

14-03-11. Landscaping and Screening.

1. *Purpose.* The purpose of these regulations are to maintain the City's quality and character by enhancing its visual appearance through the use of landscaping; enhance environmental conditions by providing shade, air purification, reduction of storm water run-off, and filtering of noise and light; promote neighborhood character, traffic calming, wildlife habitat, pedestrian amenity and aesthetic value, screen off-street parking areas and exterior storage areas from view of persons on public streets and adjoining properties and mitigate off-site headlight projection; provide buffer areas between land uses of differing intensity; and encourage the planting of trees and other plant materials throughout the community that are native or generally suitable for this area.
2. *Applicability.* The landscaping requirements contained herein shall apply to any of the following:
 - a. The construction of any principal commercial, industrial, institutional, or multi-family building(s) with three (3) or more units or an accessory building for any of the above uses;
 - b. The installation of any parking area or the expansion of any existing parking area by five (5) or more required off-street parking spaces;
 - c. A change in the use of the property that requires rezoning to a more intensive zoning classification or a special use permit; and
 - d. The reconstruction of a portion of an existing off-street parking lot equal to or greater than twenty percent (20%) at one time or forty percent (40%) over a five (5) year period, regardless of whether or not required parking spaces are added, and provided the required plant materials do not reduce the number of off-street parking spaces below what is required. Reconstruction includes any land disturbance activity or exposure of any subgrade or soil material. Regular maintenance, minor repairs, patch work or a partial mill and overlay would not constitute reconstruction. Only

those portions of the off-street parking areas being reconstructed would be subject to these requirements. Consideration may be given by the Director of Community Development and the City Forester on a case-by-case basis to modify the requirements for the reconstructed off-street parking areas.

3. *General Requirements.* All exposed ground areas, including areas not devoted to off-street parking, drives, sidewalks or other such improvements shall be landscaped with grass, vegetative ground cover, shrubs, trees or other ornamental landscape materials in conjunction with site development. All landscaped areas shall be kept neat, clean and uncluttered. No required landscaped area shall be used for parking of vehicles or for the storage or display of materials, supplies or merchandise. Boulevard areas shall be subject to the requirements of Sections 10-03-14 and 10-05-04.
4. *Landscaping Plan Required.* A landscape plan shall be required for all development subject to the provisions of this subsection. All landscape plans submitted for approval shall contain, at a minimum, the following information:
 - a. North point and scale;
 - b. The boundary lines of the property with dimensions and area;
 - c. The location of all driveways, parking areas, sidewalks, structures, utilities, or other features, existing or proposed, affecting the landscaping of the site;
 - d. The location, common name, scientific name to the species level, size and quantity of all existing trees, shrubs or other vegetation intended for use in meeting the requirements of this subsection;
 - e. The location, common name, scientific name to the species level, size and quantity of all proposed landscape materials;

- f. The location and height of any proposed earthen berms, masonry fences or other features used to meet the landscaping or buffer yard requirements;
 - g. The location of any existing and/or proposed easements; and
 - h. The square footage of each interior parking lot landscaping area and the overall square footage of all interior parking lot landscaping areas shown.
 - i. An opinion of cost prepared by the landscape architect, landscape designer, landscape contractor or civil engineer submitting the landscape plan in the amount sufficient to guarantee the installation of all the required landscaping elements and materials, including trees, shrubs, perennials, ornamental grasses, ground cover, rock mulch, wood mulch, top soil, edging material, or any other materials necessary to install the required landscape materials, as well as all labor costs to implement the landscape plan.
5. *Landscape Design Considerations.* Landscape design should serve to provide visually interesting open space, reduce the potential negative impact of development on adjacent land uses, and complement the scale of the development and its surroundings. The following items are to be considered in developing a landscape plan for submittal to the City:
- a. Landscape materials and structural items placed within the sight triangle of a corner lot, as defined in Section 14-02-03, shall not have a height of more than three (3) feet above the curb level during all stages of plant growth. Deciduous trees may be planted within the sight triangle provided they are not an obstruction to vision between three (3) feet and ten (10) feet above the curb level;
 - b. Landscape materials and structural items at driveway entrances shall be placed so that

visibility for vehicles entering or exiting a parking lot is not obstructed;

