

## ARTICLE XXI. LANDSCAPING REGULATIONS

### Section 1. Purpose.

- A. To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, and (storm water) runoff retardation, while at the same time aiding in noise, glare and heat abatement.
- B. To assist in providing adequate light and air and preventing overcrowding of land.
- C. To insure that landscaping is an integral part of development, not an afterthought.
- D. To provide visual buffering and enhance the beautification of the town.
- E. To safeguard and enhance property values and to protect public and private investments.
- F. To preserve and protect the unique identity and environment of the Town of Addison and preserve the economic base attracted to the Town of Addison by such factors.
- G. To conserve energy.
- H. To protect the public health, safety and general welfare.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

### Section 2. Definitions.

*Berm.* An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

*Crown.* The upper portion of a tree or shrub from the lowest branch on the trunk of the tree to the highest or widest extending branch at the top or sides of the tree including all the leaves and branches of the tree or shrub.

*Decorative paving.* Paving that is made up of solid, precast, decorative paving; flagstone; modular units; stamped concrete; seeded concrete; colored concrete or any combination of the above.

*Landscape buffer.* A combination of physical space and vertical elements such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

*Landscaped open area or landscaped area.* Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences or decorative paving materials).

*Nonpermeable.* Any surface lacking the ability for air and water to pass through to the root zone of plants.

*Ornamental tree.* A deciduous or evergreen tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

*Screen.* A method of reducing the impact of noise and unsightly visual intrusions with less offense or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

*Shade tree.* Sometimes evergreen, usually deciduous tree planted for its high crown of foliage or overhead canopy; a large woody perennial having one or more self-supporting stems and numerous branches reaching a mature height of at least 25 feet and a mature spread of at least 20 feet.

*Tree.* A plant listed as a tree in the most current edition of any of the following:

- a. Forest Trees of Texas, by the Texas Forest Service of the Texas A & M University system;
- b. Hortus Third;
- c. The Audubon Society's Field Guide to North American Trees or;
- d. The list of trees provided in the Town of Addison Landscape Regulations.

*Shrub.* A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at maturity.

*Visibility triangle.* That area within the curb lines of two intersecting such curb lines at points 35 feet back from their intersection.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; 000-042, § 2(exhibit A), 11-14-00)

### Section 3. Application.

A. Except as otherwise provided below, these landscaping regulations shall apply to all land located in the Town of Addison. These landscaping requirements shall become applicable to each individual lot at such time a site plan is submitted for planning and zoning commission

review or an application for a building permit on such lot is made. The maintenance requirements in section 9 of this article shall apply to all applications for building permits.

The tree replacement and protection requirements in section 7 of this article shall apply to all land located within the Town of Addison from the effective date of this ordinance forward regardless of the development status of the land.

The maintenance requirements in section 9 of this article shall apply to all applications for building permits.

B. This article does not apply to lots containing only single-family and/or duplex uses where only one such structure is constructed.

C. This article applies to the following:

Apartment dwelling district

Local retail district

Planned development district

Commercial-1 district

Commercial-2 district

Industrial-1 district

Industrial-2 district

Industrial-3 district

Special use permits

Applications for building permits or for certificates of occupancy for buildings previously unoccupied for a period of six consecutive months.

Applications for building permits for construction work that:

- (1) Increases the number of stories in a building on the lot; or
- (2) Increases by more than ten percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot; or
- (3) Increases the nonpermeable lot coverage by more than 2,000 square feet.

Building permit applications for exterior remodeling with a value equal to or greater than \$10,000.00 exclusive of maintenance and repair.

D. When the ordinance becomes applicable to a lot, its requirements are binding on all current and subsequent owners of the lot.

E. The town council shall, as a minimum, impose landscaping requirements that are reasonably consistent with the standards and purposes of this article as a part of any ordinance establishing or amending a planned development district, or amending a special use permit. All landscaping requirements imposed by the town council must be reflected in landscape and irrigation plans that comply in form and content with the requirements of section 4.

