

ARTICLE 1: LANDSCAPING, SCREENING, FENCING, AND COMPATIBILITY

DIVISION 1: LANDSCAPING

Section 6.1.1.1 Purpose

- (a) *Orderly, Safe and Healthful Development.* For the purpose of providing for the orderly, safe and healthful development of land located within the City limits and promoting the health, safety and general welfare of the community, it is necessary to establish requirements for the installation and maintenance of landscaping elements and other site improvements in off-street parking areas and other developed properties.
- (b) *Enhance Qualities.* The regulations contained in this Article are necessary to enhance the community's ecological, environmental and aesthetic qualities.
- (c) *Mitigation of Adverse Effects.* Paved surfaces, automobiles, buildings and other improvements all produce great increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from erosion and flooding.
- (d) *Natural Environment and Ecological Balance.* Preserving and improving the natural environment and maintaining a working ecological balance are significant concerns to the community. The fact that landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements benefits the health, welfare and general well being of the community and, therefore, it is proper that the use of the landscape elements be required.
- (e) *Oxygen, Heat, Glare, Water Runoff.* Landscape installation is required within off-street paved surface areas to regenerate oxygen and to reduce heat, glare, water runoff and other conditions connected with the construction of structures or paved areas within the parcel.

Section 6.1.1.2 Enforcement

- (a) *Responsible Official and Responsibilities.* The Planning Director shall be the responsible official for this Article. The Director is charged with administering this Article and securing compliance with this Article. In furtherance of this responsibility, the Director shall:

- (1) Make inspections as needed to effectuate the purposes and intent of this Article, and initiate appropriate action to bring about compliance with this Article if the inspections disclose any instance of noncompliance.
 - (2) Investigate any complaints of alleged violations of this Article, and maintain a record in the planning department office of the disposition of the complaints.
 - (3) Issue notices of violation, and order, as set out in this Section, the correction of all violations of this Article found to exist on any premises.
 - (4) State in the notice of violation a time limit for compliance with this Article as set out in subsection (c) of this Section.
 - (5) Refuse to issue an occupancy certificate where the requirements of this Article have not been met. A temporary occupancy certificate may be issued where provisions have been made for landscaping installation at the most advantageous time for planting, not to exceed six months from the date of issuance.
 - (6) Request the assistance of the City Attorney in taking appropriate legal action upon the failure of the responsible party to comply with the notice of violation at the time specified therein.
- (b) *Authorization.* The Director is authorized and directed to lawfully enter all premises at reasonable times to perform inspections to determine compliance with the provisions of this Article.
- (c) *Action after Determination of Violation.* When the Director determines that a violation of this Article exists, the responsible official shall take action as follows:
- (1) Give written notice of the violation to the management, agent or owner shown on the most recent tax roll of the City.
 - (2) The notice shall include:
 - a. A description of the location of the property involved, either by address or by legal description;
 - b. A statement indicating the nature of the violation and the reason why the notice of violation is being issued;
 - c. The section of this Article upon which the notice of violation is based;
 - d. A description of the actions that are required to correct the violation;

- e. A time limit for correction of the violation, which will not be less than ten days nor more than 90 days from the date of the written notice;
- f. The name of the person to whom the notice of violation is directed;
- g. A statement that failure to comply with the requirements of the notice will result in the City taking enforcement procedures in order to secure compliance; and
- h. A description of the procedures available for review of the action of the Director as set out in this Article.

(d) *Notice.*

- (1) Notices of violation shall be personally delivered, or sent by certified mail, return receipt requested, and (if possible) by posting a copy of the notice in a conspicuous place on the premises.
- (2) The Director shall maintain a record of the manner of service of the notice.
- (3) If the order is not complied with within the time specified in the order, the Director shall use all available means of enforcement in order to secure compliance.
- (4) When any notice has been issued and the notice becomes an order within the terms of this Article, the responsible official shall cause to be placed in a conspicuous place on the premises a notice which shall read substantially as follows:

These premises are in violation of the requirements of the City of San Marcos landscaping and buffering requirements (Chapter 6 of the San Marcos Land Development Code). This notice is to remain as placed here until the requirements of the ordinance have been complied with. It is unlawful to remove this notice until the requirements have been complied with.

