

Fig. 27-1102.A: Sample locations of landscape areas

B. Proportionate Compliance

1. **APPLICABILITY TO REDEVELOPMENT AND INFILL: PROPORTIONATE COMPLIANCE.** To encourage redevelopment, continuing property investment, and infill development, it may be necessary to determine site appropriate adjustments to applicable development standards that will allow the development to take place while applying proportional development standards. This section identifies the process for determining specific site compliance with a proportionate standard.

2. **LIMITED TO SPECIFIC SECTIONS.** A request for proportionate compliance is limited to development standards in the following sections.

- (a) Section 27-1103, Street Frontage Standards
- (b) Section 27-1104, Bufferyard Standards
- (c) Section 27-1105, Off-Street Parking Lot Standards

3. **ELIGIBILITY FOR PROPORTIONATE COMPLIANCE.** Proportionate compliance for landscape standards applicable to a specific development or structure type may be requested for development types in Table 27-1101.2 according to the calculation described in Section 4, below.

Table 27-1101.2: Applicability of Development Standards

Structure Type	Res. Multi-Unit	Mixed-Use	Comm.	Ind.
New Development				
Percent compliance with development standards				
New Development	100	100	100	100
Infill, Conforming Lot	90	90	90	90
Infill, Nonconforming Lot	70	70	70	70
Existing Development				
GFA or off-street parking space change less than 10 %	n/a	n/a	n/a	n/a
GFA or off-street parking space change between 10% and 75%	See Sec. 4(b), below.			
GFA or off-street parking space change greater than 75%	100	100	100	100
Interior Redevelopment Only	Parking lot landscaping may be applicable, see Sec. 27-1200 and Sec. 4(a), below			
Nonconformities				
<i>See Section 27-400 for applicability of nonconformity standards</i>				

4. MEASURING REQUIRED COMPLIANCE

(a) Interior Changes: Where development changes are wholly internal to the existing structure, only the parking landscaping requirements of this Code may be applicable. This requirement may be waived by the planning director where the applicant can show there is sufficient existing parking to service the intended new use(s). Increases in required off-street parking greater than 10% of the existing required off-street parking may require proportional compliance with the parking lot landscaping requirements.

(b) Gross Floor Area (GFA) Changes and Off-Street Parking Space Changes: The landscape standards shall apply to all increases in GFA or required off-street parking space changes as follows:

(1) Minimal Change. Square footage or required off-street parking changes that increase the total gross floor area of a structure or the number of required off-street parking spaces by less than 10 percent, as determined by the zoning compliance permit application, shall not be required to comply with these development standards.

(2) Proportionate Change. Square footage or required off-street parking changes that increase the total gross floor area of a structure or the number of required off-street parking spaces by more than 10 percent but less than 75 percent, as determined by the zoning compliance permit application, shall require a corresponding percent increase in compliance with these development standards or until the site reaches compliance, whichever is less.

(3) Full Compliance. Square footage or required off-street parking changes that increase total gross floor area of a structure or the number of required off-street parking spaces by 75 percent or greater, as determined by the zoning compliance permit application, shall be required to fully comply with these standards.

(c) Measurement is based on changes to an individual structure that is subject to improvements, regardless of the total number of structures on the site.

5. TEN-YEAR TIMEFRAME

Any application by property owners to expand or replace part of an existing structure shall remain on record for 10 years from the date of work completion. Any subsequent application by the same property owner(s) to expand or replace part of an existing structure shall be cumulative to any requests made within the previous 10 years. The total shall be used by the county to determine the property owner's necessary level of compliance.

Section 27-1103 Landscape Plan.

A. APPLICABILITY

1. Landscaping in compliance with this article shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a zoning compliance permit shall include a landscape plan where appropriate.

2. A landscaping plan must be approved by the planning director before the issuance of a zoning compliance permit.

B. LANDSCAPE PLAN PREPARATION

1. Landscape plans shall be prepared with materials that meet the requirements of Section 27-1107 and that:

- (a) Are appropriate to the conditions in which they are planted;
- (b) Have noninvasive growth habits;
- (c) Encourage low maintenance, high quality design; and
- (d) Are otherwise consistent with the intent of this article.

2. Landscape plans shall be prepared as follows:

- (a) Lots of 1.5 acres or larger: the plan shall be prepared by a licensed landscape architect.
- (b) Lots smaller than 1.5 acres: applicants are encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

A list of appropriate plant species for Billings and Yellowstone County can be obtained from the Planning Department.

C. INFORMATION REQUIRED

The landscaping plan shall contain the following elements:

- (a) Scale: no smaller scale than 1"=40'
- (b) Property lines, easements, and public rights-of-way, including clear vision triangles.
- (c) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- (d) Buildings or structures - both new and existing.
- (e) An estimated count and approximate location of all existing trees, four inches in diameter or larger, measured at four and a half feet above grade, and identification of all trees within that group that are identified for removal and the required characteristics of all trees for tree preservation credit. A tree count is not required for areas of the site that will not be disturbed during construction.
- (f) Drive approaches, parking spaces, light standards, circulation and pedestrian walkways.
- (g) Landscaping materials:
 - (1) Location and spacing of proposed plant materials.
 - (2) Location of existing trees or landscaping to be preserved or eliminated.
 - (3) Types and location of new vegetation identified by botanical and common names and listed on a plant schedule.
 - (4) Size of materials, in diameter and height at installation and maturity.
 - (5) Quantity of each planting materials to be used.
 - (6) Types and location of inorganic landscaping material.
- (h) Location of walls, fences, screening, and refuse storage areas.
- (i) Location of any proposed retaining walls, indicating size and material to be used in the construction of the wall.
- (j) Methods of protecting the landscaped areas.
- (k) Proposed treatment of all ground surfaces (concrete or asphalt paving, pavers, turf or gravel).

