

ARTICLE XIII

LANDSCAPE REGULATIONS

13-1.1 Intent and Scope

This article is intended to establish minimum standards for the design of landscapes for uses other than single family and two-family residential so as to improve the community aesthetically, economically and environmentally. Landscaping controls soil erosion reduces the hazards of flooding, stabilize the ground water tables, screen noise, dust, glare, and preserves, protect and enhance the natural environment.

13-1.2 Application of Regulations

These guidelines apply to all new development except single or two-family residential development. Existing development shall not be required to comply with landscaping regulations. However, all new development as well as expansion of existing uses shall be subject to the provisions of this Article.

13-1.3 Definitions

- A. Caliper. A standard trunk diameter measurement for nursery grown trees taken 6 inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.
- B. Deciduous. Those plants that annually lose their leaves.
- C. Evergreen. Those plants that retain foliage throughout the year.
- D. Planting Area. The area prepared to accommodate the planting of trees, shrubs, and groundcover.
- E. Planting Yard. The landscaping (buffers and screens) between land uses to minimize inherent incompatibilities. The greater the incompatibility the more intense the planting yard. For example, an intense planting yard is needed between a factory and a single family home while a less intense, or not one at all, would be required between a factory and a convenience store. There are three categories of planting yards:
 - 1) Type A Planting Yard (broken screen). A low density planting strip composed of intermittent visual obstructions. This broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

- 2) Type B Planting Yard (semi opaque). A medium density screen and buffer intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.
 - 3) Type C Planting Yard (opaque). A high density screen and buffer intended to exclude completely all visual contact between land uses and create a strong impression of spatial separation.
- F. Shrub. An upright plant that is planted for ornamental or screening purposes. (Small = under 5 feet in height; medium = 5-10 ft in height; and large = 10-20 feet in height.)
 - G. Street Tree. A tree planted along the street behind the right-of-way.
 - H. Street Yard. A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.
 - I. Tree, Ornamental. A small to medium tree, growing 15 feet to 40 feet in height at maturity that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.
 - J. Tree, Shade. A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

Section 13-2 PLANTING YARDS

Planting yards are used to lessen the inherent incompatibilities between certain land uses allowed within the zoning districts. They consist of buffers, horizontal distances between uses, which provide functional separation and screens, vertical objects providing visual separation. The standards presented within this section are designed to provide visual and functional separation between uses in order to:

- 1) reduce potential nuisances, such as glare, dirt, noise, unsightly views and other adverse impacts;
- 2) safeguard property values and preserve the character and integrity of the community; and
- 3) protect the health, safety and welfare of the public.

Section 13-2.1 Determination of Buffers and Screens

- A. Buffer and Screens. Requirements are based on proposed and adjacent land uses, not proposed or existing zoning districts adjacent to the land use. To simplify the process of assigning buffer and screening standards to particular land uses the proposed and adjacent land uses have been grouped in the following manner.
- 1) Agriculture (AG). This group includes all bona fide farm operations.
 - 2) Single-Family Residential (SFR). This group includes one-family and two family residential development in all zoning districts within the planning jurisdiction.
 - 3) Multi-family Residential (MFR). This group includes multi-family residential development within the R-6 and R-8 Districts.
 - 4) Light Commercial (LC). This group includes all commercial uses, which are currently allowed in the downtown commercial (C1), the office/institutional (O/I), the neighborhood commercial (C3), the light commercial (C4), commercial riverfront (C5), commercial marine park (C6) zoning districts.
 - 5) Heavy Commercial (HC). This group includes all commercial uses, which are currently allowed in the Commercial, General (C2) Zoning District.
 - 6) Manufacturing (M). This group includes all industrial uses which are currently allowed in the manufacturing zoning districts and other uses which require outdoor storage, have high trip generation rates, or have the potential for nuisance to adjacent properties due to noise, light and glare, or typical hours of operation. The following list of specific uses identified shall have the same buffers and screens as are required for industrial uses:
 - a) Auto service stations
 - b) Auto towing facilities with storage areas;
 - c) Convenience stores with gas pumps; and,
 - d) Restaurants
- B. Determining Buffers and Screens. To determine the type of buffer and screen needed, identify the “use group” listed in Subsection (A) above, for the proposed project and all adjacent properties, excluding properties located across a public right-of-way. Then use the following table to identify the buffer and screen type required. The number refers to the buffer required and the letter to the screen. If the block is blank, there is no landscaping required.

