

## ARTICLE II. LANDSCAPING\*

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\***Cross references:** Buildings and building regulations, ch. 18.

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### Sec. 90-26. 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:

*Corner lot* means a lot situated at the junction of two or more streets or of two segments of a curved street, forming an angle of not more than 135 degrees.

*Drip line* means the periphery of the area underneath a tree which would be encompassed by perpendicular lines dropped from the farthest edges of the crown of the tree.

*Landscaped area* means that area within the boundaries of a lot which is devoted to and consists of plant material, including but not limited to grass, trees, shrubs, flowers, vines and other ground cover, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features, but not including the use of smooth concrete or asphalt; provided, however, that the use of a brick, stone, aggregate or other inorganic materials shall not predominate over the use of organic plant material.

*Shrub* means a low woody plant with more than one permanent stem. Shrubs used in a landscaped area shall be of a container size not less than five gallons for commercial areas and one to two gallons for residential areas, as such size is commonly defined in the horticultural industry.

*Street yard* means that area of a lot which lies between the street right-of-way line and the actual front wall line of the building, as such building wall line extends from the outward corners of the building, parallel to the street, until such imaginary extensions of such front building wall lines intersect the side property lines. In determining the actual building wall of the building for the purposes of this definition, steps and unenclosed porches shall be excluded, but such building wall line shall follow and include the irregular indentations of the building. A front building wall is a building wall fronting on a street. On corner lots the street yard shall consist of all the area of such lot between all

abutting street right-of-way lines and their corresponding actual front building wall lines, as such lines are imaginably extended in the manner provided in this definition. When there are multiple buildings on a lot, the street yard shall consist of all the area of the lot between the street right-of-way line and an imaginary line beginning at one side of the property line, running parallel to the street, connecting to the front most corner of the building wall fronting the street and nearest such side property line, then following and connecting the front most walls of all buildings fronting on the street, and then extending to the other side property line, running parallel to the street. If a building has a rounded front, the front building wall corners shall be the points closest to the side boundaries; provided, however, that isolated buildings (e.g., fast food restaurants in a shopping center, photo processing drop-offs, bank drive-through, etc.) shall not be considered in delineating the street yard. The delineation of the street yard is illustrated by the diagrams accompanying Ordinance No. 92-16 as exhibit A and made a part of this article. Notwithstanding all of the foregoing, on land used only for parking purposes or only as a commercial or private parking lot, the street yard shall consist of the area between the street right-of-way line and the back property line.

*Tree* means a woody plant having one well-defined stem or trunk not less than 3 1/2 inches in diameter at a point six inches from the ground, having a more or less definitely formed crown, and ordinarily attaining a mature height of not less than eight feet, provided that on lots in residential zoning districts, the stem or trunk shall be not less than two inches in diameter at a point six inches from the ground and the plant shall ordinarily attain a mature height of not less than six feet. Trees planted to satisfy the density (number of trees per specified square feet of area) requirements of this article should be of the following types: any type of oak, pecan, Texas redbud, sweet gum, southern magnolia, any type of pine, sycamore, flowering maple, bald cypress, winged elm, cedar elm, crape myrtle, Louisiana palm and Texas palm.

(Code 1993, § 6-651)

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

### **Sec. 90-27. Application of article.**

- (a) Except as otherwise provided in this article, the landscaping requirements of this article shall apply to all land located in the city. The landscaping requirements of this article shall become applicable as to each individual lot at such time as an application for a building permit on such lot is made and shall remain in effect thereafter, changes in ownership or use notwithstanding.
- (b) A common development which includes more than one lot shall be treated as one lot for the purpose of satisfying the landscaping requirements of this article. Split ownership, planning in phases, construction in stages and multiple building permits for a project shall not prevent it from being a common development as referred to

in this subsection. Each phase of a phased project shall comply with the requirements of this article.

- (c) This article shall not apply to the following:
- (1) Building permits for the substantial restoration of a building which has been damaged by fire, explosion, flood, tornado, riot, act of the public enemy or accident of any kind issued within 12 months after such damage is sustained.
  - (2) Building permits for new construction applied for prior to the effective date of Ordinance No. 92-16.
  - (3) Building permits for residential remodeling.
  - (4) Building permits for interior remodeling in commercial districts and for nonresidential buildings in residential districts, provided that the roof and all exterior walls of the building are not moved outward beyond the current roof edge and are not otherwise structurally altered.
- (d) When the requirements of this article conflict or are inconsistent with requirements of other sections of this Code, this article shall prevail.

