

**York County  
Sustainable Landscaping  
Model Ordinance**

Developed by:

York County Planning Commission

York County Conservation District

Penn State Extension ó York County

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### Model Ordinance Instructions:

Key **Red Text** ó Municipality must customize the text.

*Blue Italics Discussion Text* ó Delete all paragraphs before adopting the ordinance.

**Red Additional Text** ó Add text in **red** if the situation pertains to the municipality.



## SUSTAINABLE LANDSCAPING ORDINANCE

### CROSS REFERENCES

**Municipal** Zoning Ordinance Section 000, as amended

**Municipal** Subdivision and Land Development Ordinance (SALDO) Section 000, as amended

**Municipal Construction and Materials Specifications Section 000**, as amended

**Municipal Stormwater Management Ordinance Section 000**, as amended

**Municipal Floodplain Management Ordinance Section 000**, as amended

Pennsylvania Department of Conservation and Natural Resources (PA DCNR) publication

“**Invasive Plants in Pennsylvania**”<sup>1</sup>, and “**Watch List**” species, most recent edition

Pennsylvania Department of Agriculture “**Noxious Weeds List**”<sup>2</sup>, most recent edition

United States Department of Agriculture (USDA) “**Plant Database**”<sup>3</sup> including native status maps

American Nursery and Landscape Association (ANLA), “**American Standard for Nursery**

**Stock**”<sup>4</sup>, ANSIZ60.1, most recent edition. **As of January 2014 ANLA becomes “American Hort**

Pennsylvania Department of Environmental Protection (PA DEP) **Pennsylvania Stormwater**

**BMP Manual**”<sup>5</sup>

Penn State publication “**Planting and After Care of Community Trees**”<sup>6</sup>.

**York County Integrated Water Resources Plan**”<sup>7</sup> including Model Stormwater Management Ordinance

#### **Section 001 Purpose**

The purpose of the landscaping regulations contained in this Ordinance is to enhance health and safety, as well as the quality of life, in the **Municipality**. These regulations provide for Screening and buffering; aid in the reduction of noise, heat, and glare; minimize erosion and sedimentation; and establish a healthier environment.

These regulations are designed to promote sustainable landscapes within the **Municipality**, conserve and restore healthy soils, reduce the use of irrigation for landscapes, improve the quality of surface waters, reduce energy consumption, provide wildlife habitat, and protect and restore Native Plant communities. They will likewise assist York County with cleaning up impaired waters in both MS4 and non-MS4 municipalities, and meeting the countywide target water quality thresholds.

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<sup>1</sup> **Invasive Plants in Pennsylvania** Link:

[http://www.dcnr.state.pa.us/cs/groups/public/documents/document/dcnr\\_20026634.pdf](http://www.dcnr.state.pa.us/cs/groups/public/documents/document/dcnr_20026634.pdf)

<sup>2</sup> **Noxious Weeds List** Link:

[http://www.agriculture.state.pa.us/portal/server.pt/gateway/PTARGS\\_0\\_2\\_24476\\_10297\\_0\\_43/AgWebsite/ProgramDetail.aspx?palid=116&](http://www.agriculture.state.pa.us/portal/server.pt/gateway/PTARGS_0_2_24476_10297_0_43/AgWebsite/ProgramDetail.aspx?palid=116&)

<sup>3</sup> **USDA Plant Database** Link: [www.plants.usda.gov](http://www.plants.usda.gov)

<sup>4</sup> **American Standard for Nursery Stock** Link:

<http://www.anla.org/docs/About%20ANLA/Industry%20Resources/ANLStandard2004.pdf>

<sup>5</sup> **Pennsylvania Stormwater BMP Manual** Link: <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-68851/363-0300-002.pdf>

<sup>6</sup> “**Planting and After Care of Community Trees**” Link: <http://pubs.cas.psu.edu/freepubs/pdfs/uh143.pdf>

<sup>7</sup> **York County Integrated Water Resources Plan** Link:

[http://www.ycpc.org/Long\\_Range\\_Docs/Comp\\_Plan/IWRP\\_Complete\\_Plan.pdf](http://www.ycpc.org/Long_Range_Docs/Comp_Plan/IWRP_Complete_Plan.pdf)

## **Section 002 Scope**

### **Scope Discussion**

*This Sustainable Landscaping Model Ordinance is designed to encourage sustainable landscape practices in common areas of major residential subdivisions, all commercial and industrial subdivisions, and all land developments. It is not designed to apply to individual residential lots or minor residential subdivisions of less than five lots, except for rights-of-way and common areas. Municipalities will need to adjust the number of lots for a major subdivision to be consistent with their SALDO.*

*This Ordinance strongly suggests that street trees be required along streets in all subdivisions and land developments.*

- A. A Landscape Plan, consistent with the provisions of this Ordinance, shall be required for each major subdivision plan of **five (5)** or more residential lots; all subdivision plans for agricultural, commercial, industrial or institutional uses; and all land development plans. The Landscape Plan shall be submitted in conjunction with the initial Subdivision and Land Development Plan submission.
- B. In general, all land areas within a subdivision or land development not containing existing buildings or structures, impervious surfaces, or other improvements which preclude landscaping, shall be included in the Landscape Plan.
- C. To the extent possible, and consistent with this Section, properties being redeveloped shall meet the landscaping requirements of this Ordinance.
- D. Each minor residential subdivision plan must comply with Section 008 Street Trees, Section 010 Zoning and Use Buffers, and Section 014 Guarantee and Maintenance of this Ordinance, but is not required to submit a Landscape Plan. The plant species and size shall be listed in the notes and the location of plantings shall be shown on the Minor Subdivision Plan.

## **Section 003 Definitions**

- A. Bioretention: An excavated shallow surface depression planted with specially selected Native Plants to treat and capture runoff.
- B. Critical Root Zone (CRZ): Portion of the root system that is the minimum necessary to maintain vitality or stability of the tree. Encroachment or damage to the critical root zone will put the tree at risk of failure. The CRZ equals 12ö of radius from the trunk for each inch of trunk diameter measured at four and one-half feet (4.5ø) above ground level.
- C. Diameter Breast Height (DBH): The diameter of a tree trunk in inches, at four and one-half feet (4.5ø) above ground level.
- D. Dripline: An area on the ground defined by the outermost circumference of tree canopy.
- E. Hedgerow: A row of dense vegetation in a linear design for the purpose of wildlife habitat, pollinator food and habitat, windbreak, or to limit spray drift.
- F. Invasive Plant: A non-native plant that reproduces more rapidly, out competes, and displaces Native Plants in the landscape. Invasive Plants are listed in the PA DCNR publication öInvasive Plants in Pennsylvaniaö including Watch List species, and öInvasive Plants of Pennsylvania Fact Sheetsö.

