
WEISER CITY ORDINANCE NO. # 1268

AN ORDINANCE OF THE CITY OF WEISER, WASHINGTON COUNTY, IDAHO, AMENDING TITLE 10, ZONING REGULATIONS, WEISER CITY CODE, BY ADDING A NEW CHAPTER 19, TITLE 10, REGARDING LANDSCAPING; PROVIDING FOR PURPOSE, DEFINITIONS, SPECIFYING REQUIREMENTS AND MINIMUM LANDSCAPING DESIGN STANDARDS; SETTING FORTH STANDARDS AND REQUIREMENTS FOR IRRIGATION, STREET BUFFERS, PARKING LOTS, SIGHT TRIANGLES, SOTRMWATER INTEGRATION, MAINTENANCE, AND ALTERNATIVE COMPLIANCE STANDARDS; PROVIDING PROCEDURES AND MISDEMEANOR PENALTIES FOR VIOLATIONS; REPEALING ALL ORDINANCES, RESOLUTIONS AND ORDERS INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING AN EFFECTIVE DATE:

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WEISER, IDAHO, THAT WEISER CITY CODE TITLE 10 BE AMENDED TO READ AS FOLLOWS:

Section 1: That Title 10, Weiser City Code is hereby amended by the addition of a NEW CHAPTER 19, to read as follows:

Chapter19 LANDSCAPING

10-19-1. Purpose and intent.

A. *Purpose.* To promote landscaping in the City of Weiser which will improve community livability, preserve the quality of life, and enhance the aesthetic quality, economic viability, and environmental health and safety of the city, and further the purposes set forth in the Idaho Local Land Use Planning Act, Idaho Code § 67-6502.

B. *Background.* The City of Weiser is facing growth issues along the highway and neighborhood corridors. These problems include:

1. Unscreened outdoor storage areas.
2. Unwanted noise.
3. Failure to enhance the community with corridor landscaping.
4. Water pollution resulting from wind and water erosion of bare soil surfaces.
5. Air quality concerns resulting from wind borne eroded soil and dust from bare soil surfaces.

C. *Benefits.* The City of Weiser finds that landscaping benefits the City in the following described ways:

There is abundant research available regarding the benefits of landscaping in communities. This is by no means an exhaustive summary, but the following are some of the major benefits that our community would receive through a comprehensive landscape ordinance. Most people think of landscaping only in terms of aesthetic or beautification benefits, which certainly exist, but there are also proven economic and environmental benefits to the community as summarized below:

1. *Aesthetic benefits:*
 - a. Screened parking lots, loading docks, trash receptacles, and storage areas.
 - b. Reduced glare and reflected light.
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- c. Shade for buildings, streets, and parking lots.
- d. Defines outdoor spaces.
- e. Seasonal color, including flowers and fall color.
- f. Frames and reveals desired views.
- g. Adds natural elements to otherwise harsh urban development.
- h. Attracts birds and other urban wildlife.
- i. Helps maintain the rural feel of the city.
- 2. *Economic benefits:*
 - a. More profitable business districts.
 - b. Consumers report greater willingness to pay for products in well landscaped commercial areas.
 - c. Attracts new businesses.
 - d. Encourages redevelopment and economic investment in the local community.
 - e. Office and retail space lease more quickly.
 - f. Reduces energy consumption for air conditioning, etc.
 - g. Increased residential property values.
- 3. *Environmental health and safety benefits:*
 - a. Removes particulate pollutants from the air.
 - b. Provides extra oxygen in the atmosphere.
 - c. Removes carbon dioxide from the air.
 - d. Improves soil condition.
 - e. Purifies water supplies, especially storm runoff.
 - f. Reduces unwanted noise.
 - g. Controls and directs excessive wind.
 - h. Sight triangles.
- D. *Costs to developers and property owners.* The City of Weiser recognizes that landscaping can be a significant expense to businesses, developers, and residents. At the same time, landscaping improves the livability of residential neighborhoods, enhances the appearance and customer attraction of commercial areas, increases property values, improves the compatibility of adjacent uses, screens undesirable views, and can reduce air and noise pollution. The intent of these regulations is to achieve a balance between the right of individuals to develop and maintain their property in a manner they prefer and the right of city residents to live, work, shop, and recreate in pleasant, healthy, and attractive surroundings.

10-19-2. Definitions.

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

Berm means an earthen mound designed to provide visual interest, screen undesirable view, and/or decrease noise.

Buffer means a combination of physical space and vertical elements, including, but not limited to, trees, shrubs, berms, fences, and/or walls that separate and screen incompatible land uses from one another.

Caliper means a measurement of the diameter of the trunk of a deciduous tree. The caliper of the trunk shall be measured six inches above the ground for all trees up to and including four-inch caliper size and 12 inches above the ground for larger sizes.

Cash escrow means cash or certified check submitted to the city clerk for incomplete landscape improvements to secure a temporary certificate of occupancy. The money will be refunded when the improvements are deemed to be in accordance with the approved landscape plan.

Certificate of occupancy means official certification that a building and site conform to the provisions of city ordinance and any other appropriate conditions such as a development agreement, and/or special use permit. A structure cannot be occupied without the issuance of a certificate of occupancy.

Class I, II, III, trees mean the classes of trees are defined for the purposes of this chapter by the publication "Tree Selection Guide for Streets and Landscapes Throughout Idaho" by Urban Forestry Unit of Boise Parks and Recreation Department (latest edition). In general, class I trees are smaller ornamental trees, class II trees are medium/large trees appropriate for street tree planting, and class III trees are very large.

Common lot means a lot separate from individual building lots.

Common open space means land area exclusive of street rights-of-way and street buffers, except for right-of-way specifically dedicated for landscaping within subdivision. Street buffers wider than the required minimum dimension may count 50 percent of the additional area as open space. Open space may include trees, natural environmental features, playgrounds, water features, swimming pools, community centers, and recreational facilities.

Entryway corridors are arterial roadways that introduce both visitors and residents to Washington County as defined by the Washington County Comprehensive Plan.

Frontage means the front of the lot, measured along the street from side property line to side property line. On corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

Girdling means damaging or removing the bark and cambium layer around a tree trunk in a manner that usually kills the tree.

Gross land area means the total area of the land being developed, exclusive of required street buffers and buffers between incompatible land uses. The calculation for required open space in residential subdivisions and multi-family residential development is based on the gross land area of the land being developed.

