 1002.1. Purpose.** The purpose of a landscaped buffer, or buffer yard, is to help provide transition between different types of land uses, minimize any potential adverse impacts between adjacent land uses, and promote land use compatibility.
- 1002.2.** Structures and parking lots are not allowed within a required buffer yard. However, passive recreation; infrastructure such as driveways, sidewalks and trails; and necessary utility and maintenance functions such as transmission lines, underground conduits, or irrigation may utilize these spaces.
- 1002.3. Location.** Buffer yards shall not be located on any portion of an existing street or right-of-way; however they may occupy part or all of any required front, side, or rear yard setback.
- 1002.4.** All shrubs and trees used for buffer yards shall be evergreen unless otherwise approved by the Zoning Administrator. -
- 1002.5. Buffer yard Requirements.** The *Required Buffer Yard Types* table in § 1002.2(A)(3) provides the required buffer yard based on the type of proposed land use and the type of existing adjacent land use. Should a question arise as to the land use classification of a proposed or adjacent land use, the Zoning Administrator shall determine the classification.
- A. To determine buffer yard required between adjacent parcels using the *Required Buffer Yard Types* in § 1002.2(A)(3), the following procedure shall be followed:
1. Identify the proposed land use (top row).
  2. Identify the actual or designated use of land adjacent to the proposed use (left column).
  3. Determine the buffer yard required on each boundary (or segment thereof) of the subject parcel by referring to the following table. The letter designation in §1002.2(H) - *Required Buffer Yard Types Table* refers to the type of buffer yard required as described in §1002.2(I) - *Buffer Yard and Plant Requirements Table*.
- B. Minimum buffer yard depth may be reduced by 25 percent by the Zoning Administrator if an opaque wall or fence at least six feet in height is constructed within the required buffer yard.

- C. A 50 percent reduction in buffer yard depth may be granted by the Zoning Administrator if a brick or masonry wall or a berm with a minimum height of four feet is installed within the required buffer yard.
- D. A buffer yard should not equal more than 35 percent of the lot and may be reduced by the Zoning Administrator.
- E. Planting requirements in buffer yards may be altered on a case-by-case basis by the Zoning Administrator in locations where the required buffer yard is wholly or partially within an existing easement.
- F. Where the location of existing permanent buildings or driveways on an existing site reduces the area available for a buffer yard, buffer yard requirements shall be met to the maximum extent practicable.
- G. Where implementation of the buffer yard requirements on an existing site would require the removal of parking spaces, the Zoning Administrator shall determine the best solution for accommodating parking and buffer yard requirements.
- H. Required Buffer Yard Types Table.

PROPOSED LAND USES	EXISTING ADJACENT LAND USES								
	Dwellings					Mixed uses	Religious, educational, recreational, nursing home, office, institutional	Commercial	Industrial
	Single-family (R-10)	Single-family (R-8)	Single-family (RD)	Multi-family (R-6)	Manufactured homes				
Single-family detached	*	*	*	A	A	A	A	B	D
Townhouses, Single-family attached, two-family, patio homes	A	A	A	A	A	A	A	A	D
Multi-family	B	A	A	*	A	*	A	A	C
Manufactured homes	C	C	C	C	*	C	C	C	C
Religious, educational, recreational, nursing home, office, institutional	C	C	C	B	C	A	*	*	C
Commercial	D	C	C	C	C	A	*	*	*
Industrial	E	E	E	E	E	C	C	B	*

\* Buffer yard not required, however perimeter yard may be required per § 1001.6 of this Ordinance

I. Buffer Yard Size and Plant Requirements Table.

	Low impact	Medium impact		High impact	
	Type A	Type B	Type C	Type D	Type E
<b>Minimum Depth</b>	10 ft.	15 ft.	20 ft.	30 ft.	50 ft.
<b>Trees per 100 linear ft.</b>	4	6	8	10	12
<b>Shrubs per 100 linear ft.</b>	12	18	30	40	50

**1002.6. Buffer Yard Requirements - Campus Transition Overlay District.** The following requirements apply to institutional office, professional and classroom uses in the Campus Transition Overlay District (CTO).

- A. Existing structures. Type A buffer yards shall be required where possible. Where there is insufficient area to accommodate a Type A buffer yard, the Zoning Administrator may alter the requirements to insure as much adherence as is practicable.
- B. New Construction. Type C buffer yards shall be required along all property lines unless adjoining properties are occupied by other permitted institutional facilities within the Campus Main (CM) or CTO zoning districts.
- C. If adjoining properties are occupied by permitted institutional facilities or border public rights-of-way, Type-A buffer yards shall be provided.