D. PROCEDURE FOR LANDSCAPE PLAN REVIEW

1. LANDSCAPE PLAN REVIEW

The planning director shall consider the approval criteria in Section 27-1103.D.2 below when reviewing the landscape plan.

2. APPROVAL CRITERIA

The planning director may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

- (a) The landscape plan conforms to all requirements of this article and is consistent with the currently adopted growth policies and any other applicable plans.
- (b) The plant materials or landscape features are designed and situated in a manner that makes the project visually compatible with its surroundings to the greatest extent possible.
- (c) The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
- (d) If required, preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
- (e) No plant materials or landscape features are situated in such a manner to inhibit vehicle sight distances established in Section 27-615 or otherwise create a traffic hazard.
- (f) No woody plant materials are situated within any utility easement unless shrubs or other limited height materials are of a size that has been approved by the utility provider.
- (g) The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.
- (h) The design, selection, and layout of such landscaping is such to minimize maintenance requirements.

E. POST APPROVAL

1. SITE SPECIFIC AND BINDING

Approved landscape plans shall be binding upon the applicants and their successors and assigns. No zoning compliance permit shall be issued for any building or structure where landscaping has not been provided in accordance with the required and approved landscape plan, or any approved modifications thereto.

2. EXPIRATION OF UNBUILT LANDSCAPE PLANS

Approved landscape plans shall expire one year after approval if a zoning compliance permit has not been issued, or the approved use has not been established. In the event that the landscape plan expires due to the passage of this time period, a new landscape plan application must be submitted for approval in the same manner as an original application. An extension not to exceed one year may be granted by the planning director prior to expiration.

3. MODIFICATIONS TO LANDSCAPE PLANS

The holder of an approved landscape plan may request a modification to the document, or the conditions of approval, by submitting amended documents to either the planning director or the original approving body.

F. PERMIT AND SECURITY

1. LANDSCAPING INSTALLED WITHIN ONE YEAR OF ISSUANCE OF ZONING COMPLIANCE PERMIT

(a) All landscaping and screening material, organic and inorganic, shall meet the standards of Section 27-1106 and be in place within one year of the issuance of a zoning compliance permit. If installed, irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final as-installed landscaping plan by the party responsible for the creation of the landscape plan that is submitted with the zoning compliance permit application.

(b) If the timing of the project and seasonal limitations prevent planting within the one-year period, security as described in this section may be provided and the planting period may be extended accordingly.

2. SECURITY REQUIRED

(a) When the timing of a project delays the installation of the landscaping beyond the 1-year time period, a performance bond or letter of credit for 150 percent of the landscaping materials and labor costs shall be posted with the planning department to ensure the placement of the required landscaping.

(b) The property shall be inspected by the planning director to make sure that the required landscaping has been planted before release of the security bond or letter of credit.

(c) The installation of the required landscaping may be delayed until the next suitable planting season with written approval from the planning director.

3. MAINTENANCE AND INSPECTION

(a) Trees, shrubs, fences, walls, irrigation improvements, and other landscape features depicted on plans approved by the county shall be considered elements of the project in the same manner as parking, building materials, and other details are elements of the plan. The landowner, successors in interest or agent, if any, shall be jointly and severally responsible for the following:

(b) Landscaped areas shall be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation plans shall be submitted with development plans and shall contain all construction details for an automatic system.

(c) All landscaping and irrigation may be subject to periodic inspection for compliance to approved plans.

Section 27-1104 Street Frontage Landscaping.

A. REQUIRED STREET FRONTAGE LANDSCAPING

1. The area along any property line that abuts a public street right-of-way shall be provided a landscaped area at least five feet wide that is planted with street trees.

2. The required total number of street trees shall be calculated at one tree per 50 lineal feet of frontage. Fractions shall be rounded up to the next whole number.

3. Street trees do not need to be spaced at 50-foot intervals; the placement and landscaping design shall be at the discretion of the property developer in consultation with their landscape designer or landscape architect.



Fig. 27-1104.A: Sample illustration of new street trees installed on a commercial site.

B. LOCATION AND CALCULATIONS

1. Measurement

(a) Generally: The street frontage landscape area depth is measured from the property line inward.

(b) Boulevard: Street frontage yards located along a boulevard shall be measured from the leading edge of the sidewalk. Where there is a drainage swale between the road edge and the sidewalk, the street frontage yard shall be measured from the property line inward.

2. Up to 30 percent of required street frontage landscaping may be permitted within a County right-of-way with the issuance of an encroachment permit.

3. Street frontage landscape areas may overlap required yards and be located within required setbacks.

4. Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining landscaping area.

