



Legislation Text

File #: 11-0477, **Version:** 1

An Ordinance to Amend Sections 5:600, 5:601, 5:602, 5:603, 5:604, 5:605, 5:606, 5:607, 5:608 and 5:610, to Repeal Section 5:611, and to Amend Renumbered Section 5:611 of Chapter 62 (Landscaping and Screening) of Title V of the Code of the City of Ann Arbor Regarding Plant Materials, Screening and Landscape Island Requirements - Planning Commission Recommendation: Approval (8 Yeas, 0 Nays) (Ordinance No. ORD-11-09)

Approval of this ordinance will revise landscaping requirements for vehicular use areas and conflicting land use buffers.

Systems Planning Unit staff have been working with Planning staff and the Planning Commission on amendments to Chapter 62 (Landscaping and Screening Ordinance) for the past year. The proposed amendments are based on recommendations of the Environmental Commission's Natural Features Committee.

The intent of these proposed amendments is to: a) improve the appearance of vehicular use areas and property abutting right-of-way, b) revise buffer requirements 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.

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

- Adding definitions, including "bioretention", "native or prairie plantings"
- Allowing variation in the width of required landscape buffers
- Modifying requirements for interior landscape islands
- Requiring a conflicting land use buffer for a multiple-family project 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 plow storage
- Prohibiting the use of non-native invasive vegetation for required landscaping
- Increasing the fines for violations

A public meeting was held on October 21, 2010 to obtain public comment. Public comments were incorporated into the draft amendments. The proposed amendments also were reviewed by the Planning Commission's Ordinance Revisions Committee.

The Environmental Commission has recommended that City Council adopt these proposed amendments. The Planning Commission held a public hearing on December 7, 2010 and recommended that City Council approve the proposed amendments on March 1, 2011.

Attachments: 12/7/10 Planning Staff Report, 12/7/10 Planning Commission Minutes, 3/1/11 Planning

Staff Report, 3/1/11 Planning Commission Minutes

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ORDINANCE NO. ORD-11-09

First Reading : June 6, 2011

Public Hearing : June 20, 2011

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Effective: July 3, 2011

**LANDSCAPE AND SCREENING
AMENDMENTS REGARDING PLANT MATERIAL, SCREENING AND LANDSCAPE ISLAND
REQUIREMENTS**

AN ON ORDINANCE TO AMEND SECTIONS 5:600, 5:601, 5:602, 5:603, 5:604, 5:605, 5:606, 5:607, 5:608 AND 5:610, TO REPEAL SECTION 5:6:11, AND TO AMEND RENUMBERED SECTION 5:611 OF CHAPTER 62 (LANDSCAPE AND SCREENING), TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 5:600 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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) Reduce the negative impacts of stormwater runoff by reducing impervious surface area and retaining greater amounts of stormwater on site.
- (e) Improve the 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.

Section 2. That Section 5:601 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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 rainfall 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.
- (5) *Xeriscaping*: A combination of landscaping features and techniques that in aggregate reduce the demand for, and consumption, of water.

Section 3. That Section 5:602 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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 at least 10 feet in width. If there is an existing building or vehicular use area located within the required 10 foot landscape buffer strip, the landscape buffer strip may have an average of 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 public right-of-way 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, 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. 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.
 - (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. If the landscape buffer strip provided is 15 feet in width, then 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 landscapeislands.* Vehicular use areas greater than 3,300 square feet shall contain protected landscape islands located entirely within the perimeter of the vehicular use area, for the purpose of breaking up the expanse of pavement. The following landscape island requirements must be met:
- (a) Within the interior of the vehicular use area, landscape islands shall be provided at the following ratios at a minimum:
- | <u>Vehicular Use Area</u> | <u>Landscape Island/Vehicular Use Area</u>
<u>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 landscape 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 landscape islands to form larger landscaped areas is encouraged.
 - (c) Any landscaped area located outside the 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 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 landscape island shall be calculated and provided at a rate of one deciduous shade tree for each 250 square feet or fraction thereof of required interior landscape island.
- (f) 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 required interior island tree. Up to 50% of the requirements of subsection (e) 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(8).
- (g) When the total area required in interior landscape islands for all of the vehicular use areas on site exceeds 750 square feet, at least 50% of the area in 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 area required in interior landscape islands 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.
 - (ji) Materials used in these areas shall comply with standards set forth in this Chapter.

