



**NOTICE OF REGULAR MEETING  
CITY OF PILOT POINT  
PLANNING AND ZONING COMMISSION**

NOTICE IS HEREBY GIVEN THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF PILOT POINT, TEXAS, WILL HOLD A REGULAR MEETING ON:

**MONDAY, OCTOBER 5, 2020**  
AT 6:00 PM  
PILOT POINT CITY HALL COUNCIL CHAMBERS  
102 E. MAIN STREET PILOT POINT, TEXAS

This meeting will be in person, as well as, virtual. From your computer, tablet or smartphone.

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**AGENDA**

**A. ROLL CALL/CALL TO ORDER**

**B. Public Forum:** (Citizens are allowed 3 minutes to speak. If the issue is on the agenda, the Planning and Zoning Commission may choose to discuss and consider the item. If the issue is not on the agenda, the Commission is not permitted by state law to respond to or discuss the item other than to make statement of specific facts in response to a citizen's inquiry or to recite existing policy in response to the inquiry. The Commission may request the issue to be placed on a future agenda for action in accordance with state law. This forum is not the appropriate place to address complaints against Public Officials and/or Staff. Complaints of this nature should be made in writing and filed with the City Manager.)

**C. Discuss, consider, and possible action on the September 8, 2020, Planning and Zoning Commission meeting minutes.**

**D. Discuss, consider and possible action on the classification of a new and unlisted use – “Smoke shops/tobacco/CBD stores” and direction on a possible ordinance regulating the same.**

- E. Discuss, consider and provide direction on an amended landscape ordinance with tree preservation.
- F. Items for Future Discussion - The Planning & Zoning Commission may identify issues or topics that they wish to schedule for discussion at a future meeting. Commissioners shall not comment upon, deliberate, or discuss any item that is not on the agenda. Commissioners shall not make routine inquiries about operations or project status on an item that is not posted. Any Commissioner may, however, state an issue and a request that this issue be placed on a future agenda.
- G. Adjourn

**The Planning & Zoning Commission reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (discussing purchase, exchange, lease or value of real property); §551.074 (discussing personnel or to hear complaints against personnel); and §551.087 (discussing economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.**

In compliance with the Americans with Disabilities Act, the City of Pilot Point will provide reasonable accommodations for disabled persons attending this meeting. Requests should be received at least 24 hours prior to the scheduled meeting by contacting the City Secretary's office at 940-686-2165.

I the undersigned authority do hereby certify this notice was posted on the official bulletin board for the City of Pilot Point, Texas on **10/02/2020 by 5:00 p.m.**, and shall remain posted for at least 72 hours preceding the scheduled time of said meeting.

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Lenette Cox, Acting City Secretary

Minutes of September 8, 2020  
Planning and Zoning Commission Meeting

The Planning and Zoning Commission of the City of Pilot Point, Texas met on September 8, 2020, at 6:00 p.m. for a regular meeting of the Planning and Zoning Commission. This meeting was held in person and virtual using GoToMeeting. Planning and Zoning Commission members physically present were Steve Keith, Gary Speer, Rebecca Millikin, and JB Sevier. In attendance virtually were Paul Dennis and Mark Lanier. Brian Heitzman joined the meeting online at 6:15. City staff present was John Taylor, Development Services Director, Matt Kaminski, Capital Projects Manager. Also, in attendance was Andy Messer, City Attorney.

**AGENDA**

**A. ROLL CALL/CALL TO ORDER**

Steve Keith called the meeting to order at 6:06

Quorum was present.

**B. Public Forum:**

No one was present to speak.

**C. Discuss, consider, and possible action on the July 21, 2020 Planning and Zoning Commission meeting minutes.**

JB Sevier made a motion to approve the minutes. Motion seconded by Mark Lanier. Motion approved unanimously.

**D. Discuss, consider and possible action on a proposed Final Plat of Yarborough Farms Phase 2A.**

John Taylor introduced the case and reviewed with the Commission the ownership error that was on the plat and that it would be corrected prior to the City Council meeting. The Commission was directed to the handout reviewing the City Attorney concerns. Andy Messer reviewed his concerns with the Commission.

Applicant representative John Haughton and Greg Edwards, with Gees engineering were present and addressed the Commission.

JB Sevier made the motion to approve the plat with conditions:

1. Ownership be corrected on the face of the plat.
2. Note added to plat that deed restrictions are in place on the property and the plat does not alter those deed restrictions.
3. Subdivider agreement and performance bond is presented to and approved by Council.

Mark Lanier seconded the motion. Motion was approved unanimously.

**E. Discuss, consider and possible action on a proposed Final Plat of Yarborough Farms Dorothy Blvd. Extension.**

Minutes of September 8, 2020  
Planning and Zoning Commission Meeting

John Taylor introduced the case and reviewed with the Commission that this was a plat of only the ROW for Dorothy Blvd. with no residential lots. The ownership of the property will be verified and corrected if need be prior to the City Council meeting. Subdivider agreement and performance bond will be submitted prior to City Council. Project engineer Greg Edwards addressed questions.

Motion was made by Mark Lanier to approve the plat with ownership corrections if needed. Seconded by Rebecca Millikin. Motion passed unanimously.

**F. Discuss, consider and provide direction on a city initiated zoning change on Massey Road.**

John Taylor reviewed the Comprehensive Plan's Future Land Use Map that shows Massey Road as a residential street and compared it to the Zoning Map that has much of the frontage as commercial. He also reviewed an exhibit that showed the ownership of the 11 parcels along Massey Rd. He further explained that a city initiated zoning change that was against the will of the owners could result in lawsuits of a taking, as the value of commercial land is higher than residential. Mr. Taylor suggested that if the Commission and the City Council would like to pursue this further the city could send out letters to property owners offering a free zoning change to residential if any owner would like to request it. The Commission agreed that they would like the letters to be sent out.

**G. Items for Future Discussion**

No items were brought up.

**H. Adjourn:**

Meeting was adjourned by Steve Keith at 7:03 PM.

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**Steve Keith, Vice Chairperson**

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**John Taylor, Development Services  
Director**



## **Planning and Zoning Commission Agenda October 5, 2020**

### **Agenda Item: Zoning Interpretation of Unlisted Use – Smoke shops/Tobacco/CBD stores (Action Item)**

#### **Agenda Description:**

Discuss, consider and possible action on making a recommendation on the zoning interpretation of an unlisted use being “Smoke shops/Tobacco/CBD stores”.

#### **Background Information:**

The regulation of smoke shops/tobacco/CBD stores is necessary and in the interests of the public health, safety and general welfare because there is the substantial likelihood of the establishment and operation of smoke shops, tobacco stores, vape stores and CBD stores in the city of Pilot Point. The expansion of these stores in the city could result in undesirable impacts to the community. Among these impacts are increased potential for tobacco sales to minors, greater opportunity for the sale of illegal drug paraphernalia that is marketed as tobacco paraphernalia, and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses.

The city has been contacted by someone that wants to open a “smoke shops/tobacco/CBD store” in the C-1/Historic District. He was told that the use is not listed in the Zoning Ordinance and that it will need to be interpreted by the Planning and Zoning Commission and the City Council to determine the appropriate zoning district for the use.

The ordinance states,

“it is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the city. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

- (1) The zoning administrative official shall refer the question of any new or unlisted use to the planning and zoning commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage, and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of

noise, odor, fumes, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

(2) The planning and zoning commission shall consider the nature and described performance of the proposed use and compatibility with the uses permitted in the various districts and after public hearing determine the zoning district or districts within which such use should be permitted.

(3) The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council may approve the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate after giving consideration to the facts and recommendations.

The following is an overview of the proposed use:

“Smoke shops/Tobacco/CBD stores” - any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, E-cigarette or tobacco paraphernalia; or CBD and Hemp Based Products above an Ancillary Sale.

Based on the following definitions:

“Ancillary sale” shall mean where a grocery store, supermarket, convenience store or other retail store uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes, tobacco or cannabidiol or hemp products. For any grocery store, convenience market, retail kiosk or similar use consisting of 250 square feet or less, “ancillary sale” shall mean where no more than five square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes, tobacco or cannabidiol or hemp products. The display, sale, distribution, delivery, offering, furnishing, or marketing of e-cigarettes or any other tobacco products or tobacco paraphernalia, regardless of square footage used, is subject to the restrictions of this chapter and shall not constitute ancillary sale” under any circumstances.

“CBD and Hemp Based Products” shall mean a business establishment with retail sales of products related to or derived from CBD oil (cannabidiol) or hemp. This includes, but is not limited to oils, vitamins, supplements, food, personal care and garments.

“E-cigarette” shall mean any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as “juice,” and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice can be classified as both tobacco products and tobacco paraphernalia.

“Smoke shop and tobacco store” shall mean any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “smoke shop and tobacco store” and shall not be subject to the restrictions in this chapter.

“Tobacco” shall mean any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

“Tobacco paraphernalia” shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

“Tobacco product” shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term “tobacco product” excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

The Commission is being asked to do two things with this agenda item.

1. Give a recommendation of the zoning district in which this use should go.
2. Give staff direction on the creation of the attached ordinance.

## **Financial Information:**

N/A

## **Contact and Recommendations:**

John Taylor, Development Services Director

Staff recommends the use be allowed in C-2 or I-1 or I-2 with a SUP.

## **Attachments:**

Proposed ordinance language

## **Purpose.**

The regulation of smoke shops/tobacco stores/CBD (hemp related sales) stores is necessary and in the interests of the public health, safety and general welfare because there is the substantial likelihood of the establishment and operation of smoke shops and tobacco stores in the city of Pilot Point. The expansion of smoke shops and tobacco stores in the city would result in undesirable impacts to the community. Among these impacts are increased potential for tobacco sales to minors, greater opportunity for the sale of illegal drug paraphernalia that is marketed as tobacco paraphernalia, and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses. This chapter contains amendments consistent with good zoning and planning practices to address such negative impacts of smoke shops and tobacco stores while providing a reasonable number of locations and zones for such shops/stores to locate within the city of Pilot Point.

## **Definitions.**

“Ancillary sale” shall mean where a grocery store, supermarket, convenience store or similar market uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. For any grocery store, convenience market, retail kiosk or similar use consisting of 250 square feet or less, “ancillary sale” shall mean where no more than five square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. The display, sale, distribution, delivery, offering, furnishing, or marketing of e-cigarettes or any other tobacco products or tobacco paraphernalia, regardless of square footage used, is subject to the restrictions of this chapter and shall not constitute ancillary sale” under any circumstances.

“E-cigarette” shall mean any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as “juice,” and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice can be classified as both tobacco products and tobacco paraphernalia.

“Smoke shop and tobacco store” shall mean any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “smoke shop and tobacco store” and shall not be subject to the restrictions in this chapter.

“Tobacco” shall mean any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

“Tobacco paraphernalia” shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances. Items or devices classified as tobacco paraphernalia include but are not limited to the

following: pipes, punctured metal bowls, bong, water bong, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

“Tobacco product” shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term “tobacco product” excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose. (Ord. 14-2031 § 6, 2014.)

