

ARTICLE III. TREES AND SHRUBBERY*

***Cross references:** Landscaping of dedicated rights-of-way, § 6-307.

Sec. 13-61. Trees to be trimmed.

Any owner or occupant of any real property shall trim all trees on property owned or occupied by him, overhanging any public thoroughfare, so that the branches thereon will not interfere with pedestrians or public travel.

(Code 1990, § 8-9-1)

Sec. 13-62. Hedges and shrubbery.

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of the hedges and/or shrubbery shall extend over any part of a public sidewalk in the city.

(Code 1990, § 8-4-2)

Sec. 13-63. Injury to trees and/or shrubbery.

It is unlawful for any person, not the owner thereof, or without lawful authority so to do, to willfully injure, deface, disfigure or destroy any tree or shrub, or to injure, destroy, cut or pick any flower or plant, located either on private ground or on any public place or thoroughfare.

(Code 1990, § 8-4-3)

Sec. 13-64. Trees outside of property line.

The city council is hereby provided full and complete control over all trees which are outside the property lines of privately owned real property.

(Code 1990, § 8-4-4)

ARTICLE VI. LANDSCAPING REQUIREMENTS

Sec. 6-121. General provisions.

- (a) The purpose of this section is to establish incentives for the preservation of existing and protected trees, replanting of trees lost due to development and to provide guidelines for minimum landscaping on site as well as within the city rights-of-way. Clear cutting of trees is prohibited within the city. Cutting of trees, grading and land clearing may be done, only for development purposes, in accordance with an approved final plat with construction plans and/or engineering site plan. Cutting of trees and land clearing for other than development purposes shall be considered by the city council. The existing natural landscape character of the city shall be preserved to the extent reasonable and feasible. In an area of the street frontage containing a stand of recommended trees, the developer shall use best good faith effort to preserve such trees.
- (b) Only trees from the list provided in this section will be considered to meet the requirement of this chapter. For every recommended tree in healthy, thriving condition that is preserved, the developer/owner, the developer/owner shall be given credits as outlined below. Tree caliper shall be measured one foot from the base of the tree. Multi-trunk trees shall count as one tree. Multi-trunk measurements shall be considered as an aggregate total of each trunks individual diameter. Credits for trees saved in the required ten-foot landscape strip will only be applicable for trees required in the landscape strip area. Credits for trees saved in parking areas will be applicable only for trees required in the parking area.

TABLE INSET:

Size of Existing Trees from Recommended List	Credits
5--9" Caliper	2
10--14" Caliper	3
15--24" Caliper	4
25+" Caliper	5
Points granted for trees of greater size will be considered on a case by case basis by community development sta	

- (c) Where conflict exists regarding existing protected trees versus required parking spaces to be provided, the following shall apply:
- (1) A reduction in parking spaces may be allowed on a tree-by-tree basis, up to a maximum of ten percent of the total required parking spaces for protected trees saved located in a parking area.

- (2) Reduction in the number of parking spaces allowed for each saved protected tree location shall be determined by the requirements of that tree's survivability.
- (d) The requirements of this section shall apply to all vacant undeveloped property and all property to be redeveloped, including additions and alterations.
- (e) A landscape plan must be submitted as part of the engineering site plan process for all multi-family, commercial and industrial zoning districts and for non residential uses allowed in single-family detached and attached residential districts. A tree survey and mitigation plan shall also accompany all final plats for single-family detached and attached residential additions.
- (f) Where the location of existing overhead utility lines conflict with the required landscaping strip, planting of trees that mature at a lesser height shall be required, i.e. Chinese Pistache, Japanese Black Pine and Aristocrat Pear. Where easements containing underground utilities conflict with the required landscaping strip, required tree planting shall be outside the easement on the property owners side.
- (g) Required landscaping must be permanently maintained in a healthy growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning and other permanent maintenance of all plantings, as needed.
- (h) In a residential district, no fence, structure, or planting higher than three and one half feet above the established street grades, nor any tree with foliage extending below ten feet above the established street grades, shall be maintained within the required clear vision area (figure 7). This restriction is for purposes of maintaining visibility at all times.
- (i) Approved tree list:
- (1) *Approved tree list for required landscaping on public right-of-way:*

