

## **ARTICLE V. LANDSCAPE AND BUFFER REQUIREMENTS**

### **Section 500. Introduction.**

This article recognizes the importance of trees and landscaping throughout the city and their relationship with the economic, ecological and cultural processes that give Lincoln its tradition and identity. Through preservation, replacement, and maintenance of the urban forest, this ordinance will provide a better quality of life for the citizens of Lincoln.

Urban landscaping aids in preventing soil erosion, siltation of streams and reservoirs and flood damage. Trees are essential in providing shade and natural cooling, preventing air and noise pollution, as well as preserving community character.

### **501. Purpose.**

The purpose of this chapter is to:

- protect the public health, safety and welfare by mitigating incompatibility between adjacent uses through the establishment of buffers between non-compatible land uses;
- improve the quality of life for Lincoln citizens through the reduction of noise, glare, heat and air pollution;
- preserve, protect and maintain the healthy existing vegetation and encourage, where possible, the incorporation of native plant materials and ecosystems into landscape design and discourage the proliferation of invasive plant species;
- establish and maintain sustainable amounts of tree canopy on public and private lands in the City;
- improve community character by encouraging aesthetically pleasing sustainable design practices, while allowing innovative, diverse and cost conscious approaches for design, installation and maintenance of landscaping;
- promote the conservation of local waterways and aquifers by encouraging the planting of native species, or site specific species;
- provide means for natural aquifer recharge and prevent excess runoff through the provision of landscaping and bufferyards;
- facilitate compliance with Local, State and Federal legislation relative to water and air quality, including, but not limited to, the Clean Air Act (Title 42, Chapter

85 of the U.S. Code) and the Clean Water Act (Title 33, Chapter 26 of the U.S. Code).

**502. Scope.**

This article does not contain all the regulations and requirements for development activities, design and construction for the City of Lincoln. Approval of a landscape plan pursuant to the provisions herein does not serve as a substitute for obtaining and complying with all other applicable city ordinances, regulations, building and other related codes, zoning restrictions, subdivision and other applicable regulations.

The provisions of this ordinance shall have applicability to all site and land development projects and development activities within the corporate limits of the City, including the development of subdivisions (but not individual lots within subdivisions).

**503. Applicability.**

This ordinance shall apply to all land located within the Corporate Limits of the City of Lincoln, Alabama as well as land to be annexed if developed prior to annexation.

- A. The provisions of this ordinance shall apply to all new construction, redevelopment, or change of use for any multifamily residential, commercial, or industrial use and shall become applicable to any property for which any land development permit is required. The requirements shall remain applicable at all times once land has become subject to these provisions.
- B. All development for which this ordinance is applicable shall provide a detailed landscape plan along with all other required submission materials.

Prior to any development on any property in the City, the developer or person in charge or control thereof shall make application to the Planning Commission and have a landscape plan approved as part of the overall development approval process. A landscape plan must be submitted, along with the Land Development Plan, and approved by the Planning Commission or their designee prior to the issuance of any land development permits, (i.e. *zoning certificate, building permit, etc.*)

The Land Development Plan shall be in conformance with Section 902 of this Ordinance and, in accordance with the provision of this ordinance, shall adequately and sufficiently address traffic, parking, stormwater, sanitary sewer, erosion, use of BMPs, etc.

#### **504. Definitions.**

The following definitions are provided for clarification of terms used in Article V.

**Application:** A form provided by and submitted to the Department of Planning by a developer desiring a landscape plan to engage in development as herein defined.

**Applicant:** A developer as herein defined, including applicant or developer's representative, who is applying for approval of a landscape plan.

**Bioswale:** Vegetated surfaces that are designed to treat sheet flow from adjacent surfaces. Bioswales function by slowing runoff velocities and filtering out sediment and other pollutants, and by providing some infiltration into underlying soils.

**Buffer:** An area of land, including landscaping, berms, walls, fences and building setbacks, or any combination thereof, that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use on a residential or vacant parcel.