Section 6.1.1.3 Applicability to New and Existing Developed Areas

(a) *New Development or New Structures.*

- (1) The requirements and standards for the installation and maintenance of landscape elements and site improvements as set forth in this Article shall apply to all developed area within the City limits; provided, however, that the requirements and standards shall not apply to the central business area zoning district of the City as described in Chapter 4, unless new off-street parking is added, in which case the parking area shall conform to these regulations. All

other new development and construction of new structures shall comply with this Article.

- (2) If other articles of this Chapter would otherwise permit land coverage by building development that would conflict with this Article, this Article shall supersede and prevail over the other requirements.
- (3) If a principal use and some or all of the parking area, required or otherwise, serving the principal use are located on separate parcels, the landscape installation required in this Article shall prevail as to all the property with the result that an equivalent percentage of the area of all parcels utilized by a principal use shall be landscaped in compliance with this Article.

(b) *Existing Development Areas; Nonconformance.*

- (1) All property with existing development on the effective date of the ordinance from which this Article derives which is not in compliance with this Article shall be considered nonconforming and allowed to continue until the time a building permit is granted to reconstruct or enlarge a structure on the property to an extent exceeding 50 percent of the current replacement cost of the structure. At that time, this Article shall apply to the previous existing parcel areas as well as any new paved areas, and the areas shall be brought into compliance. A plan showing existing and new development and the proposed landscaping shall be submitted in accordance with Division 6.1.1.6. In order to encourage early landscaping in existing paved areas and the preservation of trees that are already established and growing in these areas, an additional credit of 50 square feet shall be given to the preservation of each existing tree that is at least nine inches in caliper. This is in addition to the credit normally given for the preservation of an existing tree as provided in Chapter 5, Article 5.
- (2) No structure existing on the effective date of this Code from which this Article derives shall be required to be altered or moved in order to comply with this Article except for reconstruction.

Section 6.1.1.4. Required Landscape Area Standards

- (a) *Meaning of "Landscape Area".* Landscape area shall mean the area (greater than one foot in width) within the boundary of a lot or parcel that is comprised of pervious surface integrated with living plant material, including but not limited to trees, shrubs, flowers, grass, or other living ground cover or native vegetation. For the purposes of meeting the requirements of this Article, undeveloped portions of the site cannot be considered landscaped area.
- (b) *Establishment of Minimum Percentages.* A minimum percentage of the total lot area of property on which development, construction or reconstruction occurs after

the effective date of the ordinance from which this Article derives shall be devoted to landscape in accordance with the following schedule; provided, however, that this requirement shall not apply to the development, construction or reconstruction of single-family detached residential structures:

Table 6.1.1.4

Required Landscape Area Schedule

TABLE INSET:

Land Use	Percent Landscaped Area Required
Single-Family Detached	See Section 6.1.1.4 (d) below
Townhouses	20
Duplexes, Triplexes	20
Apartments	20
Office and Professional Uses	15
Mixed Use	20
Retail and Commercial	10
Industrial or Manufacturing	10

- (1) Plantings shall consist of a minimum of one tree and three five-gallon shrubs for every 1,000 square feet of the required minimum landscaping area to be planted or retained internal to the project, 90 percent of which shall be chosen from the Preferred Plant List.
- (2) Street trees shall be planted at the average rate of one tree for every 50 feet, or major fraction thereof, of street frontage. Where poor soil conditions or other factors require additional flexibility in planting, the Planning Director may approve alternative spacing of trees, but not reduction in the number of required trees. Trees planted within a street median adjacent to the street frontage may be counted for up to one-half of the required trees. Existing street trees that meet these standards may be credited as street trees. Street trees must be planted within ten feet of the property line or in the right-of-way between the street and the sidewalk if this area is at least four feet in width. Appropriate street trees from the Preferred Plant List shall be used for plantings between the sidewalk and the street. In no case shall less than two large trees per lot be planted or preserved.

