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**SECTION 11.1 GENERAL PROVISIONS**

**11.1.1 PURPOSE**

The purposes of these screening and landscaping regulations are to:

- A. Reduce soil erosion and stormwater runoff by increasing infiltration in permeable land areas;
- B. Mitigate air, dust, noise, heat and chemical pollution;
- C. Reduce the “heat island” effect of impervious surfaces such as parking lots, by cooling and shading the paved surface areas and breaking up large expanses of pavement;
- D. Establish a landscape theme including street trees and streetscape designs;
- E. Preserve native vegetation as an integral part of wildlife habitats;
- F. Promote innovative and cost-conscious approaches to the design, installation and maintenance of landscaping while encouraging water and energy conservation;
- G. Promote planting techniques that ensure long term health of plant materials;
- H. Screen unsightly equipment or materials from the view of persons on public streets or adjoining properties and buffering uncomplimentary uses; and,
- I. Maintain and protect property values by requiring an appropriate amount of landscaping that is properly designed and installed.



### 11.1.2 GENERAL STANDARDS

#### A. RETENTION OF EXISTING VEGETATION

To the greatest degree feasible and practical, existing trees, shrubs and ground cover shall be retained and incorporated into a landscape plan that meets or exceeds the standards contained herein.

#### B. LANDSCAPE PLANS

Landscape materials shall be planned and installed in conformity with an approved landscaped plan. Such landscape plan shall accompany any application for site plan approval (refer to Section 5.2). Approval of a site plan shall indicate that the requirements of this Chapter, as well as other applicable provisions of this Ordinance among others, have been met. If a specific use or development plan requires review and approval by the governing board, Board of Adjustment or another approval body, the landscaping plan shall be submitted as part of such plan or application. The landscaping plan shall be drawn at such scale to enable the Administrator (or other approval body) to clearly determine whether or not the proposed buffers or landscaped areas shown are in compliance with this Chapter.

#### C. PERFORMANCE GUARANTEE

Except as herein provided, neither a certificate of compliance nor a certificate of occupancy may be issued for a particular piece of property unless all applicable requirements of this Chapter have been met. A temporary Certificate of Compliance, as allowed in Section 5.5, may be issued by the Administrator in instances where the installation of required planted materials prior to use or occupancy of the lot in question would not be practical or would serve no useful purpose.

#### D. VIOLATIONS

Failure to provide or maintain landscaping or buffering in accordance with an approved landscaping plan shall constitute a violation of this Ordinance and shall subject the violating party(ies) to any and all of the remedies as called for in Chapter 18.

#### E. INSTALLATION AND MAINTENANCE

The plantings that constitute required buffering and landscaping shall be properly installed and maintained in order to fulfill the purpose of which it is established. Plant species shall be recommended for healthy growth



under local climate conditions, not be of a type highly prone to disease, and be of a type expected to grow in a manner that will satisfy the spirit and intent of this Chapter. Plant materials shall be planted in accordance with the recommended practices of the American Standard for Nursery Stock of the American Nursery and Landscape Association. The owner of the property and any tenant on the property where buffering and landscaping are required shall be jointly and severally responsible for the maintenance of all required landscaped materials. Such maintenance shall include all actions necessary: to keep the buffered and landscaped areas free of litter and debris; to keep plantings healthy; to keep growth from interfering with safe vehicular or pedestrian travel, or use of parking areas, or from creating any nuisances to adjoining properties; and, to keep walls, fences and berms in good repair and neat appearance. Any vegetation that constitutes a required screen or landscaped area shall be replaced in the event that it dies. All buffering and landscaping material shall be protected from damage.

F. RELIEF

1. The Administrator may modify or waive certain portions of this Chapter when he determines that unusual topography or elevation of a development site, the location, shape or size of the parcel to be developed would make either: (i) strict adherence to the requirements of this Chapter serve no meaningful purpose; (ii) not achieve one (1) or more of the goals of this Chapter; or (iii) would make it physically impossible to install or maintain the required screening or landscaping materials as otherwise called for.
2. Such modification or waiver may occur only at the request of the developer, who shall submit as part of his landscape plan the existing site features that would screen the proposed use and any additional buffer materials that are to be planted or installed that would serve as the proposed screened or landscaped area. The Administrator shall have no authority to provide said modification or waiver unless the developer demonstrates that existing or proposed buffering material will screen the proposed use as effectively as the required buffer. This section shall not be construed to negate the necessity for establishing buffers for uses that lie adjacent to vacant properties.
3. Additional relief opportunities may apply to required screening around telecommunication facilities per Section 8.4.22H of this Ordinance.



G. EASEMENTS AND RIGHTS-OF-WAY

Any planting that is proposed to be placed in a general drainage and utility easement or in a street right-of-way to conform to the provisions of this Chapter must first be approved by the County and / or NCDOT in conjunction with site plan approval. In all such instances, the location of the affected rights-of-way must be shown on the site plan.

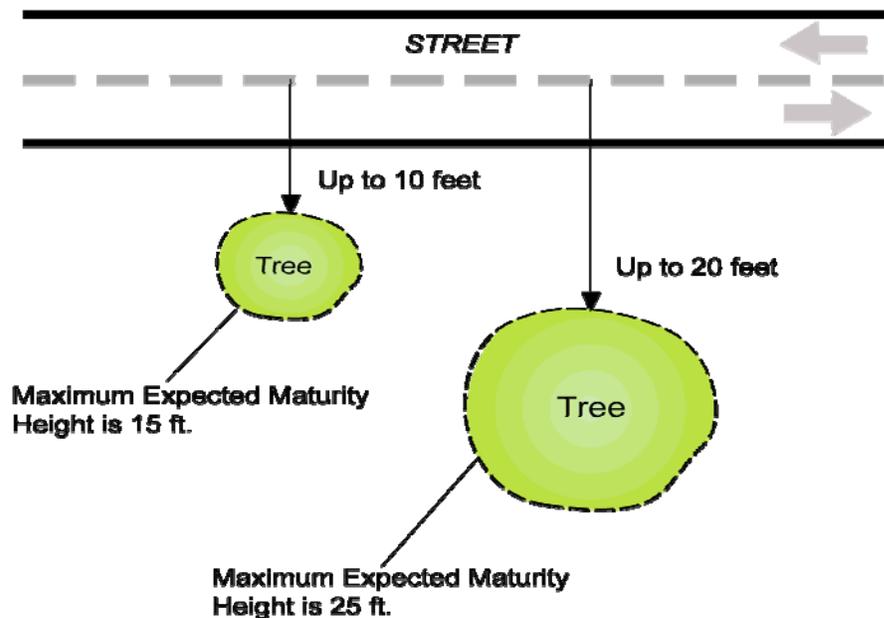
H. DISTANCE FROM ROADS AND SIDEWALKS

All trees shall be placed in the most feasible manner so as not to interfere with roadways, sidewalks, or streetlights and shall not be planted closer than eight (8) feet or in accordance with the North Carolina Fire Code (which ever is greater) to a fire hydrant.

I. DISTANCE FROM UTILITIES

1. Any tree required by this Chapter to be placed within twenty (20) feet lateral distance from the centerline of an above ground electric utility line shall be an understory tree. Refer to Figure 11.1.2-1. Furthermore, maximum expected maturity heights of these trees shall be as follows:
  - a. Zero (0) to ten (10) feet lateral distance of centerline: Fifteen (15) feet maximum expected maturity height; and,
  - b. Greater than ten (10) and up to twenty (20) feet lateral distance of centerline: Twenty-five (25) feet maximum expected maturity height.

**Figure 11.1.2-1**





2. Outside said twenty (20) foot lateral distance, trees shall be placed to avoid future conflict with above ground electric utilities and violations of the National Electric Safety Code, and to avoid conflict with any below ground utilities and drainage facilities.