F. The board of zoning adjustments may grant a special exception to the landscaping requirements of this article upon making a special finding from the evidence presented that strict compliance with the requirements of this article will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the town and its citizens in accomplishing the objectives and purposes of this article. The applicant, to be considered for special exception, must submit a justification statement that describes which of the requirements set forth in this article will be met with modifications, which project conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-044, § 2(exhibit A), 11-14-00)

#### Section 4. Landscape and irrigation plan submission.

Prior to site plan review by the planning and zoning commission for zoning amendments or building permit applications where these landscaping requirements are applicable, landscape plans must be submitted to the director of parks. The plans must have a scale of one inch equals 30 feet or larger and be on a standard drawing sheet of a size no smaller than 24 inches by 36 inches, not to exceed 36 inches by 48 inches. A plan which cannot be drawn in its entirety on a 36-inch by 48-inch sheet must be drawn with appropriate match lines on two or more sheets. Irrigation plans must be submitted when the building permit application is made.

A. Landscape and irrigation plans required under this article must contain the following information:

- (1) Date, scale, north arrow, and the names, addresses, and telephone numbers of both the property owner and the person preparing the plan.
- (2) Project name, street address, and lot and block description.
- (3) Location, height, and material of proposed screening and fencing (with berm to be delineated by one-foot contours).

- (4) Complete description of plant materials shown on the plan, including names (common and botanical name), locations, quantities, container or caliper sizes, heights, spread, and spacing. The location and of all existing trees on the lot must be specifically indicated.
- (5) Complete description of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area compared to gross site square feet. The town right-of-way shall be included as part of the gross site landscaping.
- (6) Size, height, location, and material of proposed seating, lighting, planters, sculptures, decorative paving, and water features.
- (7) Cross section drawing of berms and grading plan showing berm contours.
- (8) Location of sprinkler heads, valves, double-check valve, water meter, automatic controller and freeze sensor.
  - (a) All plant material (including street trees and planting within the public right-of-way) shall be watered with an automatic irrigation system.
  - (b) Irrigation sprinkler layouts shall be designed to minimize the amount of spray that will fall on sidewalks, neighboring properties, and adjacent buildings. Backflow prevention devices shall be placed per the Town of Addison Public Works Department's standards.
  - (c) The town encourages the use of water-conserving system design and materials including the use of drip irrigation where appropriate.
  - (d) Install separate valves for turf and nonturf areas to accommodate different water use requirements within the landscaped area.
  - (e) Irrigation controllers shall be set to water between midnight and 6:00 a.m. This shall not apply to watering of newly planted turf or landscaping.
- (9) Landscape plans shall contain the certification and a stamp of a landscape architect licensed in the State of Texas that such plans have been reviewed by such architect and satisfy all requirements of these landscape regulations.
- (10) Irrigation plans shall contain the certification and stamp of an irrigator licensed by the Texas Board of Irrigators that such plans were prepared by such irrigator and satisfy all requirements of these landscape regulations.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

Section 5. Plant material substitutions.

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Planting plans shall be accepted if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (i.e., shade, ornamental, or evergreen trees) and have the same general design characteristics (mature height, crown spread) as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy plant growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted and reviewed anew.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

#### Section 6. Landscape and irrigation plan submittal.

The director of parks and recreation shall review each landscape and irrigation plan submitted to determine whether or not it complies with the requirements of this article. All landscape plans must comply with the mandatory provisions in section 7.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

#### Section 7. Mandatory provisions.

At least 20 percent of the gross site or lot shall be maintained as landscaped area in the following districts:

Apartment dwelling district

Mixed-use residential

Local retail district

Planned development districts

Commercial-1 district

Commercial-2 district

Special use permits

At least ten percent of the gross site or lot shall be maintained as landscaped area in the following districts:

Industrial-1 district

Industrial-2 district

## Industrial-3 district

A. *Street landscape buffer.* In all districts, a 20-foot landscape buffer strip must be provided along the entire length of the portion of the perimeter of the lot where a public or private street exists, exclusive of driveways and access ways to points of ingress and egress to and from the lot. The property owner shall be responsible for landscaping, irrigation, and maintenance of any right-of-way area between the property line and the curb line.

1. Town right-of-way should be included in the 20-foot buffer and will reduce the amount of required landscaping area of the lot by that amount (square foot for square foot).

2. The minimum requirement for right-of-way landscaping shall be one four-inch caliper shade tree and eight shrubs for each 20 linear feet of frontage. Plant material planted in the street landscape buffer strip can be massed together to create visual interest at key entry points or focal points.

3. All required screening, parking perimeter, and interior parking landscaping shall be included in the overall 20 percent of gross site landscaping.

4. No tree may be planted closer than 2 1/2 feet to the paved portion of any parking surfaces.

5. No tree planting area may be less than six feet wide in any dimension and shall not contain less than 60 square feet of continuous permeable land.

