

ARTICLE 18

LANDSCAPE AND LAND USE BUFFERS

18-1 INTENT - The intent of this Article is to improve the appearance of vehicular use areas (VUAs) and property abutting public rights-of-way; to require buffering between incompatible land uses; and to protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare.

18-2 SITES AFFECTED

18-2(a) NEW SITES - No new site development, building, or structure shall hereafter be constructed or vehicular use area created or used unless landscaping is provided as required by the provisions of this Article.

18-2(b) EXISTING SITES - No building, structure, or vehicular use area (VUA) shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this article is provided for the property to the extent of its alteration or expansion, but not for the entire property.

18-2(c) CHANGE OF USE - No use shall be changed to another use for which the Zoning Ordinance requires additional parking over and above that required for the previous use, unless vehicular use area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.

18-2(d) CHANGE OF ZONE - No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

18-3 WHERE LANDSCAPE MATERIALS REQUIRED - This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, perimeter landscaping for incompatible land use areas, and landscaping for service areas.

18-3(a) PERIMETER LANDSCAPING REQUIREMENTS - Unless otherwise provided, landscape materials shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one (1) foot above finished grade level to the top of the required planting, hedge, fence, wall, or earth mound within four (4) years after installation. The required landscaping shall be provided along the property perimeter in designated landscape buffer areas (LBAs) as shown in the chart Section 18-3(a)(1) or adjacent to the vehicular use area as shown in the chart Section 18-3(a)(2). A "Planting Manual" and a "Plant Materials List" shall be maintained by the Division of Planning and available in the offices of the Division of Building Inspection, to provide more detailed information on the acceptable plant material.

18-3(a)(1) PROPERTY PERIMETER REQUIREMENTS

A. When the following.	B. Adjoins the following.	C. a minimum buffer area *1 of this average width (with 3' as the least dimension) is required *3 *4	D. which will contain this material, to achieve opacity required. *5 *8
1. Any M-1P zone.	Any property in any zone other than M-1P.	10' adjacent to all common boundaries, including street frontage.	1 tree/40' of linear boundary, OFT *2, from Group A, B, or C of Plant List plus continuous 6' high planting, hedge, fence, wall or earth mound.
2. Any office or business zone (except P-2).	Any residential zone.	15' adjacent to all common boundaries (located behind the building line) except street frontage. *7	1 tree/40' of linear boundary OFT, from Group A or B only, plus 1) a double row of 6' high hedge, or 2) a 6' high fence, wall or earth mound.
3. Any industrial or P-2 zone.	Any residential, office, or business zone.	15' adjacent to all common boundaries except street frontage. *7, *9	Same as 2D.
4. Any double frontage lot (as defined by the Subdivision Regulations) in any zone except A-U, A-R, A-N and A-B, unless the lot is used for a vehicular sales facility or a service station.	Any state maintained freeway or arterial street not providing direct access to the property.	20' for residential zones and 10' for all other zones adjacent to freeway or arterial.	1 tree/30', OFT, Group A or B, plus continuous 6' high planting, hedge, wall, fence (not to exceed 8' in height at street grade) or earth mound. Such plantings are to be shown on a unified plan for the development.
5. Any zone except agricultural and industrial zones.	Railroads (except spur tracks and along sight triangles)	Same as 6C, adjacent to railroad boundaries.	Same as 2D.
6. Utility substation, junk yards, landfills, sewage plants, sewage pump stations, transfer stations or similar uses.	Any property boundary, including street rights-of-way.	15' adjacent to all boundaries, except only 5' for utility substations and sewage pump stations measured adjacent to the enclosure. *7	Same as 2D.
7. Any R-1T, R-3, R-4 or R-5 zone, except when developed as buildings for single family or two family occupancy.	Any R-1A, R-1B, R-1C, R-1D, or R-2 zone.	6' adjacent to all common boundaries except street frontage.	1 tree/40' of linear boundary, OFT *2, from Group A, B, or C of Plant List plus a continuous 6' high planting, hedge, fence, wall, or earth mound.

