

00129

ORDINANCE NO. 3129
File ZO 96-6

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY DELETING SECTIONS 3-303 AND 3-304; BY ADOPTING A NEW PART 1A: LANDSCAPING, BUFFERING & SCREENING AND TREE PRESERVATION; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, through administration and experience, the Planning and Zoning Commission has determined that it is necessary to revise certain regulations so that the intended purposes of the Zoning Ordinance are best served; and

WHEREAS, the City Council did give public notice and did hold public hearings regarding the proposed amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the Mesquite Zoning Ordinance, adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended as follows, said ordinance in all other respects to remain in full force and effect:

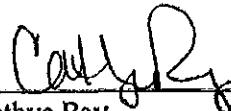
- a. Delete the existing Sections 3-303 and 3-304 in their entirety and adopt a new Part 1A: Landscaping, Buffering & Screening and Tree Preservation, to read as set out in the attached Exhibit "A".

SECTION 2. That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part of provisions hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

SECTION 3. That any person, firm, or corporation violating any of the provision or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Mesquite Zoning Ordinance, as amended, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 4. Whereas the need to regulate proper development of the City of Mesquite, and the need to protect the public interest, comfort, and general welfare of the citizens of the City of Mesquite creates an urgency and emergency for the preservation of the public health, safety, and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of December, 1996.




Cathye Ray
Mayor

ATTEST:

APPROVED:



Ellen Williams
City Secretary



B.J. Smith
City Attorney

PART IA: LANDSCAPING, BUFFERING & SCREENING,
AND TREE PRESERVATION
1A-100 PURPOSE
1A-200 LANDSCAPE REQUIREMENTS

1A-100 PURPOSE

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

1A-200 LANDSCAPE REQUIREMENTS

1A-201 GENERAL LANDSCAPE REQUIREMENTS

A. APPLICABILITY

Landscaping shall hereafter be provided and maintained on all building sites where development, construction, expansion, reconstruction or redevelopment occurs in accordance with the following requirements.

B. LANDSCAPE PLAN REQUIRED

1. Submission: A landscape plan shall be submitted with the site plan showing the location, name, and quantity of landscaping materials and other landscape features proposed, as well as showing the location of buildings, parking areas, drives, fences, walls, alleys and adjacent streets. The landscape plan shall be drawn to scale and shall be legible. In addition to the above, where required by applicable regulations, the plan shall show buffering, screening, tree preservation, and/or tree replacement related to the landscaping.

2. Review and Approval: Landscape plans shall be reviewed and approved by the Development Review committee. The

Committee's decision may be appealed to the Planning and Zoning Commission.

C. LANDSCAPE INSTALLATION

1. Permitted Materials: Landscape materials shall consist of permanent turf, ground cover, seasonal color, shrubs and trees. Trees proposed and utilized to satisfy landscaping requirements shall be approved landscape trees as indicated by an asterisk (*) in 1A-500 Tree Schedule. Artificial plants may not be used as landscaping.

2. Minimum Installation Size: At the time of installation, all required landscape trees shall comply with the minimum size required in 1A-500 Tree Schedule.

3. Irrigation: Required landscape areas shall be irrigated by an automatic underground irrigation system; provided however, that a hose bib system may be used for irrigation when a landscape area is less than 1,000 square feet in size and when all portions of the area are within 50-feet of a hose attachment.

4. Traffic Visibility: Landscaping shall not be erected so as to obstruct traffic visibility at alleys, streets, or intersections. Trees and shrubs shall be located on private property, and not on a street right-of-way, unless specifically approved by the Traffic Engineer. With the exception of street trees approved by the Traffic Engineer, landscaping within 11 feet of a curb line shall not exceed 30-inches in height. Trees may not be approved unless their branches are at least 7-feet above the curb and they do not otherwise obstruct visibility.

5. Completion: All required landscaping must be in place prior to the issuance of a Certificate of Occupancy; provided however, the Development Review Committee may defer installation for a period of no more than 6 months after

issuance of a Certificate of Occupancy based on seasonal planting consideration and with written assurance from the developer stating a specific date by which landscaping will be installed.

D. MAINTENANCE

All landscaping shall be maintained in a neat and orderly manner at all times: 1) Mowing, edging, pruning, fertilizing, watering, and weeding shall occur on a regular basis appropriate to the season; 2) Trash, litter, and weeds shall be removed regularly; 3) Plant materials shall be kept in a healthy growing condition; and 4) Dead plant material shall be replaced in a timely manner. Plants shall not exceed permitted heights or be permitted to grow in restricted areas.

