

Landscape Ordinance No. 895

"AN ORDINANCE AMENDING TITLE 14 ENTITLED 'ZONING AND LAND USE CONTROL' BY
ADDING A CHAPTER REGULATING LANDSCAPING IN THE CITY OF ATHENS."

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BE IT ORDAINED BY THE CITY OF ATHENS, TENNESSEE, AS FOLLOWS:

SECTION 1: That Title 14 entitled "Zoning and Land Use Control" be amended by adding a new Chapter 6 entitled "Landscape Ordinance" as follows:

14-601. Definitions. For the purposes of this chapter, the following terms, phrases, and words shall have the meaning given herein:

(1) *Caliper* - a measurement of the tree trunk diameter measured at 2 and ½ feet above grade level.

(2) *Gross Floor Area* - the total interior space as defined by the Southern Building Code.

(3) *Impervious Surfaces* - includes concrete, asphalt, brick, metal, or any other material constructed

or erected on landscaped or natural buffer areas that impede the percolation of water into the ground.

(4) Interior Parking Bay - all parking bays that do not qualify as a perimeter bay.

(5) Landscaped area/landscape yard - an area to be planted with grass, trees, shrubs or other natural ground cover. No impervious surfaces are permitted in these areas.

(6) Landscaped Island - a landscaped area defined by a curb and surrounded by paving on all sides.

(7) Landscaped Peninsula - a landscaped area defined by a curb and surrounded by paving on three sides.

(8) Natural Buffer - an area of land set aside for preservation in its natural vegetative state. Plants may not be removed with the exception of poisonous or non-native plant species. In addition, fill/cutting activities, storage of materials, and impervious surfaces are not permitted in these areas.

(9) New Development - construction of a new building or structure on its own lot is considered as new development. New buildings or structures constructed on a lot which already contains existing buildings is considered as an expansion.

(10) Perimeter Bay - all parking bays that are adjacent to the perimeter of a development.

(11) Screening Shrubs - evergreen shrubs that maintain their foliage year-round.

(12) Screening Trees - evergreen trees that maintain their foliage year-round.

(13) Street Yard - a designated landscaped area where private property abuts the public street right-of-way for planting of grass, trees, and shrubs.

14-602. Purpose and Intent. The purpose and intent of this section is to preserve and promote the health, safety, and the general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve properties and their values; and to preserve the character of an area by preventing the harmful effects of prejudicial land uses. More specifically, this section is intended to require the landscaping of parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, the glare of motor vehicle lights, the level of carbon dioxide in the atmosphere, and soil erosion, while providing shade, and enhancing the blighted appearance of parking lots.

14-603. Applicability. The requirements of this Section shall apply to:

1. **All new public/private development.**
2. **Existing public/private developments** - For existing developments and parking facilities, expansion in gross floor area (GFA) or parking spaces will trigger landscaping requirements based on the scope of work proposed as established below. Landscaping requirements shall not prevent an existing manufacturing facility from expanding. Where both the building expansion and parking lot expansion requirements are applicable, the building expansion requirements shall supercede.

Whenever a building expansion increases GFA at least ten percent (10%) but no more than twenty-five percent (25%), the entire property shall comply with the street yard requirements or parking lot landscaping requirements (option of applicant). Whenever a building expansion increases GFA more than twenty-five percent (25%), but no more than fifty percent (50%), then: a.) The entire property shall comply with the street yard requirements. b.) Fifty percent (50%) of the existing parking lot and all of any expanded parking lot portions shall comply with the parking lot landscaping requirements; and c.) The entire property shall comply with all of the screening requirements. Whenever a building expansion increases GFA more than fifty percent (50%), all landscape ordinance requirements must be met.

Whenever a parking lot expansion of at least ten (10) spaces increases the total number of parking spaces by no more than twenty-five percent (25%), the expanded portion of the parking lot shall comply with the landscaping requirements. Whenever a parking lot expansion of at least ten (10) spaces increases the total number of parking spaces more than twenty-five percent (25%), but no more than fifty percent (50%), fifty percent (50%) of the existing parking lot(s) within the property and all of any expanded parking lot portions shall comply with the parking lot landscaping requirements.

