

- (2) Deny the variance; or
- (3) Grant the variance with such conditions as may be necessary for the furtherance of the purposes of municipal tree preservation in keeping with the spirit and intent of the ordinance.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-13. Liability.

Nothing in this Chapter shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of public property or the owner of any private property shall have a duty to keep the trees and landscaping upon the property and under their control in a safe, healthy condition. Any person who feels a tree located on property possessed, owned, or controlled by them is a danger to the safety of themselves, others, or structural improvements on-site or off-site shall have an obligation to secure the area around the tree or support the tree, as appropriate to safeguard both persons and improvements from harm. (Ord. No. 376, §1, 10-9-2008)

Secs. 94-14 – 94-20. Reserved.

**ARTICLE II. COMMERCIAL AND RESIDENTIAL SUBDIVISION
LANDSCAPE REQUIREMENTS**

Sec. 94-21. Purpose.

The purpose of this Article is to provide requirements and standards for the installation and maintenance of landscaping elements and site improvements; to provide visual buffering and enhance the beautification of the City of Helotes; to safeguard and enhance property values and to protect public and private investment; to preserve and protect the unique identity and environment of the City of Helotes and preserve the economic base attracted to the City of Helotes by such factors; and to protect the public health, safety, and general welfare. (Ord. No. 376, §1, 10-9-2008)

Sec. 94-22. Applicability.

- (a) Commercial and residential subdivision developments within the City’s corporate limits and its Extraterritorial Jurisdiction are subject to the landscaping and irrigation requirements established within this Article.
- (b) A common commercial or residential subdivision development that includes more than one lot shall be treated as one lot for the purposes of satisfying the landscaping requirements of this Article. Split ownership, planning in phases, construction in stages, and/or multiple building permits for a project (i.e. apartments) shall not prevent it from being a common development, as referred to above. Each phase of a project shall comply with the requirements of this Article.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-23. Definitions.

For the purposes of this Chapter, the following phrases, terms, words, and their derivation shall have the meanings given in this section:

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

Buffering. The use of landscaping in conjunction with berms, walls, or decorative fences that, at least partially and periodically, obstruct the view from the street in a continuous manner of vehicular use areas, parking lots, their parked cars, and detention ponds.

Caliper. The diameter of a tree four foot (4') above the natural grade, measured with a tree caliper instrument or a flexible tape. If a tape is used, the circumference of the tree should be measured and the result divided by 3.14 to determine the diameter.

Commercial Development. All commercial (industrial, office, multifamily, institutional, retail) property to be developed or redeveloped, including additions and alterations to the structure or outdoor areas, such as parking lots or driveways.

Drip-line. The area of ground surrounding the trunk of a tree considered essential to protecting the root structure of a tree. For the purposes of this Chapter, the dripline shall be calculated at one foot (1') for every one inch (1") of caliper width measured at four feet (4') above natural grade level. Construction may encroach into the dripline area of a tree, provided that alternative construction methods for protecting a tree are approved by the City Arborist.

Irrigation. An in-ground irrigation system consisting of water lines, water emitters, and a controller that is professionally designed by an irrigator licensed by the State of Texas to meet the requirements of the plant material installed. (Project may require a separate meter service if San Antonio Water System is the water purveyor).

Landscaping. Any live plant material, such as trees, shrubs, ground cover, and grass, used in spaces void of any impervious material, building structure, or areas left in their natural state.

Loading Area, Service Area, Outdoor Storage Area. Area which is used for trash or garbage collection, vehicular loading and unloading, outdoor storage or repair, or for covered storage where the structure has no walls to screen views.

Owner. The person who holds legal title to a property or a lessee, agent, employee, or other person acting on behalf of the titleholder with authorization to develop the lot or property in question.

Pervious. The ability of a substance or material to allow the passage of water through the substance or material. Pervious pavers shall be considered pervious cover.

Plant Material. Living trees, shrubs, vines, ground covers, sod, and / or flowering annuals, biennials, and perennials.

Residential Subdivision Development Project. Any and all real property meeting the definition of Subdivision as set forth in Code Chapter 78 which has been platted for single-family home construction.

Root Protection Zone (RPZ). The area around the base of a tree in which limited construction may take place.

Street. The public right-of-way that provides primary vehicular access to adjacent land or areas.

