

AN ORDINANCE TO AMEND AND REORDAIN
ORDINANCE NUMBER 486, **SITE PLAN
ORDINANCE, BY AMENDING** SECTION
5A **PERTAINING TO PARKING LOT
LANDSCAPING** AND ADDING THERETO
FOUNDATION' **LANDSCAPING**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA:

mat **Ordinance Number 486, Site Plan Ordinance, Section 5A, Parking Lot Landscaping, is hereby** amended and reordained to read as **follows:**

Section 5A Parking Lot and **Foundation Landscaping.**

Section **5A.1** Intent and Purposes.

The City **Council of** Virginia Beach finds **that Virginia** Beach is blessed **with a** diverse and abundant cover of- trees and vegetation and that such **cover** is of **general aesthetic value to the City** and that the ecological **diversity and richness** of the City **makes it a desirable place** for residents, owners, and visitors alike; **and** that the appearance of **Vii Beach** from the **public ways contributes** ecologically and **aesthetically** to the growth and economic prosperity of **the City;** and also that **the** growth and development **attracted** to the City **of Virginia Beach,** because of its natural beauty, often **times** requires the removal of trees and other plant **material, thereby** contributing to the depletion of a most valuable **natural resource,** therefore, **it is necessary** to protect. **preserve and** restore **this** valuable asset. **The City Council** declares the **intent and purposes of** this ordinance to be as **follows:**

a To **aid** In stabilizing the environment's **ecological** balance by contributing to the **processes** of air **purification,** oxygen regeneration, **groundwater** recharge, and storm-water runoff retardation, **while** at the same time aiding in noise, glare, and heat **abatement;**

b. To encourage the preservation of existing trees and desirable vegetation:

c. To assist in providing clean air;

d. To **provide visual** buffering and enhance the beautification of the **City;**

e. To safeguard and **enhance** property values **and** to **protect public and** private Investment;

f. To **preserve, protect, and** restore the unique **identity and environment** of the City of Virginia Beach and preserve the. **economic** base attracted to the **City by such factors;**

g. To conserve energy; and to protect the **public health, safety, and general** welfare through the reduction of noise, air and visual pollution, light **glare,** and moderate **air temperature;**

h. **To provide habitat** for living things that might **not** otherwise **occur** or be found in urban and suburban environments.

Section 5A.2 Applicability.

The provisions of this section shall apply to public and private parking lots designed for ten (10) or more spaces and shall include display areas, commercial and public buildings, parking garages, and shall also include dumpsters, trash receptacles, and loading docks that may be viewed from any public right-of-way. A parking lot shall be defined as any area or structure where motor vehicles are stored for the purpose of temporary, daily, or overnight off-street parking. A display area shall be defined as an area generally considered accessible to the public including auto/truck sales, leasing and rental lots, recreational vehicle sales and rental lots, boat sales lots, manufactured home sales lots, and trailer sales lots. A loading dock shall be defined as a platformed space within the building or that protrudes from the building for the standing, loading, or unloading of trucks.

(a) Parking lots of ten (10) or more parking spaces shall not be constructed until a landscape plan (see sections 5A.4 and 5A.5) of the parking lot has been approved by the administrator of landscape services or his designees.

(b) Existing parking lots of ten (10) or more spaces and existing parking lots of less than ten (10) spaces whose enlargement will increase it to ten (10) or more spaces shall not be enlarged or reconstructed until a landscape plan of the parking lot has been approved by the administrator of landscape services. Landscaping shall be provided in the new parking area in proportion to its enlargement or reconstruction, and not in proportion to the total parking area for the site. Reconstruction is defined as construction activity involving an existing parking lot requiring a site plan which includes the addition of asphalt or concrete for the purpose of facilitating drainage and the addition of curbing and/or curb and gutter. Patching, resurfacing, and restriping are considered maintenance activities and not reconstruction. The addition of islands in an existing parking lot for the purpose of landscaping shall not constitute reconstruction.

(c) Display areas shall not be constructed until a landscape plan (see sections 5A.4 and 5A.5) of the display area has been approved by the administrator of landscape services. Display areas shall be clearly indicated on the landscape plan (customer and employee parking spaces should not be included in the indicated area). Existing display areas shall not be expanded until a landscape plan has been approved by the administrator of landscape services. Landscaping shall be provided in proportion of the expansion, and not in proportion to the entire area for the site.

(d) Commercial and public buildings shall not be constructed until a foundation landscape plan (see section 5A.6) has been approved by the administrator of landscape services. Existing commercial buildings shall not be expanded until a foundation landscape plan has been approved by the administrator of landscape services. Landscaping shall be provided in proportion to the building's expansion, and not in proportion to the entire building for the site.

