

ORDINANCE NO. 1989

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AMENDING CHAPTER 4 BUILDING REGULATIONS, ADDING SECTION 24: REGULATING AND INSTALLATION AND MAINTENANCE OF REQUIRED LANDSCAPING FOR COMMERCIAL AND MULTI-FAMILY DEVELOPMENT WITHIN THE CITY; PROVIDING FOR THE REPEAL OF CONFLITING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

ARTICLE I.

THAT Chapter 4, Building Regulation, of the City Code, Revised is hereby amended as follows:

SECTION 24: REGULATING AND INSTALLATION AND MAINTENANCE OF REQUIRED LANDSCAPING FOR COMMERCIAL AND MULTI-FAMILY DEVELOPMENT WITHIN THE CITY

PURPOSE: The establishment of requirements for the installation, preservation and maintenance of trees, landscaping, buffering, and screening as site improvements is essential for the enhancement of the community's ecological, environmental, and aesthetic qualities. Such amenities serve such purposes as reducing the negative effects of increases in air temperatures, pollution, glare, noise, erosion and sedimentation caused by expanses of impervious and unvegetated surfaces, and provide buffers between land uses of different character.

APPLICABILITY:

1. The landscape standards in this section shall apply to nonresidential development in the following zoning districts: Multi-family (MF), Commercial (C), Retail (R), Light Industrial (LI), and Heavy Industrial (HI).
2. The standards and criteria contained within this section are considered minimum standards and shall apply in the following situations:
 - a. Upon all new construction; or
 - b. When a building is proposed for addition or enlargement that will increase the square footage of the existing building by twenty percent (20%) or more.

PERMITS:

1. No permit shall be issued for building, paving, grading, construction, or reconstruction until a detailed landscape plan complying with this section, is

approved by the building official. Prior to the issuance of a certificate of occupancy, all landscaping shall be in place in accordance with the approved landscape plan.

LANDSCAPE PLAN:

1. Submission: A landscape plan shall be submitted with the site plan showing the location, name and quantity of landscaping materials and other landscape features proposed, as well as showing the location of buildings, parking areas, drives, fences, walls, alleys and adjacent streets. The landscape plan shall be drawn to scale and shall be legible. In addition to the above, where required by applicable regulations, the plan shall show buffering, screening, tree replacement related to the landscaping.
2. Review and Approval: Landscape plans shall be reviewed and approved by the building official.
3. Exception: The Planning and Zoning Commission and City Council may grant a special exception to the landscaping requirements of this article.

INSTALLATION: Landscaping, watering devices, trees, walls and screening structures shall be installed in accordance with the approved final landscape and site plan prior to the issuance of a final Certificate of Occupancy for the building use. The Building Official may grant a temporary Certificate of Occupancy during the months when installation is impractical or not feasible.

LANDSCAPE INSTALLATION:

1. Permitted Materials: Landscape materials shall consist of permanent turf, ground cover, seasonal color, shrubs and trees. Artificial plants may not be used as landscaping. Landscaping materials such as wood chips and gravel may only be used under trees, shrubs and other plants.
2. Irrigation: Required landscape areas shall be irrigated by an automatic underground irrigation system; provided however that a hose bib system may be used for irrigation when a landscape area is less than 1,000 square feet in size and when all portions of the area are within 50-feet of a hose attachment.
3. Traffic Visibility: Landscaping shall not be erected so as to obstruct traffic visibility at alleys, streets, or intersection. Trees and shrubs shall be located on private property, and not on a street right-of-way.
4. Maintenance: All landscaping shall be maintained in a neat and orderly manner at all times: 1) mowing, edging, pruning, fertilizing, water, and weeding shall occur on a regular basis appropriate to the season; 2) trash, litter, and weeds shall be removed regularly; 3) plant materials shall be kept in a healthy growing condition; and 4) dead plant material shall be replaced in a timely manner.
5. Enforcement: Failure to maintain any landscape area in compliance with this section is considered a violation of this Ordinance and shall be subject to penalties of this Ordinance. If, at any time after the issuance of a Certificate of Occupancy, and approved landscaping is found to be in nonconformance to the standards and criteria of this section, the building official or his designee shall issue notice to the owner, tenant and/or their agent citing the violation and describing the action required to comply with this section.