- c. Trees or shrubs shall not be planted under utility lines when their ultimate height may interfere with the lowest lines;
- d. Landscaped areas shall be of adequate size to promote proper plant growth and to protect plantings from pedestrian traffic, vehicle traffic, and other types of concentrated activity;
- e. Landscaped areas and plantings shall be located in a manner to allow adequate room for proper maintenance;
- f. A variety of tree and shrub species shall be utilized to provide year around visual interest. Except for continuous hedges and street trees, not more than fifty percent (50%) of the required number of trees or shrubs may be comprised of any one (1) species. In addition, not more than fifty percent (50%) of the shrubs and perennials within any planting bed larger than five hundred (500) square feet in area may be comprised of any one (1) genus;
- g. Final slopes greater than a 3:1 ratio, including slopes on earthen berms, will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing or retaining walls; and
- h. Within the DC - Downtown Core and DF - Downtown Fringe zoning districts, streetscape elements from the City's Streetscape Guidelines should be incorporated into the perimeter parking lot landscaping.

6. *Landscape Materials Standards.*

- a. **Plant Quality.** Plants installed to satisfy the requirements of this subsection must meet or exceed the plant quality standards of the most recent edition of *American Standards for Nursery*

Stock, published by the American Association of Nurserymen, be nursery grown and adapted to the local area.

b. Artificial Plants. No artificial plants or vegetation may be used to meet any standard of this section.

c. Sizes.

Type of Material	Minimum Size at Time of Planting
Shade Trees	Caliper of 1½ inches measured 6 inches above the root collar for trees with a mature height of 30 feet or greater
Ornamental Trees	Caliper of 1 inch measured 6 inches above the root collar for trees with a mature height of less than 30 feet
Upright Coniferous Trees	Minimum height of 4 feet above grade
Shrubs	Minimum container size of 2 gallons and minimum mature height of 3 feet above grade
Perennials	Minimum container size of 1 gallon

d. Existing Plant Material. Existing, healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum sizes specified above.

e. Ground Cover. Vegetative ground cover shall be of a size and spacing to provide a minimum of fifty percent (50%) coverage during the first full growing season and complete coverage upon maturity. Only pervious weed barriers shall be allowed. Mulch may not be used in lieu of vegetative ground cover, except in those situations where mulch is necessary to promote healthy tree and shrub growth.

Where mulch is used, an adequate vertical barrier must be included around the perimeter of the

mulch area to prevent mulch from washing into the public right-of-way or on to adjacent properties.

- f. Soil in Landscaped Areas. Soil in landscaped areas shall consist of loose, friable, loamy topsoil that is free of excess acid and alkali. It shall be free from objectionable amounts of sod, hard lumps, gravel, subsoil or other undesirable material, to a depth of eighteen (18) inches.

7. *Street Trees.*

- a. Purpose. The street tree requirements are intended to promote air quality, shade, neighborhood character, traffic calming, reduced storm water runoff, wildlife habitat, pedestrian amenity and aesthetic value.
- b. Applicability. Street trees shall be installed in conjunction with the construction of any principal commercial, industrial, institutional or multi-family building with more than three (3) units along a section of public roadway with curb and gutter installed or scheduled to be installed in conjunction with the project.
- c. Location. Street trees shall be installed within the public right-of-way or within ten (10) feet of the public right-of-way.
- d. Spacing and Planting Requirements. Unless the City Forester determines that it is necessary to address specific site conditions, three (3) deciduous trees are required for every one hundred (100) linear feet of street frontage. Street trees need not be placed at exact intervals, but they must be placed evenly along the street frontage. The City Forester shall have the authority to determine the final location of street trees in accordance with Section 13-02-01 of the City Code. Mulch shall be installed to a minimum coverage thickness of two (2) inches within a radius of three (3) feet of the trunk base. Tree grates may be used in lieu of mulching at the discretion of the City Forester.

- e. Permit Required. A planting permit must be obtained from the Forestry Division of the Public Works Department prior to planting any trees within the public right-of-way.

8. *Perimeter Parking Lot Landscaping.*

- a. Purpose. The perimeter parking lot landscaping requirements are intended to screen views of parking lots and access lanes from public rights-of-way, mitigate off-site headlight projection, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Perimeter parking lot landscaping shall be required with the installation or reconstruction (as defined in subsection 2(d)) of any off-street parking area or access lane adjacent to the public right-of-way and/or visible from and within three hundred (300) feet of a public right-of-way.
- c. Standards. All parking lots and access lanes shall provide perimeter landscaping between said off-street parking areas and access lanes and adjacent public rights-of-way. Said perimeter landscaping shall be constructed with standard poured-in-place concrete curbing on the parking lot side in order to minimize damage to plant material.
- d. Trees and Shrubs. Trees and shrubs shall be installed in accordance with the following table. The intent of the minimum requirements column is to provide a total number of trees and shrubs required based on street frontage, not to dictate the spacing of the trees and shrubs within that frontage. For fractions of the specified linear feet, the number of trees and shrubs required shall be the corresponding fraction.

