

Chapter 24

LANDSCAPING, BUFFERING AND OPEN SPACE*

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***Editor's note**—Ord No 92-42, § 1, approved Dec 15, 1992, deleted in its entirety, in effect repealed, former Ch 24, which pertained to landscaping, and enacted similar new provisions as set out in this chapter. Formerly, Ch 24 consisted of substantive §§ 24-26—24-35, and derived from §§ 19A 11—19A-19, 19A-22 of the county's 1965 Code as amended by Ord No 74-1, §§ 1—7, 7A, 8, 11, approved Jan 8, 1974.

Charter reference—General powers of county, § 103

Cross references—Buildings and construction regulations, ch 9, environmental control, ch 15, tree protection and removal, § 15-276 et seq, planning and development, ch 30, subdivision regulations, ch 34, zoning, ch 38, landscaping in public rights-of-way, § 21-240

State law references—Powers of chartered counties, Fla Const art VIII, § 1(g), adoption of land development regulations, FS § 163 3194(2)

ARTICLE I. IN GENERAL

Sec. 24-1. Purpose and intent.

These regulations are enacted by the county for the purpose of the following

- (1) Maintaining and protecting property values,
 - (2) Providing an acceptable degree of transition between abutting uses,
 - (3) Providing appropriate barriers and relief from traffic, noise, heat, glare, and the spread of dust and debris,
 - (4) Conserving and extending the county's water supply and natural resources through the implementation of water-efficient landscape practices,
 - (5) Enhancing the visual and aesthetic appearance of the community, and
 - (6) Preserving the natural terrain and vegetation where possible
- (Ord No 92-42, § 1, 12-15-92)

Sec. 24-2. Definitions

As used in this chapter/article, the following terms shall have the meanings given herein

Berms Maximum slope permitted is three-to-one (3:1). Berms must be completely covered with shrubs, sod or other landscape quality living ground cover

Buffer yard A land area, together with a specified type and quantity of planting and/or structures thereon, required between abutting land uses to eliminate or minimize the impacts of one (1) or both such land uses on each other

Caliper A measurement of the size of a tree equal to the diameter of its trunk six (6) inches above the top of the root ball

Certificate of completion An official document issued by the county evidencing that facilities constructed in support of a subdivision have been completed in a form and manner acceptable to the county

Certificate of occupancy (CO) Certificate of occupancy shall mean an official document evidencing that a building satisfies the requirements of the county for the occupancy of the building

Change of use Change of use shall mean a change from one (1) zoning use classification to another

Encroachment The protrusion of a vehicle into a vehicular accessway, pedestrian way or landscaped area

Ground cover Plants used in mass to replace lawn or create variety in landscape design, usually not having a mature height over two (2) feet tall and as listed in the Florida Friendly Plant List. This term does not include turf, turf grass, or sod

Hedge A close planting of shrubs which forms a compact, dense, living barrier which protects, shields, separates or demarcates an area from view and which is eighty (80) percent opaque within twelve (12) months from planting. Material used shall be a minimum of five (5) gallon plants and not be less than thirty (30) inches in height at the time of planting

Landscape architect Landscape architect shall have the meaning as ascribed in FS (2009) ch 481, pt II

Landscape plan A scaled plan that clearly delineates vehicular use areas, and displays and describes all landscaping, to include method of irrigation and maintenance of the landscaped areas

Landscaping The use of plants, construction and grading to create a desired effect. Landscaping elements may consist of, but are not limited to, turf and other ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape features such as rock, fountains, sculpture, decorative walls and tree wells

Low impact development techniques Land planning and engineering designed with a goal to maintaining and enhancing the predevelopment (or redevelopment) hydrologic regime of urban and developing watersheds

Masonry wall A wall and footing constructed of masonry material and meeting the requirements of the Southern Building Code

Qualified professional For projects other than single-family and two-family dwellings on individual lots, qualified professionals can be an engineer, architect or landscape architect registered in the state or any nurseryman, nursery stock dealer, or agent as defined by FS ch 581, who is required under ch 581 to hold a valid license issued by the division of plant industry of the department of agriculture and consumer services and who does hold a valid license to engage in the selling of nursery stock in this state, insofar as he engages in the preparation of plans or drawings as an adjunct to merchandising his product, so long as he does not use the title, term or designation "landscape architect," "landscape architectural," "landscape architecture," "L A," "landscape engineering," or any description tending to convey the impression that he is a landscape architect unless he is registered as provided in FS ch 481, or is exempt

