

**ORDINANCE NO. 22-704-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BROOKSHIRE TEXAS, REPEALING AND REPLACING CHAPTER 44 “LANDSCAPING” OF THE CODE OF ORDINANCES, CITY OF BROOKSHIRE, TEXAS TO REFLECT REORGANIZED AND MODERNIZED DEVELOPMENT STANDARDS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) PER DAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND, PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City Council (the “Council”) of the City of Brookshire, Texas (the “City”) desires to protect the health, safety, and welfare of the general public by providing certain regulations related to development standards within the City; and

**WHEREAS**, the Council finds that it is reasonable, necessary, and proper for the health, safety, and welfare of the general public to ensure that all proposed development projects adhere to certain development standards within the City; and,

**WHEREAS**, the Council finds it necessary to repeal the existing Chapter 44 of the Code of Ordinances of the City of Brookshire and replace it with the language provided herein, with such changes being shown in a redlined version attached to this Ordinance as “Exhibit A”; and **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSHIRE:**

**SECTION 1. THAT** Chapter 44 “Landscaping” of the Code of Ordinances, City of Brookshire, Texas, is hereby amended by repealing the existing language and replacing the language with the language provided below, with such language to read as follows:

**“CHAPTER 44 - LANDSCAPING**

**ARTICLE I. - IN GENERAL**

**Secs. 44-1—44-19. - Reserved.**

**ARTICLE II. - LANDSCAPING PLAN**

**Sec. 44-20. - 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. The words, terms and phrases, when used in this article and not listed below, shall have meanings ascribed in other section of the Code of Ordinances.

*Building site* means the parcel of land upon which a residential structure subject to the provisions of this article is located.

*Deciduous tree* means a tree that sheds its leaves at one (1) time each year, usually in the autumn.

*Evergreen tree* means a tree that does not lose all of its leaves at one (1) time, though it sheds its old leaves intermittently, as new leaves come out.

*Shrub* means any plant which is generally multi-stemmed and sold by height or spread and measured in inches or feet.

*Tree* means any evergreen or deciduous tree which at the time of planting has a caliper equal to or greater than two inches (2") as measured six inches (6") above the root collar, which is not less than six feet (6') in height as measured from the root collar, and which meets the standard for nursery stock specifications as established by the American Association of Nurserymen (1986 edition). All types trees that can be planted to satisfy the requirements of this Chapter are provided in a list on file with the city secretary.

**Sec. 44-21. - Application.**

The requirements of this article shall only apply to a building site where any of the following conditions are present:

- (1) There is new construction of a building for which a building permit is required.
- (2) There is reconstruction or remodeling of an existing building if the remodeling or reconstruction project has a total dollar value of greater than twenty-five percent (25%) of the tax appraised value of the building, or is greater than twenty-five thousand dollars (\$25,000.00). For the purpose of this provision, remodeling or reconstruction shall include any change to the building interior or exterior or changes to a building site excluding routine maintenance and repair.
- (3) The requirements and standards for the installation and maintenance of landscape elements and site improvements as set forth in this division shall apply to all developed areas within the City limits.
- (4) If other divisions of this chapter would otherwise permit land coverage by building development that would conflict with this division, this division shall supersede and prevail over the other requirements.
- (5) If more landscaping is required in any other sections of the code of ordinances, the greater standards shall apply.
- (6) Existing Development Areas; Nonconformance. All property with existing development on the effective date of the ordinance from which this division derives which is not in compliance with this division shall be considered nonconforming and allowed to

continue until the time a building permit is granted to reconstruct or enlarge an existing structure on the property to an extent exceeding five hundred square feet (500 sqft) of the exterior dimensions of the structure. At that time, this division shall apply to the previous existing parcel areas as well as any new paved areas, and the areas shall be brought into compliance. A plan showing existing and new development and the proposed landscaping shall be submitted in accordance with this division. In order to encourage early landscaping in existing paved areas and the preservation of trees that are already established and growing in these areas an additional credit shall be given in accordance with the purposes of this Chapter. No structure existing on the effective date of this Code from which this division derives shall be required to be altered or moved in order to comply with this division except for reconstruction.

**Sec. 44-22. - Landscape plan required; approval and review by city official.**

(a) A landscape plan for the building site shall be submitted to the city by an applicant for a building permit for approval in accordance with the provisions of this article and the submittal checklist provided by the city. The plan shall contain sufficient detail to show the following:

- (1) The footprint of all existing and proposed structures.
- (2) Remaining or proposed site elements such as power poles, fences, walls, drainage swales, easements, sidewalks, and other such elements.
- (3) How the landscaping requirements are to be met, including the names, size, number, and location of all landscape elements.
- (4) Name, location, and size of existing trees, and type and location of other vegetation proposed to remain or for removal.
- (5) Location and size of irrigation lines.
- (6) Location of any buried pipeline or utility.
- (7) Location of any dedicated or proposed to be dedicated easement.
- (8) Such other information as may be reasonably necessary to administer and enforce the provisions of this article.

(b) The city official shall review the landscape plan to verify compliance with all requirements of this article prior to the issuance of a building permit. No building permit shall be issued by the building official for the construction or alteration of a building subject to this article unless the applicant has submitted a landscape plan providing for the planting of trees and shrubs to the extent required in this article.

**Sec. 44-23. - Landscaping requirement.**

(a) The minimum landscape requirements shall be employed in accordance with the American Nursery Association, to improve aesthetic appearance, to enhance the compatibility of different

land uses, and to mitigate negative environmental influences on land uses (e.g. heat, noise, air pollution).

<b>Multiple-Family</b>	<b>15%</b>
<b>Office and Professional Uses</b>	<b>15%</b>
<b>Mixed Use</b>	<b>15%</b>
<b>Retail and Commercial</b>	<b>15%</b>
<b>Industrial or Manufacturing and all Other Nonresidential Uses</b>	<b>10%</b>
<b>Note: Percentages are based on the total gross lot area.</b>	

**Table 4-4 Required Landscaping By Land Use Type Land Use Percent Landscaped Area Required**

(b) Minimum Requirements. The minimum landscape requirements shall be employed in accordance with the Tree Preservation and Landscape Design Guidelines (Guidelines) made a part hereof, to improve aesthetic appearance, to enhance the compatibility of different land uses, and to mitigate negative environmental influences on land uses (e.g. heat, noise, air pollution).

(c) Establishment of Minimum Percentages. A minimum percentage of the total gross lot area of property (excluding any required detention facilities) on which development, construction or reconstruction occurs after the effective date of the ordinance from which this division derives shall be devoted to landscape in accordance with the requirements in Table 4-4;

(d) For all single family, duplex, and quad-plex residential developments, the following shall be required:

(1) Two (2) trees shall be planted on each lot, in the front yard. Such trees shall comply with the list of approved trees on file with the city secretary and shall have a minimum two-inch (2”) caliper measured five feet (5’) above the ground. An existing street tree may count toward the requirement of this section.

(2) Ten (10) shrubs (minimum five (5) gallon container) shall be provided for each lot. Shrubs and berms shall be planted at a height of no less than thirty-six inches (36”) as measured from the surrounding soil line.