GRAPHIC LINK:Figure 6-1

(3) On large tracts of land, exceptions to this Article may be granted by the Planning Director to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this Article is met, and it is located along rights-of-way or in strategic environmentally sensitive areas. In addition, exceptions may be granted if the geologic assessment performed during the Watershed Protection Plan Phase II process demonstrates that the soil or surface of the lot is unsuitable for the planting of trees.

(c) *Landscaping On-Site and Related Location.* The landscaped area required by Table 6.1.1.4 shall be placed upon that portion of a tract or lot that is being developed. 75 percent of the area required by Table 6.1.1.4 shall be installed in between the front or side property lines and the building being constructed. Clustering the remaining required landscaping along property lines abutting a lower intensity land use is encouraged. Undeveloped portions of a tract or lot shall not be considered landscaped.

(d) *Minimum Landscaping for Single-Family and Duplex Lots Only.* All required plant materials shall be from the City's Preferred Plant List in the Technical Manual.

(1) Two large shade trees that are a minimum of two inches in caliper and six feet in height at the time of planting;

(2) Additional landscaping for single-family or duplex units shall be required and shall consist of at least three out of the following four options:

a. Two small ornamental trees, equal to at least six feet in height at the time of planting;

b. Four large evergreen shrubs, equal in size to at least a five-gallon container size shrub;

c. Eight small shrubs, equal in size to at least a two-gallon container size shrub; and

d. Solid ground cover or lawn.

(e) *Landscaping Within Parking Areas.*

(1) All outdoor parking areas having spaces for more than 20 vehicles shall have landscaping within the perimeter of the parking areas equal in area to not less than five percent of the total paved area.

(2) No parking space shall be located more than 60 feet from a portion of the required landscaping.

- (3) Each landscape island within a parking lot shall contain a minimum square footage equivalent to one parking space of pervious area, shall be at least ten feet wide, and shall allow at least four feet between any trees within the island and the edge of the island.
 - (4) One tree of at least two-inch caliper in size shall be provided within the perimeter of the parking area for each 250 square feet of landscaping required.
 - (5) Landscaped terminal islands (end islands) shall be located at the end of all parking aisles in a configuration to allow for turning radii of intersecting aisles shown in the Transportation Criteria Manual to protect parked vehicles, provide for visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. Required or provided landscaping shall not obstruct the view of any vehicle backing areas or turning areas in a way that creates a hazard.
- (f) *Tree Credits.* Tree credits shall be given pursuant to Section 5.5.2.3 of this Code.

Section 6.1.1.5. General Requirements

- (a) *Installation.* All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards.
- (b) *Maintenance.* The owner of the building, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. The areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered sufficiently to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material needed to meet the requirements of this Article. Should a tree die or be removed for which credit has been obtained pursuant to this Land Development Code, trees sufficient to equal the area credited shall be required. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree is retained; such substitution shall require the approval of the Planning Director.
- (c) *Planting Criteria.*
 - (1) *Trees.* Trees planted for credit under Section 6.1.1.4 shall be a minimum of two inches in caliper, measured six inches above ground level, and six feet in height when measured immediately after planting. Trees shall have an average mature crown greater than 15 feet. Trees having an average mature crown less than 15 feet may be substituted by grouping the trees so as to create at maturity the equivalent of a 15-foot crown if the drip line area is maintained.