- G. Landscape: The area not occupied by structures, roads or parking. It includes existing and proposed plant materials, such as trees, shrubs, and perennials; natural materials, such as rocks, earthen berms and water; and man-made materials, such as sculpture, art, walls, fences, paving materials, and outdoor furniture.
- H. Meadow: An area containing Native grasses and flowering herbaceous plants that serve an ecological function. Meadows may not contain species listed in the PA DCNR publication "Invasive Plants in Pennsylvania" including Watch List species, or PA Department of Agriculture "Noxious Weeds List".
- I. Native Plant: For the purposes of York County, a plant species that occurred in Pennsylvania or Maryland prior to European settlement. The native status of plants may be confirmed through the [www.plants.usda.gov](http://www.plants.usda.gov) web site, using the Native Status Maps for each specie. For purposes of this ordinance Native Plant shall include Native Shade Tree, Native Street Tree, Native Shrub, Native Groundcover, Native grass, and Native perennial.
- J. Rain Garden: An excavated shallow surface depression planted with specifically selected Native Plants to treat and capture runoff.
- K. Riparian Buffer: An undeveloped area adjacent to water bodies, which provides an ecological service such as filtration of runoff, flood water storage, or improved surface water quality.
- L. Screening: Restriction of objectionable views to intensive use or utility elements of a site by landscape plantings, berms, walls, and fences according to Section 011. The Screening is located at or near the element to be screened.
- M. Sustainable Landscape: A landscape that balances the needs of people, the economy, and the environment. A landscape which reduces energy consumption, protects soils, improves surface water quality, reduces the need for irrigation, and protects Native Plant communities.
- N. Zoning and Land Use Buffer: A separation between dissimilar land uses to lessen noise and light pollution, reduce spray drift, and to restrict views. The buffer involves both horizontal distance from the property line, and landscape elements to achieve the separation.

**Section 004 Basic Content of the Landscape Plan**

- A. The Landscape Plan shall be drawn at a scale of not less than one inch equals 100' (1" = 100'). It shall contain the following information in addition to all other inclusions required by this Ordinance:
  - 1) Certification, including signature, seal, and date, by a Landscape Architect registered by the Commonwealth of Pennsylvania.
  - 2) The location of all existing and proposed structures, fences and walls; streets; parking/loading areas; utilities; lighting; rights-of-way; and easements.
  - 3) The location of all existing and proposed outdoor storage and trash receptacle areas.
  - 4) Adjacent land uses and zoning classifications.
  - 5) The location and general type of existing vegetation. Any existing vegetation to be removed shall be noted on the Plan.

- 6) A plant list or schedule, indicating scientific and common names, required and proposed quantities, spacing, Native Plant status, and size of all proposed landscape materials at the time of planting shall be provided.
- 7) The plant list or schedule must also include any plant symbols used on the Plan drawing and the expected mature spread of each plant.
- 8) Existing soil types and proposed topography shall be shown.
- 9) Proposed protection of existing trees to remain, and details of the protection.
- 10) Location and description of other landscape improvements, such as earth berms, walkways, raised beds, sculptures, fountains, street furniture, lights, and paved areas.
- 11) Planting and installation details as necessary to ensure compliance with the standards of the Penn State publication "Planting and After Care of Community Trees".

## **Section 005 Topsoil**

### **Soils Discussion**

*The York County Stormwater Management Model Ordinance and PA DEP Chapter 102 Erosion and Sediment Control regulations identify requirements for soil stockpiles and redistributing topsoil on sites. Requirements include, "Topsoil, if removed, shall be replaced to a depth equal to its depth prior to removal, or four inches (4"), whichever is greater. (Additional topsoil may be needed for vegetation other than sod.)"*

*Stormwater BMP's require the redistribution of topsoil in landscaped areas for proper growth of plant material to control erosion.*

*Removal of topsoil from the site should not take place until the topsoil has been appropriately redistributed over the entire site. Removal of this natural resource is counter to MS4 requirements, stormwater BMP's, erosion control measures, and ANLA standards.*

- A. The Landscape Plan must meet the requirements of PA DEP Chapter 102 as administered by the York County Conservation District for soil erosion and sediment control related to removal, stockpiling, redistribution, and stabilization of topsoil.
- B. No topsoil may be removed from the site until a minimum of four inches (4") of topsoil has been redistributed over all areas to receive turf or Meadow, and eight inches (8") in areas of trees and shrubs.
- C. Areas to be landscaped shall not be used for incompatible uses, such as waste dumps or parking areas, during construction. Any material, such as construction debris or substances toxic to plants, shall be removed prior to the placement of topsoil.
- D. At least two (2) soil tests shall be performed on the topsoil to be redistributed, including organic material percent. Results and recommendations shall be furnished to the **Municipal** representative and landscape contractor before plants arrive on site, or permanent turf is seeded.



**Section 006 Existing Tree Preservation and Protection**

**Existing Tree Preservation and Protection Discussion**

*Existing mature trees are the best soil erosion protection available. They help to improve soil, provide shade, and filter surface waters. It is the intent of this section to encourage developers to preserve the trees on site in a manner which will increase the tree's chance of survival.*

*Municipal Zoning or Subdivision and or Land Development Ordinances often contain a separate section on conservation of natural features or sensitive areas. This section usually covers protection of existing woodlands and vegetation, and could overlap with this Landscaping section, as existing trees may count towards landscaping requirements of street trees or buffers. Preservation of existing vegetation is also addressed in the PA Stormwater BMP Manual provisions for Riparian Buffers, but would not apply to areas of street trees or zoning/use buffers.*

*Protection of the soil under the dripline of the tree is critical to its survival. Both re-grading and compaction of this area often result in the death of the tree over two to four years – after the financial security for landscaping has been released. Details of the proposed temporary tree protection fence and its location should occur on landscape and/or grading Plans.*

- A. Every effort shall be made to preserve mature trees over six inches (6ö) in caliper and significant existing vegetation on a development site and to incorporate these existing plants into an overall planting design. Every effort shall be made to retain as much of a wooded area as possible of a size and configuration that will promote its natural growth and regeneration particularly when adjoining woodlands.
- B. An existing tree shall be considered preserved if there is no disturbance within the tree's dripline, or Critical Root Zone, whichever is greater. Disturbance includes earth disturbance, earth compaction, vehicular and foot traffic, material stockpiling, and/or the construction of any proposed improvements and utilities.
- C. The following conservation practices are mandatory and shall be noted on the grading and soil erosion and sedimentation control plan, and employed in order to preserve existing trees. In addition to the other requirements specified in this Section, these conservation practices shall be undertaken during land development activities. Prior to any clearing or site disturbance, the applicant and/or site contractor shall meet with the **Municipality** to further determine methods to minimize tree loss. For this meeting, the **Municipality** shall appoint a qualified landscape professional to act on its behalf.
  - 1) All trees and other vegetation to be preserved shall be protected from equipment damage by temporary snow fencing or other effective barriers approved by the **Municipality**. Fencing or barriers around trees shall be placed outside the dripline. Tree protection installation must be approved by the **Municipal** landscape professional prior to the start of any clearing, grading, or other earth disturbance and monitored periodically. The tree protection fencing shall be maintained by the applicant while in place. It shall be removed after all earth moving and construction activities that may impact tree roots are completed, including contractor worker parking.