Reuse water Water that has received at least secondary treatment and is reused after flowing out of a wastewater treatment system

Service area An equipment area, loading area or dock, trash collection area, trash compaction area, truck parking area, recycling area, or other similar service function area

Shade tree or canopy tree Acceptable species shall mean a tree species which features a minimum mature canopy spread of at least twenty-five (25) feet, as described in the Florida Friendly Plant List At the time of installation, each shade tree must be a minimum of ten (10) feet tall, with a minimum caliper of three (3) inches as measured twelve (12) inches above the root ball Depending on the proposed location and growing conditions, other tree species not listed in the Florida Friendly Plant List may be considered by the Orange County Zoning Manager or designee

Site plan review Site plan review refers to commercial site plan review (chapter 30, Orange County Code)

Turf, turf grass or sod A mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Paspalum, St Augustine, and Zoysia

Understory trees Acceptable species shall mean a tree species which features a maximum mature canopy spread of no more than twenty (20) feet, as described within the Florida Friendly Plant List At the time of installation, each understory tree must be a minimum of seven (7) feet tall, with a minimum caliper of two (2) inches as measured six (6) inches above the root ball Depending on the proposed location and growing conditions, other tree species not listed in the Florida Friendly Plant List may be considered by the Orange County Zoning Manager or his/her designee

Vehicular use area Any ground surface area (paved or unpaved) used for storage, display, temporary parking and/or maneuvering of vehicles by employees or customers, either for compensation or to provide an accessory service to a commercial, industrial or residential use, excluding single-family and duplex residences

Water-efficient landscaping Landscaping that maximizes the conservation of water, via the application of one (1) or more of the principles of Xeriscape™

Xeriscape™ or Florida friendly landscaping A set of design and maintenance principles which reduce nonpoint source pollution and promote good horticultural practice and economic and efficient use of water The terms Xeriscape and Florida friendly landscape may be used interchangeably in this Code, however, for purposes of determining or certifying when Florida friendly landscaping is used in landscape planning the term shall be more specifically defined in that section of Code so as to be consistent with FS (2009) § 373 185(1)(b)

Zoning manager The manager of the Orange County Zoning Division, or his authorized designee (Ord No 92-42, § 1, 12-15-92, Ord No 2001-14, § 3, 6-19-01, Ord No 2009-25, § 1, 9-22-09)

**Sec 24-3. Commercial site plan review—
Applicability; certificates of occupancy; maintenance; penalties; deviations**

(a) *Applicability* The provisions of this chapter shall apply to the development of all real property including all structures, whether temporary or permanent, in unincorporated Orange County that is subject to commercial site plan review (chapter 30), unless otherwise found exempt by this chapter. Landscape requirements for preliminary subdivision plans (PSP) are included at section 34-131 of this Code.

(b) *Landscape plan submittal requirements* Construction requiring site plan review shall not be permitted until a landscape plan consistent with this Code has been submitted to and approved by the zoning manager. Landscape plans for projects totaling more than one-half (1/2) acre in size shall be prepared, signed and sealed by a registered landscape architect. Landscape plans for projects of one-half (1/2) acre in size or less shall be prepared and submitted by a registered landscape architect or other qualified professional. The landscape plans shall be drawn to a scale of one (1) inch equals ten (10) feet, one (1) inch equals twenty (20) feet, or one (1) inch equals thirty (30) feet. The following information shall be shown on the landscape plan or attached thereto:

- (1) Notation of all elements required per chapter 24 and other special requirements and/or approved conditions placed on the applicant, project or property by the board of zoning adjustment, planning and zoning commission, development review committee or board of county commissioners,
- (2) The "limit of work" line for the subject project to include any adjacent property trees located up to ten (10) feet beyond the property line,
- (3) All overhead utility lines, transformers, easements, and underground utilities, including septic tank drainfields, sidewalks located within the project, and ground or pole signs as defined in chapter 31,
- (4) All existing and proposed light poles, fire hydrants, and backflow prevention devices,