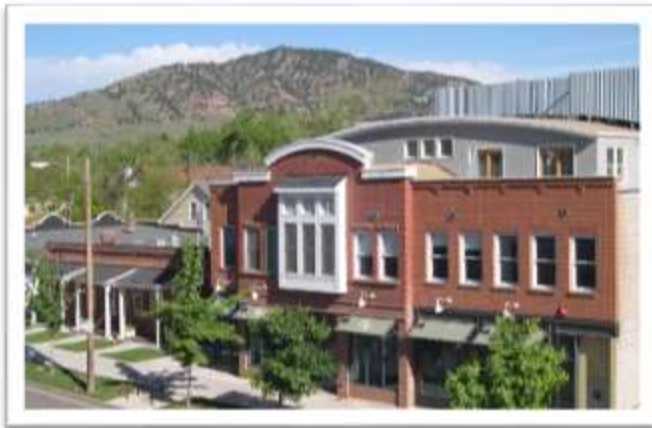


Fig. 27-1104.B (left) Street trees planted along a mixed-use redevelopment

C. PLANT MATERIALS

1. Street tree species shall be chosen from the Billings and Yellowstone County Plant List.

2. The street front landscape yard shall be planted in 75 percent organic materials, excluding turf grass or other material that requires regular mowing. The remaining 25 percent may be covered in inorganic materials.

3. Generally applicable plant materials standards are located in Section 27-1107.
4. The use of coniferous trees is not permitted in street frontage yards.

Section 27-1105 Bufferyards.

A. REQUIRED BUFFERYARDS

1. APPLICABILITY

- (a) The exterior boundary of a lot that adjoins a different zone district, structure, or use, and does not adjoin a public street right-of-way, shall meet the bufferyard requirements shown in Table 27-1105.1 below.
- (b) A lot may require a combination of street frontage yards and bufferyards depending upon the types of surrounding streets and development.

2. TYPES OF BUFFERYARDS

- (a) There are three types of landscaping bufferyards defined in this section that are intended to accomplish the following:
 - (1) B1: Visual Enhancement is intended to create a partial visual separation between uses or districts.
 - (2) B2: Filtered Screen is intended to create a semi-opaque visual separation between uses or districts.
 - (3) B3: Screened Separation is intended to provide both space and a partial visual separation between uses or districts. This bufferyard is intended for use where a new development is located adjacent to a district or use that is significantly different in intensity, such as a residential district next to an industrial district.
- (b) The dimensions and planting requirements for each type of bufferyard is specified in Table 27-1105.2.

Placeholder for illustration

Fig. 27-1105.A: Sample illustration of a B2 bufferyard

3. ADDITIONAL STANDARDS AND INSTRUCTION

- (a) If a use or district does not conform with the categories identified in Table 27-1105.1, the planning director shall determine which category best matches the use.
- (b) A six-foot high sight-obscuring fence or wall shall be provided on the property line where a commercial or industrial use or structure is adjacent or across an alley from residential uses.
 - (1) A continuous hedge may be substituted for the required fence or wall, as long as it has a minimum height at installation of three feet and reaches six feet or more at maturity.
 - (2) Chain link fencing is allowed within a bufferyard where a sight obscuring fence is required so long as the chain link fence has sight-obscuring slats installed.

Table 27-1105.1 Required Bufferyards

Key: B1, B2, or B3 = required bufferyard (see Table 27-1105.2 for requirements), F = Fence required per 27-1105.A.3, X = no bufferyard required

		Proposed Development																				
		Agriculture (A-1 & A-S)				Residential – All Types				General Commercial: RP, NC, CC , and P				Entryway				Heavy Comm/Industrial: HC, CI, and HI				
		Structure/ Use	Ag	SFR	MFR	Non- Res	SFR	MFR	Mixed Use	Non- Res	SFR	MFR	Mixed Use	Non- Res	ELC	EGC	EMU	ELI	HC	CI	HI	
Existing Development	Agriculture	AG	X	X	X	X	X	X	B1	B1	X	X	B1	B1	X	X	X	X	X	X	X	
		Single Family	X	X	B1	B2	X	B1	B2	B2	X	B1	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Multi Family	X	B1	X	B2	X	X	B2	B2	X	X	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Non-Res	X	B2	B2	X	B2	B2	B1	X	B2	X	B1	X	B1	B2	B2	B2	B2	B2	B2	B2
	Residential	Single Family	X	X	B1	B2	X	B1	B2	B2	X	B1	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Multi Family	X	B1	X	B2	B1	X	B2	B2	X	X	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Mixed Use	X	B2	B1	B1	B2	B1	X	B1	B2	B2	X	B1	X	X	X	B2	B2	B2	B3	
		Non-Res	X	B2	B1	X	B2	B1	B1	X	X	B1	B1	X	X	X	X	B2	B1	B1	B1	
	General Commercial	Single Family	X	X	B1	B2	X	B1	B2	B2	X	B1	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Multi Family	X	B1	X	B2	B1	X	B1	B2	B1	X	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Mixed Use	X	B2	B1	B1	B2	B1	X	B1	B2	B2	X	B2	X	X	X	B2	B1	B1	B1	
		Non-Res	X	B2	B1	X	B2	B1	B1	X	B2	B1	B1	X	B1	B2	B1	B2	B2	B2	B2	B2
	Entryway	ELC	X	B2	B2	B1	B2	B2	X	B1	B2	B2	X	B1	X	B1	X	B1	B2	B2	B2	
		EGC	X	B3	B3	B2	B3	B3	X	B2	B3	B3	X	B2	B1	X	B1	B1	X	X	B2	
		EMU	X	B2	B2	B1	B2	B2	X	B2	B2	B2	X	B1	X	B1	X	B1	B1	B1	B3	
		ELI	X	B3	B3	B2	B3	B3	B2	B2	B3	B3	B2	B2	B2	B1	B2	X	X	X	B1	

Heavy Comm/ Industrial	Hwy Comm.	X	B3	B3	B2	B3	B3	B2	B2	B3	B3	B2	B2	B2	X	B1	X	X	B1	B1
	CI	X	B3	B3	B2	B3	B3	B2	B2	B3	B3	B2	B2	B2	X	B1	X	B1	X	B1
	HI	X	B3	B3	B2	B3	B3	B3	B2	B3	B3	B3	B2	B2	B2	B3	B1	B1	B1	X

B. STANDARD BUFFERYARD TYPES

The bufferyard dimensional and planting requirements are established in Table 27-1105.2, and a menu of landscape points is established in Table 27-1105.3. Landscape point allocations may be enhanced through the use or conservation of bonus materials as identified in Table 27-1105.4.