Parking Lot Size (Number of Spaces)	Minimum Landscaping Width	Minimum Requirements
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Less than 100	4 feet; or	Masonry wall, decorative fencing or continuous evergreen or deciduous hedge with a minimum height of 3 feet.
	6 feet	1 shade or ornamental tree and 5 shrubs for every 25 linear feet of street frontage.
100 to 399	10 feet; or	4 shade or ornamental trees and 40 shrubs for every 100 linear feet of street frontage; or
		Masonry wall, decorative fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 3 feet
	20 feet; or	Earthen berm with a minimum height of 3 feet plus 2 shade or ornamental trees for every 100 linear feet of street frontage; or
		2 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage.
30 feet	4 shade or ornamental trees and 10 shrubs for every 100 linear feet of street frontage.	
400 or more	20 feet	Earthen berm with a minimum height of 3 feet plus 4 shade or ornamental trees for every 100 linear feet of street frontage; or
		4 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage; or

		Masonry wall, decorative iron fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 4 feet.
	30 feet	4 shade or ornamental trees and 10 shrubs for every 100 linear feet of street frontage.
	40 feet or greater	4 shade or ornamental trees for every 100 linear feet of street frontage.

- e. Applicability to Industrial Districts. Within the MA - Industrial and MB - Industrial zoning districts, the Director of Community Development and the City Forester may waive or modify perimeter parking lot landscaping requirements based on site conditions if the parking lot has twenty-five (25) or fewer parking spaces and the property is not located along a collector or arterial roadway.
- f. Grade Differential. Consideration will be given for parking areas and access lanes that are significantly above or below the finish grade of the adjacent public right-of-way. Modifications to the required plant quantities will be considered on a case-by-case basis by the Director of Community Development and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.
- g. Separation. For off-street parking areas with varying widths adjacent to a public right-of-way, the average separation distance between the parking area and the right-of-way will be the basis for the required plant materials.
- h. Substitutions. The Director of Community Development and the City Forester may allow

perennials to be substituted for a portion of the required shrubs on a one-to-one basis, and for one shade tree to be substituted for three shrubs, based on specific site conditions and the overall landscape design for the site.

9. *Interior Parking Lot Landscaping.*

- a. Purpose. The interior parking lot landscaping requirements are intended to break up large expanses of pavement, provide relief from the heat island effect associated with paved areas, promote air quality, shade, aesthetic value, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Interior parking lot landscaping applies to any new or reconstructed parking lot (as defined by subsection 2(d)).
- c. Standards. All parking lots containing fifty (50) or more off-street parking spaces shall provide interior landscape areas within the parking lot. Said landscape areas shall be provided at the rate of ten (10) square feet per parking space, shall be no less than ten (10) feet by ten (10) feet (100 square feet), and shall be constructed with poured-in-place concrete curbing to minimize damage to plant material. The poured-in-place concrete curbing requirement may be waived by the Director of Community Development and the City forester for landscape beds intended to function as rain gardens, storm water infiltration areas or storm water detention facilities. For parking lots with one hundred (100) to four hundred (400) parking spaces, at least fifty percent (50%) of the landscape areas shall be no less than six hundred (600) square feet in area with a minimum width dimension of ten (10) feet. For parking lots with more than four hundred (400) parking spaces, at least fifty percent (50%) of the landscape areas shall be no less than twelve hundred (1200) square feet in area with a minimum width dimension of ten (10) feet.

- d. Placement of Landscape Areas. Live plant material should be evenly dispersed throughout the parking area.
- e. Trees and Shrubs. At least one (1) shade tree and three (3) shrubs shall be provided for every twenty (20) parking spaces or fraction thereof within the off-street parking area. One (1) shade tree may be substituted for three (3) shrubs, but shrubs may not be substituted for shade trees. The Director of Community Development and the City Forester may allow perennials to be substituted for a portion of the required shrubs on a one-to-one basis, based on specific site conditions and the overall landscape design for the site.