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18-3(a)(1) PROPERTY PERIMETER REQUIREMENTS (Cont'd)

8. Any business, office, or industrial zone.	Any A-R zone.	15' adjacent to all common boundaries except street frontage.	One tree/40' of linear boundary, OFT *2, from Group A of Plant List, plus continuous 6' high planting or hedge; or 1) one evergreen tree/15' of linear boundary, OFT, planted 15' o.c.; or 2) one tree/20' of linear boundary, OFT, that is a combination of 50% deciduous trees from Group A and 50% evergreen trees or small flowering trees.
9. Any residential, business, office or industrial zone.	Urban Service Area boundary.	5' adjacent to all common boundaries except street frontage. *6	Same as 1D, except use only tree species from Group A.
10. Any cemetery use, whether private or public.	Any property boundary, including street rights-of-way.	50' adjacent to all boundaries, as shown on a development plan or subdivision plan.	1 tree/40' of linear boundary, OFT, from Group A; or 1 tree/30' from Group B, plus continuous 6' high planting or hedge, in addition to a wall or fence a minimum of 3' in height.

*1 Grass or ground cover shall be planted on all portions of the landscape buffer area not occupied by other landscape material.

*2 O.F.T. means "or fraction thereof". Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.

*3 To determine required area of landscape buffer area, multiply required average width by length of common boundary. Using item 1C as an example, the 10' average required width times an assumed 100' of common boundary equals 1,000 sq. ft. of required landscape area. Thus, if some sections of the landscape buffer area are only 3' in width, other sections will have to be greater than 10' in width in order to attain the required 1,000 sq. ft. of landscape area.

*4 Five (5) feet shall be the least dimension for any P-1, B-1, B-2, B-2A, B-2B, B-3, B-4, I-1, or I-2 zone with 3' as the least dimension for any other zone.

*5 A continuous planting of evergreen trees 15' on center (o.c.) shall be deemed to meet the requirements for trees and a continuous planting provided the trees meet the requirements of Section 18-4(3)(c) and an opacity of seventy percent (70%) is achieved.

*6 No map amendment request, major subdivision plan, or development plan shall be approved by the Planning Commission except in compliance with this section. However, the Planning Commission shall not require such landscaping adjoining the Urban Service Area boundary where any of the following conditions exist: major railroad lines, major water bodies (not including streams or farm ponds), publicly owned parks or open space, public property with a low intensity of use, or existing urban development along the Urban Service Area boundary.

*7 The 15' Landscape Buffer Area (LBA) may be reduced to 5' when used in conjunction with a 6' high wall or fence.

*8 In situations where a slope occurs along a boundary, the required landscaping shall be placed (in relation to the slope) where it will most effectively screen the more intensive use from the adjoining property.

*9 In conjunction with the required development plan in a P-2 zone, the Planning Commission may permit portions of required perimeter planting to be reallocated to areas interior to the site. This shall be permitted for areas where the Commission finds that such solid screening is not necessary or desirable to screen the P-2 uses from adjoining properties or right-of-way. For example, where such uses as open space areas, outdoor recreation areas, large open yards, and the like adjoin the abutting

rights-of-way or adjoining properties, the Commission should consider utilizing the reallocation provision of this section.

18-3(a)(2) VEHICULAR USE AREA PERIMETER REQUIREMENTS

A. When the following.....	B. Adjoins the following....	C. a minimum landscape buffer area of this width is required *1	D. which will contain this material, *3 to achieve opacity required
1. Any vehicular use area *2 (VUA) on any property.	Any property in any zone except industrial (I-1, I-2) downtown business core (B-2), Downtown business frame (B-2A), Lexington Center Business (B-2B), or agricul- tural (A-U, A-R, A-N or A-B).	5' to edge of paving where vehicles overhang, 4' mini- mum from edge of paving and 3' (that prohibits any vehicular overhang) for other areas, adjacent to portion of vehicular use area that faces adjacent property.	1 tree/40' of boundary of vehicular use area OFT *4, from group A, B, or C, plus a 3' average height continuous planting, hedge, fence, wall or earth mound or a 3' decrease in elevation from the adjoining property to the vehicular use area.
2. Any vehicular use area in any zone outside the B-2, B-2A, or B-2B zones, except vehicle sales facilities or service stations.	Any public or private street right-of-way, access road or services road (except express- ways).	Same as 1C above except applies to VUA portion facing public or private street right- of-way, access road, or service road.	Same as 1D, except use only Group A or B.
3. Any vehicle sales facility or service station.	Any public or private street right-of-way, access road, service road, expressway or arterial street.	Same as 2C above.	1 tree/50' OFT from Group A or B, plus an 18" average height continuous planting, hedge, fence or wall.
4. Any vehicular use area (except loading and unloading in areas) B-2, B-2A or B-2B zones.	Same as 2B.	6' adjacent to portion of vehicular use area that faces a public or private street right- of-way, access road or service road.	3' average height continuous planting, hedge or wall.
5. Financial institutions with drive-in facilities or night deposits.	Same as 2B.	Same as 1C.	1 tree/40' of boundary OFT from Group A or B (deciduous only) with 5' of clear trunk, plus an 18" average height continuous planting, hedge, fence or wall adjoining a public or private right-of-way and a 3' average height planting, hedge, fence or wall adjacent to all other property.
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- *1 These provisions may be included within the property perimeter landscaping required by Section 18-3(a)(1) where landscape buffer areas are also applicable.
- *2 A vehicular use area (V.U.A.) is any open or unenclosed area containing more than 1,800 sq. ft. of area and/or used by five or more, of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; mobile home parks; and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks landscape strips, etc., do not eliminate adjacency).
- *3 Grass or ground cover shall be planted on all portions of the landscape buffer areas not occupied by other landscape material.
- *4 OFT means "or fraction thereof".
- *5 In the B-2, B-2A, and B-2B zones, when a wall is used, it is to be constructed of natural stone, brick or pre-cast concrete.