J. LIST OF ACCEPTABLE TREE AND SHRUB SPECIES

Appendix B contains an approved list of tree and shrub species that are satisfactory for planting in accordance with the guidelines of this subsection. The Administrator may approve the use of a species different from said recommended list, provided the maximum maturity height is in accordance with the standards of this subsection and is recommended for Gaston County's climate.

K. PLANTING YARDS IN SITE TRIANGLES

Buffers and landscaping shall be subject to site triangle requirements contained in Section 9.7.

## **SECTION 11.2 PLANTING YARDS**

### **11.2.1 PURPOSE**

Planting yards are intended to aesthetically enhance and separate certain land uses and zoning districts from each other, as well as to beautify individual sites. Planting yards shall include the following:

- A. Buffer Yards
- B. Street Yards
- C. Parking Lot Yards

### **11.2.2 APPLICABILITY**

- A. Planting yards shall be required for all principal uses except (unless required elsewhere in this Ordinance):
  1. Single-family detached homes (except that street yards shall be



- required in residential subdivisions located in the USO Overlay District).
2. Manufactured homes (all classes)
  3. Rooming House
  4. Bed and Breakfast Inn
  5. Family care homes
  6. Two-family dwelling
  7. Agricultural Uses
  8. Day Care Center, Class A
  9. Developments within the CBD district (except that the parking lot landscaping requirements of Section 11.5 shall apply)
  10. Developments within a PRD, TND, infill residential, or multi-family development, except as specifically provided for those developments
  11. Essential Services, Class 1
  12. Essential Services, Class 2 (provided that no building or facility exceeds two hundred-fifty (250) square feet in area)
  13. Parks without any active recreational facilities (except that the street yard requirements of Section 11.4 and the parking lot landscaping requirements of Section 11.5 shall apply)
  14. Botanical Gardens
  15. Lots separated by a public street-right-way greater than thirty (30) feet in width are exempt from the Buffer Yard requirements only except where otherwise required.
- B. Screening of outdoor storage areas and solid waste dumpsters shall apply as called for in Sections 11.6 and 9.25, respectively.
- C. For purposes of this Chapter, building setbacks shall supersede planting yard requirements. Landscaping required within a planting yard shall only be counted for that planting yard requirement and shall not be used for calculating the minimum quantity for any other planting yard.



### **11.2.3 EXPANSION OF EXISTING USES**

The physical expansion of an existing structure or parking lot that results in a ten (10) percent or more increase of gross floor area shall be required to comply with this Chapter. In addition, a change of use of an existing use, structure or parking lot shall be required to comply with this Chapter.

## **SECTION 11.3 BUFFER YARDS**

### **11.3.1 PURPOSE**

Buffer yards are natural areas of specified widths that serve as a visual screen between different zoning districts. Buffer yards shall be of different types, based upon the relationship between the two (2) land uses where the buffer yard is to be located and may include natural plantings, a wall, fence or berm. The width of the buffer yard and the density of plantings shall increase as the difference in intensity between adjacent zoning districts increases. Minimum buffer yard dimensions shall be measured horizontally; minimum buffer yard widths shall be measured from the respective property line. Where buffer yards turn at property corners, the length measurements determining plant quantities shall not be required to overlap.

### **11.3.2 BUFFER YARD REQUIREMENTS**

Screening and buffering shall be required under the following situations:

- A. When a lot is:
  1. In an Industrial District abuts a lot in a Residential District, screening must be provided on the Industrial lot in the form of a Type E Screen/Buffer; or
  2. In a Commercial District abuts a lot in a Residential District, screening must be provided on the Commercial lot in the form of a Type D Screen/Buffer; or
  3. In an Office District abuts a lot in a Residential District, screening must be provided on the Office lot in the form of a Type C Screen/Buffer; or



4. In a Residential District abuts another lot which contains a multifamily development, screening must be provided on the lot containing said multifamily development in the form of a Type C Screen/Buffer; or
  5. Containing a use subject to the issuance of a CUP, PCUP or CD in an Industrial District that abuts a lot in an Office or Commercial District, the approval body may stipulate a version of Type A, B or C Screen/Buffer be provided on the Industrial lot.
- B. When the front yard of a lot developed in an Industrial District is located directly across a public street from a Residential District; screening, at a minimum, must be provided on the Industrial lot at a minimum in the form of a Type B Screen/Buffer. In lieu of said screen, all principal and accessory structures and off-street parking facilities must be set back in the front yard at least one hundred (100) feet from the edge of the road right-of-way.
- C. For open-air storage, or an unenclosed structure consisting of a roof, but no walls used for storage of materials, products, wastes or equipment associated with business or industrial uses located in any zoning district within one hundred (100) feet of the street right-of-way, screening must be provided so as to materially screen said storage or storage in the form of a berm, wall or fence or an appropriate amount of natural plantings so as to provide the necessary amount of screening.
- D. Except as provided in Section 11.3.2A4 screening shall not be required between any two (2) lots which contain principal residential uses.
- E. Screening and buffering shall be provided as otherwise called for in this Ordinance.
- F. A minimum of Type A buffer shall be required for any non-residential use abutting a Residential District unless otherwise indicated in this Ordinance.

### **11.3.3 BUFFER YARD COMPOSITION STANDARDS**

Buffer yard widths and landscaping shall meet or exceed the following standards:

#### **TABLES 11.3.3-1 – 11.3.3-5 BUFFER YARD REQUIREMENTS TABLES\***

\*Refer to Section 11.3.5(J) for standards on shrubs



TABLE 11.3.3-1 TYPE A BUFFER YARD					
OPTION	WIDTH (FT)	FENCE OR BERM REQUIRED?	MINIMUM # CANOPY TREES PER 100 LINEAR FT.	MINIMUM # UNDERSTORY TREES PER 100 LINEAR FT.	MINIMUM # SHRUBS PER 100 LINEAR FT.
1	10	No	2	2	15
2	8	No	3	3	20
3	5	Yes	2	2	15

