

**CHAPTER 3 DISTRICTS AND REGULATIONS  
ARTICLE 1345 LANDSCAPING REQUIRMENTS**

**SECTION 1345.1 PURPOSE AND INTENT**

The purpose of this section is to regulate the protection, installation, and long-term management of trees and shrubs within the City of Fairmont. Landscape requirements under the provisions of this section are intended to minimize potential nuisances such as visual impacts from adjacent properties; transmission of noise, dust, odor, litter, and glare of lights; provide for separation of space and establish a sense of privacy. Generally the responsibility for the screening is that of the more intense land use. The appropriate use of existing and supplemental landscaping enhances the aesthetic appearance of new development and blends new development with the natural landscape. Quality landscaping is an essential component of the built urban form of the City of Fairmont. Existing landscaping should be retained where possible to ensure as natural as possible an established environment. Restoration of landscaping elements is imperative. The use of native evergreen and deciduous plant materials blend the built environment with the new construction while maintaining, reestablishing and rehabilitating the aesthetics of our City.

**SECTION 1345.02 GENERAL PROVISIONS/APPLICABILITY**

All land uses shall be designed in accordance with the requirements of this Article. Landscaped areas shall include existing vegetation to remain following development, open space, floodplains, wetlands, and areas containing new plantings. Landscaped areas may include any perimeter landscaping required by this Article.

Modifications to standards. Where necessary to accommodate creativity in site design, or where conformance with the strict requirements of this Article are not feasible, the City Council for the City of Fairmont or the Planning Department, whichever is responsible for approving the plan, may modify these requirements, provided that the type and amount of landscaping or other features are equivalent in effectiveness.

**SECTION 1345.03 LANDSCAPE REQUIREMENTS**

**1345.03.1 ADDITIONAL PPLICABILITY**

All Planned Unit Developments shall comply with the provisions of this section. A change of use, or expansion of existing heated square footage of an existing building, or expansion of parking and loading areas also require compliance with these provisions as prescribed per Section 1349.06 Nonconforming Landscaping and Screening.

## **1345.03.2 TYPES OF LANDSCAPING**

The five types of landscaping are defined as follows, and shall meet the following performance requirements:

### **A. TYPE A (Opaque Screen/Buffer)**

#### **LOCATION & REQUIRED USAGE:**

- Rear and/or side transition yard between Highway Commercial and Industrial lots and non-Highway Commercial and Industrial lots (Minimum width: 30 ft) and the transition yard between Neighborhood Mixed Use, Main Corridor Commercial City Center nonresidential and mixed residential uses and adjacent attached and detached residential uses with a (Minimum width 10 ft to 30 ft.)

This type functions as an opaque screen from the ground to a height of at least eight (8) feet. This type excludes visual contact between uses and creates a strong impression of spatial separation. Composition of the Type A landscaping may include a wall, wood fence, landscaped earthen berm, planted vegetation, existing vegetation, or any appropriate combination of these elements. Intermittent planting of deciduous and evergreen trees shall obtain a height at maturity of no less than 20 feet and have no unobstructed openings wider than ten (10) feet between tree canopies upon maturity. Shrub plantings shall have a minimum height of three (3) feet at installation and have no unobstructed openings wider than four (4) feet. At least 50% of the required trees, and at least 75% of the required shrubs, shall be evergreen species locally adapted to the area. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental planting may be required in addition to native materials.

### **B. TYPE B (Semi-Opaque Screen)**

#### **LOCATION & REQUIRED USAGE:**

- Perimeter Yard of all parking areas in Neighborhood Residential, Neighborhood Mixed Use, Main Corridor Commercial, City Center, Highway Commercial and Industrial (Minimum width: 10 ft)

This type functions as a semi-opaque screen from the ground to at least a height of four (4) feet for screening of car lights and glare. Composition of the Type B landscaping may include a wall, fence, planted vegetation, existing vegetation, or any appropriate combination of the elements. Intermittent planting of deciduous and evergreen trees shall obtain a height at maturity of no less than 20 feet and have no unobstructed openings wider than 20 feet between canopies upon maturity. Shrub plantings shall have no unobstructed openings wider than four (4) feet. At least 75 % of the required shrubs shall be evergreen species locally adapted to the area. All side yard parking areas in Neighborhood Mixed Use, Main Corridor Commercial, or City Center

Districts shall be screened from the sidewalk by low walls, fences or constructed as a continuation of the building wall a minimum of three (3) feet in height. Landscaping may be used in combination with walls or fences but shall not exceed 50% of the total required width. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials. The minimum height upon installation for effectively screening storage areas is 6 feet. This type of planting should be opaque to screen the off-site view of parking areas from neighboring properties and streets.