GENERAL STANDARDS:

1. All required landscaped open areas should be completely covered with living plant material. Landscaping materials such as wood chips and gravel may only be used under trees, shrubs and other plants.
2. Recommended Plant Materials. Plant materials shall conform to the standards of American Standard for Nursery Stock. Grass seed, sod and other material shall be clean and reasonable free of weeds and noxious pests and insects.
3. Trees. All trees shall comply with the following:
 - a. The spread of crown of a tree is defined as average diameter horizontal width of tree foliage.
 - b. A large tree shall have a spread of crown at maturity of greater than fifteen feet (15'). At the time of planting, a large tree shall be at least seven feet (7') in height and measure at least three inches (3") in caliper when measured six inches (6") above the ground.
 - c. An ornamental tree shall have a spread crown at maturity of fifteen feet (15) or less. At the time of planting, a small tree shall be at least five feet (5') in height and measure at least one inch (1") in caliper when measured six inches (6") above the ground.
4. Shrubs. Shrubs except of the dwarf variety shall be a minimum of two feet (2') in height when measured immediately after planting. Hedges, where installed for screening purposes, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will reach the required height within one (1) year after the time of planting.
5. Vines. Vines not intended as ground cover shall be a minimum of two feet (2') in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements.
6. Grass. Grass areas shall be sodded, plugged, sprigged, hydro-mulched or seeded. However, solid sod shall be used in swales, on earthen berms or in other areas subject to erosion.
7. Ground cover. Ground cover used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one (1) year of planting.
8. Berms. Earthen berms shall have side slopes not to exceed 33 percent of 3:1 slope. All berms shall provide necessary drainage provisions, which shall also be shown on any required site drainage plans.
9. Obstruction prohibited. All placement of landscaping materials, with the exception of turf and grass covered areas, shall be designed so that any interference with pedestrians loading and unloading in designated parking areas is minimized; and so that the normal parking of vehicles and opening of doors in designated parking areas will not open into or damage the landscaping materials.
10. Protection. All required landscaped areas, which are adjacent to pavement, shall be protected with concrete curbs or equivalent barriers.

REQUIREMENTS FOR NONRESIDENTIAL USES:

1. Area Required. For all nonresidential parcels, at least twenty percent (20%) of the street yard shall be permanently landscaped. All of the required landscaped area shall be located in the street yards and parking lots.
2. Trees Required. At least one large tree shall be provided as follows:
 - a. Street Yards less than 10,000 square feet. In street yards of less than ten thousand (10,000) square feet, one (1) tree per one thousand (1000) square feet or a fraction thereof, of street yard.
 - b. Street Yards more than 10,000 square feet. In street yards of more than ten thousand (10,000) square feet, ten (10) trees plus one (1) tree per two thousand (2,000) square feet, or fraction thereof, of street yard area over ten thousand (10,000) square feet.
 - c. Credits for existing trees. Any trees that are preserved on a site may be credited toward meeting the tree requirement of any landscaping provision of this section according to the following table:

Circumference of Existing Tree	Credit Toward Tree Requirement
6"-8"	1.0 tree
9"-30"	1.5 trees
31"-46"	2.0 trees
47" or more	2.1 3.0 trees

Note 1: Tree circumference shall be measured four and one-half (4 ½) above natural grade.

Note 2: Due to their limited height and size, mesquite trees will receive only fifty percent (50%) of the above credit for tree preservation

- d. Ornamental Trees. Two (2) ornamental trees may be substituted for one (1) required large tree. Not more than fifty percent (50%) of the required large trees may be substituted by installing ornamental trees. Ornamental trees shall be a minimum of six (6) feet in height at the time of planting.
3. Shrubbery Required. At least one shrub shall be required for every fifty- (50) square feet of the required landscape area. Placement of such shrubbery shall be taken into consideration as to the plant at full maturity, and be located so as not to conflict with vehicular or pedestrian traffic visibility.
4. Ground cover required. At least ten percent (10%) of the required landscape area shall be maintained in ground cover. The remaining landscape area shall be maintained in lawn grasses and mulch used around bedding plants, shrubs and trees.
5. Parking lot and vehicular use areas landscaping and screening. It is the intent of this section to encourage the design and construction of parking area in a manner whereby areas within the parking lot are landscaped as well as areas considered unusable for parking or maneuvering space. It is also the intent of this section to aid in the abatement of noise, glare, and heat associated with large expanses of hard paved surfaces and motor vehicles.
 - a. Landscaping. A minimum amount of the total area of all vehicular use areas shall be devoted to landscaped islands, peninsulas or medians.