Figure 11.3.3-1

Type A Buffer Yard

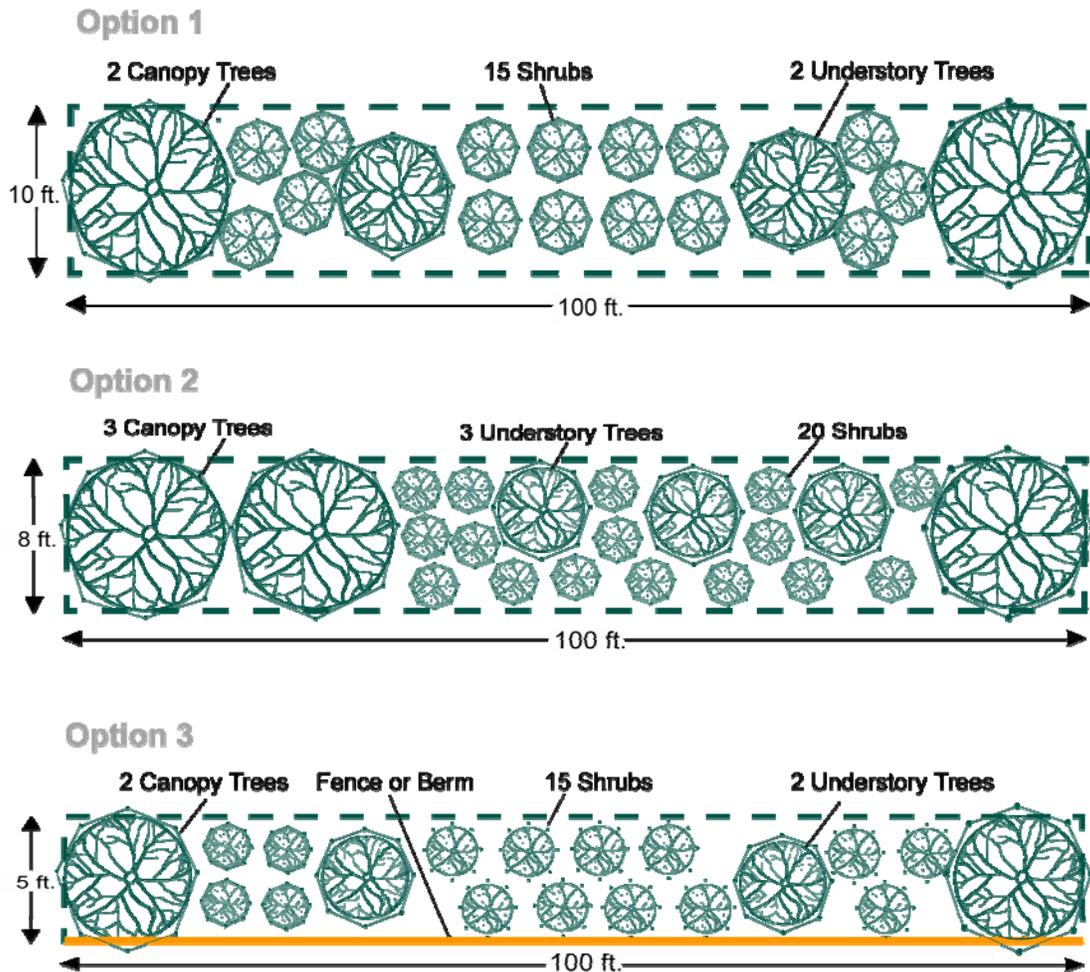




TABLE 11.3.3-2 TYPE B BUFFER YARD					
OPTION	WIDTH	FENCE OR BERM REQUIRED?	MINIMUM # CANOPY TREES PER 100 LINEAR FT.	MINIMUM # UNDERSTORY TREES PER 100 LINEAR FT.	MINIMUM # SHRUBS PER 100 LINEAR FT.*
1	20	No	3	3	25
2	10	No	4	4	35
3	5	Yes	3	3	25

Figure 11.3.3-2

Type B Buffer Yard

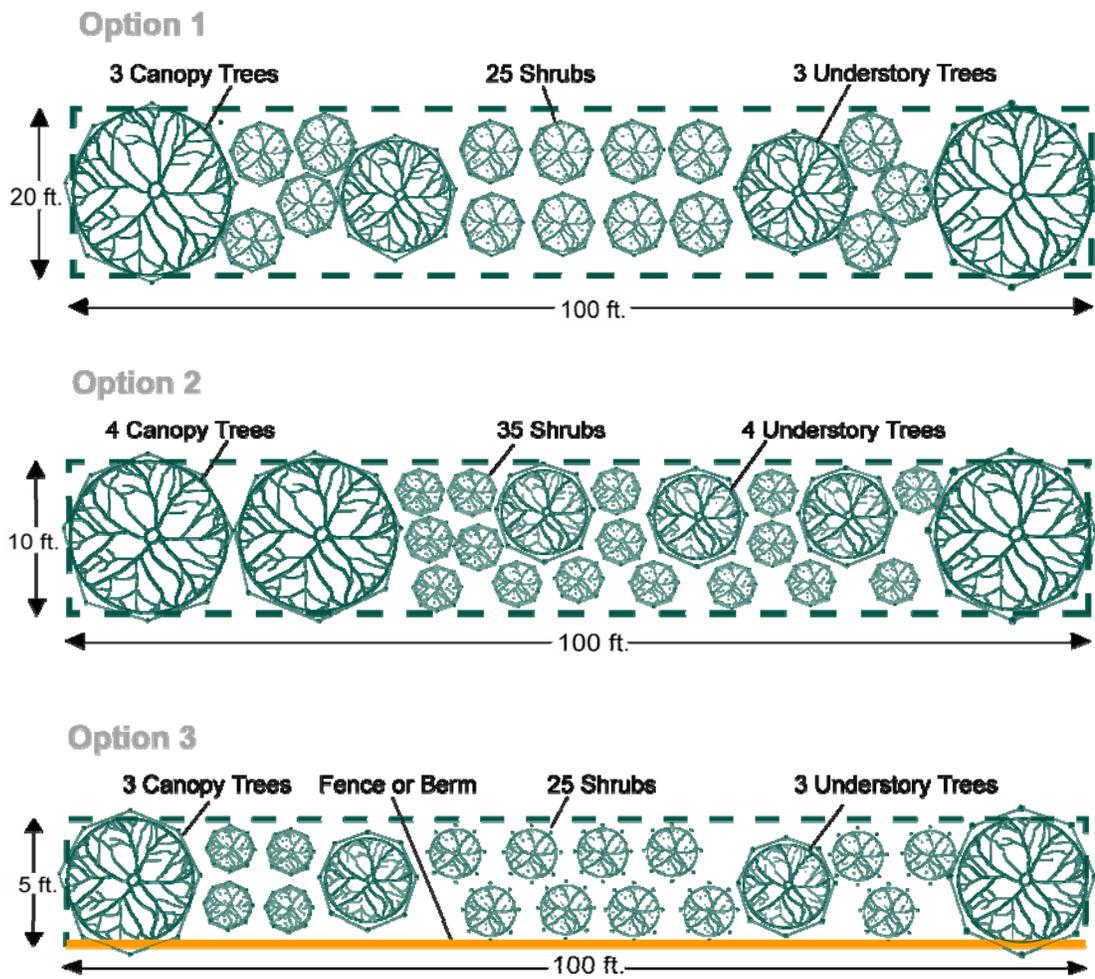




TABLE 11.3.3-3 TYPE C BUFFER YARD					
Option	WIDTH	FENCE OR BERM REQUIRED?	MINIMUM # CANOPY TREES PER 100 LINEAR FT.	MINIMUM # UNDERSTORY TREES PER 100 LINEAR FT.	MINIMUM # SHRUBS PER 100 LINEAR FT.*
1	25	No	4	3	35
2	15	Yes	5	4	30
3	10	Yes	4	3	30