(e) For all non-residential, multi-family, and other developments not included in sub-section (a) above, the following shall be required:

(1) Street trees. Street trees shall be planted adjacent to streets and public rights-of-way. Street trees shall have a minimum two-inch (2”) caliper as measured five feet (5’) above the ground with the total caliper inches equal to one inch (1”) for each fifteen feet (15’) of frontage shall be provided along the street frontage. An existing street tree in the abutting street right-of-way may count toward the requirement of one (1) required tree. Each tree shall be planted in an area of a minimum width of ten feet (10’). Additional width may be required for properties located in the Corridor Overlay District.

(2) Parking lot trees. Each parking space must be within one hundred feet (100') of a parking lot or street tree. One (1) tree for every fifty (50) spaces shall be required and shall include the trees in the list of approved trees on file with the city secretary with a minimum two-inch (2") caliper measured five feet (5') above the ground. Each tree shall be planted in an area of a minimum width of six feet (6').

(3) Screening of Parking Areas. All off-street parking areas shall be screened by shrubs. Shrubs (minimum five (5) gallon container) shall be maintained at a height of no more than thirty-six inches (36") and no less than twenty-four inches (24") as measured from the surrounding soil line and at a minimum thirty-six inch (36") spacing. Shrubs to screen the parking areas shall be planted in an area of minimum width of ten feet (10'). Additional width may be required for properties located in the Corridor Overlay District.

(4) Landscape buffers: Buffers shall be provided along all property boundaries according to the following:

a. All multi-family and non-residential development where they abut single family and duplex residential developments to provide a buffer; and,

b. All multi-family, single family, and duplex residential development where such uses abut any non-residential developments to provide a buffer. The buffer shall consist of a masonry screening fence, with a minimum height of six feet (6'), located along the property line between two (2) adjacent properties; and a twenty-five foot (25') wide landscaped buffer with landscaping consisting of trees and shrubs. Shrubs (minimum five (5) gallon container) shall be planted at a height of thirty-six inches (36") as measured from the surrounding soil line and at a minimum thirty-six inch (36") spacing. Trees listed in the approved list on file in the city secretary's office shall have a minimum two inch (2") caliper measured five feet (5') above the ground shall be provided with the total caliper inches equal to one inch (1") for each fifteen feet (15') of length along the buffer.

(5) Detention Facilities: It is recommended that all detention facilities be designed as an amenity. Stormwater facilities should be considered an opportunity to enhance aesthetics provide a natural setting.

a. All side slopes and berms shall be grassed or covered with a suitable vegetative cover.

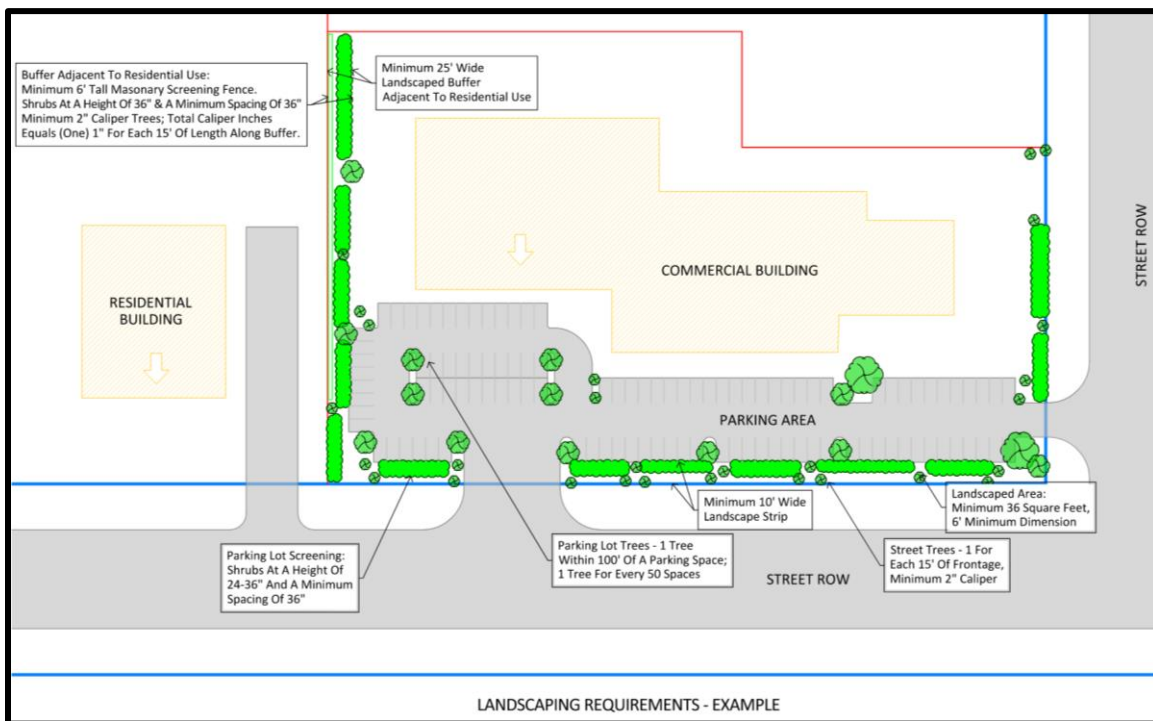
b. Shrubs and plants shall be planted strategically near inlets to soften the visual impact.

c. All detention facilities located in the front or the side yard shall provide the following landscaping:

1. Trees shall be planted along the edge of detention facility to screen it from any streets or public rights-of-way. Trees shall have a minimum two inch (2") caliper measured five feet (5') above the ground, shall be provided with the total caliper

inches equal to one inch (1") for each fifteen feet (15') of length along the detention facility to be screened.

2. Shrubs (minimum five (5) gallon container) shall be planted at a height of not less than thirty-six inches (36") as measured from the surrounding soil line and at a minimum thirty-six inch (36") spacing.



#### (6) Landscape Irrigation:

a. Except for single-family and duplex residential lots, all required landscaping areas shall be one hundred percent (100%) irrigated by one (1) of, or a combination of, the following methods:

1. An automatic underground irrigation system;
2. A drip irrigation system;
3. A hose attachment within two hundred feet (200') of all plant material;

b. All irrigation systems shall be designed and sealed in accordance with the Texas Licensed Irrigators Act and shall be professionally installed.

c. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

d. Sports fields, golf courses, cemeteries, storm water management systems, and similar areas as approved by city staff, where functional need for turf is demonstrated, are exempt from the turf area limitation and micro irrigation requirements.

