

## ARTICLE II. LANDSCAPING REGULATIONS

### Sec. 44-26. Landscape and irrigation requirements.

- (a) *Generally.* The requirements herein shall apply to all new nonresidential construction, subdivision development, and multifamily construction other than duplex uses. The requirements for landscaping shall combine the buffer yard requirements, minimum landscape areas on the interior portion of the lot, and minimum landscape areas for parking areas.
- (1) *Existing buildings.* Buildings in existence on the effective date of this chapter shall be considered legally nonconforming as it pertains to this chapter. The requirements herein shall apply to new construction necessary to replace a legally nonconforming structure if it has been damaged or destroyed to the extent of 30 percent of its value prior to the damage, or if 30 percent of its structural area has been damaged or destroyed. All construction intended to increase the square footage of the existing building by 30 percent or greater shall be required to meet the requirements herein. Such 30 percent shall be based on the original nonconforming structure in existence on the date of approval of this chapter. The requirements herein shall pertain only to the square footage of the proposed construction.
  - (2) *Pad site developments.* Pad site developments or ground lease developments shall be required to provide landscaping in accordance, with the interior landscape requirements of section 44-26(d) herein.
- (b) *Buffer yards.* A minimum 15-foot buffer (interior parkway) adjacent to the right-of-way of any street is required. If the lot is a corner lot, two frontages shall be required to observe the 15-foot buffer. If more than two frontages exist, then the other right-of-way frontages shall be required to have no more than 7 1/2 feet of landscaped area. Planting for buffer yards is included in the interior landscape requirements.
- (c) *Subdivision development.* Landscaping shall be required for all subdivision development. All developed property having a side or rear yard, which abuts an arterial or collector street, shall be landscaped. The area landscaped shall be in the public right-of-way as directed by the city council through subdivision approval. Landscaping will be required at the ratio indicated:
- (1) One canopy tree per 70 linear feet of frontage.
  - (2) One under story tree per 35 linear feet of frontage.
  - (3) One shrub per seven linear feet of frontage.
  - (4) Ground cover--all area not covered by lawn grasses.

(5) Lawn grasses--all area not covered by other landscaping.

(d) *Interior landscape area requirements.* The amount of landscape area required on the interior of the lot (including buffer yards) shall be based on the square footage of the proposed buildings. For the purposes of this chapter, the square footage of the building will be the square footage of the first floor or the square footage of the largest floor, whichever is greater. For single-story retail anchor tenants having greater than 20,000 square feet of area, the building square footage shall be the front width of the building multiplied by a depth of 60 feet. The required landscape area for each zoning shall be based on the percentage of the floor area as determined above in accordance with the following chart:

TABLE INSET:

Zoning	Percent of floor area
MFL, MFM, MFH	50
NC, OC, NR, OP	30
CC	30
LI, HI	10

(1) *Planting requirements.* The following plants shall be required within the interior landscape areas at the ratio indicated:

- a. One canopy tree per 600 square feet.
- b. One under story tree per 330 square feet.
- c. One shrub per 60 square feet.
- d. Ground cover ten percent of required area.

(2) *Example.* Two story office building (NC zoning), floor has 4,000 square feet.

TABLE INSET:

First floor	4,000
Effective floor area	4,000 times 30 percent
Required landscape area	1,200 square feet
Required canopy trees at 1/600 square feet	2
Required under story trees at 1/300 square feet	4
Required shrubs at 1/60 square feet	20
Required ground cover area at ten percent	120 square feet

- (3) *Location requirements.* A minimum of 75 percent of all required plant material within the interior landscape areas shall be in the front and/or along either side of the building between the building and/or the interior edge of the required buffer yards.
  - (4) *Enhanced pavement credits.* For every one foot of enhanced pavement area, the required interior landscape area may be reduced by 1/2 foot. The maximum credit given for enhanced pavement shall be ten percent of the required interior landscape area.
  - (5) *Right-of-way landscaping credits.* The required interior landscape area may be reduced by a maximum of ten percent when the applicant chooses to establish, irrigate and maintain turf grass within the right-of-way parkway along the front of their property. The percentage credit shall be based on the percentage of the parkway irrigated (i.e. 50 percent of parkway irrigated, five percent credit), in accordance with 44-31(c) herein.
- (e) *Parking lot landscape area requirements.* Excluding the LI and HI zoning districts, planter islands shall be provided in parking areas on the basis of ten square feet of landscape area for each parking stall provided. (Approximately one island per 16 stalls.) Each row of parking stalls shall provide the required landscape area; however, it shall be the applicant's right to place the islands near the buildings, throughout the parking, or at the end of the rows away from the building. The city council may modify the island requirement for each row in situations where it would appear beneficial to combine an awkward or hazardous island into a larger island within the parking area. Planter islands shall have a minimum width of eight feet back-to-back if curbed, or nine feet edge-to-edge if not curbed, and shall be equal to the length of the parking stall. Parking lot landscape areas do count towards the total required interior landscape area.
- (1) *Existing trees.* The city council may approve variations to the planter island requirements in order to preserve existing trees in interior parking areas. For existing trees the minimum width of the planter island shall be as follows:
    - a. Six inch caliper or less equals eight-foot minimum width.
    - b. Six inch to 12 inch caliper equals 12-foot minimum width.
    - c. Greater than 12 inch caliper equals 18-foot minimum width
  - (2) *Planting requirements.* A minimum of 50 percent of all planter islands in parking areas shall contain a minimum of one canopy tree with the remaining area in shrubs, ground cover, grasses or seasonal color. Planter islands which have light poles for lighting the parking areas may substitute two under story/accent trees for the required canopy tree. Planting requirements are as follows:

