

## PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of December 7, 2010

**SUBJECT: Text Amendment to Chapter 62 (Landscaping and Screening Ordinance)**

### **PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the text amendments to Chapter 62 (Landscaping and Screening Ordinance) pertaining to conflicting land use buffers, interior landscape islands, bioretention, and non-native invasive vegetation.

### **STAFF RECOMMENDATION**

Staff recommends this proposed text amendment be **approved**. The proposed amendments will serve to improve water quality, prohibit the use of non-native invasive species, and provide greater flexibility on how the conflicting land use buffer requirement is applied.

### **STAFF REPORT**

The intent of Chapter 62 (Landscaping and Screening Ordinance) is to: a) improve the appearance of vehicular use areas and property abutting right-of-way, b) require a buffer between conflicting land uses, c) reduce negative impacts of stormwater runoff, d) improve pedestrian movement within a development site, and e) preserve existing significant vegetation.

The attached text amendments propose a number of modifications to Chapter 62, including:

- Allowing averaging of the required width of right-of-way and conflicting land use buffers.
- Specifying the maximum length of parking rows between interior landscape islands.
- Requiring a conflicting land use buffer for multiple-family parcels proposed to abut residential uses.
- Requiring bioretention within the interior landscape islands when the total interior landscape area exceeds 750 square feet.
- Requiring that provisions be made for snow storage in locations that do not damage required vegetation.
- Prohibiting the use of non-native invasive vegetation for required landscaping.
- Increasing the fines for violations.

The Systems Planning team of the Public Services Area drafted the proposed amendments in order to refresh the ordinance which was last updated in January 2005. The proposed amendments are based on recommendations of the City's Natural Features Committee (sub-committee of the Environmental Commission) and have been reviewed by Planning Staff and the Planning Commission's Ordinance Revisions Committee. The Environmental Commission has recommended that City Council adopt these proposed amendments.

The City hosted a public meeting on October 21, 2010 to obtain public comment. The comments received and associated responses are attached.

Chapter 62 Amendments  
Page 2

Prepared by Jeff Kahan  
Reviewed by Wendy Rampson  
jk/12/2/10

Attachment: November 1, 2010 Draft Chapter 62 Amendments  
Presentation from October 21, 2010 Public Meeting  
Summary of Public Comments

c: City Attorney  
Planning & Development (Environmental)  
Systems Planning

Deletions – ~~struck out~~

Additions – in color and underlined

**DRAFT  
NOVEMBER 1, 2010**

## **CHAPTER 62. LANDSCAPE AND SCREENING**

(Chapter 62 added, Ord. No. 58-69; New Chapter 62 adopted, Ord. No. 60-78, 10/16/1978; New Chapter 62 adopted, Ord. No. 53-85, 3/17/1986; Chapter 62 amended, Ord. No. 56-94, 12/19/1994; Chapter 62 amended, Ord. No. 43-04, 1/3/2005; Chapter 62 amended, Ord. No. 08-32, 10/6/2008)

### **5:600. Intent and Application of Chapter.**

- (1) *Intent:* This chapter is intended to:
  - (a) Improve the appearance of off-street vehicular use areas, property abutting public rights-of-way, private streets, and certain shared driveways within easements, thereby reducing conditions which lead to urban blight.
  - (b) Require buffering between conflicting land uses and conflicting zoning districts.
  - (c) Promote the public health, safety and general welfare by reducing noise and air pollution, light glare, soil erosion, and thermal heating of the environment.
  - (d) ~~Promote improved stormwater quality and increase soil water retention, thereby helping to prevent flooding.~~ Reduce the negative impacts of stormwater runoff by reducing impervious surface area and retaining greater amounts of stormwater on site.
  - (e) Improve the ~~amenity~~ quality and safety of pedestrian movement within paved areas and along public rights-of-way.
  - (f) Protect and preserve the appearance, character and value of the surrounding neighborhoods and parks.
  - (g) Promote preservation of existing significant vegetation, the use of non-invasive plant species and the selection of plant species based on site conditions including soil type, light exposure, presence of utilities, and salt tolerance.
  
- (2) *Application:* The provisions of this chapter shall require landscaping and screening on the site in the following cases:
  - (a) Whenever a site plan is required by Chapter 57 of this Code; or
  - (b) Whenever the estimated expense of construction exceeds 50% of the appraised replacement cost of the entire building or structure, exclusive of foundation, prior to its improvement (as determined by the building official); or
  - (c) Whenever a shared driveway is provided within an easement in accordance with Chapter 55 of this Code.

**DRAFT  
November 1, 2010**

## 5:601. Definitions.

The definitions of Chapter 55, 57, 59, 63 and 104 shall apply in this chapter.

- (1) Bioretention: a stormwater infiltration system capable of retaining and infiltrating runoff from the first one half (1/2) inch of runoff during any storm event.
- (2) Native or prairie plantings: the exclusive use of plants in a landscape planting, that were present in Ann Arbor prior to European settlement in Michigan.
- (3) Structural amenity: a non-plant element in the landscape that adds to the public benefit of the proposed landscape plan (ex: outdoor art, benches, sculptural solar lighting, water features, etc).
- (+)(4) Vehicular use area: Any area of 1,200 square feet or more of a property which is not located within an enclosed structure and which is devoted to a use by or for motor vehicles, including parking (accessory or non-accessory) or storage of automobiles, trucks or other vehicles; loading areas; service areas and drives. The area within a carport is considered part of the vehicular use area. Any paved area designed to be used solely for access between the street and the vehicular use area is not considered part of the vehicular use area.
- (2)(5) Xeriscaping: A combination of landscaping features and techniques that in aggregate reduce the demand for, and consumption, of water.