2) When disturbance within the Critical Root Zone is unavoidable, applicants shall minimize encroachment and use the best available methods as approved by the **Municipal** landscape professional to minimize damage and preserve trees. These methods may include utility tunneling, use of geo-textiles, mulching, hand root pruning, and soil aeration. Applicants shall consult references such as *“A Guide to Preserving Trees in Development Projects”*<sup>8</sup>, published by the Penn State College of Agricultural Sciences Cooperative Extension.

D. Should any mature viable trees on the site not scheduled to be removed and counted as required Landscape Plantings, be irreparably damaged during site preparation activities and, as a consequence thereof, die or decline as determined by the appointed **Municipal** landscape professional, within 18 months of the conclusion of construction activities, such trees shall be replaced with nursery grown material, in accordance with the following requirements:

- 1) For deciduous trees greater than six inches (6”) up to 12” DBH, one inch (1”) of new tree caliper shall be provided for every six inches (6”) of existing tree diameter cut or removed.
- 2) For deciduous trees greater than 12” up to 24” DBH, one inch (1”) of new tree diameter for three inches (3”) of existing tree diameter cut or removed.
- 3) For deciduous or evergreen trees greater than 24” DBH, one inch (1”) of new tree diameter for every one inch (1”) of existing tree diameter cut or removed.

## **Section 007 Plant Material**

### **Plant Material Discussion**

*Two sustainable practices have been incorporated into this Section. Sustainable landscapes rely on a selection of Native Plants to provide habitat for the bees necessary for agriculture, and this Section identifies Native Plant requirements. Local plant materials require less energy to be shipped to the site. The Sustainable Sites Initiative and this Ordinance limit plants to those grown within 250 miles of the site.*

*York County has approximately 250 Native Shade Tree species, 550 Native shrub species, and 2400 Native perennial species. Each plant has requirements for correct soil, hydrology, and climate, and should be selected for the individual site conditions. It is desirable for biodiversity to include as many different Native Plants in a municipality as are appropriate. Plant availability within 250 miles can be affected by large restoration projects. For these reasons, lists of acceptable Shade Trees, Large and Small Shrubs, and Ground Covers have not been included. A list of acceptable Street Trees has been included in Section 008.*

Unless otherwise specified, nursery-grown plant materials shall conform to requirements listed in the *“American Standard for Nursery Stock”*, ANSIZ60.1, current edition, published by the American Nursery and Landscape Association (ANLA). **As of January 2014 ANLA will become AmericanHort.** The following guidelines are the minimum required for all nursery-grown plant materials as required in this Section:

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<sup>8</sup> *A Guide to Preserving Trees in Development Projects* Link: <http://pubs.cas.psu.edu/FreePubs/pdfs/uh122.pdf>

- A. Plants for landscaping shall have been grown in USDA Hardiness Zones 5, 6, or 7, and within 250 miles of York County. A nursery stock certificate and plant material invoice shall be provided to the Municipality indicating the location of the nursery(s).
- B. All trees, shrubs, and plants shall be sound, healthy, and vigorous, and shall be free from disease, insects, insect eggs and larvae.
- C. No Invasive Plants, including watch list species, listed in the most recent edition of PA DCNR publications "Invasive Plants in Pennsylvania" and "Invasive Plant Fact Sheets", shall be utilized. No plants listed in the PA Department of Agriculture "Noxious Weeds List" shall be planted. Plants used to fulfill the requirements for Native Plants shall be per the definition of Native Plant.
- D. The type(s) of plantings shall be limited to species that will not create conditions hazardous to the public safety within public street rights-of-way, underground and above-ground utilities, and clear sight triangles including at all intersections of streets and/or driveways. Such hazards shall include, but are not limited to, low hanging branches, excessive shallow root mass, poisonous or toxic plants, and plants with thorns, nettles and spikes.
- E. The locations, dimensions, and spacing of required plantings shall be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as soil moisture and sunlight.
- F. Shade Trees for all requirements, except Riparian Buffers, shall have a minimum caliper of two inches (2") at installation. Shade Trees for Riparian Buffers shall have a minimum caliper of one inch (1") at installation. 100% of Shade Trees shall be Native Plants.
- G. Large Street Trees shall have a minimum caliper of two inches (2") at installation, and a mature height of greater than 30'. A minimum of 75% of the Large Street Trees shall be Native Plants. Acceptable Large Street Tree species are listed in Section 008 Street Trees.
- H. Small Street Trees shall have a minimum caliper of one and one-half inches (1.5") at installation, and a mature height of less than 30'. Multiple-trunk trees should be identified as such in the plant list. Multiple-trunk trees shall be counted as one (1) tree. A minimum of 50% of all Small Street Trees shall be Native Plants. Acceptable Small Street Tree species are listed in Section 008 Street Trees.
- I. Evergreen Trees shall have a minimum height of six feet (6') at installation. A minimum of 50% of Evergreen Trees shall be Native Plants.
- J. Shrubs shall be spaced according to their size, growth characteristics and intended use. Shrubs shall comply with the following requirements:
  - 1) Large Shrubs are defined as shrubs naturally growing to a height of more than four feet (4'); and shall be a minimum size of two feet (2') in height at planting. 100% of the Large Shrubs shall be Native Plants.
  - 2) Small Shrubs are defined as shrubs naturally growing to a height of less than four feet (4'); and shall be a minimum size of 18" in height or 18" in spread, depending on variety. A minimum of 50% of the Small Shrubs shall be Native Plants.

- K. Ground Cover is defined as plantings to prevent soil erosion, and may include Small Shrubs, herbaceous perennials, Meadows, bulbs and annuals. Plants shall be spaced appropriate to type and size at installation. Ground Cover plants shall be spaced and seeding rates sufficient so that 100% of the beds are covered after three (3) years of growth.
- L. A variety of plant species are encouraged to avoid monocultures, to encourage long-lived species and to promote wildlife habitat. Of the required tree plantings and of the shrub plantings, no more than 33% may be of one species.
- M. To allow for design flexibility, plant material substitutions from the requirements may be permitted at the discretion of the **Municipality**. In such cases, the applicant must demonstrate to the satisfaction of the **Municipality** that the general intent of the ordinances is achieved.
- N. Trees, shrubs, and perennials that produce food for human consumption, or can be harvested for medicinal properties, may be substituted for any plant material required by this Ordinance, as long as the tree, shrub, or perennial meets the screen, shade, safety, or engineering objective of the planting. No Invasive Plants or noxious weeds may be utilized under this section.