1A-202 REQUIREMENTS FOR NONRESIDENTIAL USES

The following requirements shall apply to all uses in nonresidential districts and to permitted nonresidential uses in residential districts.

A. GENERAL SITE REQUIREMENTS

1. Minimum Site Area Required: Landscape areas shall, at a minimum, be equal in size to at least 10% of the building site. Calculation of the landscape area may include internal landscaping in parking areas and the impervious area in conjunction with a required buffer tree line. Adjacent rights-of-way shall be landscaped, but these areas shall not be included in the calculation of required area.

2. Landscape Location: At least 50% of the required landscape area shall be

located between the main building and the front and/or exterior side property lines.

3. Tree Requirement: One shade tree, or one evergreen tree, or 3 ornamental trees shall be provided for each 500 square feet of required landscape area. Trees provided for internal parking area landscaping and trees in a required buffer tree line may be counted to fulfill this requirement, provided that at least 50% of the required trees are located between the main building and the front and/or exterior side property lines.

4. Credit for Tree Preservation: Credit for preserving a protected size tree, as

PART IA: LANDSCAPING, BUFFERING & SCREENING,
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IA-100 PURPOSE
IA-200 LANDSCAPE REQUIREMENTS

defined in IA-500 Tree Schedule, shall be given by counting each protected tree saved as 2 trees for the purpose of fulfilling the calculated landscape tree requirement, or by reducing the required landscape area by 500 square feet for each tree preserved.

**B. PARKING AREA
LANDSCAPING**

1. Interior Landscaping/Trees Required:
When a parking area contains 20 or more parking spaces, the interior of the area shall be landscaped by providing a minimum of one tree for every 15 parking spaces or fraction thereof. The required trees shall be spread throughout the parking area. Each tree shall be placed in a landscape area no smaller than 9-feet by 18-feet, which is protected from vehicles through the use of concrete curbs, wheel stops, or other

permanent barriers no less than 6 inches in height.

2. Visibility: Landscaping materials, curbs, barriers or any combination thereof shall be situated so as not to create a visibility obstruction to moving vehicles or pedestrians within the parking lot. A landscape island located at an intersection of maneuvering aisles may not contain landscape material exceeding 30 inches in height, except that trees trimmed so that no branch or growth is less than seven feet in height above the curb level of the island may be permitted.

3. Nonpublic Parking Areas:
Requirements for internal landscaping and trees shall not apply to nonpublic parking areas of industrial and commercial uses which are not visible from the street and are not open to public use.

IA-203 REQUIREMENTS FOR RESIDENTIAL USES

Single family residences and agricultural uses are not subject to landscape requirements. All other residential uses shall provide landscaping in accordance with the requirements as set out below.

A. DUPLEXES

Duplexes shall provide permanent turf grass and/or ground cover established in all yards; a minimum of one shade tree, or one evergreen tree, or 3 small ornamental trees in the front yard of each dwelling unit; and one gallon shrubs, planted no more than 3 feet on center, along the front of the structure. All landscape areas shall be irrigated. Irrigation shall be an automatic or manual underground irrigation system, or a hose attachment shall

be available within 50 feet of all landscape areas.

B. MULTIFAMILY RESIDENTIAL

Landscaping for multifamily uses shall be in accordance with the requirements set out above for nonresidential uses; provided however, that the minimum landscape area shall be all open space areas required by the multifamily development standards in 2-501.

1A-300 SCREENING AND BUFFERING REQUIREMENTS**1A-301 GENERAL SCREENING AND BUFFERING REQUIREMENTS****A. APPLICABILITY**

Screening to provide partial visual protection and to serve as a barrier between uses shall be required in the following circumstances in accordance with the following requirements.

B. PLANS REQUIRED

Elements required to satisfy screening and buffering regulations shall be shown on the related site plan, landscape plan and/or building plan required for a project, as appropriate. The location, height, and construction materials of required screening walls, fences, berms, etc. shall be shown on the site plan, landscape plan and/or building plan. The name, quantity, spacing, and size of shrubs and trees proposed for required screens and/or buffer tree lines shall be shown on the landscape plan.

C. SCREENING AND BUFFERING INSTALLATION

1. General: If no other standard of installation is specified, the requirements of 1A-500 Tree Schedule shall apply.

2. Shrubs: Shrubs installed to establish a required screening or buffering element shall be evergreen and shall be a minimum 5-gallon in size, approximately 3-feet in height at the time of planting, and planted at a maximum 3-feet on center, unless otherwise approved by the Municipal Arborist.

