

ORDINANCE NO. 1830

**An Ordinance to Regulate Landscaping and Screening
in the City of Eureka Springs**

WHEREAS, it is in the best interests of the citizens of Eureka Springs to have regulations in place which will beautify the City and enhance the aesthetic values of the community, which has the effect of preserving property values and making Eureka Springs a better place to live; and

WHEREAS, it is also in the best interest of the citizens of Eureka Springs to have screening regulations in place so that properties are separated by and views are blocked by screening where uses of adjacent properties may be dissimilar; and

WHEREAS, it has therefore been determined by the City Council that it is in the best interests of its citizens to adopt the following regulations regarding landscaping and screening.

NOW, THEREFORE, BE IT HEREBY ORDAINED that the following ordinance be adopted for these purposes:

**SECTION ONE
Intent and Purpose**

The intent of the Landscaping and Screening Ordinance is as follows:

- A. To aid in stabilizing the environment's ecological balance by contributing to the process of air movement, air purification, oxygen regeneration, groundwater recharge, and storm water runoff control: while at the same time aiding in noise, glare, heat and dust abatement;
- B. To provide visual buffering between land uses of differing character;
- C. To enhance the beautification and quality of life of the City;
- D. To protect the public health, safety and general welfare;
- E. To assist in providing adequate shade; and
- F. To encourage innovation and quality in landscape and architectural design.

**SECTION TWO
Definitions**

Berm – A linear earthen mound with turf or other plantings designed to provide visual interest, screen undesirable views, and/or decrease noise.

Buffer - A continuous area of land set aside along the perimeter of a lot in which plantings are used to provide a transition and reduce the environmental, aesthetic, and other impacts of one type of land use upon another.

Container – A receptacle designed for plants, shrubs and/or trees of a material in keeping with the character of the historic district and its immediate surroundings.

Diameter at Breast Height (dbh) - The point of measurement of a tree trunk diameter (caliper), four (4) feet, six (6) inches above the mean ground level at the base of the tree.

Ground Cover - Plant materials which reach a maximum height of not more than eighteen (18) inches and may be used in lieu of lawn grass.

Island - An area of land completely surrounded by pavement or other parking lot or road surface, which is landscaped and provides relief from solid paving or other surfaces both visually and physically.

Lawn Grass – Turf grass species normally grown adapted for use as permanent lawn in Carroll County, Arkansas

Mechanical Equipment – Freestanding Heating, Venting, Air Conditioning and Refrigeration equipment (HVACR).

Ornamental tree - A tree planted primarily for its ornamental value of flower, fruit or foliage; tends to be smaller at maturity than a shade tree.

Parapet – That portion of the external building wall that extends above the roofline.

Parking Space - That portion of a vehicular use area set aside for the parking of one vehicle. (Refer to zoning regulations for sizes.)

Parking Structure – Building for parking of vehicles, excluding residential parking buildings (residential garage).

Public Way – Any street, alley, sidewalk, stairway, or path open to the public.

Screening - A continuous visual barrier, structural or planting, that effectively blocks the view from the public right of way and neighboring property.

Shade tree- Usually a deciduous tree, planted primarily for its high crown of foliage or overhead canopy.

Tree - Any self-supporting, woody perennial plant usually developing a single trunk diameter of three (3) inches or more dbh, which normally attains a mature height of a minimum of fifteen (15) feet, or developing multiple trunks with each trunk attaining a diameter of three (3) inches dbh, and normally attaining a mature height of a minimum of fifteen (15) feet.

Vegetation, native - Any plant species with a natural geographic distribution indigenous to all or part of the state of Arkansas.

Vehicular Use Area - All open areas, open spaces, and buildings on the land that are designated, used, required, or intended to be used, for storage, parking, maintenance, service, repair, display, circulation, or operation of vehicles. This definition is intended to include areas used or intended to be used for driveways to such vehicular use areas but does not include improvements to public road, street, highways and alleys.

SECTION THREE

Vehicular Use Area Landscaping: Surface Parking Areas

This section applies to vehicular use areas located within all zones except R-1 and R-2 zones, and to non-residential uses in any R-1 or R-2 zone.