Hardship means an unusual situation on the part of an individual property owner, other than one created by the owner, which will not permit that owner to enjoy the full utilization of their property as is enjoyed by others in the community.

Head-to-head spacing means placement of sprinkler heads in a rectangular pattern such that one sprinkler head sprays to the next (spacing is 50 percent of the sprinkler's spray diameter).

Higher intensity use means when the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended results in a greater degree of measurable noise, odor, light, vibration, or other potential public nuisance than an adjacent property, it shall be deemed a higher intensity use.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration or absorption by water. It includes surfaces such as compacted sand or clay as well as most conventionally surfaced streets, roofs, sidewalks, and parking lots.

Infill means any vacant lot or parcel within developed area of the city, where at least 80 percent of the land within a three-hundred-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been developed and are provided.

Letter of credit means a letter issued by a bank or other guaranteed financial institution authorizing the City of Weiser to draw a stated amount of money from the issuing bank under specific, stated conditions.

Match lines means a heavy line shown on a plan when it is separated onto two or more sheets. The lines are labeled the same on each sheet to depict where the sheets join.

Matched precipitation rates mean sprinklers that are designed to work together on the same irrigation valve to deliver an equivalent rate of water application, regardless of the arc of the nozzle being used.

Micropath means a pathway, not more than 250 feet or two lot depths, with a minimum of ten feet width of paved surface, providing access by way of a short travel link between points of destination.

Mitigation means an action that will moderate or alleviate the actual or potential loss of benefits provided to a site and its immediate vicinity by existing trees and landscaping.

Mulch means a protective covering placed around plants to prevent the evaporation of moisture, the freezing of roots, and the growth of weeds.

Parking lot overlay means any resurfacing of existing parking lot areas with asphalt or other permanent material, which does not result in an increase of square footage of the parking area.

Parking lot replacement means removal of the existing parking surface done for the purpose of improvement or repair.

Parkway means landscaped area located between the edge of a street section or curb and a sidewalk dedicated to separate pedestrian and vehicular traffic.

Restriping (parking lot) means any change in the configuration, size or distribution of existing painted stripes designed to create spaces for motorized vehicles.

Sight triangle means the area on either side of an accessway at its junction with a street forming a triangle within which clear visibility of approaching vehicular or pedestrian traffic shall be maintained.

Soil stabilization means the state of having sufficient vegetation and gradual slopes to prevent soil erosion and sedimentation onto adjacent features such as sidewalks, driveways, parking areas, lawns, or water bodies.

Stormwater swale means a broad, shallow channel covered with erosion resistant vegetation and used to conduct, infiltrate, and pretreat surface runoff. Maximum slopes are three to one (3:1).

Topping means severely cutting back limbs to stubs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Good pruning practices rarely remove more than one-fourth to one-third of a tree's crown. Topping starves the tree of needed nutrients produced by leaves in the crown, increases vulnerability to insects and disease, creates weak limbs, rapid new growth, and disfigures the natural shape of the tree. Other common terms for topping include stubbing, heading, heading back, stubbing off, tipping, lopping, or round over.

Triangular spacing means placement of sprinkler heads in an equilateral triangular pattern.

Unimproved natural features mean existing wetlands, rock outcroppings, groves of trees, and other naturally occurring features may be left undeveloped in their natural state and may be counted as open space with approval of the zoning administrator.

10-19-3. Landscape plan.

A. *Applicability.* A landscape plan is required for all commercial, institutional, industrial, office, and multi-family development, redevelopment, additions, or changes in use. A landscape plan is also required for all common lots in all subdivisions. The landscape plan is required as

parts of all applications for special use permit (SUP), preliminary plat (PP), or final plat (FP). The landscape plan may be on the same site plan used to show parking layout, setback compliance, etc. A preliminary landscape plan review is recommended prior to submission for all developments but is not required. This chapter does not apply to a single-family dwelling that is not a part of a larger development.

B. *Submittal requirements.* All landscape plans shall comply with the requirements for size, scale, number of copies, and contents as detailed in the application form.

1. *Applicability.* All applications for a final plat (FP) must comply with all requirements of subsection B4, "Contents", of this section for a detailed landscape plan. Applications for special use permit (SUP) and preliminary plat (PP) are exempt from requirements of subsections B.4.m, B.4.n, B.4.o, and B.4.p of this section and may instead show conceptual landscaping with tree locations only and conceptual screening structures; all other sections of this chapter still apply.

2. *Plan size and scale.* The landscape plan must have a scale no smaller than one-inch equals 20 feet and be on a standard drawing sheet, not to exceed 36 inches by 48 inches (36" x 48") (24 inches by 36 inches is preferred). A plan which cannot be drawn in its entirety on a single sheet must be drawn with appropriate match lines on two or more sheets.

3. *Number of copies.* The administrator shall determine the number of copies of the landscape plan that shall be submitted.

4. *Contents.* The landscape plan shall comply with the provisions of this chapter and shall include the following elements:

a. Date, scale, north arrow, and title of the project.

b. Names, addresses, and telephone numbers of the developer and the person/firm preparing the plan.

c. Existing boundaries, property lines, and dimensions of the lot.

d. Relationship to adjacent properties, streets, and private lanes.

e. Easements and right-of-way lines on or adjacent to the lot.

f. Existing/proposed zoning of the lot, and the zoning and land use of all adjacent properties.

g. Existing natural features such as canals, creeks, drains, ponds, wetlands, floodplains, high ground water areas, and rock outcroppings.

h. Locations, size, and species of all existing trees on site with trunks four inches or greater in diameter, measured six inches above the ground. Indicate whether the tree will be retained or removed.

i. A statement of how existing healthy trees proposed to be retained will be protected from damage during construction.

j. Existing buildings, structures, planting areas, light poles, power poles, walls, fences, berms, parking and loading areas, vehicular drives, trash areas, sidewalks, pathways, stormwater detention areas, signs, street furniture, and other manmade elements.

k. Existing and proposed contours for all areas steeper than 20 percent slope. Berms shall be shown with one-foot contours.

l. Sight triangles as defined in section 10-19-6 of this chapter.

m. Location and labels for all proposed plants, including trees, shrubs, and ground covers.

n. A plant list that shows the plant symbol, quantity, botanical name, common name, minimum planting size and container, and comments (for spacing, staking, and installation as appropriate).