B. *Off-street loading spaces.* All off-street loading spaces on a site must be screened from all public and private streets adjacent to that site.

1. All screening must be at least six feet in height measured from the horizontal plane passing through the nearest point of the off-street loading space and may be provided by using any one or combination of the following, subject to approval by the parks director:

(a) Evergreen shrubs planted three feet on center, in a double staggered row; or

(b) Evergreen trees planted six feet on center, unless the director of parks and recreation approves an alternative planting density as being capable of providing a solid appearance within one year; or

(c) A fence, wall or berm. Fences and walls may not consist of corrugated metal, corrugated fiberglass, sheet metal, chain link or wire mesh or any material that in the planning and zoning commission's opinion is an unsightly material.

2. When screening for off-street loading spaces is provided by earthen berm or evergreen plant materials, the following regulations apply:

(a) An earthen berm must be planted with turf grass or ground cover recommended for local area use by the director of parks and recreation. The slope of the berm shall not exceed 33 percent (3:1) for lawn areas and shall have a minimum crown width of three feet.

(b) Evergreen plant materials must be recommended for local area use by the director of parks and recreation. In addition, the plant materials must:

(1) Be located in a bed that is at least three feet wide; and

(2) Be placed a maximum of 36 inches on center in staggered rows over the entire length of the bed, unless the director of parks and recreation approves an alternative planting density as being capable of providing a solid appearance within one year; and

(3) Provide a visual barrier of the required height within one year of their initial planting.

C. *Visibility triangles.* The design and placement of the landscaping materials will be at the discretion of the owner or landscape architect; however, the landscaping shall not obstruct the view between access drives and dedicated streets, parking aisles, or access drives of parking lots. Nothing at an elevation greater than the top of curb plus two feet allowed in area except single trunk trees pruned to a height of six feet. Trees are to be of such size and so spaced that a visual obstruction that represents a traffic hazard isn't created.

(1) The use of plant material in a sight triangle is intended to provide aesthetic appeal while not unduly limiting or restricting visibility, whether as a pedestrian or a passenger in a vehicle. Plants shall not reduce or limit visibility to such an extent that a safety hazard is presented. Plants normally considered as effective screens shall be unacceptable for use in the visibility triangle.

(2) Trees used in the visibility triangle shall have a minimum branching clearance of six feet from the ground to the first branch.

(3) All shrubs or ground covers used in the visibility triangle shall be a maximum of 18 inches. No large or medium shrubs shall be acceptable for use in the visibility triangle because of height. Low shrubs shall be acceptable only if they do not exceed the 18-inch height limit. Shrubs that slightly exceed the height limit may be considered for use, but only with the approval of the director of parks and recreation.

D. *Parking lot screening.* Screening must be provided for all surface parking lots on the site from all adjacent streets. The screening must extend along the entire street frontage of the surface parking lot, exclusive of driveways and access ways at points of ingress and egress to and from the site, and visibility triangles.

1. The surface parking lot screening must be at least 3 1/2 feet higher than the finished elevation of the adjacent parking lot. The screening may be provided by using any two of the following, unless the director of parks and recreation approves an alternative screening plan capable of providing a solid appearance:



(a) Evergreen shrubs planted three feet on center in a double staggered row in a bed at least 36 inches wide;

(b) A berm at least 2 1/2 feet to three feet high with a slope not to exceed 33 percent (3:1.) The minimum crown width must be three feet. Berms must be covered in live vegetation. Plants used for screening on a berm must reach a minimum height of 30 inches within two years of installation and be at least 18 inches high when planted;

(c) A fence or wall constructed of materials compatible with the principle building. One-third of any fence or wall must be screened with acceptable plant material, as approved by the director of parks and recreation.

E. *Parking lot landscaping; perimeter.*

(1) The perimeter strip shall be at least five feet wide for sites larger than 10,000 square feet or at least three feet wide if the site is smaller than 10,000 square feet.

(2) The minimum requirement for perimeter landscaping shall be one four-inch caliper shade tree and eight shrubs for each 35 linear feet of perimeter.

(3) Required perimeter landscaping between adjacent parking lots does not preclude the need to provide vehicular access between lots.