- (5) Building finished floor elevation(s) and building overhang(s),
- (6) Proposed site grading, including spot elevations, and contour lines at one-foot intervals,
- (7) Healthy and viable existing on-site trees and shrubs of a Code-acceptable size, species and location that are intended to be preserved and applied toward the requirements of this chapter. Details of the protective barriers and/or other protective measures to be used for said preservation shall be provided,
- (8) Notes indicating that all existing invasive exotic plants, as listed on the Florida Exotic Pest Plant Council's Invasive Plant Species List, shall be removed (any disturbance of a wetland area requires compliance with chapter 15 of this Code and review by the county's environmental protection division), and
- (9) A plant schedule which describes the following:
 - a All proposed landscape materials, including the specifications as to the species, size, spacing, opacity, and quantity of plant materials, and
 - b Where required, calculations demonstrating that the required ratio of high, medium, or low water use plant material, as more fully described in section 24-6 of this Code, has been achieved in the proposed plan, and
 - c In all cases, a certification from the landscape architect or other qualified professional, whichever is appropriate, that the landscape plan is designed in accordance with this Code.

(c) *Exemptions* The redevelopment, reconfiguration, expansion or change of use of a previously developed site requiring site plan review must comply with all elements of this chapter, unless any of the following exemptions apply:

- (1) The provisions of this Code shall not apply to any property, structure or building

for which a building permit has been issued by the county building official, a complete application for a building permit has been submitted to the county building department, a complete application for a development plan or preliminary subdivision plan has been submitted to the county, prior to December 31, 1992

- (2) Existing development of five thousand (5,000) square feet or less if the expansion is less than fifteen hundred (1,500) square feet
- (3) Existing development greater than five thousand (5,000) square feet if the expansion is less than twenty (20) percent of the existing gross floor area on the parcel or lot, and not in excess of five thousand (5,000) square feet

(d) *Aggregated*

- (1) Expansions exempt via (c)(2) or (3) shall be aggregated over the five-year period following the issuance of a building permit. If at any time during that five-year period additional permit(s) for expansion exceed that allowed by exemptions in (c)(2) or (3), the permit for construction that exceeds the exempted amount shall require full compliance with this chapter
- (2) The exemptions provided for in (c)(2) and (3) do not apply to new vehicular use areas that may be associated with the exempt development

(e) *Final approval and acceptance* No final certificate of occupancy/completion shall be given or issued to the owner or his/her agent until all conditions of this chapter have been met and the zoning division has granted final approval and acceptance of the finished landscape product. Final approval shall include either a landscape inspection conducted by the zoning division or as-built certification from a landscape architect or other qualified professional, whichever is appropriate, that the landscaping is installed and functioning as intended. A temporary certificate of occupancy/completion may be issued in those instances where all site improvements except landscaping have been completed, and where electri-

cal power is required to operate irrigation, or where lighting is needed to conduct preliminary business within the permitted structures or where weather conditions are not conducive to planting. Such temporary issuance is subject to the developer of the project certifying in writing that the required landscaping, as depicted on the approved plan, will be installed within a time period acceptable to the zoning manager. The applicant may be required to post as surety a letter of credit or cash escrow with the board of county commissioners in a form acceptable to the county. Such surety, if posted, shall be in an amount no less than one hundred twenty-five (125) percent of the estimated cost of completing the approved landscape plan including, but not limited to, plant material, irrigation and labor. Failure to satisfactorily complete the required landscaping within the specified time period shall be grounds for the immediate and summary revocation of the temporary certificate of occupancy/completion by the county and/or the forfeiture of the bond fund.

(f) *Maintenance* All requisite landscaping, whether preserved or newly planted, must demonstrate health and viability after issuance of the certificate of occupancy/completion. The county may perform a courtesy inspection of the landscaping within ninety (90) days after issuance of the certificate of occupancy/completion. If the landscaping appears to be under stress, staff shall notify the property owner. A compliance inspection will be performed approximately one (1) year after issuance of a certificate of occupancy/completion, or after actual landscape installation, whichever occurred last. Alternatively, a landscape architect or other qualified professional, whichever is appropriate, may certify in writing to the zoning division that the landscape functions as designed and has been maintained properly. If the landscaping is not viable, notice shall be given to the property owner, and the property owner shall be responsible for restoring the landscaping within a time period acceptable to the zoning manager.