### **C. TYPE C (Interior Plantings)**

#### **LOCATION & REQUIRED USAGE:**

- Interiors of all parking areas

This type functions as a tree ceiling over a parking area providing shelter from sun and rain. Large maturing canopy trees shall be planted in a manner that provides shade for the entire parking area at maturity. To this end, no parking space shall be more than 60 ft from the base of a canopy tree. The use of differing species around the parking area is encouraged to promote diversity in the overall urban tree canopy. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials.

### **D. TYPE D (Street Tree Canopy)**

#### **LOCATION & REQUIRED USAGE:**

- Along all street frontages (All Districts)

This type functions as a unifying element along all street frontages by establishing an attractive and consistent streetscape and scale. Street tree plantings soften the transition of the public street to the private yard and provide shelter from sun and rain to pedestrians and drivers. Trees shall be spaced 20 ft on-center for under story and 40-ft on center for large canopy trees at the discretion of the Planning Director. Trees shall be planted parallel to the street within a well-defined planting strip of consistent width located between the curb and sidewalk, or in tree wells located in the sidewalk. Tree selections shall be provided for in accordance with **City of Fairmont Street Tree Selection Policy**. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials.

### **E. TYPE E (Residential Tree Canopy)**

#### **LOCATION & REQUIRED USAGE:**

- In Major residential subdivisions with 10 or more lots

This type functions to maintain and/or replenish the urban tree canopy in areas of new residential development. Each lot shall provide canopy trees in accordance with the following schedule:

**Lot Size Required Number of Canopy Trees**

Less than 10,000 sq. ft 1 Front yard, 1 Rear yard

10,000-15,000 sq. ft 1 Front yard, 2 Rear yard

15,001-20,000 sq. ft 2 Front yard, 2 Rear yard

More than 20,000 sq. ft 3 Front yard, 3 Rear yard

The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials. Existing canopy trees over 6" in caliper may be counted towards fulfilling this requirement. Required street trees may not be counted towards the fulfillment of this requirement. All trees required under this Section shall be planted within the private lot.

**1345.03.3 SUPPLEMENTAL LANDSCAPING GENERAL PROVISIONS**

**A. LOCATION**

The perimeter landscaping required by this Article shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line. Plants comprising the perimeter landscape shall be appropriately spread across the entire width of the landscape area.

**B. EXISTING VEGETATION, FENCES, WALLS, AND BERMS**

The use of existing trees or shrubs to satisfy the perimeter landscaping requirements of this Section is strongly encouraged. Existing significant vegetation within the required perimeter landscaped area shall be preserved and credited toward standards for the type of perimeter landscaping required, unless otherwise approved by the City of Fairmont at the time of site plan approval. Existing berms, walls, or fences, within the perimeter landscaped, but not including chain link fences, area may be used to fulfill the standards for the type of perimeter landscaping required, provided that these elements are healthy and/or in a condition of good repair. Other existing site features within the required perimeter landscaped area which do not otherwise function to meet the standards for the required perimeter landscaping shall be screened from the view of other properties or removed, as determined during the permitting process.

**C. INSTALLATION OF NEW VEGETATION AND OTHER FEATURES**

New plant material should complement existing vegetation native to the site. If existing significant vegetation and other site features do not fully meet the standards for the type of landscaping required, then additional vegetation and/or site features (including fences) shall be planted or installed within the required landscaping area. The use of indigenous, native and/or regionally grown species of trees, shrubs, vines, groundcovers and perennials is encouraged in order to make planted areas compatible with existing native habitats.