(Code 1993, § 6-652; Ord. No. 96-21, § 1, 10-1-96)

#### **Sec. 90-28. Alternative compliance.**

Notwithstanding the other sections of this article, a landscape plan which is an alternative to strict compliance with the various landscaping requirements of this article may be approved by the city council if the city council finds that such plan is as good or better than a plan in strict compliance with the various landscaping requirements of this article in accomplishing the purposes of this article.

(Code 1993, § 6-657; Ord. No. 96-21, § 1, 10-1-96)

#### **Sec. 90-29. Procedures.**

- (a) When application is made for a nonresidential building permit on land where the landscaping requirements of this article apply, such application shall be accompanied by a site plan containing the following information:
- (1) The date, scale, north point, title and name of the owner.
  - (2) The location of existing boundary lines and dimensions of the tract.

- (3) The approximate centerline of existing watercourses; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, existing and proposed utility easements on or adjacent to the lot and existing and proposed sidewalks adjacent to the street.
  - (4) The location, size and type (tree, shrub, ground cover or grass) of proposed landscaping in proposed landscaped areas and the location and size of proposed landscaped areas.
  - (5) The location and species of existing trees in the street yard and parking lots having trunks eight inches or more in diameter and the approximate size of their crowns.
  - (6) Information necessary for verifying whether the required minimum percent of landscaped area has been met under subsection 90-30(c), as applicable, and whether a particular area qualifies for credit under section 90-32.
  - (7) An explanation of how the applicant plans to protect the existing trees, which are proposed to be retained, from damage during construction.
  - (8) The proposed irrigation system as provided by subsection 90-30(b)(4).
  - (9) The certification of a professional engineer, surveyor, landscape architect, architect or full-time professional building designer that the plans satisfy the requirements of this article; provided, however, that for a common development or project as referred to in subsection 90-27(b), which is greater than five acres in size, such plans and certification may be made by a landscape architect only.
- (b) When application is made for a residential building permit, such application shall address the landscaping requirements of subsection 90-30(a) by sketch or layout plan on the building site plan.
  - (c) An inspection fee, the amount of which is on file in the office of the city secretary, shall be collected by the building official at the time of application for a certificate of occupancy.
  - (d) The building official shall inspect each site no later than 12 months after issuance of the certificate of occupancy to ensure compliance with this article.
  - (e) If, at the time an application is made for a certificate of occupancy, the required landscaping is not in place, the owner shall make fiscal arrangements (by bond, certificate of deposit or letter of credit) satisfactory to the city in the amount of \$2.00 per square foot of required landscaping not in place to ensure that such required landscaping shall be installed. A property owner making such fiscal

arrangements must grant the city a license to enter upon the land for the purposes of installing the required landscaping if such landscaping is not in place at the time of the inspection required by subsection (d) of this section. Such fiscal arrangements shall be released if the required landscaping is in place at the time of such inspection.

- (f) It is a violation of this article to allow developed property that is in compliance at the time of adoption to become in violation.
- (g) Appeals from the denial of a building permit for noncompliance with this article shall be reviewed in the same manner as appeals from building permit disapprovals under the building code adopted by section 18-26.

(Code 1993, § 6-653; Ord. No. 99-28, § 1, 6-15-99)

### **Sec. 90-30. Landscaping requirements.**

- (a) Under this article, residential lots in all zoning districts are subject to the following requirements:
  - (1) Residential lots shall have a minimum of 50 percent of the required front yard and required side yard adjacent to a side street devoted to landscaping.
  - (2) A minimum of two trees, either existing or planted, are required in the combined front yard and side yard adjacent to a side street.
  - (3) Landscaping in harmony with the surrounding area adequate to minimize the visual monotony and barrenness shall be provided.
  - (4) Edging and trimming shall be conducted at such intervals so as to prevent the invasion of vegetation in excess of four inches onto any sidewalk, paved walkway, driveway or curb.
- (b) Apartments are subject to the following requirements:
  - (1) Any portion of the building site not required for buildings, entrances, sidewalks, parking areas or drainage ditches, but not less than 20 percent of the site area, shall be planted with greenery, shrubbery and trees. The park or recreation area shall be a portion of this area. Included in this shall be one tree for each 30 feet or fraction thereof of street frontage planted not more than 20 feet from the frontage lot line and, also, one tree for each 50 feet or fraction of apartment building length equally spaced along the building length. Utilization of established trees will be considered in lieu of this requirement.