Whenever a parking lot expansion of at least ten (10) spaces increases the total number of parking spaces more than fifty percent (50%), the expanded and existing parking lot(s) within the property shall comply with the parking lot landscaping requirements.

3. **Exemptions:** One-family detached and two-family residential dwellings are exempt from landscaping requirements.

14-604. Landscape Plan Submittal. Proposed developments subject to the provisions of this Section shall submit a landscape site plan to the Building Inspections Office. A licensed landscape architect, architect, or engineer may be required to design the landscape plan. Such requirements

will be based on the complexity of the conditions, the adjacent properties, and the site itself. This determination will be made by the City Manager, Public Works Director, Community Development Director, or their designee. This plan may be incorporated into a site plan or parking/paving plan, provided the scale is not less than one (1) inch equals forty (40) feet. The following elements shall be shown on the landscape site plan:

- " zoning of site and adjoining properties;
- " existing and proposed contours at 5 feet intervals or less;
- " boundary lines and lot dimensions;
- " date, graphic scale, north arrow, title and name of owner, and the phone number of the person or firm responsible for the landscape plan;
- " location of all proposed structures and storage areas;
- " existing and proposed drainage features and 100-year floodplain, if applicable;
- " parking lot layout including parking stalls, bays, and driving lanes;
- " existing and proposed utility lines, and easements;
- " all paved surfaces and curbs, including curb breaks/cuts for drainage;
- " existing trees or natural areas to be retained, and
- " location of all required landscaping areas (street yard, landscaped peninsulas, landscaped islands, and screening buffers).

14-605. Plant Installation Detail Plan. Prior to receiving a Certificate of Occupancy, a Plant Installation Plan shall be submitted to the Building Inspections Office and approved containing the following information: a.) location, installation size, quantity, and scientific and common names of landscaping to be installed; and b.) spacing between trees and shrubs used for screening. The applicant has the option of submitting both the Landscape Plan and the Plant Installation Detail Plan at the same time.

14-606. Hardships.

1. **Intent.** This Section does not intend to create undue hardship on affected properties. The required landscaping should not exceed 15% of the total lot area. For existing developments,

where the GFA or parking areas are being increased, the loss of off-street parking spaces (required by zoning ordinance) as a result of compliance with the landscaping provisions should not exceed 10%.

2. **Special Administrative Remedies.** Lots with a depth of 150 feet or less, or an area of 15,000 square feet or less, have the following special exceptions: a.) an automatic fifty percent (50%) reduction in landscape yard depth requirements for screening, street yard, and parking lot landscaping sections; and b.) a twenty-five percent (25%) reduction in planting requirements for all sections except for the required evergreen plantings for screening.

Lots, which front on more than one street, have the following special exception: all street frontages other than the primary street frontage may have a street yard with a minimum depth of four (4) feet.

In situations where the landscape requirements would result in the demolition of an existing building, a loss of more than ten percent (10%) of the gross required off-street parking for an existing development; or a loss greater than fifteen percent (15%) of the lot area for development, the following administrative remedies may be applied: a.) reduce the required minimum landscaped area widths up to fifty percent (50%); and b.) reduce the tree planting requirements by up to twenty-five (25%).

3. **Administrative Guidelines.** a.) Where possible, reduction of landscaping requirements in one area should be offset by an increase of landscaping requirements in other portions of the site. b.) The first priority is to provide trees along the street frontage. c.) The second priority is to provide trees within portions of the parking lot that are highly visible from the street. d.) A screen should always be provided if it is required by this Section. Where there are space limitations or potential sight distance problems, reduce the landscape yard as necessary. If the planting area is less than five (5) feet in width, require a minimum six (6) feet tall wood or composite fence or masonry wall.

14-607. Conflict with other articles in the Zoning Ordinance and existing zoning

conditions. Where any requirement of this section conflicts with the requirement of another Article or existing zoning conditions in the Zoning Ordinance, the provisions of this landscaping section shall override.