**Caliper:** The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

**Canopy Trees: See Tree**

**City:** The City of Lincoln, Alabama, whose address is 150 Magnolia Street, Lincoln, Alabama 35096.

**Critical Root Zone:** An area on the ground around a tree that is within the drip line of a tree.

**DBH (diameter at breast height):** refers to the diameter of a tree four and one-half feet above ground level.

**Developer.** Any person, firm, partnership, corporation or other legal entity engaged in or seeking to engage in development activity as herein defined.

**Development:** For the purposes of this article only, any manmade or earth change to property including, but not limited to, preparation of land for the construction of buildings or other structures, mining, dredging, filling, grading, regrading, paving, clearing, excavating, or drilling operations. This definition also includes changes or improvements to any property subject to these regulations such as curb and gutter, storm drainage structures, streets, drainage facilities, sidewalks, and related public or private roads and the installation of utilities.

**Drip Line:** A vertical line extending downward from the outermost tips of the tree branches to the ground.

**Erosion:** The wearing away of land by the action of wind, water, gravity or a combination thereof.

**Evapotranspiration:** loss of water from the soil both by evaporation and by transpiration from the plants growing thereon.

**Grading:** Altering the shape of the ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling & shaping or any combination thereof and shall include the land in its cut or filled condition.

**Hedge:** A row of closely planted shrubs, bushes or any kind of plant forming a boundary or fence.

**Land Development Permit or Permit (LDP):** A written document which authorizes development in accordance with the provisions in this article and subject to any additional or specific requirements that may be stated therein.

**Land Development Plan or Plan:** A properly documented written plan, prepared, signed and stamped by a registered professional engineer, licensed in the state, consisting of a completed application with supporting documents demonstrating that development as herein defined will occur upon an identified parcel of land within the area in compliance with all provisions of the City.

**Landscape Administrator:** The staff member(s), or Planning Commission Committee, designated by the Planning Commission to administer this article.

**Landscaping:** Refers to the treatment of grade, groundcover, vegetation and ornamentation for a given area; including, but not limited to, plant materials such as trees, shrubs, groundcovers, perennials and annuals; and any other materials such as rocks, water, walls and fences; and any other feature affecting layout and use of the site.

**Lot—Parcel—Property:** Refers to a single undivided portion of land that is either legally recorded in the office of the Talladega County Probate Judge, or is being proposed in good faith by well-prepared plan drawings for the purpose of being legally recorded. It is the responsibility of the property owner (or his/her agent) to insure that the property is legally recorded with the office of the Talladega County Probate Judge.

**Low Impact Development (LID):** comprises a set of approaches and practices that are designed to reduce runoff of water and pollutants from the site at which they are generated by means of infiltration, evapotranspiration, and reuse of rainwater. LID techniques manage water and water pollutants at the source and thereby prevent or reduce the impact of development on rivers, streams, lakes, coastal waters, and ground water.

**Parking Lot or Garage:** An open area or a structure used exclusively for the temporary off-street storage of motor vehicles. Such area or structure may be an independent business or may be used in conjunction with any other business or commercial use. A fee may be charged.

**Parking space:** a delineated area reserved for the parking of a single vehicle.

**Perimeter Planting Strip:** Land area located within the boundary of a lot and required to be set aside and used for landscaping upon which only limited encroachments are authorized.

**Property Line:** A line dividing one lot from another or from a street or any public or private space.

**Rain Garden:** Vegetated surfaces that are designed to treat sheet flow from adjacent surfaces. Filter strips function by slowing runoff velocities and filtering out sediment and other pollutants, and by providing some infiltration into underlying soils.

**Redevelopment:** The demolition and/or rebuilding or expansion of a site's physical development.

**Right-of-way:** A general term denoting public ownership or interest in land, usually in a strip which has been acquired for or devoted to the use of a street or alley.

**Runoff:** The water from rain or melted snow that flows over the ground.

**Shoreline:** The shortest horizontal straight line that can be established between points on the side lot lines at the waterfront end of a lot or parcel abutting a lake or stream. At least one point along the horizontal straight line must lie on the ordinary high-water mark, and its entire extent must lie wholly within the lot or parcel.

**Shrub:** A low growing usually multi-stemmed, woody plant.

**Stormwater:** The flow of water resulting from precipitation and occurring immediately following rainfall or a snowmelt.