(e) Parking garages shall not be constructed until either a street frontage landscape plan (see section 5A.5) or foundation landscape plan (see section 5A.6), whichever is applicable, has been approved by the administrator of landscape services.

(f) Dumpsters and/or trash receptacles shall not be placed until a landscape plan (see section 5A.7) has been approved by the administrator of landscape services.

(g) Loading docks shall not be constructed until a landscape plan (see section 5A.7) has been approved by the administrator of landscape services.

Section 5A.3 Procedures.

(a) Landscape plans submitted pursuant to this ordinance shall be prepared in the manner specified in this ordinance and in 'PARKING LOT AND FOUNDATION LANDSCAPING SPECIFICATIONS AND STANDARDS' and shall be submitted in conjunction with the site development plan.

(b) After the landscape plan has been submitted, it shall be reviewed and processed by the administrator for conformance to section 5A and other applicable regulations in conjunction with the site development plan. The administrator may approve any landscape plan which the administrator determines to meet or exceed the objectives of this ordinance.

Section 5A.4 Parking Lot Interior Coverage Requirements.

(a) There shall be provided within the perimeter of the parking lot or between any two (2) parking spaces, a landscaped area(s) which together total thirty (30) square feet for each parking space.

(b) There shall be provided within the perimeter of the designated display area, landscaped area(s) which together total twelve (12) percent of the display area.

(c) Trees shall be provided within the landscaped area in the proportion of one (1) tree per one hundred and fifty (150) square feet of total landscaped area, except any fractional tree shall not be counted as a whole tree.

(d) To encourage dispersement of landscaped areas throughout the parking lot, in parking lots of less than one hundred (100) spaces any portion of a single landscaped area exceeding three hundred fifty (350) square feet shall not be given credit toward satisfying 5A.4 parking lot interior coverage requirements; and in parking lots of one hundred (100) spaces or more any portion of a single landscaped area exceeding fifteen hundred (1,500) square feet shall not be given credit towards satisfying 5A.4 parking lot interior coverage requirements, except in cases when existing tree(s) are retained and protected during construction, then the maximum square footage requirements shall apply as specified in the 'PARKING LOT AND FOUNDATION LANDSCAPING SPECIFICATIONS AND STANDARDS' tree retention section. In no case shall entrance islands or groups of entrance islands be credited with more than a total of three hundred and fifty (350) square feet for each entrance toward satisfying the interior coverage requirements.

(e) To encourage dispersement of landscaped areas throughout the display area, in display areas of less than thirty thousand (30,000) square feet any portion of a single landscaped area exceeding three hundred fifty (350) square feet shall not be given credit toward satisfying 5A.4 parking lot interior coverage requirements; and in display areas thirty thousand (30,000) square feet or more any portion of a single landscaped area exceeding fifteen hundred (1,500) square feet shall not be given credit towards satisfying 5A.4 parking lot interior coverage requirements.

(f) Planting which is required for screening along the Perimeter of any parking lot by the provisions of the comprehensive zoning ordinance, conditional use permit, parking lot street frontage requirements (see section 5A.5), or screening requirements (see section 5A.7) shall not be considered as part of the interior landscaping requirements.

(g) Provisions of 5A.4 parking lot interior coverage requirements, shall not apply to parking garages and areas in industrial uses not devoted to required off street parking spaces.

Section 5A.5 Parking Lot Street Frontage Requirements.

(a) In addition to the requirements of 5A.4 parking lot interior requirements, landscaping shall be required along any side of a parking lot, display area or parking garage (with parking on the ground level) that abuts the right-of-way of any street more than twenty (20) feet in width. For parking garages that have businesses and/or offices on the ground level, section 5A.6 foundation landscaping requirements shall apply instead of this section.

(b) A landscaping strip a minimum of ten (10) feet in width shall be located between the abutting edge of the sidewalk and parking lot curb line, or where there is no sidewalk, from the right-of-way line and the parking lot curb line, except where driveways or other openings may be required, provided, however, the required landscaping strip may be reduced to a minimum of five (5) feet in width on property in the RT1, RT2, and RT3 zoning districts. For parking garages, a landscaping strip a minimum of ten (10) feet in width shall be located between the abutting edge of the sidewalk and parking garage foundation or where there is no sidewalk, from the right-of-way line and the parking garage foundation, except where driveways or other openings may be required. In addition to the landscaping strip and street frontage plantings, parking garages with parking on the ground level shall have a solid wall which is a minimum of four (4) feet in height.