18-3(a)(3) WHO PROVIDES LANDSCAPE BUFFER AREA - The landscape buffer area and material required adjacent to any vehicular use area under Section 18-3(a)(2) shall be provided by the person in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise (hereinafter referred to as "owner"), unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscape buffer area and materials (a) may be placed on either adjoining parcel, or astride the boundary, if both are owned and being processed by the same owner; or (b) generally shall be placed on the activity listed under Column A of 18-3(a)(1) and 18-3(a)(2) when adjoining parcels have different owners; or (c) may be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Division of Building Inspection as a public record; or (d) shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of 18-3(a)(1) lines 4 and 5; or (e) shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this ordinance.

18-3(a)(4) REQUIREMENT CONFLICTS - Whenever a parcel or activity falls under two or more of the landscape requirements listed in the table of Section 18-3(a)(1) or 18-3(a)(2) the most stringent requirements will be enforced.

18-3(a)(5) LANDSCAPING IN EASEMENTS - The required landscape buffer area may be combined with a utility or other easements as long as all of the landscape requirements can be fully met, otherwise, the landscape buffer area shall be provided in addition to, and separate from, any easement. Trees to be planted in utility easements containing overhead lines shall be only those specified in the Plant List. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer area more than two and one-half (2½) feet, and wheel stops or curbs will be required.

18-3(a)(6) STREET TREES IN THE RIGHT-OF-WAY - Trees required as a part of the vehicular use area perimeter landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Division of Building Inspection and the Street Tree Coordination Committee. Where street trees required by the Subdivision Regulations have already been planted in the right-of-way, such trees may be substituted for an equal number of VUA perimeter trees. Written permission from the authority having jurisdiction over the right-of-way shall be submitted by the developer prior to the approval of a landscape plan which utilizes the right-of-way for VUA perimeter landscaping. The Division of Building Inspection shall permit the required VUA perimeter trees to be located in the right-of-way only if there is sufficient area for such trees to grow to maturity.

18-3(a)(7) EXISTING LANDSCAPE MATERIAL - Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the Division of Building Inspection such material meets the requirements and achieves the objectives of this Article. Existing healthy trees from Group "A" or "B" of the Plant List may be substituted for trees required for property or vehicular use area perimeter landscaping, or for interior landscaping by using the following criteria: a 6" to 12" caliper tree surrounded by a minimum of one hundred fifty (150) square feet of landscape area may be substituted for two (2) new trees of the required minimum size; a 12" to 24" caliper tree surrounded by a minimum of two hundred fifty (250) square feet of landscape area may be substituted for three (3) new trees of the required minimum size; a 24" or greater caliper tree surrounded by a minimum of three hundred (300) square feet of landscape area may be substituted for four (4) new trees of the required minimum size.

18-3(a)(8) LANDSCAPING AT DRIVEWAY AND STREET INTERSECTIONS - To assure that landscape

materials do not constitute a driving hazard, a "sight triangle" will be observed at all street intersections or intersections of driveways with streets as required by Section 3-2 herein.