F. *Parking lot landscaping; interior area.*

(1) The required percentage of interior parking lot landscaping shall be determined based on the following sliding scale:

TABLE INSET:

Total Parking Area	Interior Planting Area (Percent)
7,000--49,999 sq. ft.	5
50,000--149,000 sq. ft.	8
150,000 sq. ft. and larger	10

(2) To calculate the total parking area and the subsequent percentage of required interior lot planting, total the square footage of all areas within the lot's perimeter including:

(a) Planting islands.

(b) Curbed areas.

- (c) Corner lots.
  - (d) Parking spaces.
  - (e) And all interior driveways and aisles except those with no parking spaces located on either side.
- (3) Landscaped areas located outside the parking lot may not be used to meet the interior planting requirement; however, landscaped areas placed next to the building can be used to meet the interior planting requirement.
  - (4) Curbs or wheel stops must be provided to prevent cars from parking too close to trees or damaging shrubs and screens.
  - (5) All planting islands located parallel to and between parking spaces must be at least nine feet wide to prevent cars from damaging trees and shrubs.
  - (6) Large shade trees must be provided in each parking lot at a minimum average density of one shade tree for each ten required parking spaces on the lot. In cases where the required number of parking spaces reduces the amount of available planting space for parking lot trees, alternative planting locations for the required quantity of these trees shall be located elsewhere on the site.
  - (7) No required parking space may be located further than 50 feet from the trunk of a shade tree, or farther than 75 feet from two or more shade trees.

G. [*Ornamental and evergreen trees.* ] One-half the number of required shade trees may be satisfied on a two-to-one basis with ornamental and evergreen trees. Bradford Pear or other pear cultivars are considered ornamental trees under these landscape regulations.

H. *General requirements.*

- (1) All required landscape open space shall be provided with adequate and inconspicuous automatic irrigation systems and shall be properly maintained.
- (2) The parks department shall have the power to plant, preserve, spray, trim or remove any tree, shrub or plant on any parkway, alley or public ground belonging to the Town of Addison.
- (3) It shall be unlawful for any person, firm or corporation to cut or break any branch of any tree or shrub or injure in any way the bark of said tree or shrub growing on public property.
- (4) The existing natural landscape character (especially native oaks, elms, and pecan trees) shall be preserved to the extent reasonable and feasible. In an area of the street frontage containing a stand of trees, the developer shall use best good faith efforts to preserve such trees. In determining whether there is compliance with this subsection, the director of parks shall

consider topographical constraints on design, drainage, access and egress, utilities, and other factors reasonable related to the health, safety and welfare of the public which necessitated disturbance of the existing natural landscape character; economic usefulness of the property without disturbance of its natural character; the nature and quality of the landscaping installed to replace it; and such other factors as may be relevant and proper. Indiscriminate clearing or stripping of the natural vegetation on a lot is prohibited.

I. *Tree replacement and protection.*

(1) Every property owner shall be responsible for replacing dead or missing trees within 30 days after notification by the Town. This provision shall also apply to trees that have been severely damaged, disfigured or topped. In addition to this section, replacement trees' size and configuration shall comply with the standards set forth in Section 8 of this ordinance.

(2) Replacement trees are to be measured 12 inches above the soil stain and must be chosen from the list of recommended trees in this section. Trees shall be replaced at the following rates.

(a) Trees that are eight (8) inches in caliper or larger shall be replaced with a sufficient number of trees in caliper to equal at least 100 percent of the caliper inches removed. Replacement trees shall be a minimum of four (4) inches in caliper.

(3) Acceptable types of replacement trees are designated in the Tree Replacements and New Plantings list provided below in subsection 5.

(4) If the physical limitations of the subject property are such that all of the replacement trees cannot be properly placed on the subject property, the property owner shall locate any extra trees, with the approval of the Town of Addison, in the following locations: public rights-of-way, medians, or public park land. Such location of extra trees shall be performed at the direction of the Town. The property owner may pay a one-time fee per site to the Town in lieu of tree replacements.

(5) Tree Replacements and New Plantings - The following is a list of trees which must be used as replacements, and which are suitable for new plantings. Other species may be acceptable for new plantings, and the suitability of all species for the proposed planting area should be confirmed with the Addison Parks Department.