### **Zoning and land use standards for smoke shops and tobacco stores.**

A. Notwithstanding any other provision of this title to the contrary, smoke shops and tobacco stores shall be a conditionally permitted through a Specific Use Permit use only in the following zones, subject to the regulations contained in this chapter:

1. C-2 commercial zone.
2. I-1 or I-2 Industrial.

B. All smoke shops and tobacco stores wishing to operate within the above zones after the effective date of the ordinance codified in this chapter must obtain a sprcific use permit (SUP).

C. Additional zoning and land use standards for smoke shops and tobacco stores shall be as follows:

1. Smoke shops and tobacco stores shall not be located within 300 feet, measured property line to property line, from a school (public or private), family day care home, child care facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses where children regularly gather.
2. Smoke shops and tobacco stores shall not be located within 500 feet, measured property line to property line, from another smoke shop and tobacco store.
3. It is unlawful for a smoke shop and tobacco store to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any smoke shop and tobacco store.
4. Smoke shops and tobacco stores shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the smoke shop and tobacco store. It shall be unlawful for a smoke shop and tobacco store to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.
5. All customers must have ID checked to confirm over 18.

6. Retailers must register with the state of Texas and file information about customer or store with the comptroller.

D. Standard conditions of approval for any SUP shall, at minimum, include the following:

1. No smoking shall be permitted on the premises at any time.
2. No sales may be solicited or conducted on the premises by minors.
3. No self-service tobacco, tobacco product, or tobacco paraphernalia displays shall be permitted.
4. No distribution of free or low-cost tobacco, tobacco products or tobacco paraphernalia, as well as coupons for said items, shall be permitted.

E. Smoke shops and tobacco stores that are legally existing on the effective date of the ordinance codified in this chapter may continue to operate as legal nonconforming uses and shall not be required to obtain a specific use permit. However, any change or expansion of the legal nonconforming use may require compliance with this chapter and a specific use permit.



## **Planning and Zoning Commission Agenda October 5, 2020**

### **Agenda Item: Direction on revisions to the Landscape Ordinance and Tree Preservation (Action Item)**

#### **Agenda Description:**

Discuss, consider and possible action on giving staff direction on revisions to the Landscape Ordinance and Tree Preservation standards.

#### **Background Information:**

The City of Pilot Point adopted a landscape ordinance in 2007. This ordinance language is attached. It has landscape requirements for multi-family development but only says that 20% of any other development should be landscaped and has no requirements of what landscaping is. It has requirements if you are preserving a tree but has no requirement or consequence if you don't preserve any trees.

Staff has been directed to write requirements for tree preservation which in staff's opinion should be written into a revised landscape ordinance. Staff is proposing to use Little Elm's ordinance as a base from which to work from. This is only a draft and is attached for your review.

In 2014, the city of Pilot Point adopted the Corridor Design Standards which apply to all property within 350 feet of the centerline of US 377 and Washington. This ordinance has some landscape requirements which includes the following:

1. 25 landscape setback in which one large tree shall be planted for every 50 linear feet OR one small tree shall be planted for every 25' of street frontage.

#### **Financial Information:**

N/A

#### **Contact and Recommendations:**

John Taylor, Development Services Director

#### **Attachments:**

Existing Landscape Ord. language

Draft Landscape Ordinance using Little Elm as a base

## Sec. 14.02.152 Landscape regulations

(a) Purpose. It is the purpose of this section to establish certain regulations pertaining to landscaping within the city. These regulations provide standards and criteria for new landscaping and the retention of existing trees, which are intended to:

- (1) Promote the value of property, enhance the welfare, and improve the physical appearance of the city;
- (2) Reduce the negative effects of glare, noise, erosion and sedimentation caused by expanses of impervious and un-vegetated surfaces within the urban environment;
- (3) Preserve and improve the natural and urban environment by recognizing that the use of landscaping elements and retention of existing trees can contribute to air purification, oxygen regeneration, groundwater recharge, the provision of habitats for wildlife and enhance the overall beauty of the city.

(b) Landscape plan required.

- (1) The landscape plan may be prepared by the applicant or the applicant's designee. The landscape plan is not required to be prepared by a registered or certified professional;
- (2) The landscape plan may be submitted as a part of the site plan or as a separate submittal. A landscape plan meeting the requirements of this section shall be provided and approved prior to the issuance of a building permit;
- (3) The landscape plan shall contain the following information:
  - (A) North arrow;
  - (B) Date of plan submittal;
  - (C) Location, size and species of all trees to be preserved;
  - (D) Location of all plants and landscaping material to be used including, but not limited to, paving, benches, screens, fountains, statues, ponds/lakes, or other landscape features;
  - (E) Topography;
  - (F) Size of all plant material to be used;
  - (G) Spacing of plant material where appropriate;
  - (H) Layout and description of irrigation, sprinkler or water system, including placement of water sources;
  - (I) Description of maintenance provisions of the landscape plan;
  - (J) Persons responsible for the preparation of the landscape plan.

(c) Landscape installation required.

- (1) Twenty percent (20%) of the total land area in any proposed multi-family residential development or construction that occurs for any use after the effective date of the ordinance from which this section derives shall be landscaped. This twenty percent (20%) requirement shall apply to each phase as it is developed;

- (2) Where the construction is to be a single phase or multi-phase development, only the area being constructed in the current phase needs to be subject to the landscape regulations. Each phase will be required to meet the landscaping requirements as they are being developed;
- (3) The use of native and adapted, drought tolerant plants are encouraged to meet requirements of this section;
- (4) Artificial plants or turf are expressly prohibited;
- (5) Species of trees shall be approved by the city;
- (6) An irrigation system must be provided with all landscape plans.

(d) Tree protection. Unless otherwise approved in writing by the building official, the following procedures shall be followed on all construction projects to protect existing trees to be preserved in order to satisfy the requirements of this section.

- (1) All preserved trees shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of four feet (4') or more so that the tape is very visible to workers operating construction equipment;
- (2) A protective fencing may be required by the building official for trees to be preserved if the trees are located so close to the construction area that construction equipment will infringe upon the root systems. The fence will be placed between the trees and the construction activity in a manner to ensure that the tree roots, up to the drip line, will be protected from construction equipment.

(e) MF-3 multi-family requirements. The following standards shall apply to all MF-3 zoning. Standards that are set forth in this section for the provision of trees may be met by saving existing, on-site trees of six inches (6") minimum caliper, measured twelve inches (12") above grade, or by planting new trees.

(1) Parking lot landscaping requirements. The following standards shall apply to all MF-3 zoning districts:

(A) A landscaped strip shall be provided adjacent to all public and private rights-of-way. The landscaped strip shall be a minimum of twenty feet (20') in width, exclusive of street right-of-way. Landscaping shall be required as follows:

- (i) One (1) canopy street tree or two (2) ornamental trees, for each 60 linear feet of frontage, at a minimum three-inch (3") caliper.
- (ii) An average density of one (1), five (5) gallon evergreen shrub for each five (5) linear feet of frontage, provided however, that any landscaping materials that will be located within ten feet (10') of any public right-of-way shall not, at ultimate growth, exceed two feet (2') in height unless otherwise permitted by the city. Shrubs may be grouped to provide variety in design.
- (iii) A landscaped berm may be provided in lieu of required shrubs. The berm must be an average height of three feet (3'), but in no case less than eighteen inches (18"), above the average grade of the street and parking lot curbs, and must be planted with evergreen groundcover

and/or shrubs to provide full plant coverage of the berm surface area. A variation in height of the berm is encouraged. Shrubs may be grouped to provide variety in design. The combined height of the berm and ultimate height of plant materials shall not exceed two (2) feet in any area that is within ten (10) feet of a public right-of-way.

(B) Parking lots consisting of one hundred (100) or fewer parking spaces shall provide an average of not less than two (2) interior landscape islands, at a minimum of one hundred and sixty-two (162) square feet for each twelve (12) parking spaces. Plant materials shall be provided as shown below:

(i) One (1) canopy street tree or one ornamental tree at a minimum three inches (3") in caliper.

(ii) Evergreen ground cover, or shrubs to a maximum ultimate height of three feet (3'), of a type that will provide full coverage of the landscape island shall be provided, exclusive of the area within three feet (3') of each required tree.

(iii) Areas that are not covered with live plant materials shall be permanently maintained with natural mulch materials such as hard wood, pine bark, or other typical mulch materials.

(C) Compartmentalized parking lots shall provide landscaped medians at a minimum six-foot (6') width. Such medians shall be located, at a minimum, along the entire distance of three (3) sides of the parking compartment. Providing, however, that required landscape areas adjacent to public roadways may serve as a compartment median if the roadway landscaping area is immediately adjacent to the parking compartment.

(D) Parking compartment median landscaping shall conform to the following minimum landscape requirements:

(i) One (1) canopy street tree or two (2) ornamental trees, for each 60 linear feet of frontage, at a minimum three-inch (3") caliper.

(ii) One (1), five (5) gallon evergreen shrub for each five (5) linear feet of median, at a maximum of three feet (3') in height at ultimate growth.

(iii) Ground cover or shrubs of a type that will provide full coverage of the median planting area shall be provided, exclusive of the area within three feet (3') of each required tree. Plant materials shall not exceed a maximum ultimate height of two feet (2').

(iv) Any areas that are not covered with live plant materials shall be permanently maintained with a natural mulching material such as hard wood, pine bark, or other typical mulching material.

(v) Alternative landscape designs may be considered by the city council for approval.

(f) General landscaping requirements.

(1) Landscape planting shall not be erected or installed in such a manner to interfere with traffic view or impose safety hazards.

- (2) Landscapes should be designed to provide a natural appearance whenever possible. Design alternatives may include a variety of heights, clustering plant materials or other means that will achieve the desired effect.
- (3) If a parking lot is located fifty feet (50') or more from the street right-of-way, no shrubs or berms will be required.
- (4) Landscaping that, at ultimate growth, will be located within five feet (5') of any public right-of-way shall not exceed two feet (2') in height unless otherwise permitted or limited by the city.
- (5) It shall be the duty of every owner or occupant of any property in the city to keep any and all trees trimmed and pruned of limbs, branches and foliage that overhangs or obtrudes upon or over any dedicated public right-of-way, alley, or easement, where vehicles are driven to a minimum clearance of fourteen (14) feet above the surface. (Ordinance 338-12-2017 adopted 10/9/17)
- (6) Three (3) square feet of annual or perennial flowering plant beds may be substituted for each required 5-foot shrub.
- (7) Parking lot landscaping requirements shall be met for all customer and employee parking.
- (8) All landscaped areas, including the permeable areas and drip lines around trees and planting beds used for visual screening which abut any parking lot or vehicular travel area, shall be protected with curbs, tire stops/parking blocks or similar barriers sufficient to protect them from vehicular intrusion.
- (9) All landscaped areas shall be permanently maintained and provided with an automatic irrigation system.