3. Parking Screens: Where a parking screen is required, a 3-foot high solid screen

shall be provided along the perimeter of the parking area to screen the view of the parking and to shield from headlight glare. A solid screen shall mean a solid masonry wall, landscaped hedgerow, berm or other alternative approved by the Development Review Committee. Metal and/or wood fences shall not be used to satisfy this requirement.

Where a landscaped hedgerow is used to establish the parking screen, shrubs shall be installed in a planting strip adjacent to the parking area. The planting strip must be at least 36-inches wide and protected from vehicle damage. Plants shall be a minimum size of 5-gallons with a minimum height at planting of 24-inches and shall create a minimum 3-foot tall screen within two years of planting. Drought and freeze-resistant shrubs shall be used, including but not limited to Dwarf Burford Holly, Nellie R. Stevens Holly, Eleagnus, Wax Leaf Ligustrum, or other plants approved by the Municipal Arborist.

4. Buffer Tree Lines: When a required buffer tree line is being established, pervious area shall be provided and trees shall be spaced in compliance with 1A-500 Tree Schedule. Trees used to establish a buffer tree line shall be limited to those species indicated with an asterisk (*) in the Tree Schedule. If overhead power lines are located above the planting area, trees marked with an asterisk (*) from the list of small ornamental trees must be used.

5. Screening Walls: Required screening walls greater than three feet in height shall be designed by a Professional Engineer, Architect, or Landscape Architect registered in the State of Texas, and shall be designed and constructed to accommodate natural and/or proposed drainage in the area.

6. Irrigation: All required screening and buffers which include landscape materials shall be irrigated by an automatic underground irrigation system.

7. Traffic Visibility: Screening and buffering shall not be planted or erected so as to obstruct traffic visibility at alleys, streets, or intersections. When it is determined by the Traffic Engineer that an obstruction of traffic visibility is likely to occur, screening that extends into a required front or exterior side yard shall be modified to address the Traffic Engineer's determination.

8. Completion: All required screening and buffering must be in place prior to the issuance of a Certificate of Occupancy; provided however, that the Development Review Committee may defer installation of landscape elements based on seasonal planting consideration upon written assurance of a specific date by which landscaping elements will be installed. Such deferral date shall be no more than 6 months after issuance of a Certificate of Occupancy.

1A-302 MAINTENANCE

A. GENERAL REQUIREMENTS

Required screening and buffering elements shall be maintained in a neat, orderly, and sound manner at all times. Walls and fences shall be in an upright position with all panels,

D. MODIFICATIONS

Modification of the screening and buffering requirements may be requested. Requests for modification will be considered by the City Council at a public hearing. At least 10 days prior to the public hearing, written notification shall be sent to each owner of real property abutting the required screening. The notice shall inform the owner(s) of the request for waiver, deferment, or substitution, and of the time and place of the hearing.

1. Waiver: Where the City Council finds the requirement of screening and/or buffering is impractical or unnecessary, it may grant a permanent waiver of the requirement.

2. Deferment: Where the City Council finds the requirement of screening and/or buffering is impractical or unnecessary for immediate construction, it may grant a temporary deferment of the requirement.

3. Substitution: Where the City Council finds that the intent of the screening and/or buffering requirement is better served by a modified application or by substitution of an alternate method of screening and buffering, a substitution of such method may be approved.

slats, pickets, or other parts in place and firmly attached. Replacement of broken or missing parts shall occur on a prompt and regular basis. Landscape elements shall be maintained in the same manner required for landscaping in general. See 1A-201D.

**B. PRIVATE MAINTENANCE
REQUIRED**

All screening and buffering located on private property and on adjacent rights-of-way or easements shall be maintained by the property owner. Where subdivision screening walls and/or landscaping are located on individual lots, the property owner shall be responsible for maintenance of the required improvements in a manner consistent with the original installation requirements.

**C. PERPETUAL MAINTENANCE/
ESCROW FEES**

Whenever landscaping, screening or buffering is required to be, or approved to be, located on public right-of-way, easement, or other publicly owned property, the perpetual maintenance of the landscape, screening or buffering shall be assured by one of the following methods. Provided that, initially the developer shall provide total maintenance for all landscape, screening and buffering areas for a minimum period of two years or until the completion of active construction in a subdivision, whichever is longer, unless a shorter period is specifically approved.