Over story (Shade) Trees

TABLE INSET:

Bald Cypress	Taxodium distichum
Chinese Pistache	Pistacia chinensis
Deodara Cedar	Cedrus deodara
Eastern Red Cedar	Juniperus virginiana

Elms	Ulmus spp.
Eave's Necklace	Sophora affinis
Leyland Cypress	Cupressocyparis leylandi
Maples	Acer spp.
Mexican Plum	Prunus Mexicana
Oaks	Quercus spp.
Pecan	Carya illinoensis
Sweet gum	Liquidamber styraciflua
Sycamore	Plantanus

Accent (Ornamental) Trees

TABLE INSET:

Afghan (Eldarica Pine)	Pinus elderica
Chaste Tree	Vitex agnus-castus
Crabapple	Malus augustifolia
Crape Myrtle	Lagerstroemia Indica
Deciduous Holly	Ilex decidua
Desert Willow	Chilopsis linearis
Flowering Pear	Pyrus calleryana
Nellie R. Stevens Holly	Ilex X
Japanese Black Pine	Pinus thunbergii
Mexican Buckeye	Ungnadia speciosa
Purple Plum	Prunus cerasifera
Redbud	Cercis canadensis "Oklahoma"
Wax Myrtle	Myrica cerifera
Yaupon Holly	Ilex vomitoria
Ornamental trees shall have a minimum caliper of three (3) inches.	

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

Section 8. Landscape standards and specifications.

- A. Plant materials shall conform to the requirements described in the latest edition of American Standard For Nursery Stock, published by the American Association of Nurserymen.
- B. Plants shall conform to the measurements specified in the plant schedule.

1. Caliper measurements shall be taken six inches above grade for trees under four inches in diameter and 12 inches above grade for trees four inches in diameter and larger.
  2. Minimum branching height for all shade trees shall be six feet.
  3. Minimum size for shade trees shall be four inches in diameter, 14 to 16 feet in height. The maximum height shall not exceed 16 feet. Tree heights shall be from tops of root balls to nominal tops of plants. Tree spread refers to nominal outer width of the tree, not to the outer leaf tips. Trees shall be healthy, vigorous, full-branched, well-shaped and symmetrical. Root balls shall be firm, neat, slightly tapered and well-bur lapped. Trees shall be free of physical damage such as scrapes, bark abrasions, split branches, mistletoe or other parasitic growth. The Town of Addison shall reject any trees delivered and/or planted not meeting the minimum size and shape standards set forth above. Red Oaks other than Shumard Oak (*Quercus shumardii*) or Texas Oak (*Quercus texana*) shall be rejected. The owner or contractor shall be responsible for providing certification that Red Oaks are true to variety.
  4. Minimum size for ornamental shade trees, i.e., Bradford Pear shall be three inches in diameter.
  5. Minimum size for Crape Myrtle shall be six to eight feet in height. Other ornamental flowering trees shall be eight to ten feet in height.
  6. Minimum size for evergreen trees shall be eight to ten feet in height.
  7. Minimum size for shrub containers shall be five gallon. Substitution of three gallon material meeting the height requirement of five gallon shrubs is acceptable. Shrubs shall be full bodied, well-shaped and symmetrical.
  8. Ground cover spacing shall be eight inches on center maximum for four-inch pots and 16 inches on center maximum for one-gallon containers.
- C. All shrub beds shall be edged using steel, concrete, masonry, or precast concrete edging and all plant materials mulched with a two-inch layer of bark or shredded Cypress mulch. Plastic edging shall not be acceptable.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

#### Section 9. Maintenance.

Every property owner and any tenants shall keep their landscaping in a well-maintained, safe, clean and attractive condition at all times. Any plant that dies must be replaced with another living plant, including trees, within 30 days after notification by the town (see Section 7(I) for replacement and notification provisions). Such maintenance includes, but is not limited to, the following:

- Prompt removal of all litter, trash, refuse and waste;
- Lawn mowing on a weekly basis during the growing season;
- Shrub pruning according to accepted practices of landscape professionals to maintain plants in a healthy condition;
- Tree pruning according to Tree-Pruning Guidelines published by the International Society of Arboriculture, 1995 and the American National Standards (ANSI) A300--Pruning Standards;
- Watering of landscaped areas on a regular basis to maintain good plant health;
- Keeping landscape lighting in working order;
- Keeping lawn and garden areas alive, free of weeds, and attractive;
- Cleaning of abutting waterways and landscaped areas lying between public right-of-way lines and the property unless such streets, waterways or landscaped areas are expressly designated to be maintained by applicable governmental authority.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

#### Section 10. Enforcement.

A. If, in the opinion of the building official, any property owner or tenants have failed in any of the foregoing duties or responsibilities, then the town may give such person written notice of such failure and such person must within ten days after receiving such notice perform the maintenance required. Should any property owner fail to fulfill this duty and responsibility within such period, then the town shall:

(1) Revoke any building permits, certificates of occupancy, or other approvals or permits previously issued for the premises.