## 5:602. Vehicular Use Area Landscaping and Screening.

Vehicular use areas shall have the following landscaping and screening:

- (1) Right-of-way screening: Vehicular use areas that are visible from a public right-of-way shall include the following between the vehicular use area and the right-of-way. This section applies to public alleys only when the public alley separates a residential use or zone from a vehicular use area.
  - (a) A landscaped buffer strip averaging at least 10 feet in width over the entire length of the required buffer area, with no specific location along the buffer being less than 5 feet in width.
  - (b) One deciduous shade or evergreen tree must be installed in the landscape buffer area for every 30 feet or fraction thereof of right-of-way (ROW) street frontage of the vehicular use area. Arrangement of trees in clusters or groupings is encouraged, but in no case shall trees be more than 50 feet apart on center.
  - (c) A hedge, dense shrub planting, landform berm, wall or combination thereof forming a continuous screen at least 30 inches in height above the vehicular use area grade, located is required in the buffer strip area to provide maximum screening of the vehicular use area. Arrangement of shrubs in clusters or groupings is encouraged. Walls If a wall is used, it shall be set back at least 4 feet from the property line with one 30-inch high shrub provided for every 4 linear feet, planted on the street side of the wall. ~~Gasoline or service stations shall employ berms or opaque walls between the vehicular use area and the public right-of-way unless the landscape buffer strip provided is 15 feet in width or greater, in which case a hedge is acceptable.~~

- (d) Gasoline or service stations shall employ berms or 30 inch high opaque walls between the vehicular use area and the public right-of-way unless the landscape buffer strip provided is 15 feet in width or greater. In which case a landform berm, hedge and/or dense planting combination at least 30 inches in total height is acceptable. If a wall is used, it shall be set back at least 4 feet from the property line with one 30-inch high shrub provided for every 4 lineal feet, planted on the street side of the wall.
- (e) The site design and planting scheme shall comply with the requirements set forth in this Chapter.
- (f) Materials used in these areas shall comply with standards set forth in this Chapter.

(2) ~~Interior landscape areas~~ Islands. Vehicular use areas greater than 3,300 square feet shall contain protected landscape ~~areas~~ islands located entirely within the ~~edges~~ perimeter of the vehicular use area, ~~which serve to~~ for the purpose of breaking up the expanse of pavement, ~~and they must meet the following interior landscaping requirements:~~ The following landscape island requirements must be met:

- (a) Within the interior of the vehicular use area, ~~interior landscape areas~~ islands shall be provided at the following ratios at a minimum:

<u>Vehicular Use Area</u>	<u>Landscape Islands/Vehicular Use Area Ratio</u>
3,300-49,999 square feet	1:20 square feet
50,000-149,999 square feet	1:15 square feet
150,000 square feet & over	1:10 square feet

Multiple level parking structures are not required to have interior landscape islands but shall comply with all of the other requirements of this Chapter.

- (b) To be credited toward meeting the requirements of this section, each interior landscaped ~~area~~ island shall have at least 165 square feet, a minimum dimension of 8 feet in any direction, and shall include at least one (1) deciduous shade tree. Combining landscaped islands to form larger landscaped areas is encouraged.
- (c) Any landscaped area located outside the ~~edges~~ perimeter of the vehicular use area will not count toward satisfying this requirement. Landscaped areas within the corners of the vehicular use area may be counted, up to a maximum of 200 square feet for each corner, if at least one (1) deciduous shade tree is located within that area. A minimum of 50 percent of the perimeter of the landscaped corner must abut the vehicular use area to be considered an interior landscape island.
- (d) A maximum of 15 parking spaces are allowed in a parking row without a landscape island break. If landscape islands have been combined to form larger landscaped areas and are used for bioretention then 20 continuous parking spaces will be permitted.
- ~~(e)~~ The total number of trees required in the interior landscaped ~~area~~ island shall be calculated and provided at a rate of one (1) deciduous shade tree for each 250 square feet or fraction thereof of required interior landscaped ~~area~~ island.

- (ef) Additional credit toward required interior trees may be obtained for existing trees which measure a minimum of 8 inches in diameter at breast height (DBH) that are preserved within the vehicular use area or within 15 feet of and on the same parcel as the vehicular use area. Each 8 inches or fraction thereof of DBH of any healthy existing tree that is preserved may be deemed equivalent to one (1) required interior island tree. Up to 50% of the requirements of subsection (de) may be satisfied by preserving existing trees which meet the standards of this subsection. Additional credit allowed by this subsection is in addition to the credit allowed for existing vegetation used to meet the requirements of this chapter per section 5:606(7).
- (g) When the total required interior landscape area for all of the vehicular use areas on site exceeds 750 square feet, at least 50% of the required interior landscape area must be depressed bioretention areas and utilized for storm water management. Depressed bioretention areas can be used to meet the stormwater pretreatment requirements in Chapter 63. When the total required interior landscaped area for all of the vehicular use areas on site is less than 750 square feet, interior landscape islands in the form of depressed bioretention areas that are utilized for storm water management are encouraged.
- (h) Provision shall be made for snow pile storage locations such that they do not damage required plantings nor diminish required parking capacity.
- (i) The site design and planting scheme shall comply with the requirements set forth in this Chapter.
- (j) Materials used in these areas shall comply with standards set forth in this Chapter.

### 5:603. Conflicting Land Use Buffers.

~~A vehicular use area; or an office, commercial, or industrial use; or a refuse dumpster which is adjacent to a public park facility or land principally used or zoned for residential purposes shall have a conflicting land use buffer between this use and the park or residential land.~~

A conflicting land use buffer shall be provided under the following conditions:

- A) A vehicular use area adjacent to a public park or land principally used or zoned for residential purposes.
- B) A refuse/recycling container adjacent to a public park or land principally used or zoned for residential purposes.
- C) The portion of a parcel zoned O, RE, ORL, C, or M abutting a public park or parcel principally used or zoned for residential purposes.
- D) The portion of a parcel zoned R3 or R4 adjacent to a parcel zoned R1, R2 or a public park.