1. Property Owners' Association: Perpetual maintenance may be assured by the creation of a "viable" property owner's association. A viable association is one which maintains a substantial amount of open space, recreation facilities or other common-use land or facilities.

Association documents must be approved by the City Attorney and shall empower the City to assess a maintenance fee for the required facilities in the event the association fails to accomplish its maintenance responsibility. Documents shall be filed prior to issuance of building permits.

2. Escrow Fees/Perpetual Maintenance Agreements: The developer may request that the City assume perpetual maintenance of the improvements by entering into a Perpetual Maintenance Escrow Agreement. Under such agreement, a minimum amount as specified below, shall be paid into an escrow fund for maintenance prior to the issuance of building permits. Under the agreement, the City will assume the long term maintenance of the improvements covered. Fees required shall be as follows: \$15.00 per linear foot of masonry screening wall; and \$5.00 per square foot of landscape planting/turf areas.

IA-303 NONRESIDENTIAL USE REQUIREMENTS**A. NONRESIDENTIAL ABUTTING
A RESIDENTIAL DISTRICT AT THE
REAR OR INTERIOR SIDE**

When a nonresidential district backs or sides upon a residential district, a screening wall and a buffer tree line shall be established and maintained along the property line abutting the residential district. Both the wall and the

buffer tree line must be located on the nonresidential property. The screening wall shall be of solid masonry construction, and shall be 8 feet in height. The tree line may be located on either side of wall at the owner's option.

B. NONRESIDENTIAL ACROSS STREET FROM A RESIDENTIAL DISTRICT

1. Across Divided Boulevard: When a nonresidential district, other than an Industrial district, is across a boulevard street with median from a residential district, the nonresidential use shall provide a parking screen along the perimeter of any parking area parallel to the street.

2. Across Undivided Street: When a nonresidential district, other than an Industrial district, is across an undivided street from a residential district, the nonresidential use shall provide a 10-foot wide landscape strip along the property line parallel to the street. A buffer tree line shall be established in the landscape strip; and a parking screen shall be established along the perimeter of any parking area adjoining the landscape strip. Driveways across a landscape strip to a non-arterial street shall be prohibited except when access to a non-arterial street is required for adequate circulation or proper fire access.

3. Industrial Districts: When an Industrial district is across either a divided boulevard or an undivided street from a residential district, the use in the Industrial district shall provide a 25-foot wide landscape strip along the property line parallel to the street. A buffer tree line shall be established in the landscape strip; and a parking screen shall be established along the perimeter of any parking area adjoining the landscape strip. Driveways across a landscape strip to a non-arterial street shall be prohibited, except when access to a non-arterial street is required for adequate circulation or proper fire access.

C. NONRESIDENTIAL USES ADJACENT TO A RESIDENCE WITHIN THE CENTRAL BUSINESS OR MIXED USE DISTRICTS

When a lot in the CB or MU district which is to be occupied by a nonresidential use backs or sides on a lot which is in residential use, a solid wood or masonry fence no less than 8-feet in height shall be erected and maintained along the property line dividing the lots.

D. NONRESIDENTIAL SERVICE AREAS ABUTTING A STREET

When the service area of a nonresidential use is located so as to be visible from a street, a 10-foot wide landscape strip shall be created along the street right-of-way line, in which a solid screen, 8-feet in height, shall be established through the use of either 1) a solid landscape hedge planted in the center of the landscape strips, or 2) a solid masonry wall located along the inside line of the landscape strip with shrubs and trees planted in front of the wall on the street side. "Service area" shall mean loading docks, loading areas, overhead doors used for loading, staging areas, truck docks, and commercial vehicle parking areas.

E. PERMITTED NONRESIDENTIAL USES IN A RESIDENTIAL DISTRICT

When a parking lot for a permitted nonresidential use in a residential district abuts, is across an alley, easement, or a residential street, or is otherwise within 100 feet of any single family or duplex lot, whether or not such lot is developed, a parking screen shall be provided along the perimeter of any parking area within 100 feet of such lot.

1A-304 MULTIFAMILY USE REQUIREMENTS**A. MULTIFAMILY ABUTTING AN R OR D DISTRICT AT THE REAR OR SIDE**

When a multifamily district backs or sides upon a single family or duplex residential district, a screening wall and a buffer tree line shall be established and maintained along the property line abutting the single family or duplex residential district. The screening wall shall be of solid masonry construction, and shall be 8 feet in height. Both the wall and the buffer tree line must be located on the nonresidential property. The tree line may be located on either side of wall at the owner's option.