- o. Planting and installation details as necessary to ensure conformance with all required standards.
- p. Design drawings of all required structures for screening purposes.
- q. Calculations of project components to demonstrate compliance with the requirements of this chapter, including:
 - (1) Special use permit applications:
 - (A) Number of street trees and linear feet of street frontage.
 - (B) Width of street buffers.
 - (C) Width of parking lot perimeter landscape strip.
 - (D) Buffer width between different land uses.
 - (E) Number of parking stalls and percentage of parking area with internal landscaping.
 - (F) Total number of trees and tree species mix.
 - (G) Mitigation for removal of existing trees.
 - (2) PP and FP applications:
 - (A) Width of street buffer, linear feet of street frontage, and number of street trees.
 - (B) Residential subdivision trees.
 - (C) Acreage dedicated to common open space.
 - (D) Number of trees provided on common lot(s).
 - (E) Mitigation for removal of existing trees.

C. *Landscape plan preparation.* Preparing a landscape plan requires special skills. Landscaping involves more than a simple arrangement of plants with irrigation; plants are not haphazardly placed in a way that fills up leftover space. Landscape plans should be artfully and technically organized in a way that conveys coherence, design, and organization. The landscaping should enhance the physical environment as well as the project's aesthetic character. Also, plans prepared by a landscape professional minimize the likelihood of trees dying or interfering with other adjacent site features.

Therefore, all landscape plans shall be prepared by a landscape architect, landscape designer, qualified nurseryman, or someone knowledgeable in the field of landscape design.

D. *Landscape plan modification.* The approved landscape plan shall not be altered without prior approval of the planning and zoning administrator. No significant field changes to the plan are permitted. Prior written approval of all material changes is required. All approved changes to the landscape plan must be documented prior to issuance of a certificate of occupancy.

10-19-4. Minimum design standards and installation.

A. *Approved plant material.* The publication titled "Tree Selection Guide for Streets and Landscapes Throughout Idaho" by the Urban Forestry Unit of the Boise Parks and Recreation Department (latest edition) is hereby adopted by this reference as the City of Weiser list of approved and prohibited plant material. The publication categorizes the trees by size as class I, class II, or class III trees. The city recognizes that new plant varieties are being produced every year and will consider other species not listed in the publication. Copies of the publication will be available from the planning and zoning department.

B. *Prohibited plant material.* The plants listed under "trees not permitted for rights-of-way property planting" are prohibited from being planted along any street or within any parking lot regulated by this chapter. The only exception is that conifers may be planted in street buffers around residential subdivisions, and in buffers along Highway 95.

C. *Minimum plant sizes.* The following are minimum plant sizes for all required landscape areas:

Evergreen trees	4- to 5-foot height minimum
Ornamental trees	1¼-inch caliper minimum
Shade trees	1½-inch caliper minimum
Woody shrubs	2-gallon pot minimum

D. *Tree species mix.* When five or more trees are to be planted to meet the requirements of any portion of this chapter, including street trees, street buffers, parking lot landscaping and other landscape guidelines, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. See the table below:

Required Number of Trees	Minimum Number of Species
5—10	2
11—30	3
31—50	4
50+	5

E. *Plant quality.* All plant material installed pursuant to this chapter shall meet or exceed the minimum federal standards as regulated by ANSI Z60.1, American standard for nursery stock.

F. *Planting standards.* All trees, shrubs, and other plant material shall be planted using accepted nursery standards as published by the American Association of Nurserymen (latest edition) including hole size, backfilling, and fertilization.

G. *Staking.* Tree staking may be used in areas with high winds or other situations that make staking desirable. When trees are staked, the stakes must be removed within 12 months to prevent damage to the tree.

H. *Mulch.* Unless other materials are approved by the administrator or Design Review committee, organic mulch such as compost, bark or soil aid shall be applied to all planting areas for moisture retention, weed control, and moderation of soil temperatures. Impermeable plastic weed barriers are prohibited under the mulch because it restricts water and oxygen to the roots. Unless other materials are approved by the Planning & Zoning administrator or Design Review committee, gravel/rock mulch is prohibited in required landscape areas as per subsection M.2 of this section.

I. *Curbing.* All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by street curbing, wheel stops, or other approved protective devices. Such devices shall be a minimum of 30 inches from all tree trunks to prevent cars from damaging tree trunks.

J. *Utilities.* The following standards apply to the planting of trees near existing utilities and to trenching for new utilities near existing trees:

1. *Overhead utilities.* Only class I trees in the recommended plant list may be planted under or within ten lateral feet of any overhead utility wires.

2. *Underground utilities.* All trees shall be planted outside of any easement that contains a power, water, or sewer main, unless written approval is obtained from the city engineer. If any

utility easement precludes trees required by this chapter, the width of the required buffer shall be increased to accommodate the required trees.

3. *Trenching.* New underground utilities shall stay outside of the drip line of existing trees if trenched or be tunneled a minimum of three feet below existing grade within the tree's drip line. The guiding principle is that no root two inches or larger shall be cut. Note: This requirement is for placement of new utilities and does not affect the property owner's ability to access existing utilities for repair and maintenance.

K. *Erosion control.* Soil and slope stabilization shall result from the landscape installation.

L. *Berms.* Berm slopes shall not exceed three to one (3:1) (horizontal: vertical). Three to one (3:1) maximum slopes are recommended. Grass that requires mowing shall not be used on slopes steeper than three to one (3:1).

M. *Water efficiency.* The landscape plan shall provide for water efficient landscaping as follows:

1. *Lawn areas.* Where appropriate, and on sites where other landscape options can be incorporated, large expanses of lawn are discouraged due to its high-water consumption.

2. *Mulch.* Unless other materials are approved by the administrator or Design Review committee, mulches shall be organic and broad uses of gravel/rock mulch are restricted as per subsection H of this section. Gravel does not retain water, reflects heat, and causes greater stress on trees and shrubs. Organic mulch retains water for a longer period for plants.

3. *Irrigation.* Irrigation systems shall be designed for water efficiency as regulated by section 9-17-5 of this chapter.

4. *Native plants.* Native and other low water use plants are encouraged. The approved plant list as per subsection A of this section shows the general water requirements of the trees.

10-19-5. Irrigation.

A. *Irrigation required.* All landscape areas regulated by this chapter shall be served with an automatic underground irrigation system. If any irrigation improvements are approved to be located within a public right-of-way, it shall be the responsibility of the owner to obtain all necessary permits and/or approvals from the respective road authority prior to installation.