Summary of Buffer & Screening Requirements

USE PROPOSED	Use of Adjacent Property					
	AG	SFR	MFR	LC	HC	M
SFR						
MFR	2-A	2-B		3-C	3-C	3-C
LC	2-A	2-B	2-B			
HC	2-B	3-C	3-C			
M	4-B	4-C	4-C			

- A. Specifications. The following tables list the specifications for required buffers and screens indicated in subsection (B) above. The buffer area listed below includes any required setbacks.

Buffer Areas

1	10 Feet
2	20 Feet
3	30 Feet
4	40 Feet

Screens
(Minimum Plant Material per 100 Linear Feet)

	Shade Trees	Ornamental Trees	Shrubs
A	0	2	18
B	2	3	17
C	3	5	25
D	4	10	33

Section 13-2.2 Additional Requirements

- A. Fractional Calculations. Fractional planting requirement calculations shall be rounded to the next highest whole number.
- B. Existing Plant Material. Existing plant material within the required screen may be included in the computation of the required plantings with approval of the planning board.
- C. Fence or Wall Option. An opaque fence or wall may be used in lieu of not more than 50 percent of the required evergreen screen planting with the approval of the planning board and providing the following conditions are met, where applicable.
- 1) Fence Height for Industrial Zoning. The minimum required fence height shall be 8 feet above ground level when the proposed project zoning type is classified as industrial;

- 2) Fence Height for Zoning Types Except Industrial. The minimum required fence height shall be 6 feet above ground level when the proposed project zoning type is classified as any zoning type except those classified as industrial;
- 3) Vegetation Planted on Exterior Sides. Where a fence or wall is used as part of the required screening, all required vegetation shall be planted on the exterior side of the fence or wall;
- 4) Remaining Vegetation Distribution. Where a fence is used in lieu of vegetation, the remaining percentage of vegetation to be used in conjunction with the fence or wall shall be evenly distributed along the length of the fence.

Section 13-2.3 Buffer Location

Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions.

- 1) Portion of Site Proposed for Development. If only a portion of a site is proposed for development, the required buffer and/or screen may be located at the limit of the construction perimeter with approval of the planning board;
- 2) Topographic Irregularities Where topographic irregularities require a different location to meet the intent of this section, the location of the buffers and screens may be varied with approval of the planning board; and
- 3) Rights-of- Way and Streets. Buffers or screens shall not be located on any portion of an existing, dedicated or proposed right-of-way or a private street.

Section 13-2.4 Dimensions of Plant Materials

- A. Types of Trees. Shade trees planted in buffers 30 feet in width or less may be either medium (25 feet to 35 feet) or large varieties (35 feet or greater), however; at least one-half of the required trees shall be large variety. Shade trees in buffers of greater than 30 feet in width shall be large variety trees.
- B. Height of Trees. All shade or ornamental trees (either deciduous or evergreen) used for screening must be a minimum of 6 feet in height at installation and shall be at least two inches in diameter measured one inch above ground level.

- C. Modification to Height Requirements. All ornamental trees shall be a minimum of 6 feet in height at time of planting unless combined with an approved earthen berm and shall be not less than 10 feet in height at maturity.
- D. Height of Shrubs. All shrubs shall be a minimum of 18 inches in height at installation and shall attain a minimum height of 36 inches 3 years after installation.