**Street Trees:** Any existing tree or any tree to be planted on the street right-of-way.

**Tree:** A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, defined as:

Canopy (Large Maturing) — Single trunk whose height is greater than 35 feet at maturity, or

Understory (Small Maturing) — Single trunk or multi-stem whose height is less than 35 feet at maturity.

**Tree, Understory: See Tree**

**Utility Easement:** A non-possessory interest given to or acquired by a utility, governmental agency, or private agency for the use of real property in the possession of another for a stated purpose such as locating utilities, including all types of pipelines, television cable, telephone and electric cables. Also includes corridors on public rights-of-way occupied by overhead utility lines.

**Vegetated:** Any ground surface covered with plant life.

**Woodland:** An area of natural vegetation or planted material, at least 50 feet in depth, covering one (1) acre or more and consisting substantially of canopy trees.

### **505. Landscape Plan Submittal Requirements.**

**505.01. Approval.** A landscape plan must be submitted and approved by the Planning Commission and/or their designee prior to the issuance of a Land Development Permit or Building Permit.

The architect, landscape architect, engineer, surveyor of record, horticulture professional, or landscape contractor shall certify that the landscape plan submitted meets the minimum landscape and bufferyard requirements of this article.

**505.02. Format and materials.** The landscaping plan and details shall be drawn to the same standard scale as the development plan or a scale which shows all landscaping accurately. Landscape plans shall be included as part of an application for a Land Development and/or Site Plan approval. All landscape plans must be reviewed and approved by the Planning Commission and/or their designee.

#### **505.03. General information.**

Complete landscape plans submitted for review and approval shall include the following:

- A.** Title block, showing the title of the development, name and address of the owner/developer, name and address of the person or firm preparing the plan, date of preparation, scale, north arrow, and the date of all revisions.
- B.** A location map, showing the relative location of the site to the nearest existing public street intersection.
- C.** The boundaries of the subject property including the location and description of all adjoining property, the location and names of all adjoining streets and easements. If property is a part, or phase, of a larger development, the location/relationship to the overall development shall be indicated.

- D. The required number of parking spaces and the proposed number of parking spaces of subject property/development.
- E. Location and dimensions of all entrances and exits of the parking lot, the manner in which vehicles will be parked, all traffic circulation patterns, and the location and names of all utility lines, easements or right-of-ways on, or adjacent to, the site.
- F. All details needed to communicate appearance, and methods of construction and/or installation.
- G. A planting schedule, keyed to the plant materials shown on the landscape plan, listing all proposed plant materials by botanical name, common name, cultivar or variety if any, quantity of materials, size of materials at planting, plant spacing, and existing trees approved for use.
- H. Location of all existing and proposed buildings, accessory structures and paved areas.

## **506. General Requirements.**

### **506.01. Site protection and general planting requirements.**

- A. *Topsoil.* To the extent needed and practical, topsoil moved during the course of construction shall be preserved and stockpiled for re-use on the site.
- B. *Existing trees.* Preservation of each existing healthy tree of an approved species (See Table 5-1), within required landscape areas, may count toward fulfillment of these requirements.
  1. The existing tree to be preserved must be approved by the Planning Commission and/or their designee to receive credit.
  2. Existing trees that are credited towards meeting the requirements of this section shall be subject to the same maintenance and replacement requirements as newly planted trees.
  3. Upon approval of the Planning Commission and/or their designee an existing area of native vegetation meeting the definition of woodland, may be deemed to satisfy planting of a specific area or bufferyard required by this Ordinance regardless of the mix of plant materials otherwise required.
- C. *Slope plantings.* Landscaping of all cuts and fills and/or terraces shall be matted or protected until plant cover is adequate to control erosion.