B. *Performance specifications.* Three copies of detailed irrigation performance specifications shall be submitted with the landscape plan for all final plats and certificates of zoning compliance. Performance specifications shall state design requirements, materials, and construction methods. At a minimum, the performance specifications shall address the following requirements:

1. *Required information.* Specifications for the irrigation system shall include:

a. Available gallons per minute.

b. Available water pressure; and

c. Point of connection.

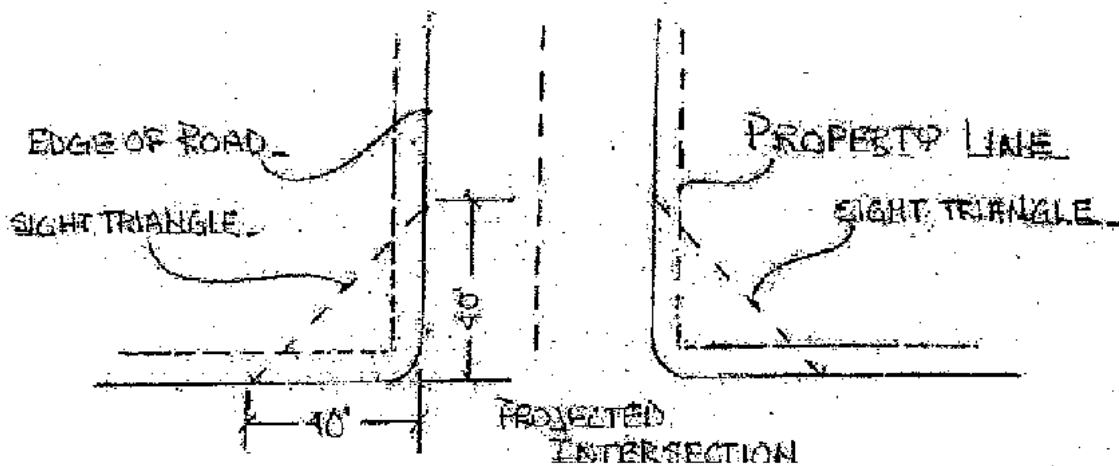
2. *Backflow prevention.* Provide an appropriate backflow prevention device that is registered with the public works department.

3. *Coverage.* The irrigation system shall be designed to provide 100 percent coverage with head-to-head spacing or triangular spacing as appropriate. For design flexibility, maximum spacing is up to 60 percent of the sprinkler's spray diameter. Where winds are a threat, spacing up to 40 percent may be desirable. For triangular spacing, the distance between heads in each row must be "head-to-head spacing" as per the definition in this section. The distance between rows is 0.866 times the spacing within the row.

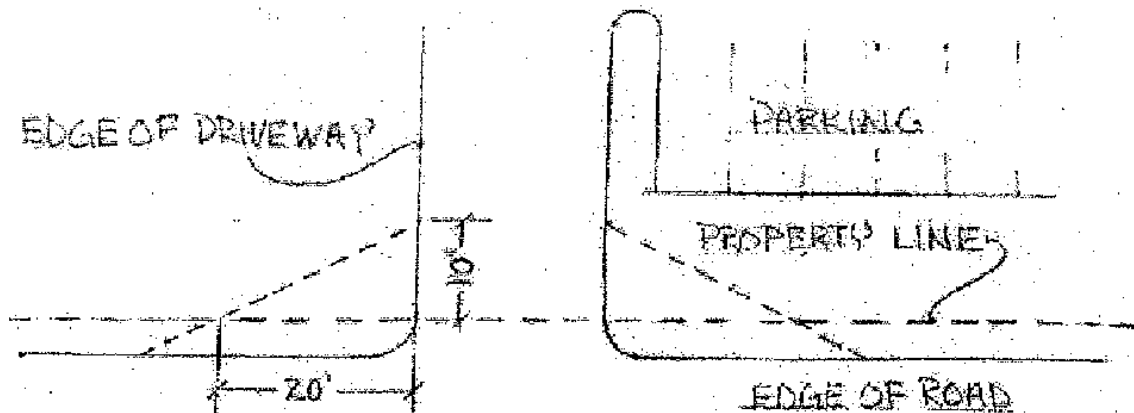
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4. *Matched precipitation rates.* Sprinkler heads shall have matched precipitation rates within each control valve circuit.
 5. *Irrigation zones.* Sprinkler heads irrigating lawn or other high water demand areas shall be circuited so that they are on a separate zone or zones from those irrigating trees, shrubs, or other reduced water demand areas.
 6. *Overspray.* Sprinkler heads shall be adjusted to reduce overspray onto impervious surfaces such as sidewalks, driveways, and parking areas.
- C. *Subdivision irrigation systems.* If the irrigation system is part of a residential, commercial, or industrial subdivision, any irrigation pump station shall be on a common lot. Also, the irrigation system must be owned and maintained by an irrigation district or a homeowners' (or business owners') association.

10-19-6. Sight triangles.

- A. *Standards.* The following standards shall be observed within all sight triangles, both at controlled and uncontrolled intersections. In all cases, Idaho Transportation Department (ITD) and Washington County Road Department standards shall apply in addition to City of Weiser standards.
- B. *Road/road intersections.* The boundaries of a sight triangle at the intersection of two roads are defined by measuring from the projected intersection of the roadway edge a distance of 40 feet along each roadway edge and connecting the two points with a straight line. (See diagram below.)



- C. *Road/driveway intersections.* The boundaries of a sight triangle at the intersection of a road and a driveway are defined by measuring from the intersection of the property line and the edge of the driveway 20 feet along the roadway and ten feet along the driveway and connecting the two points with a straight line. (See diagram below.)
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D. *Road/railroad intersections.* The sight triangle at road/road intersections (see subsection B of this section) is also applicable to railroad street crossings with the vision triangle defined by measuring 40 feet along the railroad property line and 40 feet along the roadway edge and connecting the two points with a straight line.

E. *Planting and development standards:*

1. Any trees planted within sight triangles (class I or II) shall be pruned to a minimum height of eight feet above the ground or sidewalk surface and 14 feet above the adjacent roadway surface.
2. No evergreen trees shall be planted within any sight triangle.
3. No class III trees shall be planted within any sight triangle.
4. The maximum height of any berm or vegetative ground cover at maturity within the sight triangle is three feet.
5. No fences higher than three feet are permitted in the sight triangle.
6. No signs taller than three feet are permitted in the sight triangle, except for street/stop signs approved by the City of Weiser Public Works Department.