Figure 11.3.3-3

Type C Buffer Yard

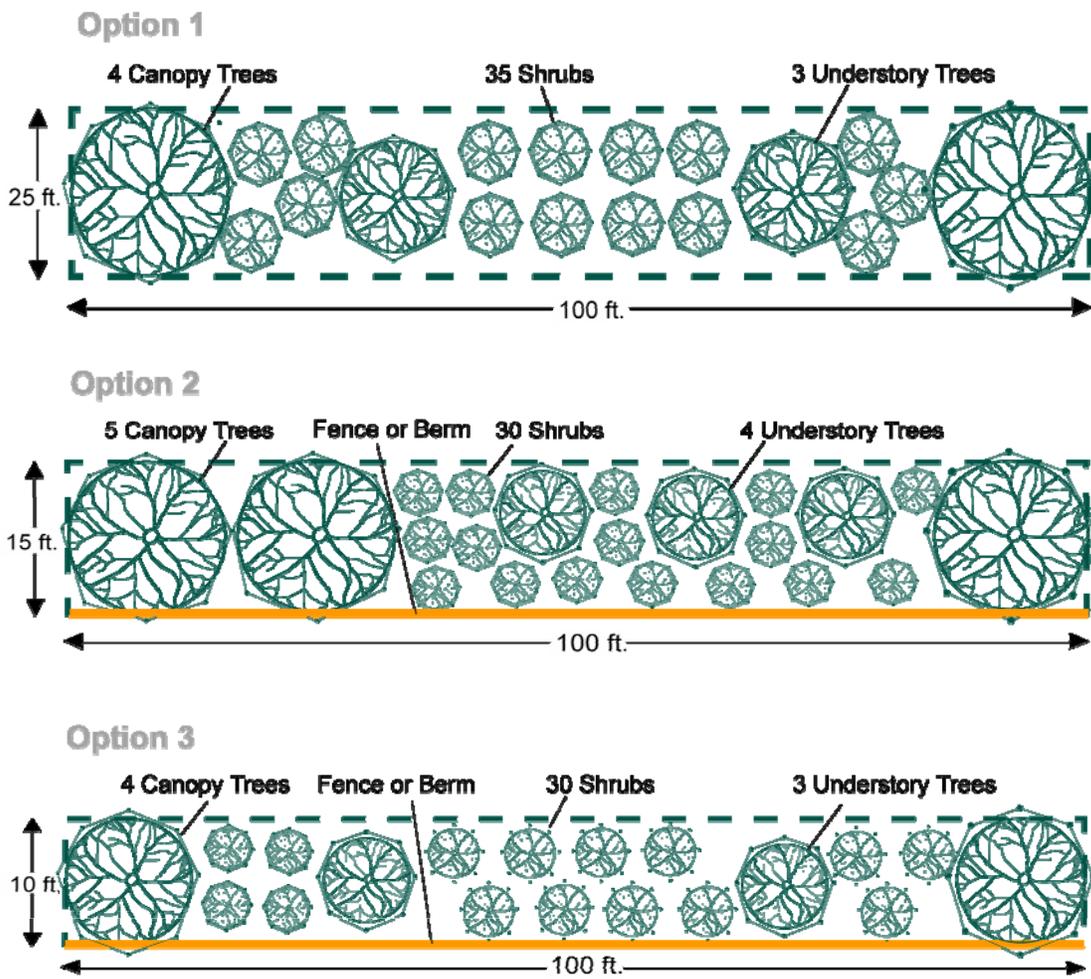




TABLE 11.3.3-4 TYPE D BUFFER YARD					
OPTION	WIDTH	FENCE OR BERM REQUIRED?	MINIMUM # CANOPY TREES PER 100 LINEAR FT.	MINIMUM # UNDERSTORY TREES PER 100 LINEAR FT.	MINIMUM # SHRUBS PER 100 LINEAR FT.*
1	30	No	5	4	45
2	20	Yes	6	5	40
3	15	Yes	5	4	40

Figure 11.3.3-4

Type D Buffer Yard

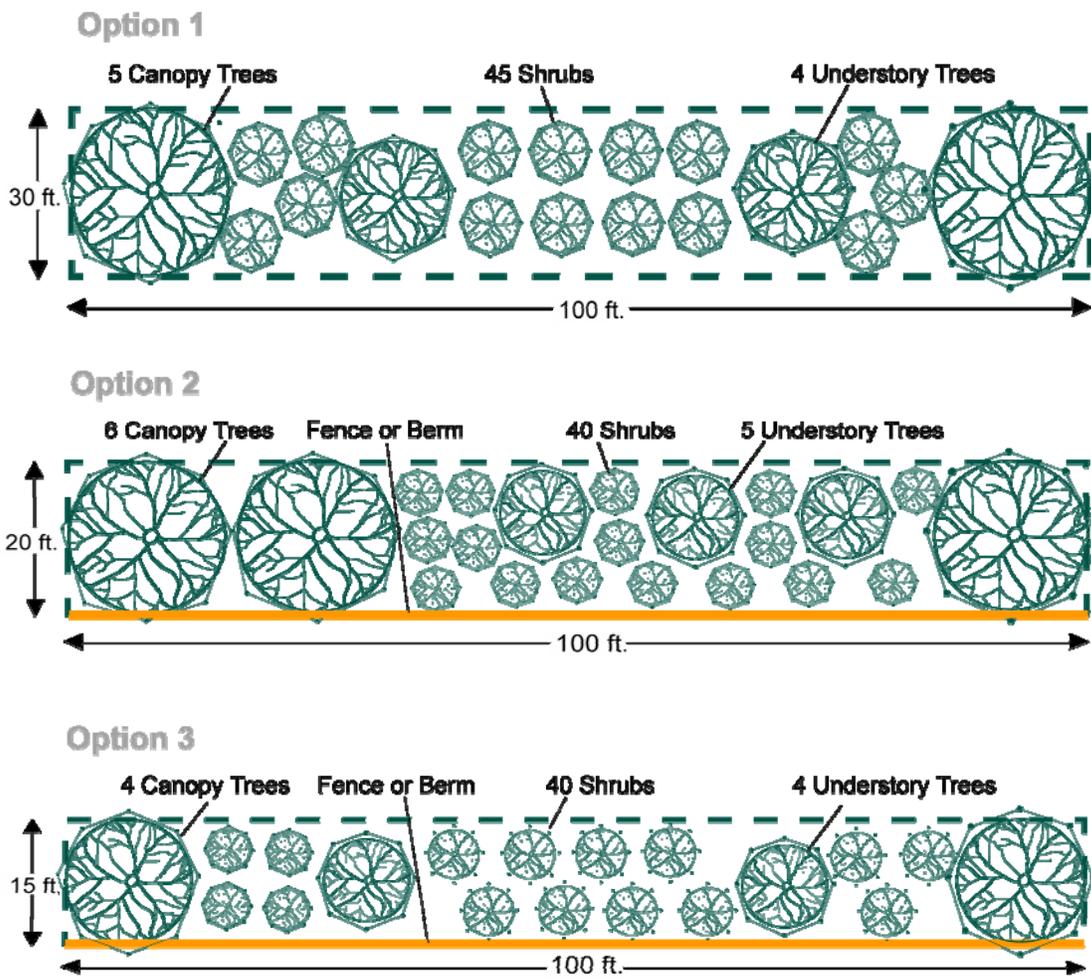
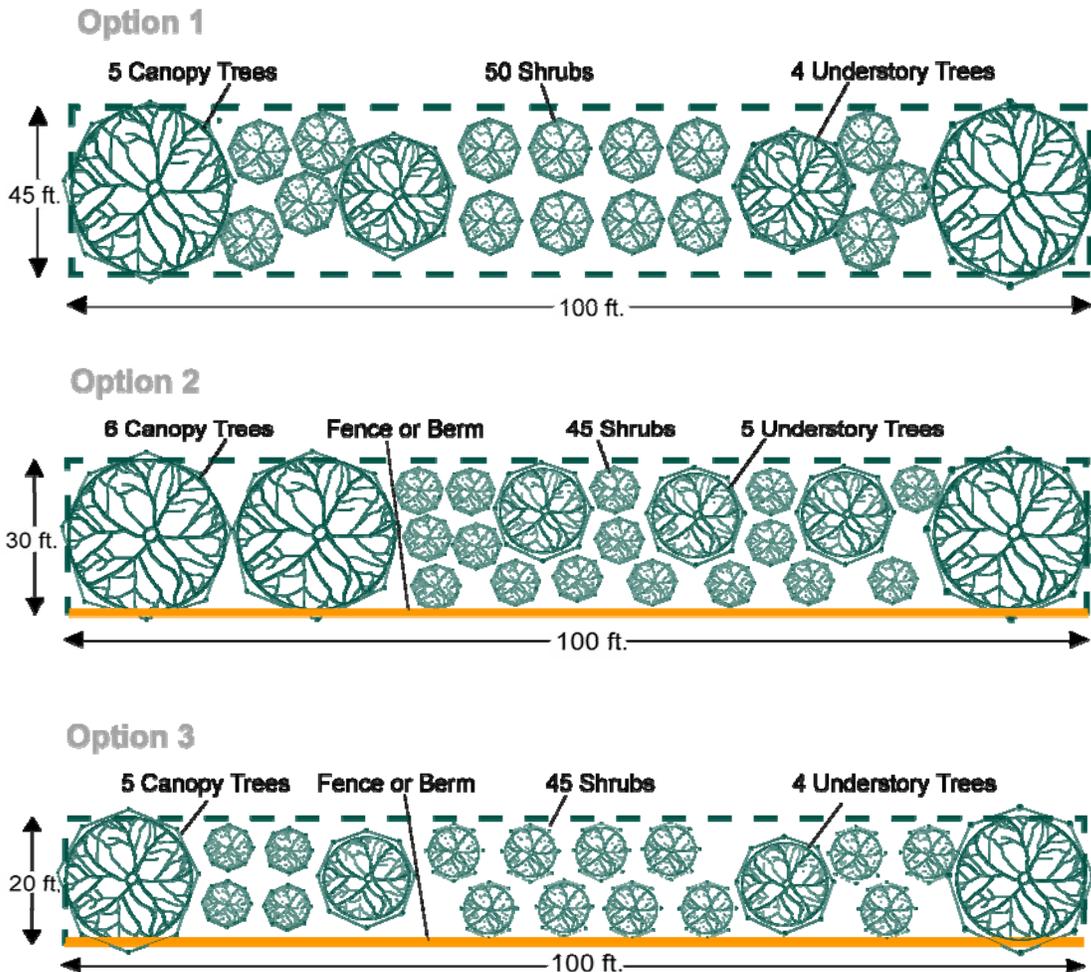