The conflicting land use buffer shall consist of the following:

- (1) A landscape buffer strip averaging at least 15 feet wide over the entire length of the required buffer area, with no specific location along the buffer strip being less than 8 feet in width.
- (2) One tree for each ~~20~~15 feet or fraction thereof of abutting land. At least 50% of the trees within the conflicting land use buffer shall be evergreen. Arrangement of trees in clusters or groupings is encouraged, ~~but in no case shall trees be more than 50~~ and shall be

between 15 feet and 30 feet apart on center. Plantings should be placed to screen the views between buildings, that existed at the time of site plan approval, (especially windows and patio views) on the adjacent property.

- (3) A hedge, landform berm, wall, fence or combination thereof forming a continuous screen at least 4 feet high. All gasoline or service stations shall employ opaque walls as the continuous screen.
- (4) The site design and planting scheme shall comply with the requirements set forth in this Chapter.
- (5) Materials used in these areas shall comply with standards set forth in this Chapter.

#### **5:603.1 Private Streets and Shared Driveway Buffers.**

Private streets, and shared driveways within easements in accordance with Section 5:77 of Chapter 55 of this Code, shall comply with the following street tree and buffer requirements:

- (1) Street trees. One deciduous tree for every 30 feet or fraction thereof shall be provided along each side of a private street. Placement of trees between the edge of the curb and the sidewalk is encouraged, but in no case shall trees be more than 12 feet from the edge of the curb. A variety of species, planted in alternating order, is encouraged to ensure a tree canopy over the street and sidewalk in the event of species-specific infestation or disease.
- (2) Buffer. A buffer between a private street or shared driveway and any adjacent parcels not served by the private street or shared driveway shall be provided consisting of the following:
  - (a) A landscaped buffer strip at least 8 feet wide.
  - (b) A hedge, wall or solid fence, or combination thereof, forming a continuous screen at least 4 feet in height.

#### **5:604. Refuse/Recycling Container Screening.**

Refuse/recycling containers for other than single and 2-family uses shall be screened from view from any adjacent residential use or public right-of-way, excluding alleys. Screening shall consist of a 6-foot high opaque wall or fence. Live landscape material located so it does not interfere with the function of the refuse container is encouraged in addition to the opaque screen.

#### **5:605. Lighting.**

All exterior lighting devices shall be adequately shielded and screened so that no light will glare directly onto any public right-of-way or property principally used for residential purposes. Lighting devices shall be arranged and kept at a level so that the amount of light projected onto property principally used for residential purposes does not exceed ~~4~~ one tenth of a foot candle.

#### **5:606. Materials and Design Standards.**

Materials used to comply with this Chapter shall meet the following standards:

- (1)
  - (a) Artificial plants or trees shall not be used
  - (b) Any plant listed on the City of Ann Arbor Invasive Species List may not be used to meet the requirement of this Chapter.
  - (c) If more than 20 trees will be used, a mixture of three (3) or more tree species must be used.
  - (d) If more than 40 shrubs will be used, a mixture of three (3) or more shrub species must be used.
  - (e) When proposing or using a native or prairie planting, the selection of plant species must be diverse and similar to native plant communities present in the Ann Arbor area. The City of Ann Arbor's Natural Area Preservation Program maintains a list of plants native to the Ann Arbor area.
- (2) ~~Where p~~Plant material is used for hedging and screening ~~at least 50 percent shall be~~ evergreen ~~and/or or deciduous shrubs which.~~ Plant materials shall be a minimum of 24 inches tall and of a size, quantity and spacing to achieve 50 percent year-round opacity at the time of planting. Diversity and native species are encouraged. Plant material shall meet current ANSI American Standards for Nursery Stock.
- (3) Fences and walls, required by this chapter, shall comply with the requirements of Chapter 104 ~~and have a footing depth of at least 42 inches~~. Both sides of the fence or wall must be decoratively faced.
- (4) Landscaped areas shall be covered with ~~grass, low vegetative ground cover not to exceed 18 inches in height, or organic~~ biodegradable mulch, ornamental grasses, forbs, native prairie plants, native wetland plants, grass or other perennial herbaceous or shrub planting combinations. Stone or aggregate shall not be accepted to meet this requirement. ~~If grass or ground cover is used, it shall be planted and maintained to present a finished appearance within one growing season. If the landscaped area is wider than 10 feet, grass or low vegetative ground cover shall be used. In areas subject to erosion, erosion-reducing blankets, or suitable reinforced mulch, shall be used.~~
- (5) Deciduous shade trees shall have a mature crown spread of greater than 15 feet. ~~Permitted trees include Norway, Sugar and Red Maples, Oaks, Lindens, Ashes, London Plane, Honey Locusts, Zelkovas~~ include those on the the City of Ann Arbor's approved street tree list. Other types of trees can be used with City approval approval of the public service area administrator or designee. Due to the overpopulation of Maple species (Acer sp.) within the City, their use should be limited. Small trees such as Crabapple (*Malus sp.*), fruit trees, ~~or~~ Hawthorne (*Crataegus sp.*), Amelanchier, or Russian Olive are not permitted unless approved by the public services area administrator or designee. At planting, trees must have a minimum caliper of 2-1/2 inches at 6 inches above the root ball, a burlap ball size of at least 10 times the caliper size, and a clear stem of at least 5 feet (except within sight triangles where 8 feet is required per subsection 12). Trees must meet current ANSI American Standards for Nursery Stock.
- (6) Plants required in this Chapter shall be planted in soils suitable for the species specified, including a depth to compacted surfaces of at least 30 inches with drainage from that surface, if required. Soils must be provided with suitable pH, coarseness, fertility and slope that will give the best possible chance for the long term vitality of plantings.
- (67) Evergreen trees shall be a minimum of 7 feet in height with a minimum spread of 3 feet, and a burlap ball size of at least 10 times the caliper size. Evergreen trees must meet current ANSI American Standards for Nursery Stock.