(7) Common Open Space Requirement for Multi-Family Use. All multi-family residential projects except duplexes shall provide permanently maintained outdoor open space for all residents.

a. Area Required. Required common open space shall be provided at a ratio of seven hundred fifty square feet (750 sqft) per dwelling unit.

b. Configuration: Required common open space:

1. Shall be designed to be easily accessible;
2. Shall be provided as a continuous, usable site element, which shall not include required setback and buffer areas but may be contiguous to required setbacks; and
3. Shall have a minimum dimension of fifty feet (50').

c. Allowed Uses. Required common open space:

1. Shall be available for passive and active outdoor recreational purposes for the enjoyment of all residents of each multi-family project; and
2. Shall not include driveways, parking spaces, public or private streets, detention facilities, or utility easements where the ground surface cannot be used appropriately for usable open space, or other areas primarily designed for other operational functions. Detention facilities, if designed as a lake amenity with trails and seating areas, may be counted towards fifty percent (50%) of the required common open space.
3. Amenities. Required common open space shall include amenities such as trails, play areas, club houses, tennis courts, basketball courts, picnic tables, dog parks, and other active and passive recreation amenities.

d. Maintenance and Control of Common Open Space. Required common open space shall be controlled and permanently maintained by the owner of the property or by a homeowners' association. Provisions for control and maintenance shall be included in any property covenants of common interest developments.

e. Surfacing. Open space areas shall be surfaced with pervious surface such as grass, ground cover or similar, unless the amenities provided require other surfaces such as a combination of lawn, paving, decking, concrete, or other serviceable material.

f. Landscaping and Amenities. The applicant shall submit a plan for landscaping and amenities approval by the City. Landscape design, installation, and maintenance shall comply with the requirements contained in this Section.

(8) General requirements:

a. All plant materials shall be live and planted in the ground. Plant materials planted in pots shall not be counted or credited toward meeting landscaping requirements.

b. Each required tree and shrub shall be planted in a landscaped area of at least thirty-six square feet (36 sqft) with a minimum dimension of six feet (6’).

c. Ground cover and land stabilization– Exposed ground surfaces in all parts of every development and site shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth or cover that is capable of preventing soil erosion and of eliminating dust. All surfacing shall be maintained and kept in good repair.

d. Plant materials planted in pots shall not be counted or credited toward meeting landscaping requirements.

**Sec. 44-24. - Credit for preserving existing on-site trees or credit for existing shrubs.**

Credit for the preservation of existing on-site trees (including any to be transplanted) and existing shrubs may be granted when requested and depicted on the landscape plan in accordance with section 44-22. In order to be eligible for credit, an existing tree to be preserved on the site or existing shrub shall be in good condition.

**Sec. 44-25. - Maintenance requirements.**

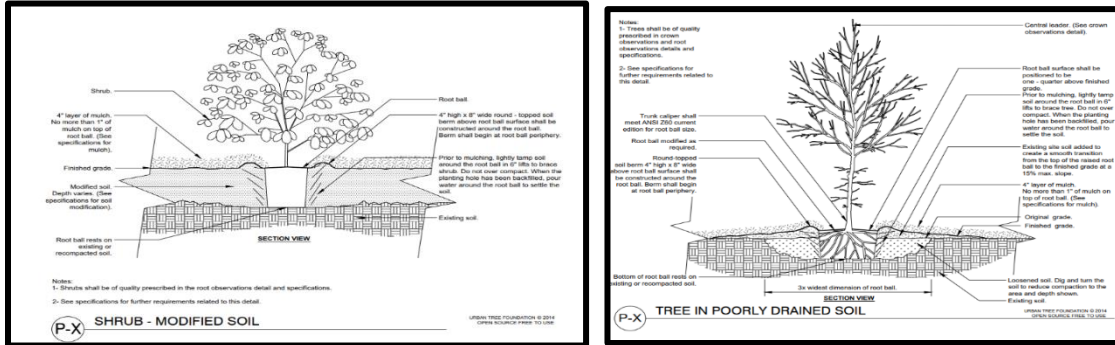
(a)After complying with the requirements of this article, the owner and each successive owner of the property shall maintain the required landscaping vegetation and landscaped areas in good condition, and shall otherwise maintain the property so as to comply with any other requirements of this article.

(b)Where any owner of property to which this article applies fails to reasonably maintain the required trees and other landscaping or maintain the property so as to comply with any requirement of this article, the city may issue a written notice and order the owner to replace any dead or dying trees or landscape plant materials that were required by the landscape plan or this article, or require any other action otherwise necessary to abate or correct any condition to meet the requirements of this article.



**Sec. 44-26. - When required landscaping must be installed.**

All proposed landscaping must be installed in accordance with the approved landscape plan prior to issuance of a final certificate of occupancy on a building site. All planting shall be planted in accordance with the guidelines of the American Nursery Association (ANA) or shall follow the specifications shown in the figure below.



**Sec. 44-27. - Appeal of denial of building permits.**

An applicant for a building permit may appeal to the city council from the denial of a building permit for noncompliance with this article.

**Sec. 44-28. - Variance request; application, review and report.**

(a) An applicant for a building permit may make written application to the city official for a variance from the requirements of this article. A completed application for a variance shall include:

- (1) Completed application on form supplied by the city; and
- (2) A nonrefundable fee as established by the city council from time to time.

(b) The application shall be reviewed by the city official. Within fifteen (15) days of the date the application is accepted, the building official shall forward a copy of the application, together with his report and recommendations regarding the proposed variance to the city secretary.

(c) The application and city official’s report regarding the variance request shall be provided to the city council prior to the meeting at which the variance shall be considered.

**Sec. 44-29. - Standards for variance.**

(a) The city council may consider and grant variances from the provisions of this article, subsequent to a public hearing, by majority vote of those members of the city council present and voting, when the city council determines that the following conditions exist:

- (1) The imposition of the terms, rules, conditions, policies and standards of this article would deprive the owner or applicant of the property of reasonable use of the land or building;

(2) The circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant, and the general purposes of this article are observed and maintained;

(3) The intent of this article is preserved; and

(4) The granting of such a variance will not be injurious to the public health, safety, or welfare.

(b) Any variance granted under the provision of this section will apply only to the specific property upon which the city council was requested to grant a variance by the applicant. All variances granted shall be in writing, shall be signed by the mayor and maintained as a permanent record of the city.

**Sec. 44-30. - Penalty.**

Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-13. Each day of violation shall constitute a separate offense.

**Section 44.31. - Enforcement**

(a) Responsible Official and Responsibilities. The designated city official shall be the responsible official for this division. The designated city official is charged with administering this division and securing compliance with this division. In furtherance of this responsibility, the Designated city official shall:

(1) Make inspections as needed to effectuate the purposes and intent of this division, and initiate appropriate action to bring about compliance with this division if the inspections disclose any instance of noncompliance.

(2) Investigate any complaints of alleged violations of this division and maintain a record in the planning department office of the disposition of the complaints.

(3) Issue notices of violation, and order, as set out in this section, the correction of all violations of this division found to exist on any premises.

(4) State in the notice of violation a time limit for compliance with this division as set out in subsection (c) of this section.

(5) Refuse to issue an occupancy certificate where the requirements of this division have not been met. A temporary occupancy certificate may be issued where provisions have been made for landscaping installation at the most advantageous time for planting, not to exceed six (6) months from the date of issuance.

(6) Request the assistance of the City Attorney in taking appropriate legal action upon the failure of the responsible party to comply with the notice of violation at the time specified therein.