18-3(a)(9) JOINT DRIVEWAYS AND COMMON VEHICULAR USE AREAS - Vehicular use area screening shall not be required between a vehicular use area and the adjoining property where a property line divides a driveway used for common access to two (2) or more properties nor when both of the following conditions exist: **a)** the vehicular use areas are for the required parking for the properties or the common use of the properties (as substantiated by a reciprocal parking and access agreement), **b)** a final development plan for the properties has been approved by the Planning Commission.

18-3(b) INTERIOR LANDSCAPING FOR VEHICULAR USE AREAS - Any open vehicular use area (excluding loading, unloading, and storage areas in an industrial zone [I-1 or I-2] or warehouse business zone [B-4]) containing 6,000 or more sq. ft. of area, or twenty (20) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to 6,000 or more square feet of area, or twenty or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.

18-3(b)(1) LANDSCAPE AREA - For each one hundred (100) square feet, or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided in all zones except the P-2 zone. In the P-2 zone, ten (10) square feet of landscaped area shall be required for each one hundred (100) square feet of vehicular use area.

18-3(b)(1)(a) MINIMUM AREA - The minimum landscape area permitted shall be sixty-four (64) square feet, with a four (4) foot minimum dimension to all trees from edge of pavement where vehicles overhang.

18-3(b)(1)(b) MAXIMUM CONTIGUOUS AREA - In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than three hundred fifty (350) square feet in vehicular use areas under 30,000 square feet in size, and no required area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet. In both cases, the least dimension of any required area shall be four (4) feet minimum dimension to all trees from edge of pavement where vehicles overhang. The maximum distance between landscape areas shall be one hundred twenty (120) feet measured from the

closest perimeter landscape area curb edge or the closest curb edge of each required interior area. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum.

18-3(b)(1)(c) MINIMUM TREES - A minimum of one (1) tree shall be required for each two hundred fifty (250) square feet or fraction thereof of required landscape area. Trees shall have a clear trunk of at least five (5) feet above the ground. The remaining area shall be landscaped with shrubs, or ground cover, not to exceed two (2) feet in height.

18-3(b)(1)(d) VEHICLE OVERHANG - Parked vehicles may hang over the interior landscaped area no more than two and a half (2½) feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscaped area.

18-3(c) LANDSCAPING FOR SERVICE STRUCTURES - All service structures shall be fully screened except when located in a R-1, R-2, B-4, I-1, or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.

18-3(c)(1) LOCATION OF SCREENING - A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

18-3(c)(2) PROTECTION OF SCREENING MATERIAL - Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement

of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.

18-3(d) SCREENING OF OUTDOOR STORAGE AREAS - All outdoor storage areas in the I-1 and I-2 zones shall be screened by a solid wall or fence not less than six (6) feet in height.

18-4 LANDSCAPE MATERIALS - The landscaping materials shall consist of the following, and are described in more detail in the Planting Manual and Plant Materials List available at the Division of Planning and the Division of Building Inspection.

18-4(a) WALLS AND FENCES - Walls shall be constructed of natural stone, brick or other weatherproof materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood or other weatherproof, durable materials generally used in the exterior construction of buildings. Fence posts shall be structurally stable based on the material used, and shall have a maximum spacing of 8' on center (o.c.). If wood is used, the posts shall be 4" x 4" minimum. Posts shall be set in or anchored to crowned concrete footers at least six (6) inches larger in each direction than the post it supports. The base of the footer shall be at least twenty-four (24) inches below finished grade. If wood is used for any member, it shall be softwood treated with water-borne preservative to the American Wood Preservers Institute standard LP-2 for above ground use or LP-22 for ground contact use, or all heart redwood, or all heart cedar. All cut surfaces of pressure treated lumber shall be waterproofed. If another material is used, it shall be weatherproof. Slats are to be minimum one-half (½) inch in thickness and are to be placed on the outside of the fence unless the design is two-sided (shadow-box, etc.). All hardware is to be galvanized or otherwise rust-proofed. Wood horizontal members shall be installed bark-side up. Chain link fencing may not be used to meet the requirements of this Article. Chain link fencing may be installed in the required landscape area only if it is in addition to the required continuous planting, hedge, fence, wall or earth mound. In industrial zones, there shall be no height limitation on walls or fences; in all other zones, however, there shall be a six (6) foot height restriction for walls or fences in front yards and side street side yards, and an eight (8) foot height restriction in side and rear yards. All walls or fences shall have a minimum opacity of eighty (80) percent. Walls and fences allowed to meet the requirements of this Article shall not be used for the erection or display of any sign or other advertising device.