- (78) Existing vegetation on the property may be used to meet the requirements of this Chapter if it meets the size, species and opacity requirements. This determination shall be made by the public services area administrator. Additional credit toward the interior landscaping requirement for vehicular use areas may be obtained by preserving existing trees per Section 5:602(2)(e).
- (89) Water outlets (hose bibbs) and/or rain barrels shall be provided within 150 feet of all plant material required by this Chapter if a subsurface irrigation system is not provided. Plantings may be further than 150 feet from water outlets and/or rain barrels if xeriscape plantings are used.
- (910) Berms shall have slopes no greater than one vertical foot for each 3 horizontal feet and shall have at least 2 feet of flat area on top and shall have adequate protection to prevent erosion.
- (1011) Landscaped areas in and adjacent to vehicular use areas shall be protected by concrete ~~or bituminous~~ curbing, anchored bumper blocks, or other durable materials if approved by the public services area administrator. Wood timbers which are not part of a structural retaining wall shall not be accepted to meet this requirement. Alternative barrier designs which provide improved infiltration or storage of stormwater are encouraged. Curbs separating interior landscape islands from vehicular use area may allow stormwater runoff to pass through them. Curbs may be perforated or have gaps or breaks.
- (12) When landscape islands are used for bioretention the ponding area should be at least 6 inches deep, but not more than 18 inches deep and planted with native wildflowers/forbs and grasses.
- (112) Plant materials shall be selected and installed in accordance with standards established by the public services area.
- (1213) All landscaping or other screening material within a sight triangle shall be no greater than 30 inches tall, and all trees within a sight triangle shall have all branches trimmed to provide clear vision for a vertical height of 8 feet above the roadway surface. Evergreen trees shall not be permitted within sight triangles. The specification for sight triangles found under Sight Distance in Division II of the City of Ann Arbor Public Services Department Standard Specifications Manual shall be used to determine sight triangle areas.
- (14) Plant material should be placed to allow full access to fire hydrants and public utility systems. A 5-foot space clear of vegetation greater than 6 inches tall must be maintained around the circumference of fire hydrants, and any access point to a public utility system (i.e. water shutoff valve box, sanitary/storm sewer manhole).

#### 5:607. Site Plans.

A detailed landscape plan shall be submitted as part of a site plan review, when such review is required by Section 5:600(2). The landscape plan shall include, but not necessarily be limited to, the following items:

- (1) The vehicular use areas clearly indicated for the purpose of determining the landscape requirements for each vehicular use area and a tabulation in chart form of each vehicular use area including the square footage of each vehicular use area, the square footage of each interior landscape area, and the number of trees proposed to meet interior and perimeter requirements.

- (2) Location and spacing of trees and shrubs proposed for use within a required landscape area in sufficient detail for a determination that the plan conforms with this Chapter.
- (3) A plant list of proposed landscape materials showing caliper sizes, root type (bare root, balled and burlapped, container size), height of material, botanical and common names, type and amount of mulch, ground cover and grasses.
- (4) Specifications for treatment of compacted soil on the entire site.
- (5) Specifications for planting media in landscaped areas.
- ~~(46)~~ Minimum scale of 1" = 50'.
- ~~(57)~~ Existing and proposed contours on-site and 10 feet beyond the site at intervals not to exceed 2 feet.
- ~~(68)~~ The location of light poles, refuse containers, walls, fences, protective curbing, mechanical equipment, and other hard landscaping materials.
- ~~(79)~~ Identification of location, species, and size of existing trees and vegetation to be preserved.
- ~~(810)~~ Irrigation plan, if appropriate, or water outlets (hose bibbs).
- ~~(911)~~ Planting and staking details to ensure proper installation and establishment of proposed plant materials in accordance with standards established by the public services area.
- ~~(1012)~~ Identification of a landscape maintenance program including a statement that all diseased, damaged, or dead material shall be replaced in accordance with this Chapter by the end of the following planting season, in perpetuity.
- (13) Identification of snow storage areas including a statement that snow shall not be pushed onto interior landscape islands unless designed for snow storage.
- ~~(1114)~~ Other information or data determined necessary by the public services area administrator or designee such as construction details and/or cross-sections sufficient to resolve specific site conditions. These conditions include, but are not limited to berms, retaining walls, screen walls, fences, tree wells to preserve existing trees, or culverts to maintain natural drainage patterns.

**5:608. Modifications.**

The following modifications to the standards of this Chapter may be applied:

- (1) Additional landscaping, screening, preservation of existing vegetation, or rearrangement of landscaping may be required by the public services area administrator or appropriate approving body as a condition of approval in the following circumstances:
  - (a) When development activity would damage existing natural systems or processes.
  - (b) To screen mechanical equipment which was not included on an approved site plan.

- (c) To prevent traffic hazards or other dangers to public safety such as obstruction of fire hydrants, fire suppression services provider connections or fire protection equipment or component.
- (2) Flexibility in the application of the landscaping or screening requirements of Sections 5:602, 5:603, 5:604 or 5:606 may be allowed if each of the following conditions are met:
- (a) The modifications are consistent with the intent of this chapter (Section 5:600(1)); and
  - (b) The modifications are included on a site plan and in a motion approved by city planning commission or city council; and
  - (c) The modifications are associated with one or more of the following site conditions:
    - (i) The site is located in a special parking district as designated by Chapter 59.
    - (ii) Strict application of this chapter will result in a loss of existing parking spaces required by Chapter 59 where the parking does not abut residential uses.
    - (iii) The topographic features of the site create conditions so that the strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs.
    - ~~(iv) Existing buildings provide adequate screening for the purposes of Section 5:602(1).~~
    - (iv) Existing vegetation and landscaping are located or spaced in such a manner that the addition of required landscaping would be detrimental to the plant material or create undesirable conditions.
    - (v) The use of bioretention areas, native or prairie plantings, structural amenities, or xeriscaping would prevent strict application of this chapter.
    - (vi) In the case of planned projects or planned unit developments, a rearrangement of the landscaping elements will achieve the spirit and intent of this chapter.
    - (vii) Landscape elements which are a part of a previously approved site plan may be maintained and continued as nonconforming, provided no alterations of the existing landscape elements are required or proposed.
  - (d) The petitioner provides a statement of justification identifying which site conditions warrant the requested modification and how the modification meets the intent of the ordinance.