A. Perimeter Landscaping Requirements

- 1) Every off-street parking area which is adjacent to a public right-of-way shall be separated from such right-of-way by a landscaped buffer of at least the width of the required set-back area for the zoning district within which said parking area is located, but in no case shall the landscaped buffer be less than five (5) feet wide.
 - a) Such buffer shall contain a compact evergreen hedge or equivalent.
 - b) Landscaping plants shall be no less than thirty (30) inches in height at the time of installation and mulched to a depth of at least four (4) inches.
 - c) Plant material selected shall be suitable for the given soil and climate conditions. Favorable consideration shall be given to native vegetation.
 - d) Such buffer shall contain at least one (1) tree (shade or ornamental), which at the time of planting shall be a minimum of four (4) to five (5) feet tall and have a trunk of not less than three quarters ($\frac{3}{4}$) of an inch caliper, for every forty (40) linear feet of required landscaped buffer, or portion thereof.
 - e) All landscaped buffers shall be protected from vehicular encroachment by raised concrete curbs, wheel stops, or other permanent barriers.
 - f) A landscaped berm may be used instead of a landscaped buffer, with a crest at least thirty (30) inches above the parking area surface, in which case a variance may be given by the Board of Zoning Adjustments from the requirement for an evergreen hedge in (a) of this section.

EXCEPTION: *Existing Vehicular Use Areas that are incidental to the primary use of a property: Due to the topography of the City, existing incidental Vehicular Use Areas for twelve (12) or fewer vehicles associated with a business that is in operation at the time this Ordinance is approved are not required to meet the requirements of this subsection A. 1. However, landscaping is encouraged to the extent it is possible.*

- 2) Every off-street parking area which is not adjacent to a public right-of-way shall be separated from property lines by a landscaped buffer, the width of which shall be the lesser of the required setback for the zoning district within which the parking areas located, or ten (10) feet.
 - a) Such landscaping may consist of: lawn grasses, ground cover, shrubs, trees and non-living durable material such as brick pavers, etc. Eighty percent (80%) of such material must be living plants.
 - b) Plant material selected shall be suitable for the given soil and climate conditions. Favorable consideration is to be given to native vegetation.
 - c) Such buffer shall also contain at least one (1) tree (shade or ornamental), which at the time of planting shall be a minimum of four (4) to five (5) feet tall and have a trunk caliper of not less than three quarters ($\frac{3}{4}$) of an inch dbh, for every forty (40) linear feet of required landscaped strip, or portion thereof.
- 3) The above provisions notwithstanding, no more than one (1) tree (shade or ornamental) shall be required for every thirty (30) linear feet of landscaped strip or buffer.
- 4) The property owner shall be responsible for watering and maintaining all installed landscaping in a healthy, neat and orderly condition; replacing plants and trees when no longer living, and keeping the area free of refuse and debris. Tree limbs and other plantings shall be maintained so as to not create an obstruction to a driver's visibility and/or pedestrian movement

B. Interior Landscaping Requirements

- 1) At least one (1) landscaped island, encompassing a minimum of one hundred sixty (160) square feet, shall be provided for every twelve (12) parking spaces. Where the calculation of landscaped island requirements results in a fraction of an island, the number of islands required shall be the next higher integer or the size of islands increased to meet the square footage requirement.
- 2) Such landscaping may consist of: lawn grasses, ground cover, shrubs, trees and non-living durable material such as brick, pavers, etc. Eighty percent (80%) of such material must be living plants.
- 3) Not more than twelve (12) parking spaces shall be located consecutively without an intermittent island. Some or all of the required landscaped islands may be aggregated to preserve existing trees, provided that the aggregate total of interior landscaping within the landscaped islands shall equal or exceed the landscaped area otherwise required.
- 4) Within parking areas containing more than twenty-five (25) parking spaces, islands shall be provided at each end of each parking bay to direct the movement of traffic.

- 5) Each required island shall include one (1) tree (shade or ornamental) which at the time of planting shall be a minimum of four (4) to five (5) feet tall and have a trunk of not less than three quarters (¾) of an inch caliper, dbh.
- 6) Shrubs and ground cover shall be selected and placed to complement the tree landscaping and shall provide full coverage of the area.
- 7) All landscaped areas shall be protected from vehicular encroachment by raised concrete curbs, wheel stops, or other permanent barriers, which are at least six (6) inches high.
- 8) The property owner shall be responsible for watering and maintaining all installed landscaping in a healthy, neat and orderly condition; replacing plants and trees when no longer living, and keeping the area free of refuse and debris. Tree limbs and other plantings shall be maintained so as to not create an obstruction to a driver's visibility and/or pedestrian movement.
- 9) Tree limbs and other plantings shall be maintained so as to not create a material impediment to visibility between the heights of three (3) feet and seven (7) feet above the surface of the parking area.
- 10) Container plantings may be an acceptable alternative to in-ground plantings.