F. *Public safety and enforcement.* When the city determines that a sight obstruction exists, it shall notify the owner of the property upon which the obstruction is located and order that the obstruction be removed within 30 days. The failure of the owner to remove the obstruction shall be punishable as a misdemeanor, and every day the owner fails to remove the obstruction shall be a separate and distinct offense.

10-19-7. Street buffers.

A. *Purpose.* Landscape buffers along streets are required to improve the visual quality of the streetscape, to soften the impact of parking lots, to unify diverse architecture, and to carry out the comprehensive plan policies related to promoting attractive roadways and street beautification.

B. *Location.* All required buffers shall be located beyond any street right-of-way and shall be maintained by the property owner, at the property owner's expense, upon which the buffer lies. All street buffers with attached sidewalks shall be measured from the property line and not from the sidewalk or curb. If detached sidewalks are provided as per subsection H of this section, the buffer may be measured from the back of curb when it can be demonstrated that there is no opportunity for expansion of the street section within the right-of-way; the buffer width must exclude the width of the sidewalk. No fences are permitted within required street buffers.

C. *Applicability.* Street buffers shall be required at all subdivision boundaries (i.e., commercial, industrial, high tech, and residential) and all commercial, industrial, and high-tech

developments. Single-family residential, and duplex lots are exempt from required street buffers. All subdivision street buffers must be on a common lot, maintained by a homeowners' or business owners' association, as applicable.

D. *Buffer size.* The required width of the landscape buffer is calculated as follows. Note: Residential collectors do not have a required street buffer.

Street Type	Buffer Width
Local roads (except in residential areas per subsection C of this section)	10 feet ¹
Collector and arterial roads	15 feet ¹

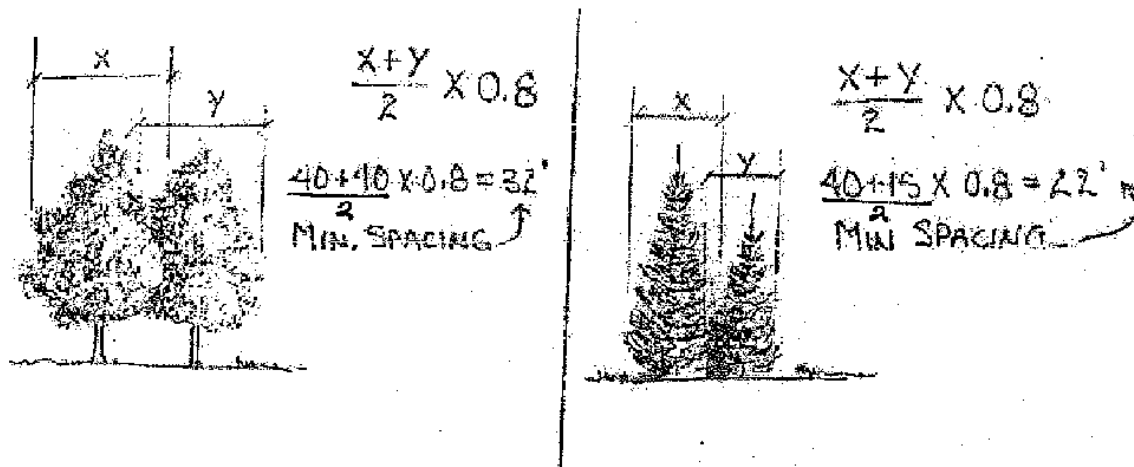
Note:

1. If the street buffer is separated by a sidewalk, no less than five feet of the buffer must be located on the property side of the sidewalk.

E. *Width reduction.* In a development where the required street buffer width results in an otherwise unavoidable hardship to the property owner, a written request for a reduction may be submitted to the zoning administrator. The request must demonstrate evidence of the hardship caused by the required street buffer and propose a specific alternative width. In no case shall the width be reduced to less than ten percent of the depth of the lot without a variance.

F. *Street trees.* All required landscape street buffers shall be planted with trees and shrubs, lawn, or other vegetative ground cover, with a minimum density of one tree per 35 linear feet. If this calculation results in a fraction 0.5 or greater, round up to an additional tree. If the calculation results in a fraction less than 0.5, round the number down.

G. *Tree spacing.* For design flexibility, trees may be grouped together or spaced evenly as desired. However, trees shall be spaced no closer than 80 percent of the average mature width of the trees, as demonstrated in the following examples:



H. *Parkways and detached sidewalks.* Upon written approval of the respective road authority, a portion of a required street buffer may be located within a public right-of-way parkway. The minimum buffer widths in subsection D of this section must still be met provided that no less than five feet of the required buffer is located on the property side of the sidewalk. The minimum width of the parkway area between the curb and the sidewalk is five feet. Tree plantings within parkways less than ten feet wide are restricted to class II trees.

I. *Landscaping within right-of-way.* If the unimproved street right-of-way is greater than 13 feet from edge of pavement to edge of sidewalk or property line, developer shall maintain a ten-

foot-wide gravel shoulder and landscape the remainder with lawn or other vegetative ground cover. This will require an agreement between the property owner and the City of Weiser Street Department.

J. *Impervious surfaces.* Allowed impervious surfaces include driveways, signs and walkways. Vehicle display pads and other related impervious surfaces are prohibited in the required street buffer.

K. *Berms in street buffers.* Berm design is subject to the provisions of sections 10-19-4 and 10-19-6. E.4 of this chapter.

L. *Stormwater detention.* Stormwater swales may be incorporated into the buffer as provided for in section 10-19-11 of this chapter. Other stormwater detention and retention facilities shall not be permitted in the street buffer.

10-19-8. Parking lots.

A. *Right-of-way landscaping.* A landscape buffer is required between all parking lots and adjacent streets as regulated by section 10-19-7, street buffers, of this chapter.

B. *Perimeter landscaping.* The following standards apply to all interior lot lines, side, or rear, adjacent to parking lots or other vehicular use areas, including driveways:

1. *Purpose.* Perimeter landscaping defines parking, loading, and other vehicular use areas and prevents two adjacent lots from becoming one large expanse of paving. This requirement does not hinder the ability to provide vehicular access between lots, nor does it prohibit commercial or industrial developments with back-to-back truck docks from sharing paved loading areas.

2. *Size and location.* Provide a five-foot minimum perimeter landscape strip along all front lot lines and side lot lines to the rear of any building on the lot.

3. *Landscaping.* The perimeter landscape strip shall be planted with one tree per 35 linear feet and shrubs, lawn, or other vegetative ground cover.

C. *Internal landscaping.* Interior parking lot landscaping shall be required on any parking lot with more than 12 spaces.