TABLE INSET:

Scientific Name	Common Name	Size at Maturity
Pinus nigra	Austrian Pine	>25 ft. (30 ft.)
Pinus eldarica	Afghan Pine	>25 ft. (40 ft.)
Pyrus calleryana 'Aristocrat'	Aristocrat Pear	25 ft.
Pyrus calleryana 'Bradford'	Bradford Pear	25 ft.
Quercus macrocarpa	Bur Oak	>25 ft. (80 ft.)
Quercus virginiana	Live Oak	>25 ft. (50 ft.)

Quercus shumardii (a.k.a. texana)	Shumard Red Oak (a.k.a. Texas Red Oak)	>25 ft. (80 ft.)
Quercus muhlenbergii	Chinquapin Oak	>25 ft. (80 ft.)
Ulmus crassifolia	Cedar Elm	>25 ft. (80 ft.)
Ulmus parvifolia	Lacebark Elm	>25 ft. (50 ft.)
Pistacia chinensis	Chinese Pistachio	>25 ft. (50--70 ft.)
Pinus thunbergii	Japanese Black Pine	>25 ft. (30 ft.)
Carya illinoensis	Pecan	>25 ft. (100 ft.)
Cercis candensis	Eastern Red Bud	<25 ft. (20 ft.)
Taxodium distichum	Bald Cypress	>25 ft. (80 ft.)

(2) *Approved tree list for required landscaping on private property:*

TABLE INSET:

Scientific Name	Common Name	Size at Maturity
Chilopsis linearis	Desert Willow	>25 ft. (30 ft.)
Diospyrus texana	Texas Persimmon	<25 ft. (10--30 ft.)
Fraxenis texensis	Texas Ash	>25 ft. (50 ft.)
Liquidambar styraciflua	Sweetgum	>25 ft. (70 ft.)
Pinus nigra	Austrian Pine	>25 ft. (30 ft.)
Pinus eldarica	Afghan Pine	>25 ft. (40 ft.)
Pyrus calleryana 'Bradford'	Bradford Pear	25 ft.
Pyrus calleryana 'Aristocrat'	Aristocrat Pear	25 ft.
Quercus macrocarpa	Bur Oak	>25 ft. (80 ft.)
Quercus virginiana	Live Oak	>25 ft. (50 ft.)
Quercus shumardii (a.k.a. texana)	Shumard Red Oak (a.k.a. Texas Red Oak)	>25 ft. (80 ft.)
Quercus muhlenbergii	Chinquapin Oak	>25 ft. (80 ft.)
Ulmus crassifolia	Cedar Elm	>25 ft. (80 ft.)
Ulmus parvifolia	Lacebark Elm	>25 ft. (50 ft.)
Pistacia chinensis	Chinese Pistachio	>25 ft. (50--70 ft.)
Pinus thunbergii	Japanese Black Pine	>25 ft. (30 ft.)
Carya illinoensis	Pecan	>25 ft. (100 ft.)
Magnolia grandiflora	Southern Magnolia	>25 ft. (60 ft.)
Acer saccharum "Caddo"	Caddo Maple	>25 ft. (60 ft.)
Quercus accutissima	Sawtooth Oak	>25 ft. (50 ft.)
Taxodium accendens	Pond Cypress	>25 ft. (70 ft.)

Taxodium distichum	Bald Cypress	>25 ft. (80 ft.)
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- (j) Protected tree list. Only trees from the list provided in this section will be considered to meet the requirement of a protected tree for this chapter.