- a. One canopy tree per 32 parking spaces.
  - b. One under story tree per 16 parking spaces.
  - c. One shrub per four parking spaces.
- (3) *Exemptions.* Parking garages are not required to provide landscape areas interior to the parking area.
- (f) *Visibility triangle.* No requirements herein shall be deemed to require plantings which would conflict with the visibility triangle at the intersection of public rights-of-way as defined in the subdivision ordinance. Consideration should also be given to visibility at the intersection of major driveways with the public right-of-way.
- (g) *Irrigation requirements.* All required landscape areas except for subdivisions and multifamily may be irrigated by an automatic irrigation system, provided however, the same shall be designed and installed by a licensed irrigator, landscape architect or other professional authorized by the state to design or install such systems.
- (1) *Water conservation.* The city would like to promote the use of efficient irrigation methods and practices. Where possible in planting beds, flood irrigation, porous pipe or emitter/drip systems should be utilized. Where slopes do not allow flood systems, flat spray heads should be utilized under shrubs rather than upward spray heads on risers above shrubs. Lawn spray heads should have low precipitation rates, run for longer periods of time, and water infrequently to promote deep root growth for grasses.
  - (2) *Water conservation credits.* Where automatic irrigation is used in accordance with 44-26(g)(1), the required landscape area may be reduced by ten percent. When other irrigation systems are installed, the required landscaped area may be reduced by five percent.

(Ord. No. 98-16, §§ 3.0--3.7, 10-6-98)

#### **Sec. 44-27. Existing tree preservation.**

*Trees of 12 inches or greater.* Existing trees with a caliper of 12 inches or greater shall be saved and protected to five feet outside the drip line in landscape areas as a part of the development.

- (1) *Building footprint.* The above requirement shall not apply to the area intended for the actual building footprint plus a 30-foot distance outside this area for construction vehicle maneuvering and grading requirements.

(2) *Parking areas.* The above requirement shall not apply to the area intended as a fire lane or parking stalls.

(Ord. No. 98-16, §§ 4.0, 4.1, 10-6-98)

**Sec. 44-28. Plant material.**

(a) *Quality standard.* All plant material shall be of No. 1 grade, free from plant disease, of typical growth for the species, have a healthy, normal root system, rounded branching pattern, and shall conform to the code of standards in the current edition of the American Standard for Nursery Stock.

(b) *Approved plants.* Shown in appendix A; is a list of approved plants within each plant material type. The applicant may propose plants other than those listed if the plant seems appropriate for the intended use or the applicant maintains a plant care program sufficient to properly care for the proposed plant material. The city reserves the right to approve plants and planting through a certified landscape architect, horticulturist, or other person so qualified.

(c) *Size requirements when planted.* All plants shall equal or exceed the following measurements when planted. Plants larger than specified may be used but use of such plants shall not decrease the size requirements of other proposed plants.

(1) *Tree measurement.* Canopy and under story trees with single trunks shall be a minimum two-inch caliper. Multi-trunk trees shall be measured by the height of the tree.

(2) *Minimum sizes.* Minimum plant size when planted shall be as follows:

TABLE INSET:

Plant material type	Minimum size
Multi-trunk tree	Six feet (height)
Shrub	Five gallon container size
Groundcover	Four-inch containers

The city council may approve smaller size shrubs based on unusual growing circumstances and/or on a specific design, which reflects the overall intent of this chapter.