**D. *Utility Easements.*** Plantings within Utility Company Easements must comply with the following:

1. Minimum distances measured horizontally from mature trees to overhead utility lines shall be:

Canopy Trees:        30 feet  
Understory Trees:    15 feet

2. The location and species of trees proposed for location in utility easements shall be approved by the Power Company or other appropriate utility provider before installation.
3. Any part of a tree growing within 15 feet of an overhead utility line will require maintenance by a certified line trimmer approved by any affected utility companies.
4. This article shall not be construed to impair:
  - a. the right of eminent domain granted by State laws to utilities, whether public or private, or
  - b. a utilities' right to design, locate, erect, construct, re-construct, alter, protect or maintain utility poles, towers, lines, conduits, pipes or mains reasonably required in the public service or
  - c. a utilities' right to exercise authority conferred by statute, franchise, certificate of convenience and necessity, license or easement. Maintenance, repair, and extension of any public and private utility lines or related infrastructure are expressly allowed. The preceding will apply to work done by the utility's employees, agents and contractors doing work for the utility.
5. Avoid planting trees and shrubs on underground utility easements; root systems may damage or restrict the installed systems.

**E. *Plant Material Standards:***

*Canopy Trees:* Shall have an average mature crown spread of at least 25 feet, be a minimum of eight feet in height and have a caliper of at least two inches at planting.

*Understory Trees:* Shall have an average mature crown spread of at least 15 feet, be a minimum of five (5) feet in height and have a caliper of at least one and one-half inches at planting.

*Note: No more than 30% of understory plant material may consist of crepe myrtle.*

*Shrubs:* Shall be a minimum size of three gallon containers and of such species to obtain a height of 24 inches within two years.

- F.** Planting strips, buffers and planted islands are to be sodded, seeded, mulched or planted with shrubs or ground cover so as to leave no bare ground after landscape materials have been installed and permitted to grow for two years. Where mulch is used the area must be kept free of weeds.
- G.** Stormwater inlets shall be located within a perimeter planting strip and incorporate rain gardens, bioswales or other staff approved stormwater mitigation techniques to promote infiltration and reduce stormwater runoff and non-point source pollution. Rain Gardens shall include at least one (1) tree. Alternative designs that accomplish the intent of this ordinance may also be permitted subject to approval of the Planning Commission and/or their designee.
- H.** Wherever a required bufferyard overlaps or coincides with a parking area as defined in this Section, the bufferyard shall take precedence; the required parking area planting shall be placed in another location.
- I.** The integration of Low Impact Development techniques as part of the landscape plan may be used to meet these requirements.

#### **506.02. Trash Receptacles.**

- A.** All commercial trash receptacles shall be placed on a pad approved by the City Engineer that allows for pick-up and maintenance as needed.
- B.** All commercial trash receptacles shall be enclosed with a fence or wall that is impervious to sight, at a minimum of six (6) feet tall, and is consistent with the architectural materials of the primary structure.
- C.** All screens will be completely enclosed with a latching gate.
- D.** Trash receptacle sites shall not be located within landscaped areas that are required by this article.

#### **507. Redevelopment.**

Redevelopment of an existing built site which involves the complete removal of existing structures to allow for complete redevelopment shall be required to meet all requirements of this Section. In the event that the site itself is nonconforming by size or has other

topographic constraints the Planning Commission and/or their designee may authorize the utilization of the standards of Section 512 Alternative Compliance.

When redevelopment involves the expansion of a site's physical development the following increases in building size will trigger compliance with this Article:

<b>Total Original Square Footage</b>	<b>Proposed Expansion</b>
Less than 2,000 s.f.	25% or greater
2,000 – 5,000 s.f.	20% or greater
5,001 – 10,000 s.f.	15% or greater
Over 10,000 s.f.	10% or greater

### **508. Landscaping Standards.**

It shall be the responsibility of the developer and/or property owner to select species from Table 5-1 which are appropriate to the locations in which they will be planted, and to maintain them so as to meet the intent of this Ordinance.

All plant materials shall meet minimum standards of caliper, fullness of form, height, root ball and vigor as described by the American Association of Nurserymen standards published in the current edition of American Standards for Nursery Stock.

#### **508.01. Frontage Landscape Standards.**

Except as required in Section 509, "Special Corridors", street frontage buffers shall be, at a minimum, ten (10) feet in depth along all adjacent public rights-of-way. Frontage landscaping shall include a minimum of one (1) canopy tree, two (2) understory trees and six (6) shrubs per fifty (50) linear feet of the frontage, or fraction thereof. Shrubs are optional in areas where a berm at least four (4) feet in height is used. Trees and shrubs shall be well distributed, though not necessarily evenly spaced.