(b) Authorization. The designated city official is authorized and directed to lawfully enter all premises at reasonable times to perform inspections to determine compliance with the provisions of this division.

(c) Action after Determination of Violation. When the designated city official determines that a violation of this division exists, the responsible official shall take action as follows:

(1) Give written notice of the violation to the management, agent or owner shown on the most recent tax roll of the City.

(2) The notice shall include:

a. A description of the location of the property involved, either by address or by legal description;

b. A statement indicating the nature of the violation and the reason why the notice of violation is being issued;

c. The section of this division upon which the notice of violation is based;

d. A description of the actions that are required to correct the violation;

e. A time limit for correction of the violation, which will not be less than ten (10) days nor more than ninety (90) days from the date of the written notice;

f. The name of the person to whom the notice of violation is directed;

g. A statement that failure to comply with the requirements of the notice will result in the City taking enforcement procedures in order to secure compliance; and

h. A description of the procedures available for review of the action of the Designated city official as set out in this division.

(d) Notice.

(1) Notices of violation shall be personally delivered, or sent by certified mail, return receipt requested, and (if possible) by posting a copy of the notice in a conspicuous place on the premises.

(2) The designated city official shall maintain a record of the manner of service of the notice.

(3) If the order is not complied with within the time specified in the order, the designated city official shall use all available means of enforcement in order to secure compliance.

(4) When any notice has been issued and the notice becomes an order within the terms of this division, the responsible official shall cause to be placed in a conspicuous place on the premises a notice which shall read substantially as follows: "These premises are in violation of the requirements of the City of Brookshire landscaping requirements." This notice is to remain as placed here until the requirements of the ordinance have been complied with. It is unlawful to remove this notice until the requirements have been complied with.

**Section 44.32. – List of approved landscaping**

A list of the trees and shrubs that satisfy the requirements of this chapter shall be kept on file in the office of the city secretary. The list shall provide the scientific and common name of the trees and shrubs that may be used in the performance of the work required to satisfy the purpose of this chapter."

**SECTION 2. THAT** a violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed two thousand dollars (\$2,000.00) as provided in Article 1-13 of the Code of Ordinances, City of Brookshire, Texas.

**SECTION 3. THAT** should any paragraph, section, sentence, phrase, clause, or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

**SECTION 4. THAT** the City Secretary of the City of Brookshire is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as may be required by law.

**SECTION 5. THAT** this Ordinance shall become effective, except as may otherwise be provided herein, from and after its publication as provided by law.

**PASSED, APPROVED, AND ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**FOR THE CITY:**

\_\_\_\_\_  
**DARRELL BRANCH, MAYOR**

**ATTEST:**

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NAME [SIGNATURE]

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NAME [PRINTED]

**EXHIBIT A – REDLINED VERSION OF CHANGES TO CHAPTER 44**

## Chapter 44 - LANDSCAPING

### ARTICLE I. - IN GENERAL

Secs. 44-1—44-19. - Reserved.

### ARTICLE II. - LANDSCAPING PLAN

#### Sec. 44-20. - 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. ~~The words, terms and phrases, when used in this article and not listed below shall have meanings ascribed in other section of the Code of Ordinances.~~

*Building site* means the parcel of land upon which a residential structure subject to the provisions of this article is located.

*Deciduous tree* means a tree that sheds its leaves at one time each year, usually in the autumn.

*Evergreen tree* means a tree that does not lose all of its leaves at one time, though it sheds its old leaves intermittently, as new leaves come out.

*Shrub* means any plant which is generally multi-stemmed and sold by height or spread and measured in inches or feet.

~~*Single family residential* means a building designed to contain one or two separate living units with facilities for living, sleeping, cooking or eating.~~

*Tree* means any evergreen or deciduous tree which at the time of planting has a caliper equal to or greater than two inches as measured six inches above the root collar, which is not less than six feet in height as measured from the root collar, and which meets the standard for nursery stock specifications as established by the American Association of Nurserymen (1986 edition).

(Ord. No. 06-479-9, § 2, 2-8-2006), ~~xx-xx-2022~~)

#### Sec. 44-21. - Application.

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The requirements of this article shall only apply to a building site where any of the following conditions are present:

(1) There is new construction of a ~~single family residential~~ building for which a building permit is required;

(2) There is reconstruction or remodeling of an existing ~~single family residential~~ building if the remodeling or reconstruction project has a total dollar value of greater than 25 percent of the tax appraised value of the building, or is greater than \$25,000.00-. For the purpose of this provision, remodeling or reconstruction shall include any change to the building interior or exterior or changes to a building site excluding routine maintenance and repair.

~~(3) The requirements and standards for the installation and maintenance of landscape elements and site improvements as set forth in this division shall apply to all developed areas within the City limits.~~

~~(4) If other divisions of this chapter would otherwise permit land coverage by building development that would conflict with this division, this division shall supersede and prevail over the other requirements.~~

~~(3) If a principal use and some or all of the parking area, required or otherwise, serving the principal use are located on separate parcels, the landscape installation required in this division shall prevail as to all the property with the result that an equivalent percentage of the area of all parcels utilized by a principal use shall be landscaped in compliance with this division.~~

~~(5) If more landscaping is required in any other sections of the City code of ordinances, the greater standards shall apply~~

~~(6) Existing Development Areas; Nonconformance.~~

~~All property with existing development on the effective date of the ordinance from which this division derives which is not in compliance with this division shall be considered nonconforming and allowed to continue until the time a building permit is granted to reconstruct or enlarge an existing structure on the property to an extent exceeding five hundred (500) square feet of the exterior dimensions of the structure. At that time, this division shall apply to the previous existing parcel areas as well as any new paved areas, and the areas shall be brought into compliance. A plan showing existing and new development and the proposed landscaping shall be submitted in accordance with this division. In order to encourage early landscaping in existing paved areas and the preservation of trees that are already established and growing in these areas an additional credit shall be given in accordance with~~

~~No structure existing on the effective date of this Code from which this division derives shall be required to be altered or moved in order to comply with this division except for reconstruction.~~

**Sec. 44-22. - Landscape plan required; approval and review by building-city official.**

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(a) A landscape plan for the building site shall be submitted to the building official/city, by an applicant for a building permit for approval in accordance with the provisions of this article and the submittal checklist provided by the city. The plan shall contain sufficient detail to show the following:

- (1) The footprint of all existing and proposed structures.
- (2) Remaining and/or proposed site elements such as power poles, fences, walls, drainage swales, easements, sidewalks and other such elements.
- (3) How the landscaping requirements are to be met, including the names, size, number and location of all landscape elements.
- (4) Name, location and size of existing trees, and type and location of other vegetation proposed to remain or for removal.
- (5) Location and size of irrigation lines.
- (6) Location of any buried pipeline or utility.
- (7) Location of any dedicated or proposed to be dedicated easement.
- (8) Such other information as may be reasonably necessary to administer and enforce the provisions of this article.