1. STANDARD TYPES OF BUFFERYARDS

Different buffer widths and planting requirements may be specified in this section according to the following standard landscape buffering types:

Table 27-1105.2: Standard Bufferyard Types			
Requirement	B1	B2	B3
Planting Area Width (min. avg., ft.)	6	10	10
Total Points Required [2] (per linear foot of property line)	0.30 points per lin. Ft.	0.50 points per lin. Ft.	1.1 points per lin. Ft.
Min. Tree Points	none	0.35 points per linear ft.	0.60 points per linear ft.
Min. Shrubs/Plant Points	0.10 points per linear ft.	0.05 points per linear ft.	0.05 points per linear ft.
Max. % Non-organic Landscape Materials	25	25	25
Max. Organic Groundcover in Turf Grass	Not permitted	N/A	N/A
Opaque Screen Fence	Optional	Optional	Required
Open Fence	Optional	Optional	N/A

2. DESIGN

Placement and landscaping design shall be at the discretion of the developer, including the placement of the required trees within the required bufferyard.

3. LOCATION AND CALCULATIONS

(a) Bufferyard depth is measured from the property line inward. Where a buffer area overlaps another buffer area, the area of overlap of one bufferyard shall be subtracted from the total required landscape point calculation to avoid double counting.

(b) Bufferyards may be located within required yards and setbacks.

(c) Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or

property line, required landscaping shall be condensed into the remaining site perimeter landscaping area.

4. LANDSCAPE POINTS

(a) Required bufferyard landscaping is calculated in landscape points. The following table identifies the landscape points awarded for various planted or preserved landscape materials. Plant material standards are provided in Section 27-1107.

Table 27-1105.3: Landscape Points			
Landscape Material	Landscape Points		
	Newly Installed (caliper)	Newly Installed Naturalized (caliper)	Existing Retained (diameter)
Deciduous Trees:			
Greater than 8"	n/a	n/a	27
From 4" to 8"	n/a	n/a	17
From 2.5" to 4"	21	27	n/a
From 1.5" to 2.5" or multi-stem	13	17	n/a
Coniferous Trees, Height:			
Greater than 10'	21	25	27
From 8' to 10'	13	15	17
From 6' to 8'	9	9	12
Shrubs, Plants & Ground Cover:	Points per square feet	Points per square feet: naturalized	
Perennials/ground cover	17 per 500	27 per 500	
Annual flower bed	17 per 500	22 per 500	
Lawn grass	13 per 1000	n/a	
Hardscape Materials:	Points		
Split rail fence	0.20 per lineal foot		
Screening fence (opaque)	0.40 per lineal foot		
Organic mulch	13 per 500 sq. ft.		

Table 27-1105.3: Landscape Points			
Landscape Material	Landscape Points		
	Newly Installed (caliper)	Newly Installed Naturalized (caliper)	Existing Retained (diameter)
Ornamental pavers, decorative rock mulch	6 per 250 sq. ft.		
Landscape boulders, 3 feet or greater in height	10 per boulder		
Seating	0.40 per linear foot		
Public amenities (See Sec. B.4(b))	10 per amenity		

(b) Public amenities may be included in a bufferyard that is generally accessible by the public or by adjacent residential development. Public amenities shall meet the following standards:

- (1) Outdoor seating plaza or sheltering structure with a minimum useable area of 180 square feet;
- (2) Public art, including but not limited to sculptures, fountains, clocks, or murals with an installed value equal to or greater than ½ of one percent of the construction value of the structure.
- (3) Sidewalk planters between the sidewalk and the building.
- (4) Pedestrian paths that connect residential development to the adjacent development or to an existing or proposed public walkway system.

5. BONUS CALCULATION

(a) Bonus landscape points may be awarded for landscaping that meets the following standards:

Table 27-1105.4 Bonus Landscape Points	
Retained Existing Trees and Plant Materials	Bonus Landscape Points (% increase)
Trees of exceptional quality ¹ due to size, large canopy cover, trunk diameter, rareness, age, or species	25
300+ square feet with a minimum of 1 tree of 4" caliper or greater or 10 feet in height or greater	15
500+ square feet with a minimum of 2 trees 4" caliper or greater or 15 feet in height or greater	20
800+ square feet with a minimum of 3 trees 4" caliper or greater or 18 feet in height or greater	25
Use of Local, Naturalized Vegetation in New Planting	

Table 27-1105.4 Bonus Landscape Points	
Use of 50 – 75% local, naturalized plant materials	10
Use of 75 – 99% local, naturalized plant materials	15
Use of 100% local, naturalized plant materials	20
Notes:	
1 – Cottonwood, Elm and Ash species do not qualify for this bonus	

(b) Landscape and Bonus Point Standards

(1) Points awarded for retained vegetation in perimeter buffers may only be applied in the buffer area along the same lot line where the vegetation is found.