**1002.7. Exceptions.** In the event that unusual topography or elevation of a development site, the size of the parcel to be developed, the soil or sub-surface condition of the site would make strict adherence to the requirements of this subsection serve no meaningful purpose or would make it physically impractical to install and maintain the required buffer yard plantings, the Zoning Administrator may alter the requirements of this section as long as the existing features of the development site comply with the spirit and intent herein. Such an alteration may occur only at the request of the property owner who shall submit a plan to the Zoning Administrator showing existing site features that would buffer or screen the proposed use and any additional buffer materials the property owner will plant or construct to buffer the proposed use.

**1003. PARKING LOT LANDSCAPING.**

**1003.1. Intent.** The intent of the parking lot tree canopy requirements is to break up and soften the appearance of paved expanses and reduce ambient temperatures within off-street parking lots by providing shade.

- 1003.2. Applicability.** The following standards shall apply to all new off-street parking areas with 10 or more parking spaces and all expansions to existing parking areas which add 10 or more spaces, unless otherwise noted. In an expansion, only the area of expansion is required to be included in the calculations provided in this section.
- 1003.3. Safety.** Plant material shall be selected and arranged to insure the maximum safety of the public. No landscaping area shall be designed, installed or maintained in such a way that it provides cover or refuge for criminal activities.
- 1003.4. Landscaped Islands.** Landscaped islands at least 200 square feet in size and a minimum of five feet on any side shall be placed at the ends of each row of parking spaces. Intermediate islands at least 200 square feet in size and a minimum of five feet on any side shall be placed throughout the parking lot so that no parking space is further than 60 feet from a tree, as measured from the end or edge of the parking space. One tree is required at the end of every row of parking, even if the row terminates at a buffer yard, street yard, or perimeter yard.
- A. Each landscaped island shall include one large maturing tree unless there is an overhead utility line or street light present, in which case a small or medium maturing tree shall be planted.
  - B. In addition to the tree planting requirement, a minimum of 20 percent of each landscaped island shall be planted in a combination of small maturing shrubs, perennials, annuals, ornamental grasses, and/or live ground cover. All other areas shall be maintained in a minimum of three inches of mulch wherever plant material is placed.
- 1003.5.** All parking abutting street frontage shall plant shrubs or create berms to screen the area. Such shrubs shall not to exceed three feet at mature height at entrances and within sight distance triangles. Gaps greater than five feet are not allowed in a screen.
- 1003.6. Parking Lot Perimeter.** A landscaped area at least 10 feet in width immediately surrounding the off-street parking area is required for all off-street parking as regulated by this section. However, such landscaped area is not required where the lot is permitted to abut or directly adjoin a building or for access points such as driveways. Landscaping in such areas will meet the requirements of a Type A buffer as provided in § 1002.5. If a parking lot is adjacent to a parking lot or driveway on another parcel the required landscaped area along the common property line between the two areas may be waived by the Zoning Administrator if it will result in reduced traffic congestion on adjoining streets or a reduction in the number of curb cuts.
- 1003.7. Existing Vegetation.** Existing trees and other vegetation may be included in calculations for required plants, if the plants are healthy and structurally sounds, are

more than 12 inches in diameter at breast height, and are within tree planting areas as described in § 1003 – *Parking Lot Landscaping*.

- 1003.8.** Landscaped areas within or adjacent to parking areas must be protected from vehicular damage by a raised curb, wheel stops or approved equivalent barrier of at least six inches in height.
- 1003.9.** Alternative, creative landscaping plans that incorporate larger islands or different spacing of landscaped areas than required in this section may be approved by the Zoning Administrator, as long as the minimum area of landscaping and minimum number of trees is provided.