1. *Required percentage.* The required amount of landscaping is based on a sliding scale as follows:

Total of Parking Spaces	Number	Percent of a Parking Lot that be an Interior Landscaped Area	Total Area Must
13—100		4 percent	
101—200		6 percent	
201 +		8 percent	

2. *Planter size.* Landscape planters shall contain a minimum of 50 square feet and the planting area shall not be less than five feet in any dimension, measured inside curbs. The only exception to the five-foot minimum dimension is at the tip of triangular planters located at the end of rows of angled parking.

3. *Parking spaces.* No linear grouping of parking spaces shall exceed 15 in a row, without an internal planter island.

4. *Parking lot layout.* Interior landscaping shall, insofar as possible, be used to delineate and guide major traffic movement within the parking area to prevent cross space driving. Interior

landscape planters shall be spaced as evenly as feasible and at the ends of rows of parking throughout the lot to consistently reduce the visual impact of long rows of parked cars.

5. *Trees required.* Each interior planter that serves a single row of parking spaces shall be landscaped with at least one tree and shall be covered with low shrubs, lawn, or other vegetative ground cover. Each interior planter that serves a double row of parking spaces shall have at least two trees and shall be covered with low shrubs, lawn, or other vegetative ground cover. Deciduous shade trees must be pruned to a minimum height of eight feet above the adjacent parking areas. Evergreen trees and class III trees are prohibited in interior planters.

6. *Design flexibility.* In parking areas where the strict application of subsection C.1 of this section will seriously limit the function and circulation of the lot, up to 50 percent of the required landscaping may be located near the perimeter of the paved area to emphasize entrance corridors or special landscape areas within the general parking area. Such required interior landscaping which is relocated shall be in addition to perimeter landscape and right-of-way screening requirements.

7. *Industrial exclusion.* Industrial parking, storage, and loading areas are specifically excluded from the interior landscape requirements but shall still be required to meet all perimeter and right-of-way landscape and screening requirements.

D. *Existing parking lot applicability.* Existing parking lots shall be required to conform to this section based upon the following guidelines:

1. For restriping, parking lot overlays, or parking lot replacement less than 25 percent, no additional landscaping shall be required.

2. For parking lot replacement that is 25 percent to 50 percent of the parking area, perimeter and right-of-way landscaping as required by this chapter shall be installed.

3. For parking lot replacement that is greater than 50 percent of the parking area, all current landscape standards of this chapter shall be met.

4. If the location of existing building or other structures prevents conformance with the requirements of this section, or if its implementation would create a nonconformity with parking standards, the zoning administrator shall determine how the code is to be applied.

10-19-9. Buffers between different land uses.

A. *Purpose.* The landscape requirements in this section are intended to ensure incompatible, adjoining land uses are adequately protected and are provided with an appropriate amount of land separation to conduct permitted uses without causing adverse impact. An "incompatible land use" is defined as one that is more intensely developed than its neighbor (as defined herein under subsection D of this section) and typically involves minimizing potential nuisances such as noise, dirt, litter, glare of lights, or other objectionable activities. The buffers are required along the entire contiguous property line.

B. *Responsibility for buffer construction.* The required buffer between different land uses shall be provided by the higher intensity use and shall be located on the building site of the higher intensity use, except as determined otherwise by the zoning administrator after written request. If a lower intensity use is proposed adjacent to an existing higher intensity use with no buffer, the lower intensity use must provide the required buffer.

C. *Buffer material.* The materials within the required buffer between incompatible land uses are regulated as follows:

1. *Mix of materials.* All buffer areas shall be comprised of, but not limited to, a mix of evergreen and deciduous trees, shrubs, lawn, or other vegetative ground cover. Fences, walls and berms may also be incorporated into the buffer area.

2. *Barrier effectiveness.* The required buffer area shall result in an effective barrier within three years and be maintained such that 60 percent or more of the vertical surface is closed and prevents the passage of vision through it. Trees may be spaced closer as necessary to achieve this goal.

3. *Buffer walls.* Where existing or proposed adjacent land uses cannot be adequately buffered with plant material(s), the city may require inclusion of a wall, fence, or other type of screen that mitigates noise and/or unsightly uses. If a wall or fence at least six feet tall is provided, the planting requirement may be reduced to at least one tree per 35 linear feet, plus shrubs, lawn, or other vegetative ground cover must be provided within the buffer area, in lieu of the requirements of subsection C.2 of this section.

4. *Chain-link fencing.* Chain-link or cyclone fencing, with or without slats, is prohibited within required buffers between different land uses. Chain-link may be used beyond the required buffer. Chain-link fencing does not qualify as a screening material; therefore, the buffer must still be landscaped as per subsection C.2 of this section, even if a chain-link fence is provided.

D. *Land use intensity classifications.* The table below is intended to provide a general classification of land use intensities for commonly proposed developments and is not a comprehensive list. If a land use is not listed, the intensity classification shall be determined by the zoning administrator based upon the nearest use listed.

Class I

Cemeteries

Duplexes

Golf courses

Parks

Single-family homes

Vacant land zoned: R-1 and R-2

Class II

Childcare facilities

Elementary schools

Libraries

Multi-family dwellings

Senior centers

Vacant land zoned: R-3 and R-4

Class III

Clinics

High schools

Middle schools

Neighbor comm.

Offices

Personal services

Quasi-public uses

Class IV

General retail

Grocery stores

Hotel/motel
 Indoor manufacturing
 Parking garages
 Restaurants
 Storage facilities
 Vacant land zoned: C
 Warehouses

Class V

Contractor yards
 Heavy manufacturing
 Processing plants
 Recycling
 Vacant land zoned: I

E. *Minimum buffer widths.* The minimum buffer width between incompatible land uses is based on the following table:

Intensity Class of Proposed Use	Intensity Class of Adjacent Use				
	I	II	III	IV	V
I					
II	20				
III	20	20			
IV	25	20	20		
V	35	30	25	20	

Notes:

1. Buffer widths are shown in feet.
 2. No buffer is required for blank cells, unless an existing, adjacent, and higher intensity use has not provided a buffer. In such cases, the lower intensity use must provide the buffer as per subsection B of this section.
 3. The buffers between land uses are required only along contiguous lot lines. If incompatible land uses are across a public street from one another, the street buffer requirements of section 10-19-7 of this chapter apply. Additionally, the buffers between land uses do not apply to incompatible land uses separated by a public alley unless otherwise required through a special use permit or other development permit application.
- F. *Pedestrian access.* Landscaping and screens shall not eliminate pedestrian access from residential development to abutting commercial districts and vice versa.
- G. *Existing partial buffers.* If all or any part of the buffer has been provided on the adjacent property, the proposed use must provide only that amount of the buffer which has not been provided on the adjacent property.
- H. *Relationship to parking lot perimeter requirements.* All buffers between different land uses may include any required perimeter parking lot landscape strips (see section 10-19-8. B of this chapter) when calculating the minimum width of the buffer.
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10-19-10. Preservation of existing trees.