SECTION FOUR

Vehicular Use Area Landscaping: Parking Structures

This section applies to the vehicular parking structures located in all zones.

A. Perimeter Landscaping Requirements

Structured parking which is above finished grade shall comply with building setback requirements. Landscaping for parking structures shall be provided in all yards pursuant to perimeter landscaping requirements for surface parking areas. However, where the location of such structure with respect to property boundaries and adjacent structures will substantially inhibit the growth of the required trees, such trees may be located along another perimeter of the site in a manner approved by the City Arborist.

B. Interior Landscaping Requirements

- 1) Interior landscaping requirements shall not apply to the levels of a parking structure which are covered by decks or roofs.
- 2) For uncovered parking structures, the interior landscaping requirements specified for surface lots shall apply. However, smaller trees and plants may be substituted for the plant materials required for surface lots subject to the approval of the City Arborist.

- 3) The property owner shall be responsible for watering and maintaining all installed landscaping in a healthy, neat and orderly condition; replacing plants and trees when no longer living, and keeping the area free of refuse and debris. Tree limbs and other plantings shall be maintained so as to not create an obstruction to a driver's visibility and/or pedestrian movement.

SECTION FIVE Landscaping Plan Submission

A. Every request for a Building Permit that is for, or includes, a parking area requires the submission of a Landscaping Plan, along with the required site plan, to the City. The Landscaping Plan may be a separate print, or the information may be included on the site plan print. The minimum required information on the landscape plan will include:

- 1) North arrow and scale.
- 2) All dimensions and property lines.
- 3) Locations and dimensions of the proposed landscaping buffers, berms and islands.
- 4) Descriptions and locations of trees and planting materials to be placed in the landscaped buffers, berms and islands.
- 5) Location, species and caliper of any existing trees to be retained and treated as part of the landscaping requirements.
- 6) Description of the method or methods to be used to protect trees to be retained.
- 7) Degree of visibility at parking area entrance and exit.
- 8) Existing and proposed curb cuts, lighting, parking spaces, access aisles, driveways, sidewalks, wheel stops, curbs and other vehicular use controls.

SECTION SIX Existing Vehicular Use Areas

A. Vehicular Use Areas that are in existence at the time this ordinance is approved shall have a period of five (5) years from the date of approval of this ordinance to be brought into compliance with this ordinance; provided, however, that any of the work listed as follows to a Vehicular Use Area during said five (5) year period will require that the Vehicular Use Area be brought into compliance with this ordinance at the time that such work is done:

- 1) Changes the number of parking spaces in the Vehicular Use Area; or
- 2) Construction costs are incurred by the owner of the Vehicular Use Area in the amount of Ten Thousand Dollars (\$10,000) or more.

B. The minimum requirement for existing Vehicular Use Areas within the Historic District is a two (2) foot deep planting area and/or container along the primary street frontage excluding drives with containers placed where feasible on additional street frontages.

C. All landscape plans for existing Vehicular Use Areas are to be approved by the Board of Zoning Adjustments prior to commencement of work. The plan submitted will conform with the plan as outlined in Section Five.

SECTION SEVEN Approved Trees and Shrubs

A. Trees

Refer to the attached Appendix A

B. Ground Covers and Shrubs

Refer to the attached Appendix B

SECTION EIGHT Variance of Requirements

The Board of Zoning Adjustments may vary the terms and provisions of this Ordinance in those cases where space and topography might make compliance with this Ordinance impossible. Upon submission of an Application for Variance and documentation, a hearing will be scheduled for the next available agenda. Applications will be considered according to current Board of Zoning Adjustments rules and procedures.

SECTION NINE Screening Standards

A. Applicability

All of the following uses shall conform to the minimum screening requirements of this section:

- 1) All outdoor storage yards/areas, including but not limited to, lumber yards.
- 2) All above grade structures housing mechanical equipment, including but not limited to mechanical equipment associated with wireless communications facilities, but excluding public utility fixtures where such screening would have an adverse effect on safety and/or service access.
- 3) Areas housing containers designed for the temporary storage of refuse, rubbish, garbage or other waste material.