## **Section 008 Street Trees**

### **Street Trees Discussion**

*Street Trees provide many environmental services which have a monetary benefit<sup>9</sup> to communities:*

*Trees shade pavement and buildings reducing the heat island effect; cooling the area.*

*Evapotranspiration further cools the area.*

*The canopy makes streetscapes more inviting to humans.*

*Provide wildlife shelter, food, and breeding areas.*

*Connect fragmented forest plots.*

*Provide a source of nectar and pollen for bees.*

*The roots prevent soil erosion.*

*Absorb excess nitrogen, phosphorus, and pollutants before they enter streams.*

*Sequester atmospheric carbon and cleanse the air.*

*Produce oxygen.*

*Consider the placement of Street Trees in the context of providing shade on pavements. For example, trees placed 15' from the curb will provide some shade after years of growth. Trees placed 20' or more from the curb will not provide meaningful shade on pavements during the life cycle of the tree.*

*Municipalities should strive to provide Street Trees along every road. Where this goal cannot be met for safety or engineering reasons, the trees should be placed where they can still provide some of the above benefits. Creating or extending 'Hedgerows' can provide many of the above benefits if shrubs are added to the planting and the area is not routinely mown. Connecting fragmented forest plots and creating new groves of trees will also fulfill some of the environmental services.*

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<sup>9</sup> National Tree Benefit Calculator Link: <http://www.treebenefits.com/calculator/>

*Some municipalities have concerns about liability or maintenance cost of owning Street Trees planted in the right-of-way. One solution is to have a 'Street Tree Ordinance' in place of this section in a Landscape Ordinance. It would require the adjacent lot owner (or Homeowners Association) to install, maintain, and replace Street Trees, as happens in urban municipalities. This option would require permitting and enforcement.*

*The alternate text in Section A6) locates the trees outside of the right-of-way. The Alternate text in Section A.12) below utilizes the Landscaping Ordinance to assign ownership to the lot owner. Without the permitting and enforcement discussed above, the municipality has little leverage to mandate the maintenance and replacement of street trees.*

Street Trees shall be planted along all proposed streets, and in redevelopment projects, Street Trees shall also be planted along all existing streets.

A. Street Tree standards include:

- 1) Trees must meet the requirements of Section 007 Plant Material, for Large and Small Street Trees.
- 2) Trees must be balled and burlapped with the native soil in which the tree had been growing.
- 3) Trees shall have a minimum 24" rootball when planted.
- 4) Tree straightening shall be included in the bond for 18 months following installation. Staking or guying are not required, but may be used in situations of high winds or loose soil.
- 5) Large Street Trees shall be spaced a maximum of 50' Small Street Trees shall be spaced a maximum of 30'
- 6) Trees shall be planted between the street cartway and the front building setback line, but at least ten feet (10') from the edge of the improved cartway or sidewalk, but in no case between the cartway and sidewalk.

**ALTERNATE (replace 6) with this text): Street Trees shall be planted between the right-of-way line and the building setback line. Street Trees shall be at least ten feet (10') from the edge of cartway, and at least five feet (5') from sidewalks.**

- 7) Use of multiple species is permitted provided that along a street the trees are similar as regards to height and spread and that similar species are planted within single or two-family, detached lots.
- 8) Trees shall be planted so as not to interfere with the installation and maintenance of sidewalks, lights and utilities. Street Trees shall be setback ten feet (10') from underground utilities; tree canopies or crowns at maturity shall not interfere with overhead utilities. Small Street Trees may be placed beneath overhead utilities if the mature size of the tree will not interfere with the lines.
- 9) Existing trees to remain may count towards the required number of Street Trees, as required in A.5), if the trees are between the right-of-way line and the building setback line, are at least four inches (4") in diameter, measured 12" above the ground, and are limbed up at least six feet (6') in height.

10) Hedgerows, clusters or other alternative arrangements of Street Trees may be permitted where conditions warrant subject to the approval of the **Municipality**. In each alternative arrangement, one Large Shrub, meeting the requirements of Section 007 Plant Material, shall be planted in addition to each required Street Tree. The alternative arrangement of trees and shrubs shall have perennials or Meadow between the trees; Meadows shall be maintained according to Section 013 Meadows. Adding trees to the interior or periphery of an existing wooded area does not fulfill this Section.

11) **ALTERNATE ADDITION IF THE MUNICIPALITY DOES NOT HAVE AN ADOPTED STREET TREE ORDINANCE:** Street trees are the property and responsibility of the lot owner. Maintenance of street trees, including watering, pruning, pest control, and removal if necessary, is the responsibility of the lot owner. If street trees die, they shall be removed and replaced by the lot owner, with the same size and specie of tree indicated on the development plan, or alternate size and specie acceptable to the Municipality.

#### **Street Tree List Discussion**

*The location of Streets Trees and the surrounding soil conditions should drive the decision on Street Tree species. Trees selected for use outside of the right-of-way in lawn areas will have more root space, grow faster, and develop to a larger size than trees placed in a tree pit surrounded by sidewalk and road pavements.*

*Trees growing in tree pits in sidewalk have an approximate 20-year life cycle, shorter than trees growing in other soil conditions. The trees will generally not reach full canopy width or height during the shorter life cycle. The smaller size should be a consideration in tree spacing.*

*The Native Plant requirement for Street Trees is lower, to allow for selection of trees to meet urban soil conditions, microclimates, and height restrictions under utility lines. Even in urban situations, the use of Native Plant material is important. The leaves and fruit move downstream through storm sewers, and affect the outfall ecosystem. If Street Trees are moved to alternative locations such as forming Hedgerows, the trees should meet the requirements for Shade Trees.*

**Large Street Trees, greater than 30' height.**

**Cultivars of each specie are acceptable; \* indicates male/non-fruiting cultivar only.**

<b>Latin Name</b>	<b>Common Name</b>	<b>Native</b>
<b>Acer x freemanii cultivars</b>	<b>Freeman maple cultivars</b>	<b>X</b>
<b>Acer rubrum cultivars</b>	<b>Red maple cultivars</b>	<b>X</b>
<b>Acer saccharum</b>	<b>Sugar maple</b>	<b>X</b>
<b>Betula nigra cultivars</b>	<b>River birch cultivars</b>	<b>X</b>
<b>Carpinus betulus</b>	<b>European hornbeam</b>	
<b>Celtis occidentalis *</b>	<b>Hackberry</b>	<b>X</b>
<b>Ginkgo biloba *</b>	<b>Ginkgo *</b>	
<b>Gleditsia t. var. inermis *</b>	<b>Thornless honeylocust</b>	<b>X</b>
<b>Gymnocladis dioicus *</b>	<b>Kentucky coffee tree</b>	<b>X</b>
<b>Liquidambar styraciflua</b>	<b>Sweetgum</b>	<b>X</b>
<b>Nyssa sylvatica</b>	<b>Black tupelo</b>	<b>X</b>
<b>Ostrya virginiana</b>	<b>Hophornbeam</b>	<b>X</b>
<b>Quercus coccinea</b>	<b>Scarlet oak</b>	<b>X</b>
<b>Quercus imbricaria</b>	<b>Shingle oak</b>	<b>X</b>
<b>Quercus phellos</b>	<b>Willow Oak</b>	<b>X</b>
<b>Quercus rubra</b>	<b>Red Oak</b>	<b>X</b>
<b>Tilia americana</b>	<b>Basswood</b>	<b>X</b>
<b>Ulmus x hybrids</b>	<b>Hybrid elm</b>	
<b>Zelkova serrata</b>	<b>Japanese zelkova</b>	