(2) Withhold approval for building permits, certificates of occupancy, and other permits or approvals relating to the premises.

(3) Have the right and power to enter onto the premises and perform care and maintenance. The property owner and tenants of any part of the premises on which such work is performed shall jointly and severally be liable for the costs of such work and shall promptly reimburse the town for such costs. If such property owner or tenant shall fail to reimburse the town within 30 days after receipt of a statement for such work from the town, the said indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against the premises on which the work was performed. The lien may be evidenced by an affidavit of costs filed in the real property records.

B. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed \$2,000.00 and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

#### Section 11. Bonding.

When a property owner seeks a certificate of occupancy, the director of parks and recreation may, in his discretion, require a maintenance bond, letter of credit, personal undertaking, cash escrow, or other security acceptable to the director, which guarantees and secures maintenance of newly installed landscape for a period not to exceed two years.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

#### Section 12. Certificate of occupancy.

It shall be unlawful to issue an occupancy permit prior to the approval and complete installation of the landscape and irrigation plans. However, for a variety of reasons, it is not always possible to complete the landscape installation as quickly as desired or needed. In such cases, an extension of time may be granted and a temporary certificate of occupancy may be issued for variable periods from 15 to 45 days.

(Ord. No. 097-003, § 2(exhibit A), 1-14-1997; Ord. No. 000-042, § 2(exhibit A), 11-14-00)

## **ARTICLE II. LANDSCAPE PRESERVATION AND PROTECTION**

### **Sec. 34-31. Definitions.**

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

*Director* means the director of parks and recreation who is the actual individual or his agent assigned to enforce this article.

*Landscape plan* means a detailed drawing measuring 24 inches by 36 inches or other dimensions acceptable to the director and which shows thereon quantities or numbers, placement, type, and common and botanical names of plant materials to be used.

*Plant material* means trees, shrubs, grasses, ground covers and other vegetation acceptable to the director and shall not include weeds.

*Property owner* means the owner, occupant, tenant, manager or other person in control of property or his agent or designee.

*Public property* means interests in easements, rights-of-way, fee simple property and public ways owned by the town.

*Shrub* means any woody plant of low height with several stems.

*Tree* means:

(1) A woody plant having one well-defined stem or multi-trunk system and more or less definitely formed crown, and usually attaining a mature height of at least eight feet;

(2) A plant listed as a tree in any of the following:

a. Forest Trees of Texas, by the Texas Forest Service of the Texas A & M University system;

b. Hortus third;

c. The Audubon Society's Field Guide to North American Trees; or

d. A list of trees prepared by the town parks and recreation department.

*Weed* means grass, weed, or brush in excess of 12 inches, but not cultivated vegetation or crops.

*Zoning ordinance* means the town zoning ordinance in effect at the time of passage of this article and any and all amendments to this article.

(Code 1982, § 10.1-26)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 34-32. Intent and purpose.**

The intent of this article is, through the preservation, protection, maintenance and planting of trees and other plant materials, to:

(1) Aid in the stabilization of soil by the prevention of erosion and sedimentation;



- (2) Reduce storm water runoff; replenish groundwater supplies, and the cost associated therewith;
- (3) Aid in the removal of carbon dioxide in generation of oxygen in the atmosphere;
- (4) Provide a buffer and screen against noise pollution;
- (5) Reduce glare;
- (6) Provide protection against severe weather;
- (7) Aid in control of draining and restoration of denuded soil subsequent to construction or grading;
- (8) Provide a haven for birds which in turn assist in control of certain insects;
- (9) Protect and increase property values;
- (10) Conserve and enhance the town's physical and aesthetic environment; and
- (11) Generally protect and enhance the quality of life and general welfare of the town.

(Code 1982, § 10.1-25)

**Sec. 34-33. No obligation on town.**

Nothing in this article shall be deemed to impose any obligation upon the town or upon any of its officers or employees or to relieve the property owner from the duty to keep trees and other plant materials in a safe condition.