- (2) Vehicular use areas, parking lots and their parked vehicles shall have effective buffering from the street view. A minimum amount of the total area of all vehicular use areas and parking areas of a lot shall be devoted to landscaped islands, peninsulas or medians. The minimum total area in such islands, peninsulas and medians in the street yard shall be 90 square feet for each 12 parking spaces therein. The number and shape of islands, peninsulas and medians in both street yards and nonstreet yards shall be at the discretion of the owner; however, no parking space shall be located further than 50 feet from a permeable landscaped island, peninsula or median or tree. In no case shall any individual island, peninsula or median be less than 54 square feet in area. All islands, peninsulas and medians required in such areas shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirement for landscaped islands, peninsulas and medians for the respective parking areas is satisfied. Only landscaped islands, peninsulas and medians in the street yard shall count toward fulfilling the requirement of subsection (b)(3) of this section, as applicable.
- (3) All parking areas shall have a suitable shrubbery border or landscaped earthen berm not less than three feet wide or less than three feet high.
- (4) All required landscaping shall be irrigated by one of the following methods:
  - a. An underground sprinkling system.
  - b. An automatic water saving irrigation system.
  - c. A hose attachment within 100 feet of all landscaping; provided, however, a hose attachment within 200 feet of all landscaping in nonstreet yards shall be sufficient.

The irrigation method used shall provide a moisture level in an amount and frequency adequate to sustain growth of the plant materials on a permanent basis. Such irrigation methods shall be in place and operational prior to issuance of a certificate of occupancy.

- (5) All required plant materials shall be installed according to planting details and specifications showing clearly how growing conditions adequate to sustain vigorous and healthy growth will be achieved, including but not limited to the following:
  - a. Protection and support of tree trunks.
  - b. Provision of adequate conditions for root growth.

- c. Provisions for retention of moisture.
  - d. Protection of plants from equipment or vehicular damage.
- (6) Landscaping in landscaped areas shall not obstruct the view between the street and the access drives and parking aisles near the street yard entries and exists, nor shall any landscaping which creates an obstruction of view be located in the radius of any curb return.
- (7) The landowner shall be responsible for:
- a. The regular maintenance of all required landscaped areas and plant materials in a vigorous and healthy condition, free from diseases, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other needed maintenance, in accordance with generally accepted horticultural practice.
  - b. The cutting of all vegetation on each lot as often as may be necessary to maintain the vegetation in a neat and attractive manner. Edging and trimming shall be conducted at such intervals to prevent the invasion of vegetation in excess of four inches onto any sidewalk, paved walkway, driveway or curb.
  - c. The repair or replacement of required landscape structures to a structurally sound condition.
  - d. The regular maintenance, repair or replacement, where necessary, of any required screening or buffering.

Required plant materials which are dead, diseased or severely damaged shall be removed and replaced by the landowner as soon as possible, but no later than 60 days after notification. Replacement plants shall be installed within 60 days after notification and shall be the same size and species as shown on the approved landscape plan or equivalent in terms of quality and size. Trees which are dead, diseased or severely damaged shall be removed no later than 60 days after notification and shall be replaced no later than six months after notification or by the next planting season, whichever comes first.

- (c) Commercial, industrial and all nonresidential zoning districts are subject to the following requirements:
- (1) Landscaping shall be provided under or around all free-standing signs. The landscaped area shall be a minimum of five feet wide in all directions and shall be a minimum of 50 square feet in size. The landscaped area shall be planted with shrubs, seasonal color or any other suitable bedding plant

material. The sign shall not extend beyond the landscaped area. Curbing, railroad ties or other types of vehicular barriers shall be placed around the landscaped strip if necessary for protection from vehicular or pedestrian traffic.