#### **D. STANDARDS FOR NEW PLANTING**

All trees which this Article requires to be planted shall be at least eight (8) feet high above ground level and at least two and one-half (2 ½) inches in caliper at the time of installation, and shall have an expected mature height of at least 20 feet. All shrubs which this Article requires to be planted shall be measured at least five (5) gallons in container size and three (3) feet above ground level. The selection of plants, planting methods, minimum height, root ball and container size, number of branches, and width, shall conform with the American Standard for Nursery Stock published by the American Association of Nurserymen for that type of tree or shrub at the time of installation. Groves of trees, as well as isolated islands with single trees, are encouraged. Adequate drainage and mulching shall be provided for planting medians and islands. Each canopy tree shall be provided with a minimum pervious ground area of 180 square feet for root growth (exception: Street Trees).

#### **E. GRADING AND DEVELOPMENT WITHIN THE PERIMETER LANDSCAPE AREAS**

The required perimeter landscaping shall not contain any development, impervious surfaces, or site features that do not function to meet these standards or that require removal of existing significant vegetation. No grading, development, or land-disturbing activities shall occur within this area if forest canopy, specimen trees, or significant vegetation exists within the perimeter landscape area, unless approved by the City of Fairmont at the time of the permit process. If grading within a perimeter landscaped area is proposed, slopes of 2:1 or less are encouraged to ensure the proper transition of grades to the adjacent property and to facilitate landscaping.

#### **F. EASEMENTS**

Nothing shall be planted or installed within an underground utility easement or a drainage easement without the consent of the City of Fairmont and the easement holder at the time of site plan approval.

#### **G. RESPONSIBILITY FOR INSTALLATION**

Where a vacant parcel is being developed adjacent to another vacant parcel, then the developer or owner of the first parcel to be developed shall provide the perimeter landscaping required adjacent to the vacant land. Where a vacant parcel is being developed adjacent to an existing land use, then the developer or owner of the vacant parcel shall provide the perimeter landscaping required adjacent to the existing land use.

#### **H. ZONING CHANGE.**

If the zoning district classification changes for an existing use or parcel, then the parcel shall comply with the landscaping requirements of this Article or, at a minimum, the intent of this Article as prescribed by the Planning Director. The owner or developer may need to install additional plant material on the parcel in order to meet the intent of this Article, especially on developed sites, or to bring the parcel up to the standards for the type of perimeter landscaping which would be required under this Article.

#### **I. STANDARDS FOR FENCES**

Fences are permitted only where they are of uniform design, materials and construction. Fences shall supplement the existing and/or required plantings. Fences shall be maintained by the owner. Notwithstanding any other provision of this Code to the contrary, the use of chain link fences visible from any public street shall only be permitted, upon the use of screening as directed by the Planning Department. Fences shall be constructed such that the finished (sheathed) side is oriented towards adjoining lots, streets, or the public right-of-way.

#### **J. DESIGN STANDARDS FOR BERMS**

All berms shall not exceed a slope with maximum rise of 1 ft to a run of 2 ft (a ratio of 1:2) and a maximum height of four feet. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

#### **K. UNLAWFUL CUTTING OF VEGETATION**

No person may remove any vegetation from within any right-of-way except in areas approved by the City of Fairmont and or the West Virginia Division of Highways.

### **1345.04 ADMINISTRATION**

#### **1. TIME FOR INSTALLATION OF REQUIRED LANDSCAPING**

A. **Time limit.** All landscaping,, mulching and seeding, shall be completed in accordance with the approved permit or development plan prior to final inspection and/or issuance of a Certificate of Occupancy for the site.

B. **Extensions and exceptions.** The City of Fairmont may grant exceptions and extensions to the above time limit under the following conditions:

1. Extensions may be granted due to unusual environmental conditions, such as drought, ice, over-saturated soil (deep mud), or inappropriate planting, provided that the developer or property owner provides the City with a surety bond ensuring the installation of the remaining landscape materials. In such cases, the City may undertake a final inspection and permit occupancy and/or issue a Certificate of Occupancy conditioned upon the installation of the landscaping during the next planting season.

