ARTICLE XIX

SCREENING, LANDSCAPING AND TREES

Part I. Landscaping and Screening

Section 304 Purpose.

The purpose of this Part is to establish minimum landscaping and screening requirements that provide (i) a visual buffer between parking and loading areas and public streets, (ii) a visual buffer between parking and loading areas and adjoining land uses, (iii) screening of solid waste collection dumpsters, ~~and~~ (iv) screening between certain incompatible land uses, and (v) tree protection during construction. Parking lots located within all IW zoning districts are exempt from the requirements of Part I of this Article. *(Amended 3/99)* A landscaping plan in accordance with Appendix A, Section A-6 shall be required.

Section 305 Parking and Loading Area Landscaping.

(a) Streetside Buffer Yard Requirements

(1) All parking lots, except those located within IW zoning districts, containing ten or more parking spaces shall include a minimum 10-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public street rights-of-way and all adjoining property lines that do not coincide with street rights-of-way (where such parking lot is not screened visually by an intervening building). *(Amended 3/99)*

(2) The required buffer yard shall contain at least one canopy tree for each forty linear feet and each tree shall be a minimum of 8 feet in height and shall have a minimum caliper of 2 inches (measured six inches above grade) at the time of planting. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity.

(3) The required buffer yard shall also contain evergreen shrubs, planted four feet on center, which are, at the time of planting, 3-gallon in size, 18 inches in width or height, and of a species which can be expected to reach a height of between 24 and 40 inches and a minimum spread of 30 inches within 3 years of planting.

(4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

(b) Property Line Buffer requirements

(1) Any parking lot and loading area (i) which contains ten or more parking spaces, (ii) which is located on a commercially or institutionally-used lot, and (iii) which abuts a residentially zoned lot shall include a minimum 10-foot

perpetually maintained natural or planted buffer yard along all adjoining property lines that do not coincide with street rights-of-way.

(2) The required property line buffer yard shall comply with the plating standards set out in subsection (a) for streetside buffer yards except that there shall be one canopy tree for each 40 LF of property line adjoining a residentially zoned lot rather than for each 40 LF of street frontage.

Section 306 Screening of Dumpsters.

Solid waste collection dumpsters, which are (i) located on sites used for multi-family residential, commercial, institutional, or industrial purposes and (ii) abutting a residence. Residentially zoned lot, or street right-of-way shall be screened from the view of adjoined residences, residentially zoned lots, or street rights-of-way. Such screening may consist of natural vegetation, fences, walls, or berms and shall be installed, located, or constructed so as to create an effective screen.

Section 307 Screening of Adjoining Incompatible Land Uses.

(a) Multi-family Residential Uses and Manufactured Home parks

Whenever 3 or more multi-family residential dwelling units or a manufactured home park are proposed to be located directly abutting a property which is used for single-family residential purposes or which is zoned for single-family residential use, the multi-family or manufactured home use shall provide screening in accordance with the following standards:

(1) A minimum 10-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.

(2) The buffer yard shall contain 2 canopy trees and 3 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown of width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above the grade) when planted.

(3) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

(4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

(b) Commercial Uses

Whenever a commercial use is proposed to be located so that the principal building, accessory building(s), outdoor use areas or parking and loading areas are within 100 feet of a lot which is used for residential purposes or which is zoned for residential use, the commercial use shall provide screening in accordance with the following standards:

(1) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.

(2) The buffer yard shall contain 3 canopy trees and 5 under story trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Under story trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted.

(3) The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard. All shrubs shall be of species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

(4) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch of a minimum depth of 3 inches.

Section 308 Alternative Screening Methods.

(a) Under certain circumstances the application of the standards delineated in this ordinance is either inappropriate or ineffective in achieving the intended purpose and when screening is required by this ordinance and the site design, topography, unique relationships to other properties, lot configuration, spatial separation, natural vegetation, or other special considerations exists relative to the proposed development, the developer may submit a specific plan for screening to the Land Use Administrator. The Land Use Administrator shall review the plans and make a recommendation to the Board of Adjustment to review and determine if the purpose and standards of this Ordinance will be met by measures other than those listed in Section 305-307. The Town of Edenton Tree Committee should be advised in such instances. If approved by the Board of Adjustment, the alternate screening plan may be utilized to meet the requirements of this ordinance.