**Small Street Trees, less than 30' height.**

**Cultivars of each specie are acceptable.**

<b>Latin Name</b>	<b>Common Name</b>	<b>Native</b>
<b>Acer buergerianum</b>	<b>Trident maple</b>	
<b>Amelanchier species</b>	<b>Serviceberry species</b>	<b>X</b>
<b>Carpinus carolinia</b>	<b>Ironwood</b>	<b>X</b>
<b>Cercis Canadensis</b>	<b>Eastern Redbud</b>	<b>X</b>
<b>Crataegus crus-galli var. inermis</b>	<b>Thronless Cockspur Hawthorn</b>	<b>X</b>
<b>Crataegus phaenopyrum</b>	<b>Washinton Hawthorn</b>	<b>X</b>
<b>Crataegus p. Ohio Pioneer</b>	<b>Ohio Pioneer hawthorn</b>	<b>X</b>
<b>Malus spp. varieties</b>	<b>Flowering crabapple</b>	
<b>Prunus x 'Accolade'</b>	<b>Accolade cherry</b>	
<b>Prunus s. 'Kwanzan' varieties</b>	<b>Kwanzan cherry</b>	
<b>Prunus virginiana varieties</b>	<b>Canadian cherry</b>	<b>X</b>
<b>Syringa reticulata</b>	<b>Japanese tree lilac</b>	

Trees specifically prohibited as Street Trees include:

Acer platanoides, Norway Maple, all varieties

Liriodendron tulipifera, Tulip Poplar

Pyrus calleryana cultivars, Bradford Pear, and other cultivars

Populus species, Poplar, all species

Salix species, Willow, all species

**Section 009 Parking Lot Landscaping**

***Parking Lot Landscaping Discussion***

*Parking lot pavements absorb sunlight which heats the pavement, creating heat sinks and altered microclimates. The reflected light causes glare for drivers. Parking lot lighting can cause glare on windshields and light pollution to adjacent properties. Car exhaust, fluid leaks, and salt add pollutants to stormwater runoff.*

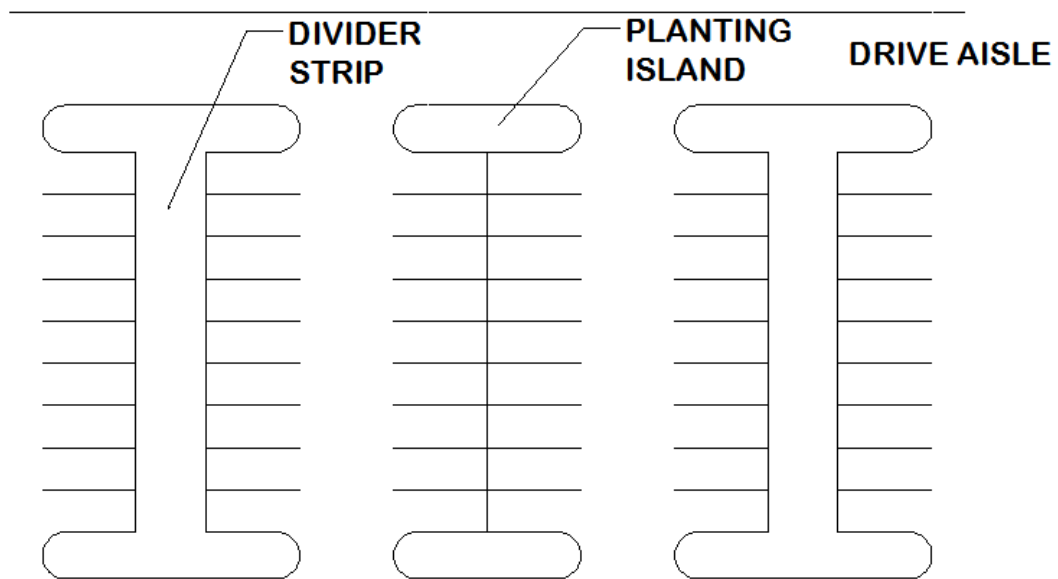
*Requirements for landscaping of parking lots can mitigate some of the effects to drivers and adjacent lot owners. The installation of adequate numbers of Shade Trees and utilizing stormwater infiltration BMP's will help the immediate environment, and may count toward MS4 requirements of applicable municipalities.*



- A. All parking lots with six (6) or more spaces shall be designed and effectively landscaped with trees and shrubs to:
- 1) Provide shade in order to reduce the amount of reflected heat.
  - 2) Reduce the visual impact of glare, headlights and parking lot lighting.
  - 3) Facilitate pedestrian circulation and safety.
  - 4) Facilitate vehicular circulation by delineating driving lanes and defining rows of parking.
  - 5) Provide one (1) Shade Tree within the parking lot, either in islands or divider strips for every ten (10) car parking spaces in the lot, or portion thereof. (See Subsections B. and C.) These trees count toward the requirements of island and divider strip landscaping, and are not in addition to those requirements.
  - 6) Provide one (1) Shade Tree for every five (5) truck, recreational vehicle, or semi-trailer parking spaces in the lot, or portion thereof. The location shall be approved by the **Municipality**. To accommodate turning maneuvers of large vehicles, trees may be located outside of the parking area in groups, infiltration areas, or fence rows.
  - 7) Provide filtering of impervious surface runoff to one or more Stormwater Infiltration BMPs contained in the Pennsylvania Stormwater BMP Manual.
- B. Planting islands (see diagram below) shall conform to the following standards:
- 1) Planting islands shall be distributed throughout the parking lot, so that one (1) planting island, a minimum of ten feet (10 $\emptyset$ ) wide by 18 $\emptyset$  long, shall be located at the each end of each parking row and at intervals of no greater than every ten (10) parking spaces. The island shall separate the last parking space from the drive aisle on each end of an interior parking row.
  - 2) In a 90° double bay parking row, the islands shall be a minimum of ten feet (10 $\emptyset$ ) wide and 36 $\emptyset$  long. Angled parking lot islands must have a minimum average of ten feet (10 $\emptyset$ ) width.
  - 3) Each planting island shall contain at least one (1) Shade Tree plus Small Shrubs, Ground Cover, and/or perennials to cover the entire area at maturity. A minimum of 50% of all trees, shrubs and perennials shall be Native Plants as defined in this Ordinance. Shrubs shall not exceed two feet (2 $\emptyset$ ) in height.
  - 4) The placement of light standards shall be coordinated with the Landscape Plan to avoid a conflict with electric lines and provide adequate lighting.
- C. Divider strips (see diagram below) shall conform to the following standards:
- 1) Divider strips shall be placed every other bay of parking running the length of the rows of parking and landscaped with plantings of Shade Trees, Large and/or Small Shrubs, and Ground Cover to cover the entire area at maturity. A bay of parking is the width of pavement needed to accommodate either one (1) or two (2) rows of parking stalls plus one (1) access lane. The use of Stormwater Infiltration BMPs is strongly recommended in divider strips, where geologic conditions are appropriate, and in accordance with the **Municipal Stormwater Management Ordinance**.