#### **5:609. Variances.**

Upon an appeal filed to the zoning board of appeals in accordance with the procedures of Chapter 55, a variance may be granted from the strict application of the provisions of this chapter in cases involving practical difficulties or hardships when the evidence supports that the public benefit intended to be secured by this chapter will exist with less than the required landscaping or screening.

#### 5:610. Plant Substitutions.

- (1) The public services area administrator or designee may approve minor revisions to landscape plans plant materials due to seasonal planting problems and lack of plant availability. Minor revisions may be approved only when there is no reduction in the quality of plant material, no significant change in size or location of plant material, the new plant material is compatible with the area, and the new plant material is of the same general category (i.e., deciduous shade or evergreen trees) and the same general design characteristics (mature height, crown spread) as the material being replaced. ~~If these criteria are not fulfilled, the approved site plan must be revised according to the requirements of Chapter 57.~~
- (2) Following approval of plant substitutions by public service area administrator or designee, an as-built landscape plan must be submitted to the community services area for attachment to the approved site plan.
- (3) If these criteria are not fulfilled, the approved site plan must be revised according to the requirements of Chapter 57.

#### 5:611. ~~Nonconforming Sites.~~

~~Landscape elements which are a part of site plans approved and constructed prior to the effective date of this ordinance and which meet the requirements of Chapter 62 as adopted March 17, 1986 may be maintained and continued as nonconforming sites, provided no alterations of the existing landscape elements are proposed.~~

#### 5:612. Enforcement.

- (1) No owner or occupant of property shall fail to maintain, to the standard of this chapter, landscaping and screening materials shown on a site plan or building permit application.
- (2) No building permit shall be issued for property which is in violation of this chapter.
- (3) No certificate of occupancy shall be issued unless the provisions of this chapter have been met or a performance bond or other security has been posted.
- (4) ~~Violation of any provision of this chapter constitutes a civil infraction punishable by a fine of not more than \$500 per violation. Each day upon which such violation shall occur shall constitute a separate offense.~~ A person who violates any provision of this chapter is responsible for a municipal civil infraction, punishable by a civil fine of up to \$2,500.00, plus costs and all other remedies available by statute. Each day that a violation continues shall be deemed a separate offense. The fine shall be not less than \$250.00 for a first offense, not less than \$500.00 for a second offense, and not less than \$1,000.00 for each additional or subsequent offense within a 2 year time period.
- (5) In addition to the penalties provided herein, any person who violates any provision of this ordinance shall be required to abate the violation in compliance with all applicable City Codes.
- (6) Inspection fees may be assessed by the community services area for failure to respond to a correction notice at a rate of \$100.00 per reinspection per violation. Fees shall be collected from security bonds or shall become a debt to the city from the landowner and may be collected as a single lot assessment under Section 1:292 of the City Code, or in any other manner in which an indebtedness due the city may be collected.

# Landscape & Screening Ordinance Revisions

Chapter 62



# Background

- Chapter 62- Landscape and Screening Ordinance is applied in the following instances:
  - A site plan is required under Chapter 57-Subdivision and Land Use Control
  - The estimated expenses of construction exceed 50% of the appraised replacement cost of the entire building or structure (exclusive of foundation), prior to its improvement
  - A shared driveway is provided within an easement in accordance with Chapter 55- Zoning



# Why the Revisions?

- To improve water quality by requiring a greater amount of stormwater runoff to be infiltrated on the site where it is generated.
  - Improving stormwater management is a requirement of the city's National Pollution Discharge Elimination System (NPDES) permit
- To encourage the use of native plants and prohibit the use of non- native invasive plant species.
- Planning Commission's Ordinance Revisions Committee requested changes to Chapter 62 to:
  - add to the land uses types that are required to have a conflicting land use buffer.
  - increase the number of trees in conflicting land use buffer



# Proposed Changes





# Proposed Changes

- Prohibit the use of invasive species for meeting the planting requirements of the ordinance