2. Exceptions may be granted due to the substitution or unavailability of plant species or acceptable plant size as specified on the site plan, provided that the developer or property owner provides the City with a surety bond to ensure that the unavailable plants will be installed on the property. In such cases, the City may undertake a final inspection and permit occupancy and/or issue a Certificate of Occupancy conditioned upon the installation of the landscaping during the next planting. Only 20 percent of the plant materials to be installed on the property may be delayed and bonded under this exception. All such substitutions shall be marked on the landscaping plans submitted to the Planning Department and must be signed, dated, and approved by that Planning Department prior to installation.

3. 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, and provides a cash bond to ensure installation of the required landscaping.

C. **Bonds.** Any bond posted as surety for exceptions bond shall be accompanied by documentation of the estimated cost of the remaining landscaping to be completed. This documentation may be a landscaping contractor's bid or contract, a nurseryman's bill, or a similar document. The amount of the bond shall be one and one-half (1½) times the cost of the plant material yet to be installed, based on the highest estimate received. The Planning Director or his/her designee is authorized to release part of any security posted as the improvements are completed and approved by the City of Fairmont. Such funds shall be released within ten (10) days after the corresponding improvements have been approved.

#### **1345.05 INSPECTIONS**

A Certificate of Occupancy shall not be issued unless the landscaping required under this Article is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat or other permit. The Planning Department shall inspect the site one-year after completion in order to ensure compliance with the approved site plan or permit and to ensure that the landscape is properly maintained. The City reserves the right for re-inspection to assure the survivability of vegetation.

#### **1345.06 MAINTENANCE**

A. **Maintenance responsibility.** The owners of the property and their agents, heirs, or assigns, shall be responsible for the installation, preservation, and maintenance of all plantings and physical features required by the Section in a healthy, growing condition, for replacing them when necessary, and for keeping the area free of refuse and debris. All plant materials should be allowed to reach their mature size and maintained at their mature size. Any dead, unhealthy, missing vegetation, or vegetation disfigured by severe pruning, shall be replaced with native vegetation which conforms to the standards of this Section and to the approved site or subdivision plan. In the event that any vegetation or physical element functioning to meet the standards of this Article is severely damaged due to an unusual weather occurrence or natural catastrophe, the owner shall have one growing season to replace or replant after reconstruction is complete. All required landscaped areas shall be free of refuse and debris and shall be maintained so as to prevent mulch, straw, dirt, or other materials from washing onto streets and sidewalks.

B. **Replacement of disturbed and damaged vegetation.** The disturbance of any landscaped area or vegetation required by this Article shall constitute a violation of the Zoning Code. All disturbed landscaped areas and vegetation shall be replanted to meet the standards of this Section as well as the approved site plan or permit. Where the vegetation that has been disturbed or damaged existed on the site at the time the

development was approved or the permit issued, all replacement vegetation shall meet the standards set forth in this Article taking into account any unique site conditions and significant vegetation remaining within the landscaped area. Trees or vegetation that die within one year of construction completion, because of contractor negligence, shall be removed and replaced with new vegetation of equal or greater in size.

### **1345.07 ENFORCEMENT/PENALTIES**

See Chapter 1, Article 1305 Enforcement and Penalty of this Zoning Code.

In addition to the enforcement remedies and penalties provided by Article 1035, enforcement of the provisions of this Article may consist of one or a combination of any of the following measures:

1. Replant in the same location according to the requirements of this section.
2. Replace damaged or destroyed significant vegetation in both perimeter and or interior landscaped areas with an equal amount of new vegetation according to the size of vegetation removed. Any tree with a caliper of at least 8 inches which is damaged or removed shall be replaced with one or more trees which have a caliper of at least two and one half inches and a cumulative caliper equal to or greater than the original tree. Trees damaged or destroyed less than 8 inches in diameter shall be replaced to satisfy the performance criteria of this Section. Under story plantings may also be required to restore the buffer performance criteria for the disturbed area.
3. For all other cases where existing vegetation is damaged or removed, the type and amount of replacement vegetation required shall be of the type and amount that is necessary to provide the type of landscaping required under this Section or interior preservation area identified on the landscape plan.