TABLE 11.3.3-5 TYPE E BUFFER YARD					
OPTION	WIDTH	FENCE OR BERM REQUIRED?	MINIMUM # CANOPY TREES PER 100 LINEAR FT.	MINIMUM # UNDERSTORY TREES PER 100 LINEAR FT.	MINIMUM # SHRUBS PER 100 LINEAR FT.*
1	45	No	5	4	50
2	30	Yes	6	5	45
3	20	Yes	5	4	45

Figure 11.3.3-5

Type E Buffer Yard





**11.3.4 RESERVED**

**11.3.5 OTHER BUFFER YARD STANDARDS**

**A. PROHIBITED USES**

The construction of any building or the placement of any mechanical equipment within a buffer yard shall not be permitted except for equipment necessary for the provision of utilities. Active recreational uses, such as ballfields, swimming pools and tennis courts, or other active structured recreational uses, or circulation drives or parking lots shall not be allowed within the buffer yard area.

**B. PERMITTED USES**

The following other uses may be permitted in a buffer yard area provided that none of the required plant material is eliminated, the intended screening is accomplished, the total width of the buffer yard is maintained, and all other requirements of this Chapter are met:

1. Sculpture, outdoor furniture.
2. Open space areas (provided that none of the uses listed in Subsection A above are located within the buffer yard area).
3. Walls, fences and driveways connecting to an adjoining property.

**C. EXISTING VEGETATION**

Existing healthy vegetation may be counted toward the required buffer yard. The landscape plan submitted for approval shall indicate the number, type, size and location of such plant materials. Existing vegetation that the Administrator deems “unhealthy” and not likely to materially serve as a screening agent for the foreseeable future, may be disqualified as counting towards the required buffer.

**D. RESERVED**

**E. APPLICATION TOWARD SETBACK REQUIREMENTS**

Buffer yard areas shall be counted towards meeting applicable building setback areas.



F. STANDARDS FOR WALLS AND FENCES

Fences used for buffering purposes shall be constructed in a durable fashion with weather resistant wood and be of a consistent pattern. All materials used in the construction of a fence shall be designed and intended for such use. Notwithstanding the foregoing, the Administrator may approve a buffer fence constructed of other materials provided the materials and finish used will provide generally the same degree of opacity, durability, and aesthetic compatibility with adjoining residential areas as weather resistant wood. A finished side of all walls or fences shall face the common property line boundary. No wall or fence used as part of a buffer shall be less than six (6) feet or more than eight (8) feet in height above grade unless approved by the Administrator in accordance with Section 11.1.2F.

G. STANDARDS FOR BERMS

All berms shall be planted with both shrubs and ground covers so as to leave no bare earth. All shrubs shall be a species that can be expected to materially buffer the development site within five (5) years of planting. The slope of a berm shall be of a grade so that it is suitable for maintenance and soil stability while taking into consideration the type of plantings and ground cover that will be utilized but in no case shall a berm be less than three (3) feet in height. The use of *Pueraria lobata* (kudzu) for berm ground cover is not permitted nor is any other nuisance vining plants that have a tendency to spread to other properties.

H. LOCATION OF BUFFER YARD

With the exception of buffering required for open storage (refer to Section 11.6), any buffer yard required by this section shall be located along the side and/or rear property lines of the lot(s) containing the use subject to buffering. If buffering is required along the right-of-way, it shall be located behind such right-of-way.

I. EVERGREEN SHRUBS

For all buffer yards, at least fifty (50) percent of the required shrubs must be of an evergreen species.



## **Section 11.4 STREET YARD TREES**

### **A. PURPOSE**

In order to absorb carbon dioxide and provide oxygen necessary for human life; purify air through transpiration; provide cooling through shade; reduce the impact of wind; retard the rate of water runoff; reduce glare and noise; to conserve property values; and to contribute to the natural beauty and aesthetics of the community, street trees, as herein provided, are required. Additional landscape planting strip standards associated with parking decks are found in Sections 10.9.1, 10.9.2 and 10.9.3. The required street trees may be planted within said landscaped area or elsewhere on the lot as herein called for in Subsection D. Greenstrips may also be required as provided for in Section 9.18.2.

Street trees and landscaping, as herein called for, shall only be required within the USO and CH Overlay districts only, except where specific reference is made for street tree placement outside of these zoning districts.

### **B. WHERE REQUIRED**

1. Street yard and landscaping requirements shall be met along and parallel to any public road for all new developments (except those listed in Section 11.2.2), new developments along road frontage not developed, or substantial redevelopment of an existing site to another use (except for those listed in Section 11.2.2) within the Urban Standards (USO) Overlay and CH Corridor Highway Overlay Districts. In addition, street yard and landscaping requirements shall be met on any internal road two-hundred fifty (250) linear feet or greater in length that is used as an entryway into a parking lot for a commercial development within said districts. Street trees shall also be required on lots located within a planned residential development (PRD), traditional neighborhood development (TND), and planned unit development (PUD) whether such developments are located in a USO or CH overlay district.
2. Irrespective of the underlying zoning district, street trees and front yard landscaping shall not be required on any portion of a lot where the building line is within four (4) feet of the adjoining street right-of-way.

### **C. NUMBER OF STREET TREES REQUIRED**

Canopy and understory trees shall be planted, where required, as follows:



1. One (1) canopy tree for each forty (40) linear feet of frontage; or,
2. One (1) understory tree for each thirty (30) feet of frontage; or,
3. A combination of canopy and understory trees at the rate of one (1) per thirty-five (35) feet of frontage.
4. For interior roads only, any combination of canopy trees so long as the type and spacing of trees placed can be expected to form a substantial canopy within twenty (20) years of initial planting.

D. LOCATION OF TREES

1. The Administrator shall have the authority to approve the placement of street trees in a variety of locations, based on: (i) the nature of the development; (ii) the underlying zoning district; (iii) the presence of other street trees on adjacent or nearby lots; (iv) the presence of overhead utility lines; (v) road maintenance; and (vi) other factors that directly affect the maintenance and long-term viability of the trees.

Accordingly, the Administrator shall have the authority to have the street trees in the following locations, each of which is listed in descending order of preference:

- a. In the greenstrip area provided per Section 9.18.2
- b. Within the landscape easement shown in Figure 11.4-1
- c. Elsewhere in the front or side yard as practical
- d. Within the sidewalk in planters or grates