*Euonymus alatus*  
Burning Bush



*Euonymus fortunei*  
Wintercreeper



*Lonicera tatarica*  
Tatarian Honeysuckle

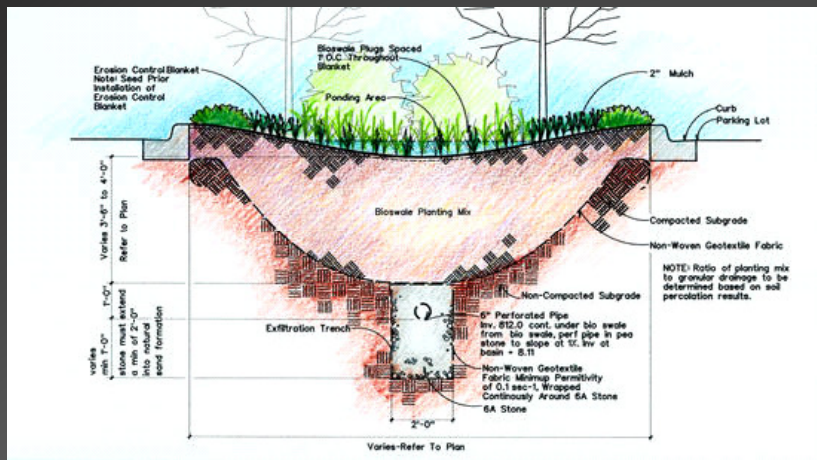


*Acer platanoides*  
Norway Maple –  
All Cultivars



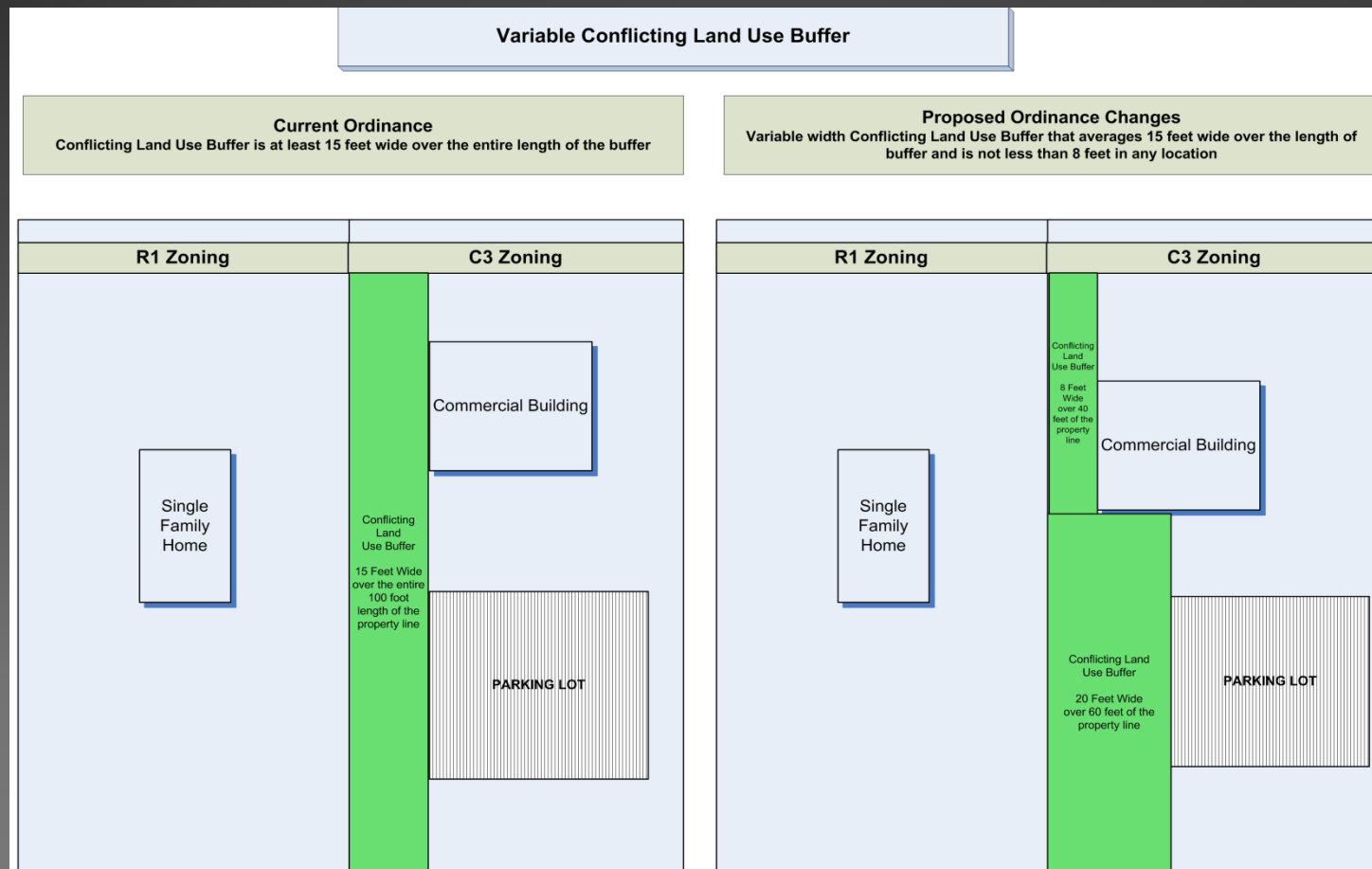
# Proposed Changes

- Require a portion of the required interior landscape islands to be depressed and utilized as bioretention