(Ordinance 031-07-2007 adopted 7/9/07)

## DIVISION 2. - LANDSCAPING AND TREE PRESERVATION

### Sec. 106.06.11 - Landscaping general administration.

- (a) *Purpose and intent.* It is the purpose of this section to establish certain regulations pertaining to landscaping within the City of Pilot Point. The city recognizes that landscaping can be a significant expense to businesses and residents. At the same time, landscaping improves the livability of residential neighborhoods, enhances the appearance and customer attraction of commercial areas, increases property values, improves the compatibility of adjacent uses, screens undesirable views, and can reduce air and noise pollution. Furthermore, these regulations provide standards and criteria for new landscaping which are intended to promote the value of property, enhance the welfare, and improve the physical appearance of the city.
- (b) *Scope.*
  - (1) The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new development and existing developments that are expanding or redeveloping 30 percent or more of that development. In addition, any project authorized as a planned development (PD) must comply with the standards set forth in the PD. In unique situations, the director shall have the ability to review and modify the applicability of these standards to proposed development.
  - (2) The official tree board for the City of Pilot Point shall be the planning and zoning commission.
- (c) *Enforcement.* The provision of this section shall be administered and enforced by the director. If, at any time after the issuance of a certificate of occupancy (CO), the approved landscaping is found to be in nonconformance to the standards and criteria of this section or to the approved landscape plan, the director shall issue notice to the owner, citing the violation and describing what action is required to comply with this section. The owner, tenant or agent shall have 30 days from the date of said notice to restore the landscaping as required. If the landscaping is not restored within the allotted time, such person shall be in violation of the ordinance from which this article derives and is subject to fines and the loss of the CO.
- (d) *Permits.*
  - (1) Prior to the issuance of a building, paving or construction permit for any use other than single-family dwellings, a landscape plan shall be submitted to and approved by the community development department. In the event that the proposed development requires an approved site plan or master development plan, final approval shall not be granted until a landscape plan is submitted and approved.
  - (2) Prior to the issuance of a certificate of occupancy (CO) for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan required this section.
  - (3) In any case in which a CO is sought at a time in which the director determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, a CO may be issued notwithstanding the fact that the landscaping required by the landscape plan has not been completed provided the applicant deposits cash in an escrow account in the amount of the estimated cost of landscaping that complies with this article. Such escrow deposit shall be conditioned upon the installation of all required landscaping within six months of the date of the application and shall give the city the right to draw upon the escrow deposit to complete the said landscaping if the applicant fails to do so.
- (e) *Tree removal/alteration.* Prior to the removal or the critical alteration of any protected tree in the city, an application for tree removal permit must be submitted and approved, unless otherwise exempt under a provision of the ordinance from which this section derives.

- (1) *Tree removal permit.* Any tree survey proposing the removal of a protected tree or trees shall be accompanied by a tree removal application. The burden shall be upon the applicant to show the necessity for any and all trees proposed for removal.
  - (2) *Fees.* All tree removal applications shall be accompanied by a check made payable to the City of Pilot Point in the amount specified by city council.
  - (3) *Authority for review.* The director shall be responsible for the review and approval of all permit applications for tree removal submitted in accordance with the requirements specified herein.
  - (4) *Denial.* The director shall deny a tree removal application if it is determined that any of the following conditions exist:
    - a. Removal of the tree is not reasonably required in order to conduct anticipated activities or to develop the property; or
    - b. A reasonable accommodation can be made to preserve the tree; or
    - c. The purpose and intent of this chapter is not being met by the applicant.
  - (5) *Appeals.* Any decision made may be appealed to the planning and zoning commission acting as the tree board. All decisions made by the commission shall be final and binding.
  - (6) *Permit expiration.* Permits for tree removal issued in connection with a building permit shall be valid for the period of that building permit's term. Permit(s) for tree removal not issued in connection with a building permit shall become void 180 days after the issue date on the permit.
- (f) *Tree survey required.* All grading permits, building permits, tree removal permits, and any other development and construction permits shall contain a tree survey of the subject property, or a note on the landscape plan stating that no protected trees are located on-site.
- (1) *Tree survey requirements.* Tree surveys shall:
    - a. Include all individual trees which have a DBH of six inches or greater or which are otherwise noteworthy because of species, age, size or rarity.
    - b. Contain a tree location map identifying each tree by its caliper size (at DBH), common name, scientific species categorization, whether the tree is located in a floodplain or not, and whether the tree is proposed to be removed, transplanted/relocated, or preserved.
    - c. Illustrate the location of all existing and proposed buildings, structures, floodplains, pools, and other existing or proposed improvements for the site, including the limits of construction line, if applicable.
    - d. The name and phone number of arborist, licensed surveyor, or landscape architect who prepared the survey.
    - e. These requirements may be modified by the director as needed to administer the ordinance from which this division derives. Upon prior approval by the director, the map exhibit may be limited only to the applicable portion of the site. An aerial photograph may be allowed if it clearly meets these requirements and the intent of the ordinance.
- (g) *Exceptions.*
- (1) No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging or other means, any protected tree situated on property regulated by this division without first obtaining a tree removal permit unless otherwise specified in this division.
  - (2) A tree removal permit and tree mitigation requirements shall not be required under any of the following circumstances:
    - a. *Private property.* An individually platted parcel zoned for residential uses and used as a homestead shall be exempt from the tree protection and replacement requirements of this division as it pertains to that residential property, until such time as the property is no longer used as a single-family residence.

- b. *Damaged/diseased trees.* The tree is dead, diseased, damaged beyond the point of recovery, in danger of falling, or endangers the public health, welfare or safety, as determined by the director. This would include removal of a diseased tree by the city to reduce the chance of spreading the disease to adjacent healthy trees. This exception does not apply to newly planted trees that have died that are part of landscape plan, nor native trees that have short shelf lives.
- c. *Public infrastructure.* Rights-of-way, capital improvement projects, bridges, and other activity conducted by a municipal entity, whether leased or owned, excluding property used for administration offices or functions.
- d. *Utility service interruption.* The tree has disrupted a public utility service due to a tornado, storm, flood, or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to reestablish and maintain reliable utility service.
- e. *Business interests.* The following business ventures shall be exempt from the requirements specified herein as follows:
  - 1. *Landscape nursery.* All licensed plant or tree nurseries shall be exempt from the tree protection and replacement requirements and from the tree removal permit requirements only in relation to those trees planted and growing on the premises which are so planted and growing for the sale to the general public.
  - 2. *Golf course .* Golf courses shall be exempt from the tree protection and replacement requirements and from the tree removal permit requirements for removal of protected trees within areas designated as tee boxes, fairways or greens. All other areas shall be subject to these requirements.

(Ord. No. 1407, § 2, 8-15-2017)

Sec. 106.06.12 - Landscaping definitions.

*Berm.* An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise levels.

*Bubbler.* An irrigation type that allows water to gently soak into the ground with minimal erosion or loss of water.

*Buffer.* The use of landscaping (other than grass on flat terrain), either alone or in conjunction with berms, walls or decorative fences that at least partially and periodically obstruct the view from the street, in a continuous manner, of vehicular use areas, parking lots and their parked cars and detention ponds.

*Caliper.* The diameter of a tree trunk measured 12 inches above ground level. The caliper of a multi-trunk tree is determined by the full caliper of the largest trunk, plus half the caliper of the other trunks. This measurement is used for newly planted trees.

*Critical root zone.* The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

*DBH.* Diameter-at-breast-height (caliper) is calculated by measuring the tree trunk diameter in inches at a height of four and one-half feet above the ground. If a tree splits into multiple trunks below four and one-half feet, the tree shall be measured in two places, the narrowest point beneath the split and sum of the calipers of the trunks immediately above the split. Whichever is the greater measurement is to be the measurement applied. This measurement is used for existing trees.

*Director.* The director of development services of the City of Pilot Point and includes his or her designee.

*Drip line.* A vertical line run through the outermost portion of the canopy (leafy portion) of a tree and extending to the ground.

*Drought tolerant/low water demand plant.* The ability of a plant to be drought tolerant is primarily due to the plant's ability to limit water loss through the leaves and acquire more water through the roots. Plants have developed several mechanisms to reduce water loss, many of which can be recognized in native and cultivated plants. Characteristics of drought tolerant plants include: small, narrow, or pinnate leaves; fuzzy surfaces; resinous surfaces; leathery leaves; and/or succulence.

*Green.* An open space, available for unstructured recreation. A green may be spatially defined by streets, landscaping, and/or building frontages. Its landscape shall consist of lawn and trees.

*Groundcover.* Low growing plants, deciduous or evergreen species that cover the ground and used instead of turf. Plants that generally do not exceed 18 inches in height are classified as groundcover.

*Impervious.* A substance that does not allow the passage of water through it.

*Irrigation system.* An automatic watering system designed for watering landscaping and landscaped areas for a specified amount of time at a specified time of day. Irrigation systems are typically used to conserve water and time. All irrigation systems shall be equipped with an approved backflow prevention device to protect the water supply (if connected to Pilot Point water supply) and a freeze and rain sensor.

*Landscaped area.* The area within the boundaries of a given lot or, where applicable, the adjoining street right-of-way, which is devoted to and consists of plant material, including, but not limited to, grass, trees, shrubs, flowers, vines and other groundcover, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features.

*Landscaping.* Any live plant material such as trees, shrubs, groundcover and grass used in spaces void of any impervious material or building structure and areas left in their natural state.

*Large canopy tree.* Sometimes evergreen, but more commonly deciduous tree planted for its high crown of foliage or overhead canopy, a large woody perennial having one or more self-supporting trunks and numerous branches reaching a mature height of at least 30 feet and a mature spread of at least 25 feet. See the recommended plant materials chart for a listing of acceptable large canopy tree varieties.

*Low water use irrigation system.* The term low water use irrigation system is used to describe any low pressure system that applies water in a controlled area. The most important feature of these systems is that it applies water very slowly and allows the water to be absorbed fully into the soil with minimal evaporation loss.

*Ornamental grasses.* A grass type that is generally considered in the landscaping industry to have ornamental qualities, and which is typically grown in a flower garden. Typically grows to a height of between six inches and 36 inches and does not tolerate being cut below six inches. These said grasses are usually used as an accent grass and not the main coverage of a yard. These grasses are commonly grown for the display of their leaves or flowers and may contain a variety of colors depending on the season.

*Parkway.* The area of public right-of-way located between the curb or edge of pavement and the property line or between the curb or edge of pavement and the sidewalk.

*Plaza.* An open space available for civic purposes and public commercial activities. A plaza is spatially defined by adjacent building frontages. Its landscape shall consist primarily of pavement, but may include shade in the form of planters with small ornamental trees or structure. Plazas frequently utilize fountains or water features.

*Protective fencing.* Snow fencing, chain link fence, orange vinyl construction fencing, or other similar fencing which is approximately four feet in height. This fencing is meant to be of a temporary nature.

*Screening.* A technique used to protect and separate uses and site functions from one another for the purpose of decreasing adverse noise, wind or visual impacts and to provide privacy (e.g., walls, fences, berms, landscaping).

*Shrub.* A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at maturity.

*Sight triangle (visibility triangle).* The area of unrestricted visibility required at a corner to allow for the observation of other vehicular movement, pedestrians and cyclists in the proximity of intersecting streets and sidewalks.

*Small ornamental tree.* A relatively low growing tree at least seven feet at planting, that may grow to a mature height of up to 25 feet and a mature spread of up to 25 feet and provide color due to its fruit (berries), flowers or leaves. See the recommended plant materials chart for a listing of acceptable small ornamental tree varieties.