(b) The building city official shall review the landscape plan to verify compliance with all requirements of this article prior to the issuance of a building permit. No building permit shall be issued by the building official for the construction or alteration of a building subject to this article unless the applicant has submitted a landscape plan providing for the planting of trees and shrubs to the extent required in this article.

#### **Sec. 44-23. - ~~Total tree and shrub planting~~Landscaping requirement.**

The minimum landscape requirements shall be employed in accordance with the American Nursery Association, to improve aesthetic appearance, to enhance the compatibility of different land uses, and to mitigate negative environmental influences on land uses (e.g. heat, noise, air pollution). ~~Plant materials planted in pots shall not be counted or credited toward meeting landscape~~

(a) Minimum Requirements. The minimum landscape requirements shall be employed in accordance with the Tree Preservation and Landscape Design Guidelines (Guidelines) made a part hereof, to improve aesthetic appearance, to enhance the compatibility of different land uses, and to mitigate negative environmental influences on land uses (e.g. heat, noise, air pollution).

(b) Establishment of Minimum Percentages. A minimum percentage of the total gross lot area of property (excluding any required detention facilities) on which development, construction or reconstruction occurs after the effective date of the ordinance from which this division derives shall be devoted to landscape in accordance with the requirements in Table 4-4;

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Table 4-4 Required Landscaping By Land Use Type Land Use Percent Landscaped Area Required

<u>Multiple-Family</u>	<u>15</u>
<u>Office and Professional Uses</u>	<u>15</u>
<u>Mixed Use 15 Retail and Commercial</u>	<u>15</u>
<u>Industrial or Manufacturing and all Other Nonresidential Uses</u>	<u>10</u>

Note: Percentages are based on the total gross lot area.

(c)

(a) For all single family, duplex, and four-plex residential developments, the following shall be required:

- (1) Two trees shall be planted on each lot, in the front yard. Trees listed in Chapter 44 – List of Approved Landscaping with a minimum two inch (2”) caliper measured five feet (5’) above the ground. Existing street tree may count toward the requirement of the required tree.
- (2) Ten (minimum 5 gallon container) shall be provided for each lot. Shrubs and berms shall be planted at a height of no less than thirty-six inches (36”) as measured from the surrounding soil line.

(d) For all non-residential, multi-family, and other developments not included in sub-section (a) above, the following shall be required:

- (1) Street trees. Street trees shall be planted in or adjacent to streets and public rights-of-way. Trees listed in Chapter 44 – List of Approved Landscaping, with a minimum two inch (2”) caliper measured two inches as measured five feet (5’) above the ground shall be provided along street frontage(s) with the total caliper inches equal to one inch (1”) for each fifteen feet (15’) of frontage shall be provided along the street frontage. An existing street tree in the abutting street right-of-way may count toward the requirement of one required tree. Each tree shall be planted in an area of a minimum width of 10 feet. Additional width shall be required for properties located in the Corridor Overlay District.
- (2) Parking lot trees. Each parking space must be within 100 feet of a parking lot or street tree. One tree for every 50 spaces shall be required and shall include trees listed in Chapter 44 with a minimum two inch (2”) caliper measured five feet (5’) above the ground. Each tree shall be planted in an area of a minimum width of six feet.
- (3) Screening of Parking Areas. All off-street parking areas shall be screened by shrubs. Shrubs (minimum 5 gallon container) shall be maintained at a height of no more than thirty-six inches (36”) nor less than twenty-four inches (24”) as measured from the surrounding soil line and at a minimum thirty-six inch (36”) spacing. Shrubs to screen the parking areas shall be planted in an area of minimum width of 10 feet. Additional width shall be required for properties located in the Corridor Overlay District.
- (4) Landscape buffers: Buffers shall be provided along

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a. All multi-family and non-residential development where they abut single family and duplex residential developments to provide a buffer, and

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b. All multi-family, single family and duplex residential development where such uses abut any non-residential developments to provide a buffer.

The buffer shall consists of a masonry screening fence, with a minimum height of six feet, located along the property line between two adjacent properties; and a 25 foot wide landscaped buffer with landscaping consisting of trees and shrubs. Shrubs (minimum 5 gallon container) shall be planted at a height of thirty-six inches (36") as measured from the surrounding soil line and at a minimum thirty-six inch (36") spacing. Trees listed in Chapter 44 – List of Approved Landscaping with a minimum two inch (2") caliper measured five feet (5') above the ground shall be provided with the total caliper inches equal to one inch (1") for each fifteen feet (15') of length along the buffer.

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(5) Detention Facilities: It is recommended that all detention facilities be designed as an amenity. Stormwater facilities should be considered an opportunity to enhance aesthetics provide a natural setting.

a. All side slopes and berms shall be grassed or covered with a suitable vegetative cover.

b. Shrubs and plants shall be planted strategically near inlets to soften the visual impact.

c. All detention facilities located in the front or the side yard shall provide the following landscaping:

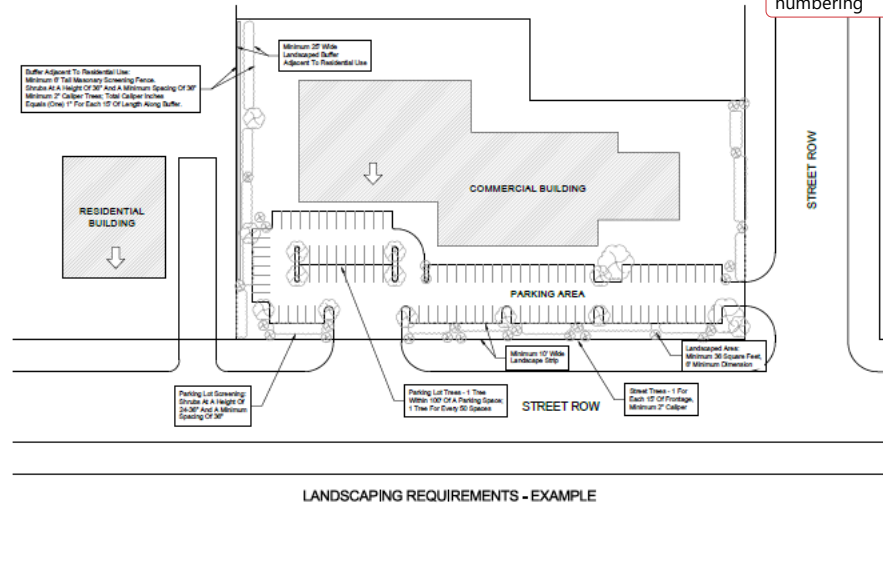
1. Trees shall be planted along the edge of detention facility to screen it from any streets or public rights-of-way. Trees listed in Chapter 44 – List of Approved Landscaping with a minimum two inch (2") caliper measured five feet (5') above the ground, shall be provided with the total caliper inches equal to one inch (1") for each fifteen feet (15') of length along the detention facility to be screened.

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2. Shrubs (minimum 5 gallon container) shall be planted at a height of not less than thirty-six inches (36") as measured from the surrounding soil line and at a minimum thirty-six inch (36") spacing.

