

## ARTICLE II. - LANDSCAPING <sup>[66]</sup>

<sup>(66)</sup> **Editor's note**— Ord. No. 11-01, § 1, adopted Jan. 1, 2011, amended Art. II to read as set out herein. Former Art. II, §§ 90-26—90-33, pertained to similar subject matter and derived from Code 1993, §§ 6-651—6-657; Ord. No. 96-21, § 1, adopted Oct. 1, 1996; Ord. No. 97-12, § 1, adopted Sept. 16, 1997; Ord. No. 99-28, § 1, adopted June 15, 1999; Ord. No. 00-20, § 1, adopted July 5, 2000; Ord. No. 00-24, §§ 1—4, adopted July 5, 2000; Ord. No. 07-12, § 1, adopted Aug. 21, 2007; and Ord. No. 07-29, § 1, adopted Dec. 4, 2007.

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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.

*Dripline* 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 required setback per the Zoning Ordinance.

*Tree* means any type of oak, pecan, Texas redbud, sweet gum, southern magnolia, pine, sycamore, flowering maple, bald cypress, winged elm, cedar elm, Louisiana palm or Texas palm meeting the following criteria:

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- Single-family residential lots: Minimum caliper size of two inches, as measured at six inches above ground level.

- Multi-family and nonresidential developments: Minimum caliper size of 3½ inches, as measured at six inches above ground level, and minimum container size of 45 gallons to be specified in the required landscape plan.

(Ord. No. 11-01, § 1, 1-1-11)

**Cross reference—** 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 residential remodeling.

(3) 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.

(Ord. No. 11-01, § 1, 1-1-11)

**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.

(Ord. No. 11-01, § 1, 1-1-11)

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

(a) When application is made for a nonresidential building permit on land where the landscaping

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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(b), 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)(3).
  - (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 single-family 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.

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(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

(Ord. No. 11-01, § 1, 1-1-11)

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

(a) Under this article, single-family 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.

(5) Trees shall be trimmed to provide a minimum clearance of 14 feet above the highest point of any roadway or eight feet above the highest point of any sidewalk.

(b) All developments other than single-family residences are subject to the following requirements:

(1) The following applies to multi-family development only:

a. Not less than 20 percent of the site shall be landscaped area.

b. One tree is required in the street yard for every 30 feet of street frontage or fraction thereof. In the NASA Parkway (NP) district, existing trees located in the street right-of-way adjoining the site shall be credited toward meeting this requirement.

c. For every 50 feet of building perimeter, an additional tree is required on-site.

d. Existing on-site trees may be utilized to meet the above requirements in all districts.

(2) The following applies to nonresidential development only:

a. 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.

b. At least ten percent of the total public area(s) within the property lines shall be

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landscaped area(s).

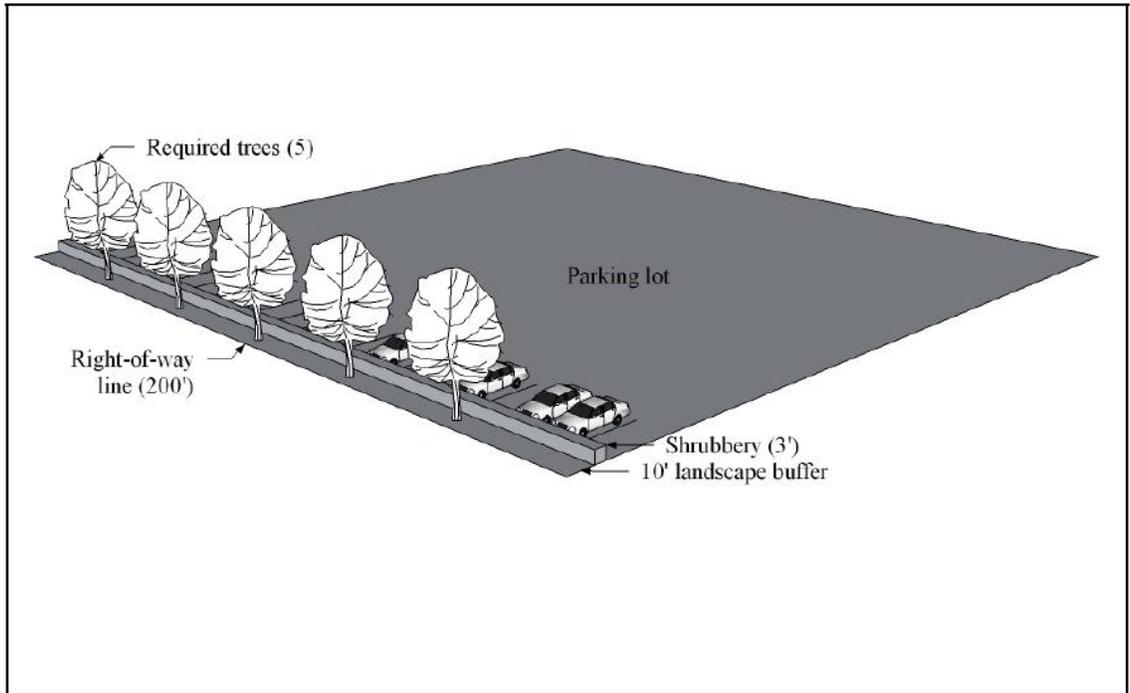
c. A minimum of five feet between the building and parking area shall consist of landscaped area, walkway, or a combination thereof.