*Square.* An open space available for unstructured recreation and civic purposes. A square is spatially defined by building frontages or streets. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important thoroughfares.

*Topsoil.* Topsoil is the surface layer of soil containing partly decomposed organic debris, and which is usually high in nutrients. This term may also apply to good quality soil sold at nurseries and garden centers.

*Tree, protected.* Any tree that has a trunk DBH of six inches or greater at a height of four and one-half feet above the ground or which is otherwise noteworthy because of species, age, size or rarity.

*Tree valuation.* An established value set by the National Arborist Association per the tree valuation schedule, set forth herein to be used for all purposes of this article. See section 106.06.22(h), "tree mitigation."

*Turf grass.* Grass commonly used in regularly cut lawns or play areas, such as, but not limited to: Bermuda, St. Augustine, Fescue and Ryegrass blends.

*Urban tree.* A tree specifically selected for its ability to withstand harsh urban conditions, its relatively low maintenance, its suitability for use in the streetscape through its noninvasive root system and upright branching habit, and its associated imagery and overtones. See the recommended plant materials chart for a listing of acceptable urban tree varieties.

*Weeds.* Vegetation that because of its height and growth pattern is objectionable, unsightly or unsanitary; this term specifically excludes ornamental grasses, shrubs, bushes and trees, cultivated flowers and cultivated crops.

*Xeriscaping.* A method of landscaping that emphasizes water conservation, accomplished by following sound horticultural and landscaping practices, such as planning and design, soil improvement, limited turf areas, use of mulches, use of low water demand plants, efficient irrigation practices and appropriate maintenance.

*Yard, front.* The area extending across the front of a lot between the side lot lines and the minimum horizontal distance between the street, the main building or any projections thereof other than the projections of uncovered steps, balconies or porches. On corner lots, the front yard shall face the street on which the lot has the shortest dimension.

*Yard, rear.* The area extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches.

*Yard, side.* The area between the main building and the side line of the lot, and extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.

(Ord. No. 1407, § 2, 8-15-2017)

Sec. 106.06.13 - Landscaping plans.

- (a) *Landscape plan submittal.* Landscape plans shall be submitted to the development services department from a licensed landscape architect as a part of the site plan submittal. The director or his designee shall review such plans for compliance with the criteria of these regulations. If the plans

are not in accord or complete, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

(b) *Landscape plan requirements.* Landscape plans must be prepared and sealed by a registered landscape architect and shall contain the following information:

- (1) Minimum scale of one inch equals 50 feet;
- (2) A symbol indicating north;
- (3) A tree survey with the location, size and species of all on-site trees; or a note indicating that no protected trees exist on-site;
- (4) Location of all plant and landscaping material to be used including plants, paving, benches, screens, fountains, statues or other landscape features;
- (5) The species, size, spacing and quantities of all plant material to be used in a tabular form (shall be from the recommended plant materials list);
- (6) A list of all plant material proposed to be used that does not come from the recommended plant materials list. This plant material must also be specifically designated on the landscape plan;
- (7) The date of the landscape plan, including any revision dates;
- (8) Layout and description of irrigation systems including placement of water sources. A Texas License Irrigation Seal is necessary on all irrigation plans;
- (9) Description of detention and retention facilities (if applicable);
- (10) Description of maintenance provision for the landscape plan;
- (11) Person(s) responsible for the preparation of landscape plan, including the landscape architect's seal;
- (12) Dimensions of all required landscape setbacks;
- (13) Description of any hardscape features;
- (14) Parking lot layout with location of dumpster(s) and dumpster screen(s);
- (15) An analysis table of ordinance requirements and the associated landscaping (including point requirements, interior and perimeter landscaping);
- (16) Indication that all landscaped areas, including parkways and medians, will have a minimum of six inches of topsoil;
- (17) Additional information as deemed necessary to adequately evaluate the landscape plan.
- (18) Dumpster enclosure(s) shall be shown on the landscape plan. Dumpster enclosures shall not be seen from the public right-of-way. Screening of the dumpsters shall be of the same masonry material as the primary structure and be a minimum of eight feet in height. Evergreen shrubs, 24 inches in height at the time of planting, shall be planted on the three solid masonry sides of the dumpster enclosure, spaced three feet on center.

(c) *Landscape plan standard notes.* The following standard notations shall be placed on all landscape plans:

- (1) The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, and fertilizing, watering, weeding and such activities common to the maintenance of landscaping.
- (2) Landscape areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping.
- (3) No substitutions for plant materials are allowed without written approval by the director and acknowledged by an approval stamp on the landscape plan.

- (4) The right-of-way adjacent to required landscape areas shall be maintained by the adjacent property owner in the same manner as the required landscape area. All driveways will maintain visibility as approved by the director. All plantings intended for erosion control will be maintained. The city may require revegetation to prevent erosion or slippage.
- (5) All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within 30 days or a date approved by the director, based on current seasons and weather conditions (e.g. drought or freeze).
- (6) When power lines are present, trees shall not be planted underneath and should be oriented in a manner to avoid conflict. Substitution of plant material is not allowed without prior written authorization from the director.
- (7) All required landscape areas shall be provided with an automatic underground irrigation system with rain and freeze sensors and evapotranspiration (ET) weather-based controllers and said irrigation system shall be designed by a qualified professional and installed by a licensed irrigator.
- (8) All trees are to be equipped with a bubbler irrigation system.
- (9) Required landscaped open areas and disturbed soil areas shall be completely covered with living plant material, per the landscape ordinance.
- (10) All landscaping shall be in a planned area that is defined by edging, mulch or another practice approved by the city.
- (11) All streetscape furniture (benches, bollards, lampposts, trash receptacles, patio furniture, bike racks, etc.) shall be a chip and flake resistant metal, decorative, and generally black "storm cloud" in color.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527, § 2, 10-15-2019)

Sec. 106.06.14 - Landscaping standards.

- (a) *Quality.* Plant materials used in conformance with the provisions of this article shall conform to the standards of the American Standard for Nursery Stock, or equal thereto. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.
- (b) *Quantity.* The quantity of plant material required by this article must equal or exceed the minimum number of plants required by this article. Unless otherwise noted on the approved landscape plan, required plant material can be placed in groupings or utilized in appropriate planting designs that are proposed by the landscape architect and approved by the city. All required landscaped open areas shall be completely covered with living plant material. Mulch and rock can be used in conjunction with shrub and tree plantings in smaller areas.
- (c) *Trees.* Trees required by this article shall be from the recommended plant materials list or a species recommended by the landscape architect and approved on the landscape plan. All required trees shall be common to this area of Texas, and shall have a single trunk limbed up to six feet. Trees shall be of a minimum of four caliper inches when measured 12 inches above ground at time of planting. When the type of tree required is unclear, it is assumed that a large canopy tree is required, unless otherwise approved by the director.
  - (1) No more than 25 percent of the required trees shall be of the same species for any tree type (large, small, or urban) in order to discourage monocultures and the spread of disease.
  - (2) Three trees from the small ornamental tree list may be substituted for one large canopy tree, not to exceed 25 percent of the required large trees if approved by the City.
  - (3) Large canopy trees must be planted four feet or greater from curbs, sidewalks, utility lines, screening walls and/or other structures. Small trees can be placed closer than four feet, with

approval on landscape plan. Utility installation that includes common trench and conduit banks is exempt from the large canopy tree planting distance requirements.

- (4) Trees and shrubs shall not overhang or encroach upon walkways, drives, parking areas, and traffic signs to the extent that they interfere with the intended use of these facilities.
  - (5) Tree wells shall be a minimum 20 square feet in size with generally similar lengths and widths.
  - (6) No landscaping shall be required for the interior of structured parking facilities.
- (d) *Shrubs and hedges.* Evergreen screening plants shall be at least 36 inches high at time of planting and shall be a type and species on the recommended plant list that will attain a minimum height of four feet within 18 months of planting and will form a continuous hedge. Sporadic breaks in the hedge row may be approved to achieve unique designs.
  - (e) *Vines.* Vines shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens or walls to meet screening requirements as specified.
  - (f) *Groundcover.* Groundcovers 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 complete coverage within one year of planting.
  - (g) *Lawn grass.* Grass areas shall be sodded, except that large, expansive lawn areas may be hydromulched, plugged, sprigged or seeded with approval from the director, as long as the edges, adjacent to the curb and within six feet of the sidewalk or curb, are sodded, to reduce water and soil runoff.
  - (h) *Hardscape.* Horizontal hardscape elements, where required, should utilize smooth cobble river stone, where appropriate.
  - (i) *Credit for existing trees.* Any protected trees preserved on a site meeting the herein specifications shall be credited toward meeting the tree requirement of landscaping provisions that apply to the area where the tree is preserved. Trees of exceptional quality due to size, large canopy cover, trunk diameter, rareness, age or species may, at the discretion of the director, be credited as two trees under the minimum landscape area requirements.
  - (j) *Compliance letter.* Prior to issuance of a Certificate of Occupancy (CO), a letter must be submitted to the director from the landscape architect indicating the site is in compliance with the approved landscape plan.
  - (k) *Detention/retention ponds.* Stormwater control devices, such as detention/retention basins and ponds, shall be landscaped to reduce their visual impacts. Such landscaping shall not negatively impact the operation of such devices, but may include suitable planting materials that will control siltation and erosion, and in all cases shall be sodded. Ponds shall be designed in the following ways, subject to review and approval by the city engineer:
    - (1) Amenity retention (wet) ponds shall be designed in a manner to be an amenity to the development by providing a gentle six-to-one (6:1) slope (a partial decorative stone retaining wall may be allowed), a large canopy tree for each 20 linear feet of the perimeter (which may be clustered), benches, fountains, trash receptacles and public art. Such ponds shall include aeration to ensure water quality. The area shall be accessible by patrons and be maintained by the property owner or established property owners association.
    - (2) Amenity detention (dry) ponds shall be designed in a manner to be an amenity to the development by providing a gentle six-to-one (6:1) slope (a partial decorative stone retaining wall may be allowed), a large canopy tree for each 30 linear feet of the perimeter (which may be clustered), benches and trash receptacles.
    - (3) Basic (dry) ponds shall have a decorative retaining wall or slopes no greater than four-to-one (4:1), shall provide a large canopy tree each 30 linear feet of the perimeter, and shall provide a minimum four-inch-high black tubular metal (wrought iron style) fence around the perimeter with evergreen screening.

(Ord. No. 1407, § 2, 8-15-2017; Ord. No. 1527, § 2, 10-15-2019)

Sec. 106.06.15 - Plant list.