TABLE INSET:

Scientific Name	Common Name	Minimum Caliper
Fraxenis Texensis	Texas Ash	5"
Quercus Macrocarpa	Bur Oak	5"
Quercus Virginiana	Live Oak	5"
Quercus Shumardii (a.k.a. Texana)	Shumard Red Oak (a.k.a. Texas Red Oak)	5"
Quercus Muhlenbergii	Chinquapin Oak	5"
Carya Illinoensis	Pecan	5"
Quercus Accutissima	Sawtooth Oak	5"
Quercus Stellata	Post Oak	5"
Quercus Marilandica	Black Jack Oak	5"
Ulmus Crassifolia	Cedar Elm	5"

- (k) Provisions for removal and replacement of protected trees. Protected trees, if removed, shall be replanted on a 1:1 ratio per caliper inch and shall be from the protected tree list. If protected trees are removed and not replaced, penalties for removal shall be paid according to the following chart:

TABLE INSET:

Size of Caliper Removed	Cost of Removing Protected Trees*
5--9"	\$500.00
10--14"	\$1,000.00
15--24"	\$1,500.00
25"+	\$2,000.00

* Per tree

Payment for tree removal shall be due prior to the approval of the applicable tree survey. Funds received for tree removal shall be designated to a general beautification fund as determined by the city.

Required tree planting for interior landscaping and the ten-foot landscape strip will not count towards replanting or the cost assessed for removing protected trees. (See figures 34-37 as examples).

(Ord. No. 2936-05-2003, § 1, 5-19-03)

Sec. 6-122. Single-family residential landscaping requirements.

- (a) These standards shall apply to all detached and attached single-family residential districts. These standards may be met by saving existing trees on the site or planting new trees from the approved list. Lot size designations shall apply to the zoning classification(s) of the subdivision rather than to each individual lot.
- (b) One shade tree (2.5" caliper minimum) shall be provided for all single-family residential lots less than 6,000 square feet.
- (c) Two shade trees (2.5" caliper minimum) shall be provided for all single-family residential lots of 6,000 square feet to less than 9,000 square feet.
- (d) Three shade trees (2.5" caliper minimum) shall be provided for all single-family residential lots of 9,000 square feet or more.
- (e) All required trees must be planted prior to request for final building inspection of dwelling units.

GRAPHIC LINK:Figure 42--Scenario 1, All Trees Removed

GRAPHIC LINK:Figure 43--Scenario 2, All Trees Saved

GRAPHIC LINK:Figure 44--Scenario 3, Saved Protected Tree/Removed Unprotected Approved Tree

GRAPHIC LINK:Figure 45--Scenario 4, Remove Protected Tree/Save Unprotected Approved Tree

(Ord. No. 2936-05-2003, § 1, 5-19-03)

Sec. 6-123. Multi-family and non-residential landscaping requirements.

- (a) These standards shall apply to all commercial, industrial and multi-family zoning districts and to all non-residential uses allowed in single-family detached and attached residential districts. These standards may be met by saving existing trees on the site or planting new trees from the approved list.

- (b) A landscaped strip shall be provided adjacent to all public and private streets. The landscaped strip shall be a minimum of ten feet, exclusive of street right-of-way. Within the landscaped strip, one shade tree (2.5" caliper minimum) shall be provided per every 500 square feet, or any portion thereof, of landscaped strip. These trees shall be generally evenly spaced along the street frontage and shall not be clumped. All privacy and security fences must be placed beyond the required landscape strip.
- (c) Where parking lots and drives abut the landscape strip along a street right-of-way, evergreen shrubs must be provided for screening. The shrubs must be a minimum of two feet in height and planted according to the spacing shown below. The screening must extend along the entire street frontage of the parking lot, exclusive of driveways and visibility clips. A landscape berm may be provided in lieu of required shrubs. The berm must be a minimum of 36 inches above the average grade of the street and parking lot curbs with a slope not to exceed 3:1. If a parking lot is located a minimum of 50 feet from the street right-of-way line, no shrubs or berm will be required.

Recommended shrubbery list:

TABLE INSET:

Botanical Name	Common Name	Spacing
Berberis thunbergii	Barberry, Red	Spacing 2'--3'
Ilex cornuta 'Burfordii Nana'	Dwarf Burford Holly	Spacing 2'--3'
Elaeagnus macrophylla	Elaeagnus, Silverberry (Ebbenji')	Spacing 3'--4'
Myrica pusilla	Myrtle, Dwarf Wax	Spacing 2'--3'
Rhapiolepis indica	Indian Hawthorn	Spacing 2'--3'
Juniperus sabina 'Tamariscifolia'	Tam Juniper	Spacing 3'

Other varieties complying with height and spacing requirements may be acceptable when approved by the city.