- (2) For off-premises signs, the following shall be provided:
  - a. A landscape strip not less than ten feet in width shall be located immediately adjoining the supporting structure of each off-premises sign and extending not less than five feet beyond each end. A hedge or other durable planting, which is not less than two feet in height at the time of planting and which will attain a height not less than six feet shall extend the entire length and width of the required landscaped strip. Two trees not less than eight feet in height shall be located within the required landscape strip along the principal street frontage. The remainder of the landscape strip shall be maintained in grass or ground cover.
  - b. Required landscaping shall be maintained in a vigorous and healthy condition, free from disease, pests, weeds and litter. Maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance in accordance with generally accepted horticultural practice. Plant materials which are dead, diseased or severely damaged shall be removed and replaced by the landowner as soon as possible, but not later than 60 days after notification; provided, however, trees which are dead, diseased or severely damaged shall be removed no later than 60 days after notification and replaced no later than six months after notification or by the next planting season, whichever comes first.
- (3) On all lots, the following is required:
  - a. At least ten percent of the total public area(s) within the property lines shall be landscaped area(s).
  - b. At least 20 percent of the area of the street yard shall be landscaped area.
  - c. An average of at least ten feet and a minimum of five feet between building and parking area shall be landscaped area and walkway.
  - d. A landscaped buffer not less than ten feet in width shall be provided adjacent to each street right-of-way. Drives and sidewalks shall not be included in the required landscape buffer except to the extent to which they may be required to cross the buffer to provide access.

- (4) In the street yard, at least one tree, either existing or planted, shall be included and replaced, if necessary, in accordance with the following ratios:
  - a. For street yards containing less than 10,000 square feet, one tree per 1,000 square feet or fraction thereof of street yard.
  - b. In street yards containing more than 10,000 square feet but less than 110,000 square feet, ten trees plus one tree for each 2,500 square feet of street yard in excess of 10,000 square feet.
  - c. In street yards containing more than 110,000 square feet, 50 trees plus one tree per 5,000 square feet or fraction thereof of street yard over 110,000 square feet.
- (5) An existing or planted tree which is not less than eight inches in diameter or not less than six inches in diameter and not less than 15 feet in height shall be considered as two trees for purposes of satisfying this subsection. All newly planted trees shall be planted in a permeable area not less than three feet in width.
- (d) The existing natural landscape character shall be preserved to the extent reasonable and feasible. The developer shall use his best good-faith efforts to preserve existing trees. In determining whether there is compliance with this subsection, the director of public works shall consider topographical constraints on design, drainage, access and egress, utilities and other factors reasonably related to the health, safety and welfare of the public which necessitate disturbance of the existing 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 natural vegetation on a lot is prohibited.
- (e) No tree over eight inches in caliper shall be removed without a permit. Trees less than eight inches in caliper may be removed.
- (f) Development of an area known as a wetland, estuary, etc., must have environmental impact study done stating as defined by federal guidelines.
- (g) The impervious cover within the area encompassed by the drip line of any tree in a required landscaped area may not exceed 50 percent of such area if such area is to receive 150 percent credit under section 90-32.
- (h) Vehicular use areas, parking lots and their parked vehicles shall have effective buffering from the street view. A minimum amount of the total area of all vehicular use areas and parking areas of a lot shall be devoted to landscaped islands, peninsulas or medians. The minimum total area in such islands, peninsulas and medians in the street yard shall be 90 square feet for each 12 parking spaces therein. The number and shape of islands, peninsulas and medians in both street

yards and nonstreet yards shall be at the discretion of the owner; however, no parking space shall be located further than 50 feet from a permeable landscaped island, peninsula or median or tree. In no case shall any individual island, peninsula or median be less than 54 square feet in area. All islands, peninsulas and medians required in the areas stated in this subsection shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirement for landscaped islands, peninsulas and medians for the respective parking areas is satisfied. Only landscaped islands, peninsulas and medians in the street yard shall count toward fulfilling the requirement of subsection (b)(3) of this section, as applicable.

- (i) All parking areas shall have a suitable shrubbery border or landscaped earthen berm not less than three feet wide or less than three feet high.
- (j) All required landscaping shall be irrigated by one of the following methods:
  - (1) An underground sprinkling system.
  - (2) An automatic water-saving irrigation system.
  - (3) A hose attachment within 100 feet of all landscaping; provided, however, a hose attachment within 200 feet of all landscaping in nonstreet yards shall be sufficient. The irrigation method used shall provide a moisture level in an amount and frequency adequate to sustain growth of the plant materials on a permanent basis. Such irrigation methods shall be in place and operational prior to issuance of a certificate of occupancy.
- (k) All required plant materials shall be installed according to planting details and specifications showing clearly how growing conditions adequate to sustain vigorous and healthy growth will be achieved, including but not limited to the following:
  - (1) Protection and support of tree trunks.
  - (2) Provision of adequate conditions for root growth.
  - (3) Provisions for retention of moisture.
  - (4) Protection of plants from equipment or vehicular damage.
- (l) Landscaping in landscaped areas shall not obstruct the view between the street and the access drives and parking aisles near the street yard entries and exists nor shall any landscaping which creates an obstruction of view be located in the radius of any curb return.