The following additional frontage landscaping standards shall apply:

*(See Figure 9)*

- A.** lots with less than one hundred fifty (150) feet of frontage shall have a street frontage buffer depth of ten (10) feet;
- B.** lots with one hundred fifty (150) to two hundred fifty (250) feet of frontage shall have a street frontage buffer depth of twenty (20) feet;
- C.** lots with over two hundred fifty (250) feet of frontage shall have a street frontage buffer depth of thirty (30) feet.

For developments of two (2) or more acres with frontage of two hundred fifty (250) feet or more, the street frontage buffer shall be bermed in order to minimize the visual impact of the off-street parking area, unless the Planning Commission and/or their designee determines that the natural topography does not require the site to be bermed. The berm shall not have a slope of greater than one (1) foot of rise per three (3) feet of run, and shall not be less than four (4) feet in height at its apex. Landscape material for bermed street frontage buffers shall be in accordance with the requirements outlined above.

Frontage landscaping within the site distance triangle at driveways and street intersections, shall have an area of visibility between the heights of two and one-half (2.5) feet and six (6) feet above the street grade to afford a clear line of sight in the interest of vehicular traffic safety. (*See Figure 8* for sight distance triangle detail)

### **508.02. Perimeter Landscape Standards.**

Perimeter landscaping must be provided within the property lines between the off-street parking area and adjoining properties. Planting areas existing in the public rights-of-way or on adjoining property shall not count toward the required perimeter landscaping area. Perimeter landscaping areas adjacent to adjoining properties shall be at least ten (10) feet in depth, excluding walkways, measured perpendicularly from the adjacent property to the back of curb, and shall contain the following plant material:

- One (1) canopy tree; three (3) understory trees; and four (4) shrubs per 100 linear feet of property, or fraction thereof.

Should a commercial/industrial development abut a residential district, a higher perimeter landscaping criteria shall apply. The perimeter landscaping areas along the common property line shall have a twenty (20) foot landscaped buffer area consisting of the following:

- an eight foot (8') fence with landscaping consisting of 4 canopy trees; six understory trees and 10 shrubs per 100 linear feet of property line
- Or
- a planted hedge creating a solid unbroken visual screen reaching eight (8) feet in height within two (2) years of planting

It is intended that this bufferyard be of sufficient density to afford protection to the residential district from the glare of lights, blowing paper, dust and debris, visual encroachment and effectively reduce the transmission of noise. (*See Figure 10*)

The perimeter buffer area shall be maintained in clean and neat condition.

Where topography provides a more effective buffer than the above described buffer, or where topography renders the above described buffer ineffective, the Landscape Administrator may:

- A. Reduce the width of the required buffer by no more than fifty (50) percent,
- B. Reduce the width or waive the required undisturbed buffer,
- C. Allow reforestation with native vegetation in lieu of all or a portion of the required planted buffer,
- D. Any combination of the above stated measures.

**508.03. Interior/Parking Landscape Standards.**

Planted islands and/or peninsulas shall be provided for any off-street parking area of twenty (20) or more parking spaces (not including the areas of perimeter and foundation landscaping) with dimensions and arrangements as follow:

*(See Figure 11)*

- A. Each island or peninsula, to count toward the total interior landscape requirements, shall be at least two hundred and fifty (250) square feet in area; however, the maximum contribution of any individual island or peninsula to the total interior landscaping requirement shall be five hundred (500) square feet.
- B. Island and peninsulas, must be at least eight (8) feet in their least dimension, measured from back of curb to back of curb.
- C. Islands and peninsulas in off-street parking areas shall be as uniformly distributed as practicable, to subdivide large expanses of parking areas, to regulate traffic flow, to protect pedestrians, and to permit access by emergency vehicles. When practical, islands and/or peninsulas shall be placed at the end of rows of parking spaces or between the circulation drives and parking rows, to channel traffic safely around the parking areas and to demarcate parking rows.
- D. The interior landscaped area shall contain at least an average of one (1) tree and four (4) shrubs per one hundred (100) square feet of landscaped area. Each island or peninsula shall contain at least one (1) tree.
- E. There shall be no more than 10 contiguous parking spaces without a landscape island, or peninsula.
- F. *Excavation of parking lot islands.*
  - 1. All parking lot islands, peninsulas, and planting areas shall be excavated to remove all crusher run or parking lot base material and back filled with quality top soil, except those areas where existing vegetation is to be preserved. The top soil shall be high in organic matter and will allow water to percolate. The excavation of these