- (d) Interior parking areas shall be landscaped in addition to the required landscaped strip. Trees must be provided in each parking lot spaced at a ratio of one shade tree (2.5" inch caliper minimum) for each 15 parking spaces provided, or any fraction thereof. These trees must be spaced a maximum of 15 parking spaces apart. In the case of mini warehouses, such parking spaces shall be determined by the number of parallel parking spaces contained in the required loading and unloading lanes. Additionally, interior parking lot landscaping shall be provided in accordance with the following table. Interior landscaping for mini warehouse parking may be planted on the interior or the perimeter of the property.

TABLE INSET:

Total Parking Area	Interior Landscape Area
0--24,999 square feet	5 percent
25,000--49,999 square feet	8 percent
50,000 square feet and larger	10 percent

- (e) Except for customer and employee parking, parking lot landscape requirements do not apply to storage or standing parking spaces incidental to uses, such as sales and rental of motor vehicles, mobile homes, boats, trailers or other similar uses.
- (f) To calculate the total parking area and the subsequent percentage of required interior lot landscaping, total the square footage of parking spaces, planting islands, curbed areas and all interior driveways and aisles except those with no parking spaces located on either side. Landscaped areas located outside the parking lot may not be used to meet the interior landscaping requirement.
- (g) The required landscaping for parking lots shall be more or less evenly distributed throughout the parking lot, although adjustments may be approved by the community development department where the shape or size of the parking lot, the location of existing trees or other natural constraints reasonably prevent such distribution.
- (h) All landscaped areas, including the permeable areas and drip lines around trees and planting beds used for visual screening which abut any parking lot or vehicular travel area, shall be protected with curbs, parking blocks or similar barriers sufficient to protect them from vehicular intrusion.
- (i) An automatic irrigation system is required for all landscaping. Water conservation is encouraged.

(Ord. No. 2936-05-2003, § 1, 5-19-03)

Sec. 6-124. Landscaping of dedicated streets, medians or other public rights-of-way

- (a) *General provisions.* All unpaved public medians and parkways shall be landscaped with a minimum of four inches of topsoil, sodded with Bermuda grass and irrigated with a properly designed and installed system. Refer to section 6-97(h) with regard to irrigation meters. One tree (minimum 2.5" caliper from the approved tree list for public right-of-way) shall be planted for every 750 square feet, or any portion thereof in accordance with items (1)--(6) listed below. The location of trees shall be coordinated with the city to avoid conflict with any utilities within the medians and traffic movement. These landscape areas shall be maintained by the developer or owner until adequate coverage is attained at a maintenance level compatible with like areas in other parts of the city, unless other

contractual arrangements are made between the developer and the city. The city will assume responsibility after one year. This allows the landscaping materials to go through a full cycle of season change. All water usage shall be metered and paid for by the developer. Individuals installing water meters shall pay administration fees, meter costs, meter deposits, but shall be exempt from capital recovery fees associated with meters installed on city rights-of-way. Within medians, no plantings or irrigation facilities shall be permitted within areas five feet in width or less. All such areas shall be covered with stamped concrete in accordance with city regulations.

In the case where undeveloped land exists on both sides of a public street intended to have a median, the first to develop will carry the burden of submitting plans for landscaping and irrigating the median along with escrowing half the accepted estimated cost of implementation. The second to develop will adjust those accepted plans (if necessary), escrow half the cost of implementation according to the current construction cost, and complete the landscaping with irrigation using both escrowed amounts. In the event that the original escrow amount has fallen short of current construction cost, the city will make up the difference in cost, however if current construction cost have fallen and the original amount covers more than half of the cost, then the extra funds shall be placed in the city's account for maintaining and planting medians.