(b) A combination of natural vegetation, fences, walls, and berms may be utilized to achieve the screening requirements of sections 305 through 307 provided that the fallowing standards are met:

(1) Walls (a minimum of 5 feet in height and constructed of masonry, stone, or pressure treated lumber) or opaque fence (a minimum of five feet in height) may be used to reduce the width of the buffer yards required in Sections 307 (a)(1) and (b)(1) by 5 feet.

(2) Understory trees may be substituted for canopy trees if, in the opinion of the administrator upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.

(3) Wall planters shall be constructed of masonry, stone, or pressure treated lumber and shall have a minimum height of 30 inches. The minimum height of shrubs in wall planters shall be 6 inches. The effective planting are of the wall planter shall be 4 feet in width (7 feet if the wall planter contains trees).

(4) Any berm utilized for screening purposes shall have a minimum height of 3 feet, a minimum crown width of three feet, and a side slope of no greater than 3:1.

Section 309 Maintenance.

In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of this Ordinance. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening. Landscaped areas shall be kept in a proper, neat and orderly appearance and free from refuse and debris. All unhealthy or dead plant material shall be replaced by the property owner or tenant. Failure to maintain the required landscape materials shall constitute a zoning violation and shall be remedied in accordance with the provisions of Article VII.

Section 310 Use of Existing Screening

When a lot is to be developed so that screening is required and that lot abuts an existing hedge, fence or other screening material on the adjoining lot, then that existing screen may be used to satisfy the requirements of this Ordinance. The existing screen must meet the minimum standards for screening established by this Ordinance and it must be protected from damage by pedestrians or motor vehicles. However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original use continues in operation. Consequently, should the screening on the adjoining lot be removed, the use required to be screened shall, at that time, provide screening in accordance with the requirements of this Ordinance.

Section 310.1 Obstruction Prohibited

Landscaping and screening materials shall not obstruct the view of motorists using any street, driveway, or parking aisle.

Section 310.2 Guarantee in Lieu of Immediate Installation of Landscaping and Screening Materials

It is recognized that land development occurs continuously and that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this Ordinance and reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, the developer may provide, in accordance with the provisions of Section 61, an adequately secured performance bond or other security to ensure that all of the requirements of this Article will be fulfilled.

Sections 311-313 Reserved.

Part II. Shading

Section 314 Council Findings and Declaration of Policy on Shade Trees.

(a) The Council finds that:

(1) Trees are proven producers of oxygen, a necessary element for human survival;

(2) Trees appreciably reduce the ever-increasing, environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;

(3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;

(4) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers;

(5) Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control and flood control;

(6) Trees are an invaluable physical, aesthetic and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare and breaking the monotony of human developments on the land, particularly parking areas; and

(7) For the reasons indicated in Subdivision (6), trees have an important impact on the desirability of land and therefore on property values.

(b) Based upon the findings set forth in subsection (a), the Council declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the town's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

Section 315 Required Trees Along Dedicated Streets.

Along both sides of all newly created streets that are constructed in accordance with the public street standards set forth in Article XIV, the developer shall either plant or retain sufficient trees so that, between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that shall obtain a minimum height of at least 50 feet and provide a canopy of at least 30 feet in diameter at maturity. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix E. (Amended 1/99)

Section 316 Retention and Protection of Large Trees.

(a) Every development shall retain all existing trees twelve inches in diameter or more unless the retention of such trees would prohibit use of the allowable building footprint area or compliance with the requirements of the UDO.

(b) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree twelve inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within the drip line of any tree twelve inches in diameter (measured at a height of 4.5 feet above ground level) or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(c) The retention or protection of trees twelve inches in diameter or more as provided in subsections (a) and (b) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

(d) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsections (a) or (b), and, as a result, the parking requirements set forth in Article XVIII cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsections (a) and (b), up to a maximum of fifteen percent of the required spaces.

Section 316.1 Tree Protection During Construction.

(a) To preserve existing trees specified on the required landscape plan to remain on the site as a function of fulfilling purposes of this section, the critical root zone shall be protected by proper installation of barricades and signage from vehicular movement, material storage, compacting, grading, excavating, and other development related activities during construction and in the final landscape design.