- i. Street yard area. The minimum total area in such islands, peninsulas and medians in the street yard shall be ninety (90) square feet for each twelve- (12) parking spaces. Landscape islands, peninsulas and medians located in the street yard may be included in calculating the minimum required landscape area in the street yard.
 - ii. Non-street yard area. The minimum total area in such islands, peninsulas and medians in the non-street yard shall be sixty (60) square feet for each twelve- (12) parking spaces.
 - iii. Distribution of islands. Peninsulas and medians. The number, size, and shape of islands, peninsulas and medians, in both street and non-street yards shall be at the discretion of the property owner or applicant. All required islands, peninsulas and medians shall be more or less evenly distributed throughout such parking areas. 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 requirements for landscaped islands, peninsulas and medians for the respective parking areas above are satisfied.
 - b. Screening. A minimum ten-foot (10') landscape buffer is required between the property lines and any parking, paving or internal driveways. Driveway openings are permitted in the landscape buffer area. The area of the landscaped buffer may be included in the total required landscape area for the lot.
 - i. Location. The landscaped buffer requirement shall apply to all sides of the lot adjacent to a public street or right-of-way.
 - ii. Screen. The screening shall be a minimum height of three (3) feet above the grade of the parking lot and located adjacent to the parking lot. Screening shall be opaque and consist of shrubs and/or berms.
 - iii. Materials, shrubs shall be capable of reaching a height of three (3) feet within eighteen (18) months of planting, and shall be planted at least thirty-six (36) inches on center.
6. Right-of-way. Landowners are encouraged to landscape non-paved publicly owned street right-of-way abutting their property. Landscaping in the right-of-way is subject to the following:
 - a. Removal of landscaping. The City may at any time remove or require the land owner to remove any landscaping located within any right-of-way or public easement for the purpose of public safety, access to utilities and to perform any public improvements within said height right-of-way or public easement.
 - b. Traffic regulations. Such landscaping in the right-of-way shall observe established rules and regulations pertaining to traffic and pedestrian safety.

SIGHT DISTANCE AND VISIBILITY:

1. Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an intersection of two (2) or more public rights-of-way occurs, a visibility sight triangle, as described below, shall be required. Landscaping within the visibility sight triangle shall be designed to provide unobstructed visibility at a level between three (3) and ten (10) feet measured from the street grade at the middle of the closest traffic land. Ornamental trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the visibility sight triangle. Large trees are prohibited from being planted in the visibility sight triangle.

The visibility sight triangles are described as follows:

- a. Driveways and alleys. The areas of property on both sides of the intersection of an alley access way and public right-of-way and on both sides of the intersection of each private driveway and public right-of-way shall have a visibility sight triangle with two (2) sides of each triangle being a minimum of ten feet (10') in length from the point of intersection and the third side being a line connecting the ends of the other two (2) sides.
 - b. Intersection of streets. The areas of property located at a corner formed by the intersection of two (2) or more public rights-of-way shall have a visibility sight triangle with two (2) sides of each triangle being a minimum of twenty-five feet (25') in length from the point of the intersection and the third side being a line connecting the ends of the other two (2) sides.
2. In the event other visibility obstructions are apparent in the proposed landscape plans, as determined by the building official, the requirements set forth herein may be adjusted to the extent to remove the conflict.

TREE PROTECTION:

1. During any construction or land development, the developer shall clearly mark all trees to be preserved on site and may be required to erect and maintain protective barriers around all such trees or groups of trees. No living trees greater than eight inches (8"Ø in caliper may be cut, destroyed or damaged on the development site until approved as part of the landscaped plan.
2. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris, or fill to be placed within the drip line of any trees.
3. During the construction stage of development, the developer shall not allow the cleaning of equipment or material under the canopy of any tree or group of trees to be preserved. The developer shall not allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, or mortar, under the canopy of any tree or groups of trees to be preserved.

4. No attachment, nails, screws or wires of any kind, other than those of a protective nature, shall be attached to any tree.

ARTICLE II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE IV.

This ordinance will take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

PASSED AND APPROVED THIS 19th DAY OF OCTOBER, 1999.
PASSED AND ADOPTED THIS 2nd DAY OF NOVEMBER, 1999.

HENRY C. MADGWICK, MAYOR

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY

APPROVED AS TO FORM:

MARY GAYLE RAMSEY, CITY ATTORNEY