Additional rights-of-way landscape requirements shall include:

- (1) Trees must not be planted within 30 feet of intersections or utility poles. City staff may require a greater setback for safety based on line of sight issues.
- (2) Trees shall be spaced in accordance with figure 41 depending on median configuration. To prevent uniform disease susceptibility and eventual uniform senescence, no single species shall make up more than 20 percent of the total trees.
- (3) Only trees with a mature height of less than 30 feet may be planted directly under utility lines. Trees with mature heights greater than 30 feet must be planted a minimum of 15 feet from the outside edge of the last energized line.
- (4) Ornamental tree spacing will be evaluated based on the desired effect.
- (5) Trees must be planted a minimum of ten feet from the edge of the curb.
- (6) Areas where median cuts are made, solid sod (Bermuda grass) will be used to repair any disturbed area. Stamped concrete will be used to cover median noses to the radius point (maximum) or as defined by the city.

- (b) *Submittal of plans.* Landscape construction plans shall be submitted as part of the overall construction plans associated with a related plat or engineering site plan, whichever is applicable. The plans shall include the following:
- (1) A scale drawing (1" = 40') clearly indicating the location, type, size and description of all proposed landscape materials and existing utilities. Planting design of materials must be submitted to ensure adequate coverage.
 - (2) The name of the subdivision or addition, and the name and address of the developer.
 - (3) A north arrow, scale, and date of preparation.
 - (4) A clear indication of the configuration, location, type and size of all irrigation, piping, heads and controllers, including the name, address and license seal of the designer.
 - (5) Such other information reasonably deemed necessary by the community development department.
- (c) *Landscape and irrigation criteria.* In areas to be maintained by the city, all landscape and irrigation materials to be used by the developer shall be designed to conserve water and be of low maintenance. All landscape and irrigation improvements shall conform to the requirements of the city governing sight distance for traffic safety and other ordinances of the city.

A list of all plant types and irrigation plans shall be submitted as part of the engineering site plan for review and approval. The developer shall furnish, or cause to be furnished at its sole expense, all labor, equipment, accessories, and services necessary to install all landscaping materials and irrigation facilities in accordance with the plans as approved by the city. All installation will be inspected by the city. All planting, if maintained by the city, must be approved by the city.

Irrigation facilities within medians or adjacent to curbs shall be designed and installed with low gallon age and low angle nozzles in such a way as to avoid water overflow into the street. A freeze sensor will be placed in each controller to prevent the irrigation system from activating to create unsafe spillage on roads and/or sidewalks.

- (d) *Maintenance requirement and agreement.* Developer, at its sole expense, shall furnish or cause to be furnished, all labor, materials, equipment, accessories, and services necessary to maintain all plant materials when and as they become damaged or die. The developer shall also provide a maintenance fee to the city for ten percent of the total value of the proposed improvements prior to initial acceptance of the project (prior to building permit issuance). The purpose of the

maintenance fee is to ensure the proper maintenance and replacement of all landscaping and irrigation facilities beyond the one-year agreement.

A one-year maintenance agreement shall be executed between the city and the developer to identify the developer's landscaping maintenance responsibility. The agreement shall incorporate the time period between initial acceptance of public improvements associated with the development and final acceptance of landscaping. The one-year agreement shall be executed prior to initial acceptance. Initial acceptance shall be defined, for the purposes of this section, as that time period related to completion and acceptance of all public improvement construction associated with the development.

In commercial developments, developer, commercial property owners association, or abutting property owners may permanently maintain all landscape and irrigation materials installed in dedicated streets or other public right(s)-of-way (per agreement with the city).

When a homeowners association or commercial property owners association, or other entity is created for the responsibility of maintaining any areas landscaped under the "median and right-of-way landscape and irrigation agreement," association documents shall be submitted for review and approval by city staff.

Upon installation, all landscape and irrigation materials within medians or right(s)-of-way shall become the property of the city.