(2) Any trees preserved on a site in required landscaping areas that meet the specifications in this section and are not identified on the Billings and Yellowstone County Plant List may, at the discretion of the planning director, be credited toward meeting the tree requirements of any landscaping provision of this article.

(3) Any tree for which landscape points or bonus points are given shall be in a condition that encourages long-term survival and in a location that conforms to the intent and standards of this section.

(4) Existing trees that are preserved and receive landscape points or bonus points shall be marked on the landscape plan and the amount of bonus points shall be indicated. Any trees which receive points and are later removed shall be replaced with the number of trees for which landscape points was received.

Section 27-1106 – Off-Street Parking Lot Landscaping

A. APPLICABILITY

The following requirements shall be applicable to all new off-street surface parking lots with 10 or more spaces.

B. REQUIRED LANDSCAPE AREA

1. All surface parking lots shall incorporate the following interior landscaping:

(a) All parking stalls shall be within 132 lineal feet of a required parking lot landscape area. For purposes of determining tree spacing, parking spaces may be counted in any rational sequence.

(b) Landscape terminal islands that are a minimum of nine feet wide and four feet shorter, at the entry end, than the adjacent parking stalls in the parking row shall be provided at the ends of each parking row.

(c) Parking lots with 100 or more spaces shall also be divided into subsections of no more than 50 spaces with landscape divider strips shall be placed between the sections.



Fig. 27-1106.A Sample parking lot landscape area layout



Fig. 27-1106.B Left: Landscape islands with storm water infiltration;



Fig. 27-1106.C Right: Landscape divider with bio-swale

C. LANDSCAPE AREA DESIGN

1. A landscape divider strip that separates either parking rows or parking lots shall be allowed to count a sidewalk located within this divider strip toward a part of the required off-street parking lot landscaping. The intent of this sidewalk is to help facilitate safe pedestrian movement. This sidewalk must meet the following criteria if it is to be counted toward the required landscaping:

- (a) The sidewalk has a five-foot wide walking path and shall add two feet for vehicle overhang, if the sidewalk abuts a parking stall.
- (b) The sidewalk extends the entire length of the divider strip. The ends of the sidewalk shall be ADA compliant.
- (c) The sidewalk is bordered on at least one side by landscaping, of which the sidewalk cannot account for more than 50 percent of the area of the divider strip.

2. Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of concrete curbs, extruded asphalt or other approved permanent barriers.

3. No paving shall be permitted within four feet of the center of a tree.

D. PLANT MATERIALS

1. All of the required parking lot landscaped areas must contain a minimum of 75 percent organic landscaping material, with a maximum of 25 percent inorganic landscaping material. Approved sidewalks are not counted toward the percentage of inorganic material unless specifically provided for in this section.

- (a) A landscape divider strip shall be planted with one tree every forty feet.
- (b) Islands shall be planted with one tree and at least 75 percent of the ground plane shall be covered with organic material that will remain in place on the island through typical local weather. Turf grass is prohibited in or on parking lot landscape islands. Deciduous trees are encouraged within the parking lot.

2. Clear vision areas where the parking lot access drive enters from a public right-of-way must be maintained as required in Section 27 -615 and as illustrated in Section 27-618.

Plant materials within these clear vision areas must be trimmed down to no more than 30 inches above grade, or in the case of trees, the lowest branch height trimmed up to 8 feet above grade.

3. Landscaping for civic and commercial uses must reach 50 percent coverage within two years of the approval of a zoning compliance permit.

E. WATER CONSERVATION DESIGN

1. Where appropriate, the use of porous pavement and/or specially designed brick or block should be considered to increase on-site water retention for plant material, replenishment of groundwater supplies and to reduce problems associated with runoff.

2. Parking lots shall be designed so as not to drain into or across public sidewalks, adjacent property, or directly into natural watercourses. Curbs used to protect landscape islands should have 18 to 24-inch-wide curb cuts at frequent intervals to allow storm water infiltration. The surface of landscape islands and divider strips shall be concave to help channel surface water runoff. The following drainage structures are permitted within parking lot landscape areas:

- (a) Rain gardens,
- (b) Bio-swales
- (c) Drainage easements, and
- (d) Drainage inlets.



Fig. 27-1106.D: Curb cut to allow drainage

F. SNOW STORAGE

1. A portion of the site equal to five percent of the surface areas to be plowed shall be provided as one or more snow storage areas that:

- (a) Are adjacent to and within 20 feet of the edge of the pavement to be plowed;
- (b) Are located so as not to interfere with the safe movement of pedestrians and traffic, including outside of any required clear vision areas;
- (c) Are provided with appropriate drainage and where refreezing of any sheet drainage will not pose safety issues; and
- (d) Remain accessible, useable, and clear of obstructions.

2. Plowed snow may be placed in a required bufferyard or parking lot interior landscape area that has been designed as follows:

(a) Snow storage areas shall be planted with plant materials that are salt-tolerant and that can withstand the weight and compaction of the snow. Mulch shall cover less than 30 percent of the landscape area within three years of installation.

(b) Trees, shrubs and other woody plants shall be protected from adjacent snow storage areas by separation by a minimum at grade separation from tree trunks or shrubs of four horizontal feet, or planters, elevated landscaping elements, walls or other approved mechanisms.