14-608. Trees projecting over streets, alleys, or sidewalks prohibited. In accordance with Title 16 entitled "Streets and Sidewalks, etc." of the Athens Municipal Code, it shall be unlawful for any property owner or occupant to allow any limbs of trees on his/her property to project out and/or over any street, alley or sidewalk at a height of less than fourteen (14) feet. (1972 Code, § 12-201)

14-609 Trees, etc., obstructing view at intersections prohibited. In accordance with Title 16 entitled "Streets and Sidewalks, etc." of the Athens Municipal Code, it shall be unlawful for any property owner or occupant to have or maintain on his property any fence, tree, hedge or billboard which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. The above mentioned obstructions shall not be above two (2) feet in height and shall not be allowed within fifty (50) feet from the centerline of any street. The aforementioned is not applicable to buildings or their appendages or retaining walls. (1972 Code, § 12-203)

14-610. Street yard requirements.

1. **Intent.** The intent of this section is to add quality and definition to the street by planting trees within a landscaped area along the edges of the right-of-way.
2. **Dimensions:** Except for points of access, a street yard shall be provided where the proposed development site adjoins the public street right-of-way. Alleys are exempt from this requirement. The street yard shall have a minimum depth of eight (8) feet as measured from the edge of the public street right-of-way towards the interior of the property. The yard shall consist of sod grass or other natural living ground cover material. No impervious surfaces are permitted in the street yard area. If the area between the street right-of-way and/or property line and the edge of pavement or back of curb is disturbed, that area shall be restored to the original condition prior to disturbance.
3. **Plantings.** Trees shall be planted within the street yard at a minimum ratio of one (1) tree per thirty-five (35) linear feet of right-of-way frontage. Trees do not have to be evenly spaced in thirty-five (35) feet increments. Fractions of trees shall be rounded up to the nearest whole number. The minimum spacing between trees is fifteen (15) feet measured trunk to trunk. The maximum spacing is fifty (50) feet measured trunk to trunk. The trees referred to in this

section shall have a minimum expected maturity height of at least twenty-five (25) feet and should be of a species common to southeast Tennessee.

4. **Existing woodlands.** Existing woodlands along the street right-of-way frontage can be substituted for the street yard requirements subject to the following: a.) Existing woodlands to be set aside shall have a minimum depth of 25 feet as measured from the public street right-of-way; b.) Number of woodland trees (not including prohibited trees) having a minimum caliper of 6 inches shall equal or exceed the minimum street tree planting ratio of 1 tree per 35 linear feet; c.) No impervious surfaces are permitted within the protected woodlands area except for approved access points to the site or as a part of the stormwater plan; and d.) No cutting/filling activities or storage of materials/equipment are permitted within the protected woodlands.
5. **Exemptions/Special Situations.** Properties adjoining rights-of-way that encroach into established parking areas more than twenty feet have the following street yard options: a.) Plant street trees within the right-of-way provided written permission is obtained from the owner of the public right-of-way; b.) If permission cannot be obtained to plant in the right-of-way, no street yard will be required. However, the street trees will be relocated somewhere within the site in an area highly visible from the street. These trees cannot be used to meet requirements in other sections.

Existing street trees planted within the right-of-way (not including the center median or opposite side of the street) can be used to meet the street yard requirements.

Where overhead powerlines encroach into the street yard, smaller shade trees may be substituted for larger shade trees.

Stormwater facilities may be located within the street yard subject to the following conditions:

- a.) trees and other living organic materials can be planted along the stormwater facility; however, the facility must be maintained in accordance with the Stormwater Management Policy; b.) the stormwater facility must meet all requirements of the City of Athens.

With the written approval of the right-of-way owner, portions of the public right-of-way may be used to meet the street yard requirements.

14-611. Parking lot requirements.

1. **Intent.** The intent of this section is to breakup the expanse of asphalt, to provide shade, and to reduce the glare from parked cars and loading docks.

