

CLEAN 132019

(First Published in *The Wichita Eagle* on April 29, 2016)

ORDINANCE NO. 50-184

AN ORDINANCE REPEALING SECTION 10.32.150 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE RULES AND REGULATIONS GOVERNING LANDSCAPING AND PARKING LOT SCREENING.

AN ORDINANCE ADMENDING SECTIONS 10.32.010, 10.32.030, 10.32.040, 10.32.070, 10.32.080, 10.32.090, 10.32.100, 10.32.110, 10.32.120, 10.32.130, 10.32.140 AND 10.32.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE RULES AND REGULATIONS GOVERNING LANDSCAPING AND PARKING LOT SCREENING AND REPEALING THE ORIGINALS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.32.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Purpose.” The purpose of this Chapter is to enhance the attractiveness of the community through the establishment of landscape requirements for urban development projects. The standards herein established shall apply to all new development and certain levels of redevelopment, renovation and/or additions within the corporate boundaries of the city, except single-family residences and duplexes; provided, however, that only parking lot screening and landscaping, but not landscaped street yard requirements, shall apply to development occurring on property in the Central Business District as described in the Wichita / Sedgwick County Unified Zoning Code.

Properly established and maintained, landscaping can improve the livability of neighborhoods, enhance the appearance of commercial areas, increase property values, improve relationships between incompatible uses, screen undesirable views, soften the effects of structural features, and contribute to a positive overall image of the community.

SECTION 2. Section 10.32.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Required landscaped street yard.”

A. The minimum amount of landscaped street yard for all uses except single-family and two-family which are adjacent to at-grade expressway or freeway frontage roads, arterial or collector streets designated in the city's transportation plan, or which are adjacent to local streets when across from residential districts, except as provided for in subsections (A)(8) and (A)(9) of this section, shall be as follows:

Average Lot Depth (ft.)	Square Footage Factor (ft ² / linear foot)
175.00 or less	8
175.01–275.00	10
275.01–375.00	15
Greater than 375.00	20

1. The square footage per linear foot of street frontage may be reduced twenty (20) percent if the minimum planting size of materials specified in subsections (C)(3) and (C)(4) of this section is increased by one hundred (100) percent or more.
2. Plants, installation and maintenance techniques meeting the principles of Xeriscape shall be utilized for landscaping required by these regulations.
3. On a zoning lot with frontage on two or more streets, each of which requires a landscaped street yard, the landscaped area requirement shall be based on the sum of the street frontages, less the greatest perpendicular distance between the property line abutting a street and the street wall line, multiplied by the factor based on average lot depth as referenced above. On multiple-frontage lots where the use of the average lot depth, as defined in Section 10.32.020, would require more landscaped street yard than would be required if each frontage were calculated individually, the lesser of the calculations may be used. Although the required amount of landscaped street yard does not have to be equally distributed to the various street frontages, there shall be no less than twenty (20) percent of the total required landscaping within any street yard.

4. On collector streets with industrial zoning on both sides of the street, the requirement for a landscaped street yard shall be automatically waived.
 5. In the "D" central business district, no landscaped street yard shall be required.
- B. There shall be a minimum of one (1) shade tree or two (2) ornamental trees for every five hundred (500) square feet or fraction thereof of the required minimum landscaped street yard.
- C. Design standards for landscaped street yards and required trees:
1. Trees shall be located in planter areas of sufficient size and design to accommodate the growth of the trees and protected to prevent damage to the trees by vehicles. A minimum of twenty-five (25) square feet of permeable ground surface area per tree is recommended.
 2. The required trees may be clustered along a particular façade or boundary of the project. Trees need not be spaced evenly, although it is permissible to do so, provided adequate distance is maintained between individual specimens. Minimum spacing for ornamental trees is recommended to be fifteen (15) feet and forty (40) or more feet for shade trees. The trees shall be selected from a list of tree types that are commonly known to grow in the Wichita area and are listed in the publication prepared by the Kansas Urban Forestry Council and titled "Preferred Tree Species for South Kansas," available from the Wichita Park and Recreation Department. Trees not listed but which are substantially equivalent may be used if first approved by the Director of Parks.
 3. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) inch or greater caliper measured six (6) inches above the ground; conifer trees five (5) feet or more in height.
 4. Shrubbery may be substituted for up to one-third (1/3) of the required trees at the rate of ten (10) shrubs for one (1) required shade tree. Substitute shrubbery shall be of a site-specific type that attains a mature height of at least two (2) feet and shall be no less than two (2) gallon container size at the time of planting.
 5. The required trees (shade trees or ornamental trees but not conifers) and/or shrubs may be located in part or in total in adjacent public Right-of-Way area if approved