(Ord. No. 98-16, §§ 5.0--5.3, 10-6-98)

**Sec. 44-29. Landscape and irrigation plan requirements.**

- (a) *Qualification to prepare plans.* For all lots greater than 30,000 square feet, landscape plans shall be prepared by a registered landscape architect. For lots less than 30,000 square feet, a landscape designer or landscape contractor, knowledgeable in plant materials and landscape design may also prepare the landscape plan. A licensed irrigator or landscape architect shall prepare irrigation plans.
- (b) *Landscape plan requirements.* The following items shall be provided on the required landscape plan:
- (1) Sheet size 24 inches times 36 inches, or as approved.
  - (2) Acceptable scale: 1 inch equals 10 feet, 1 inch equals 20 feet, 1 inch equals 40 feet or as approved.
  - (3) North arrow, graphic and written scale in close proximity.
  - (4) Appropriate title (i.e. "Landscape Plan").
  - (5) Title block includes street address, lot and block, subdivision name, city, state, date of preparation.
  - (6) Name and address of owner.
  - (7) Name, address and telephone of firm preparing plan.
  - (8) Boundary shown with dimensions.
  - (9) Any existing utilities shown. (i.e. water, sewer, storm drain, gas, electric, cable, etc.)
  - (10) Width and type of buffer yards labeled on all sides.
  - (11) Location, stock size and name of all existing trees 12 inch caliper or more.
  - (12) Location, quantity, size and name of all proposed plant materials.
  - (13) Maintenance note provided (section 44-33(a)).
  - (14) Label type of any enhanced pavement proposed.
  - (15) Visibility triangles shown.
  - (16) Landscape architects seal signed and dated.
  - (17) Plant list shown with format similar to appendix C.

(18) Any berms delineated with one-foot contour intervals.

(c) *Irrigation plan requirements.* The following items shall be provided on the required irrigation plan.

- (1) Sheet size 24 inches times 36 inches, or as approved.
- (2) Acceptable scale: One inch equals ten feet, one inch equals 20 feet, one inch equals 40 feet or as approved (must be same as landscape plan).
- (3) North arrow, graphic and written scale in close proximity.
- (4) Appropriate title (i.e. "irrigation plan").
- (5) Title block includes street address, lot and block, subdivision name, city, state, date of preparation.
- (6) Name and address of owner.
- (7) Name, address and telephone of firm preparing plan.
- (8) Boundary shown with dimensions.
- (9) Location of all existing trees 12-inch caliper or larger.
- (10) All pipes labeled as to size.
- (11) All heads labeled as to type (legend is acceptable).
- (12) Backflow prevention labeled with type and size.
- (13) Connection to water service shown after meter.
- (14) Second meter (with size) shown if intended.
- (15) Any existing utilities shown (i.e. water, sewer, storm drain, gas, electric, cable, etc.)
- (16) Note on plan: All backflow installations and connections to city water lines must be permitted separately through the city inspection staff. Call (817) 232-2641.
- (17) Maintenance note provided (section 44-33(a)).
- (18) Plan sealed, signed and dated by qualified professional as authorized by state law.

(Ord. No. 98-16, §§ 6.0--6.3, 10-6-98)

**Sec. 44-30. Other related requirements.**

- (a) *Screening.* All the requirements of the screening section of the fencing ordinance (Ordinance No. 98-11 as amended) shall be met and shown on the required landscape plan.
- (b) *Outside storage.* All the requirements of the outside storage section of the zoning ordinance (Ordinance No. 97-1 as amended) shall be met and shown on the required landscape plan.

(Ord. No. 98-16, §§ 7.0--7.2, 10-6-98)

**Sec. 44-31. Improvements in public right-of-way easements.**

- (a) *Generally.* It is not the intent of this chapter to require landscape improvements within public rights-of-way other than for subdivision developments. However, a maximum of ten percent of the required interior plant material may be placed within the right-of-way parkway if the parkway area is irrigated. Should the applicant elect to provide improvements in public rights-of-way, the following shall apply.
- (b) *Right-of-way use agreements.* Prior to any landscape/irrigation improvements within public rights-of-way, a right-of-way use agreement shall be duly executed in conformance with the requirements set out by the director of public works.
- (c) *Replacement responsibilities.* The city shall endeavor to require replacement of all landscape/irrigation improvements as a part of contracts to install public utilities within public rights-of-way and/or public easements. The city and owner shall not be responsible for replacing these improvements. In the event the city anticipates utility improvements conflicting with intended landscape/irrigation improvements, the city may require that the applicant wait to install said improvements until after the public improvements have been installed or under certain circumstances, the city may prohibit landscape improvements within the right-of-way.

(Ord. No. 98-16, §§ 8.0--8.2, 10-6-98)

**Sec. 44-32. Review procedures.**

- (a) *Submittal requirements.* The city building and inspection department shall establish administrative procedures necessary to facilitate the implementation and enforcement of this chapter consistent with the intent and terms of this chapter.