10. Buffer Yards.

- a. Purpose. The buffer yard requirements are intended to provide separation between land uses of differing intensity. Buffer yards utilize a combination of distance and plantings to form a dense landscaping screen to mitigate the undesirable impacts associated with incompatible land uses on adjacent properties. Earthen berms and/or opaque wood or similar screening fence as defined in this section may also be used where appropriate at the discretion of the Director of Community Development and the City Forester.
- b. Applicability. Buffer yards shall be required between a single- or two-family residential use and any other non-agricultural land use, and between a multiple family residential use (three (3) or more units) and any commercial, industrial or institutional use. Buffer yards shall also be required for parking lots and access lanes associated with these uses, whether they are located on the same parcel or on a separate parcel.
- c. Location of Buffer Yards. Buffer yards shall be located along the entire length of any lot line where two (2) land uses of differing intensity abut, excluding areas adjacent to access points

and sight triangles. Such buffer yards may be located within required yards, but not within any portion of the public right-of-way or over any established trail or access easement.

d. Responsibility for Buffer Yard Installation. Installation of all required buffer yards shall be the responsibility of the proposed higher intensity use and shall be located on the lot of the higher intensity use unless a perpetual landscape easement is obtained from the property owner with the lower intensity use, in which case the buffer yard may be located on the lot with the lower intensity use. In situations where the higher intensity use was in place prior to the adoption of this section (October 8, 2002), or any subsequent amendments, a buffer yard shall not be required with the subsequent development of the adjacent lower intensity land use. Landscape easements for buffer yards may be required in conjunction with the platting process in situations where such buffer yards will be required based on existing or proposed zoning and/or land uses.

e. Standards. Buffer yards shall be installed in accordance with the following table:

Area Where Buffer Yard Required	Minimum Width of Buffer Yard	Landscape Materials Required per 100 Linear Feet
Side or rear yard of any expanding higher intensity land use adjacent to single and two-family residential uses or zoning	10 feet w/6-foot screening fence	4 shade trees and 2 ornamental trees

<p>Side or rear yard of any new multi-family land use adjacent to single and two-family residential uses or zoning</p> <p>or</p>	<p>15 feet</p> <p>or</p>	<p>3 shade trees, 4 ornamental trees, 2 large upright coniferous trees, 10 small upright coniferous trees and 14 shrubs (25% of shrubs must be evergreens)</p>
<p>Side or rear yard of any new commercial or institutional use adjacent to a multi-family residential use or zoning</p>	<p>15 feet w/6-foot screening fence</p>	<p>2 shade trees and 2 ornamental trees and 2 large upright coniferous trees</p>
<p>Side or rear yard of any new commercial or institutional land use adjacent to a single or two-family residential use or zoning</p>	<p>20 feet</p> <p>or</p>	<p>2 shade trees and 4 ornamental trees and 3 large upright coniferous trees and 10 small upright coniferous trees and 14 shrubs</p>
	<p>20 feet w/6-foot screening fence</p>	<p>2 shade trees and 3 ornamental trees and 2 large upright coniferous trees</p>

Side or rear yard of any new industrial use adjacent to any residential use or zoning	50 feet w/6-foot berm	5 shade trees and 7 ornamental trees and 10 large upright coniferous trees and 10 small upright coniferous trees and 24 shrubs
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A screening fence may be made of solid wood, composite material with the appearance of solid wood, vinyl with the appearance of solid wood, masonry, or a combination of masonry and any of the other materials listed. In situations where the rear walls of accessory garages are located within twenty (20) feet of a property line, the planting material numbers required for a buffer yard with a screening fence will apply, provided the wall of the accessory garages is at least one hundred (100) feet in length and provided that the number of planting materials required for a buffer yard without a fence are provided in areas not occupied by such garages.

In order to provide flexibility in the application of this ordinance, the Director of Community Development and the City Forester may allow material numbers and/or types to be modified on a case-by-case basis with the submittal of an oblique view or elevation sketch of the buffer yard showing how the proposed materials will meet the dense landscaping screen intent of this ordinance within five (5) years of initial installation and at full maturity.

- f. Sizes. In order to provide an effective landscaping screen in conjunction with site development, minimum sizes at the time of planting and minimum heights at maturity have been established. The classification of various types of materials shall be based on the City of Bismarck's Forestry standards and specifications.