#### **1004. SCREENING.**

- 1004.1. Purpose.** The purpose of screening is to provide a visual barrier between an unsightly or out of scale feature or incompatible land uses or activities and the view from public streets and abutting properties.
- 1004.2. Applicability.** The requirements of §1004 - *Screening* shall apply to all required screening in this Zoning Ordinance, including screening required in *Article 6 - Conditional Use Regulations* and *Article 7 - Special Exceptions*.
- 1004.3. Opaque screening required.** Unless otherwise specified in this section, all required screening shall be visually opaque. An opaque screen is intended to exclude visual contact with the screened feature, land use, or activity from any protected property, public street, or right-of-way. An opaque screen may be composed of a wall, fence, building, berm, or a combination thereof; as approved by the Zoning Administrator. A wall, fence, or building, or combination thereof, must be used to screen features and must comply with the requirements of §307 – *Fences and Walls*. Natural areas, as detailed below, may also be used to screen land uses or activities.
- A. **Natural areas.** Where an existing vegetated area is located on the same property as the proposed development; is within or includes the required buffer; and is of sufficient height, length and depth and contains adequate and sufficient healthy vegetation to provide a visually opaque screen as required in this section, the Zoning Administrator may determine that further improvements shall not be required. Such area must remain intact and be protected throughout all phases of development, including any land disturbance, per the requirements in §1001.4. Such areas may not be used for the screening of features.
- 1004.4. Height of required screening.** The height of required screening shall be sufficient to block the view of the feature, land use or activity for which the screening is required from the protected property, public street, or right-of-way that is to be provided such

protection as approved by the Zoning Administrator; however, all required screening shall be opaque to a minimum height of six feet above grade and shall not be required to exceed eight feet in height above grade.

**1004.5. Length of required screening.** The length of a required screen shall be that which is necessary to screen the feature, land use or activity from protected properties, streets, and rights-of-way as provided in this section, however screening cannot obstruct the line of sight for vehicular traffic and must comply with the requirements of §306 - *Visibility Requirements, Sight Triangle*. The Zoning Administrator may approve accommodations for reasonable access to the property.

**1004.6. Screening required as a condition.** All screening required by *Article 6 - Conditional Use Regulations* and *Article 7 - Special Exceptions*, except for screening required for features as provided in §1004.7 below, must be installed within the required buffer between the land use or activity to be screened and the adjacent property, road, road right-of-way, or use being provided such protection. Where a land use or activity is to be screened, the opaque screen may be composed of a wall, fence, building, berm, or a combination thereof; as approved by the Zoning Administrator. Natural areas, as provided in §1001.4, may be used to screen land uses or activities.

**1004.7. Features for which Screening is required.** Screening to minimize views from adjacent properties, roads, and public rights-of-way shall be required for the following features and additional features as provided in *Article 6 - Conditional Use Regulations* and *Article 7 - Special Exceptions*. To maximize site line obstruction, a screen shall be placed immediately adjacent to the feature to be screened except as otherwise approved by the Zoning Administrator. The Zoning Administrator may approve accommodations for reasonable access, use, and maintenance of the features and equipment, as necessary.

- A. Mechanical equipment for all uses other than single-family residential and duplexes at ground level and mounted on roofs, including, but not limited to HVAC equipment, transformers and generators.
  - 1. Roof mounted mechanical equipment shall not be visible in any direction from any adjacent existing residential properties, properties in residential zoning districts, roads and public rights-of-way. Where it can be clearly demonstrated that such equipment is not visible from any adjacent existing residential properties, properties in residential zoning districts, roads and public rights-of-way, the Zoning Administrator may waive screening requirements.
  - 2. Screening of roof-mounted equipment shall be accomplished by solid and permanent roof-mounted screens, compatible with the architectural style, materials and color of the building upon which the equipment is located.

- B. Service areas for all uses other than single-family residential and duplexes, including, but not limited to, garbage and trash collection areas, exposed non-power utility fixtures, power utility substations, and delivery and loading areas. Fences and walls used to screen service areas must be designed to complement the principal building with regard to materials and color.
- C. Open, outdoor storage of materials, including, but not limited to, materials used in assembly, fabrication or processing, and waste materials.
- D. Communications towers as provided in §600.16 – *Communications Tower, Cell and Antennas* and §700.16 – *Communications Tower, Cell and Antennas*.

**1004.8. Berms.** The following standards shall apply to all berms.

- A. No structures, including fences and walls, shall be placed on a berm unless approved by the Zoning Administrator as part of the landscaping requirements for a development site.
- B. Berms shall not be used for the display of vehicles or other merchandise.
- C. If included in the landscape design, berms shall:
  - 1. Have a minimum height of two feet, a minimum crown width of two feet, and a side slope with a width to height ratio of no greater than three to one (3:1). No berm shall exceed four feet in height, not including associated landscaping.
  - 2. Be designed and constructed with an undulating appearance which mimics, as much as is practicable, a natural topographical feature of the site.
  - 3. Be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch or similar material.
  - 4. Be fully installed, planted, stabilized and maintained prior to issuance of a certificate of zoning compliance or occupancy.
  - 5. Be designed to prevent standing water and not to impede the flow of stormwater from adjacent properties.