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. Otherwise, in commercial, industrial, and multi-family zoning districts, parking spaces of parking lots shall be set back from all other property lines a minimum of five feet.

e. In the street yard, trees shall be provided as follows:

i. On lots with less than 400 feet of street frontage, one tree is required for every 40 feet of frontage or fraction thereof.

ii. On lots with 400 or more feet of street frontage, ten trees, plus one additional tree for every 100 feet of frontage or fraction thereof, are required.



In the NASA Parkway (NP) district, existing trees located in the street right-of-way adjoining the site shall be credited toward meeting this requirement.

f. 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.

g. The impervious cover within the area encompassed by the dripline of any tree in a required landscaped area may not exceed 50 percent of such area if such area is to receive

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150 percent credit under section 90-32

(3) The following applies to both multi-family residential and nonresidential development:

- a. For every 20 parking spaces in all vehicular use and parking areas, 150 square feet shall be devoted to landscaped islands, peninsulas, or medians. The minimum size of such landscaped areas shall be 54 square feet.
- b. For every 20 parking spaces, one tree is required in a landscaped area within the parking lot.
- c. No parking space shall be located more than 50 feet from a landscaped area.
- d. All parking areas shall be screened from the public street with shrubbery, berming, or a combination thereof not less than three feet in total height.
- e. All required landscaping shall be irrigated by one of the following methods:
  - i. An underground sprinkling system.
  - ii. An automatic water saving irrigation system.
  - iii. 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.

- f. 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:
  - i. Protection and support of tree trunks.
  - ii. Provision of adequate conditions for root growth.
  - iii. Provisions for retention of moisture.
  - iv. Protection of plants from equipment or vehicular damage.
- g. 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.
- h. The landowner shall be responsible for:
  - i. 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.

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- ii. 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.
- iii. The repair or replacement of required landscape structures to a structurally sound condition.
- iv. The regular maintenance, repair or replacement, where necessary, of any required screening or buffering.
- v. Trees shall be trimmed to provide a minimum clearance of 14 feet above the highest point of any roadway or eight feet above the highest point of any sidewalk.
- vi. The removal of dead trees if they pose a danger to the adjacent property and/or the street right-of-way.
  - a) City of Webster will provide notice to the property owner that the danger must be abated within ten days after receipt of notice.
  - b) Landowner may appeal to the building board of adjustment that the tree is not dead and does not pose a danger to adjacent property and/or street right-of-way.

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.

(Ord. No. 11-01, § 1, 1-1-11)

**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.

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(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.

(7) All proposed landscaping in the right-of-way shall be subject to approval by the city engineer and shall require a sight distance analysis performed by a licensed professional engineer in the State of Texas.

(Ord. No. 11-01, § 1, 1-1-11)

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

(a) Each square foot of landscaped area which is permeable and within the area encompassed by the dripline of a tree shall count as 1.5 square feet of landscaped area for the purposes of satisfying the requirements of subsection 90-30(b), 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 dripline. 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 dripline shall count as 2.0 square feet of landscaped area for the purpose of satisfying the requirements of subsection 90-30(b), as applicable.

(b) The credits in subsection (a) of this section shall be subject to the limitations of this subsection. Neither overlapping dripline areas nor areas contiguous to the dripline areas which overlap shall be counted twice. Moreover, a tree dripline area shall not qualify for credit under this section if less than one-half of the dripline area is permeable cover, there have been any damaging changes in the original grade of the dripline 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 dripline. 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(b).

(Ord. No. 11-01, § 1, 1-1-11)

**Sec. 90-33. - Collection of city expenses.**

Shall it become necessary for the city to remove the tree in question, following notice to the owner, the city may remove said tree. The mayor, city secretary, or city attorney shall file a statement of expenses with the county clerk, giving the name of the owner, if known, the statement of expenses the legal description of the property, the amount of such expense, the date on which work was done or improvements made as on incurred under subsection 90-30(b)(3)h. The city shall have a privileged lien on such lot or real estate upon which such work was done or improvements made to secure the expenditures so made in accordance with V.T.C.A., Health and Safety Code § 342.007, which lien shall be second only to tax liens or liens for street improvements. Such amount shall bear ten percent interest from the date the statement is filed. For any such expense and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city and the statements of expenses so made or a certified copy thereof shall be prima facie proof of the amount expended for such work or improvements.

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(Ord. No. 11-01, § 1, 1-1-11)

**Sec. 90-34. - Tree conservation and replacement.**

(a) With the exception of existing, single-family residential lots, the clearance of any land containing one or more trees with a caliper size of eight inches or greater, as measured at 4½ feet above ground level, requires the submittal of a landscape plan identifying said trees and providing for their replacement with trees of like size, type, and quantity. The caliper size of multiple smaller trees may be aggregated to reach the equivalent size, provided, however, that the smaller trees must meet the minimum criteria outlined for the definition of "tree" in this chapter.

(b) Due to the heavily wooded nature of some vacant lots, there may be instances in which it is not feasible to reasonably develop the property while preserving existing trees or matching their aggregated caliper size. In these instances, prospective developers may submit an alternative plan for tree conservation and replacement, which may be approved by the community development department. If, after reviewing the plan, the director determines that reasonable efforts to preserve or replace trees have not been exhausted, the director's decision may be appealed to the city council, which shall have the final decision.

(Ord. No. 11-01, § 1, 1-1-11)

<sup>(66)</sup> **Cross reference**— Buildings and building regulations, ch. 18. (Back)