(Code 1982, § 10.1-31)

**Sec. 34-34. Authority of director.**

(a) The director shall have the authority to inspect and approve all work performed under any permit issued under this article. The director has the authority to enter private property in order to enforce the terms of this article.

(b) It shall be unlawful for any person to hinder, prevent, delay or interfere with the director while engaged in the lawful execution or enforcement of this article. This shall not be construed as an attempt to prohibit the pursuit of any legal or equitable remedy in

a court of competent jurisdiction for the protection of personal or property rights by any property owner within the town.

(Code 1982, § 10.1-27)

**Sec. 34-35. Trees in public property.**

The director shall have exclusive jurisdiction and supervision over all trees and plant materials planted or growing in public property. The director shall have the authority and it shall be his duty to plant, trim, spray, treat, preserve and remove trees and plant materials in public property to ensure safety or preservation of the symmetry and beauty of such public property.

(Code 1982, § 10.1-28)

**Sec. 34-36. Permit for removal or planting of plant materials on public property.**

(a) No person shall trim, spray, treat, remove or plant any plant materials in any public property or excavate, trench, grade, remove or fill dirt upon public property which may endanger or affect trees or plant materials growing thereon without first obtaining a permit.

(b) Any person desiring a permit to trim, spray, treat or remove plant materials in any public property shall submit a written application to the director which sets forth the following:

(1) The number, kind and size of plant materials to be trimmed, sprayed, treated, preserved or removed;

(2) The kind of treatment to be administered;

(3) The kind and condition of the nearest plant material upon adjoining property;  
and

(4) Such other information as the director shall find reasonably necessary to a fair determination of whether a permit should be issued.

(c) Any person desiring to excavate, trench, grade, remove or fill dirt thereby endangering any plant material in a public property or area shall submit a written application to the director setting forth the following:

(1) A diagram of the area showing the proposed work and location of plant materials;

- (2) The number, location and variety of plant materials;
  - (3) A method of excavating, trenching, grading, removing or filling to be used; and
  - (4) Such other information as the director shall find reasonably necessary to a fair determination of whether a permit should be issued.
- (d) Any person desiring a permit to plant any plant materials in any public property shall submit a written application to the director setting forth the following:
- (1) A diagram of the area showing pavement, streets, sidewalks, curbs and gutters, with a definite indicated scale;
  - (2) The number, location and variety of plant materials to be planted;
  - (3) The number, location and variety of plant materials already existing in the area;
  - (4) The method of planting, including the supplying of suitable soil;
  - (5) The method of water maintenance; and
  - (6) Such other information as the director shall find reasonably necessary to a fair determination of whether a permit should be issued.
- (e) The town shall issue a permit under this section when it is determined that the desired action is necessary, that the proposed methods are satisfactory and that the proposed plantings conform to this article and town standards and practices.

(Code 1982, § 10.1-29)

### **Sec. 34-37. Removal of dangerous trees and shrubs.**

- (a) Upon finding that any tree, shrub or part thereof constitutes a nuisance and an immediate danger exists to persons, property or other vegetation, the director shall serve notice on the property owner to remove it.
- (1) The method of service shall be one or more of the following ways:
    - a. By personal delivery of the notice to the person responsible;
    - b. By leaving the notice with a person of suitable age and discretion on the premises; or

c. By mailing the notice by registered mail to the last known address of the property owner.

(2) The order shall set forth the time limit for compliance, which shall depend upon the degree of danger created by the tree or shrub, but shall in no case be longer than ten days. In cases of extreme danger, the director shall have the authority to require immediate compliance.

(b) If, at the end of the time period set forth in the order, the tree or shrub has not been removed, it shall be declared a nuisance, and the director shall have it removed. The costs of this service, including labor, equipment and materials, shall be assessed to the property owner.

(c) A tree or shrub shall be deemed a nuisance if it or any part of it:

(1) Appears dead, dangerous or likely to fall;

(2) In the case of trees, is not pruned to a height of 14 feet above the street to accommodate vehicles such as garbage trucks, buses and street maintenance trucks;

(3) In the case of trees, is not pruned to a height of eight feet above the sidewalk;

(4) Obstructs a curb, gutter, street or sidewalk;

(5) Interferes with sewers;

(6) Is in dangerous proximity to interfere with public utilities;

(7) Interferes with a planned public improvement; or

(8) Obstructs or interferes with the view or movement of pedestrian or vehicular traffic.

(Code 1982, § 10.1-30)

Secs. 34-38--34-60. Reserved.