- 2) Divider strips shall be a minimum of ten feet (10ø) wide unless a sidewalk is proposed within the divider strip. If a sidewalk is proposed within the strip, the sidewalk must be placed to one side. The divider strip shall be increased in width by five feet (5ø) to accommodate the sidewalk.
- 3) A minimum of one (1) Shade Tree and three (3) Large or Small Shrubs shall be required for each 30ø of divider strip. The plants need not be spaced evenly apart; however, the maximum spacing shall be 50ø. Shrubs near the ends of divider islands shall not exceed two feet (2ø) in height at maturity so as not to block visibility. This shall not preclude the use of taller shrubs elsewhere within the divider island. Plants shall be at least 50% Native Plants. Native Ground Cover, perennials or shrubs shall be installed over the remainder of the divider island to stabilize the soil and slopes.

Parking Lot Illustration



- D. Parking lot perimeter landscaping shall be provided to visually screen parking lots, limit glare from headlights and enhance the community streetscape character, and shall conform to the following standards:
  - 1) The landscape strip shall have a minimum width of ten feet (10ø) measured from the street right-of-way or property line. Parking lots set back more than 50ø from the property line shall have the perimeter landscaping width measured from the edge of the parking lot.
  - 2) Within the landscape strip, the Screening shall consist of a combination of trees, shrubs, ground cover or earthen berms to provide a minimum four foot (4ø) height screen along property lines, and a minimum three foot (3ø) height screen along streets.
  - 3) Parking lot perimeter landscaping shall be broken only at point of vehicular or pedestrian access, and shall comply with height limitations in clear sight triangles.
  - 4) The plants shall provide an immediate visual screen of 50%, and an effective visual screen of 75% within three (3) years.

- E. Plantings shall be placed between car parking lots and buildings to break up long stretches of façade, shade the building, and provide a more comfortable pedestrian environment.
- 1) Plantings are required for all sides of a building facing car parking areas. Plantings are not required along the sides of buildings containing service or loading areas. If part of a side of the building faces parking, only that portion is subject to these requirements. Loading areas must be appropriately screened according to the requirements of Section 011 Screening.
  - 2) The minimum planting requirement shall be one (1) Shade Tree or Small Street Tree, and ten (10) Large or Small Shrubs per 50ø of building façade.
  - 3) At least 60% of the plantings shall be evergreen and at least 50% shall be Native Plants.

## **Section 010 Zoning and Use Buffers**

### **Buffers Discussion**

*Adjacent higher intensity land uses create environmental noise, light pollution, and poor views for lower intensity uses. Buffer yards utilize a mix of buffer width, landscaping and structural elements to mitigate the effects on lower intensity uses.*

*Development next to agricultural areas eliminates the pollinator habitat that serviced the farm. Buffers installed along existing agricultural lands limit farm spray drift to the developed use, and provide areas of vegetation important to the bees necessary for crop pollination. They also provide pervious areas for stormwater infiltration, and Hedgerows for wildlife habitat, as well as reduce wind soil erosion.*

*Walls and opaque fences create an immediate buffer in a narrow area. Landscape plants provide better aesthetics and reduction of noise. Berms provide good Screening of views and noise, but require greater width. A combination of these elements is desirable in commercial and industrial uses adjacent to residential uses.*

*Plant material is dynamic, and needs room to grow. A realistic timetable for most shrubs and ornamental trees would be a visual screen in five (5) years. Evergreens will take longer even when placed in multiple staggered rows. Shade trees may take ten (10) years or more to provide Screening of adjacent lights. Plant material that is planted too closely to achieve immediate Screening will have a shorter life span, and may lose Screening opacity at lower heights as lower branches die.*

Buffers required by the Zoning Ordinance and/or SALDO shall be landscaped to provide visual Screening, light and noise abatement, and safety barriers between dissimilar land uses. Buffers must include landscaping, and may include berms, walls, and fences. Buffers are adjacent to property lines.

#### **A. General Buffer Requirements:**

- 1) Existing plants may be used to meet buffer requirements, as long as the buffer width, opacity and minimum evergreen requirements are met.

- 2) Plants shall be installed so that at maturity they do not encroach on neighboring properties at less than six foot (6ø) height. Shade Trees shall be installed at least ten feet (10ø) from property lines. Plants may be grouped into beds as long as each neighboring property has a substantial visual screen to the more intensive use.
- 3) Plant material shall meet the requirements of Section 007 Plant Material.
- 4) Buffer areas not planted to trees and shrubs shall be stabilized with perennial Ground Cover, or Meadow. Meadow areas shall meet the requirements of Section 013 Meadows.
- 5) Buffers adjacent to agricultural zoning or uses shall provide Ground Cover that meets the requirements of Section 013 Meadows.
- 6) Berms are encouraged and shall conform to the following standards:
  - a) Berms shall be a minimum of two feet (2ø) in height, and shall not be steeper than three foot (3ø) horizontal distance to one foot (1ø) vertical distance (3:1).
  - b) Berms should be located to work in conjunction with vegetation, fences and/or natural features to provide an effective buffer. They shall be laid out to replicate naturally occurring landforms. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written consent of the adjacent property lot owner(s).

B. Types of Buffer Strips:

- 1) Buffer Planting Strip A is designed to block 50% of the view at six foot (6ø) height during the summer months through the use of trees and shrubs, at maturity. At least 25% of the plant material must be evergreen. This buffer strip is a minimum of 20ø wide, and must contain the following plants per 100ø of buffer length or portion thereof:
  - a) Two (2) Shade Trees, and;
  - b) One (1) Evergreen Tree, and;
  - c) 20 Large Shrubs.
- 2) Buffer Planting Strip B is designed to block 75% of the view at six foot (6ø) height through the use of trees and shrubs, at maturity. At least 50% of the plant material must be evergreen. This buffer strip is a minimum of 25ø wide, and must contain the following plants per 100ø of buffer length or portion thereof:
  - a) Three (3) Shade Trees, and;
  - b) Five (5) Evergreen Trees, and;
  - c) 25 Large Shrubs.

- 3) Buffer Planting Strip C is designed to block 100% of the view at six foot (6ø) height through the use of shrubs and trees or other structural elements, within five (5) years. At least 50% of the plant material must be evergreen. The use of higher berms or a fence or wall is recommended. The buffer strip is a minimum of 40ø wide, and must contain the following plants per 100ø of buffer length or portion thereof:
  - a) Three (3) Shade Trees, and;
  - b) Three (3) Small Street Trees, and;
  - c) Eight (8) Evergreen Trees, and;
  - d) 30 Large Shrubs.
- 4) Buffer Planting Strip D is designed to block 100% of the view at six foot height through the use of a six foot (6ø) height fence or wall and dense planting of trees and shrubs in a 20ø wide buffer strip. At least 50 percent (50%) of the plant material must be evergreen. The plants shall be located to produce the greatest reduction of light, noise and views. The buffer must contain the following plants per 100ø of buffer length or portion thereof:
  - a) Two (2) Shade Trees, and;
  - b) Eight (8) Evergreen Trees, and;
  - c) 24 Large Shrubs.

