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## **Sec. 38-241. Definitions.**

The following words, terms, and phrases, when used in the article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City* means the City of Arvada.

*City manager* or *manager* means the manager of the city or designee thereof.

*City property* means and includes all real property owned by, leased to, or under the control of the city, including, but not limited to, all public rights-of-way, streets, alleys, thoroughfares, parks, squares, open spaces, trails, non-publicly accessible buildings, and non-publicly accessible spaces.

*Landscaping* means trees, shrubs, vines, plants, hedges, flowers, flowerbeds or other similar vegetation.

*Maintain* or *maintenance* means any and all work performed on landscaping including, but not limited to, planting, watering, pruning, removing, stump grinding, treating for insects or diseases, protecting and enhancing soils, or preserving and protecting during construction.

*Personal property* means swings, swing-sets, game areas, bike ramps, paths, irrigation systems, sandboxes, fire pits, or other similar items.

*Private property* means all land and improvements, including fixtures and appurtenances, located within the property lines of a property that is not owned by the city or another governmental entity.

*Property owner* or *owner* means any person or entity having a legal or equitable interest in privately-owned real property and its fixtures and appurtenances, including the interests of a tenant or lessee.

*Right-of-way* means the entire area between the curb, or street where no curb exists, and the property line of a property, and between the centerline of the alley and the property line of a property.

(Ord. No. 4760 , § 1, 4-19-2021)

## **Sec. 38-242. Authority of the city regarding the maintenance of landscaping.**

- (a) The city has the power to maintain and protect all landscaping within, over, or upon city property.
- (b) Landscaping on private property or between the property line and any adjacent city property shall not:
  - (1) Project into the right-of-way;
  - (2) Be diseased or infested;
  - (3) Pose an unreasonable risk of injury or damage to persons or property on adjacent private property, city property, or rights-of-way;
  - (4) Obstruct the view of vehicular traffic or pedestrians traveling on the right-of-way; or
  - (5) Encroach within, over, or upon city property.
- (c) If landscaping meets one or more of the criteria in subsections (b)(1)—(5) of this section, the city manager may:
  - (1) Without notice to the property owner, maintain the landscaping at issue up to the private property line; or
  - (2) Require the owner of the private property, at the expense of the owner, to maintain such landscaping by:

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- (i) Serving a written notice on the owner describing the landscaping at issue and maintenance required. The notice will require the property owner within 14 days of service of the notice to maintain the landscaping located on the private property, or between the property line and any adjacent city property, or that encroaches onto, over, or within city property. The notice shall be served by handing the same to the owner, posting the notice in a conspicuous place on the subject private property, or sending the notice to the owner at the subject private property or the owner's residence by certified mail return receipt requested. A property owner must comply with the requirements stated in the notice within 14 days of service upon the property owner; and
  - (ii) If the owner fails to comply with the provisions of the notice, the city manager may enter the private property and maintain the landscaping described in the notice. If the manager maintains the landscape as set forth in this subsection, the manager shall file a lien pursuant to the provisions of chapter 59, Municipal liens, for any expenses incurred by the city in the maintaining of such landscaping.

(Ord. No. 4760 , § 1, 4-19-2021)

### **Sec. 38-244. Injuring or removing trees on city property.**

- (a) It shall be unlawful for any person to negligently, recklessly, knowingly, or intentionally injure, damage, destroy, or remove a tree situated within or upon city property without prior written permission from the city manager.
- (b) *Penalty.* A violation of this section shall be punished by a fine or imprisonment not to exceed the limits established in section 1-5 of this Code.
- (c) *Restitution.* In addition to a fine or imprisonment, the court may order restitution to be paid to the city for the appraised damage to the tree, appraised value of the tree, or cost to replace the tree. Tree values will be determined through arboricultural industry standard tree and landscape appraisal methods.

(Ord. No. 4760 , § 1, 4-19-2021)

## ***DIVISION 4-6-2. TREE PRESERVATION AND REPLACEMENT***

### **4-6-2-1. Tree survey.**

- A. *Generally.* The determination that existing trees are to be preserved, replaced, or relocated pursuant to this Division shall be made by the Director based on professional tree analysis provided by the Applicant.
- B. *Contents of Tree Survey.* The tree survey shall be prepared by a professional forester, arborist, or a registered landscape architect, and shall include an analysis of existing trees with two-inch or greater calipers, including:
  - 1. A site plan locating each tree and recommending trees intended for preservation in place, transplanting on site, or replacement;
  - 2. Species and size of each tree (caliper/height);
  - 3. Condition, indicating overall health of each tree with an evaluation of structure, pests, disease, or other factors affecting each tree; and
  - 4. Recommendation for removal of all trees that are in a condition hazardous to the proposed development.