18-4(b) EARTH MOUNDS - Earth mounds shall be physical barriers which block or screen the view similar to a hedge, fence, or wall. Mounds shall be constructed with proper and adequate plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an earth mound.

18-4(c) PLANTS - All plant materials shall be living plants (artificial plants are prohibited) and shall meet the following requirements:

18-4(c)(1) QUALITY - Plant materials used in conformance with provision of this Ordinance shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations. Bare root plants, with the exception of shrubs and hedges, vines and ground covers shall be prohibited.

18-4(c)(2) DECIDUOUS TREES (Trees which normally shed their leaves in the Fall) - Shall be species having an average mature crown spread of greater than fifteen (15) feet in Fayette County and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) crown spread. A minimum of ten (10) feet overall height or a minimum caliper (trunk diameter, measured 6 inches above ground for trees up to 4 inches caliper) of at least one and three-fourths (1¾) inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete.

18-4(c)(3) EVERGREEN TREES - Evergreen trees shall be a minimum of five (5) feet high with a minimum caliper of one and one-half (1½) inches immediately after planting.

18-4(c)(4) SHRUBS AND HEDGES - Shall be at least twelve (12) inches with three (3) canes for Section 18-3(a)(2) lines 3 and 5, at least two (2) feet with three (3) canes for all other lines of Section 18-3(a)(2), and three (3) feet with four (4) canes for Section 18-3(a)(1) in average height when installed. After approval by the Division of Building Inspection and with the exception of the 12" plants, shrubs and hedges may be pruned to one-half the height in accordance with accepted horticultural practices. All plants shall conform to opacity, mature height, and other requirements within four (4)

years after the date of the final approval of each planting or replanting. Privet (*Ligustrum* species) cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.

18-4(c)(5) VINES - Shall be at least twelve (12) or fifteen (15) inches high at planting, and are generally used in conjunction with walls or fences.

18-4(c)(6) GRASS OR GROUND COVER - Grass of the fescue (*Gramineae*) or Bluegrass (*Poaceae*) family shall be planted in species normally grown as permanent lawns in Fayette County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted not more than fifteen (15) inches on center and in such a manner as to present a finished appearance and have seventy-five percent (75%) of complete coverage after two complete growing seasons. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar approved materials.

18-4(d) MAINTENANCE AND INSTALLATION - All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300) and, as applicable, the requirements specified in Lexington-Fayette Urban County Government Ordinances No. 1-91 and No. 34-92 (Man o' War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 266-87 (Richmond Road), No. 42-98 (Downtown Street Trees), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Building Inspection; or any other future amendments to these ordinances. Any landscape material that fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of, or in control of, the property, whether as owner, lessee, tenant, occupant, or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Section 18-4(c)(2). Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to

remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Building Inspection. When trees are removed, other than as permitted above, such trees shall either be replaced with the necessary number of 2½-inch caliper trees to equal the total caliper of trees removed, or with trees of the same caliper as those that were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Building Inspection. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

18-5 PLAN SUBMISSION AND APPROVAL - Whenever any property is affected by these landscape requirements, the property owner or developer shall submit a landscape plan to the Division of Building Inspection. For any property where a vehicular use area for twenty (20) or more vehicles or 6,000 or more square feet is provided, the landscape plan shall be prepared and sealed by an architect, landscape architect or engineer licensed to practice in the State of Kentucky. For any property, where a vehicular use area for fifty (50) or more vehicles is provided, the landscape plan shall be prepared and sealed by a landscape architect licensed to practice in the State of Kentucky. The requirements of this Article shall be followed in approving or disapproving any landscape plan required by this Article. Landscape plans also may be submitted as part of any development plan required by the Planning Commission. Such "combination plans", however, shall be first submitted to the Division of Building Inspection for its approval or disapproval of the landscape portion of the plan.

18-5(a) PLAN CONTENT - The contents of the plan shall include the following: (a) plot plan, drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines; easements; buildings and other structures; vehicular use areas (including parking stalls, driveways, service areas, square footage, etc.); water outlets and landscape material (including botanical name and common name, installation size, on center planting dimensions where applicable, and quantities for all plants used); (b) existing and proposed contours at 2-foot intervals; (c) typical elevations and/or cross-sections as may be required; (d) title block with the pertinent names and addresses (property owner, person drawing plan, and person installing landscape material), scale, date, north arrow (generally orient plan so that north is to top of plan), and zone; (e) requirements or an approved tree protection plan applicable to the site, per Article 26, Tree Protection Standards.