Figure 1 : Site Landscaping



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A minimum of two trees and ten shrubs shall be required to be planted on the building site in accordance with the provisions of this article. The minimum shrub size shall be five-gallon as defined by the American Nursery Association.

(b) Plant materials planted in pots shall not be counted or credited toward meeting landscape requirements herein. All plant materials shall be live and planted in the ground.

(6) Landscape Irrigation:

- a. Except for single-family and duplex residential lots, all required landscaping areas shall be 100% irrigated by one of, or a combination of, the following methods:
  1. An automatic underground irrigation system;
  2. A drip irrigation system;
  3. A hose attachment within 200 feet of all plant material;
- b. All irrigation systems shall be designed and sealed in accordance with the Texas Licensed Irrigators Act and shall be professionally installed.
- c. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
- d. Sports fields, golf courses, cemeteries, storm water management systems, and similar areas as approved by city staff, where functional need for turf is

demonstrated, are exempt from the turf area limitation and micro irrigation requirements.

(7) Common Open Space Requirement for Multi-Family Use

a. Common Open Space Requirements. All multi-family residential projects except duplexes shall provide permanently maintained outdoor open space for all residents (common space).

1. Area Required. Required common open space shall be provided at a ratio of 750 square feet per dwelling unit.

2. Configuration. Required common open space:

a. Shall be designed to be easily accessible;

b. Shall be provided as a continuous, usable site element, which shall not include required setback and buffer areas but may be contiguous to required setbacks; and

c. Shall have a minimum dimension of 50'.

3. Allowed Uses. Required common open space:

a. Shall be available for passive and active outdoor recreational purposes for the enjoyment of all residents of each multi-family project; and

b. Shall not include driveways, parking spaces, public or private streets, detention facilities, or utility easements where the ground surface cannot be used appropriately for usable open space, or other areas primarily designed for other operational functions. Detention facilities, if designed as a lake amenity with trails and seating areas, may be counted towards 50 percent of the required common open space.

c. Amenities. Required common open space shall include amenities such as trails, play areas, club houses, tennis courts, basketball courts, picnic tables, dog parks, and other active and passive recreation amenities.

4. Maintenance and Control of Common Open Space. Required common open space shall be controlled and permanently maintained by the owner of the property or by a homeowners' association. Provisions for control and maintenance shall be included in any property covenants of common interest developments.

5. Surfacing. Open space areas shall be surfaced with pervious surface such as grass, ground cover or similar, unless the amenities provided require other surfaces such as a combination of lawn, paving, decking, concrete, or other serviceable material.

6. Landscaping and Amenities. The applicant shall submit a plan for landscaping and amenities approval by the City. Landscape design, installation, and maintenance shall comply with the requirements contained in this Section.

(8) General requirements:

a. All plant materials shall be live and planted in the ground. Plant materials planted in pots shall not be counted or credited toward meeting landscaping requirements.

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- ~~b. Each required tree and shrub shall be planted in a landscaped area of at least 36 square feet with a minimum dimension of six feet (6').~~
- ~~c. Ground cover and land stabilization— Exposed ground surfaces in all parts of every development and site shall be paved, covered with stone screening or other solid material, or protected with a vegetative growth or cover that is capable of preventing soil erosion and of eliminating dust. Note: All surfacing shall be maintained and kept in good repair.~~
- ~~d. Plant materials planted in pots shall not be counted or credited toward meeting landscaping requirements.~~

~~a-e.~~  
~~b.~~

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**Sec. 44-24. - Credit for preserving existing on-site trees or credit for existing shrubs.**

Credit for the preservation of existing on-site trees (including any to be transplanted) and existing shrubs may be granted when requested and depicted on the landscape plan in accordance with section 44-22. In order to be eligible for credit, an existing tree to be preserved on the site or existing shrub shall be in good condition.

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**Sec. 44-25. - Maintenance requirements.**

(a)After complying with the requirements of this article, the owner and each successive owner of the property shall maintain the required landscaping vegetation and landscaped areas in good condition, and shall otherwise maintain the property so as to comply with any other requirements of this article.

(b)Where any owner of property to which this article applies fails to reasonably maintain the required trees and other landscaping or maintain the property so as to comply with any requirement of this article, the city may issue a written notice and order the owner to replace any dead or dying trees or landscape plant materials that were required by the landscape plan or this article, or require any other action otherwise necessary to abate or correct any condition to meet the requirements of this article.

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~~Sec. 44-26. — Affirmative defenses:~~

~~It shall be an affirmative defense under this article that:~~

~~(1)The actor caused the tree or shrub to be planted or maintained in accordance with this article but the tree or shrub died and the period allowed by this article for replacing the tree or shrub has not yet elapsed; or~~

~~(2)A variance was secured for the building site in conformity with the requirements of this article.~~

**Sec. 44-2726. - When required landscaping must be installed.**

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All proposed landscaping must be installed in accordance with the approved landscape plan prior to issuance of a final certificate of occupancy on a building site.

**Sec. 44-2827. - Appeal of denial of building permits.**

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An applicant for a building permit may appeal to the city council from the denial of a building permit for noncompliance with this article.

**Sec. 44-2928. - Variance request; application, review and report.**

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(a)An applicant for a building permit may make written application to the building-city official for a variance from the requirements of this article. A completed application for a variance shall include:

- (1)Completed application on form supplied by the city; and
- (2)A nonrefundable fee as established by the city council from time to time.

(b)The application shall be reviewed by the building-city official. Within seven-fifteen days of the date the application is accepted, the building official shall forward a copy of the application, together with his report and recommendations regarding the proposed variance to the city secretary.

(c)The application and building-city official's report regarding the variance request shall be provided to the city council prior to the meeting at which the variance shall be considered.

**Sec. 44-3029. - Standards for variance.**

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(a)The city council may consider and grant variances from the provisions of this article, subsequent to a public hearing, by majority vote of those members of the city council present and voting, when the city council determines that the following conditions exist:

- (1)The imposition of the terms, rules, conditions, policies and standards of this article would deprive the owner or applicant of the property of reasonable use of the land or building;
- (2)The circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant, and the general purposes of this article are observed and maintained;
- (3)The intent of this article is preserved; and
- (4)The granting of such a variance will not be injurious to the public health, safety, or welfare.(b)Any variance granted under the provision of this section will apply only to the specific property upon which the city council was requested to grant a variance by the applicant. All

variances granted shall be in writing, shall be signed by the mayor and maintained as a permanent record of the city.

### **Sec. 44-301. - Penalty.**

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Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-13. Each day of violation shall constitute a separate offense.

### **Section 44.31. - Enforcement**

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(a) Responsible Official and Responsibilities. The designated city official shall be the responsible official for this division. The Designated city official is charged with administering this division and securing compliance with this division. In furtherance of this responsibility, the Designated city official shall:

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(1) Make inspections as needed to effectuate the purposes and intent of this division, and initiate appropriate action to bring about compliance with this division if the inspections disclose any instance of noncompliance.

(2) Investigate any complaints of alleged violations of this division, and maintain a record in the planning department office of the disposition of the complaints.