Wall or Fence. An artificially constructed barrier of posts connected by boards, rails, panels, or wire and erected for the purpose of enclosing space to separate parcels of land or to screen or enclose areas of land.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-24. General requirements.

- (a) *Installation.* All landscape materials shall be healthy nursery stock installed according to American Association of Nurserymen (AAN) standards. Irrigation systems shall comply with the requirements of 30 TAC Chapter 344, §§ 344.72 – 344.77 and specific requirements set forth in this Article.
- (b) Requirements for Commercial and Residential Subdivision Developments and Stand Alone Parking Lots.
 - (1) Minimum Planting Requirements.
 - a. *Parking Lot Shading.* To reduce the thermal impact of un-shaded parking lots, trees shall be planted throughout parking lots so that no portion of the lot is more than 50 feet away from the trunk of a tree, unless otherwise approved by the City Arborist. Planting areas shall be a minimum of nine feet (9') by eighteen feet (18'). The use of existing trees to meet this requirement is encouraged.
 - b. *Perimeter Shading.* Plant material shall consist of a minimum of one tree for every ten (10) parking spaces. Trees shall be a minimum of two inch (2") caliper and eight feet (8') tall at the time of planting. Planted areas along the front lot lines shall be a minimum of eight feet (8') wide, of which two feet (2') may be located in the right of way if it does not interfere with sidewalks or the placement of utilities. The use of existing trees to meet this requirement is always encouraged.
 - c. *Screening of Parking Lot.* Minimum planting shall consist of:
 - 1. A compact hedge of five (5) gallon size plants having a minimum mature height of three feet (3') and planted in a density of one plant for every twenty (20) square feet; or
 - 2. A continuous three foot (3') high wall set back from the sidewalk. The area between the sidewalk and wall shall be planted with shrubs, grasses, or other continuous vegetative groundcover.
 - d. *Buffering.* Any commercial project abutting a residentially zoned property shall install a buffer which adequately protects future or existing tenants / home owners. The buffer shall consist of:
 - 1. a buffer zone of an opaque fence with a minimum height of eight feet (8') lined with Large Species Trees spaced at a minimum of twenty feet (20') apart. Trees shall be a minimum of two inch (2") caliper and eight feet (8') in height at time of planting. Trees shall be planted in planting areas of at least four feet (4') in width along the entire length of the property.
 - 2. a buffer zone of 100 feet; or
 - 3. a buffer zone of a street plus 40 feet.
 - e. *Pervious Surfaces.* Areas of the site that are not occupied by buildings, impervious parking surfaces, or accessory structures must have ground cover. Ground cover includes low growing, living plant materials, such as perennials, grass, ivy, and similar plants.
 - f. *Streetscape.* Construction and renovation plans for commercial sites must include street tree plantings planted no greater than fifteen foot (15') on center or spacing otherwise established by the City for the street on which the plantings will be made.

Trees shall be a minimum of two inch (2") caliper and eight feet (8') in height at time of planting.

- (2) Minimum Construction Requirements.
 - a. Adequate aeration inserts shall be provided where paving will extend over expanding root systems within the maximum anticipated drip line.
 - b. All planting beds containing shrubs or ground cover shall be top dressed with a two (2") minimum layer of mulch for water conservation.
 - c. Vehicles may not overhang the minimum required planting areas.
 - d. All solid waste storage facilities shall be enclosed on three sides by a sight-obscuring fence or wall and by a sight-obscuring gate on the remaining side.
 - e. Any permitted outside storage of merchandise shall be enclosed by a sight obscuring fence, wall, or gate.
 - f. Screening around all loading, service, and / or outdoor storage areas that will be visible from a public right-of-way shall be required in all districts other than a rural or residential district. The screening may be located anywhere on the property, subject to other provisions of this Article.
 - g. Irrigation systems shall be required for all new commercial and residential subdivision developments. Landscaped areas shall be irrigated with a system that is suitable for the type of plantings installed. Irrigation plans shall be submitted with landscaping plans for approval by the City Arborist prior to the issuance of a building permit.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-25. Alternative landscape plans / methods.