(b) The critical root zone (CRZ) shall be protected during construction by approved tree protection fencing and practices. Tree protective fencing shall be shown on site plans and grading plans around each tree, cluster of trees, at perimeter of tree-save areas, and at limits of disturbance. No equipment is allowed on the site until all tree protection fencing and silt fencing has been installed and approved. Tree protective fencing shall remain in place through completion of construction activities.

(c) If the entire CRZ cannot be preserved, the disturbed area shall extend no closer to the protected tree trunk than one half (1/2) the radius of the CRZ. In no case can more than forty (40) percent of the CRZ be disturbed.

(d) Disturbance of the CRZ will only be allowed on one (1) side of the retained tree and only with prior approval by the appropriate reviewing agency.

(e) Prior to grading, tree roots shall be pruned using appropriate arboriculture pruning tools and practices.

(f) Disturbance other than that allowed on the approved plan, including incorrectly placed tree protection fencing or improper root pruning constitutes negligence and will require the owner to post an irrevocable letter of credit or other means of financial assurance approved by the reviewing agency for three (3) years to provide for mitigation of the tree, to be released if determined by the reviewing agency that the tree is not at risk of dying due to the disturbance.

(g) Any person who is responsible for failing to properly install or maintain protection measures pursuant to this Part shall be subject to a fine of five hundred dollars ($500.00) per day and a stop work order shall be placed on the project. The owner of the property shall also be a jointly and severally responsible party if the improper practices are conducted by an employee, agent, or other person under the control, employ, or direction of the property owner.

Section 317 Shade Trees in Parking Areas.

(a) In Parking Areas:

(1) Vehicle accommodation areas that contain 10 or more parking spaces must include deciduous shade trees (either retained or planted by the developer). Trees shall be evenly distributed throughout vehicle accommodation areas so as to maximize the number of parking spaces that receive shade. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix E. Parking areas located in developments within IW zoning districts are exempt from the requirements of this Section. *(Amended 1/99)*

(2) Each tree of the type described in subsection (a) shall satisfy the requirements of Section 305(a)(2) and there must be sufficient trees so that, using this standard, twenty percent of the vehicle accommodation area will be shaded.

(3) No paving may be placed within two-thirds of the distance from the trunk (measured from the outside of the trunk) to the drip line of any tree retained to comply with subsection (a), and new trees planted to comply with subsection (a) shall have pavement no closer than 5 feet from the trunk in any direction. (Refer to Section 315 for special requirements for large trees.)

(4) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet six inches.

Section 318 Compliance with Landscaping and Screening Standards.

Prior to the issuance of a building permit, a detailed landscape plan showing the interior landscaping area, buffer zones, screens and shade tree locations required by this ordinance shall be submitted and approved by the land use administrator and if applicable, the Planning Board/Town Council in conjunction with the applicable review criteria. The Town of Edenton Tree Committee shall be advised of such plans. No certificate of occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the administrator, unless a bond or other acceptable guarantee of improvements has been posted.

Part III. Supplemental Standards Applicable to All Landscaped Areas

Section 319 Irrigation.

An irrigation system is recommended for all landscaped areas required in this Article.

Section 319.1 Revegetation.

All areas cleared of existing vegetation shall be revegetated with grass and trees as soon as possible after being disturbed. Such disturbed areas shall be replanted with domesticated grass and trees of a species similar to those recommended in Appendix E-12 and E-13. Disturbed areas shall be replanted with one tree for each 707 square feet of disturbed area.

Section 319.2 Preservation of Existing Vegetation.

Every attempt shall be made to preserve existing vegetation. A minimum of 50 percent of all areas not devoted to buildings, streets, drives, parking, and loading areas shall be maintained in a natural state unless it can be demonstrated, to the satisfaction of the permit-issuing authority, that revegetation would meet the intent of this Article and would provide a vegetative pattern superior to the existing natural vegetation.

Section 319.3 Specificity of Plans.

All plans as required by this Article shall show the specific location of plant material to be planted and shall also show the specific location of plant material that will remain. In addition, plans shall show the size of plant material to be installed and any other pertinent information required by this Article. Photographs of vegetative conditions preceding development shall be submitted with plans required by this Article.