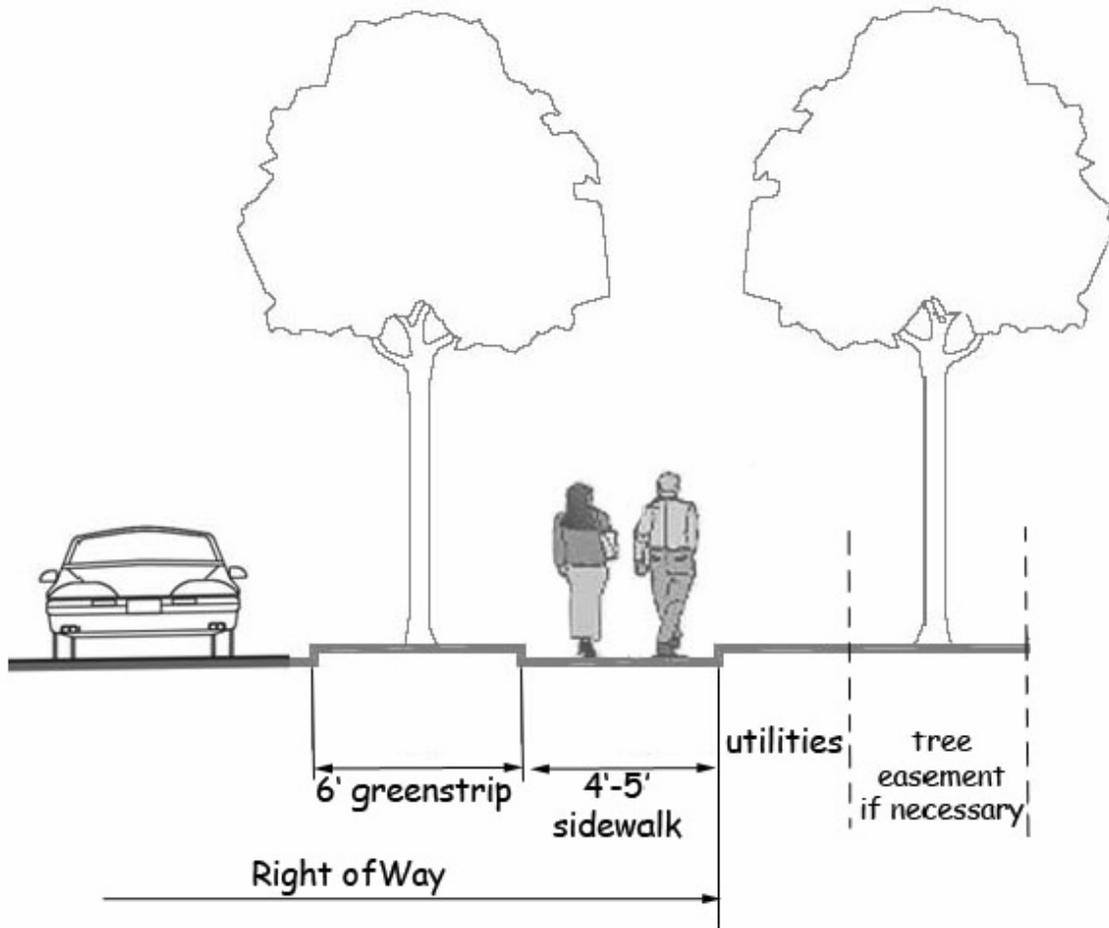
Where the Administrator deems none of the above locations feasible and practical, he shall have the authority to waive or modify the placement of street trees.

Where the Administrator deems that the placement of the greenstrip would be: (i) impossible to install in the prescribed location; or (ii) impossible or impractical to be maintained; or (iii) would serve no useful public purpose, he shall have the authority to waive or modify the installation or width of the greenstrip.

Refer to Figure 11.4-1 below for a schematic of these possible locations. Such locations shall be as follows:



Figure 11.4-1



2. In no instance shall canopy trees be placed underneath aboveground utility lines.
3. Distribution shall be generally proportionate along the road frontage; however, this shall not be construed to require equal intervals between trees. The intent is to allow flexibility in design while discouraging long intervals without trees.

E. PENINSULA LOTS

Properties with street frontage (not including Interstate 85 or the limited access portion of US 321) on three (3) or more sides may reduce the number of required street trees by one-half (1/2) for each street not listed as an “arterial” on the most recently adopted version of the local thoroughfare plan.



**F. EXISTING TREES**

Existing trees with a caliper of at least ten (10) inches Diameter at Breast Height (DBH) may be counted as two (2) trees.

**G. FRONT LANDSCAPED AREAS**

Street trees that are required to be planted per this Section may be placed in the required front landscaped area. Such landscaped area shall be kept in a natural state with grass, plantings, mulch, or other such combination of planted materials. In no instance shall outdoor storage of any kind be allowed in any required landscaped area.

**SECTION 11.5 OFF-STREET PARKING LOT LANDSCAPING**

The provision of off-street landscaping shall only be applicable to nonresidential developments and multi-family developments. Furthermore, all uses shown in Section 11.2.2 shall be exempt from these requirements. The provision of off-street landscaping shall only be applicable to nonresidential developments that are located on a site that contains (or proposed to contain) more than twenty-five (25) parking spaces including staging spaces for any drive-up or drive-through windows. The following guidelines also shall be used in determining whether parking lot landscaping provisions shall apply:

**A. INITIAL DEVELOPMENTS**

For any initial development (i.e., the construction of one (1) or more new buildings on a lot) parking lot landscaping regulations shall apply if the lot contains more than twenty-five (25) required off-street parking and / or staging spaces are needed as a result of the development.

**B. REDEVELOPMENTS**

For any building that is redeveloped (i.e., reconfigured or otherwise internally altered for a new use), the parking lot landscaping regulations shall apply only if the redevelopment increases the number of off-street parking spaces to more than twenty-five (25). If this threshold is met, all parking spaces associated with the use shall come into compliance with the parking lot landscaping regulations.



C. BUILDING EXPANSIONS

For any development that is expanded, the parking lot landscaping regulations shall apply if the expansion increases the number of off-street parking spaces to more than twenty-five (25) and / or the expanded building coverage area removes more than twenty-five (25) parking spaces. If either threshold is met, the number of parking spaces associated with the expansion shall come into compliance with the parking lot landscaping regulations. On multi-tenant developments where parking spaces between uses are generally shared, these regulations shall generally apply to those spaces in closest proximity to the use being expanded.

D. QUANTITIES

Landscaping, as called for in this Section, for parking lots for any single use or any planned multi-tenant development with more than twenty-five (25) parking spaces, including any staging spaces, (except for automobile sales lots which are treated in a separate manner as herein described), shall be provided in the following manner:

1. Canopy trees—One (1) per fifteen (15) spaces; and
2. Understory trees—One (1) per ten (10) spaces; and
3. Shrubs--One (1) per four (4) spaces.

E. RESERVED

F. EXISTING TREES

Existing canopy and / or understory trees located within thirty (30) linear feet of a parking area or driveway surface, including a shopping center or similar planned multi-tenant development, may count towards meeting the parking lot landscape requirements, as noted on the landscape plan. All distances are to be measured from the nearest face of the tree trunk. Existing canopy trees with a caliper of ten (10) inches or greater DBH, may count as two (2) trees.