(3) Issue notices of violation, and order, as set out in this section, the correction of all violations of this division found to exist on any premises.

(4) State in the notice of violation a time limit for compliance with this division as set out in subsection (c) of this section.

(5) Refuse to issue an occupancy certificate where the requirements of this division have not been met. A temporary occupancy certificate may be issued where provisions have been made for landscaping installation at the most advantageous time for planting, not to exceed 6 months from the date of issuance.

(6) Request the assistance of the City Attorney in taking appropriate legal action upon the failure of the responsible party to comply with the notice of violation at the time specified therein.

(b) Authorization. The designated city official is authorized and directed to lawfully enter all premises at reasonable times to perform inspections to determine compliance with the provisions of this division.

(c) Action after Determination of Violation. When the designated city official determines that a violation of this division exists, the responsible official shall take action as follows:

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(1) Give written notice of the violation to the management, agent or owner shown on the most recent tax roll of the City.

(2) The notice shall include:



- a. A description of the location of the property involved, either by address or by legal description;
- b. A statement indicating the nature of the violation and the reason why the notice of violation is being issued;
- c. The section of this division upon which the notice of violation is based;
- d. A description of the actions that are required to correct the violation;
- e. A time limit for correction of the violation, which will not be less than ten days nor more than 90 days from the date of the written notice;
- f. The name of the person to whom the notice of violation is directed;
- g. A statement that failure to comply with the requirements of the notice will result in the City taking enforcement procedures in order to secure compliance; and
- h. A description of the procedures available for review of the action of the Designated city official as set out in this division.

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(d) Notice.

- (1) Notices of violation shall be personally delivered, or sent by certified mail, return receipt requested, and (if possible) by posting a copy of the notice in a conspicuous place on the premises.
- (2) The designated city official shall maintain a record of the manner of service of the notice. (3) If the order is not complied with within the time specified in the order, the Designated city official shall use all available means of enforcement in order to secure compliance.
- (4) When any notice has been issued and the notice becomes an order within the terms of this division, the responsible official shall cause to be placed in a conspicuous place on the premises a notice which shall read substantially as follows:  
These premises are in violation of the requirements of the City of Brookshire landscaping requirements.  
This notice is to remain as placed here until the requirements of the ordinance have been complied with. It is unlawful to remove this notice until the requirements have been complied with.

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## Section 44.32. – List of approved landscaping

### Parking Lot Trees

#### Scientific Name

#### Large Trees

*Carya cordiformis*  
*Carya tomentosa*  
*Catalpa bignonioides*  
*Fraxinus pennsylvanica*  
*Juniperus virginiana*  
*Liriodendron tulipifera*  
*Metasequoia glyptostroboides*  
*Nyssa aquatica*  
*Nyssa sylvatica var biflora*  
*Pinus palustris*  
*Quercus texana*  
*Taxodium distichum var. nutans*  
*Ulmus americana*

#### Small Trees

*Acacia wrightii*  
*Acer leucoderme*  
*Betula nigra*  
*Carpinus caroliniana*  
*Cercis canadensis*  
*Chionanthus retusus*  
*Chionanthus virginicus*  
*Continus obovatus*  
*Crataegus marshallii*  
*Crataegus opaca*  
*Crataegus spathulata*  
*Diospyros texana*  
*Diospyros virginiana*  
*Halesia diptera*  
*Ilex cassine*  
*Ilex decidua*  
*Ilex vomitoria*  
*Koelreuteria bipinnanata*  
*Lagerstroemia fauriei*  
*Lagerstroemia x fauriei 'Natchez'*  
*Malus angustifolia*  
*Myrica cerifera*  
*Ostrya virginiana*  
*Parkinsonia aculeata*  
*Parrotia persica*  
*Pinus glabra*  
*Prosopis glandulosa*  
*Prunus caroliniana*

#### Common name

-  
Bitternut hickory  
Mockernut hickory  
Catalpa  
Green ash  
Eastern red cedar  
Tulip tree  
Dawn redwood  
Water tupelo  
Swamp tupelo  
Longleaf pine  
Texas red oak  
Pond cypress  
American elm  
-  
Wright acacia  
Chalk maple  
River birch  
American hornbeam  
Eastern redbud  
Chinese fringe tree  
Fringe Tree  
Smoke tree  
Parsley hawthorn  
Mayhaw  
Pasture hawthorn  
Texas persimmon  
Eastern persimmon  
Two-winged silverbell  
Dahoon holly  
Possum-haw holly  
Yaupon holly  
Golden-rain Tree  
Crape Myrtle, 'Fantasy'  
Crape Myrtle, 'Natchez'  
Southern crabapple  
Waxmyrtle  
Eastern hophorn beam  
Retama  
Parrotia  
Spruce pine  
Mesquite  
Cherry laurel

[Prunus mexicana](#)  
[Pyrus calleryana](#)  
[Quercus glaudoides](#)  
[Quercus sinuata var. breviloba](#)  
[Rhamnus caroliniana](#)  
[Sophora affinis](#)  
[Sophora secundiflora](#)  
[Sapindus drummondii](#)  
[Unquadia speciosa](#)  
[Viburnum rufidulum](#)  
[Zelkova serrata](#)

[Mexican plum](#)  
[Bradford pear](#)  
[Lacey oak](#)  
[Bigelow oak](#)  
[Carolina buckthorn](#)  
[Eve's necklace](#)  
[Texas mountain laurel](#)  
[Western soapberry](#)  
[Mexican-buckeye](#)  
[Rusty blackhaw](#)  
[Japanese zelkova](#)