B. MULTIFAMILY ACROSS STREET FROM AN R OR D DISTRICT

When a multifamily district is across a street from a single family or duplex district, the multifamily use shall provide a 25-foot landscape strip along the property line parallel to the street. A buffer tree line shall be established in the landscape strip; and a parking screen shall be established along the perimeter of any parking areas adjoining the landscape strip. Driveways across a landscape strip to non-arterial streets shall be prohibited, except when access to a non-arterial street is required for adequate circulation or property fire access.

1A-305 SINGLE FAMILY AND DUPLEX USE REQUIREMENTS**A. SINGLE FAMILY LOTS ABUTTING AN ARTERIAL STREET AT THE REAR OR SIDE**

When a subdivision is platted so that one or more single family or duplex lots back or side to an arterial street, whether or not there is an intervening alley, continuous screening shall be provided along the arterial as follows:

1. Solid Masonry Wall: A solid masonry wall, 8 feet in height, constructed of 1) clay fired brick of natural colors, either double wall brick or thin wall brick, or 2) a reinforced concrete, simulated brick type wall or other appropriate texture, in earthtone colors achieved through color additives, shall be erected on the street right-of-way line. Color, texture, and materials shall be uniform/compatible on both sides of

an arterial for the entire length between intersecting arterial streets.

2. Ironwork and Brick Combination: In areas where the view beyond the fence is a landscaped side or front yard, i.e. there is no view of rear yards, a combination of brick and ironwork fencing may be utilized. Color, texture, and materials of the masonry portions shall be in accordance with the previous paragraph.

3. Landscaping/Sidewalks: Landscaping shall be required along a minimum of 15% of the masonry wall elevations in the form of planting areas a minimum of 3-feet in width containing ornamental trees and/or shrubs. Planting areas shall be formed through the use of wall insets, meandering sidewalks, etc. to create visual relief along the wall. Sidewalks shall be a minimum 4-feet in width

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and placed adjacent to the wall, except when offset or meandering in conjunction with the planting areas.

4. Front Setback: The requirement for screening shall not extend beyond the building line of lots fronting a residential street that intersects the arterial.

5. Installation: Installation of the screening is required prior to issuance of permits on any adjacent lots.

B. SINGLE FAMILY FRONTING AN ARTERIAL STREET

Single family and duplex lots fronting an arterial street shall be prohibited, except in the following circumstances: 1) A residential street is constructed parallel to the arterial to provide access and visitor parking for the lots; or 2) Each single family lot provides a minimum 100-foot width, a 50-foot front building line, and a circular driveway with a minimum of 6 off-street, paved visitor parking spaces provided.

1A-400 TREE PRESERVATION

In all zoning districts, the preservation and protection of trees shall be required. Removal of protected trees shall be prohibited except in accordance with the procedures outlined herein.

1A-401 PURPOSE

Trees provide a valuable amenity to the urban environment in the maintenance of the public health and welfare, in the conservation of vital energy resources, and in the preservation of the City's historical heritage. Because trees which have survived generations of inhabitants can be replaced only after future generations, the preservation and protection of trees is essential to the health and general welfare of the City's residents. These rules and regulations, therefore, govern the protection of trees within the City of Mesquite, encouraging the preservation and protection of significant trees, while providing for replacement and replanting of trees that are necessarily removed during construction, development, or redevelopment.

1A-402 GENERAL PROVISIONS**A. APPLICABILITY**

These regulations shall apply to property as follows:

1. All vacant and undeveloped property
2. All property being redeveloped, including additions and major renovations, except single family residential property as noted in 1A-401B.3..
3. The required yard and/or landscape areas of all developed property, except single family residential property as noted in 1A-401B.3..

B. EXCEPTIONS

1. City Property: City property shall not be subject to this section. City property, including rights-of-way, streets, easements for public purpose, parks, and any other property under the jurisdiction of the City of Mesquite, shall be regulated by the

requirements of Article 15.5 of the City Code.

2. Utilities: Governmental agencies providing operation & maintenance for streets, drainage, and/or utilities, and utilities operating under a franchise agreement with the City which are extending and maintaining services to customers, shall not be subject to this section when in the process of providing, extending, and maintaining such services.

3. Single Family Residential Property: Developed property which is zoned in a single family residential classification and where an existing residence is located shall not be subject to this section.

C. DEFINITIONS

1. Protected Trees: Protected tree means any tree named in 1A-500 Tree Schedule which is at least of the size indicated as protected size for the category in which the tree is listed.