Section 13-2.5 Spacing of Plant Materials

- A. Spacing of Shade Trees. All shade trees shall be installed with tree trunks spaced a minimum distance of 30 feet apart and a maximum distance of 60 feet apart.
- B. Spacing of Ornamental Trees. All ornamental trees shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit. They shall be installed with tree trunks spaced a minimum of 7 feet apart and a maximum of 15 feet from other ornamental trees and from any required shade tree.
- C. Distribution of Shrubs. All shrubs shall be distributed evenly along the length of the buffer and shall be staggered where quantities permit.

Section 13-2.6 Multiple Use of Buffers

- A. Setbacks. Buffers may be used to satisfy minimum setback requirements.
- B. Multi-Purpose Uses. Buffers may be used for the following additional purposes:
 - 1) passive recreation, provided no plant material is eliminated, total width of the buffers is maintained and all other requirements of this ordinance are met; and
 - 2) installation of underground utilities, provided the location and use of the utility lines do not interfere with the required screen plantings.
- C. Prohibited Uses. Active play areas, stables, swimming pools, tennis courts or other similar active recreation uses and storage or parking facilities shall not be allowed in a planting yard.

Section 13-3 STREET YARD LANDSCAPING

- A. Definition and Purpose. A street yard consist of a planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

- B. Width and Length. A street yard, with minimum eight feet width, exclusive of access drives, shall be planted adjacent to the public right-of-way. The strip's total length shall be equal to the total length of the property line adjacent to the public right-of-way.
- C. Tree Standards. Street trees shall be planted according to the following requirements:
 - 1) One shade tree / 35 linear feet or one ornamental tree / 25 linear feet, except in the case of conflict with utility lines. These trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees.
 - 2) Shrubbery may be planted in clusters where trees are not practical; however, the requirements for shade and ornamental trees shall still have to be met.
- D. Limited Other Uses. No more than 20% of the street yard may be used for walkways or signs.
- E. Prohibited Uses. Parking, merchandise display and off-street loading are prohibited in the street yard.
- F. Clear Sight Triangle. No tree or shrub shall be planted within the sight triangle (the unobstructed area at the intersection of two streets) without the approval of the planning board.

Section 13-4 PARKING LOT LANDSCAPING

- A. Application. All new parking lots which contain 10 or more spaces shall comply with this section. If an existing one is expanded by at least 10 spaces it shall comply with landscaping requirements.
- B. Separate requirements. If a parking lot is expanded or developed, then street yard, planting yard and parking lot requirements shall be applicable.
- C. Ratio between trees and spaces. In parking lots with 10 or more spaces, trees shall be planted at a rate of one shade tree or two ornamental trees for every 10 spaces or fraction thereof.
- D. Trees within 60 ft radius of parking space. Required trees shall be located anywhere within or adjacent to parking lots in tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces; provided no parking space is located more than 60 feet from a parking lot tree.

- E. Planting areas. The planting areas prepared to accommodate trees, shrubs, and ground cover shall provide a minimum of 81 square feet and a minimum depth of 18 inches. Planting areas shall have a minimum dimension in any one direction of 9 feet. All planting areas shall have adequate drainage and mulching.
- F. Incentives. Any parking lot containing 20 or more parking spaces may reduce the number of required parking spaces by as much as 10% if 50% of the reduced area is used for parking lot landscaping, with no area less than the minimum required parking lot planting area. This bonus landscaping shall apply to industrial, commercial, and office/institutional districts only.
- G. No Credit for Street and Planting Yards. Street and planting yard landscaping requirements shall not be used to meet the landscaping requirements for parking lots. However, parking lot required trees may be planted in the planting strip if all other requirements of the landscape standards are met.
- H. Parking lot landscaping requirements shall be waived for any use permitted in the C-6 Zoning District.