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(Supp. No. 57)

- C. *Modification of Tree Survey Requirements.* The Director shall establish the level of detail required for the tree analysis based on site conditions (*e.g.*, for large sites with large stands of trees, the Director may allow delineation of tree canopy and estimates of the number of trees in each size category based on sampling, rather than comprehensive counts).
- D. *Tree Removal Prior to Application Submittal.* Applicants/owners are not permitted to remove trees two inches or larger, within six months prior to submittal of a development application, unless prior written approval of the Director has been obtained. Any development application for a site where such removal has occurred without permission shall be required to install 200 percent of the number of trees and shrubs otherwise required for the site.

**4-6-2-2. Tree removal and replacement.**

- A. *Generally.* Existing healthy trees shall be incorporated into new developments to the maximum extent feasible.
- B. *Penalty.* If an Applicant fails to comply with the minimum provisions to preserve trees, the Applicant shall be required to replace each tree that is damaged beyond remedy or destroyed at the rate required in Table 4-6-2-2, Tree Preservation, Transplantation, and Removal. If an owner does not choose to replace irreparably damaged or destroyed trees intended for preservation, the Applicant will be penalized an amount equal to the caliper inch replacement cost plus 100 percent for those trees. The Applicant is required to spend the amount of the penalty for trees at the project. If the Applicant does not choose to plant trees on the project site, the City may choose to plant the trees on a nearby public property or park.
- C. *Tree Preservation, Transplantation, and Removal.*
  1. Trees shall be preserved, transplanted, or removed, based on their diameter at breast height, as provided in Table 4-6-2-2, Tree Preservation, Transplantation, and Removal. Trees that are preserved, transplanted, or replaced according to this Section may be credited towards development landscaping as provided in Section 4-6-4-2, Tree Preservation Credits.

<b>Table 4-6-2-2: Tree Preservation, Transplantation, and Removal</b>				
<b>Caliper</b>	<b>Preserve in Place<sup>4</sup></b>	<b>Transplant<sup>1,4</sup></b>	<b>Replace<sup>1,2</sup></b>	<b>Remove</b>
Less than 2 inches	Allowed	Allowed	Allowed	Allowed
More than 2 inches or greater	Allowed	Allowed <sup>3</sup>	Allowed	Not Allowed

TABLE NOTES:

<sup>1</sup> Location for planting transplanted or replacement tree is subject to Director approval.

<sup>2</sup> Replacement trees shall at least equal the total number of caliper inches removed from the site (*e.g.*, four 5-inch caliper replacement trees satisfy the removal of one 20-inch caliper tree).

<sup>3</sup> Transplantation is subject to Director approval, upon demonstration that there is a reasonable probability of successful transplantation. Director may require escrow to ensure that if transplantation is not successful, tree may be replaced on a 1:1 basis in terms of caliper inches.

<sup>4</sup> Trees preserved or transplanted on site may satisfy tree replacement requirements.

2. The Director shall determine through consultation with the City Forester when it is not feasible to preserve and retain protected tree(s) or to transplant them to another on-site location. If it is determined that it is not feasible to preserve or transplant protected tree(s), the Applicant shall replace such tree(s) according to this Section. Replacement trees shall be used to satisfy the tree planting standards of this Section.
3. At the discretion of the Director, a fee-in-lieu may be determined that considers the size and value of any tree(s) that may need to be removed.

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4. Trees that meet one or more of the following removal criteria shall be exempt from the requirements of this Subsection as follows:
    - a. Dead, dying or naturally fallen trees, or trees determined by the City to be a threat to public health, safety, or welfare;
    - b. Trees that are determined by the City to substantially obstruct clear visibility at driveways and intersections;
    - c. Trees included on the Colorado Department of Agriculture noxious weed list, unless the tree is deemed a significant specimen tree by the Director.

#### **4-6-2-3. Tree protection.**

- A. *Tree Protection Specifications.* The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.
  1. Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange fencing a minimum of four feet in height, secured with metal T-posts, no closer than six feet from the trunk or one foot for every inch of diameter whichever is greater (for example, a ten-inch diameter tree will have a fence no closer than ten feet from the trunk). There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone unless previously approved by the Director.
  2. During the construction stage of development, the Applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree within the fenced tree protection zone.
  3. No damaging attachment, wires, signs or permits may be fastened to any protected tree.
  4. Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree. This may be accomplished by placing metal T-post stakes a maximum of 50 feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.
  5. The installation of utilities, irrigation lines or any underground fixture within the fence tree protection zone shall be accomplished by boring under the root system of protected existing trees at a minimum depth of 24 inches.