(c) Trees, hedge forms, and other treatment in accordance with the specifications of the "PARKING LOT AND FOUNDATION LANDSCAPING SPECIFICATIONS AND STANDARDS" shall be placed within the landscaping strip.

(d) Where street landscaping required by 5A.5 parking lot street frontage requirements conflicts with adequate sight distances required at driveways and street intersections by the comprehensive zoning ordinance, section 201(F), the regulations and provisions of the latter shall govern.

(e) The requirements of 5A.5 parking lot street frontage requirements shall not apply where planting is required along scenic easements designated on the master street and highway plan.

Section 5A.6 Foundation Landscaping Requirements.

(a) Landscaping is required adjacent to building sides or provided in planters adjacent to building sides which face the right-of-way of any street more than twenty (20) feet in width. The landscaping strip may be bisected by necessary entrances to the building and may include pedestrian sidewalks servicing such entrances,

(b) A minimum of fifty (50) percent of any side of the building facing a public right(s)-of-way shall be landscaped.

(c) The minimum width of the landscaped area shall be three (3) feet and shall be designed to prohibit vehicular overhang.

(d) Shrubs or trees shall be provided within the landscaped area in the proportion of at least one (1) shrub or one (1) tree per fifteen (15) square feet of total required landscaped area, except any fractional shrub or tree shall not be counted as a whole shrub or tree.

Section 5A.7 Screening Requirements.

(a) Dumpsters and/or trash receptacles shall be screened from view from the right-of-way of any street more than twenty (20) feet in width.

(b) Loading docks not screened by an intervening building shall be screened from view from the right-of-way of any street more than twenty (20) feet in width for their entire length except for necessary access.

Section 5A.8 Installation and Bonding Requirements.

(a) All required landscaping shall be installed according to the "PARKING LOT AND FOUNDATION LANDSCAPING SPECIFICATIONS AND STANDARDS."

(b) Where landscaping is required, no certificate of occupancy shall be issued until the required landscaping is completed in accordance with the approved landscape plan as certified by an on-site inspection by the administrator or his designees. When the occupancy of a structure is desired prior to the completion of the required landscaping, a certificate of occupancy may be issued only if the owner or developer provides to the city a form of surety satisfactory to the city attorney in an amount equal to the remaining plant materials, related materials, and installation costs, with the costs approved by the administrator of landscape services.

(c) For expanded or reconstructed parking lots or display areas which do not include building improvements and, therefore, no certificate of occupancy is required, a surety satisfactory to the city attorney must be posted at the time the approved site plan is released to cover the cost of all landscaping indicated on the landscape plan, as determined by the administrator of landscape services.

(d) All required landscaping must be installed and approved by the end of the first planting season following issuance of certificate of occupancy or surety shall be forfeited to the city.

(e) The owners and their agents shall be responsible for providing, protecting, and maintaining all landscaping in healthy and growing conditions, replacing unhealthy or (50) percent or more dead or completely dead, plant material within ninety (90) days upon written notice except when replacements should be delayed because of seasonal factors until the next planting season. Replacement material shall conform to the original intent of the landscape plan as determined by the administrator of landscape services.

Adopted by the Council of the City of Virginia Beach, Virginia on the 4th day of November, 1985.

AMENDED 6/11/90

**AN ORDINANCE TO AMEND AND REORDAIN
THE CODE OF THE CITY OF VIRGINIA BEACH, VIRGINIA,
BY ADDING APPENDIX E TO ESTABLISH REGULATIONS AND
REQUIREMENTS FOR TREE PLANTING, PRESERVATION AND
REPLACEMENT ON RESIDENTIAL LOTS AND ALONG
RESIDENTIAL STREETS FOR NEW SUBDIVISIONS**

Section 1.1. NARRATIVE

Trees are proven producers of oxygen, a necessary ~~element for the survival of man.~~ Trees appreciably reduce the ever-increasing and environmentally-dangerous carbon dioxide contents in the air, and they play a vital role in purifying the air that man breathes.

Trees precipitate dust and other particulate airborne pollutants to settle on the ground.

Trees, through their root systems, stabilize the water table and play an important and effective part in soil conservation and erosion control.

Trees are an invaluable physical and psychological counterpart to the urban setting, making urban life more comfortable by providing shade and cooling of the air and land, and reducing noise levels and glare.

The City Council of Virginia Beach has determined that the planting and preservation of trees within Virginia Beach is not only desirable but essential to the present and future health, safety and welfare of all the citizens.

Section 1.2. INTENT

It is the intent of the City of Virginia Beach to require the planting of trees on residential lots and along residential streets, within new residential developments. It is further intended to perpetuate tree growth through these provisions, to encourage tree preservation, provide adequate tree canopy and numbers, in the best interests of the health, safety and welfare of present and future citizens.