Section 13-5 SCREENING LOADING AND SERVICE AREAS

- A. Purpose. Loading and service areas shall be screened from public view from adjacent property and public rights-of-way.
 - 1) Loading and service areas include but are not limited to storage areas, loading docks, dumpsters, etc.
- B. Alternative methods of Screening. Screening shall be accomplished by one of the following methods:
 - 1) Large Evergreen Shrubs:
 - a) Ratio: one shrub/ 6 feet.
 - b) Minimum Height: 30 inches at planting and attain a minimum height of 6 feet at maturity.
 - c) Minimum planting area width: 5 feet apart.
 - 2) Opaque fence or Wall:
 - a) Minimum height: 6 ft in height
 - b) Maximum height: 8 ft in height

- c) be presented as part of the site plan approval. The side of the fence or wall facing the affected property owner shall be finished, or the better appearing side.
 - d) Final authority: The planning board reserves the right to deny any materials, which would create a maintenance problem to the detriment of adjacent property owners.
- 3) Earth Berm:
- a) Minimum height: 6 feet.
 - b) Coverage: grass, shrubs or trees. Other surface treatment shall be subject to the approval of the planning board.
 - c) Combination:

A combination of the above such that an effective screen to a minimum height of 6 feet is obtained. Small evergreen shrubs may be substituted for larger shrubs when planted on berms in excess of 2 feet in height. Smaller shrubs shall have a minimum height of 18 inches at initial planting and shall attain a minimum height of 4 feet at maturity.

Section 13-6 EXISTING TREES.

Existing trees may be used to satisfy all or part of the required tree plantings if there are existing trees within the property or adjacent public right-of-ways, which are to be saved as part of the development of the property. Provisions for insuring the livability of the trees to be saved must be demonstrated by the owner.

- A. Adequate Planting Area. The planting area required for each existing tree to be saved shall equal the area on the property that is within a circle whose center is the trunk of the tree and whose radius in feet is equal to the trunk's diameter in inches. However, no radius shall be less than two and one-half (2-1/2) feet.
- B. Adequate Protection of Trees. During and after construction the developer shall provide adequate protection of trees as provided for in Section 13-7 of this ordinance.

Section 13-7 PROTECTION OF PLANTING AREAS

- A. Permanent Protection: Planting areas shall be protected from damage by vehicular traffic with barrier including but not limited to curbs, wheel stops, walls or fences. These measures shall be maintained for protection of the planting areas for as long as the planting areas are required by this Article.
- B. Temporary protection: During construction adequate protection measures shall be provided for all planting areas of existing trees to be saved under the requirements of this ordinance to insure the exclusion of construction activity and storage of materials around them. Trash and debris shall not be buried in planting areas of either existing or proposed trees required by this ordinance.

Section 13-8 PLAN TO BE SUBMITTED

A plan of the proposed landscaping area at a scale of 1" = 50' or larger shall be prepared and submitted for review and approval. The plan shall be labeled "Landscape Plan" and shall include the following

- 1) All proposed structures, drives, walks, parking areas and other features pertinent to the location and planting of trees;
- 2) All existing structures and site features to remain which are pertinent to the location and planting of trees;
- 3) All existing and proposed, above or below ground utility lines;
- 4) All proposed trees required by this ordinance and all existing trees proposed to be saved under the requirements of this ordinance. Proposed trees shall be identified by genus, species and installation size. Existing trees to saved shall be identified by genus, species, size and general condition;
- 5) The required planting areas for all trees including the planting strip along public right-of-ways. Critical dimensions for these areas shall be noted;
- 6) Permanent and temporary protection measures; and
- 7) Guying and staking of trees in accordance with accepted practices in the landscape industry.

Section 13-9 TREE REPLACEMENT

Owner(s) and their agent(s), heirs, or assigns shall be responsible for the installation, preservation and maintenance of all planting and physical features required to satisfy the conditions of this section. Any dead or missing vegetation shall be replaced (with like or similar plants) within one calendar year.

Section 13-10 AMORTIZATION OF NON-CONFORMING PROPERTIES

These regulations shall not apply to any existing development in the Hertford Planning Area. However, if any parking lot is expanded by at least 10 spaces, the new section shall comply with the landscaping requirements for parking lots.