2. Replacement Trees: Replacement trees are those species acceptable for use in fulfilling the tree replacement requirements of 1A-403E. Replacement trees are marked with an asterisk (*) in 1A-500 Tree Schedule.

3. Removal: Removal, as applied to protected trees, means uprooting, severing the main trunk of the tree or any act which causes, or may reasonably be expected to cause, the tree to die including but not limited to damage inflicted upon the root system by machinery, storage of materials or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; or paving with concrete, asphalt, or other impervious materials.

a. Transplanting a tree to a location on the same property shall not be deemed removal, provided that the tree survives for a period of at least 12 months.

b. The removal of broken limbs or the removal of a protected tree that has been uprooted or has a broken trunk shall be

allowed without application for a removal permit, provided that the removal is effected before the beginning of the 10th business day following the occurrence of the damage and provided further, that the period may be extended in the case of widespread and extensive storm damage.

D. PROTECTION DURING CONSTRUCTION

During any construction or land development, the developer or builder shall clearly mark all protected trees or groups of protected trees to be preserved. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the drip line of any such tree. The developer shall not allow cleaning of equipment or material under the canopy of any such tree or group of trees, nor shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc. under the canopy of any such tree or groups of trees to be preserved. No attachments or wires of any kind, other than those of a protective nature, shall be attached to any such tree.

1A-403 APPLICATION TO REMOVE PROTECTED TREES

Except as otherwise provided herein, no person, corporation, or governmental agency shall remove or cause the removal of any protected tree without first submitting appropriate application and securing approval in accordance with the following procedures and criteria.

A. SUBMISSION, REVIEW AND APPROVAL

1. Tree Removal In Conjunction with Development or Building Projects: Whenever a construction project requires review and approval of a site plan, plat, or building permit, the application for tree

removal shall be processed in conjunction with the site plan, plat, or building plan review, and the Development Review Committee, Planning & Zoning Commission, and/or City Council shall have authority to approve tree removal in accordance with their respective authority to approve the site

plan, plat, and/or building plan under consideration.

Decisions of the Development Review Committee may be appealed to the Planning & Zoning Commission; Decisions of the Commission may be appealed to the City Council whose decision shall be final.

2. Tree Removal Without Construction/ Tree Removal Permit Required: When removal of a protected tree is proposed and the removal is not in conjunction with a construction project requiring review of a site plan, plat, and/or building permit, a Tree Removal Permit is required. Tree Removal Permit applications shall be reviewed by the Municipal Arborist, who shall approve or deny said application within 21 days. The application for removal shall be deemed automatically granted if not denied on or before the close of business on the 21st day following the date the application was accepted. Unless otherwise stated on the permit, the tree(s) for which the Tree Removal Permit has been issued must be removed within 180 days of the issuance of the permit. The Municipal Arborist may waive submission requirements if less information is required to evaluate the situation and make a determination. Decisions of the Municipal Arborist may be appealed to the Tree Board; Decisions of the Tree Board may be appealed to the City Council whose decision shall be final.

B. SUBMISSION REQUIREMENTS

An application for tree removal shall include a property survey indicating the following:

1. The location, trunk diameter, and species of existing protected trees on the property, and the approximate location of

protected trees with branches overhanging the property.

2. The trees to be preserved.
3. An itemized list of trees, per species, to be removed indicating the total aggregate value in diameter inches.
4. The proposed grading of the property, showing existing and proposed elevations, including existing and proposed grades at the base of trees to be preserved.
5. The protective measures and barriers to be used during construction to preserve those protected trees which are to remain.
6. The proposed species, number, size, and location of required replacement trees.

C. MUNICIPAL ARBORIST REVIEW

An application meeting the requirements set out in 1A-403B must be submitted to the Municipal Arborist for evaluation and recommendation at least 21 days prior to submission of any planned development site plan, any short form or preliminary plat, or any building permit application to be submitted to the Development Review Committee, Planning & Zoning Commission or City Council. Such site plan, plat or application shall not be accepted for processing without a report from the Municipal Arborist, unless more than 21 days has passed and there is no report from the Arborist. The report from the Municipal Arborist shall make a recommendation regarding the protection and/ or removal of the protected trees. If the applicant represents that there are no protected trees on a property, the Municipal Arborist shall confirm that fact.