(a) *Approved list of plant materials.* All required plant material, including required residential trees, shall be from the following list unless alternate plant materials are approved through the landscape plan:

<b>ARTICLE VI, TABLE D - PLANT LIST, APPROVED</b>		
<b>LARGE CANOPY TREES</b>		
Bald Cypress	Bigtooth Maple	Burr Oak
Caddo Maple	Cedar Elm	Chinquapin Oak
Chinese Pistache	Dawn Redwood	Ginkgo
Homestead Elm	Italian Stone Pine	Lacebark Elm
Live Oak	Montezuma Cypress	Pecan
Pond Cypress	Red Oak	Shantung Maple
Southern Magnolia	Texas Ash	Trident Red Maple
Urbanite Ash	Shagbark Hickory	Deodar Cedar
Shumard Red Oak	Western Soapberry	Winged Elm
American Elm	Chinese Elm	Texas Persimmon
Autumn Blaze Maple	Russian Olive	Honey Locust
Black Walnut	Eastern Black Walnut	Eastern Red Cedar
Red Cedar	Sweetgum	Texas Pistache
<b>SMALL ORNAMENTAL TREES</b>		
American Smoketree	Carolina Buckthorn	Crepe Myrtle (tree form)

Desert Willow	Dogwood	Eve's Necklace
Flameleaf Sumac	Golden Raintree	Italian Cypress
Japanese Maple	Lacey Oak	Mexican Buckeye
Possumhaw Holly	Redbud	Savannah Holly
Teddy Bear Magnolia	Viburnum	Vitex
Wax Myrtle	Yaupon Holly	River Birch
Eastern Redbud	Eastern Platka Holly	Foster Holly
Flowering Crabapple	Afgan (Eldarica) Pine	Ornamental Plum
Cherry Laurel	Purple Plum	Mexican Plum
Callery Pear	Flowering Pear	Texas Sophora
Chaste Tree		
<b>URBAN TREES</b>		
Allee (Lacebark) Elm	Chinese Pistache	Ginkgo
Homestead Elm	Lacey Oak	Pond Cypress
Shantung Maple	Teddy Bear Magnolia	Urbanite Ash
<b>DESERT TREES</b>		
Chinese Windmill	Dwarf Palmetto	Mexican Blue Palm
Mexican Sabal Palm	Pindo Palm	Washington Fan Palm
<b>EVERGREEN SCREENING SHRUBS (low - less than 5 ft.)</b>		
Agarito	Boxwood	Dwarf Abelia

Dwarf Burford Holly	Elaeagnus (Silverberry)	Euonymus
Grayleaf Cotoneaster	Indian Hawthorn	Juniper (several varieties)
Nandina	Texas Sage	
<b>EVERGREEN SCREENING SHRUBS (high - 5' or greater)</b>		
Austrian Black Pine	Cleyera	Eastern Red Cedar
Foster Holly	Leyland Cypress	Little Gem Magnolia
Nelly R. Steven's Holly	Sweet Viburnum	Waxleaf Ligustrum
<b>OTHER APPROVED SHRUBS</b>		
American Beautyberry	Apache Plume	Aralia
Aucuba	Autumn Sage	Azalea
Barberry	Black Dalea	Burning Bush
Chinese Fringe Flower	Desert Spoon	Dwarf Crepe Myrtle
Flowering Quince	Holly (multiple varieties)	Horizontal Cotoneaster
Leatherleaf Mahonia	Pampas Grass	Red Yucca
Rose (shrub form)	Spirea	Turk's Cap
<b>VINES</b>		
Boston Ivy	Carolina Jasmine	Confederate Star Jasmine
Coral Honeysuckle	Crossvine	English Ivy
Japanese Honeysuckle	Rose (climbing variety)	Trumpet Vine
Virginia Creeper		

GROUNDCOVER		
Ajuga	Asian Jasmine	Bermuda Grass
Buffalo Grass	Creeping Juniper	Fountain Grass
Liriope (Monkey Grass)	Mondo Grass	Purple Wintercreeper
St. Augustine	Tall Fescue	Zoysia
Article VI, Table D - Plant List, Prohibited		
Bois D'Arc	Bradford Pear	Catalpa
Cottonwood	Hackberry	Lombardy Poplar
Mesquite	Mimosa	Mulberry
Red Tip Photinia	Siberian Elm	Silver Maple

(Ord. No. 1407, § 2, 10-20-2009; Ord. No. 1527, § 2, 10-15-19)

Sec. 106.06.16 - Residential landscape requirements.

(a) *Single-Family requirements.*

- (1) *Landscape plans* . Landscape plans are not required for detached single-family homes or duplexes; however, the following standards must be met prior to the issuance of a certificate of occupancy.
- (2) *Irrigation required*. All front yards must be irrigated with an automatic underground irrigation system with rain and freeze sensors and evapotranspiration (ET) weather-based controllers.
- (3) *Tree bubblers required* . All trees are to be equipped with a bubbler irrigation system.
- (4) *Yard*: All residential lawns must be covered with vegetation, including grass, living groundcover, mulch, and/or decorative stone, in order to help hold the soil in place and prevent erosion. Mulch, living groundcover, gravel, rock gardens, and decorative stone may be used for patterns, beds, erosion control, and in other limited application; however their use shall not be the predominant groundcover.
  - a. *Stone, gravel and rock*. If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a residential front yard, no more than 30 percent of the yard area may be made up of these materials. Non-plant derived materials should be used as an accent to the areas of the lawn made up of sod, living ground cover, low bushes or

plants, or mulch and shall include vegetative plantings within the stone/rock beds. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.

b. *Artificial or synthetic turf* ( e.g. AstroTurf™). Artificial or synthetic turf is prohibited in any yard that can be viewed from a public street.

(5) *Vegetation requirement* ;i§ ..... i;. Trees shall be planted to meet the total number of caliper inches referenced in the table below. Required large trees shall not be smaller than four caliper inches; required small trees shall not be smaller than two caliper inches in size. All plants shall be selected from the approved plant list. Trees planted in the front yard or side yard on a corner shall be planted in the area between residence and the sidewalk. No trees shall be planted in the area between the sidewalk and the street pavement unless approved by the city.

ARTICLE VI, TABLE E			
VEGETATION REQUIRED PER RESIDENTIAL LOT			
Width of Lot	Number of Trees in Front Yard	Number of Trees in Rear Yard	Total Number of Shrubs
30—49-foot lot, front or J-swing entry	1 large	1 large/1 small	8
30—49-foot lot, rear entry	1 large	1 large	10
30—49-foot lot, corner lot	1 large/1 small	1 large	10
50—69-foot lot, front or J-swing entry	1 large/1 small	1 large/1 small	12
50—69-foot lot, rear entry	2 large/1 small	1 large	15
50—69-foot lot, corner lot	3 large/1 small	1 large	15
70—89-foot lot, front or J-swing entry	1 large/2 small	2 large/1 small	18
70—89-foot lot, rear entry	2 large, 1 small	1 large/2 small	22
70—89-foot lot, corner lot	3 large, 1 small	1 large/2 small	22
90-foot lot and larger, front or J-swing entry	2 large, 2 small	2 large/2 small	20
90-foot lot and larger, rear entry	2 large, 2 small	2 large/2 small	24

90-foot lot and larger, corner lot	3 large, 2 small	2 large/2 small	24
Cul-de-sac lots <sup>1</sup>			

Note 1. On a cul-de-sac lot or a lot with a pronounced curve limiting the area of the front yard, one large tree may be moved from the front to the rear lot but must be replaced with a small tree in the front yard.

- (6) *Hardscape* . All residential developments submitted after the adoption of this ordinance shall be required to include stained and stamped crosswalks at the entrances to the development.
  - (7) *Residential development entries* . The landscape island at the main or secondary entrances to the residential development shall be within a platted common area lot to be owned and maintained by the homeowners association (HOA). Landscaped entries shall be a minimum size of six feet by 30 feet and may include a monument entrance sign. Entry designs shall be subject to the approval of any HOA and the director.
- (b) *Cityhome requirements*.
- (1) *Minimum front yard landscaping* . Cityhome frontages shall be required to landscape a minimum of six feet between the edges of the sidewalk and the primary building facade, excluding access to sidewalks, stairs, stoops, porches and patios. This area shall be landscaped with groundcover, shrubs and a variety of tree types.
  - (2) *Minimum open space* . Open space and landscaping for cityhome developments:
    - a. A minimum open space for a cityhome development shall be an area equal to 15 percent of the building's footprint.
    - b. A minimum of three large canopy trees and six small ornamental trees shall be provided for every 1,600 square feet of open space area.
  - (3) *Hardscape* . All cityhome developments submitted after the adoption of this ordinance shall be required to include stained and stamped crosswalks from parking lots or structures to the main entrances of the buildings and other areas, as determined to be appropriate by the city.
  - (4) *Stone, gravel and rock* . If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a residential front yard, no more than 20 percent of the yard area may be made up of these materials. Non-plant derived materials should be used as an accent to the areas of the lawn made up of sod, living ground cover, low bushes or plants, or mulch and shall include vegetative plantings within the stone/rock beds. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
  - (5) *Artificial or synthetic turf* . Artificial or synthetic turf is prohibited.
  - (6) *Entrances to cityhome developments* . The landscape island at the main or secondary entrances to the cityhome development shall be within a platted common area lot to be owned and maintained by the homeowners association (HOA). Landscaped entries shall be a minimum size of six feet by 20 feet and may include a monument entrance sign. Entry designs shall be subject to the approval of any HOA and the city.

(Ord. No. 1407, § 2, 10-20-2009; Ord. No. 1527, § 2, 10-15-2019)

Sec. 106.06.17 - Multifamily landscape requirements.

(a) *Minimum open space.* New multi-family developments shall use the following regulations:

- (1) *Open space per bedroom.* Each lot or parcel of land used for multiple-family residences shall provide on the same lot or parcel of land usable open space, in accordance with the table below:

ARTICLE VI, TABLE F	
MULTIFAMILY OPEN SPACE REQUIRED PER BEDROOM	
Number of Bedrooms <sup>1</sup>	Open Space Required
1	400 square feet
Each additional bedroom over 1	Additional 300 square feet

Note 1. Each manufactured home site in the MH-2 district will be calculated as a two-bedroom unit for the open space requirement.

- (2) *Minimum dimensions.* Each open space area shall have a minimum dimension of not less than 30 feet.
- (3) *Minimum overall percentage of open space.* No less than 15 percent of the required open space shall be arranged or located as a contiguous mass. This contiguous mass must be located within the required open space.
- (4) *Credits for amenities.* In meeting this requirements, a credit of three (3) square feet may be applied for each square foot utilized for:
- a. Swimming pools and adjacent decks, patios or lounge areas within ten feet of a pool;
  - b. Developed and equipped children's play areas;
  - c. Usable portions of recreational buildings; and
  - d. Private balconies and enclosed patios with a minimum dimension of five square feet.
- Tennis courts are specifically excluded from this credit allowance.
- (5) *Credit for sloped areas.* At the time of site plan approval, the Planning and Zoning Commission and City Council may give full or partial credit for open areas that exceed the maximum slope, if it is determined that such areas are environmentally significant and that their preservation would enhance the development.
- (6) *Access to public parks.* At the time of site plan approval, the planning and zoning commission and city council may allow a credit not to exceed ten percent of the total required usable open space for adjacent and immediately accessible public parks. The combined credit for areas calculated at a three to one (3:1) basis and for public parks shall not exceed 50 percent of the total usable open space for an individual lot or parcel of land.
- (7) *Minimum number of trees in open space.* One large canopy tree shall be provided per 1,000 square feet of required open space.