C. Buffers Required Between Zoning Districts and dissimilar uses: Buffers strips shall be planted or placed along zoning district boundaries or property lines, based on the following matrix which references the four (4) types of buffers listed above.

**TYPE OF BUFFER STRIP REQUIRED BETWEEN ZONING DISTRICTS AND USES**

PROPOSED USE OR ZONING	ADJACENT ZONING OR EXISTING USE					
	AG	LDR	HDR	INST	COM	IND
Agriculture	-	-	-	-	-	-
Low Density Residential	A	-	-	-	-	-
High Density Residential	A	A	-	-	-	-
Institutional	B	B	B	-	-	-
Commercial	C	C	C	B	-	-
Industrial	C/D	C	C/D	B	B	-

- Buffer strip not required.

**Section 011 Screening**

Screening is required for outdoor storage, off-street loading, trash collection areas, and outdoor mechanical and fuel equipment. Screening shall provide reduction of views, light and noise.

- A. Screening may include evergreen landscape plantings, berms, walls, and fences.
- B. Existing plants may be used for the Screening, as long as the height, opacity and evergreen requirements are met.

- C. Screens shall provide a 100% visual barrier to the element at a height of four feet (4ø) at the time of installation. Screens shall provide a 100% visual barrier to the element at a height of six feet (6ø) within two (2) years. Landscape plants shall be placed in multiple staggered rows.

## **Section 012 Riparian Buffers**

### **Riparian Buffers Discussion**

*PA DEP Chapter 102, Erosion and Sediment Control, regulations require Riparian Buffers of 100' width adjacent to high quality streams, and 150' width along exceptional value streams. These regulations apply to all municipalities.*

*The York County Model Stormwater Management Ordinance also contains a Riparian Buffer provision. However, it simply requires that all activities regulated by the Ordinance include "such measures as necessary to maintain or extend Riparian Buffers."*

*The Pennsylvania Stormwater BMP Manual contains guidelines for both preservation and restoration of Riparian Buffers. Restoration guidelines range from a minimum 35' width with minimal effect, to a preferred 100' width, depending on the ecological services desired. The BMP Manual indicates a higher need adjacent to first, second and third order streams – the majority of watercourses in York County. The Manual also divides the Riparian Buffer into three (3) zones, with different planting requirements to produce different water quality results. The first two (2) zones are a minimum of 75' for minimum environmental services. The BMP Manual gives guidelines for tree specie, spacing, and size ranging from seedlings to container stock.*

*The MS4 regulations have several TMDL measures that fit into this section, however, York County is not required to meet TMDL's at this time. Municipalities can take MS4 credits for requiring Riparian Buffers; forested buffers provide greater credits than Meadow buffers. The TMDL measure requires two inch (2") caliper trees, which will better withstand flood events and invasive specie competition, but fewer trees survive in drought years. The section below is written to require one inch (1") caliper trees, which is a balance between survivability, cost, and time for canopy cover.*

*The range of regulations and guidelines does not protect all streams and water bodies. For municipalities under MS4 regulation, forested Riparian Buffers offer the greatest possible credits of any landscaping, if they are adopted and enforced in development planning. York County must meet target water quality thresholds, and forested Riparian Buffers will help achieve these targets more efficiently than turf or Meadow Riparian Buffers.*

*This landscape section offers the municipality a choice of 50' or 100' widths. Both of these require reforestation efforts to stabilize the stream corridor, shade the watercourse, reduce flooding, and filter pollutants. If a Municipality has adopted a natural feature conservation or sensitive areas conservation ordinance, they will need to coordinate the appropriate location for this section.*

At a minimum, a (~~Select 100' or 50'~~) Riparian Buffer is required adjacent to all watercourses, including streams, creeks, lakes, ponds, and wetlands. The buffer width is measured from the top of bank on each side of the watercourse. When these watercourses are part of a parcel or parcels of land being subdivided, developed or redeveloped, the buffer shall be planted or maintained as woodlands in accordance with the following:

- A. Existing trees may be used to meet buffer requirements, as long as the trees provide continuous canopy or are spaced less than 25' apart.
- B. Plant material shall conform to Section 007 Plant Material.
- C. Within 50' of a watercourse, the area shall be planted with Shade Trees at a spacing not to exceed 25'. Plantings shall not be precisely arranged in geometric rows, but shall be arranged to allow periodic mowing to control invasive species. Utilize the Pennsylvania Stormwater BMP Manual for guidance on Native Plant selection. No permanent structures or pavement are allowed within this 50' buffer, except for permitted road crossings and stormwater management structures. Areas of utility rights-of-way and clear sight triangles may be planted as Meadow, provided that woody plants are restricted or prohibited.
- D. (**Leave this subsection in place for 100' buffers; delete for 50' buffers**) Between 50' and 100' the area shall be planted in Shade Trees and/or Large Shrubs at a spacing that will result in a full canopy at maturity. Trees shall be one inch (1") in caliper at installation. Utilize the Pennsylvania Stormwater BMP Manual for guidance on Native Plant selection, sizing and spacing. No permanent structures or pavement are allowed within this 50' buffer, except for permitted road crossings and stormwater management structures.

## **Section 013 Meadows**

### **Meadows Discussion**

*Meadows provide ecological services of soil enhancement, soil erosion control, and wildlife and pollinator habitat. They usually contain a mix of Native grasses and flowering perennials, and occasionally Native trees or shrubs. Meadows provide different specific ecological services by the specific mix of grasses and flowering plants they contain.*

*Meadows require fewer soil inputs of fertilizer, and less energy to maintain. Meadow plants are usually taller than turf, and may be maintained by mowing once or twice per year. To promote biodiversity, and pollinator habitat, Meadows are designed for less maintenance, cutting, weeding, and watering. Meadows do not appear the same as manicured gardens, and dead seed heads are left standing for the winter to benefit wildlife.*

*Meadows provided as the Ground Cover in Hedgerows provide the shelter, food, and reproduction areas necessary for native bees to support agriculture. Not compacting the soil by mowing, leaving stems standing through the winter, and selection of Native Plants helps both native bees and European Honeybees.*

Meadows may be used in place of Groundcover (see Section 007 Plant Material) or turf in any area required to be landscaped, according to the following:

- A. All plants installed in a Meadow shall be Native Plants. No plants on the DCNR Invasive Species List including Watch List species, or the PA Department of Agriculture Noxious Weeds List, shall be allowed to grow in the Meadow.
- B. Meadows shall consist of a minimum of three (3) grass species and four (4) flowering perennial species. Meadows may be installed using seed or plants.
- C. A Meadow planting shall have a minimum four foot (4') wide mown turf border along any road or property line. A minimum four foot (4') height visual barrier may be used in place of the turf border between the Meadow and a property line.
- D. The mature height of a Meadow must meet all requirements for plant material in a clear sight triangle.
- E. Meadows may not be mown more than twice per year; once in March or April to cut stems that were left standing through the winter, and once more if needed to control invasive species.