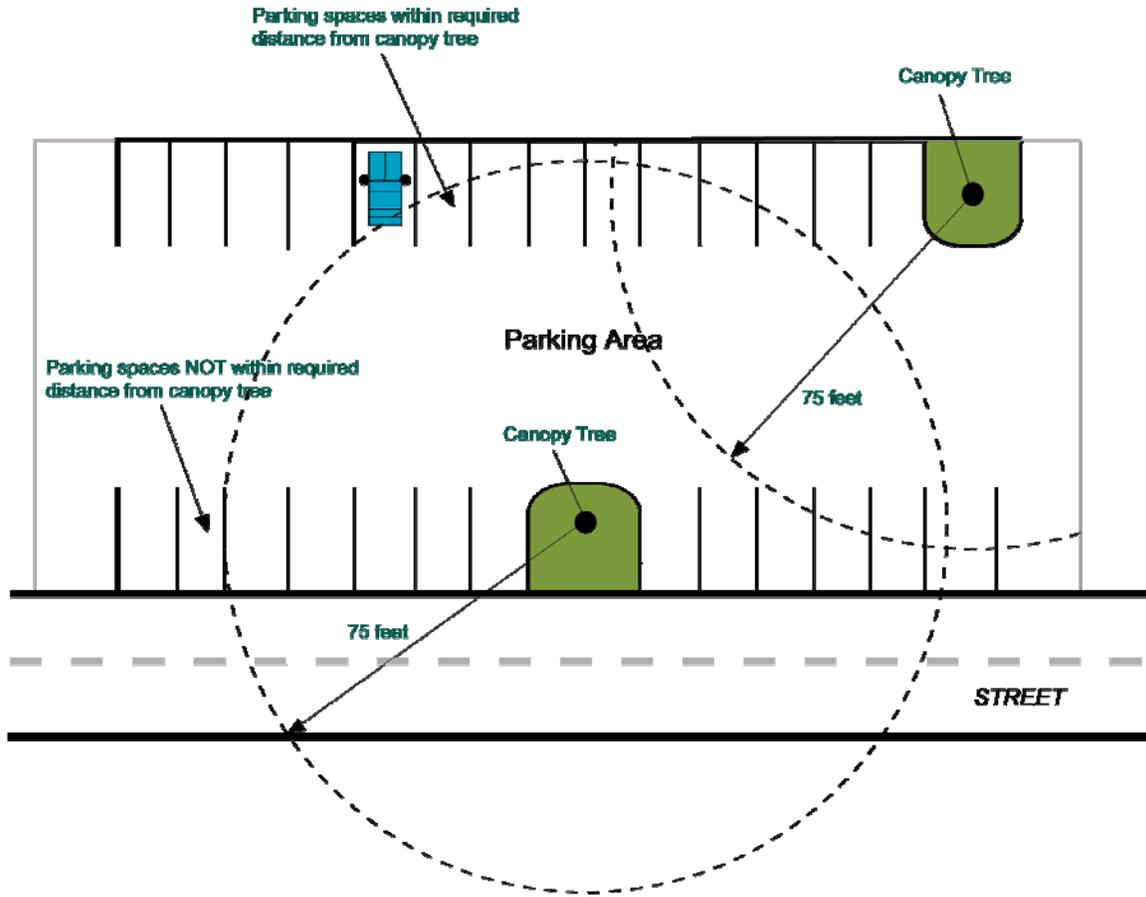
G. DISTRIBUTION

Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators or between rows or parking spaces in a manner such that no parking space is located greater than seventy-five (75) linear feet from a canopy or understory tree



on the subject property. Such trees may be existing trees, or a tree installed pursuant to this Section. Refer to Figure 11.5-1 below for an example of how these requirements are applied.

Figure 11.5-1



#### H. PLANTING AREA DIMENSIONAL REQUIREMENTS

Planting areas and islands shall be not less than eight (8) feet in width and shall include a minimum of one-hundred forty (140) square feet of open planting area for understory trees and two hundred eighty (280) square feet for canopy trees. Shrubs or ground cover may be planted within the required open planting area for trees without necessitating an increase in the required planted area. All landscaped areas called for in this section shall be protected from vehicular encroachment by concrete curb and gutter or similar material. Landscaped areas shall be covered with mulch, ground cover or grass in between shrub and tree plantings.

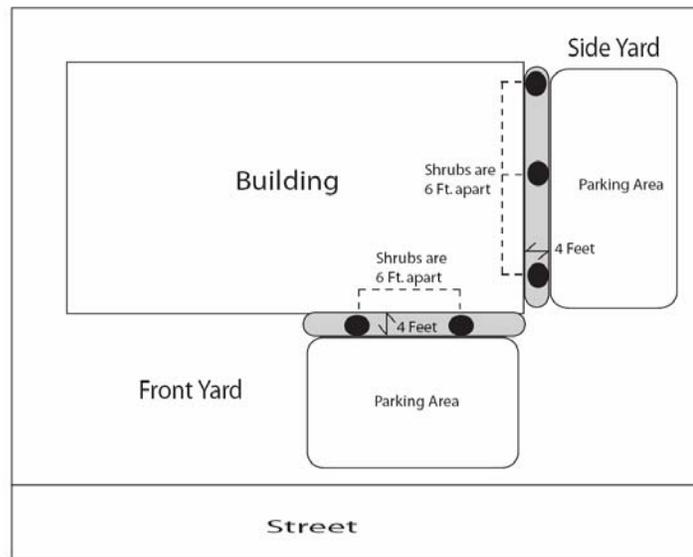


I. RESERVED

J. BUILDING LANDSCAPED AREAS

Parking areas located in the front or side yards shall be separated from the exterior wall of a structure by a landscaped area of at least four (4) feet in width. Shrubs shall be required within said area at a minimum of one (1) per six (6) linear feet. Refer to Figure 11.5-2 below for an illustration of this requirement.

Figure 11.5-2



K. AUTOMOBILE SALES LOTS

Properties intended for the sale of automobiles shall not be required to provide one (1) canopy or understory tree within seventy-five (75) linear feet (per Subsection G) of the parking spaces used for the storage of cars displayed for sale. In lieu of the required landscaping for this use may be placed on the outer perimeter of the lot, in addition to the requisite number of street trees, unless the width of the lot exceeds four-hundred (400) feet. In such cases, the storage areas shall be broken by a landscape strip running the depth of the storage area. Said landscape strip shall be at least twenty-five (25) feet in width and shall contain a minimum of fifteen (15) percent of the required landscaping of the storage area (if it were actually a required parking lot). Areas designed for employee and customer parking must still observe the seventy (75) foot radius standard called for in Subsection G.



## **SECTION 11.6 OPEN-AIR STORAGE BUFFERING**

- A. Within all zones, except for residential uses in Residential zones, buffering shall be required for the open storage of any goods, materials, products, wastes or equipment that is visible from any adjacent Residential zone and/or any public street. Excluded from such requirement are the following displays of items for sale: outdoor in-service vending machines; fresh produce; Christmas trees; live plants; bagged ice in freezers; firewood in sales bins, tanks of propane in exchange racks; other retail goods left outside during business hours only; vehicle sales lots, trailers and other equipment capable of being towed on a roadway sales lots, manufactured or modular home sales lots; and storage buildings prefabricated to building codes. Retail goods that are left outside overnight and that can be readily carried without the assistance of a moving device [i.e., be less than fifty (50) pounds in weight] shall also be excluded from the buffering requirement.
- B. In addition to the above, all uses that store heavy equipment outdoors on a regular basis (e.g., bobcats, graders, and other such heavy equipment) shall provide such buffering.
- C. Buffering for storage areas one (1) acre or less in size shall consist of any one (1) or more of the following: (i) a wall or opaque fence meeting the requirements of Section 11.3.5(F); or (ii) a Type C Buffer or greater.
- D. If the storage area is greater than one (1) acre in size, screening shall consist of Type D Buffer or greater in addition to the fence or wall. Such planted strip shall be on the exterior of the wall or fence.

## **SECTION 11.7 OPEN SPACE REQUIREMENTS**

- A. The provisions of this Section shall apply to all subdivisions of land. Notwithstanding, specific provisions pertaining to traditional neighborhood developments, planned residential developments, planned unit developments, infill residential developments and multi-family developments are found in Section 11.7.6.
- B. When a subdivision is located on a tract of land where a future greenway or greenway connection has been specifically identified on a locally adopted recreation plan, or greenway master plan, open space for such designated greenway shall be dedicated and the fee-in-lieu option shall not be used for such lands.



- C. Any open space dedicated in association with a subdivision shall be owned and maintained by one (1) or more of the following entities or organizations:
  - 1. A duly created Home Owners Association that, among other things, is responsible for maintaining common areas within the subdivision; or
  - 2. A Conservation Organization / private person for same conservation intent; or
  - 3. The State of North Carolina, Gaston County, or any municipality located within Gaston County; or
  - 4. Any other organization approved by the Planning Board.
- D. Any Open Space dedicated herein shall be irrevocably dedicated to public recreational and / or conservational use, regardless of the owner of the Open Space, (unless a higher and better use is approved by the Board of Commissioners), and such restriction shall be set forth in the deed.
- E. The Home Owners Association shall be the owner of the Open Space unless the County Parks and Recreation Department or a separate Conservation Organization accepts the Open Space.