Section 1.3. DEFINITIONS

For the purposes of this ordinance, certain terms are defined as follows:

CALIPER: The diameter of a tree measured six (6) inches above existing grade.

CANOPY COVER: The crown "branch" area of a tree measured in square feet after ten (10) years from installation as specified in this ordinance.

CULTIVAR: A "variety" of plant denoting an assemblage of cultivated individuals which are distinguished by any, significant characteristics and which, reproduced, retain their distinguishing characteristics.

DRIP LINE: An imaginary, perpendicular line that extends downward from the outermost tips of the branches to the ground.

LOT SIZE: That portion of the lot allowed for use in determining the minimum lot size requirements as stated in section 200 of the City Zoning Ordinance.

MULTI-STEM TREE: A tree having more than one stem "trunk" emerging from the root system.

RESIDENTIAL LOT: A piece or parcel of land abutting on a street and created by proper legal instrument upon which is to be built one or more dwelling units and shall include single family condominiums.

RESUBDIVISION: Subdividing an existing subdivision to change the shape or size of the lots without increasing density.

SPECIES: The unit in the botanical classification of plants.

STANDARD TREE: A tree grown with a single erect stem.

TREE: Any self-supporting woody plant of a species which normally grows, in Virginia Beach, at a commonly accepted maturity, to an overall height of a minimum of fifteen (15) feet,

Section 1.4. APPLICATION

The terms and provisions of this ordinance shall apply to property as follows:

A. Residential

1. All residential lots shall have trees planted, or canopy cover provided, based upon the following requirements by lot size:
 - a. 1-4,999 square feet
 - (1) One (1) small tree per attached townhouse interior lot.
 - (2) Two (2) small or medium trees for attached townhouse end lots.
 - (3) Abutting street side: One (1) small tree per attached townhouse interior lot.
Two (2) small or medium trees for attached townhouse end lots.
 - (4) Two (2) small or medium trees for all other lots.
 - b. 5,000 - 7,499 square feet
300 square-foot canopy cover
 - c. 7,500 - 9,999 square feet
400 square-foot canopy cover
 - d. 10,000 - 14,999 square feet
600 square-foot canopy cover
 - e. 15,000 - 19,999 square feet
750 square-foot canopy cover

- f. ~~20,000 - 29,999 square feet~~
900 square-foot canopy cover
 - g. ~~30,000 - 39,999 square feet~~
1,000 square-foot canopy cover
 - h. ~~40,000 - 87,119 square feet~~
500 square-foot canopy cover for each one-half acre
 - i. ~~87,200 square feet and greater~~
2,000 square-foot canopy cover
2. **Trees** shall be selected from ~~the Specifications and Standards~~ and shall be a minimum of five (5) to six (6) feet in height for **small trees** at the **time** of planting and two (2) inches to two and one-half (2 1/2) inches **caliper** for **medium** and large **trees** at the **time of planting**. Planting shall be accomplished in accordance with the **Specifications** and **Standards**.
3. **Existing or relocated trees on individual** lots may be **used** to satisfy **section 1.4.A** provided that:
- a. The trees meet or exceed the quantities required for **lots 1** to 4,999 square feet or canopy cover as ~~listed~~ in **section 1.4.A. 1.:** and
 - b. the trees have been protected in accordance **with** **section 1.4.A.5.** during construction and are physically and structurally in **good condition** per the city arborist or his designee.
 - c. Trees that have canopy extending over adjoining lots **will** receive **credit** for only that portion of canopy covering the lot from which the tree is growing. **Credit** for **canopy cover** **will be** given when trees on adjoining lots have **canopy** extending over an individual lot. but only that portion extending will be credited towards the required canopy cover for the individual lot. Canopy cover for street trees shall be credited toward residential lots in the amount of area on the individual lot measured from the right of way line. >?
4. **Non-Acceptable Trees:** Trees selected for residential use shall not be of a species, variety or **cultivar** from the non-acceptable tree list. in the **Specifications** and **Standards**.
5. **Tree Protection during Construction:** Existing trees that **are** to be used to meet the requirements of **section 1.4.** shall be protected in accordance with the following:
- Before construction activity begins, protective barriers **must be securely in place**. Minimum **undisturbed** areas shall **be** determined by **multiplying the** tree's Diameter **Breast Height (DBH)**, measured at four and one half (4 1/2) feet, by one (1) foot. This is the minimum diameter that must be left undisturbed around each tree. This area is approximately the area of the outermost branches (**drip** line). All construction activities shall be prohibited within the minimum undisturbed **areas** provided for any tree(s) for which credit is given toward satisfying the residential canopy requirements. All temporary construction activities shall also be prohibited within the minimum undisturbed areas, including **all** excavating, filling, trenching, construction storage and dumping, and parking of **construction equipment/vehicles** or employee vehicles.