#### **Section 014 Guarantee and Maintenance**

##### **Guarantee and Maintenance Discussion**

*If the municipality has adopted the York County Model Stormwater Management (SWM) Ordinance as written, the Operations and Maintenance (O & M) section for trees can be used to secure the Landscape Guarantee. This O & M section, as written, is a permanent easement requiring the care and replacement of trees in perpetuity. It can be expanded to cover other landscaping, such as parking lot trees. If using the SWM Model Ordinance O & M provision, this Section of the Sustainable Landscaping Ordinance should reference it.*

*If the SWM Model Ordinance was modified to remove this portion, or not yet adopted, the municipality will need to include this Section. This Section relies on bonding to require maintenance of plants for a period of 18 months, and an additional 18 months for replacements.*

*MS4 regulations require Riparian Buffers to be in place permanently if credit is taken for the plantings. The municipality has little leverage to require the replacement of plantings after the bond has been released.*

The estimated, or if known, the actual cost of all landscape materials depicted on the approved Landscape Plan and installation costs shall be provided and be financially secured, guaranteed and maintained consistent with the following subsections. For the purposes of Section 014 only, the term Landscape Plan shall also apply to the required landscape vegetation and elements depicted on a Minor Subdivision Plan.

- A. All landscape improvements to be provided shall be installed and maintained by accepted practices as recognized by the ANLA. Planting and maintenance of vegetation shall include, as appropriate, but not necessarily limited to, provisions for surface mulch, staking and guying, tree straightening, irrigation, fertilization, insect and disease control, pruning, mulching, weeding, and watering.



- B. The applicant shall make arrangements acceptable to the **Municipality** that all landscape improvements installed in accordance with this Ordinance shall be guaranteed and maintained in a healthy and/or sound condition, or otherwise be replaced by equivalent improvements, for a period of 18 months following their installation, except as may otherwise be required by this Section.
- C. After installation and prior to commencement of the guarantee period required above, the **Municipality** shall perform an inspection of the finished site for compliance with the approved Landscape Plan. Following this inspection, an as-built Landscape Plan shall be furnished to the **Municipality** by the applicant. Provided the finished site is found to be in compliance, the first 18 month guarantee period shall commence five (5) days from the date of inspection. All plants shall be in a vigorous and thriving condition at the end of the 18 month period as determined above. Final inspection of the site following the 18 month period will be made by the **Municipality**. It is recommended that trees and shrubs be planted between September 15 and November 1 or between March 1 and May 1.
- D. Plants found to be in poor health during the 18 month guarantee period shall be replaced with nursery-grown plants, in accordance with the approved Landscape Plan, within 30 days of being notified by the **Municipality**. If notification is made out of season, replacements shall be made during the next planting season. If the original plants declined due to poor species selection, substitute plants, determined by the **Municipality** to be more suitable for the site's environmental conditions or planting scheme, shall be used, and a modified Landscape Plan shall be filed with the **Municipality**. Replacement plants shall be inspected by the **Municipality** after installation. All replacement plants shall be subject to a new 18 month guarantee period and inspections by the **Municipality** as prescribed in Subsections B. and C. above.
- E. Where accidental damage or vandalism of plants occurs, the applicant shall replace the damaged plant material in accordance with the original or an approved modified Landscape Plan.
- F. The applicant shall be required to post financial security for the maintenance and/or replacement of the proposed vegetation, including compensatory plantings, during the 18 month guarantee period. The amount of the financial security shall be equal to 110% of the amount of the cost estimate submitted with the approved Landscape Plan. In addition, financial security shall be required for existing trees to remain where soil disturbance is within the dripline, if the trees are counted toward any requirement of the Sustainable Landscaping Ordinance. Financial security is not required for existing preserved trees outside the construction limits or for material not being used to satisfy the minimum requirements of this Ordinance.
- G. The applicant shall make arrangements acceptable to the **Municipality** for the long-term landscape maintenance of common lands and facilities. The applicant shall provide the names, addresses and telephone numbers of those persons or organizations who will be assuming such responsibilities. Landscape improvements required by this Ordinance shall be the subject of suitable restrictive covenants and, if practicable, rules and regulations governing the use and maintenance of common land and facilities, which covenants, rules and regulations shall be in form and substance acceptable to the **Municipal** Solicitor and, in the case of covenants, recorded as encumbrances running with the land on which the improvements are installed. The covenants, rules and regulations shall, without limiting the forgoing, require the maintenance and replacement, and

prohibit the destruction or removal, of all landscape materials and improvements depicted on the approved Landscape Plan, empower the **Municipality** to enforce said obligations, and prohibit the amendment or termination of any of the mandatory terms thereof without the express joiner of the **Municipality**.

#### **Section 015 Right of Entry**

Upon presentation of proper credentials, the **Municipality** may enter at reasonable times upon any property within the municipality to inspect the condition of the landscape in regard to any aspect regulated by this Ordinance.

#### **Section 016 Enforcement**

- A. It shall be unlawful for a person to undertake any regulated activity, except as provided in an approved Landscape Plan.
- B. It shall be unlawful to violate any Section of this Ordinance.
- C. Inspections regarding compliance with the Landscape Plan and Guarantee are a responsibility of the **Municipality**.

#### **Section 017 Suspension and Revocation**

- A. Any approval issued by the **Municipality** pursuant to this Ordinance may be suspended or revoked for:
  - 1) Non-compliance with or failure to implement any provision of the approved Landscape Plan or **O&M Agreement**.
  - 2) A violation of any provision of this Ordinance or any other applicable law, ordinance, rule, or regulation relating to the Regulated Activity.
  - 3) The creation of any condition or the commission of any act during the Regulated Activity which constitutes or creates a hazard, nuisance, pollution, or endangers the life or property of others.
- B. A suspended approval shall be reinstated by the **Municipality** when:
  - 1) The **Municipality** has inspected and approved the corrections to the violations that caused the suspension.
  - 2) The **Municipality** is satisfied that the violation has been corrected.
- C. An approval that has been revoked by the **Municipality** cannot be reinstated. The applicant may apply for a new approval under the provisions of this Ordinance.
- D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, the **Municipality** may provide a limited time period for the lot owner to correct the violation. In these cases, the **Municipality** will provide the lot owner, or the lot owner's designee, with a written notice of the violation and the time period allowed for the lot owner to correct the violation. If the lot owner does not correct the violation within the allowed time period, the **Municipality** may revoke or suspend any, or all, applicable approvals pertaining to any provision of this Ordinance.

**Section 018 Penalties**

**(Municipalities should confer with their solicitors to provide appropriate wording and a judgment amount for this section.)**

- A. Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the **Municipality**, pay a judgment of not more than (\$\_\_\_\_\_). No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the **Municipality** may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- B. The **Municipality** may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

**Section 019 Appeals**

- A. Any person aggrieved by any action of the **Municipality** or its designee, relevant to the provisions of this Ordinance, may appeal to the **Municipality** within 30 days of that action.
- B. Any person aggrieved by any decision of the **Municipality**, relevant to the provisions of this Ordinance, may appeal to the York County Court of Common Pleas within 30 days of the **Municipality's** decision.