Section 13-11 MODIFICATIONS

Where unusual circumstances exist, the planning board may recommend and the Hertford Board of Commissioners authorizes a modification from the requirements of this ordinance provided that the overall objectives of this ordinance are met.

Section 13-12 INSPECTION OF SITES

- A. If, through inspection, it is determined that a person has failed to comply with the provisions of this ordinance, a notice to comply shall be served upon the person by registered mail from the Town of Hertford. The notice shall set forth that which will be necessary to comply with the ordinance.
- B. The Town shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this ordinance. Submission of a site plan shall allow for entry or access to any authorized representative or agent of the Town of Hertford. The notice shall set forth that which will be necessary to comply with the ordinance.
- C. The Town of Hertford shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this ordinance. Submission of a site plan shall allow for entry or access to any authorized representative or agent of the Town who requests entry for the purpose of inspection. No person shall obstruct, hamper, or interfere which such representative while in the process of carrying out his official duties

Section 13-13 EMERGENCIES

In case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this ordinance may be waived by the Town Manager or his designee during the emergency period so that the requirements of this ordinance would in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be license to circumvent the intent of this article.

SECTION 13-14 FENCING AND SCREENING OF STORM WATER
DETENTION/RETENTION PONDS

The purpose of this ordinance is to define the fencing and landscape screening requirements for all permanent Storm water Detention/ Retention Ponds located within the jurisdiction of the Town of Hertford. This ordinance shall apply to both wet and dry Storm water Detention/ Retention Ponds. This ordinance shall not apply to Decorative Ponds as defined in Section 13-15.

A) Definitions:

- 1) Dry Detention/ Retention Pond: Shall mean a storm water management facility with a min 1' depth, max 6' depth; generally dry but may contain water at all times of heavy or extended rain; usually dry within 12 hours of last rain but may take several days to become dry, for example, after a hurricane or large thunderstorm.
- 2) Wet Detention/ Retention Pond: Shall mean a storm water management facility with a min 3' depth, max 6' depth; generally contains water at all times.
- 3) Facility: Shall mean a storm water management facility and shall include all land, materials, and appurtenances used in the construction and the operation of said facility. Facilities include, but are not necessarily limited to, retention ponds, detention ponds, open and closed systems, etc.

B) Fencing Requirements: The facility shall be fenced around the entire perimeter to prevent unauthorized entry. The fencing shall be chain link fencing with a lockable entry gate. The fence height shall be 6 ft. The lockable entry gate shall be a minimum of 4 ft in width and located such that the placement does not interfere with the screening and the gate visibility is minimized to adjacent property and public rights-of-way.

C) Screening Requirements: Landscape screening shall be required to reduce the visual impact on adjacent property and public rights-of-way. The landscape screening shall consist of evergreen plantings and be part of an approved landscape plan. Landscape screening shall be required on all sides where the adjacent use is Residential, a public or private parking lot, or a public right-of-way. The plantings shall be in a planting bed on the outside of and adjacent to the required fencing. Planting beds shall have a minimum width of four (4) feet and shall be mulched with sufficient mulching material to prevent the growth of unwanted weeds and plants. Plantings shall have a minimum height of 30 inches at planting and attain a minimum height of 6 feet at maturity. The landscape screening shall contain sufficient plant materials and plant placement such that no more than one-fourth (1/4) of the surface of the fence is visible, within three (3) years after planting.

D) Protection and Maintenance Requirements:

- 1) Fencing and landscape screening adjacent to public or private parking lots or public rights-of-way shall be protected from vehicular traffic with a barrier such as, but not limited to, curbs, wheel stops, or steel posts.
- 2) Planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. The owner shall replace any planted material, which becomes damaged, diseased, or dies, within sixty (60) days of the occurrence of such condition. If, in the opinion of the Zoning Administrator, there are extenuating conditions that will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting) this requirement may be administratively waived until a time at which the replanting would be safe.
- 3) Fencing shall be maintained, cleaned, and repaired by the owner of the property on which the fence is located. Any fencing or traffic barriers, which become damaged or deteriorates shall be repaired or replaced by the owner within fifteen (15) days of the occurrence of such condition.
- 4) Fencing and landscape screening required by this ordinance shall be kept free of litter and advertising.