- (8) *Hardscape* . All multi-family developments submitted after the adoption of this ordinance shall be required to include stained and stamped crosswalks from parking lots or structures to the main entrances of the buildings and other areas, as determined to be appropriate by the director.
- (9) *Stone, gravel and rock* . If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a residential front yard, no more than 20 percent of the yard area may be made up of these materials. Non-plant derived materials should be used as an accent to the areas of the lawn made up of sod, living ground cover, low bushes or plants, or mulch and shall include vegetative plantings within the stone/rock beds. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
- (10) *Mailboxes* . When mailboxes are grouped or clustered, they may be located in the right-of-way. The exterior of the mailbox structure shall be masonry to match the main buildings and the roof made of metal materials or materials that match the main buildings.
- (11) *Artificial or synthetic turf* . Artificial or synthetic turf is prohibited.
- (12) *Entrances to multi-family developments* . The landscape island at the main or secondary entrances to the multi-family development shall be within a platted lot to be owned and maintained by the management company. Landscaped entries shall be a minimum size of six feet by 30 feet and may include a monument entrance sign. Entry designs shall be subject to the approval of the director.
- (13) *Landscaping for corner lots and residential/multifamily driveways*.
  - a. A minimum landscaped area of 900 square feet shall be located at the intersection corner of the lot, and commercial main entrance as shown on the landscape/site plan.
  - b. The landscaped area shall be provided within an area measured a minimum distance of 40 feet from the projected corner of the intersection on both sides of the lot or main entrance area.

Sec. 106.06.18 - Commercial landscape requirements.

(a) *Interior landscape requirements*.

- (1) *Minimum landscaped area* . A minimum of ten percent of the gross vehicular use area shall be devoted to living landscape which includes grass, groundcover, plants, shrubs and trees. This is to be measured from the edge of the parking and/or driveway paving and sidewalks. Where practical, the majority of this landscaped area should be visible from the roadway.
- (2) *Minimum trees provided overall* . There shall be a minimum of one large canopy tree planted for each 400 square feet or fraction thereof of required interior landscape area. Three small ornamental trees, a minimum of six feet in height and three inches in diameter, may be substituted for one required large canopy tree not to exceed 25 percent of the required large canopy trees if approved by the city.
- (3) *Parking lot islands and terminus row islands* . Interior areas of parking lots shall contain planting islands located so as to best relieve the expanse of paving. Such islands shall contain at least one large canopy tree, and shall be located at the terminus of all parking rows. The remainder of the island space shall be landscaped with shrubs, lawn and living groundcover not to exceed three feet in height. Any trees located within a planting island may be counted towards the required number of interior trees. The minimum total area of such islands shall be ten feet by 18 feet, but may design the radii to facilitate traffic maneuverability.
- (4) *Parking lot island spacing* . Planting islands shall not be spaced greater than every ten spaces unless approved on the landscape plan in order to preserve existing trees and natural features

or due to unique site features. Islands shall provide one large canopy tree. In all cases, the total area requirements for landscaped islands for the respective parking areas shall be satisfied.

- (5) *Parking lot swales* . In some cases, the use of landscaped swales in lieu of curbs and/or curb stops may be allowed. Appropriate drainage plans and plants must be submitted if this option is proposed.
  - (6) *Parking Lot medians* : There shall be a landscaped median between two rows of head-in parking, at every 20 spaces.
  - (7) *Big Box parking lot walkway* . "Big Box" stores shall provide a minimum ten (10) foot wide continuous landscape island every eight single rows of parking, with a large canopy tree every 30 linear feet, subject to review and approval by the city. This does not waive the requirement for terminus islands and trees on parking rows.
  - (8) *Entrances to Big Box stores* . In "big box" developments of 50,000 square feet or more, an urban tree shall be placed in a tree grate or tree well every 30 feet on center within a minimum 12 foot wide sidewalk along active storefronts and mixed-use building fronts. Trees may be clustered so not to block the main entrance. Facade trees are not required in areas with an architectural arcade.
  - (9) *Vehicular access drives* . A small ornamental tree is required along major access lanes every 25 linear feet within a development where reasonable, subject to review and approval by the director.
  - (10) *Pedestrian connections* . One urban tree is required along internal pedestrian connections every 30 linear feet.
  - (11) *Curbs and wheel stops* . All landscaped areas will be protected by a raised four inch concrete curb and/or wheel stop. Wheel stops are required for all perimeter parking spaces. Pavement will not be placed closer than four feet from the trunk of a tree unless approved by the director.
  - (12) *Hardscape* . All nonresidential developments submitted after the adoption of this ordinance shall be required to include stained and stamped crosswalks from parking lots or structures to the main entrances of the buildings and other areas, as determined to be appropriate by the director.
  - (13) *Variety* . The applicant is also encouraged to plant a variety of ornamental trees, shrubs and flowers in addition to the required plantings. Any permeable surface not occupied by trees, shrubs, planting beds, signs or other permitted fixtures shall be planted with turf or other living groundcover.
  - (14) *Stone, gravel and rock* . If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in an interior landscape area, no more than 20 percent of the area may be made up of these materials. Non-plant derived materials should be used as an accent to the landscaped areas made up of sod, living ground cover, low bushes, plants, or mulch and may include vegetative plantings within the stone/rock beds. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
  - (15) *Artificial or synthetic turf prohibited* (e.g. AstroTurf™). Artificial turf is prohibited in interior landscape areas.
  - (16) *Exception to interior landscape requirements* . Industrial uses shall be exempt from the interior landscape requirements, subject to review and approval by the director.
- (b) *Foundation planting and other landscaping.*
- a. Foundation plantings or sidewalk tree gates are required for buildings or groups of contiguous buildings that are 5,000 square feet or larger. One large canopy tree four inch minimum caliper, shall be required for every one thousand square feet of gross building area. These trees shall be located within 20 feet of the face of the building. These plantings are intended to provide pedestrian areas while breaking up the large areas of impervious surface. Trees required by

other sections of this ordinance will not meet this requirement. Trees can be grouped or planted in singular form. These tree plantings should be placed so as not to impede sign visibility or pedestrian safety.

- b. Trees planted less than four feet from the back of curb shall be located in a tree gate with a minimum dimension of four feet.
  - c. Ornamental trees may be substituted for half of the required large canopy trees at a building's foundation at the rate of five ornamentals for each required large tree with City approval.
  - d. The above requirements may be reduced if approved by the City and additional pedestrian features; such as plazas, seating areas, fountains, and outdoor recreation facilities are provided. These facilities must occupy an area equal to or greater than ten percent of the total building area.
- (c) *Landscaping for corner lots and commercial driveways.*
- a. A minimum landscaped area of 900 square feet shall be located at the intersection corner of the lot, and commercial main entrance as shown on the landscape/site plan.
  - b. The landscaped area shall be provided within an area measured a minimum distance of 40 feet from the projected corner of the intersection on both sides of the lot or main entrance area.
- (d) *Perimeter landscape requirements.*
- (1) *Vehicular screening from right-of-way* . All vehicular use areas shall be screened from all abutting properties and the public right-of-way with a wall, fence, evergreen hedge, berm or other durable landscape barrier. Plants and shrubs used in living barriers shall be at least 36 inches high at time of planting and shall be a type and species from the recommended plant list that will form a continuous hedge. Sporadic breaks in the hedge row may be approved to achieve unique designs. Any landscape barrier not containing live plants or trees shall be a minimum of three feet high at time of installation. One large tree four inch caliper minimum shall be planted per 20 linear feet of landscape edge.
  - (2) *Additional Screening.* Where any portion of parking lots, drives, access easements or other rights-of-way abut the landscape edge, shrubs 36 inches minimum shall be planted to form a contiguous buffer along the common boundary line.
    - i. The number of required shrubs shall be calculated solely on the area of the required landscaped edge.
    - ii. All landscaped areas including shrubs shall be planted in a defined planting bed or City approved area.
    - iii. A berm will be required in addition to shrubs if the pad site elevation at the property line is within two feet above or below the ROW elevation.
    - iv. The berm must be 24 to 40 inches above the average grade of the street and parking lot curbs.
    - v. The slope of the berm shall not exceed a 33 percent grade.
  - (3) *Minimum landscape buffer along rights-of-ways* . Except in the Lakefront District, for all residential, nonresidential and multiple-family parcels, a minimum 25 foot landscape buffer adjacent to the right-of-way is required.
  - (4) *Landscape ROW buffer corner clip* . For all nonresidential and multifamily parcels located at the intersection of two dedicated public rights-of-way (ROW), a minimum 25 foot landscape buffer shall be provided parallel to the corner clip right-of-way dedication.
  - (5) *Minimum number of trees within ROW landscape buffers* . Landscape buffers adjacent to the public right-of-way shall contain at least one large canopy tree each 20 linear feet or fraction thereof of street frontage, inclusive of driveways. Trees may be grouped or clustered to facilitate site design if approved by the City.

- (6) *Landscape buffers between properties* . A perimeter landscape buffer of at least ten feet in width shall be maintained between adjacent properties. This landscaping can be reduced to five feet when abutting property of the same zoning. This buffer does not apply to various lots within a unified development. Access ways between lots may be permitted through all perimeter landscape areas.
- (7) *Minimum number of large trees within perimeter landscape buffers* . Perimeter landscape buffers not adjacent to the public right-of-way shall contain at least one large canopy tree every 25 linear feet or fraction thereof when adjacent to another commercial use, and at least one large canopy tree every 20 linear feet when adjacent to residential uses or zoning. Trees may be grouped or clustered to facilitate site design and shall be appropriately staggered when adjacent to property of the same zoning.
- (8) *Minimum number of small trees within perimeter landscape buffers* . For every five large canopy trees or fraction thereof required along the street frontage and perimeter, three ornamental trees shall also be provided.
- (9) *Stone, gravel and rock* . If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a perimeter landscape area, no more than ten percent of the area may be made up of these materials. Non-plant derived materials should be used as an accent to the landscaped areas made up of sod, living ground cover, low bushes, plants, or mulch. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
- (10) *Artificial or synthetic turf* . Artificial or synthetic turf is prohibited in perimeter landscape areas.
- (e) *Residential adjacency landscaping standards*. In order to preserve and protect the integrity, protect the quiet enjoyment and maintain property values of single family and other residential neighborhoods, the City has determined that it is necessary and appropriate to adopt specialized regulations for non-single family residential uses and buildings that are constructed within 100 feet of properties used for single family residences.
  - a. A minimum of 20 feet wide landscaped buffer shall be provided adjacent to existing residential or vacant land zoned for residential uses.
  - b. A double row of trees four inch caliper minimum on offset 15 foot centers is planted within the required rear landscape edge, where 50 percent of the trees are large trees.
- (f) *Landscape point system*.
  - (1) *Purpose* . The purpose of the landscape point system is to afford developers the freedom to design interesting and unique landscaping to augment the architecture of the development. Developers are encouraged to be creative in selecting the amenity type to create unique and memorable features.
  - (2) *Points shown on plan* . Landscape plans must show a minimum number of points in order to obtain approval. Landscape points are determined by the size of the lot being developed. These requirements are in addition to the interior and perimeter landscaping requirements.