2. **Design Criteria.** a.) No parking space shall be more than sixty (60) feet from a tree; b.) Ends of all interior parking bays that contain a minimum of ten (10) contiguous parking spaces shall be bordered on both sides by a landscape island; c.) Ends of all perimeter parking bays shall be bordered by a landscaped peninsula; d.) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way as described below.
3. **Dimensions/Planting Criteria.** Landscaped islands and peninsulas used to meet the landscaping requirements shall have a minimum width of eight (8) feet and a minimum landscaped area of two hundred (200) square feet. Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one tree. The trees referred to in this parking section shall be of a species common to southeast Tennessee. In the special situations specified below, smaller shade trees may be substituted for larger shade trees: a.) an overhead obstacle such as a canopy or powerline limits the tree height; or b.) the tree is located within twenty (20) feet of a building. All landscaped islands, and peninsulas shall be bordered by a curb or a wheel stop. Curb breaks should be utilized to allow stormwater to enter planted areas. The screening material for loading docks and delivery stalls shall consist of the following: a.) one row of evergreen shrubs spaced a maximum of five (5) feet on-center or a row of evergreen trees spaced a maximum of ten (10) feet on-center; and b.) provide a landscaped yard with a minimum depth of eight (8) feet for the planted screen.

14-612. Screening requirements.

1. **Intent.** To provide a transition between incompatible land uses and to protect the integrity of less-intensive uses from more intensive uses, screening and buffering will be required. The purpose of the screen is to provide a year-round visual obstruction. The buffer provides transition between the incompatible uses by requiring a landscape yard of a minimum specified depth along the shared property line.
2. **Procedure.** Refer to the matrix below to determine any screening requirements for the proposed development. First, identify the type of zoning for the proposed development (along the left side of the matrix) and each adjoining property (along the top of the matrix). Find where the zoning of the proposed development and each adjoining property intersect on the matrix. If a screen is required, a capital letter will indicate the type of screen to be applied. A description of each screen type is provided below.

EXISTING					
	Manufacturing Warehousing	Commercial	Office	High-Density Residential	Low-Density Residential
Manufacturing Warehousing		C	B	A	A
Commercial				B	B
Office				C	C
Residential High-Density	A	B	C		C

No screen or buffer required =

ZONING DISTRICTS	
Manufacturing/Warehousing	I-1, I-2
Commercial	B-1, B-2, B-3 and B-4
Office	M-1, and P-1
Residential (High Density)	R-2, R-3, and R-4
Residential (Low Density)	R-E, and R-1

3. Screening types

- Type A** - thirty (30) feet deep Landscape Yard planted with: a.) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center; and two (2) rows of Shade Trees spaced a maximum of thirty-five (35) feet on-center. b) All plantings shall be of a species common to southeast Tennessee.
- Type B** - twenty (20) feet deep Landscape Yard planted with: a.) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center; and one (1) row of Shade Trees spaced a maximum of thirty-five (35) feet on-center. b) All plantings shall be of a species common to southeast Tennessee.
- Type C** - ten (10) feet deep Landscape Yard planted with: a.) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7)

feet apart} of shrubs spaced a maximum of eight (8) feet on-center. b) All plantings shall be of a species common to southeast Tennessee.

- **Type D** - Dumpsters to be screened in the manner described below: a.) Screening shall be a minimum height of six (6) feet; b.) All four sides of the dumpster shall be screened; c.) The screen should incorporate access to the dumpster by using a wood fence or other opaque device to serve as a gate; d.) Screening materials can be any combination of evergreen plantings, wood, composite or masonry material.
- **Type E** - Stormwater facilities located in the landscaped yard subject to the following conditions: a.) Trees and other living organic materials can be planted along the stormwater facility.

14-613. Landscaping credits for buffering along perennial streams. Credits for landscaping are available for leaving natural buffers along perennial streams. All credits and buffer designs are subject to the review and approval of the Building Inspections Office and/or the Public Works Department.

1. A natural buffer with a minimum width equal to three (3) times the stream width shall be provided on each side of the stream; the required width per side shall be no less than twenty-five (25) feet and no more than one hundred (100) feet; the width of the buffer shall be measured from edge of the stream bank.
2. No vegetation within the natural buffer shall be removed or disturbed except for poisonous, non-native, or noxious plant species.
3. No fill or cutting activities, including the storage of materials or equipment shall be permitted in the natural buffer area.
4. No impervious surfaces are permitted in the buffer unless approved as a part of the stormwater plan.
5. Trees located within the buffer area with a minimum six-inch caliper can be used to meet the landscaping requirements.
6. The maximum landscaping credit allowance is twenty-five percent (25%) of the landscaping requirements for trees.

