



Scenic America

Landscaping Model Ordinance

Landscaping ordinances can and do serve a noteworthy purpose in preserving the visual environment of a community. Well-designed and maintained landscaping can screen visually undesirable features from public view, protect the privacy of residents, and promote the community as one that cares about its appearance. It can also improve the physical environment of a community through using plants best suited to the climate, improving drainage, and enhancing air quality.

There are **three general types** of landscape ordinances:

1. **Comprehensive landscape ordinances** focus on pre-construction efforts and restrict everything from grading to tree removal, wildlife habitat to aquifer recharge. These ordinances often include provisions targeted at specific environmentally-sensitive areas in a community such as wetlands or ridgelines. Compliance tends to be expensive and time-consuming, but also gets the best results.
2. **Post-construction landscape ordinances** focus on individual site plans, rather than ecosystems. They often require screening of loading zones, trash receptacles, etc. Furthermore, they usually require planting and the design of buffer zones between uses and restrict increases in impervious surfaces so as to control storm water runoff. Buck Abbey of the American Society of Landscape Architects noted that these ordinances are most often designed to put nature back into a city after existing features have been removed.
3. **Tree ordinances** are the most common landscape ordinances, many dating back to the 19th century. These ordinances recognize both the aesthetic and environmental values of trees, set requirements for planting and conditions for removal, and often regulate the types of trees that developers and individuals can plant on a property. Tree ordinances may be subsumed under an overall landscaping ordinance. Or they may be separate from, and complimentary to, the landscaping ordinance. Tree ordinances may focus on protection of a certain species of tree or large specimens, while others are much more sophisticated, concentrating on making tree conservation a consideration in every step of the development process.

From a scenic conservation perspective, **the best local ordinances include all three types**. Rather than attempt to draft a comprehensive ordinance that could fit any community, we have provided an outline of the elements of a successful ordinance would best serve scenic observation.

Key Elements

1. **Findings and Policy Statement.** Whenever a developer or other party challenges an ordinance in court, the court wants to know WHY a municipality enacted the ordinance. For example, Fort Collins, Colorado explicitly wants landscaping plans to reduce glare and heat build-up, contribute to visual quality and continuity within and between developments, provide screening and mitigation of potential conflicts between activity areas and site elements, enhance outdoor spaces, reduce erosion and stormwater runoff, and mitigate air pollution. Any one of those purposes is acceptable, but the combination

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works best. A legitimate purpose for landscaping and tree ordinances not mentioned by Fort Collins is the protection of property values. Study after study indicates that well-landscaped homes and building sites increase property values by at least five and often more than twenty percent. Beyond individual property values, a Tucson, Arizona study showed that for every dollar spent to maintain trees and other landscaping, residents realized \$2.62 worth of benefits in the form of energy savings, dust reduction, and storm water control.

2. **Applicability.** Ordinances must specify the places and circumstances to which they apply. For example, Merced, California's landscaping ordinance applies only to new developments within the city. The city could expand that applicability to include substantial reconstruction or redevelopment projects. At the same time, tree ordinances tend to apply to all street trees and to trees that extend into public rights of way or across property lines.
3. **Plan requirements.** Under most comprehensive landscape and post-construction landscape ordinances, communities require developers to submit landscaping plans for a given site. To provide developers guidance on what is expected of them, such ordinances should specify exactly what a plan must contain. For example, if the ordinance requires a planted buffer between the parking area and the street, the ordinance should require that a landscape plan show such a buffer. The ordinance may also require pre-development photographs, topographical maps of the site, drawings to a certain scale, artistic renditions of the proposed plan, and other required aspects of the plan. Davie, Florida even requires that the plan be prepared by and signed by a Florida-registered landscape architect. Furthermore, the ordinance should designate a staff person, department, or agency responsible for certifying compliance with the plan requirements and with authority to require additional information based on professional judgment and criteria.
4. **Standards.** The longest and most detailed sections of landscaping ordinances consists of standards. Standards sections all should have the following items in common:
 - a. *Clarity.* The average developer should be able to understand what he or she must do to meet the standards.
 - b. *Context-sensitivity.* Not every location can and should have the same landscaping standards as every other. As such, many ordinances have different levels of landscaping standards, depending on the environmental and visual sensitivity and needs of the areas governed by the levels.

For example, Eugene, Oregon has a basic landscaping standard as follows with others for low-screening requirements, high wall areas, and high screen requirements.

1) Basic Landscape Standard (L-1).

(a) Required Plant Materials. Basic Landscape Standard (L-1) requires the installation and maintenance of all of the following:

1. **1 canopy tree per 30 linear feet as measured along the property line.**
2. **6 shrubs per 30 linear feet as measured along the property line.**
3. **Living plant materials covering a minimum of 70 percent of the required landscape area within 5 years of planting. The required plant materials may be installed in the required area in any arrangement and do not need to be linear in design.**
5. **A basis for the standards.** Standards sections will frequently refer to the standards set forth by professional organizations and associations to as a basis for the community's own rules. Deerfield Beach, Florida requires landscaping to be installed according to accepted good planting

procedures as developed by the American Society of Landscape Architects. Tree preservation standards are often based on standards set forth by organizations of professional arborists.

Whether or not such references are explicitly in the ordinance, there should be some reference to them either in the minutes of the committee that drafted the ordinance or in the hands of those charged with enforcing the ordinance.

6. **Location-specific provisions.** Communities should tailor their landscaping ordinances to their particular climate and terrain. For example, municipalities in dry climates often require xeriscaping, or landscaping with drought-resistant plants that use less water. Even the Dade County, Florida landscape ordinance promotes xeriscape principles. Anchorage, Alaska also has some provisions, including designation of local hardiness zones, particularly adapted to its cold climate. Communities should, with the help of experts, evaluate their situation and select species and techniques best suited to their needs.
7. **Administration provisions.** Regardless of the size of the community establishing the ordinance, somebody has to manage it. Most communities designate the department that handles planning and zoning matters to receive and review applications and to monitor compliance. However, there are variations. Many tree ordinances authorize the municipality to appoint a shade tree commission or similar entity to develop and recommend policies and to review proposals. Many municipalities also employ the services of an arborist, either as a member of their staff or on a contract basis, to handle tree-related issues. Tampa, Florida's Parks Department administers that city's landscape ordinance. In many communities planning commissions consisting of local residents review development plans including landscaping plans, while professional staff monitor and enforce compliance. Finally, in Pennsylvania, townships may authorize environmental advisory councils to review plans for compliance with environmental provisions such as landscaping and tree protection ordinances as part of the development review process.
8. **Enforcement provisions.** Failure to comply with landscaping and tree protection ordinances must have consequences. In the case of landscaping required as a condition of approval for development, the standard consequence is denial of approval. Failure to properly install landscaping in an approved project can result in denial of additional permits required as part of the development process. For example, Charleston, South Carolina specifically provides that "no certificate of occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the Zoning Administrator." Fort Collins, Colorado's ordinance provides that any plant that dies or is removed in the landscaped area must be replaced by a plant of equal or greater size and value. In the case of tree ordinances, the best and most effective impose substantial penalties for illegally removing trees. Chapel Hill, North Carolina not only requires replacement of any tree illegally removed, but also provides for civil penalties equivalent to 1.5 times the monetary value of the trees or topsoil removed or destroyed up to a maximum of \$20,000.