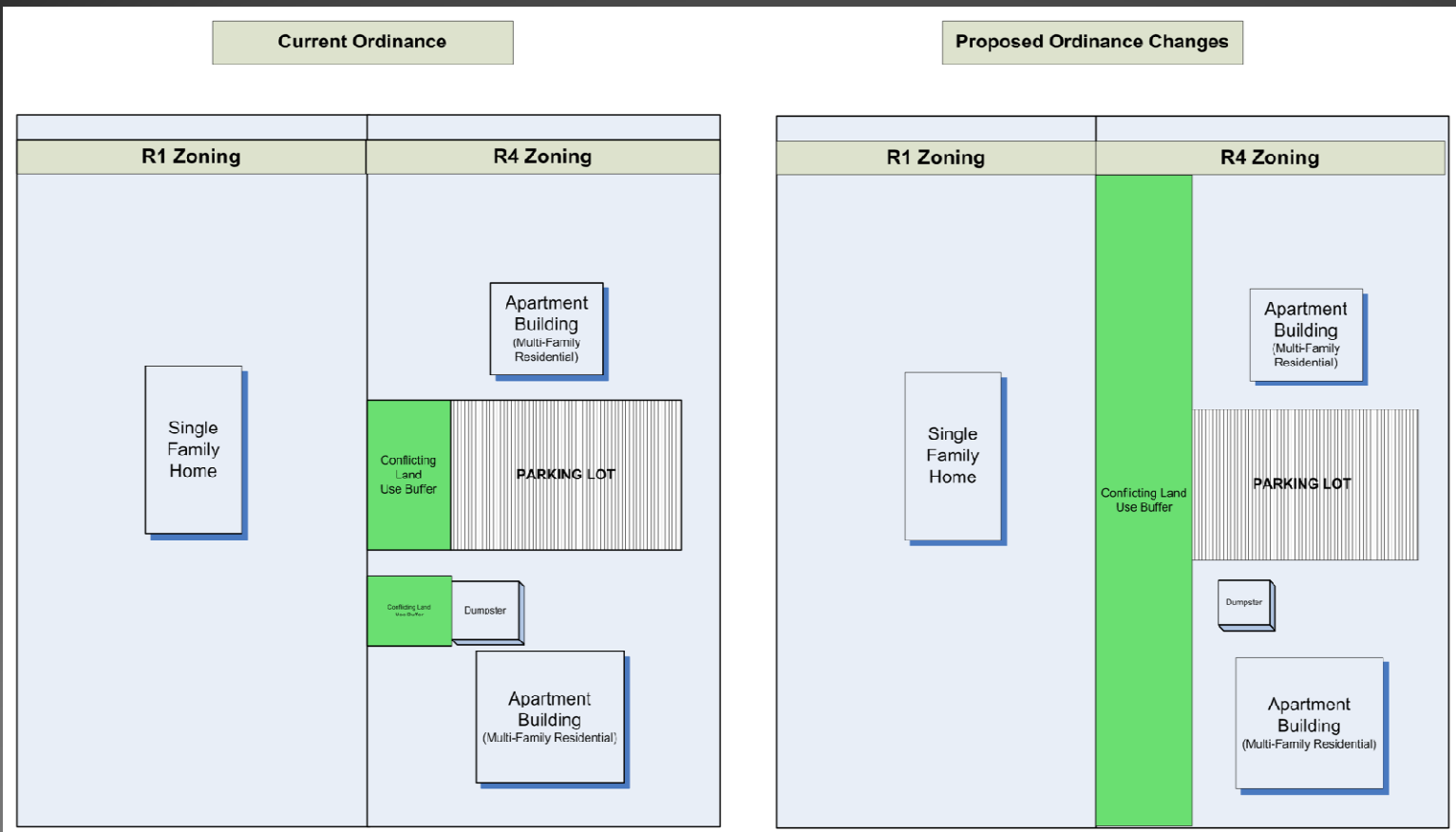
# Proposed Changes

- Build in design flexibility by allowing variable width landscape buffers



# Proposed Changes

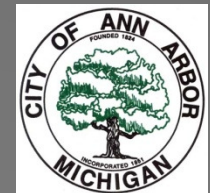
- Add multi-family and townhouses to the list of land uses that require a conflicting land use buffer.





# Proposed Changes

- Increase, by 25%, the number of trees required in a conflicting land use buffer
- Provide City Planning Commission and/or City Council the flexibility to modify the strict planting requirements to accommodate bioretention and native prairie plantings
- Omit the “grandfather clause” that has existed since 1996, but allow the City Planning Commission to review non-conforming sites on a case by case basis



# QUESTIONS?



**Chapter 62 Landscape Ordinance  
Public Comments to Proposed Changes  
October 2010**

Public Comment	Staff Response
<p><b>5:601 (1)</b> The definition of bioretention as being capable of handling the first one half inch of runoff during a storm event does not mesh with 5:602 (2)d and g. A parking lot island will rarely be large enough to provide that volume for the entire lot or site. Item g in particular may be a problem.</p>	<p>This is for vehicular use areas that are greater than 15,000 square feet. 750 square feet is the minimum landscaping for a parking lot that is 15,000 square feet. First flush storage does not need to be provided for the entire site, just the portion of the parking lot that drains to the landscape island. The designer has the flexibility to have as much or little water draining to the landscape island.</p>
<p><b>5:601 (1)</b> It is unclear why type of "residential" property the definition refers to. Depending on site conditions, especially soil type, it may be very difficult to insure that runoff will infiltrate within the bioretention areas. If water is slow to percolate, these areas could turn into soggy, saturated areas that are difficult to maintain, and certainly difficult to plant within.</p>	<p>Agree the reference to residential properties is confusing and we have removed the second sentence of the bioretention definition. When there are clay soils, additional soil amendments and/or an underdrain may be needed (see 5:606 (6) for proposed changes to soils)</p>
<p><b>5:602(1)(a)</b> This is a positive revision.</p>	
<p>5:602(1)(c): With the change in shrub spacing in front of walls (from 10' o.c., to 4' o.c.) it seems unlikely anybody would do a wall since you almost have to do a hedge in front of the wall. Since walls provide complete screening that isn't reduced when shrubs drop leaves, do you really want to discourage them?</p>	<p>The reason for the shrub requirement is to "soften" the appearance of the wall. The current requirement of one shrub for every 10 feet is too far apart to accomplish this effect. The shrubs typically used along walls are small shrubs, the proposed change to one shrub for every 4 feet is to address the use of small shrubs. The intent is not to discourage walls but to encourage the use of live plant material.</p>
<p><b>5:602(1)(c)</b> It doesn't seem to make sense to require a shrub per 4 lf if a wall is provided. One shrub per 4 lf can provide a hedge all by itself in many cases. The existing requirement of 1 shrub per 10 lf is more reasonable.</p>	<p>See above</p>
<p><b>5:602(1)(d)</b>: Since the gas station requirements are now separated into a different paragraph, it's not clear whether the required walls would still need shrubs in front of them.</p>	<p>Added shrub requirement to this section</p>