**1004.9. Fences and walls.** All fences and walls shall meet the requirements of §307 – *Fences and Walls*. Chain-link fences with strips composed of wood, plastic, metal, or other material are expressly prohibited for use in meeting screening requirements, unless otherwise required by this Ordinance.

**1005. OPEN SPACE.**

The following standards shall apply to all required open space unless otherwise noted.

- 1005.1.** In residential cluster developments and planned development districts:
- A. No existing development shall be expanded or enlarged unless the minimum open space requirements of this section are met.
  - B. Required buffers may be included in open space if held in common ownership.
- 1005.2.** Open space requirements shall be calculated using the open space ratio.
- 1005.3.** Open space may include recreational areas, wooded areas, and environmental open space. Environmental open space is defined as any pervious area set aside for the protection, enhancement, or creation of water quality buffers, wildlife habitat, view corridors, flood hazard mitigation, or similar environmental features and may or may not include public access.
- 1005.4.** All required open space shall be well buffered from moving vehicles.
- 1005.5.** Required open space shall be substantially clustered around the edges of the development to buffer the development against adjacent tracts of land, especially land used for agriculture and low density residential development.
- 1005.6.** The land used for required open space shall have an average slope of five percent or less with no portion of the land exceeding a 15 percent slope.
- 1005.7.** Open space areas set aside in residential cluster developments may be used for onsite treatment of stormwater.
- 1005.8.** Required open space may be public or private. The planning, construction, and maintenance of open space and associated facilities shall adhere to the following:
- A. Private open space intended to count towards the open space requirements of this section shall be owned and maintained by a legally constituted homeowner's association or corporation. Land designated as open space may not be separately sold, subdivided, or developed.
    - 1. When a homeowners' association or corporation is proposed to own and manage required private open space all relevant association documents (e.g. articles of incorporation and Declaration of Covenants, Conditions

and Restrictions) must be provided to the Zoning Administrator that clearly set out the following:

- a. Responsibilities assumed by the association for perpetual maintenance and proper use of the required open space;
  - b. A requirement to submit the names and contact information for the association or corporation's board of directors that clearly denotes a primary contact person to the City on or before January 1 of each year; and
  - c. A requirement to submit a draft of subsequent changes to such documents that may impact these responsibilities and commitments to the City for review and comment prior to approval by the association or corporation.
- B. Public open space may be held by any private non-profit organization created for such purposes that has been approved by the City Council. Public open space shall:
1. Be available for public use;
  2. Have direct access from public streets;
  3. Be visible and easily accessible; and
  4. Have multiple points of entry.
- C. High maintenance cost facilities such as swimming pools shall not be counted in determining compliance with the minimum open space requirements of this section. Bridges along pedestrian and bicycle paths and similar high cost facilities shall not be permitted as an integral part of any required open space or recreational area unless no feasible alternative exists.
- D. Each phase of a phased development shall meet the minimum requirements for open space. All plans for such developments shall demonstrate compliance for each phase. No certificates of occupancy shall be issued until all such required facilities have been installed or bonded by the developer and approved by the City.
- E. The responsibility for the perpetual maintenance of open space shall be with the owner of the open space. Maintenance for required open spaces shall include ensuring that no hazards, nuisances or unhealthy conditions exist; and keeping the property neat and orderly in appearance and free of litter and debris. Failure

to adequately maintain open space shall constitute a violation of this Ordinance and shall subject the owner to any and all remedies permitted herein.

**1006. ENFORCEMENT.**

**1006.1. Time limit.** All landscaping as required by this Zoning Ordinance shall be completed in accordance with the approved site plan prior to issuance of a certificate of occupancy for the site.

**1006.2. Extensions and exceptions.** The Zoning Administrator may grant exceptions and extensions to the above time limit under the following conditions:

- A. Extensions may be granted due to unusual environmental conditions, such as drought, ice, over-saturated soil (deep mud), or inappropriate planting;
- B. Exceptions may be granted due to the substitution or unavailability of tree or plant species or acceptable tree size as specified on the site plan; and
- C. Exceptions may be granted due to circumstances beyond the developer's or property owner's control, such as incomplete construction or utility work to occur in a proposed landscaped area within 30 days after expected site completion. Exceptions may be granted provided that the developer or property owner submits a letter from the utility company to the City stating the estimated installation date.

**1006.3. Inspections.** A permanent certificate of occupancy for the development shall not be issued unless the landscaping, buffer yards, screening, and open space required under *Article 10 – Landscaping, Buffers and Open Space Requirements* are installed in accordance with these standards and in accordance with the approved site plan or subdivision plat.