- (m) The landowner shall be responsible for the following:
- (1) The regular maintenance of all required landscape areas and plant materials in a vigorous and healthy condition, free from diseases, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other needed maintenance, in accordance with generally accepted horticultural practice;
  - (2) The cutting of all vegetation on each lot as often as may be necessary to maintain the vegetation in a neat and attractive manner. Edging and trimming shall be conducted at such intervals to prevent the invasion of vegetation in excess of four inches onto any sidewalk, paved walkway, driveway or curb;
  - (3) The repair or replacement of required landscape structures to a structurally sound condition; and
  - (4) The regular maintenance, repair or replacement, where necessary, of any required screening or buffering.
- (n) Landowners are encouraged to landscape the areas within the nonpaved street right-of-way abutting their land in accordance with the city's zoning ordinance. This landscaped area(s) can be used to comply with this chapter.

(Code 1993, § 6-654; Ord. No. 97-12, § 1, 9-16-97; Ord. No. 00-20, § 1, 7-5-00; Ord. No. 00-24, §§ 1--4, 7-5-00)

### **Sec. 90-31. Planting and growth of trees in street rights-of-way.**

Except as otherwise provided in this article, it shall be unlawful for any person to plant, grow or maintain trees, shrubs, bushes or other vegetation, other than flowers, greater than 18 inches in height in the right-of-way of a public street. Trees may be planted, grown and maintained in the right-of-way of a public street subject to the following terms and conditions:

- (1) Trees planted in the right-of-way of a public street after the effective date of the ordinance from which this section derives shall be of the following types only: oaks of any type, pecan, Texas redbud, sweet gum, southern magnolia, any type of pine, sycamore, flowering maple, bald cypress, winged elm, cedar elm, crape myrtle, Louisiana palm and Texas palm.
- (2) A tree shall not be planted, grown or maintained within 25 feet of the pavement of an intersecting street.
- (3) Trees shall not be planted on less than 20-foot centers.

- (4) Trees and other plants shall not obstruct the view of the drivers of vehicles on a public street.
- (5) Trees between sidewalk and curb planted after the effective date of the ordinance from which this section derives shall be centered between sidewalk and curb, and no tree shall be closer than three feet to the curb as measured from the center of the trunk.
- (6) Nothing contained in this section shall limit the right of the city to remove any tree or other plant from the right-of-way of any public street.

(Code 1993, § 6-655)

**Sec. 90-32. Credits toward landscaping requirements.**

- (a) Each square foot of landscaped area which is permeable and within the area encompassed by the drip line of a tree shall count as 1.5 square feet of landscaped area for the purposes of satisfying the requirements of subsection 90-30(c), as applicable. To encourage growth of larger trees between four and eight inches in trunk diameter, measured four feet off the ground, such trees shall receive such special credit for twice the area of the drip line. Thus, each square foot of landscaped area around such four-inch to eight-inch trees which is permeable and contiguous to the landscaped area within the drip line shall count as 2.0 square feet of landscaped area for the purpose of satisfying the requirements of subsection 90-30(c), as applicable.
- (b) The credits in subsection (a) of this section shall be subject to the limitations of this subsection. Neither overlapping drip line areas nor areas contiguous to the drip line areas which overlap shall be counted twice. Moreover, a tree drip line area shall not qualify for credit under this section if less than one-half of the drip line area is permeable cover, there have been any damaging changes in the original grade of the drip line under the tree or the total of such area receiving such credit around the tree exceeds the total square footage of landscaped area within the drip line. Permeable pavers shall be considered as permeable cover. Changes in grade required by city ordinance, such as sidewalks and curbing driveway approaches, shall not be considered as damaging changes. In no case shall the actual landscaped area in the street yard of a lot be less than two-thirds of the required minimum percentage, as applicable under subsection 90-30(c).

(Code 1993, § 6-656)