- A. *Purpose.* This section is intended to preserve existing trees four-inch caliper or greater from destruction during the development process.
- B. *Site design.* Site plans shall make all feasible attempts to accommodate existing trees four-inch caliper or greater within their design.
- C. *Landscape plan.* All existing trees greater than a four-inch caliper shall be shown on the landscape plan as per section 10-19-3. B.4.h of this chapter. Indicate whether each tree is to be retained or removed. Include on the plan a description of how existing trees to be retained are to be protected during construction as per section 10-19-3. B.4.i of this chapter.
- D. *Protection during construction.* Existing trees that are retained shall be protected from damage to bark, branches, and roots during construction. Construction, excavation, or fill occurring within the drip line of any existing tree may severely damage it. Any severely damaged tree shall be replaced in accordance with subsection F of this section.
- E. *Construction within the drip line of existing trees.* Specific requirements for construction within the drip line of existing trees are as follows;
1. *Paving.* Whenever possible, impervious paving surfaces shall remain outside of the drip line of existing trees. When it is not possible, impervious surfaces shall be allowed at a distance from the trunk of a retained tree equal to the diameter of the tree trunk plus five feet.
 2. *Grade changes.* Grade changes greater than six inches are prohibited within the drip line of existing trees.
 3. *Compaction.* Most of the damage to trees caused by machinery occurs to the root system from compaction of the soil. A simple fence or barrier that encloses the entire area beneath the tree canopy shall be in place prior to construction.
 4. *Utilities.* New underground utilities to be placed within the drip line of existing trees shall be installed as per section 10-19-4. J.3 of this chapter.
- F. *Mitigation trees.* Mitigation is required for all existing trees four-inch caliper or greater that are removed from the site with equal replacement of the total calipers lost on site. Example: Two, ten-inch caliper trees removed may be mitigated with four, five-inch caliper trees, five, four-inch caliper trees, or seven, three-inch caliper trees. Existing prohibited trees within the street buffer or parking lot need not be mitigated if they are removed. Existing dead, dying, or hazard trees need not be mitigated if they are removed. Trees that are required to be removed by another governmental agency having jurisdiction over the project need not be mitigated for.
- G. *Required landscaping.* Existing trees that are retained or relocated on site may count toward the required landscaping. Mitigation trees are in addition to all other landscaping required by this chapter.
- H. *Incentives.* The zoning administrator may allow a reduction of up to ten percent of the required parking spaces to accommodate existing trees. Approval of the reduction in required parking must be obtained in writing prior to submittal of plans.

10-19-11. Stormwater integration.

- A. *Purpose.* The city encourages the incorporation of vegetated, well designed stormwater filtration swales into required landscape areas where topography and hydrologic features allow. Such integrated site designs can improve water quality and provide a natural, effective form of flood and water pollution control.

B. *Design guidelines.* Below are requirements for designing a landscape area that integrates stormwater facilities. The planning and zoning commission and the City of Weiser Public Works Department should be involved in the initial design and determining the appropriateness of any site.

1. Stormwater swales incorporated into required landscape areas shall be vegetated with grass or other appropriate plant materials. They shall also be designed to accommodate the required number of trees as per this chapter if located in a street buffer or other required landscape area.

2. A rock sump may be incorporated into a vegetated swale to facilitate drainage. The rock sump inlet may not exceed more than five feet in any horizontal dimension. Grates for sand/grease interceptors may also be incorporated, but the inlet structures may not exceed two feet in any horizontal dimension.

3. Gravel, rock, or cobble stormwater facilities are not permitted on the surface of required landscape areas. Cobble may be incorporated into required landscape areas if designed as a dry creek bed or other design feature.

4. Plant materials shall be a species that is able to withstand the anticipated changes in soil wetness and moisture levels.

5. Organic mulch shall not be used against drainage catch basins due to potential sediment clogging.

6. Open water ponds and holding areas with a permanent water level are not permitted in required landscape or buffer areas. However, ponds that are aesthetically designed with special grading and vegetative features may be approved as provided for in section 10-19-15, alternative compliance, of this chapter.

7. Slopes must be less than three to one (3:1) (horizontal: vertical) for accessibility and maintenance.

8. The stormwater facility must be designed free draining with no standing water within 24 hours of the completion of a storm event in accordance with best management practices.

10-19-12. Micropath landscaping.

A. *Purpose.* The purpose of this section is to promote trees and other landscaping along micropaths developed within the city. The required landscaping will provide shade and visual interest along the micropaths.

B. *Applicability.* Whenever micropaths are developed within a subdivision or connecting from one subdivision to another subdivision or other destinations, the landscaping standards within this section shall apply.

C. *Planter width.* A landscape strip a minimum of five feet wide shall be provided along both sides of the path. Additional width is encouraged to allow trees to be planted farther from the pathway and prevent root damage to the path.

D. *Required plants.* The landscape strips shall be planted with a minimum of one deciduous tree per 35 linear feet and shrubs, lawn, or other vegetative ground cover.

e. *Tree branching height.* Trees along the pathway shall be pruned with a clear branching height of at least eight feet above the path surface.

F. *Shrub height.* Shrubs are limited to three feet high or less at mature size to allow for safety provisions and sight distance.

G. *Mulch.* The solitary use of mulches such as bark alone without vegetative ground covers is prohibited. Mulch under the trees and shrubs is required as per section 10-19-4.H of this chapter.

H. *Prohibited trees.* No evergreen trees or class III trees shall be planted within the required landscape strip due to safety, sight distance, and maintenance concerns.

I. *Fences.* Fences adjacent to a micropath landscape strip are recommended to be "see through" as it provides better visibility from adjacent homes or buildings. If solid fencing is used, it shall not exceed six feet in height. The developer is responsible for the construction of the fences adjacent to all micropaths. The fence restrictions shall be included as a note on all final plats that include a micropath.

10-19-13. Reserved.