planting areas shall be to a minimum of 24” and will freely allow penetration of hand-held probe to a minimum of 24”.

2. Inspection of these planting areas shall be conducted by the Landscape Administrator or City Engineer during the construction process. Failure to comply with these requirements can result in a stop work order issued by the inspectors.

#### **508.04. Foundation Planting Standards.**

Building foundations shall be required to have a landscaped bed with a minimum depth of seven (7) feet along the front of the primary structure. Beds shall contain both understory trees and shrubs and may also contain other greenery and seasonal color. There shall be a minimum of one (1) shrub for every four (4) feet of façade length with a minimum height at planting of twenty-three (23) inches. Understory trees shall be used as accents to shrubbery and may be placed in groups at corners and near building entrances. Landscaping shall be planted within a bed of mulch or ground cover other than turf grass, and be protected by some barrier, such as curbing or tire stops, from damage by vehicles and maintenance equipment. Plant material shall be well distributed throughout the bed, though not necessarily evenly space.

Summary:      Shrubs = 1 per 4’ of front façade and 23” in height at planting  
                    Understory = grouped at corners and entrances of building

#### **509. Special Corridor Landscape & Design Standards.**

Recognizing the special nature of certain thoroughfares and the direct and indirect impacts of the appearance of these roadways and their importance to the local economy, this Section sets forth regulations that will help insure that development in these critical areas is visually pleasing and economically viable. This Section applies to all land in the corridor, regardless of the underlying zoning district designation, and supersedes base zoning district regulations in the corridor unless the zoning district requirements are more stringent. In those cases, the base district regulations apply. Henceforth, as parcels are developed or redeveloped along designated corridors, the following bufferyard and landscape requirements shall apply.

**509.01. Areas of Applicability.** These regulations shall apply to all lots, parcels and tracts that have any frontage upon the following rights-of-way:

- Stemley Road
- U.S. Highway 77
- U. S. Highway 78
- Speedway Blvd.
- Magnolia Street (ending at downtown)

**509.02. Submission Requirements.** All design elements required by this Section shall be illustrated or described within the application materials prepared for the review of staff and the Planning Commission. Any submission made without such requirements shall be deemed incomplete. Incomplete submissions shall not be considered for inclusion on Planning Commission agendas.

**509.03. Building Materials and Design Review.** The Planning Commission shall review submissions for their general compatibility with existing conditions and public improvements according to the process for conditional uses outlined in Article IX.

**A. Exterior Building Materials.** All building cladding materials shall be described in the application or upon the site plan. Building facades and accessory buildings visible to pedestrian and vehicular traffic shall consist of natural materials such as wood, stone, and manufactured products such as brick, stucco, and architecturally decorative concrete block; other such materials may be approved after review by the Planning Commission.

**B. Sign Design.** The location of freestanding signs shall be illustrated on the site plan. Sign materials shall be coordinated with the exterior cladding of the structures. Size and height of sign shall conform to the standards set out in Article VII "Sign Regulations".

**509.04. Bufferyards, Setbacks & Landscaping.** On all developments, the owner or developer must provide the required setback and the required buffer or minimum buffers described below, whichever is greater

**A. Thoroughfare Frontage Bufferyard.** A 15-foot bufferyard shall be installed along the entirety of thoroughfares listed in Section 509.01. This bufferyard shall contain three (3) canopy trees, ten (10) understory trees, and 15 shrubs per 100 feet of corridor frontage.

**B. General Right-of-Way Setback.** All structures shall be at least 20 feet from the right-of-way line of those thoroughfares listed in Section 509.01.