E) Existing Storm Water Facilities:

- F) Existing permanent Storm water Detention/ Retention Ponds within the jurisdiction of the Town of Hertford shall be brought into compliance with requirements of this ordinance within one (1) year from the date of passage of this ordinance.

SECTION 13-15 SLOPING, FENCING AND SCREENING OF DECORATIVE PONDS

The purpose of this ordinance is to define the sloping, fencing and landscape screening requirements for all permanent Decorative Ponds located within the jurisdiction of the Town of Hertford. This ordinance shall apply to the construction and design of all ponds meeting the definition of Decorative Pond below.

A) Definitions:

- 1 Decorative Pond: Shall mean a pond located within the boundaries of a residential or non residential development with the primary purpose of creating, adding to or maintaining the aesthetics of said residential development.
Pond Waterline: Shall mean the average expected or actual average waterline of a pond where it meets the shore along its sides.

B) Minimum Requirements: At a minimum, each Decorative Pond shall meet:

- 1 The Sloping and Depth Requirement;
- 2 The Protective Barrier Requirement; and
- 3 The Protection and Maintenance Requirements.

- C) Sloping and Depth Requirement: Above the Pond Waterline, each Decorative Pond must be sloped at a ratio of no steeper than one (1) foot of vertical depth for every three (3) feet of horizontal run towards the center of the pond. Below the Pond Waterline, each Decorative Pond must be sloped at a ratio of no steeper than one (1) foot of vertical depth for every four (4) feet of horizontal run within the first twelve (12) feet as measured along a level horizontal line beginning at the nearest point of shore at the height of the Pond Waterline and ending at the center of the pond.
- D) Protective Barrier Requirement: A Decorative Pond shall satisfy this requirement by meeting either the Fencing Requirement or the Landscape Screening Requirement stated below.
- 1 Fencing Requirement: A Decorative Pond shall satisfy this requirements by providing a permanent fence around its entire perimeter of no less than two (2) feet in height and in a manner designed to deter the unauthorized or accidental entry into the waters or upon the sloped sides of said pond.
 - 2 Landscape Screening Requirement: A Decorative Pond shall satisfy the Landscape Screening Requirement by providing for a vegetative barrier around its entire perimeter in a manner designed to deter the unauthorized or accidental entry into the waters or upon the sloped sides of said pond. The vegetative barrier shall consist of evergreen plantings and be part of an approved landscape plan. The plants shall be in a planting bed located either on the sloped sides of the pond or the crown of the pond slope. Planting beds shall have a minimum width of four (4) feet and shall be mulched with sufficient mulching material to prevent the growth of unwanted weeds and plants.
- E) Protection and Maintenance Requirements:
- 1 Fencing and vegetative barriers adjacent to public or private parking lots or public rights-of-way shall be protected from vehicular traffic with a barrier such as, but not limited to, curbs, wheel stops, or steel posts.
 - 2 Planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. The owner shall replace any planted material, which becomes damaged, diseased, or dies, within sixty (60) days of the occurrence of such condition. If, in the opinion of the Zoning Administrator, there are extenuating conditions that will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting) this requirement may be administratively waived until a time at which the replanting would be safe.
 - 3 Fencing shall be maintained, cleaned, and repaired by the owner of the property on which the fence is located. Any fencing or traffic barriers, which become damaged or deteriorate shall be repaired or replaced by the owner within fifteen (15) days of the occurrence of such condition.
 - 4 Fencing and landscape screening required by this ordinance shall be kept free of litter and advertising.

- F) Existing Decorative Ponds within the jurisdiction of the Town of Hertford shall be brought into compliance with requirements of this ordinance within one (1) year from the date of passage of this ordinance.