as to location by the traffic engineer and approved as to type by the superintendent of landscape and forestry and no conflicts exist with utility locations. Trees and shrubs should be located no closer than six (6) feet to the Curb line of adjacent streets. Trees should also be located no closer than six (6) feet to either side of a sidewalk unless root barrier materials are installed at the sidewalk on the tree side.

6. Shrubbery, walls and fences which are twenty-five (25) percent or more opaque in design shall be constructed no higher than three (3) feet above the finished grade in a required landscaped street yard when located within a right triangle, the sides of which are formed by a line extending twenty-five (25) feet toward the shrubbery, wall or fence from any vehicular access point along the street Right-of-Way line and a line extending six (6) feet away from and perpendicular to the street Right-of-Way line from the same access point. Shrubbery, walls, fences, or other obstructions located near the intersection of streets shall maintain sight visibility clearance as specified in Chapter 11.22 of this Code. All opaque fences shall be located toward the private property side of required landscaped street yards along street Right-of-Way to maintain a landscaped appearance along the street.
7. The intent of the landscaped street yard is to visually soften the masses of building and parking lots and to separate building areas from parking areas through the use of plantings. Paved plazas may be credited to a maximum of fifty (50) percent of required street yard landscaping area if such plazas have trees and/or shrubbery which provide(s) visual relief to those building elevations forming the major public views of the project. Paved walkways and bike paths connecting public sidewalks to buildings located on private property within a landscaped street yard may also be credited to a maximum of fifty (50) percent of the required landscaped street yard.

SECTION 3. Section 10.32.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Required buffers.”

A. Buffers between nonresidential and residential development:

1. Where Required. Such a buffer is required along the common property line of any nonresidential project in any zoning district where such project is adjacent to a residential district.

2. Design Standards. There shall be a minimum of one (1) shade tree or two (2) ornamental trees for every forty (40) feet or fraction thereof of lot line abutting the residential district. The trees must be generally evenly spaced and shall be within fifteen (15) feet of the property line common to the residential district. If utility and/or drainage easements occupy this fifteen (15) foot perimeter area, the trees may be located outside the easements. Each tree shall be in a planting area having a minimum permeable ground surface of twenty-five (25) square feet. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) inch or greater caliper measured at a height of six (6) inches above the ground; conifer trees—five (5) feet or more in height. These trees shall be in addition to any screening required by Wichita / Sedgwick County Uniform Zoning Code.

B. Buffers between adjacent multi-family residential or manufactured home parks and single-family/two-family residential projects:

1. Where Required. Such a buffer is required along the side and/or rear lot line of any multi-family project (a project with three or more dwelling units in one building) or manufactured home park in any zoning district where such a project is adjacent to a single-family or two-family zoning district.
2. Design Standards. The required buffer shall be a minimum of fifteen (15) feet in width. There shall be a minimum of one (1) shade tree or two (2) ornamental trees and five (5) shrubs for every thirty (30) feet of the length of the buffer; alternatively, a minimum of one (1) shade tree or two (2) ornamental trees for every twenty (20) feet of length of the buffer may be used. A minimum of one-third (1/3) of the trees and shrubs shall be evergreen. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) inch or greater caliper measured at a height of six (6) inches above the ground; conifer trees—five (5) feet or more in height. The minimum size of shrubs shall be two (2) gallon containers. The width of the required buffer may be reduced to twelve (12) feet if the minimum planting size of materials is increased by one

hundred (100%) percent or more. Parking shall be screened from adjacent residential areas in accordance with the parking lot screening requirements listed below. Required screening may be located within the buffer area. Parking may not be located within the buffer area.

SECTION 4. Section 10.32.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Other landscape regulations.”