6. **Bond:** Prior to the issuance of any subdivision permit, the developer shall provide a performance bond with surety, cash escrow, irrevocable letter of credit, any combination thereof, or such other legal arrangement acceptable to the city attorney to cover the costs of such trees and their planting. Should the city be required to take action to see that the trees are purchased and/or planted, the city may collect from the developer for the difference should the amount of the reasonable cost of such action exceed the amount of security held.
7. **Inspection:** All lots shall be inspected and approved prior to the release of the bond. Individual sections of subdivisions may be inspected and bond release authorized. Inspection shall be performed by the city arborist or his designee.

B. Street Tree Planting

1. *Trees* shall be planted within all public rights of way in conjunction with new residential development except resubdivision, undeveloped rights of way and townhouse developments where the street design does not provide green space for street trees. Trees shall be planted in accordance with a master street tree plan, section 1.4.A.4., that is to be included with the subdivision construction plans. The master street tree plan is to be prepared in accordance with section 1.4.B.4. and approved by the city arborist.
2. All street trees Shall be a minimum of one and three-fourths (1 3/4) to two (2) inch caliper at time of planting for standard trees and five (5) feet to six (6) feet in height for multi-stem trees at time of planting. Trees shall be guaranteed to be in good physical Condition as determined by the city arborist or his designee, for a period of one (1) year by the developer. The one-year period shall commence from the time of final inspection.
3. **Tree Selection:** Trees shall be selected from the Specifications and Standards. Tree selection shall be small or medium size and spaced according to the Recommended List of Street Trees In the Specifications and Standards when distance between sidewalk and curb is four (4) feet. Tree selection shall be medium or large size and spaced according to the Recommended List of Street Trees in the Specifications and Standards where the distance between sidewalk and curb is greater than four (4) feet of if a sidewalk is not required.
4. **Master Street Tree Plan:** A master street tree plan shall be prepared and contain the following Information:
 - a. A landscape plan drawn to the same scale as the subdivision plan showing the location and spacing of all trees to be planted.
 - b. Botanical names, common names, sizes and quantities.
 - c. Planting details.
 - d. Location of all curb lines, sidewalks and major utilities. Utilities conflicting with placement of trees shall require an adjustment of tree spacing. When adjustment is necessary, spacing shall not exceed the maximum allowable spacing. No trees shall be placed within ten (10) feet of a street light pole nor encroach within the visibility triangle as defined by § 201(f) of the City Zoning Ordinance. Generally, a minimum of four (4) feet of green space on either side of sidewalk shall be required.

- e. ~~Trees on residential lots shall not be used to meet the requirements of Street Tree Planting, except when a lot or group of lots are heavily wooded and the planting of street trees would physically conflict with the canopy of the residential trees. The street tree requirements may be deleted in these areas only. The city arborist or his designee shall determine if such a conflict exists.~~
- 6. ~~Bonding: A bond for trees and installation shall be required to cover the guarantee period.~~
- C. **Exemptions:**
 - 1. ~~The requirements of section 1.4. of this appendix shall not apply to resubdivisions or to unimproved rights of way.~~
 - 2. ~~The requirements of section 1.4.B. shall not apply to townhouse developments where the street design does not provide adequate green space for street trees.~~
- D. **Compatibility with Best Management Practices (BMPS):** ~~In no case shall a subdivision be approved wherein the design calls for the planting of trees over any underground water retention areas.~~

Section 1.5. VIOLATIONS AND PENALTIES.

~~Any person who violates any of the provisions of this ordinance shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00). Each day that a violation continues shall be considered a separate offense,~~

Section 1.6. VARIANCES AND APPEALS

- A. ~~The city manager is authorized, upon appeal in specific cases, to grant a variance from the terms of the ordinance as will not be contrary to the public interest, when owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the ordinance shall be observed and substantial justice done, as follows;~~
 - 1. ~~Strict application of the terms of the ordinance will effectively prohibit or unreasonably restrict the use of the property.~~
 - 2. ~~Granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege. In authorizing a variance the city manager may impose such conditions as may be necessary in the public interest.~~
- B. ~~It is further Provided that any decision of the city manager may be modified, reversed or affirmed by the city council upon appeal by any aggrieved party to such decision, if such appeal is filed within thirty (30) days of such decision,~~
- C. ~~Final decision under this ordinance shall be subject to review by the appropriate court of record, if filed within thirty (30) days from the date of council action.~~