18-5(b) BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY - Where landscaping is required, no

building permit shall be issued until the required landscaping plan has been submitted and approved; and no Certificate of Occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the Division of Building Inspection. If the required landscaping has not been completed and a Temporary Certificate of Occupancy is issued under Section 5-4(a) of this Ordinance, a full cash bond or irrevocable letter of credit from a banking institution with offices in Fayette County shall be posted at that time. The amount of the bond or letter of credit shall be based upon the cost of the proper installation of the uninstalled landscape material shown in the submitted plan, with the cost certified by a landscape contractor. The amount of the bond or letter of credit shall also include an inflation factor and/or administrative contingency cost of no more than twenty-five percent (25%) of the base cost, as determined by the Division of Building Inspection, to complete the work in the event of the foreclosure of the bond or letter of credit.

18-5(c) POSTING OF A FULL CASH BOND OR IRREVOCABLE LETTER OF CREDIT - After a full cash bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within three (3) months after the date of posting the full cash bond or irrevocable letter of credit. A one-month extension of the planting period may be granted by the Division of Building Inspection upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant materials. No more than three (3) such one-month extensions may be granted. The full cash performance bond or irrevocable letter of credit shall be called if the required landscaping has not been installed by the end of the approved planting period, and the Division of Building Inspection shall apply the proceeds of the bond or letter of credit to have the work completed.

18-6 PLANTING MANUAL AND PLANT MATERIALS LIST - Developers shall refer to the Planting Manual and Plant Materials List, which are available at the offices of the Division of Planning and the Division of Building Inspection for minimal requirements to use in meeting the provisions of this Article. Any materials that are not on the Plant Materials List shall be considered on an individual basis to determine the suitability of the specific plant in the proposed location. A plant not on the Plant Materials List shall be permitted only upon the expressed approval of the Division of Building Inspection.

18-7 VARIANCES - Any landscape plan submitted to, and disapproved by the Division of Building Inspection because it does not meet the requirements of this Article, may be appealed within sixty (60) days of such action to the Board of Adjustment.

18-7(a) LANDSCAPE REVIEW COMMITTEE - To aid the Board of Adjustment in the performance of the duties imposed by this Article, there is hereby created a Landscape Review Committee.

18-7(b) MEMBERSHIP - The Landscape Review Committee shall consist of five (5) members, to be appointed by the action of the Board of Adjustment. One member shall be a nurseryman or horticulturist, one shall be a landscape architect, one shall be a member of the Lexington Homebuilder's Association, one shall be a member of the Urban County Tree Board and one shall be a member of the Board of Adjustment. The term of the Board of Adjustment member shall be the same as his/her Board of Adjustment appointment. For others, at the initial appointment, one shall be appointed for four years, one for three years, one for two years, and one for one year. Subsequent appointments shall be for four years.

18-7(c) ORGANIZATION AND MEETINGS - The Landscape Review Committee shall elect a chairman and any other officers deemed necessary, and keep official minutes of its meetings and recommendations. The Division of Planning shall perform staff service for the committee. Meetings shall be held at regularly scheduled times, or at the call of the chairman, or by joint action of two members. In any case, notification shall be given to all members at least six (6) days prior to any meeting. A quorum shall consist of three (3) members, and official recommendations may be decided by the vote of two (2) members when a quorum is present.

18-7(d) REVIEWING VARIANCE REQUESTS - The committee, in its review of said recommendations on variance requests, shall base its recommendations on all of the following criteria:

- (1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
- (2) The strict application of the provisions of this Zoning Ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.
- (3) Such special circumstances are not the result of actions of the applicant subsequent to the adoption or amendment of this Zoning Ordinance.
- (4) Reasons that the variance will adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.

18-7(e) RECORDING - Whenever the committee makes a recommendation, such recommendation shall be forwarded to the Board of Adjustment, the Division of Building Inspection, and be properly described in the committee's minutes.

18-8 ENFORCEMENT - Violations of Article 18 are

subject to the penalty provisions in Article 5-8, and may be enforced through the issuance of a civil citation, pursuant to Article 5-9.

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