#### **4-6-4-2. Tree preservation credits.**

- A. *Generally.* Existing trees that are preserved on a subject property, excluding existing, individual residential lots, count towards the tree replacement requirements of this Article, provided that:
  1. They are either:
    - a. On the approved plant list; or
    - b. Deemed of significant community value by the Director; and
  2. They are not:
    - a. Diseased;
    - b. Poor in form;

- c. Leaning heavily over buildings;
  - d. Too close to building foundations;
  - e. Damaging sidewalks and driveways; or
  - f. Impacting utilities.
- B. *Credit for Preservation of Trees.* Healthy, mature trees that are preserved on-site may count only towards trees removed.

<b>Table 4-6-4-2A: Tree Preservation Credits (Deciduous Trees)</b>		
<b>Diameter of Tree to be Preserved</b>	<b>Tree Preservation Credit (# of trees)</b>	<b>Landscape Area Where Credit May Be Applied</b>
<b>Small Trees</b>		
1.5 inches or greater	1	Location of preserved tree
<b>Large Trees and Street Trees</b>		
1.5 inches – 9.9 inches	1	Location of preserved tree
10 inches – 14.9 inches	2	Location of preserved tree
15 inches – 19.9 inches	3	Location of preserved tree, or any other location except a street tree or bufferyard
20 inches or greater	5	Location of preserved tree, or any other location except a street tree bufferyard

<b>Table 4-6-4-2B: Tree Preservation Credits (Evergreen Trees)</b>		
<b>Height of Tree to be Preserved</b>	<b>Tree Preservation Credit (# of trees)</b>	<b>Landscape Area Where Credit May Be Applied</b>
<b>Min. Height</b>		
5 ft. - 7.9 ft.	1	Location of preserved tree
8 ft. – 14.9 ft.	2	Location of preserved tree
15 ft. - 19.9 ft.	3	Location of preserved tree, or any other location except a street tree or bufferyard
20 ft. or greater	4	Location of preserved tree, or any other location except a street tree or bufferyard

**4-6-4-3. Size and quality of landscape plants.**

- A. *Generally.* In general, plant materials that are installed according to the requirements of this Article shall meet the standards that are set out in this Section.
- B. *Minimum Size of Landscape Materials.* The minimum sizes of landscape materials used to satisfy the requirements of this Article are set out in Table 4-6-4-3, Minimum Size of Landscape Materials. Larger sizes may be required to ensure survival or to implement a condition of approval of a planned unit development or conditional use.

<b>Table 4-6-4-3: Minimum Size of Landscape Materials</b>	
<b>Type of Plant Material</b>	<b>Minimum Caliper, Height, or Container Size</b>
Large Trees and Street Trees	2 in. caliper
Small Trees	1.5 in. caliper
Evergreen Trees	6 ft. height
Shrub	5 gallon container minimum, and 2 ft. height; except that ornamental grasses may be 2 quart containers. If used in bufferyards, estimated growth to 3 ft. in height within 2 years
Groundcover (except turfgrass)	1 gallon container with 12 inch spread

C. *Specification of Landscape Materials.*

1. All new plant material shall meet specifications of the American Standard for Nursery Stock (ANSI Z60.1) and 8 CCR § 1203-5, Rules Pertaining to the Administration and Enforcement of the Colorado Nursery Act.
2. Plant materials shall be true to name and type, and first class representatives of their species or varieties.
3. Container and bare root tree plantings are not permitted without the written permission of the Director upon good cause shown.

**4-6-4-4. Biodiversity.**

- A. *Generally.* Diversity of the genus and species of trees and shrubs is required in order to prevent monocultures that could result in large-scale losses in the event of disease or blight.
- B. *Standards.*
1. Within each of the large tree and shrub categories, not more than 30 percent of the trees or evergreens installed on a subject property shall be of a single genus, and not more than 20 percent of the trees or evergreens installed on a subject property shall be of a single species.
  2. A minimum of ten percent of the trees shall be evergreen.
  3. The Director may require biodiversity of street trees that are planted in public rights-of-way in order to serve the purpose of this Section.
- C. *Exceptions.* Exceptions may be made with written permission of the Director upon good cause shown, provided that the Director finds that the exception does not materially undermine the purpose of this Section.