Section 4. That Section 5:603 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:603. Conflicting Land Use Buffers.

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 principally used or zoned for residential purposes ~~R1, R2 or a public park.~~

The conflicting land use buffer shall consist of the following:

- (1) A landscaped buffer strip at least 15 feet wide. If there is an existing building or vehicular use area located within the required 15 foot landscape buffer strip, the landscape buffer strip may have an average of 15 feet in width 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 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 all cases 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. For parcels principally used or zoned for residential purposes the requirement for a hedge, landform berm, wall or fence is only required to screen vehicular use areas and refuse/recycling containers that are adjacent to the conflicting land use buffer.
- (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.

Section 5. That Section 5:604 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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.

Section 6. That Section 5:605 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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 one tenth of a foot candle.

Section 7. That Section 5:606 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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) Plant material used for hedging or screening, shall be evergreen and/or deciduous shrubs which 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 for this Chapter shall comply with the requirements of Chapter 104 Both sides of the fence or wall must be decoratively faced.
- (4) Landscaped areas shall be covered with 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.. 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 those included on the City of Ann Arbor's Approved Street Tree List. Other types of trees can be used with approval of the public services area administrator or designee. Due to the overpopulation of Maple species (*Acer spp.*) within the City, their use should be limited. Small trees such as Crabapples (*Malus spp.*), fruit trees, or Hawthorne (*Crataegus spp.*) are not permitted unless approved by the public services area administrator or designee. At planting, trees must have a minimum caliper of 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 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 maximize the long term vitality of plantings.
- (7) 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.
- (8) 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).
- (9) 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 in areas where xeriscaping plants are used.

- (10) Landform 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.
- (11) Landscaped areas in and adjacent to vehicular use areas shall be protected by concrete 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 areas 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.
- (13) Plant materials shall be selected and installed in accordance with standards established by the public services area.
- (14) 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.
- (15) Plant material shall 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 shall 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).

Section 8. That Section 5:607 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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.
- (6) Minimum scale of 1" = 50'.
- (7) Existing and proposed contours on-site and 10 feet beyond the site at intervals not to exceed 2 feet.
- (8) The location of light poles, refuse containers, walls, fences, protective curbing, mechanical equipment, and other hard landscaping materials.
- (9) Identification of location, species, and size of existing trees and vegetation to be preserved.
- (10) Irrigation plan, if appropriate, or water outlets (hose bibbs).
- (11) Planting and staking details to ensure proper installation and establishment of proposed plant materials in accordance with standards established by the public services area.
- (12) 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, as a continuing obligation for the duration of the site plan.
- (13) Identification of snow storage areas including a statement that snow shall not be pushed onto interior landscape islands unless designed for snow storage.
- (14) 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.

Section 9. That Section 5:608 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

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.
 - (d) For parcels zoned for non-residential purposes including R5 abutting a public park the four foot high continuous screen may be reduced provided vehicular use areas and refuse/recycling

containers are adequately screened.

(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 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 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.

Section 10. That Section 5:610 of Chapter 62 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:610. Plant Substitutions.

- (1) The public services area administrator or designee may approve minor revisions to landscape 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.

- (2) Following approval of plant substitutions by the 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 the criteria in subsection (1) are not fulfilled, the approved site plan must be revised according to the requirements of Chapter 57.

Section 11. That Section 5:611 of Chapter 62 of Title V of the Code of the City of Ann Arbor is repealed as follows:

Section 12. That Section 5:612 of Chapter 62 of Title V of the Code of the City of Ann Arbor be renumbered and amended as follows:

5:611. 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) A person who violates any provision of this Chapter is responsible for a civil infraction, punishable by a fine of up to \$2500.00 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 the first offense, not less than \$500 for a second offense, and not less than \$1000.00 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.

Section 13. That this ordinance shall take effect on the tenth day following legal publication.