<b>ARTICLE VI, TABLE G</b>	
<b>NUMBER OF LANDSCAPE POINTS PER ACRE</b>	
Site Size	Minimum Number of Points Required
<3 acres	25 points

Between 3 and 15 acres	30 points
>15 acres	35 points

(3) *List of amenities and points earned.* The following is a list of landscape elements and their associated point value, subject to review and approval by the director:

<b>ARTICLE VI, TABLE H</b>	
<b>LANDSCAPE POINTS EARNED PER AMENITY</b>	
<b>Amenity Type/Size</b>	<b>Number of Points</b>
Hardscaping, signage, or architectural features that include reference to Pilot Point's lakefront character, such as use of sailboats or lighthouses in amenities	10
Enhanced entranceway paving (using pavers, cobble or different colored-stamped concrete)	5
Enhanced hardscape (stamped crosswalks, decorative cobble walkways, meandering sidewalks, etc.)	5
Enhanced landscaping (within development and at the entranceways of the development)	5
Enhanced site canopy (planting perimeter trees one per 30 feet AND locating a parking island every ten spaces)	5
Enhanced streetscape elements (e.g. decorative lampposts, receptacles, decorative bollards, etc.)	5
Use of street furniture (benches, tables and chairs)	5
Enhanced buffers: (providing a landscape buffer five feet more than what is required adjacent to street frontage and perimeter)	5
Open space provision greater than what is required (20 to 30 percent over minimum)	5

Buffer berms (providing 3-foot-high berms along the street frontage)	5
Use of shaded and decorative outdoor seating areas (benches, outdoor dining, etc.)	5
Use of masonry planters with irrigation (minimum 4)	5
Foundation plantings along 75 percent of the building's primary facade	5
Decorative entrance including a landscaped median entry which is a minimum eight feet in width and 60 feet long	5
Public art, small (obelisks, sculptures, statues, clock towers, water fountains, etc.)	5
Public art, large (obelisks, sculptures, statues, clock towers, water fountains, etc.)	10
Amenity detention pond (dry)	5
Amenity retention pond (wet with fountain feature)	10
Other (a developer may propose a unlisted landscape element if it meets the spirit and intent of the ordinance, subject to review and approval by the director)	5

(4) *Developer discretion* . The developer may use any combination of the aforementioned landscape elements to obtain the necessary number of points required for the development. Different lots and landscapes will lend themselves to different types of designs. These regulations attempt to encourage creativity, diversity and water conservation in landscaping.

(5) *Scale, size, type* . Elements, both in terms of quantity and quality, should be in scale with the development, as determined by the Director. Multiple repetitions of an element can be awarded extra points, as determined by the director.

(g) *Approval of landscape site plan alternative waivers.*

- a. The city council through a landscape site plan waiver may approve waiver alternatives to the landscape provisions.
- b. All waivers must be processed through a developers agreement that is approved by the city council.

Sec. 106.06.19 - Thoroughfare and median landscaping.

(a) *Thoroughfare parkway landscaping.*

(1) *Applicability.* As thoroughfares in Pilot Point are widened and/or improved, the city may elect to landscape the parkway.

- (2) *Definition of parkway.* The "parkway" is defined as the undeveloped area included in the right-of-way that is located between the paved lanes and the private property line of adjacent districts.
  - (3) *Minimum requirements for parkway landscaping:*
    - a. All trees and plant materials shall be chosen from the city's approved plant list;
    - b. One canopy tree per 25 linear feet of parkway, with a minimum of four-inch caliper trunk, and a well-formed canopy that is typical of the species. Canopy trees shall be planted no closer than 30 feet from streetlights if located in the parkway and no closer than 15 feet from any overhead electrical line;
    - c. Two ornamental trees per 30 linear feet of parkway. Ornamental trees shall be a minimum two-inch caliper and eight feet in height at time of planting and shall be used primarily as accent trees near the median nose and dispersed among the larger canopy trees;
    - d. Ornamental and canopy trees need not be evenly spaced and may be clustered for a more pleasing aesthetic effect;
    - e. Since underground infrastructure is often located within the parkway, the planting of certain tree types may be impractical or may necessitate the use of root guards to prevent encroachment into and damage to the underground system. Care should be taken to install trees that will not encroach into underground infrastructure or negatively affect sidewalks.
    - f. Parkways shall also be sodded or interspersed with native grasses, xeriscape elements, crushed granite or rock.
    - g. If stone, gravel, decorative rock, crushed granite or other non-plant derived materials are used in a parkway area, no more than ten percent of the area may be made up of these materials. Non-plant derived materials should be used as an accent to the landscaped areas made up of sod, living ground cover, low bushes, plants, or mulch. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created.
    - h. All plant materials shall be chosen from the city's approved plant list.
    - i. Median lighting shall be provided using the design and spacing requirements from the engineering design manual.
  - (4) *City participation.* The city, county and/or state is responsible for the landscaping within the parkway, depending on the legal ownership of the roadway.
- (b) *Median landscaping.* Landscaping improvements shall be installed within the medians of all proposed or planned divided roadways within the city limits as shown on the city master thoroughfare plan. Frontage is defined as wherever a property abuts the right-of-way of the divided thoroughfare, and separate frontages exist on each side of the thoroughfare.
- (1) *Applicability.* Only developments or subdivisions abutting or adjacent to a divided roadway, as defined in the master thoroughfare plan, shall be subject to this section.
  - (2) *Developer obligation.* The developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of one year. During the first year following installation, the developer shall replace any tree, shrub, sod, groundcover or hardscape in substandard condition. Following the first year, the director shall inspect the installation and determine what, if any, plant materials and/or hardscape must be replaced prior to the city taking over maintenance.
  - (3) *Installation or deferment.* In the event that the city engineer, in his sole discretion, determines that the installation of improvements at any given time period is impractical due to further road construction or other factors, the developer shall establish an escrow account for future median landscaping and/or maintenance.

- (4) *Escrow account.* Should the city engineer, at his sole discretion, determine that the immediate installation of median landscaping is impractical; the developer shall enter into a development agreement and established an escrow account for the estimated cost of the purchase and installation of the median landscaping. The escrow account shall be collected prior to filing the final plat with the county. The escrow account shall be applied to the design, construction, reconstruction, upgrading, and installation of median landscaping of divided roadways within the adjacent median landscape areas.
- (5) *City participation.* At the discretion of the director, the developer may install landscaping across the full width of the median, and be reimbursed by the city for the landscaping provided for the second frontage at the per linear foot of frontage rate or the actual cost of the improvements, whichever is less, if funds are available.
- (6) *Plan design burden/escrowed cost.* In the case where undeveloped land exists on both sides of a divided public street, the first to develop shall carry the burden of submitting plans for landscaping, hardscape and irrigation of the median.
- (7) *Installation burden.* However, if the city declines to participate in the immediate landscaping of the median in question, the second to develop will utilize the approved plans (or modify the approved plans with city approval of the modifications) and shall be responsible for the purchase and installation of the median improvements, using the escrowed account from the first developer and shall contribute an equal amount to the overall cost of the median landscaping. In the event that the original escrow amount has fallen short of current material and/or installation costs, the city will make up the difference in cost or the plans shall be modified to be installed within the cost allotted.
- (8) *Minimum requirements for median landscaping:*
  - a. All trees and plant materials shall be chosen from the city's approved plant list;
  - b. Two ornamental trees per 30 linear feet of median. Ornamental trees shall be a minimum two-inch caliper and eight feet in height at time of planting and shall be used primarily as accent trees near the median nose and dispersed among the larger canopy trees;
  - c. One canopy tree per 25 linear feet of median, with a minimum of four-inch caliper trunk, and a well-formed canopy that is typical of the species. Canopy trees shall be planted no closer than 30 feet from streetlights located in the median, no closer than 20 feet to an intersection, and no closer than 15 feet from any overhead electrical line;
  - d. Ornamental and canopy trees need not be evenly spaced and may be clustered for a more pleasing aesthetic effect;
  - e. When the nose of a median is tapered to five feet or less, that portion of the median shall install stamped concrete aligned with the top of curb;
  - f. Stone, gravel and rock. Not including the stamped concrete area within the nose of the median mentioned above, up to 40 percent of the area may be made up of stone, gravel, decorative rock, crushed granite or other non-plant derived materials in clearly defined beds to reduce the amount of sod to be moved in these areas. Non-plant derived materials should be used as an accent to the landscaped areas made up of sod, living ground cover, low bushes, plants, or mulch. In no case shall stone, gravel, rock or other non-plant derived materials be installed so that an impermeable surface area is created;
  - g. A minimum of 20 percent of the landscaped area shall be planted in evergreen shrubs, ground cover and/or native grasses;
  - h. Planting beds shall be separated from turf grass using 14-gauge steel edging to define ground cover beds and reduce weed incursion;
  - i. Artificial turf (e.g. AstroTurf™). Artificial turf is prohibited in medians;
  - j. Irrigation installation shall be installed at the time of planting and shall include bubblers or drip irrigation for all canopy and ornamental trees. Irrigation systems should be designed to

uniformly water the planting beds with minimal water waste and shall be equipped with rain-freeze sensors; and

- k. Landscape and installation plans shall be subject to review and approval by the director and the city engineer. The location and placement of landscaping shall conform to the city street design standards and shall be placed to accommodate the ultimate number of traffic lanes, although shrubs, native grasses and ornamental trees may be placed in future traffic lanes if it is determined that these lanes will likely not be constructed in less than ten years.

Sec. 106.06.20 - Xeriscaping.

- (a) *Intent.* The intent of the xeriscaping ordinance is to encourage the use of drought-resistant native plants in all or a portion of landscaped areas in order to conserve water.
- (b) *Re-use water.* When practical, private and public users are encouraged to connect to the city's non-potable, treated re-use water for irrigation instead of the city's drinkable, affluent water.
- (c) *Native plant usage.* Texas has an abundance of native plants which are naturally adapted to the region. Most native or adapted plants are drought tolerant or have lower water demands, and by combining Texas natives with well adapted exotic plants, water is conserved. The use of xeriscape can:
  - (1) Reduce landscape water and maintenance use by 60 percent or more, which helps extend limited water supplies and conserve water resources;
  - (2) Provide an enhanced regional identity for Pilot Point;
  - (3) Lower pest problems and require less fertilizer needs than many non-adapted, exotic plants brought into Texas landscapes. By eradicating weeds, competition for available water resources is diminished;
  - (4) Lower monthly water bills for users;
  - (5) Reduce runoff through the plants root system, which helps water percolate into the soil, reducing erosion and runoff, improving water quality.
- (d) *Reduction of water usage.* In order to promote prudent use of the city's water resources and reduce the need for additional water system infrastructure, additional water resources and water purification systems, and to help ensure viability of required plantings during periods of drought, all required landscaping shall comply with the following requirements designed to reduce water usage:
  - (1) All landscaping shall be from the recommended plant material list, which is comprised of native and adapted vegetation, unless alternate plant materials are approved through the landscape plan.
  - (2) For maximum reduction in water usage, xeriscape plants shall not be interspersed in plant massing with plants requiring higher water usage.
  - (3) Irrigation systems shall be designed to provide the appropriate amount of water without over watering.
  - (4) Lawn or turf is not permitted in areas with a dimension of less than eight square feet.
- (e) *Sight visibility.* In complying with the landscaping requirements set forth herein, no landscaping shall be permitted to cause visibility obstructions and/or blind corners at intersections. All sight/visibility triangle distances herein shall be measured from the intersection edges of the curb or, where there is no curb, from the end of the pavement, unless otherwise specified.
  - (1) *Street intersections.* Each such intersection shall have a sight triangle of 45 feet on each leg from the point of intersection, or as determined by the city engineer.