(1) Application checklist. An application form and completed checklist shall accompany all submittals. Landscape plans shall be accompanied by the required landscape summary (appendix B).

(2) *Fees.* All submittals shall be accompanied by a check payable to the city in the amount of \$25.00.

(b) *Authority for review.* The city building and inspection department shall be responsible for the review of all plans submitted in accordance with the requirements of this chapter.

(c) *Review process.* The city building and inspection department shall review the required submittals and provide the applicant with a summary of corrections from the review. It shall be the applicant's responsibility to revise the submittals as necessary to obtain approval.

(Ord. No. 98-16, §§ 9.0--9.3, 10-6-98)

#### **Sec. 44-33. Maintenance.**

(a) *Generally.* The owner, tenant and their agent, if any shall be jointly and severally responsible for the maintenance of all landscaping and irrigation. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation heads or lines, which are broken and flow water shall be replaced or repaired within 48 hours after notice by the city, to prevent the waste of water. If the necessary repairs are not made within 14 days the city, in addition to all other legal remedies, may terminate the water service to the property.

(b) *Plant replacements.* The owner shall be responsible for replacing all plant material, which shows dead branching over 75 percent or more of the normal branching pattern and repair of irrigation systems. Plant materials, which die, shall be replaced with plant material of similar variety and similar initial size. Upon notification by the city of such replacements, the owner shall have 90 days to comply with these requirements.

(c) *Plan requirements.* Subsection 44-33(a) above shall be shown on the landscape plan and the irrigation plan.

(Ord. No. 98-16, §§ 10.0--10.3, 10-6-98)

#### **Sec. 44-34. Enforcement.**

- (a) *Building permit.* No building permits for building, paving, grading or construction shall be issued until a landscape plan meeting the requirements of this chapter has been approved by the building official. Under certain conditions such as a "fast track" building process for large developments, the developer and the city council may negotiate the submittal of a landscape plan within 90 days after the issuance of the original building permit.
- (b) *Certificate of occupancy.* All plantings, screening, berms, or other requirements of this chapter shall be installed before the issuance of a certificate of occupancy. Any sod intended must be installed; hydro mulch areas must be sprayed. Turf establishment is not required before issuance of a certificate of occupancy. In any case in which a certificate of occupancy is sought at a season of the year in which the building official determines that it would be impractical to install plantings as required herein, a temporary certificate of occupancy may be issued for the intended use for a period not to exceed six months. Upon the failure of the applicant to complete the installation requirements, the city may pursue its rights under the penalty provision of this article, or, upon 30 days written notice may revoke the certificate of occupancy or discontinue water service.

(Ord. No. 98-16, §§ 11.0--11.2, 10-6-98)

#### **Sec. 44-35. Modifications, variances and appeals.**

- (a) *Modifications.* Whenever there are practical difficulties involved in complying with the provisions of this chapter, the city council may grant modifications in individual cases if it shall find that a special individual reason makes strict compliance with this chapter impractical; that the modification is in conformity with the intent and purpose of this chapter; and that the proposed, modification is at least the equivalent of the requirements prescribed by this chapter. Such modification may only be made upon written application filed with the building official and the details of any action granting a modification shall be recorded and entered into the files of the city.
- (b) *Variances and appeals.* Any applicant who desires a variance or elimination of the requirements herein, or who desires to appeal a decision by the building official, shall file a written appeal with the city manager for consideration by the city council. Such appeal shall be accompanied by adequate graphic reproductions, a written summary of the request, and justification for such request. The city council shall have the authority to grant an interpretation or variance to the requirements of this chapter. In granting any variance, the city council shall determine that a literal enforcement of the regulations herein will create an unnecessary hardship or a practical difficulty on the applicant, that the situation causing the unnecessary hardship or practical difficulty is unique to the affected property and is not self-

imposed, that the variance will not injure and will be wholly compatible with the use and permitted development of adjacent properties, and that the granting of the variance will be in harmony with the spirit and purpose of this chapter. The decision of the city council shall be final.

(Ord. No. 98-16, §§ 12.0--12.2, 10-6-98)

**Sec. 44-36. Appendices.**

It is anticipated that the following appendices A and B, which are attached and made a part of this chapter, may be changed by the city council in response to changes in the administration of this chapter.

(Ord. No. 98-16, § 13.0, 10-6-98)

**Sec. 44-37. Violations.**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed \$500.00 for all violations. Each day that a violation is permitted to exist shall constitute a separate offense. This remedy shall be cumulative of all other remedies available to the city, including civil enforcement.

(Ord. No. 98-16, § 14.0, 10-6-98)