**11.7.1 AMOUNT OF LAND TO BE DEDICATED**

At least one thirty-fifth (1/35) of an acre (equaling 1,244.57 square feet) shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development. The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two (2) acres in size. When the calculated area for open space can not meet the two (2) acre requirement, the subdivider shall be required to make payment in lieu of the dedication to be used for the acquisition or development of recreation, park, or open space sites which would serve the needs of the residents of the subdivision.

The proximity of existing publicly dedicated and publicly accessible open space (e.g., park, greenway) to the subdivision shall reduce the amount of open space required in the subdivision. If such open space is located no greater than one-quarter (¼) mile walking distance (such distance measured from the pedestrian access point of the existing open space to a perimeter public street or sidewalk within the development), the amount of required open space shall be reduced by up to twenty-five (25) percent. If the existing public open space is located directly adjacent (either immediately abutting or directly across a public street) from the



subdivision, the amount of required open space for the subdivision shall be reduced by up to fifty (50) percent.

Examples of how much open space is to be dedicated are as follows:

- A. Tract Area = 100 acres  
Number of Lots to be created = 75  
Open Space within ¼ mile? = no

The amount of open space to be dedicated shall be a minimum of 2.14 acres (i.e. 75/35). There is no nearby (i.e. within ¼ mile) of publicly accessible open space.

- B. Tract Area = 100 acres  
Number of Lots to be created = 75  
Open Space within ¼ mile? = yes, within 1/8 mile.

The amount of open space to be dedicated is initially computed as 2.14 acres (i.e. 75/35). Since publicly accessible open space is located less than ¼ mile from the tract, the amount of required open space is reduced by .25 to equal 1.60 acres. As this is LESS than the 2.0 acre minimum threshold, a fee in lieu, per section 11.7.3, will be paid.

- C. Tract Area = 10 acres  
Number of Lots to be created = 14  
Open Space within ¼ mile? = no

The amount of open space to be dedicated is initially computed as 0.40 acres (i.e. 14/35). This is below the 2.0 acre minimum threshold, thus a fee in lieu, per section 11.7.3, will be paid.

**(NOTE:** Different amounts of open space are found in Section 11.7.6 of this Ordinance for planned residential developments, planned unit developments, traditional neighborhood developments, and infill residential developments. In such instances the amount of required open space to be dedicated shall be as shown for that particular use.)

### **11.7.2 NATURE OF LAND TO BE DEDICATED**

Except as otherwise required by the Planning Board at the time of preliminary plat approval, all dedications of land shall meet the following criteria:



A. UNITY

The dedicated land shall form a single parcel of land, except where the Planning Board determines that two (2) or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Planning Board, in approving the preliminary or final plat, may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width. Where practical, the strip shall be placed in the subdivision to enable persons to walk between the two (2) open space areas.

B. USABILITY

Two-thirds (2/3) of the dedicated land shall be useable for active recreation. Furthermore, public lakes and other public bodies of water may not be included in computing any of the dedicated land area, except for wet detention ponds as provided for in Section 11.7.6B3.

C. SHAPE

The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this sub-section.

D. LOCATION

The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.

E. ACCESS

Access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least thirty (30) feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least twenty (20) feet wide.



F. TOPOGRAPHY

The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen (15) percent.

G. LANDSCAPING

Dedicated parks, recreation, and open space areas shall have a sufficient natural or manmade buffer or screen to minimize any negative impacts on adjacent residents.

**11.7.3 PAYMENTS OF FEES IN LIEU OF LAND DEDICATION**

A. GENERAL

The payment of fees, in lieu of the dedication of land as required above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Planning Board after having received a recommendation from the TRC and having evaluated the proposed dedication and the relationship such dedication would have with the County's overall recreational needs. Payments of fees in lieu shall not be allowed for traditional neighborhood developments (TNDs), planned residential developments (PRDs) and planned unit developments (PUDs).

B. TIME OF PAYMENT

The fees in lieu of dedication shall be paid to the County by the subdivider prior to final plat approval.

C. AMOUNT OF PAYMENT

The amount of the payment shall be determined based on:

1. The number of acres to be dedicated, as required above;
2. The assessed value for property tax purposes of the land to be dedicated as listed in the Gaston County Tax Office at the time the calculation is made.
3. Procedures for determining the amount is as follows:



The Administrator shall calculate the required payment amount using the following procedures:

- a. The Administrator shall calculate the average per-acre value of land for the entire tract by dividing the assessed value of the entire unimproved tract of land by the total number of acres in the tract;
- b. The Administrator shall then calculate the value of required open space at the date of most recent revaluation, which is the product of one thirty-fifth (1/35) of the average per-acre value of land and the number of proposed residential lots in the subdivision.

**D. APPLICATION OF PAYMENTS**

The monies obtained in lieu of land dedication shall be used by the County to acquire recreational land or to improve existing parks. While it is not required for the County to establish open space or build a park adjacent to the subdivision which provided the County monies in lieu of land dedication, all efforts will be made for the County to apply such funds towards projects located near subdivisions which provided payments as described herein. The County shall keep a detailed accounting on how the monies are used.

**11.7.4 PROCEDURES**

- A. At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated. If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The Planning Board reserves the right to refuse to accept dedication of parcels for Public Park, recreation, or open space and to require a fee in lieu thereof.
- B. Where a dedication of land is required, such dedication shall be shown on the final plat when submitted. Where a payment in lieu of dedication is approved by the Planning Board, such payment will be made before the final plat is signed and recorded.

**11.7.5 GREENWAYS**

Greenways may be credited against the requirements of this section provided that such greenways are part of the County's greenway plan and dedicated to public use.



**11.7.6 OPEN SPACE IN TRADITIONAL NEIGHBORHOOD DEVELOPMENTS (TNDs), PLANNED RESIDENTIAL DEVELOPMENTS (PRDs), PLANNED UNIT DEVELOPMENTS (PUDs), INFILL RESIDENTIAL DEVELOPMENTS AND MULTI-FAMILY DEVELOPMENTS**

**A. AMOUNT OF LAND TO BE DEDICATED (as a minimum)**

1. Traditional Neighborhood Development - Twenty (20) percent of gross acreage.
2. Planned Residential Development - Twenty (20) percent of gross acreage.
3. Planned Unit Development - Ten (10) percent of gross acreage.

**NOTE:** The payment of fees, in lieu of the dedication of land shall not be allowed for the development types listed above.

**B. NATURE OF LAND TO BE DEDICATED**

1. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: walks and greenways, statues, utilities, irrigation fields, wet detention ponds, open fields, athletic fields, playground equipment, ponds and lakes (that are located entirely within the development). Certain open space areas (e.g., plazas) may also be paved.
2. Open space shall be planned and improved so as to be accessible to users of the development.
3. Wet detention ponds may be counted towards meeting the open space requirement if: (i) the facility is designed to hold water throughout the year, and (ii) if the facility is surrounded by a path or walkway and contains benches or similar improvements for enjoyment by residents or users of the development.
4. Required landscaped and screening areas (per Chapter 11) shall not count towards this requirement.

**C. SHAPE AND SIZE**

1. The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities.



2. Two-thirds (2/3) of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area.
3. A reduction in the required open space may be allowed up to fifty (50) percent if the common open space is within one-half (½) mile of a public open space.
4. If any of the types of open space areas listed below are counted towards the development's total open space requirement, then the following minimum area size and improvement requirements shall be met:

<b>OPEN SPACE AREA</b>	<b>MINIMUM AREA SIZE</b>	<b>REQUIRED IMPROVEMENTS</b>
Playground	One-thousand (1,000) square feet	Playground equipment; benches; paths and walkways.
Close	Five-hundred (500) square feet	Grassed area (benches optional)
Square	Two-hundred fifty (250) square feet (infill residential); One-thousand (1,000) square feet (elsewhere).	Grassed area; trees, (benches optional)
Plaza	Two-hundred fifty (250) square feet (infill residential); One-thousand (1,000) square feet (elsewhere).	Paved; Benches and other street furniture.
Park	One (1) acre	Playground equipment; benches; athletic fields; paths and walkways.