14-614. Plant installation specifications.

1. **Intent.** All landscaping materials shall be installed in a sound professional manner, and according to professionally accepting good planting procedures. Any landscape material, which fails to meet the minimum requirements at the time of installation, shall be removed and replaced with acceptable materials.
2. **Prohibited plants.** The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance:

PROHIBITED PLANTS		
Kudzu Vine	Garlic Mustard	Purple Loosestrife
Paulownia	Japanese Honeysuckle	Multiflora Rose
Shrub Honeysuckle	Siberian Elm	Common Privet
Autumn Olive	Silver Poplar	Mimosa
Tree of Heaven	Mulberry	Silver Maple

14-615. Utility Easement Policy.

1. **Intent.** To avoid damage to utility lines and landscape plantings, all trees and shrubs should be planted outside of existing and proposed utility easements. (2) Policy. Any tree or shrub used to meet the requirements of this Article shall not be located within proposed or existing utility easements unless it meets one of the special exceptions as defined below. Special Exceptions: a.) Written permission has been obtained from the holder of the utility easement. b.) Where overhead powerlines cross an area required by the ordinance to be planted with shade trees, smaller shade trees may be substituted.
2. If none of the special exceptions above apply, the following options shall be considered in order of priority: a.) Priority 1 - Plant the tree as close to the easement as possible. b.) Priority 2 - For highly visible areas (street yards, parking lots in front), plant the tree in the same general area where it can be seen from the street or parking lot.

14-616. Maintenance/Bonding. The persons in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in proper, neat and orderly appearance, from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first. Other defective landscape material shall be replaced or repaired within three (3) months that meet the requirements of this Article. A maintenance/replacement bond in an amount equal to one hundred ten percent (110%) of the projected cost of landscaping shall be provided to the City of Athens of a period not less than one (1) year.

14-617. Certificate of Occupancy/Bonding. If the landscaping has not been installed and inspected for proper installation prior to receiving Certificate of Occupancy, a Certificate of Occupancy may be granted provided the following conditions are met: (1) Property owner posts a performance bond or irrevocable letter of credit with the City Treasurer; (2) The amount of the bond or letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a 10% contingency cost, as shown on the submitted landscape plan; and (3) The Cost of the landscaping shall be certified by a licensed contractor.

After receiving the Certificate of Occupancy, the remaining landscape material shall be installed within six (6) months. The bond or letter of credit shall be called if the required landscaping has not been installed by the end of the six (6) month period, and the funds shall be applied to complete the landscaping work.

14-618. Appeals. Any person aggrieved by the administration, interpretation, or enforcement of this Section may appeal to the Board of Zoning Appeals within thirty (30) days of the decision imposed by the Building Inspector, City Manager, Public Works Director, or any other agent of the City of Athens. Decisions of the Board of Zoning Appeals may be appealed to court of competent jurisdiction. Should any court of competent jurisdiction find any portion of this Section to be unlawful

or unconstitutional, such finding shall not affect this Section as a whole or any portion of it not found invalid.

14-619. Responsibility and Enforcement of Policy. This policy is adopted by the City Council of the City of Athens and by the Athens Municipal Regional Planning Commission.

Inspection and enforcement of the conditions described in this policy are the responsibility of, but not limited to, the Public Works Director, or his designee, or the City Building Inspector, or other person(s) as designated by the City Manager.

Intentional or continued violation of this policy is considered a civil offense as described in City of Athens Ordinance No. 802, Section 5 entitled "Penalty Clause," of the Athens Municipal Code.

SECTION 2: That Title 14 be further amended by making "Mobile Homes" Chapter 7 instead of Chapter 6.

SECTION 3: Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

SECTION 4: BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and as provided by law.

PASSED ON FIRST READING: February 19, 2002

PASSED ON SECOND READING:

MARGARET H. MAHERY, Mayor

MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:

CHRIS TREW, City Attorney