**509.05. Fences and Screening.**

**A.** Lot areas within which repair of vehicles of any type occur shall be screened from public view. Storage areas of vehicles that are visibly damaged or under repair shall be similarly screened.

**B.** Utility meters, air conditioners and other mechanical units shall not be located on any plane of the primary structure that faces a designated corridor and shall be screened from public view.

C. No type of wire fabric fencing material shall be used forward of the front plane of the primary structure. Fences in the front yards shall not exceed four (4) feet in height.

**509.06. Awnings and Canopies.** Rigid or fixed awnings and canopies must be maintained and kept free from dirt, mildew and tears. Worn, faded or torn awnings and canopies shall be replaced. Awnings shall not be a continuous line across a building façade, but rather shall be broken or grouped to create visual interest. (*See Figure 7*)

**509.07. Residential Development backing up to corridor roadways.**

To provide protection and privacy to residential developments backing up to Highway Corridors as defined above the following Corridor Screening shall be provided:

- An earth berm or bank at least four (4) feet high with a required base width of at least ten (10) feet and covered with an acceptable grass or landscape cover suitable to the slope used.
- Berms shall meet the following standards:
  - The slope of all berms shall not exceed a three-to-one ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of eight feet above the toe of the berm.
  - Berms exceeding four feet in height shall maintain a four-to-one ratio (horizontal to vertical).
  - Berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.
  - Berms along street right-of-ways shall not be permitted within sight distances at intersections.
  - Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

AND

- A planting screen consisting of a minimum of two (2) staggered rows of evergreen shrubs such as, but not limited to, Ligustrum, Burford Holly, Elaeagnus, Boxwood, or Juniper with a minimum height of three (3) feet installed and a maximum spacing suitable to the particular plant used but yet forming an effective visual screen. This planted screen shall, at driveway and roadway intersections, meet adequate sight distance requirements.

Alternative forms of screening may be considered by the Planning Commission subject to detailed drawings supporting said alternative being provided at the time of submission. (*See Figure 12*)



*Example: Berm separating residential development from major roadway*

### **510. Conditional Uses.**

The Planning Commission and/or City Council, as part of Conditional Use Approval, may place additional requirements on a Site Development Plan, including but not limited to landscape requirements, above and beyond those specified in this article.

### **511. Compliance.**

For any criteria for which this article applies, the architect, landscape architect, engineer, surveyor of record, horticulture professional, or landscape contractor must certify, to the Planning Commission and/or their designee, that the landscaping has been installed to meet the minimum requirements of this article. The site will be inspected before a final certificate of occupancy will be issued.

In the event that inclement weather delays the installation of landscape materials by less than thirty (30) days, the developer may make a written request to the Planning and Development Services Department for an extension to the time of completion for the planting schedule in the approved landscape plan.. The request must specifically state the reason for the delay as well as an estimated date for completion. Failure to complete the installation within 15 days of specified date will constitute non-compliance.

No certificate of occupancy shall be issued for any new development that has not met the requirements of this article or an approved landscaping plan. Additions or renovations to existing parking areas shall also receive a certificate of occupancy prior to usage. When circumstances preclude immediate planting, the Planning Commission may release the development for a certificate of occupancy after:

- A.** The owner or developer has completed all curbing, irrigation systems and other non-planting components of the landscaping plan; and

- B. Posted a completion bond or certified check in an amount equal to one hundred twenty-five (125) percent of the total cost, including labor, of the remaining landscaping installation.

Required surety shall be made payable to the City of Lincoln and submitted to the the Planning and Development Services Department or City Engineer. The Planning Commission or Engineer shall set the time limit for completion and approval of any guaranteed landscaping, but in no case shall the time period exceed six (6) months after the date the certificate of occupancy is issued.