(g) *Penalties* Failure to have viable landscaping consistent with the approved landscape plan shall constitute a violation subject to penalties and shall be prosecuted and punished in accordance with Orange County Code section 1-9. The

board of county commissioners may bring suit in the circuit court to restrain, enjoin or otherwise prevent violation of and/or enforce compliance with this chapter

(h) *Deviations from regulations, variances* The provisions of this chapter shall be liberally construed in order to effectively carry out the purpose of this chapter in the interest of the health, safety and welfare of the residents of the county. The zoning manager is authorized to grant deviations from this chapter where the application of this chapter to a specific site would result in a practical difficulty or a physical hardship affecting the economic use of the property. Where substantial deviation from this chapter is proposed, that in the opinion of the zoning manager does not further the intent and purpose of this chapter, the board of county commissioners may consider an appeal of the zoning manager's decision, pursuant to the standards contained in Orange County Code section 34-27. In applying section 34-27 to a variance request hereunder, the term "subdivision improvements" shall be interpreted to mean "landscaping improvements."

(i) Nothing in this chapter shall be construed to prohibit or be enforced to prohibit any property owner from implementing county-approved low impact development techniques for storm water management and capture or Florida friendly landscaping on his/her land (Ord No 92-42, § 1, 12-15-92, Ord No 2001-14, § 4, 6-19-01, Ord No 2009-25, § 2, 9-22-09)

Sec. 24-4 General design and development standards

The requirements of this section shall apply in all circumstances, unless otherwise specified in this chapter. When a required buffer lies within ten (10) feet of an above ground power or other utility line, understory trees may be planted in the affected buffer in lieu of shade trees. However, in such instance, the understory trees shall be a minimum of seven (7) feet in height, have at least a two-inch caliper, and shall be planted at a rate of one (1) tree for every twenty-five (25) feet.

(a) Vehicular use areas

(1) *Landscaping adjacent to right-of-way/roadway* Where a vehicular use area lies

adjacent to a public or private roadway (a vehicular use area shall be deemed adjacent to the roadway) if it lies within seventy-five (75) feet of the roadway, landscaping shall be provided as follows:

- a A landscape strip at least seven (7) feet in width. Groundcover shall be used on this landscape strip, however, turf, turf grass or sod shall not be permitted for use on this landscape strip.
 - b One (1) shade tree for each forty (40) lineal feet, or fraction thereof,
 - c A continuous hedge at least thirty (30) inches high at planting of a species capable of growing to at least thirty-six (36) inches in height within eighteen (18) months, which hedge shall be maintained at a height not less than thirty-six (36) inches. The height of the hedge shall be measured from parking lot grade, and
 - d Where wheel stops are not used, the required plantings shall not be planted within two (2) feet of the curb, to allow for vehicle overhang.
 - e Reasonable breaks in landscaping in vehicular use areas shall be made to allow pedestrian access through parking areas to points of destination.
- (2) *Landscaping adjacent to other properties* Where a vehicular use area is adjacent to other property (a vehicular use area shall be deemed adjacent to other property if it lies within thirty (30) feet of the property boundary), landscaping shall be installed to screen the vehicular use area from the adjacent properties as follows:
- a Where a vehicular use area is adjacent to properties zoned or designated for residential use on the official zoning maps or the future land use map of the comprehensive policy plan, a landscape buffer shall be provided. The buffer shall be completely opaque from the ground to height of at least six (6) feet and shall be a minimum of seven (7) feet

in width. The buffer may utilize a masonry wall, berm, planted and/or existing vegetation, or any combination thereof which maintains the minimum requirements. The buffer shall be four (4) feet in height and seventy (70) percent opaque at planting and be capable of attaining full height and opacity within three (3) years. The buffer shall have at least one (1) shade tree every fifty (50) feet of common lot line or fraction thereof.