- A. Landscaping shall not conflict with the traffic visibility requirements in Chapter 11.22 of this Code.
- B. The use of artificial trees, shrubs, vines, turf, or other plants as an outside landscape material is not allowed.
- C. The planting of *Ulmus pumila* (Siberian elm) in required landscape areas is not allowed.
- D. The planting of female or cotton-bearing cottonwood trees is not allowed in any required landscaped area.
- E. Clumped or multi-trunked trees, where used, instead of single-trunk trees, shall be credited as only one of the required trees.
- F. Landscaping shall not interfere with the general function, safety or accessibility of any gas, electric, water, sewer, telephone, or other utility easement. Landscaping shall be limited to an eight (8) inch mature height within three (3) feet of a fire hydrant, traffic sign, traffic signal or utility Structure.
- G. The existing indigenous vegetation on a site is encouraged to be retained in a development project and may be credited toward required landscaping in this Chapter, provided this vegetation is adequately protected during construction to insure long-term survival.
- H. Where a calculation of a requirement results in a fractional number (such as 14.2 required trees), the requirement shall be considered the next greatest whole number (such as fifteen required trees).
- I. Landscaping in the Right-of-Way of a state highway shall be approved by the district engineer, where applicable.

- J. Prior to Excavation for screening or landscape purposes within public Right-of-Way or easements, the location of all underground utilities shall be determined by calling the Kansas One-Call System at 687-2470.
- K. Berms, irrigation systems, street furniture, entry monuments, fountains, statuary or similar landscape features may be located within public street rights-of-way, provided adequate Right-of-Way exists and a Right-of-Way use permit is granted through the office of the City Engineer.
- L. Walls on permanent foundations and fences over six (6) feet in height require a building permit. Walls shall not be constructed within utility easements or street rights-of-way; provided, however, that wall segments on column footings may be permitted across easements if determined appropriate by the City Engineer.
- M. Landscape plans shall be submitted showing the location of all landscape materials and shall be drawn to scale with the scale and north arrow indicated, as well as names of all adjacent streets, the lot dimensions, the location of all utility and drainage easements, and the legal description of the zoning lot. The plans shall contain a listing of the proposed plant materials indicating their numbers, names (both botanical and common) and sizes at the time of planting. The plans shall also state how water is to be provided to plant materials. Copies of the plans shall be submitted to the Metropolitan Area Planning Department in the quantity required by current policy. Statements setting out requirements I, J, K and L above should be included on the landscape plan if they apply to the project. The number of parking spaces within parking lots shall be shown. Calculations of the amount of required landscaped street yard and number of parking lot trees, as well as the amount and number actually provided, shall be included as part of the landscape plan.
- N. No more than seventy-five (75) percent of the required landscape areas shall be covered by turf grasses unless the grass is buffalo grass.
- O. Plants shall be high quality nursery-grown stock which meets the American Association of Nurserymen standards as specified by the American National Standards Institute in ANSI Z60.1-1986 et seq.

SECTION 5. Section 10.32.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Maintenance.” All submitted plans shall include both short- and long-term maintenance plans.

SECTION 6. Section 10.32.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Exceptions and modifications.” The provisions of this Chapter may be modified and/or trade-offs permitted with respect to dimension or location within a property boundary. Permitted forms of modification and exception are identified as follows:

- A. For purposes of application of this Chapter, no buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen, nor allowed to be used in a trade-off or modification of a standard.
- B. The change in use or redevelopment of a site utilizing all or parts of an existing building(s) shall not be required to meet the landscaping requirements of this Chapter, except as follows:
 - 1. When the value of the new addition, renovation or redevelopment exceeds fifty (50) percent of the value of the existing development, as determined by the county appraiser's office; or
 - 2. When there is more than a thirty (30) percent increase of the gross floor area on the site.

New parking lots and additions to parking lots which are required to provide landscaping and/or screening in accordance with Section 10.32.050 shall do so even if there is no increase in gross floor area or value.