The city shall periodically inspect the areas landscaped under the "median and right-of-way landscape and irrigation agreement," to determine that such areas are being properly maintained by the developer, or other entity. If the city finds that the developer or other entity is not properly maintaining such areas, the city shall notify the developer or other entity in writing, specifying the deficiencies. If the developer or entity does not remedy such deficiencies within 15 days following receipt of such notice, the city shall have the option of performing the necessary maintenance work itself and bill the developer or other entity for all costs for such maintenance.

- (e) *Miscellaneous median construction.* If existing trees are removed, they shall be replaced on a 1:1 basis.
- (f) *Sequencing and final landscaping acceptance.* Sequencing and final landscaping acceptance related to public R.O.W. landscaping is required as follows:
 - (1) Landscape construction plans shall be submitted as part of the overall construction plans associated with a related plat or engineering site plan.
 - (2) Obtain city approval of plans.

- (3) Upon construction completion, the developer, contractor, or responsible party shall pay the ten-percent landscape maintenance fee to the city, have an executed one-year maintenance agreement approved by the P.A.L.S. department, and must obtain an initial acceptance inspection.
- (4) The developer shall maintain all landscaping features including but not limited to all plantings (grass, trees, etc.) and irrigation systems in accordance with the executed one-year maintenance agreement.
- (5) At the end of the one-year maintenance agreement (or other timeframes specified in a particular agreement), the P.A.L.S. department shall inspect the R.O.W. for final landscaping acceptance.
- (6) Upon final acceptance, the city will assume maintenance.

(Ord. No. 2936-05-2003, § 1, 5-19-03)

Sec. 6-125. Tree survey and mitigation requirements.

This section shall apply to all new construction in single-family and commercial developments.

A tree survey and mitigation plan shall be prepared by a civil engineer, arborist, landscape architect or surveyor. A tree survey and mitigation plan shall be required with single-family preliminary plats, single-family final plats with construction plans, engineering site plan submittals and with individual building permit applications for single-family residential development (new lots). Trees within rights-of-way and city easements do not have to be shown.

Tree surveys, protection and inspection shall include the following:

- (1) Single-family: Protected trees (both caliper size and species) outside the building area.
- (2) Commercial: Protected trees (both caliper size and species) outside the building pad, driveways and mutual accesses.
- (3) Established drip lines that fall within or encroach onto building areas for single-family parcels of land or building pads for commercial parcels of land, shall be considered as establishing the tree within the "exempted area."

All protected trees shall be protected during construction by marking protected trees, fencing drip lines and inspections by the developer. All tree protection measures shall be in place and approved prior to the commencement of any on-site construction.

Protection measures such as fencing shall be maintained at all times during construction.

If determined by a registered arborist and the city that a protected tree is diseased, it shall be exempt from the requirements of this section.

Prior to the issuance of a certificate of occupancy a third party inspection shall be conducted verifying on-site compliance with the approved plan, paid for by the developer. The results must be submitted to and approved by the city.

(Ord. No. 2936-05-2003, § 1, 5-19-03)

Secs. 6-126--6-140. Reserved.

Sec. 9-57. Vegetative growth.

- (a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city to permit weeds, brush, or grass to grow thereon to a height greater than 12 inches upon any undeveloped tract or acreage, or six inches upon any developed tract or lot. Weeds, brush or grass on undeveloped tracts shall be removed within 50 feet from any surface improvement or property line if there is no surface improvement. Brush, weeds and grass in excess of the limits set forth herein are hereby defined as public nuisances.
- (b) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city to keep the area adjacent to its property line, including the front or side parkway between the property line or sidewalk and the curb and the rear parkway between the property line and the alley pavement or travel way, or if there is no curb, in areas where development exists on both sides of an alley the property owner shall maintain vegetative growth in the rights-of-way between the property and the improved surface or center of the rights-of-way. In areas where the property is segregated from the rights-of-way by a barrier/screening device, the property owner shall be required to maintain both sides of the rights-of-way up to the barrier/screening device. Vegetative growth will be maintained to the height established for the type of property adjacent to the location. Trees and shrubs shall not be planted in alley rights-of-way. Trees and shrubs adjacent to the rights-of-way will be maintained so that the branches thereon will not interfere with pedestrian travel, vehicular line of sight or the provision of services.
- (c) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property referred to in this article to cut and remove all weeds, brush and other objectionable or unsightly vegetation as often as may be necessary to comply with this article and to use every precaution to prevent the same from growing on such premises.