- b Where the adjacent property is zoned or designated for nonresidential use, or where the adjacent property maintains a conforming hedge, hedge/berm or wall, the provisions of subsection (a)(2)a above may not apply, except for the tree planting provisions, which provision shall apply along the property line regardless of the proximity of the vehicular use area.
- c For sites where spacing between non-residential structures is ten (10) feet or more, regardless of whether the separation is utilized for a vehicular use area, a shade tree at fifty (50) foot on center shall be planted to comply with subsection 9-118(m)(1).
- d The provisions of this section shall not apply in the following situations:
 - 1 When the property line abuts a dedicated alley or railroad right-of-way, and/or
 - 2 For those portions of the property where a nonresidential structure is opposite and within ten (10) feet of another nonresidential structure located on the abutting property.
- e Plantings required in this section may be counted against the buffer requirements of section 24-5.
- f Reasonable breaks in landscaping in vehicular use areas shall be made to allow pedestrian access through parking areas to points of destination.

(3) *Interior landscaping* Landscaped areas shall be provided within any interior vehicular use areas to provide visual and climatic relief from broad expanses of pavement and to define logical areas for pedestrian and vehicular circulation. This subsection shall only apply to paved vehicular use areas used for employee and customer parking and maneuvering.

- a An interior vehicular use areas shall be deemed to consist of all vehicular use areas except for those parking spaces located contiguous to a perimeter for which a landscape screen (hedge and trees) is required.
- b At least ten (10) percent of the interior vehicular use area for properties in C-1, C-2 or C-3 zoning districts, non-ancillary commercial uses permitted in the P-O zoning district by special exception, and commercial components of a PD shall be landscaped. Otherwise, at least five (5) percent of the remaining interior vehicular use area shall be landscaped.
- c Each separate landscaped area shall be a minimum of twenty-five (25) square feet, with one (1) shade tree planted for each one hundred (100) square feet of required interior landscaping. All landscaped areas adjacent to parking areas shall be protected from vehicle encroachment by curbing or wheel stops.
- d A maximum of ten (10) continuous parking spaces shall be permitted without a landscape break. The landscape break shall be a minimum of eight (8) feet in length and eight (8) feet in width and include one (1) shade tree of an acceptable species. Landscape breaks that are head-to-head and are eight (8) feet by sixteen (16) feet shall require two (2) shade trees. The shade tree shall be a minimum of ten (10) feet in height with a three-inch caliper. As an alternative, landscaped seven-foot wide center medians located between all lin-

each row of parking which face head-to-head may be provided, with one (1) shade tree provided per sixty (60) lineal feet of median

- e A landscaped island (singular or head-to-head) shall be required at the ends of each row of parking spaces. Where singular, one (1) tree shall be required. Where head-to-head, two (2) trees shall be required.
- f Turf, turf grass, or sod shall not be permitted for use in landscape areas within any interior vehicle use areas.

(b) *Intersection visibility* When an accessway intersects a public right-of-way, landscaping shall be used to define the intersection, provided, however, that all landscaping within the triangular areas described in subsections (b)(1) and (2) below shall provide unobstructed cross-visibility at a level between two (2) feet in height and six (6) feet in height. Trees and foliage shall be periodically pruned and trimmed so that no limbs or foliage extend into the cross-visibility zone. Landscaping, except for grass and similar low ground cover, shall not be located closer than three (3) feet from the edge of any accessway. The triangular areas referenced above shall satisfy the following dimensional requirements, except to the extent deemed unnecessary by the county engineer:

- (1) The areas of property on both sides of an accessway formed by the intersection of each side of the accessway and the public right-of-way line with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third side being a line connecting the ends of the other sides, and
- (2) The area of property located at a corner formed by the intersection of two (2) or more public rights-of-way with two (2) sides of the triangular area being measured thirty (30) feet in length along the abutting edges of pavement, from their point of intersection, and the third being a line connecting the ends of the other two (2) lines.

(c) *Parking garages* Perimeter landscaping required for parking garages shall be the same as for buildings.

(d) *Building perimeter* A landscaped area shall be provided between all buildings and the public right-of-way and along the primary facade:

- (1) The landscaped area shall be equal to the full linear length of the building base oriented toward the public right-of-way and have a minimum depth of eight (8) feet.
- (2) At least fifty (50) percent of the required landscaped area shall consist of landscaping capable of achieving a minimum of thirty (30) inches in height, with one (1) shade tree planted for each twenty-five (25) feet or fraction thereof of the lineal building facade, or one (1) understory tree or palm tree planted for each fifteen (15) feet or fraction thereof of the lineal building facade.
- (3) The layout of the required landscape shall be at the discretion of the owner, such that the required square footage may be aggregated to provide maximum aesthetic value. However, each perimeter requiring landscape must have at least fifty (50) percent of the required landscape along that perimeter.