- (2) *Driveway to street intersections.* Each driveway intersection shall have a sight triangle of 45 feet along the street and 20 feet along the driveway from the point of intersection, or as determined by the city engineer.
- (3) *Vertical clearance.* Landscaping within the triangular visibility area shall be designed to provide unobstructed vertical cross-visibility at a level between three and ten feet in height. Trees may be permitted in this area provided they are trimmed in a manner that prevent limbs or foliage from extending into the vertical visibility area.
- (f) *Distance from street pavement.* Landscaping, except required grass and low groundcovers, shall not be located closer than three feet from the edge of any accessway pavement.
- (g) *Conflicts.* In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the director, the minimum landscape area requirements set forth herein may be reduced to the extent to remove the conflict.

Sec. 106.06.21 - Tree preservation.

- (a) *Purpose.* The purpose of this section is to encourage the preservation of mature trees which once removed cannot be replaced by equivalent trees, to preserve protected trees during construction, and to control the removal of protected trees when necessary. It is the intent of this section to achieve the following:
  - (1) Prohibit the indiscriminate clearing of property.
  - (2) Protect and increase the value of residential and commercial properties within the city.
  - (3) Maintain and enhance a positive image for the attraction of new business enterprises to the city.
  - (4) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the city.
  - (5) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.
- (b) *Construction regulations.*
  - (1) *Tree pruning restrictions.* No protected tree shall be pruned in such a manner which significantly disfigures the tree or in a manner which would reasonably lead to the death of a tree, except where such pruning is necessary for the safety of the public and to maintain utility service. Utility companies may prune trees as necessary to re-establish disrupted utility service. The practice of "topping" trees, either ornamental or canopy, is absolutely prohibited except when necessary for utility provision, public safety or some other official nuisance.
  - (2) *Fill and grading.* The area within the drip line of a protected tree shall not be filled or graded.
  - (3) *Maintenance after development.* If any of the trees required to be retained or trees planted as a part of this division should die within a period of one year after completion of the activities associated with construction, the owner of the property shall replace the trees within six months at a ratio of three-to-one (3:1) with an approved large canopy tree from the recommended plant materials chart, which is the same size as the tree removed.
- (c) *Regulations prior to construction.*
  - (1) *Tree flagging .* All protected trees on the subject property within 40 feet of a construction area or surface improvements such as driveway, walks, etc., shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of four feet or more such that the tape is highly visible to workers operating construction equipment. This shall not include the flagging of protected trees adjacent to ROW within approved residential subdivisions during the construction of the roadway.

- (2) *Protective fencing* . Solid, protective fencing a minimum of three feet in height will be located at the drip lines of all protected trees that border the limits of construction. In situations where a protected tree is located within the immediate area of intended construction, protective fencing will be located at or beyond the drip line.
- (d) *Regulations during construction—Prohibited activities*. The following activities shall be prohibited within the limits of the critical root zone of any protected tree, subject to the requirements of this division:
- (1) *Material storage*. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
  - (2) *Equipment cleaning/liquid disposal*. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This would include paint, oil, solvents, asphalt, concrete, mortar or similar materials.
  - (3) *Tree attachments*. No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.
  - (4) *Vehicular traffic*. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within a critical root zone for purposes of clearing underbrush, emergency restoration of utility service, or routine mowing operations.
  - (5) *Grade changes*. No grade changes (cut or fill) shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the director.
  - (6) *Impervious paving*. No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree.
  - (7) *Removal of protective fencing*. Protective fencing may only be removed from the construction site at the time of the installation of additional, permanent landscaping features.
- (e) *Permanent construction methods and standards*.
- (1) *Boring*. Boring of utilities under protected trees may be required in certain circumstances. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of 48 inches.
  - (2) *Trenching*. All trenching where possible shall be designed to avoid trenching across the critical root zone of any protected tree. This shall not inhibit the placement of necessary underground services such as electric, telephone, gas, etc.
  - (3) *Root pruning*. It is recommended that all roots two inches or larger in diameter which are exposed as a result of benching or other excavation be cut off square with a sharp medium tooth saw and covered with pruning compound within two hours of initial exposure.

Sec. 106.06.22 - Tree mitigation.

- (a) *General rule*. In the event that it is necessary to remove a protected tree, the applicant shall be required to replace the protected tree being removed with a large canopy tree from the recommended plant materials chart, or pay into the city's tree fund.

- (b) *Replacement trees.* Trees shall be replaced at a ratio determined by the tree valuation schedule (for every one inch removed, "X" inches must be replaced). If any replacement tree cannot be properly located on the subject property, the applicant may plant the replacement tree(s) on property owned by the city and/or common area open space, subject to review and approval by the director.
- (c) *Mitigation.* If the tree is not replaced on-site, or other city-approved location, fees must be paid to the city based on the tree valuation schedule and the tree valuation formula of this division. This fee shall be paid in addition to any tree removal permit fee and shall be held in a separate account (tree fund) to be used exclusively for future installation of trees within public lands owned by the city.
- (d) *Landscape plan.* All replacement trees shall be shown with their caliper size and common name on an approved landscape plan.
- (e) *Replacement restriction.* Any required replacement tree shall not be planted within an area such that the mature canopy of the tree will interfere with overhead utility lines, or that the mature root zone of the tree interferes with underground public utility lines.
- (f) *Landscaping limitation.* Trees required to be added to the development per the landscaping requirements in the zoning ordinance or by virtue of deed restrictions shall not be considered or credited as replacement trees.
- (g) *Enforcement.*
  - (1) Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction hereof shall be fined a penalty of a sum not to exceed \$500.00 for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs. The unlawful destruction or removal of each protected tree shall be considered a separate offense and each offense subjects the violator to the maximum penalty of \$500.00 per tree for each day that the tree is not replaced. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this article.
  - (2) No acceptance of public improvements shall be authorized until all fines for violations of this ordinance have been paid to the city.
  - (3) No certificate of occupancy shall be issued until all fines for violations of the ordinance from which this article derives have been paid to the city.
  - (4) No building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of the tree preservation ordinance. The building official shall make available to the applicant a copy of the tree preservation ordinance.
- (h) *Tree valuation schedule.* The following charts shall be used in interpreting the provisions of this article:

ARTICLE VI, TABLE I				
TREE VALUATION SCHEDULE				
<b>CLASS NO. 1</b> <b>100% Value</b> <b>5:1 Ratio</b>	<b>CLASS NO. 2</b> <b>80% Value</b> <b>4:1 Ratio</b>	<b>CLASS NO. 3</b> <b>60% Value</b> <b>3:1 Ratio</b>	<b>CLASS NO. 4</b> <b>40% Value</b> <b>2:1 Ratio</b>	<b>CLASS NO. 5</b> <b>20% Value</b> <b>1:1 Ratio</b>
;b0;Floodplain Trees*	;b0;ALL Ashes	;b0;ALL Pines	;b0;Crepe Myrtles	;b0;Other Fruit Trees
ALL Oaks	ALL Elms	Blue Spruce	Dogwood	Other Ornamentals
Pecan	ALL Maples	Junipers, Cedar	Plums/Pears	Boxelder

American Beech American Holly Yaupon Holly Sweet Gum Magnolia Ginkgo Chinese Pistachio Bald Cypress	Hickories Black Walnut Persimmon Chittamwood Golden Raintree	Honey Locust Honey Mesquite Western Soapberry River Birch Redbud Eve's Necklace	Common Hackberry Sugarberry Bois D'Arc Cottonwoods Poplars Loquat Siberian Elm Silver Maple	Tree of Heaven Mulberry Trees Chinaberry Catalpa Jujube Tallows Willows
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(\* All trees in the floodplain, regardless of species)

(i) *Tree valuation formula.*

ARTICLE VI, TABLE J					
TREE VALUATION FORMULA					
Tree Diameter	Diameter Squared	Diameter Squared x Area Multiplier	Cross-Section Value	Value per Square Inch	Tree Value
6"	36	0.7854 × 36 =	28.3	× 22.00 =	\$622.60
7"	49	0.7854 × 49 =	38.5	× 22.00 =	\$847.00
8"	64	0.7854 × 64 =	50.3	× 22.00 =	\$1,106.60
9"	81	0.7854 × 81 =	63.6	× 22.00 =	\$1,399.20
10"	100	0.7854 × 100 =	78.54	× 22.00 =	\$1,727.88
11"	121	0.7854 × 121 =	95.0	× 22.00 =	\$2,090.00
12"	144	0.7854 × 144 =	113.1	× 22.00 =	\$2,488.20
13"	169	0.7854 × 169 =	133.0	× 22.00 =	\$2,928.00
14"	196	0.7854 × 196 =	154.0	× 22.00 =	\$3,388.00

15"	225	$0.7854 \times 225 =$	177.0	$\times 22.00$	\$3,894.00
16"	256	$0.7854 \times 256 =$	201.1	$\times 22.00$	\$4,424.20
17"	289	$0.7854 \times 289 =$	227.0	$\times 22.00$	\$4,994.00
18"	324	$0.7854 \times 324 =$	254.5	$\times 22.00$	\$5,599.00
19"	361	$0.7854 \times 361 =$	284.0	$\times 22.00$	\$6,248.00
20"	400	$0.7854 \times 400 =$	314.2	$\times 22.00$	\$6,912.40
21"	441	$0.7854 \times 441 =$	346.4	$\times 22.00$	\$7,620.80
22"	484	$0.7854 \times 484 =$	380.0	$\times 22.00$	\$8,360.00
23"	529	$0.7854 \times 529 =$	415.5	$\times 22.00$	\$9,141.00
24"	576	$0.7854 \times 576 =$	452.4	$\times 22.00$	\$9,952.80
25"	625	$0.7854 \times 625 =$	491.0	$\times 22.00$	\$10,802.00
26"	676	$0.7854 \times 676 =$	531.0	$\times 22.00$	\$11,682.00
27"	729	$0.7854 \times 729 =$	573.0	$\times 22.00$	\$12,606.00
28"	784	$0.7854 \times 784 =$	616.0	$\times 22.00$	\$13,552.00
29"	841	$0.7854 \times 841 =$	661.0	$\times 22.00$	\$14,542.00
30"	900	$0.7854 \times 900 =$	707.0	$\times 22.00$	\$16,554.00

FORMULA: Tree diameter squared  $\times 0.7854 =$  CROSS SECTION  $\times$  VALUE/SQ.IN = TREE VALUE

NOTE: Values of trees greater than 30 inches will be determined by a tree expert retained by the contractor and approved by the owner and architect.

NOTE: Diameter measured four and one-half feet above the ground.

(Reference: National Arborist Association)

Secs. 106.06.23—106.06.30 - Reserved.