- (2) *Shrubs, vines and ground cover.* Shrubs, vines and ground cover planted pursuant to this Article should be good, healthy nursery stock. Shrubs must be, at a minimum, a one-gallon container size at the time of planting.
- (3) *Grass.* Grass areas are encouraged to be planted in species normally grown as permanent lawns in the City, including St. Augustine, Zoysia, Bermuda or other drought-tolerant grass.
 - a. Grass areas may be sodded, plugged, sprigged or seeded, except that solid sod shall be used in swales or other areas subject to erosion.
 - b. In new residential developments, developers and homebuilders are encouraged to offer low-water use landscape alternatives, such as Zoysia or buffalo grass.
- (4) *Synthetic lawns or plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this Section.
- (5) *Soils.* New landscaped areas should be prepared so as to achieve a soil depth of at least six inches. The six-inch soil depth should consist of 75 percent soil blended with 25 percent compost.
- (6) *Architectural planters.* The use of architectural planters may be permitted in fulfillment of landscape requirements.
- (7) *Turf areas.* Except in residential developments, turf areas should be limited to a maximum of 50 percent of the total required landscaped area.
- (8) *Xeriscape materials.* Developers and homebuilders are encouraged to use xeriscape plant materials on model homes to promote use of water-wise landscaping.
- (9) *Other.*
 - a. Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.
 - b. Pursuant to TAC 202.007, property/home owners associations shall not restrict or prohibit turf or landscaping materials that promote water conservation.
- (10) *Landscape irrigation.*
 - a. All required landscaping areas shall be 100 percent irrigated by one of, or a combination of, the following methods:

1. An automatic underground irrigation system;
 2. A drip irrigation system;
 3. A hose attachment within 100 feet of all plant material, provided, however, that a hose attachment within 200 feet of all plant material in non-street yards shall be sufficient.
- b. All irrigation systems shall be designed and sealed in accordance with the Texas Licensed Irrigators Act and shall be professionally installed.
 - c. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

(d) *Construction Phase.*

- (1) No more than 25 percent of the drip line zone of trees to be preserved shall be paved with concrete, asphalt, or other impervious material.
- (2) Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees to be preserved.
- (3) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. Final grading and removal of vegetation shall not occur more than 30 days prior to scheduled paving.

(e) *Removal of Diseased or Dangerous Trees and Vegetation.*

- (1) Upon direction from the Director of Public Works, a property owner may be required to treat or remove trees suffering from transmittable diseases or pests or allow the City to do so, charging the actual cost thereof to the property owner.
- (2) The Director of Public Works may require the removal of a tree or part of a tree or any other vegetation that is within or overhanging a public right-of-way or easement if the tree or vegetation:
 - a. Is diseased or infested and in danger of falling;
 - b. Is creating a traffic hazard or sight distance hazard for traffic on a public street; or
 - c. Is interfering with safe and proper maintenance of the right-of-way or easement.

Section 6.1.1.6. Plan Approval

- (a) *Landscape Plan(s) Required.* Appropriate plans showing proposed landscape development, including figures to show compliance with this Article, shall be submitted to the Planning and Development Services Department. A landscape plan drawn to scale shall include dimensions and distances and clearly delineate any existing and proposed landscape development. The landscape plan shall also include detailed drawings of the entire off-street parking area, the location of proposed buildings, the name and location of proposed plant materials and the location of water sources.
- (b) *Submittal.* This plan shall be submitted by the owner of the property or the manager or agent of the owner.
- (c) *Approval.* This plan must be approved prior to the issuance of a building permit.
- (d) *Submittal with Other Required Drawings.* A landscape plan(s) may be submitted in conjunction with other required drawings such as a site development plan or other requirements as stated in Chapter 1.

Section 6.1.1.7. Variances or Appeals

Requests for variances or relief of these requirements shall be in accordance with Chapter 1, Article 10.

Section 6.1.1.8. Requests for Extension of Time

The Planning Director shall be authorized to grant up to two extensions of up to six months each for the purpose of installing landscaping plants, trees, or other living material. The extensions, if approved, shall be based on the criteria that the required landscaping would more appropriately be installed at a later time due to weather conditions, an off-season time of year for planting, or other extenuating circumstance that will allow the newly installed landscaping the best chance of living.