B. Minimum Screening Requirement.

- 1) Any listed use shall be screened by a view obscuring fence, view obscuring vegetation, or combination of the two, of sufficient height and length to prevent the view of the use from adjacent properties and vehicular and pedestrian traffic on adjacent streets.
- 2) Where vegetation is used to meet the requirements of this section, the vegetation shall be planted at a density sufficient to become view-obscuring within two (2) years from the date of planting. If vegetation planted under this section does not become view-obscuring within the two (2) years period, a view-obscuring fence shall be installed.

C. Mechanical equipment screening - Commercial.

All mechanical equipment and appurtenances shall be concealed and/or screened from view from a public way at the same or a lower level in their entirety in a manner that does not have an adverse effect on operations, as an integral part of the building in one of the following manners, subject to approval of the City:

- 1) Parapets are acceptable for screening, provided the height shall be equal to, or higher than, the highest point on the mechanical equipment; or
- 2) Screening of mechanical equipment shall be constructed of similar material and painted colors similar to the building, and so arranged that the screening is perceived to be an integral part of the building mass.

D. Mechanical equipment screening - Residential.

All mechanical equipment and appurtenances shall be concealed and/or screened from view from a public way in a manner that does not have an adverse effect on operations. Screening shall meet the requirements outlined in Paragraph B of this section.

SECTION TEN
Existing Uses to which Screening Standards Apply

All uses to which this screening requirement applies which are in existence at the time this Ordinance is approved shall be given a period of two (2) years from the date of approval of this Ordinance to be brought into compliance with this Ordinance.

NOTE: Screening within the Historic District shall require review and approval by the Historic District Commission (HDC)

SECTION ELEVEN
Appeals

Appeals of decisions by staff shall be made to the Board of Zoning Adjustments as set forth under the Zoning Ordinance of the City.

SECTION TWELVE
Penalties

Unless contradictory to any penalty set forth elsewhere in the City of Eureka Springs municipal code, any person, firm or corporation violating any provisions of this Ordinance, or who fails to comply with any notice issued pursuant to the provisions of this Ordinance, upon conviction or plea of guilty, shall be subject to a fine of not less than \$200.00 nor to exceed \$500.00 for each separate offense, and in addition thereto may be enjoined from continuing the violation. Each day the violation continues may be considered a separate offense.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS,
ARKANSAS, THIS _____ DAY OF _____, 2001.**

APPROVED:

Beau Zar Satori, Mayor

ATTEST:

Mary Ann Lee, City Clerk

APPENDIX B

Primary list. The following ground covers are those, that after the 1st year of maintenance, are best suited to this area. This list along with the secondary list are those ground covers which may be planted in the required landscaping area. Additional selective ground covers may be substituted when proven to be hearty to this region:

COMMON NAME

Dwarf Nandina	Creeping Phlox	Iris
Ferns**	Hostas**	Pachysandra**
Memorial Rose	Vinca Major	Daylily
Vinca Minor (periwinkle)		Ajuga Reptans
Wintercreeper (spreading euonymus)		Mondo Grass (limited hardiness)
Liriope	Juniper, ground hugging i.e. Blue Rug	

The following list of ground covers are those which have been found to be the next best suited to this area but require increased maintenance:

English ivy	Astilbe	Honeysuckle
Lavender	Dwarf Bamboo (invasive)	

** moisture lovers

Recommended Shrubs

The following indicate plantings which will meet the landscaping requirements of this chapter. Plants were selected for inclusion on these lists according to four principle criteria: (1) general suitability for the climate and sun conditions for this area, (2) ease of maintenance, (3) tolerance to city conditions and (4) availability.

Native

Viburnum	Forsythia	Cottoneaster
Spirea	Wintergreen Barberry	Euonymus

Non-Native to Arkansas

Pink-flowering Almond	Golden Twig Dogwood	Red Twig Dogwood
Abelia	Rhododendrons*	Inkberry Holly
Shore Juniper		

Non-Native to USA

Creeping Juniper	Japanese Holly	Mugo Pine
Japanese Barberry	Flowering Quince	Pfitzer Juniper
Helleri Holly	Azalea*	Foster Holly
Yaupon Holly	Nandina (Heavenly Bamboo)	

* shade needed

Evergreen Shrub

Yews – Hinkii – sun/shade 9', Brownii 6' can be sheared and kept at any height
 Boxwood – mycrophlum winter green, english, 3' can be sheared
 Junipers – tend to get bagworms (upright variety) hot dry sun, don't shear very well

Trees

Blue Holly China Girl 6'	Red Bud 25'	White/Pink Dogwoods 25'
Bradford Pear	Evergreen – Foster Holly	