**4-6-6-1. Street trees.**

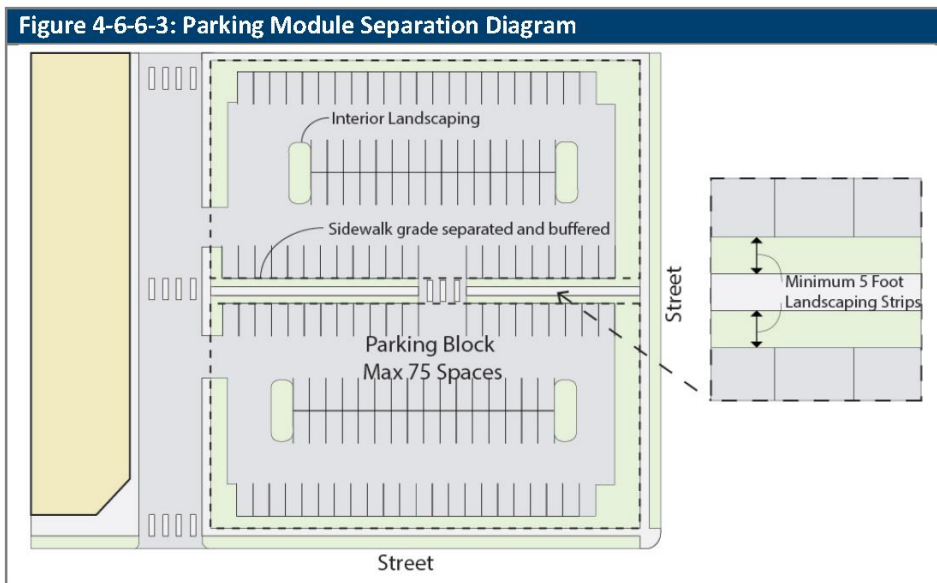
- A. *Generally.* Deciduous street trees must be installed between the curb and detached sidewalk in street rights-of-way in locations approved by the Director or within ten feet of street rights-of-way with approval by the Director in cases where the Director determines that it is impractical to plant the street trees within the right-of-way. Street trees shall be located and spaced in accordance with the standards of this Section.
- B. *Installation Requirements.*

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1. *Street Trees.* All development shall provide at least one street tree for each 40 feet of street frontage unless the Director determines that a different number of trees is warranted because of existing conditions.
  2. *Planting Locations.*
    - a. Generally, street trees shall be installed in a streetscape area with a minimum width of eight feet between back of curb and sidewalk.
    - b. As an alternative to a streetscape area, tree grates or cutouts in sidewalks may be allowed in the MX, and OT zoning districts. Tree cutouts in sidewalks shall be of sufficient size to support healthy tree growth as determined by the Director.
    - c. Alternative locations are allowed by approval of the Director according to the standards set out in Subsection A., above.
- C. *Setbacks.*
1. The trunks of street trees shall be set back from driveways and alleys outside of the sight triangle.
  2. Street trees shall be planted so that:
    - a. Their eventual growth can be reasonably controlled so as to avert interference with or obstruction of any improvements installed for public benefit; and
    - b. Nearby overhead and underground utilities such as water, wastewater, gas, communications, and electrical, will not be disrupted or materially affected by branches or roots.
  3. No street trees that are more than 25 feet in height at maturity shall be planted under or within ten feet (measured horizontally) of any overhead power line, except street light or service lines.
- D. *Maintenance.* Maintenance of street trees shall be the responsibility of the adjacent property owner, unless the Applicant has provided for an alternative perpetual maintenance arrangement that is acceptable to the Director (e.g., via a property owners' association or special district).

#### **4-6-6-3. Parking area landscaping.**

- A. *Generally.* Surface parking lots shall be landscaped to reduce the apparent size of the parking area; prevent views of long rows of parked cars; create an impression of smaller, connected parking lots; provide shade for parked cars; reduce the heat island effect of an urbanized area; and define pedestrian access ways, according to the standards of this Section.
- B. *Exceptions.*
  1. The surface parking lot landscape requirements of this Section do not apply to:
    - a. Parking lots in the IL and IG zoning districts if the subject property is located south of West 60th Avenue and east of or adjacent to Lamar Street; or
    - b. Surface parking lots with 24 or fewer parking spaces and with 12 or fewer parking spaces in a row.
  2. The access point landscape requirements of this Section do not apply to driveways that provide access to individual single-family detached, duplex, multiplex, or townhome lots.
- C. *Perimeter Landscape Buffer.*
  1. *Required Perimeter Landscape Buffer.*