10-19-14. Landscape maintenance.

A. *Purpose.* All required landscaping must be maintained in a healthy, growing condition at all times.

B. *Responsibility.* The property owner is responsible for the maintenance of all landscaping and screening devices required by this chapter.

C. *Maintenance defined.* "Maintenance" shall include watering, weeding, pruning, mowing, litter removal, pest control, and removal/repair of vandalism as needed to maintain a neat and orderly appearance.

D. *Topping prohibited.* It shall be unlawful to top any street tree required by this chapter.

E. *Tree grates.* Tree grates must be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right-of-way.

F. *Dead and diseased plant materials.* Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.

G. *Open ponds and waterways.* Open ponds and waterways when used as part of the landscape plan require a developed a pest control abatement program approved by the City and a water filtering maintenance program.

H. *Inspections.* All landscaping required by this chapter will be subject to periodic inspections by city officials to determine compliance or to investigate complaints made against the property.

I. *Enforcement.* Where any property owner to which this chapter applies fails to maintain the required trees, landscaping, or screening devices, the city may issue a written notice requiring the owner to replace any dead or dying trees or other plant materials that were required by their approved landscape plan or by this chapter; repair or replace any required screening devices that have been destroyed, removed, or are in a state of disrepair; remove weeds; or perform any other action necessary to comply with the requirements of this chapter.

J. *Penalty.* The owner shall comply with the provisions of the written notice within 60 days of the issuance of the notice. Failure of the owner to comply with the notice within the specified time frame shall be punishable as a misdemeanor; and every day the owner fails to comply shall be a separate and distinct offense.

K. *Extension.* The zoning administrator may grant an extension of time beyond the required 60-day period due to seasonal or adverse weather conditions which make replanting or replacement impractical. In no case shall the extension exceed six months.

L. *Contract options.* If the site is not maintained as required, the City of Weiser has the right to declare the property a nuisance and contract maintenance at the expense of the property owner.

10-19-15. Alternative compliance.

A. *Purpose.* The intent of this section is to encourage creative solutions to land use problems. The city recognizes that the specific requirements of this chapter cannot and do not anticipate all possible landscape situations. In addition, the City of Weiser recognizes that there may be landscape proposals which conform to the purpose, intent, and objectives of the landscape regulations but were not anticipated in the specific regulations. Therefore, the administrator of planning and zoning may allow for a method of alternative compliance in the event of these situations.

B. *Conditions.* Requests for alternative compliance are allowed only when one or more of the following conditions are met:

1. Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
2. The site involves space limitations or an unusually shaped lot.
3. Due to a change of use on an existing site, the required landscape buffer is larger than can be provided.
4. Additional environmental quality improvements would result from the alternative compliance.
5. Safety considerations make alternative compliance desirable.
6. Other regulatory agencies or departments having jurisdiction are requiring design standards that conflict with the requirements of this chapter.
7. The applicant is proposing a pond with a permanent water level in a required landscape area.

C. *Submittal requirements.* The following items are required to apply for alternative compliance. Note: If a project is being submitted as a Planned Unit Development, a separate application for alternative compliance is not required.

1. A written request for alternative compliance shall be submitted to the planning and zoning commission prior to submittal of the development application. The request shall state:
 - a. The ordinance requirements that are proposed to be modified.
 - b. The project conditions in subsection B of this section which justify the proposed alternative; and
 - c. How the proposed alternative meets or exceeds the intent of said requirement.
2. A conceptual site plan and other information as necessary to illustrate the proposed method of alternative compliance.
3. An application fee as set by the Weiser City Council.

D. *Design flexibility.* The zoning administrator or the administrator's designee shall have authority to vary on a case-by-case basis the required landscaping where an alternative requirement would address unique site conditions and allow design flexibility while still serving the intent of this chapter.

E. *Variance.* If compliance with this chapter is not possible and there is no feasible proposal for alternative compliance which is, in the judgment of the planning administrator, equal or better than normal compliance, the applicant must apply for a variance in accordance with the provision of chapter 14 of Title 10. The applicant may also appeal the decision to the Weiser City Council by filing an appeal with the city clerk's office.

F. *Precedent.* Alternative compliance shall not be limited to the specific project under consideration and shall not establish precedent for acceptance in other cases.

G. *Timeline.* The zoning administrator or the administrator's designee shall respond to the applicant within 15 working days regarding acceptance or denial of the proposed alternative.

10-19-16. Certificate of occupancy.

A. *Issuance of certificate of occupancy.* All required landscaping and site improvements must be installed according to the approved landscape plan prior to issuance of a final certificate of occupancy. Private site improvements that are above and beyond the requirements placed on the application do not require completion prior to occupancy; for example, a clubhouse in a residential subdivision need not be completed prior to occupancy of residences in the subdivision.

B. *Extension of time for compliance.* The zoning administrator or building official may issue a temporary certificate of occupancy for a specified time period, not to exceed 180 days when, due to weather or other circumstances, the landscaping or other required site amenities cannot be completed. Whenever a temporary certificate of occupancy is issued, the following shall apply:

1. *Letter of credit, certified check, or cash deposit.* An irrevocable bank letter of credit, certified check, or cash deposit for 150 percent of the cost of materials and installation must be filed with the city clerk prior to issuance of a temporary certificate of occupancy. A formal bid must accompany the irrevocable bank letter of credit, certified check, or cash deposit. The irrevocable bank letter of credit shall be effective for the minimum period determined by the council. The irrevocable bank letter of credit, certified check or cash deposit will not be released until all landscaping and other site amenities are completed as shown on the approved site plan.

2. *Permission to enter property.* Any property owner wishing to make arrangements with the city for a temporary certificate of occupancy must also allow the city to enter upon the land for the purposes of installing the required landscaping and other site improvements in the event the landscaping is not in place when the temporary certificate of occupancy expires.

Section 2: All previous ordinances, resolutions, orders, or parts thereof, in conflict herewith are hereby repealed, rescinded and annulled.

Section 3: If any part of this ordinance shall be held unconstitutional or void, such part shall be deemed separable and its invalidity shall not affect the remaining parts of the ordinance.

Section 4: The City Clerk is instructed to immediately forward this ordinance to the codifier of the official municipal code for proper revision of the code.

Section 5: That this ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City and shall take effect and be in force upon its passage, approval, and publication.

DATED this _____ day of October, 2023.

Randy Hibberd, Mayor

ATTEST:

Natasha McDaniel, City Clerk

ORDINANCE NO. #