D. CRITERIA FOR REVIEW OF APPLICATIONS

An application for removal of a protected tree shall be approved when a showing is made that the location of the tree would prevent reasonable access to the property or would preclude reasonable and lawful use of the property. Prior to determining that a protected tree precludes reasonable access or use, design alternatives shall be explored and determined to be inappropriate, impractical and/or cost prohibitive. An applicant shall be responsible for submitting design alternatives and evidence of their impracticality and/or cost prohibitive factors. In all instances, removal of a protected tree shall be approved if it is determined that the tree constitutes a hazard to life or property that cannot reasonably be mitigated without removal, or that the tree is dead, dying or diseased to the point that restoration to sound conditions is not practicable, or that its disease can be expected to be transmitted to other trees and to endanger their health.

E. MITIGATION

When it is deemed necessary to approve an application for protected tree removal, a replacement tree or trees shall be required to be planted on the property where the trees are removed in accordance with the following guidelines. The authority approving removal may stipulate other or lesser replacement requirements after considering the following: the size, value, and other features of trees to be removed; related on-site landscaping, trees, and vegetation; property use, visibility and relationships; and other similar factors.

1. Approved Replacement Trees: Trees installed to meet the requirements of this section shall be of a species indicated as

replacement trees in 1A-105 Tree Schedule, and shall be installed at the minimum size indicated or larger.

2. Planting Requirements: Tree replacement must occur within 12 months of removal of a protected tree or trees. Replacement trees which do not survive for a period of at least 12 months shall be replaced until they survive a 12 month period.

3. Calculation of Required Replacement Trees: The replacement requirement shall be calculated as follows:

a. When protected size is expressed in trunk diameter, the trunk diameter shall be recorded for each protected tree to be removed, with all the respective trunk diameters being added together to produce a total aggregate value expressed in diameter inches. Where only one protected tree is to be removed, its trunk diameter shall represent the total aggregate value.

b. When protected size is expressed in height, the height shall be recorded for each protected tree to be removed, with all the respective heights being added together to produce a total aggregate value expressed in total feet of height. Where only one protected tree is to be removed, its height shall represent the total aggregate value.

c. Replacement trees of sufficient number and trunk diameter and/or total height shall be provided to produce a total aggregate value equal to or exceeding the total aggregate value of the tree or trees to be removed. Provided however, that in no case shall the number of replacement trees be required to exceed more than one tree for each 500 square feet of unpaved site area.

1A-500 TREE SCHEDULE

1A-501 SHADE TREES - LARGE CANOPY

A. Large Canopy Shade Tree Listing:

| <u>Common Name</u> | <u>Scientific Name</u> |
|------------------------|--------------------------------|
| American Elm | Ulmus americana |
| Black Hickory* | Carya texana |
| Bur Oak* | Quercus macrocarpa |
| Cedar Elm* | Ulmus crassifolia |
| Chinese Tallow | Sapium sebiferum |
| Chinkapin Oak* | Quercus muehlenbergii |
| Green Ash* | Fraxinus pennsylvanica |
| Lacebark Elm* | Ulmus parvifolia |
| Live Oak* | Quercus virginiana |
| Mesquite* | Prosopis grandulosa |
| Pecan-Hickory* | Carya illinoensis |
| Post Oak | Quercus stellata |
| Red Maple* | Acer rubrum |
| Red Oak* | Quercus shumardii |
| Thornless Honey Locust | Gleditsia trianthos v. inermis |
| White Oak | Quercus alba |
| Winged Elm | Ulmus alata |

B. Protected Size: Protected large canopy shade trees shall be any of the species listed which have a trunk diameter of 6-inches or greater, measured 12-inches above natural grade.

C. Installation: Any tree of a species marked with an asterisk (*) in the listing of species may be used as a replacement, landscape, or buffer tree. The minimum size required at installation for required replacement, landscape, or buffer trees shall be 3-inch caliper.

D. Buffer Tree Lines: Tree lines established using large canopy shade trees shall provide a minimum 40 square feet of pervious area per tree with automatic underground irrigation provided. One tree shall be provided for each 35 linear feet and trees shall be planted no more than 35 feet apart (on center).

1A-502 SHADE TREES - SMALL CANOPY

A. Small Canopy Shade Tree Listing:

| <u>Common Name</u> | <u>Scientific Name</u> |
|--------------------|-------------------------|
| Bald Cypress* | Taxodium distichum |
| Chinese Pistachio* | Pistacia chinensis |
| Desert Willow* | Chilopsis linearis |
| Ginkgo* | Ginkgo biloba |
| Goldenrain Tree* | Koeleruteria paniculata |
| River Birch* | Betula nigra |
| Southern Magnolia* | Magnolia grandiflora |
| Sweetgum* | Liquidambar styraciflua |

B. Protected Size: Protected small canopy shade trees shall be any of the species listed which have a trunk diameter of 6-inches or greater, measured 12-inches above natural grade.