- a. Parking lots adjacent to single-family detached, duplex, multiplex, or townhome uses shall meet the Option C or D bufferyard in Division 4-6-5-3, Bufferyard Options.
2. *Exceptions.*
- a. The requirements for perimeter landscaping do not apply at points of ingress or egress to the surface parking lot, or to points of cross-access among properties that share a parking lot.
- D. *Required Surface Parking Lot Landscape Areas.*
1. Landscaping shall be installed in the following required landscape areas:
    - a. Landscape islands are required at the end of each row of parking spaces in each parking module;
    - b. Landscape islands are required and must be distributed throughout the parking lot, at a rate of at least one landscaped island for each 12 consecutive parking spaces;
    - c. Vegetated entry medians are required with a minimum of at least 300 square feet in surface area and a minimum five feet in width (not including curbs), if the surface parking lot contains 180 or more parking spaces;
    - d. Landscape strips are required at least 14 feet in width (not including curbs) that separate groups of parking modules (along their long edges) into "cells" as provided in Table 4-6-6-3, Parking Module Separation Requirements.



Predominant Type of Land Use	Maximum Number of Parking Spaces in Cell
Residential	50
Nonresidential (except Industrial)	75
Industrial	100 if the parking area is located within 300 feet of a public street; otherwise, no maximum



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2. Landscape islands that are used to meet the requirements of Subsection D.1.a. and D.1.b., above, shall be at least eight feet in width (not including curbs) and 16 feet in length, and may be combined (eight feet in width by 32 feet in length) at the ends of adjacent parking modules.
  3. Landscape strips may include sidewalks (and landscape islands may be crossed by sidewalks), but the sidewalks shall not be counted as required landscape areas for the purposes of the calculation of planting requirements (see Subsection E., below).
  4. A raised sidewalk to connect the parking area with major building entries should be provided between the cells with a five-foot planting strip on both sides of the sidewalk. An alternative layout is a sidewalk connection with a central five-foot wide landscaped area, flanked with sidewalks on both sides.
- E. *Minimum Planting Requirements.* Required surface parking lot landscape areas shall be planted with one shade tree or two ornamental trees, plus eight shrubs per 300 square feet of required landscape area.
- (Ord. No. 4793 , § 3, 3-21-2022)

#### **4-6-6-5. General landscape areas.**

- A. *Generally.* Except as provided in Subsection B., below, the landscaping requirements of this Section apply to all permeable areas of the subject property that are not otherwise a designated required planting area pursuant to Division 4-6-5, Landscape Areas and Bufferyards or Section 4-6-6-1, Street Trees, through Section 4-6-6-4, Foundation Plantings, inclusive.
- B. *Exceptions.* The requirements of this Section do not apply to:
  1. Preserved open space; and
  2. Irrigation canals, irrigation ditches, reservoirs, and appurtenant maintenance areas (whether owned in fee simple or as easements).
- C. *Planting Requirements.* General landscape areas shall be planted with at least:
  1. One canopy or evergreen tree, or two ornamental trees per 3,000 square feet of landscape surface area;
  2. A minimum of ten percent of all trees shall be evergreen; and
  3. 75 percent vegetative ground coverage at maturity, excluding tree canopy.
- D. *Shrub Requirements.* Shrubs shall be planted at a maximum spacing of five feet on center.
- E. *Planting on Steeper Slopes.* On slopes greater than 3:1, the following can be planted:
  1. Trees and shrubs; and
  2. Groundcovers.

(Ord. No. 4793 , § 3, 3-21-2022)

#### **4-6-6-6. Single-family detached, duplex, multiplex, and townhome front yards.**

Prior to the issuance of a certificate of occupancy, single family, duplex, multiplex, and townhome dwelling units shall be landscaped as follows:

1. Front yards shall be landscaped with trees, turf, low ground covers, shrubs, or flowers.
2. At least one tree (shade, ornamental, or evergreen) shall be provided for each front yard area.

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**Sec. 81.0 Tree trimming.**

- (a) Upon obtaining a written permit from grantor, grantee may prune or cause to be pruned, using proper pruning practices in accordance with such permit, any tree in grantor's streets which interferes with grantee's cable system. Except in emergencies, grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one week after written notice has been given to the owner or occupant of the premises abutting the street in or over which the tree is growing. For purposes of this section, emergencies exist when it is necessary to prune to protect the public from imminent danger only. The owner or occupant of the abutting premises shall have seven days from the receipt of grantee's notice to prune such tree at his or her own expense. If the owner or occupant fails to do so, grantee may prune such tree at its own expense.
- (b) Grantor may, at its sole discretion, waive the notification and permit process in any case of single trees, if Grantee adequately demonstrates to grantor's satisfaction the ability to consistently apply proper pruning practices to pruning of trees. Before any tree trimming permit may be issued, any contractor to be used by grantee shall be subject to the approval of grantor.

Grantor shall have discretion to cancel the permit if, at any time, grantee or its agents, fails to use proper pruning practices.