Fig. 27-1106.E Snow storage area

Section 27-1107 Tree Protection During Construction

A. GENERAL REQUIREMENTS

If the developer and designer intend to acquire landscape or bonus points for retained trees and landscaping, then tree protection during construction shall conform to the requirements of this section and the requirements relevant to construction in the American National Standards Institute (ANSI) publication A300 standards.

B. PROTECTIVE FENCING REQUIRED

Tree protection requirements shall apply to existing trees that are to receive credit for preservation. Such trees shall be surrounded by a temporary fluorescent colored fence that shall be constructed around the drip line of each tree, or group of trees to be preserved, prior to any grading or construction on the property.

1. The fencing shall be rigidly supported and maintained during all construction periods at a minimum height of four feet above grade.
2. All trees required to be fenced shall be clearly marked in a method approved by the planning director to notify inspectors the subject tree, or trees, are to be fenced at all times during construction.
3. Fencing may only be removed with the planning director's written permission, or upon approval of the final landscaping inspection.

C. OWNER'S RESPONSIBILITY

The owner or developer shall be responsible for the erection of any and all fences necessary to protect any existing or installed trees from damage both during, and after construction.

D. SHOWN ON SITE OR LANDSCAPING PLAN

The tree protection fencing shall be clearly shown on the site plan or landscape plan.

E. INSPECTION PRIOR TO LAND DISTURBANCE

All tree protection measures shall be inspected and approved by the applicant or landscape design professional responsible for the final landscape plan prior to start of any land disturbing activities.

F. PROHIBITED ACTIVITIES

The following activities are restricted or prohibited within the area contained by the tree protection fence:

1. Storage is prohibited within the fenced areas, including storage of heavy equipment, building materials, or soil.
2. Installation of underground utilities should be avoided within the area enclosed by the temporary fence. If installation of underground utilities is necessary, tunneling shall be used under the entire tree protection area. Tunneling must occur below the main lateral level of roots, or at least two feet below the surface, whichever is greater. Tunneling shall be done from both directions. Soil shall be backfilled in the tunnels.
3. Road and grade cuts (for basements and foundations) shall be outside the area enclosed by the temporary fence.
4. Minimal grading within 20 feet of the tree protection area may be allowed provided it does not impound water during wet periods or increase the drainage rate so that water tables are lowered.

G. TIME LIMIT FOR COMMENCING CONSTRUCTION AFTER CLEARING LAND

Where land is cleared and construction does not begin within 9 months from the date of the zoning compliance permit issuance, the owner shall be required to replant or re-seed the cleared property to its original vegetative cover based on tree counts and other information originally submitted to the county. A six-month extension of this limit may be issued at the discretion of the planning director.

Section 27-1108 Landscaping Material Standards

A. COMPLIANCE WITH LANDSCAPE PLAN

1. Plants shall conform to the measurements specified in the plant schedule submitted with the landscaping plan.
2. Homeowner associations and other similar organizations may not establish landscaping standards that conflict with the naturalized plant or water conservation provisions of this article as approved in an individual zoning compliance permit landscape plan.
3. It is recommended that a professional horticulturist, nurseryman or design professional be consulted to determine the proper time to move and install all plant materials, so that stress to the plants will be minimized.

B. PLANT SELECTION

1. Tree and plant materials shall be selected for: energy efficiency and water efficiency; adaptability and relationship to the native environment; color, form and pattern; ability to provide shade; soil retention; and resistance to fire. The overall landscape plan shall be integrated with all elements of the project, such as buildings, parking lots, and streets, and to achieve a desirable microclimate and minimize energy demand.
2. The Billings and Yellowstone County Plant List shall identify appropriate naturalized plant species for use in required landscaping areas. Applicants may suggest species that are not included on the list and shall provide documentation from a reputable source, such as a state agency or university, of the naturalized status of the species in the Billings and Yellowstone County region.

3. Naturalized vegetation within sensitive land and resource areas shall be preserved unless the county approves an alternative naturalized landscaping plan that preserves significant desirable naturalized vegetation.

4. If turf areas are included in landscaping, they must use a sod or seed mix specifically cultivated to thrive in the conditions present at the particular site.

(a) The use of non-naturalized, high water consumptive turf or other monoculture seeding is discouraged.

(b) The applicant must provide information regarding the composition of a sod or seed mix as part of the detailed plant list as required.

(c) No person or organization shall impose private covenants, conditions, deed clauses, or other agreements that require the installation of turf or prevent the utilization of water efficient landscaping, provided such landscaping receives appropriate approval. No person shall prohibit landscaping materials and designs solely on the basis that they make use of water-efficient landscaping.

C. MEASUREMENT

1. CALIPER

(a) Caliper measurement shall be taken six inches above the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, 4½ inches). If the caliper measured at six inches is four and one-half inches or more, the caliper shall be measured at 12 inches above the ground level, soil line, or root flare, as appropriate.

Note: Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements.

(b) Trees with multiple stems: When a caliper measurement is included in the specifications, the specifications shall also include the method used to determine the caliper measurement, shown below:

(1) The number of required trunks and the minimum caliper of each required trunk.

(2) The caliper of only the largest trunk, with all other required trunks within a certain caliper range of the largest trunk (e.g., by percent or within two smaller caliper sizes).

(3) The caliper specified is one-half (1/2) of the caliper of the three largest required trunks.

(4) The caliper specified is the average of all required trunks.

2. HEIGHT AND SPREAD (COVERAGE)

(a) Height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and from the root flare for bare root plants.