### **Street Tree List**

<b><u>Scientific Name</u></b>	<b><u>Common Name</u></b>
<b><u>Large Trees</u></b>	
<a href="#"><u>Acer barbatum</u></a>	<a href="#"><u>Texas sugar maple</u></a>
<a href="#"><u>Acer rubrum</u></a>	<a href="#"><u>Red maple</u></a>
<a href="#"><u>Carya illinoensis</u></a>	<a href="#"><u>Pecan</u></a>
<a href="#"><u>Carya texana</u></a>	<a href="#"><u>Black hickory</u></a>
<a href="#"><u>Fraxinus americana</u></a>	<a href="#"><u>White ash</u></a>
<a href="#"><u>Ginko biloba</u></a>	<a href="#"><u>Ginko</u></a>
<a href="#"><u>Juglans nigra</u></a>	<a href="#"><u>Black walnut</u></a>
<a href="#"><u>Liquidambar styraciflua</u></a>	<a href="#"><u>Sweetgum</u></a>
<a href="#"><u>Magnolia grandiflora</u></a>	<a href="#"><u>Southern magnolia</u></a>
<a href="#"><u>Nyssa sylvatica</u></a>	<a href="#"><u>Black gum</u></a>
<a href="#"><u>Pinus taeda</u></a>	<a href="#"><u>Loblolly pine</u></a>
<a href="#"><u>Platanus mexicana</u></a>	<a href="#"><u>Mexican sycamore</u></a>
<a href="#"><u>Quercus acutissima</u></a>	<a href="#"><u>Sawtooth oak</u></a>
<a href="#"><u>Quercus alba</u></a>	<a href="#"><u>White oak</u></a>
<a href="#"><u>Quercus falcata</u></a>	<a href="#"><u>Southern red oak</u></a>
<a href="#"><u>Quercus laurifolia</u></a>	<a href="#"><u>Laurel oak</u></a>
<a href="#"><u>Quercus lyrata</u></a>	<a href="#"><u>Overcup oak</u></a>
<a href="#"><u>Quercus macrocarpa</u></a>	<a href="#"><u>Bur oak</u></a>
<a href="#"><u>Quercus michauxii</u></a>	<a href="#"><u>Swamp chestnut oak</u></a>
<a href="#"><u>Quercus muehlenbergii</u></a>	<a href="#"><u>Chinkapin oak</u></a>
<a href="#"><u>Quercus nigra</u></a>	<a href="#"><u>Water oak</u></a>
<a href="#"><u>Quercus nuttallii</u></a>	<a href="#"><u>Nuttall oak</u></a>
<a href="#"><u>Quercus phellos</u></a>	<a href="#"><u>Willow oak</u></a>
<a href="#"><u>Quercus polymorpha</u></a>	<a href="#"><u>Monterray oak</u></a>
<a href="#"><u>Quercus rizophyllia</u></a>	<a href="#"><u>Loquat leaf oak</u></a>
<a href="#"><u>Quercus shumardii</u></a>	<a href="#"><u>Shumard oak</u></a>
<a href="#"><u>Quercus stellata</u></a>	<a href="#"><u>Post oak</u></a>
<a href="#"><u>Quercus virginiana</u></a>	<a href="#"><u>Live oak</u></a>
<a href="#"><u>Taxodium distichum</u></a>	<a href="#"><u>Bald cypress</u></a>
<a href="#"><u>Taxodium mucronatum</u></a>	<a href="#"><u>Montezuma cypress</u></a>
<a href="#"><u>Ulmus alata</u></a>	<a href="#"><u>Winged elm</u></a>
<a href="#"><u>Ulmus crassifolia</u></a>	<a href="#"><u>Cedar elm</u></a>

[Ulmus parvifolia](#)  
[Ulmus parvifolia var Drakii](#)  
[Ulmus parvifolia var Emer II](#)

#### **Small Trees**

[Bumelia lanuginosa\\*](#)  
[Diospyros virginiana\\*](#)  
[Ehretia anacua\\*](#)  
[Fraxinus texensis\\*](#)  
[Ilex opaca\\*](#)  
[Ilex x attenuata var East palatka\\*](#)  
[Ilex x attenuata var Savannah\\*](#)  
[Magnolia virginiana\\*](#)  
[Pistacia chinensis\\*](#)  
[Prunus serotina\\*](#)  
[Quercus cambii\\*](#)  
[Tilia carolinana\\*](#)

[Chinese elm](#)  
[Drake elm](#)  
[Allee elm](#)  
-  
[Wholly bucket](#)  
[Texas persimmon](#)  
[Anacua](#)  
[Texas ash](#)  
[American holly](#)  
[East palatka holly](#)  
[Savannah holly](#)  
[Sweetbay magnolia](#)  
[Chinese pistache](#)  
[Black cherry](#)  
[Camby oak](#)  
[Basswood](#)

#### **Shrubs**

<b>Scientific Name</b>	<b>Common Name</b>
<a href="#"><u>Buxus microphylla japonica</u></a>	<a href="#"><u>Japanese Boxwood</u></a>
<a href="#"><u>Euonymus japonica "Microphylla"</u></a>	<a href="#"><u>Dwarf Euonymus</u></a>
<a href="#"><u>Euonymus japonica "Silver King"</u></a>	<a href="#"><u>Silver King Euonymus</u></a>
<a href="#"><u>Gardenia jasminoides "Radicans"</u></a>	<a href="#"><u>Dwarf Gardenia</u></a>
<a href="#"><u>Dwarf Burford Holly</u></a>	<a href="#"><u>Ilex cornuta "Burfordii Nana"</u></a>
<a href="#"><u>Dwarf Chinese Holly</u></a>	<a href="#"><u>Ilex cornuta "Rotunda"</u></a>
<a href="#"><u>Ilex crenata "Compacta"</u></a>	<a href="#"><u>Compact Japanese Holly</u></a>
<a href="#"><u>Ilex vomitoria "Nana"</u></a>	<a href="#"><u>Dwarf Yaupon Holly</u></a>
<a href="#"><u>Jasminum mesnyi</u></a>	<a href="#"><u>Primrose Jasmine</u></a>
<a href="#"><u>Leucophyllum Frutescens</u></a>	<a href="#"><u>Texas Sage</u></a>
<a href="#"><u>Myrica cerifera</u></a>	<a href="#"><u>Dwarf Wax Myrtle</u></a>
<a href="#"><u>Nandina domestica nana "Purpurea"</u></a>	<a href="#"><u>Dwarf Purply Nandina</u></a>
<a href="#"><u>Nandina domestica nana "Harbor Dwarf"</u></a>	<a href="#"><u>Harbor Dwarf Nandina</u></a>
<a href="#"><u>Nerium oleander</u></a>	<a href="#"><u>Dwarf Oleander</u></a>
<a href="#"><u>Pittosporum tobia "Turner's Dwarf"</u></a>	<a href="#"><u>Turner's Dwarf Pittosporum</u></a>
<a href="#"><u>Pittosporum tobia "Wheeler's Dwarf"</u></a>	<a href="#"><u>Wheeler's Dwarf Pittosporum</u></a>
<a href="#"><u>Photinia x fraseri</u></a>	<a href="#"><u>Fraser's Photinia</u></a>
<a href="#"><u>Pyracantha "Red Elf"</u></a>	<a href="#"><u>Red Elf Pyracantha</u></a>
<a href="#"><u>Raphiolepis indica</u></a>	<a href="#"><u>Indian Hawthorne</u></a>
<a href="#"><u>x bumalda "Anthony Waterer"</u></a>	<a href="#"><u>Red Spirea Spiraea</u></a>
<a href="#"><u>Viburnum tinus "Spring Bouquet"</u></a>	<a href="#"><u>Spring Bouquet Viburnum</u></a>
<a href="#"><u>Photinia glabra</u></a>	<a href="#"><u>Red Tip Photinia</u></a>
<a href="#"><u>Photinia serrulata</u></a>	<a href="#"><u>Chinese Photinia</u></a>
<a href="#"><u>Ligustrum japonicum</u></a>	<a href="#"><u>Waxleaf Ligustrum</u></a>

### **Section 44.33. – Tree protection requirements**

**To be added**

**Sec. 42-~~4932~~. - Easement required.**

The developer or landowner shall execute an easement with the city wherever the use of a pond, as defined by ordinance of the city, is utilized as part of the drainage of a tract of land. A copy of this easement form is on file with ~~the~~the city secretary.

(Ord. No. 83-160-4, § IV, 9-27-1983, ~~xx-xx-2022~~)

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