(e) *Service areas* A service area visible from a public right-of-way or abutting other property shall be screened by a masonry wall and landscape buffer. The wall shall be a minimum of six (6) feet in height using architectural design, materials and colors that are consistent with those of the primary structure. The landscape buffer shall be a minimum of five (5) feet in width, a minimum of three (3) feet in height, fifty (50) percent opaque at planting and capable of attaining a height of five (5) feet and seventy-five (75) percent opacity within eighteen (18) months.

(f) *Solid waste storage areas* A solid waste refuse facility shall be screened on three (3) sides by a six-foot high masonry wall and landscaped pursuant to the requirements of subsection (e) if

it is located within the building setback area or located in an areas visible to customers or from a public right-of-way

(g) *Screening walls* A walls on a side property lines shall be no more than four (4) feet in height where it projects forward of the building setback line Landscaping shall be provided in the form of hedge and shrubs planted adjacent to the wall, and shall be equal to at least twenty-five (25) percent of its length

(h) *Open storage areas* An open storage area shall not be permitted unless it is totally screened from the public right-of-way and any adjacent properties An open storage area shall be screened by a six-foot high masonry wall or ten-foot wide landscape buffer The landscape buffer must be a minimum of three (3) feet in height and fifty (50) percent opaque at planting and be capable of attaining a height of five (5) feet and seventy-five (75) percent opaqueness within eighteen (18) months

(i) *Merchandise display areas on properties zoned C-2 or C-3 and commercial components of PDs* A merchandise display areas (e g , garden centers), that is visible from a public right-of-way shall be fenced by a vinyl coated chain-link or other decorative metal fencing Additionally, the merchandise display area shall be landscaped, integrated into the design of the primary structure using landscaping adjacent to the perimeter, and utilize one of the following techniques

- (1) Masonry columns constructed of the same materials and color of the main building, spaced a minimum of twenty-five (25) feet apart, or
- (2) A freestanding wall constructed of the same material, color, height and style of the main building along the entire length of the fenced merchandise display area that covers at least fifty (50) percent of the fenced storage area

(j) *Landscaping of drive-through windows and lanes adjacent to or visible from public or private rights-of-way or roadways* An eight-foot wide buffer (for primary facade) or five-foot wide buffer (for secondary facade) and of an appropriate length, shall be required The buffer shall be a minimum

of three (3) feet in height and fifty (50) percent opaque at planting, be maintained at a minimum of three (3) feet and be capable of attaining a height of five (5) feet, and be seventy-five (75) percent opaque within eighteen (18) months The buffer shall contain understory trees and/or palm trees consistent with the appropriate primary or secondary facade requirements

(k) *Big box developments* Big box developments (defined in section 38-1 of this Code) shall adhere to the following requirements

- (1) Earth berming shall be required within all perimeter edge buffers located between parking areas and adjacent street rights-of-way Such berming shall achieve a minimum finished-grade height of twenty-four (24) inches above the finished grade of either
 - a The top of the adjacent planter curb, or
 - b The adjacent sidewalk, whichever is higher

However, in no case may the slopes of any berms exceed a 3 1 slope Such bermed perimeter planting buffer strips shall incorporate a continuous line of shrubs, at least two (2) rows deep Groundcover plantings shall be incorporated within the planting design Curvilinear shrub and groundcover planting patterns (in lieu of straight-line planting patterns) which meander within the planting strip, and across the top of berms, shall be encouraged

- (2) Eight-foot high masonry or pre-cast concrete walls shall be required along all perimeter edge buffers which are adjacent to residentially-zoned properties Such eight-foot high walls shall include columns which project a minimum of six (6) inches from the face of the adjacent wall segments The columns shall be spaced no more than fifty (50) feet on-center, shall extend a minimum of eight (8) inches above the height of the adjacent wall segments, and shall incorporate a flared finial or cap component Furthermore, the wall segments between columns shall incorporate a continuous, flared cap block