(b) Spread measurement shall be the average spread of the branches of the plant, without leaves for deciduous shrubs, including leaves for evergreens.

(c) For deciduous shrubs, height measurement shall extend to the top of all canes meeting the height specification, as appropriate to the plant type.

(d) For evergreens, height measurement shall not be taken at the tip of the leader, but should be taken at the midpoint between the uppermost whorl(s) and the tip of the leader.

D. GENERAL STANDARDS

The following criteria and standards shall apply to landscape materials and installation:

1. PLANT MATERIALS LIST

The planning department shall maintain a suggested and prohibited plant list as necessary to identify plant material requirements or prohibitions within the county. Where a species is chosen for a landscape plan that is not identified on a county plant list, the applicant shall provide information about growth and spacing characteristics on the landscape plan. Plant information shall be taken from objective sources, including professional landscape organization websites or nursery cut sheets. Plant materials identified in any prohibited plant list may not be used in landscaping.

2. QUALITY

All trees and shrubs used for landscaping shall have well-developed leaders, tops, and roots characteristic of the species, cultivar, or variety per American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the planning office, and shall show evidence of proper nursery pruning per the same standard. All plant materials must be free of insects, diseases, mechanical injuries, and other objectionable features at the time of planting.

3. COVERAGE

(a) Grass, ground cover, shrubs, organic mulch, and other organic landscape materials shall be used to cover at least 75 percent of open ground.

(1) Open ground includes all fill slopes and hillsides, regardless of the angle of the slope.

(2) Open ground also includes all fill rock and shot rock slopes that must be covered with an appropriate depth of soil to allow for the healthy growth of the coverage.

(3) "Top dressing" landscaping materials such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate, and can be used to cover up to 25 percent of open ground.

(b) No area required to be landscaped shall include any artificial trees, plants, or turf; impervious surfacing other than sidewalks, decorative pathways or other public amenities as described in Section 27-1105; or any carpeting designed as a visual substitute for lawn or other groundcover.

(c) Areas devoted to pasture, farm crops, or undeveloped areas of a parcel shall not be considered landscaped for the purpose of fulfilling any landscape requirements.

4. TREES

Trees used for landscaping shall be a species common to, or adapted to this area of the state, and not identified as prohibited on any county plant list. Trees shall have the following characteristics:

(a) Size

(1) Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of at least one and one-half (1.5) inches at time of planting.

(2) Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of at least one (1) inch at time of planting.

(3) Coniferous trees shall have a minimum height of 20 feet at maturity. All coniferous trees shall be at least four (4) feet in height at time of planting.

(4) Street trees shall be canopy trees and shall have a minimum caliper of one and a half (1.5) inches.

(b) All trees shall conform to the American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the planning office.

5. SHRUBS, HEDGES, AND ORNAMENTAL GRASSES

(a) Shrubs shall have the following characteristics:

(1) Small or dwarf deciduous shrubs that typically do not grow to a mature height or spread exceeding three feet shall have a minimum height of twelve inches with a minimum of four canes.

(2) Intermediate deciduous shrubs with a mature height or spread of three to seven feet shall have a minimum height of 18 inches with a minimum of four canes.

(3) Large or tall deciduous shrubs with a mature height exceeding seven feet shall have a minimum height of 24 inches and a minimum of five canes. Where these shrubs have a narrow habit the minimum number of canes may be reduced to one.

(b) Ornamental grasses shall be a minimum of 18 inches in height at time of planting.

(c) Hedges, where installed as a bufferyard screen, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be at least three (3) feet in height at the time of planting and achieve a minimum height of six (6) feet within five (5).

6. GROUND COVER, PERENNIALS, AND ANNUAL PLANTING AREAS

Ground covers, perennials, and annual planting areas used in lieu of grass in whole, and in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year after time of planting.

7. LAWN GRASS

Grass areas may be sodded, plugged, sprigged, or seeded, except that sod or other erosion control products shall be used in swales, berms, or other areas subject to erosion.

8. FRACTIONS IN THE CALCULATION OF NUMBER OF TREES AND SHRUBS.

In the calculation of trees and shrubs for any required landscaping, all fractions shall be rounded to the nearest whole number.

E. INTERFERENCE AND VISIBILITY

1. All landscaping shall be sized and located so that it does not interfere with utilities, easements or fire hydrants.

2. All landscaped areas must comply with the clear vision standards for intersections as established in Section 27-615 and as illustrated in Section 27-618.

F. IRRIGATION SYSTEMS

1. GENERAL STANDARDS

Where a property owner or tenant opts to install an in-ground permanent irrigation system, the following standards shall apply:

(a) The landscape plan shall identify the area of approximate installation of an automatic irrigation system, its maintenance, and intended uses. The landscape plan must note and delineate all irrigated and sod areas.

(b) Irrigation systems must be installed prior to plant materials.

(c) Irrigation systems with a precipitation rate exceeding 0.75 inches per hour shall be prohibited on areas exceeding 1,000 square feet with a slope greater than 30 percent unless:

(1) Infiltration trenches, vegetated swales, bio detention areas, and similar facilities as approved by the county are employed to reduce runoff, or

(2) The landscape designer specifies an alternative design or technology that clearly demonstrates to the county's satisfaction no runoff or erosion will occur. Prevention of runoff and erosion must be confirmed during the final landscape inspection.