### **512. Alternative Compliance.**

The Landscape Requirements are intended to encourage development practices which are conscious of the character of the City and its ecological processes. Conditions associated with individual sites may under certain circumstances warrant approval of alternative methods of compliance. Conditions may arise where normal compliance is impractical or impossible, or where maximum achievement of the Purpose and Intent of this Article can only be obtained through alternative compliance. It is not the intent of this section to allow alternative compliance on the basis of economic hardship. In the event that such conditions are present, the Planning Commission and/or their designee shall have authority to adjust the requirements of this article as provided below in accordance with the following:

- A. *Request for Alternative Compliance Review.* Requests for alternative compliance must be made in writing at the time of application and may be granted for any permit application to which the Landscape Requirements apply, when one or more of the following conditions are met:
  1. Improved environmental quality would result from alternative compliance.
  2. Topography, soil, vegetation, drainage or other site conditions are such that full compliance is impractical.
  3. Spatial Limitations, unusual shaped pieces of land, or unusual servitude requirements may justify alternative compliance.
  4. Public safety considerations make alternative compliance appropriate.
  5. Public Improvement (i.e. streets, water, sewer, etc.) projects make alternative compliance appropriate.
  6. The site is part of a development for which a master plan has been submitted which makes adequate provision for landscaping.

The above conditions must be substantiated as part of the written request for Alternative Compliance.

**B. *Methods of Alternative Compliance.***

1. Reduction in the amount, or variation in types, of required landscaping.
2. Reduction of buffer widths.
3. Modification of required structures (i.e. fences, walls, berms, etc.)
4. Modification in configuration or amount of required parking to accommodate landscaped islands

In all instances, such requests for alternative compliance may be referred to the Planning Commission for review and approval.

**513. Landscaping Requirements for Downtown Historic District.**

Unless otherwise specified elsewhere, streetscapes shall be developed in the commercial areas of Historic Downtown along McClain Avenue, James Avenue and Crawford Street to mimic those already present along Crawford Street adjacent to the railroad tracks in these districts.

**514. Ownership & Maintenance.**

The owner of property developed in accordance with an approved landscape plan shall be responsible for maintaining all landscaping in good condition. The maintenance required under this section shall include the prompt replacement of all dead or damaged landscaping materials, whether from natural or unnatural causes, so as to insure continued compliance with the requirements of this ordinance.

All landscape and bufferyard materials shall be maintained by the owner of such materials so that the purpose and effect of the landscaping and bufferyards is not diminished. The following minimum maintenance activities are required:

**A. Replacement of plant materials destroyed by any cause.**

In the case of any canopy tree removed or otherwise destroyed by the willful act of the property owner, tenant or contractor, a tree of the same or larger caliper must be used as a replacement. Where replacement at the same or larger caliper is not feasible, the Planning Commission or their designee may provide alternative replacement criteria.

- B. Repair and/or replacement of fences and walls that deteriorate or are damaged by any cause.
- C. Restoration of berms that are altered by erosion, construction, or other causes.
- D. Irrigation of landscape materials is strongly recommended, particularly for larger development sites. Landscaping lost due to lack of rainfall or irrigation shall be required to be replaced by the property owner.

Bufferyards constitute an integral part of a development site, and may not be subdivided, sold, dedicated, or otherwise conveyed separately from the development site of which they are a part. The City shall not approve any development plan in which a required bufferyard or any portion of a required bufferyard lies on land, which is not part of the development site.

#### **515. Legal aspects, other Regulations.**

All local, state and federal laws and regulations shall be considered when interpreting provisions of, or technical specifications published pursuant to, this article. In each instance, the more restrictive requirement shall govern unless sound engineering judgment can determine and prove that the more restrictive requirement would be otherwise unnecessary. In most instances, laws and regulations that are phrased more explicitly shall apply over those items that are not phrased as precisely.

Nothing herein contained shall authorize a person to engage in development or earth changes in a manner inconsistent with current zoning or subdivision regulations or other applicable codes or ordinances.

A landscape plan does not authorize any person or developer to engage in any activity that would violate any other applicable code, ordinance, regulation or state or federal laws nor substitute for obtaining any licenses or permits otherwise required.

#### **516. Penalty for Violation.**

Any violation of any provision of this Ordinance, shall constitute a Class C misdemeanor. Any person found guilty of violating any of the provisions of this ordinance shall be fined in an amount not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), and may also be sentenced to imprisonment for a period of not exceeding six (6) months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.