C. Installation: Any tree of a species marked with an asterisk (*) in the listing of species may be used as a replacement, landscape, or buffer tree. The minimum size required at installation for required replacement, landscape, or buffer trees shall be 3-inch caliper.

D. Buffer Tree Lines: Tree lines established using small canopy shade trees shall provide a minimum 30 square feet of pervious area per tree with automatic underground irrigation provided. One tree shall be provided for each 25 linear feet and trees shall be planted no more than 25 feet apart (on center).

IA: LANDSCAPING, BUFFERING & SCREENING,
AND TREE PRESERVATION
IA-500 TREE SCHEDULE

| IA-503 EVERGREEN TREES | |
|---|------------------------|
| A. Evergreen Tree Listing: | |
| <i>Common Name</i> | <i>Scientific Name</i> |
| Afghan (Mondell) Pine* | Pinus eldarica |
| Arizona Cypress | Cupressus arizonica |
| Austrian Pine | Pinus nigra |
| Deodar Cedar* | Cedrus deodara |
| Eastern Red Cedar* | Juniperus virginiana |
| Japanese Black Pine* | Pinus thunbergiana |
| Loblolly Pine | Pinus taeda |
| Slash Pine | Pinus elliotti |
| <p>B. Protected Size: Protected evergreen trees shall be any of the species listed that measure 8-feet in height or greater.</p> <p>C. Installation: Any tree of a species marked with an asterisk (*) in the listing of species may be used as a replacement, landscape, or buffer tree. The minimum size required at installation for required replacement, landscape, or buffer trees shall be 8-feet in height.</p> <p>D. Buffer Tree Lines: Tree lines established using evergreen trees shall provide a minimum 30 square feet of pervious area per tree with automatic underground irrigation provided. One tree shall be provided for each 25 linear feet and trees shall be planted no more than 25 feet apart (on center).</p> | |

| IA-504 ORNAMENTAL TREES | |
|--|-------------------------------|
| A. Ornamental Tree Listing: | |
| <i>Common Name</i> | <i>Scientific Name</i> |
| Aristocrat Pear* | Pyrus calleryana "Aristocrat" |
| Bradford Pear* | Pyrus calleryana "Bradford" |
| Crab Apple | Malus spp. |
| Crape Myrtle* | Lagerstroemia indica |
| Deciduous Holly* | Ilex decidua |
| Flowering Peach | Prunus persica |
| Purple Leaf Plum | Prunus cerasifer atropurpurea |
| Red Bud | Cercis canadensis "Texensis" |
| Savannah Holly* | Ilex "Savannah" |
| Wax Myrtle | Myrica cerifera |
| Yaupon Holly* | Ilex vomitoria |
| <p>B. Protected Size: Protected ornamental trees shall be any of the species listed that measure 8-feet in height or greater.</p> <p>C. Installation: Any tree of a species marked with an asterisk (*) in the listing of species may be used as a replacement, landscape, or buffer tree. The minimum size required at installation for required replacement, landscape, or buffer trees shall be 8-feet in height.</p> <p>D. Buffer Tree Lines: Tree lines established using ornamental trees shall provide a minimum 20 square feet of pervious area per tree with automatic underground irrigation provided. One tree shall be provided for each 15 linear feet. Trees may be planted in groups or evenly spaced, provided that no tree shall be more than 25 feet (on center) from any other tree.</p> | |

| IA-505 OTHER PROTECTED TREES | |
|--|------------------------------|
| A. Other Protected Tree Listing: | |
| <i>Common Name</i> | <i>Scientific Name</i> |
| Hackberry | Celtis occidentalis |
| Osage Orange | Maclura pomifera (fruitless) |
| Pond Cypress | Taxodium distichum |
| Sycamore | Plantanus occidentalis |
| Texas Ash | Fraxinus texensis |
| Weeping Willow | Salix babylonica |
| Western Soapberry | Sapindus drummondii |
| Other Species Not Listed | |
| <p>B. Protected Size: Other protected trees shall be any of the species listed which have a trunk diameter of 12-inches or greater, measured diameter at breast height (DBH) above natural grade level.</p> | |

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