2. LOW-FLOW IRRIGATION SYSTEMS

Low-flow irrigation devices shall be used in all narrow or irregularly shaped landscape areas less than eight feet wide in any direction to avoid overspray and runoff.

(a) System design shall be: surface drip system, subterranean drip system, micro-spray, or a combination of these systems.

(b) A hose bib system may be used for irrigation when a landscape area is less than 1,000 square feet in size and when all portions of the area are within 100 feet of a hose attachment.

3. AUTOMATIC OPERATION

(a) All systems shall be equipped with timers and scheduled to operate during evening or early morning hours to minimize evaporation rates.

(b) All automatic underground sprinkler systems shall be equipped with rain and freeze sensors.

Section 27-1109 - Fences, walls and hedges.

A. Applicability

1. Fences, walls and hedges may be erected or maintained in any zoning district provided the height, setback, and material provisions outlined below are followed and a permit is secured.

2. "Fence" for the purposes of this section means any fence, wall or hedge.

3. No fence shall be erected or maintained in a public right-of-way.

B. Height.

Height for the purposes of this section shall be defined as the vertical distance from the top rail, board or wire to the ground directly below.

C. Setbacks required.

1. Front Yard

The maximum height for fences, walls, or hedges in a required front yard setback is four feet. Front yard setback are defined in sections 27-308 or 27-309.

2. Side and Rear Yards.

(a) Fences, walls or hedges between a height of four and six feet may be erected or maintained in any side or rear yard setback. Fences may not block a clear vision areas pursuant to subsection D, below.

(b) Any fence, wall or hedge in excess of six feet shall meet all of the yard setback requirements for structures as defined in sections 27-308 or 27-309.

3. Exceptions

None of the above setback requirements shall apply to lands located in the agricultural-open space (A-1), controlled industrial (CI), or heavy industrial (HI) zones.

D. Setbacks for clear vision areas.

No fence, wall or hedge greater than 30 inches in height maybe erected or maintained in any zoning district within a clear vision zone pursuant to Section 27-615 and as illustrated in Section 27-618.

E. Materials

1. Residential and Commercial Zones.

(a) Generally: All fences in residential, agricultural and commercial zoning districts shall be constructed from materials which are commonly used for fencing and shall not be constructed from railroad ties, wood pallets, tires, rubble or salvaged material.

(1) Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work.

(2) Materials not listed are subject to special review.

(b) Bufferyard Fencing: Required bufferyard fencing may be constructed of any of the materials identified in Section E.1(a) along with powder-coated or vinyl coated chain link fence.

(1) Where an opaque screening fence is required between uses – such as residential next to heavy commercial or industrial – solid vinyl, wood or similar solid fencing, or powder-coated or vinyl-coated chain link fence with opaque (solid) inserts shall be installed.

(2) An existing fence of the proper height and materials that is located on the property line where a bufferyard fence is required may be retained. Where an existing fence is not compliant with this section, the property owner who is required to install the bufferyard fence shall replace the existing fence with a compliant fence.

2. Industrial Zones. All fences in industrial zoning districts shall be constructed from materials commonly used for fencing and shall not be constructed from railroad ties, wood pallets, rubble, or salvaged material.

(a) Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work, finished or coated steel or aluminum building panels.

(b) Materials not listed are subject to special review.

3. Material exception—Barbed wire or electric fence.

(a) Barbed wire and electrically charged fencing is allowed in the A-1 and A-S districts within Yellowstone County. When electrically charged fences are used in an A-1 or A-S district, such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed 150 feet, where such fences are adjacent to public rights-of-way.

(b) Electrically charged fencing is allowed in commercial or industrial districts within Yellowstone County provided that such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed 150 feet, where such fences are adjacent to public rights-of-way. Barbed wire fencing is allowed in commercial or industrial zoning districts when such material is located not less than eight feet above grade.

Section 27-1110 Administrative Relief

A. PURPOSE

Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied to up to a total of 10 individual landscape standards for any site.

B. POLICIES

1. The planning department recognizes that the specific landscape requirements in this section cannot and do not anticipate all possible landscape situations. In addition, the planning department 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 planning department may grant administrative relief in the event of these situations and proposals.

2. The reasonable development of a site may require the granting of administrative relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the planning department generally assigns the following priorities for compliance with the landscape requirements:

(a) First, adjacent residential uses should be buffered,

(b) Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees,

(c) Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.

3. Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger

landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.

4. However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.

C. APPLICATION

1. A written request for administrative relief shall be submitted to the planning director or his/her designee either before or in conjunction with the zoning compliance permit review process. The written request shall include a justification in terms of the findings necessary to grant administrative relief. The written request shall close with a section for the planning department's use which will include a block for the decision of approval/denial, the planning director or his/her designee's signature, and decision date. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.

2. The planning director must make all of the following findings in order to grant administrative relief:

- (a) The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
- (b) The intent of the landscaping section and the specific regulation in question is preserved; and
- (c) The granting of the administrative relief will not result in an adverse impact upon surrounding properties.
- (d) Proportional compliance as outlined in this section is not appropriate for the location and development planned.

3. The planning director shall render a decision on the request within 15 working days of receipt of the request and all required information. An appeal of the planning director's decision may be made to the board of adjustment with jurisdiction over the property, within 30 days after the decision. At this time, the appeal will be put on the agenda for the next board of adjustment meeting which allows for the required public notice.

Section 27-1111 Administration and Enforcement

The administration and enforcement of this section shall reside with the planning director as stated in sections 27-1602 and 27-1603.