**Chapter 62 Landscape Ordinance  
Public Comments to Proposed Changes  
October 2010**

Public Comment	Staff Response
<p><b>5:602(2)(g)</b> Requiring 50% of an interior landscape area to be bioretention if it exceeds 750 square feet effectively reduces the available area to plant the required number of trees by 50%. There are few deciduous trees and even fewer conifers that will tolerate "wet feet".</p>	<p>Bioretention areas if designed and constructed properly will not have standing water for a prolonged period of time to harm trees. This requirement will actually provide a better environment for a tree to grow since they will have more access to water than in a typical mounded landscape island. There are a variety of deciduous trees that can be used in a bioretention area that can tolerate marginally wet soil. Section 5:602 2(c) requires the use of deciduous shade trees in interior landscape islands; conifers can not be used to meet this requirement.</p>
<p><b>5:602(2)(h)</b> How will this be applied? Who will determine that sufficient area and location for snow piles has been provided? I think this requirement may be difficult to assess and enforce as written.</p>	<p>This requirement needs to be shown on the site plan per 5:607(13). It will be determined by the designer and city reviewer whether the snow storage location and area is adequate.</p>
<p><b>5:603:</b> Was the omission of conflicting land use buffers for land used (but not zoned) as residential intentional or an oversight? Most of the commercial zonings allow residential uses, and some would still have legacy residential uses (including single family) on them despite the zoning.</p>	<p>Yes, this was an oversight. Language to address residential uses has been added and a new version of the ordinance w/ proposed changes was posted to the website on October 12.</p>
<p>In <b>5:603</b>, paragraphs A and B, are "residentially zoned parcels" only those with an R zoning, or anything that includes residential uses as a possibility even if not developed as residential?</p>	<p>See above</p>
<p>If these items are clarified, please also address downtown residential high rises, which may be more "commercial" in nature (i.e. less in need of buffers) than the adjoining commercial buildings.</p>	<p>Sections A and B for 5:603 apply to areas downtown but C and D do not apply since most of downtown is zoned D.</p>



**Chapter 62 Landscape Ordinance  
Public Comments to Proposed Changes  
October 2010**

Public Comment		Staff Response
<p><b>5:603:</b> When considering two adjacent parcels, both zoned Office can a property owner, under the proposed AHP and Landscape Ordinances:</p> <p>1) Build an office building on the side property line with a zero side setback and not have to provide any side landscape buffering with an adjacent office zoned property which is being used as residential? The way I'm understanding the ordinances, no buffering would be required, even with residential use on one of the properties, which is an allowable use in office zoned land.</p> <p>2) In a different scenario; If one property builds an office building with a zero side setback, could the adjacent property (zoned office) build an office building with a zero side setback to the same property line, or would they have to provide landscape buffering or a setback of some distance between buildings?</p>		<p>"Parcel <b><u>principally used</u></b> or zoned for residential purposes "has been added to Section 5:603 (c)</p>
<p><b>5:603(1)</b> Averaging the required buffer strip width is a positive revision.</p>		
<p>5:603(2) The City has historically required tree spacing greater than 15' on center for deciduous trees. Increasing the required number of buffer trees to one per 15 lf might mean using only evergreens and columnar trees. One per 20 lf seems more reasonable.</p>		<p>Increase in number of trees from 1 for every 20 feet to 1 for every 15 feet was a recommendation from the Ordinance Revisions Committee of the Planning Commission. There is design flexibility to plant shade or ornamental trees in the conflicting land use buffer.</p>
<p>5:603.1(2)(a) The City minimum for a shared driveway is a 30' wide easement. That is not enough to provide the required minimum 25' wide two way driveway (Chapter 47, section 4:30(4) and minimum 8' wide landscape strips. It is wide enough only for a one way drive (minimum 14' wide) and two 8' landscape strips.</p>		<p>This is a relatively new change to the ordinance that with went through its own public review process before the change was adopted. This section of the ordinance is not proposed to be changed during this set of revisions and therefore this comment will not be addressed.</p>

**Chapter 62 Landscape Ordinance  
Public Comments to Proposed Changes  
October 2010**

Public Comment		Staff Response
<p>5:604: It would be helpful to address openings or gates on refuse enclosures. The solid waste department requires gates to be propped open early on trash pickup days, which is a hassle for owners, an obstruction in parking areas, and leaves the containers exposed for a good length of time anyway, so the gates often get taken off shortly after construction is complete. We've had clients decide not to construct enclosures (when fixing up existing sites) because it would require a gate they would not want, so the other three sides of the container don't get screening that would benefit adjoining properties. A full four-sided enclosure also makes barrier free access to trash and recycling containers difficult. If enclosures could be three-sided without gates, it would be highly beneficial to owners and others.</p>		<p>This is current code requirement that is not proposed to be changed. However, code does not require a gate but it provides designers the flexibility to use a gate or not depending on placement of the refuse/recycling containers.</p>
<p><b>5:606(1)(c)</b> A mixture of trees seems reasonable as 20 or more will be planted across a fairly large area.</p>		
<p>5:606(1)(d) A mixture of shrubs is less reasonable unless the trigger number is raised to 40 (or 50) or so. Many of our site plans include hedges or mass plantings where 20 or more of the same plants are used to create a uniform effect. Requiring 3 or more types of shrubs with a trigger of anything over 20 total limits the designer and may create more of a hodge podge effect. The intent is good, but the trigger is too low.</p>		<p>Good suggestion, we will change it to 40.</p>
<p><b>5:606(5)</b> Reducing the minimum caliper size for shade trees to 2" is good because it may encourage both planting of additional trees and faster tree growth.</p>		
<p><b>5:606(6)</b> This is a good (though expensive) requirement that should be incorporated into the City's Standard Specifications. How will this be enforced or verified?</p>		<p>Standard will be verified/enforced if plant material continuously struggles and/or dies.</p>

**Chapter 62 Landscape Ordinance  
Public Comments to Proposed Changes  
October 2010**

<b>Public Comment</b>		<b>Staff Response</b>
<b>5:606(14)</b> Ok, but will cause conflicts with buffer requirements, for example 5:602(1)(c).		Staff does not see a conflict between the two requirements. If in the future, it becomes clear that these two sections conflict each other when being applied it will be addressed..
<b>Section 5:608(2.iv)</b> This section would allow properties zoned anything but residential that abut sites that are not zoned residential but are primarily used for residential purposes to not have a buffer between properties. I'm not comfortable with this provision.		The proposed revision to 5:608 (2.iv) has been removed.
<b>Section 5:608(2)</b> provides flexibility for applying these requirements		