Type of Materials	Minimum Size at Time of Planting	Minimum Height at Maturity
Shade Trees	Caliper of 1.5 inches measured 6 inches above the root collar	20 feet
Ornamental Trees	Caliper of 1 inch measured 6 inches above the root collar	15 feet
Small Upright Coniferous Trees	Minimum height of 2 feet above grade or minimum container size of 5 gallons	6 feet
Large Upright Coniferous Trees	Minimum height of 4 feet above grade	20 feet
Shrubs	Minimum height of 2 feet above grade or a minimum container size of 2 gallons	3 feet

- g. Applicability to Non-Conforming Uses. Proposed modifications to a required buffer yard adjacent to any non-conforming use, based on zoning, may be considered on a case-by-case basis by the Director of Community Development and the City Forester.
- h. Applicability to Buffer Yards in Areas Within the Extraterritorial Area. Consideration will be given by the Director of Community Development and the City Forester on a case-by-case basis to allow a modified buffer yard in developing areas within the extraterritorial area. Consideration will be given for reduced plant quantities, sizes, locations and plant species.

- i. Grade Differential. Consideration will be given for required buffer yards that are significantly above or below the finish grade of the adjacent property. Modifications to the required plant quantities may be considered on a case-by-case basis by the Director of Community Development and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.

11. *Installation, Maintenance, Replacement, Inspection and Enforcement.*

- a. Installation of Street Trees. The City Forester shall determine the time for installation of street trees.
- b. Installation of Other Required Landscaping. All other landscaping and buffer yards required by this subsection shall be healthy and in-place as soon as grading or construction has been completed to eliminate or reduce wind and/or water erosion. When landscaping cannot be completed in conjunction with site development due to seasonal constraints, the plant material shall be installed at the beginning of the next growing season, unless otherwise approved by the Director of Community Development and the City Forester.
- c. Maintenance and Replacement. The owner, or successors in interest, or agent, if any, shall be responsible for regular maintenance of all landscaping in good condition in a way that presents a healthy, neat and orderly appearance. All landscaping must be maintained free from disease, pests, weeds and litter. This maintenance must include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. Dead plants must be promptly removed and replaced within the next growing season. Trees located along fire department access routes, as identified on an approved site plan, must be pruned as needed to maintain a vertical

clearance height of no less than fourteen (14) feet.

d. Inspection and Enforcement. All landscaping shall be subject to periodic inspection by the City Forester. Landscaping that is not installed, maintained or replaced as needed to comply with the approved landscape plan shall be considered a violation of this Section and shall be subject to the enforcement provisions Chapter 13-02-14.

e. Surety Requirement.

1. For landscaping required under Section 14-03-11(2)(a), the landscaping shown in the approved landscaping plan must be installed prior to issuance of a certificate of occupancy. If the landscaping cannot be installed due to seasonal concerns, the certificate of occupancy may be issued upon the receipt of a certificate of deposit in the name of the City of Bismarck in an amount (estimate plus ten percent (10%)) sufficient to guarantee the installation of the landscaping according to the landscape plan.

2. For landscaping required under Section 14-03-11 (2)(b), the owner must provide a certificate of deposit in the name of the City in an amount sufficient to guarantee the installation of the landscaping according to the landscape plan prior to issuance of a permit for the construction or alteration of the parking lot.

3. For landscaping required under Section 14-03-11 (2)(c), the owner must provide certificate of deposit in the name of the City in an amount sufficient to guarantee the installation of the landscaping according to the landscape plan prior to issuance of a special use permit or final approval of a zoning change.

4. For landscaping required under Section 14-03-11 (2)(d), the owner must provide a certificate of deposit in the name of the City in an amount sufficient to guarantee the installation of the landscaping according to the landscape plan prior to issuance of a special use permit for the parking improvements.

If the required landscaping is not installed as agreed by the owner or by July 1 of the year following the occupancy or use of the property, the City may cash the certificate of deposit and order the installation of the landscaping according to the approved landscape plan, based on an estimate prepared by the landscape architect, landscape designer, landscape contractor or civil engineer submitting the landscape plan and agreed to by the City, plus ten percent (10%).

(Ord. 5437, 06-28-05; Ord. 5450, 08-23-05; Ord. 5562, 11-28-06; Ord. 5640, 10-09-07; Ord. 5812, 03-22-11; Ord. 6051, 05-27-14)