- (a) Alternative landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from the literal application of landscaping requirements or where necessary to protect existing vegetation. These landscaping requirements may be reduced if existing trees or other types of existing vegetation are preserved. Alternative plans, materials, or methods may be justified using natural conditions, such as streams, natural rock formations, topography, physical conditions related to the site, lot configuration, or utility easements.
- (b) The City Arborist shall consider alternative landscape plans, materials, or methods to determine whether proposed plans meet the intent of this Article, and he/she shall have the authority to approve alternatives.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-26. Landscape / irrigation requirements at time of building permit application.

- (a) *Application Review.* Upon receipt of a complete landscaping and irrigation application, the City Arborist shall review the application for compliance with the provisions of this Article. Said review may include a field inspection of the site by the City Arborist prior to the issuance of a permit. Following review and inspection, the permit application shall be approved, disapproved, or approved with conditions by the City Arborist in accordance with the provisions of this Article.

- (b) *Permit.* No building permit shall be issued until the City Arborist has reviewed and approved the landscaping and irrigation plan(s).
- (c) *Inspection.* Prior to the issuance of a Certificate of Occupancy for the project, the City Arborist may inspect the landscape and irrigation system and certify that the site meets the requirements of this Article and conforms to the approved site plan and / or landscape and irrigation plans. The property owner must have the approved plan(s) on site for inspection.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-27. Maintenance requirements.

Replacement. All landscaping and / or new or replacement trees shall be maintained for the life of the project. Should a tree die or be removed for which credit was obtained pursuant to the terms of this Article, such landscaping and trees shall be replaced. Dead or damaged landscaping and trees shall be replaced with new, live plants within one (1) month after notification by the City or during the next planting season if not possible at the time of notification. If plants are not replaced within the specified time limit, the owner shall be in violation of this ordinance. (Ord. No. 376, §1, 10-9-2008)

Sec. 94-28. Violation.

It shall be a violation of this Article for any person to intentionally or knowingly perform any regulated activity in a manner that does not conform to the requirements of this ordinance. (Ord. No. 376, §1, 10-9-2008)

Sec. 94-29. Jurisdiction.

- (a) To ensure compatibility with this Article, the City Arborist shall have the authority to review and act on all landscaping plans for commercial and residential subdivision developments in the City and its Extraterritorial Jurisdiction (ETJ). When plans are approved, approved with conditions, or denied, the City Arborist shall issue a letter of compliance for each application.
- (b) *Appeal to City Council.* Any applicant or party aggrieved by a decision of the City Arborist, City Administrator, or municipal employee may appeal such decision to the City Council. Such notice of appeal must be filed with the City Administrator within ten (10) working days of the decision in question. Such appeal shall stay the issuance of a building permit and shall be placed on the agenda for the next regular or special City Council meeting.

(Ord. No. 376, §1, 10-9-2008)

Sec. 94-30. Enforcement.

The City Arborist, City Administrator, and Code Compliance Officer are hereby charged with the responsibility for the enforcement of this Article and may serve notice to any person in violation thereof or institute legal proceedings as may be required. The City Attorney is hereby authorized to institute appropriate proceedings to that end. (Ord. No. 376, §1, 10-9-2008)

Sec. 94-31. Variances.

- (a) Variances to any decision of the City Arborist, City Administrator, Code Compliance Officer, or municipal employee to the terms of this Article may be granted by the City Council where a literal enforcement of the provisions of this Article will result in unnecessary hardship. A

variance request must be submitted to the City Administrator in writing setting out the basis for the request. No variance can be granted unless:

- (1) Such variance will not be contrary to public interest;
 - (2) Such variance will be in harmony with the spirit and purposes of this Article;
 - (3) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial; and
 - (4) The variance will not substantially weaken the general purposes of this Article.
- (b) After review of the variance request, the City Council may:
- (1) Approve the variance; or
 - (2) Deny the variance; or
 - (3) Grant the variance with such conditions as may be necessary for the furtherance of the purposes of landscape preservation in keeping with the spirit and intent of the ordinance.

(Ord. No. 376, §1, 10-9-2008)

Historical note: Ord. No. 376 adopted Oct. 9, 2008 amended ch. 94 in its entirety. Ord. No. 376 adopted Oct. 9, 2008 amended ch. 94 in its entirety. Ord. No. 275, adopted Feb. 10, 2005, amended ch. 94 in its entirety. Formerly such provisions derived from Ord. No. 237, adopted May 22, 2003; and Ord. No. 268, adopted Oct. 14, 2004.