(d) The following shall be used as a reference for examples of the requirements of this section:

(1) *Developed property:* Tracts of land with structures on them.

No weeds, grass, etc., shall grow to an excess of six inches, nor shall any rubbish, brush or any unsightly, objectionable or unsanitary matter accumulate or grow on the property.

(2) *Undeveloped property--Type A:* Tracts of land with no structures that are one acre or less.

No weeds, grass, etc., shall grow to an excess of 12 inches, nor shall any rubbish, brush or any unsightly, objectionable or unsanitary matter accumulate or grow on the property.

(3) *Undeveloped property--Type B:* Acreage or platted lots larger than one acre without structures.

The property shall be mowed 50 feet in from any surface improvement or property line, if there is no surface improvement, when the grass and weeds reach a height of 12 inches. All unsightly, objectionable or unsanitary matter shall be removed.

(4) *Undeveloped property--Type C:* Acreage or platted lots larger than one acre where structures adjoin or there is a structure on the property.

The property shall be mowed a minimum of 50 feet from all structures and 50 feet from any surface improvement or property line, if there is no surface improvement, when the grass and weeds reach a height of 12 inches. All unsightly, objectionable or unsanitary matter shall be removed.

(Ord. No. 1621-7-91, § II(7-1-3), 7-1-91)

Sec. 9-58. Trimmings.

The following acts are declared to be unlawful and subject to the penalties of this section, but such enumeration shall not be deemed to be exclusive, as follows:

(1) The permitting of accumulation or the throwing, placing, dumping or depositing of any lawn trimmings, hedge trimmings or other cuttings or trimmings of weeds, flowers or other vegetation on lots, vacant or occupied, driveways or any other private property.

- (2) The permitting of accumulation or the throwing, placing, dumping or depositing of any lawn trimmings, hedge trimmings, or other trimmings of weeds, flowers or other vegetation on or in any gutter, street, sidewalk, parkway, driveway, curb, alley or any other public property of the city.

(Ord. No. 1621-7-91, § II(7-1-4), 7-1-91)

Sec. 9-59. Vegetative growth variances.

Notwithstanding any provision to the contrary contained in Chapter 9 of this Code, any person given notice of vegetative growth noncompliance under the provisions of section 9-41 et seq. of this Code may, within ten days of the date of delivery of such notice or publication, apply for a variance from the provisions of said Chapter 9.

- (a) The application fee for such variance shall be nonrefundable in the sum of \$25.00.
- (b) Enforcement of Chapter 9 shall be suspended pending decision on the variance request by the city council, whose decision shall be final.
- (c) The city council may grant a variance for a term not to exceed 12 months. Such variance may be renewed annually.
- (d) If a variance is granted, the applicant shall be responsible to pay the city the sum of \$38.00 per hour for the mowing or trimming required with a one hour minimum charge. The number of hours required will vary with the difficulty of achieving compliance.
- (e) If a variance is granted, the maximum number of mowing or trimmings shall be 18 per 12-month period, but the applicant shall only be billed for the actual number of mowing or trimmings required for compliance with the Code. Billings shall be once per month.
- (f) Failure to pay any bill incurred hereunder within 30 days shall constitute an act of noncompliance. Compliance shall then be achieved under the administration of section 9-41 through 9-45 of this Code.

(Ord. No. 1802-5-93, § I, 5-3-93)

Sec. 9-60. Exemption.

Any person owning, claiming, occupying or having supervision or control over residential property that has rear or side yard rights-of-way adjacent to thoroughfares of four lanes or larger is exempt from mowing those rights-of-way except for vacant

property greater than one acre; provided, however, this exemption does not waive any other provision of this chapter or any other law or ordinance regulating the same.

(Ord. No. 2320-2-98, § I, 2-16-98)

Secs. 9-61--9-80. Reserved.