- C. Lots or tracts of land abutting the rights of way of a railroad zoned for residential use and held by title separate from all abutting lands shall not be required to provide landscaped buffers along the common property line.
- D. In those instances where a development site abuts a public park or other permanent public open space and where at least one hundred (100) feet of undisturbed natural foliage exists along the common lot line, a landscaped buffer requirement along the common property line is not required; provided, however, loading docks, trash containers, and storage areas on the development site along the common line shall be screened as provided within Section 28.04.160 (K) of this Code.

- E. For purposes of this section, the Director of MABCD with concurrence of the Director of Planning or their designated representatives, shall have the authority to interpret the language and, in extraordinary circumstances, modify the provisions of this section in such a manner and extent that is appropriate for the public interest and consistent with the purposes and intent of this section.
- F. No property owner obtaining a permit for a project involving a new building or building addition shall be required to expend more than four (4) percent of the total construction cost for materials and installation costs associated with landscaping and parking lot screening required by this ordinance. No property owner obtaining a permit for a project involving only a new or expanded parking lot, with no building construction, shall be required to expend more than eight (8) percent of the total construction cost for materials and installation costs associated with parking lot landscaping and screening required by the ordinance codified in this section. In order to qualify for this exception, the property owner must submit a bona fide bid from a licensed contractor for the total project construction cost, and a bona fide bid from a licensed contractor or nurseryman for materials and installation costs for an approved landscape plan. The bid for landscaping must distinguish those items which are required by the ordinance from any other items which are not required. If the total cost of required landscaping items exceeds the applicable percentage as specified above, then the property owner may select items at his discretion to delete from the approved plan, and submit the list of items to be deleted as an addendum to the approved plan.
- G. The preservation and protection from construction damage of each existing tree of six (6) or more inches in trunk diameter (measured six (6) inches above the ground) within the street yard, parking lot, or perimeter buffer area of a site shall account for the equivalent two (2) trees required in that landscaped street yard, parking lot, or perimeter buffer area of the site.

SECTION 7. Section 10.32.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Water conservation measures; rain shut-off devices required.” Property owners are encouraged to take advantage of the water-saving practices set out in the principles of xeriscape. All automatic irrigation systems shall be equipped with functioning moisture-sensing devices or

automatic rain shut-off devices that forestall scheduled watering cycles when moisture adequate to sustain healthy plant life is present or must not irrigate when determined to be inappropriate by the Director of Parks.

SECTION 8. Section 10.32.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Enforcement/assurances for installation and completion.” A certificate of occupancy shall not be issued until the MABCD has inspected the site and confirmed conformance with the landscaping plan, except a certificate of occupancy may be issued if the landowner guarantees the completion of all landscaping work. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the MABCD.

Such guarantee shall include an irrevocable letter of credit, certified check, bond, or other acceptable assurance, equal to one hundred twenty-five (125) percent of the cost of the landscaping work, including labor. Such guarantee shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the MABCD.

SECTION 9. Section 10.32.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Administrative remedies.” Until the landowner completes all requirements as set forth in this section, the MABCD may stay any existing building permits, withhold any future building permits, may refuse any inspections to the landowner, and may issue cease and desist orders for any other development on properties owner in any manner by the landowner.

SECTION 10. Section 10.32.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Penalties.” Any Person or entity who violates any of the provisions of this Chapter and who fails to correct such a violation upon which a citation has been served is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed Two thousand five hundred dollars (\$2,500) or by imprisonment of not more than three (3) days, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and shall be punishable as such hereunder.

SECTION 11. Section 10.32.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Appeals.” Any Person aggrieved by the administration or interpretation of any of the terms or provisions of this Chapter may appeal to the Board of Zoning Appeals which, after hearing and with notice to the applicant and adjoining property owners as provided by Sections 2.12.590 through 2.12.610 of this Code, may reverse, affirm or modify, in whole or in part, the order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the department or official from whom the appeal is taken.

SECTION 12. Section 10.32.150 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 13. Section 10.32.160 of the Code of the City of Wichita, Kansas, is hereby repealed and Section 10.32.150 is created to read as follows:

“Severability.” If any section or provision of this Chapter is for any reason held illegal, invalid, or unconstitutional, such action shall not affect the remaining provisions of this ordinance, which shall remain valid to the greatest extent possible.

SECTION 14. The original of Sections 10.32.010, 10.32.030, 10.32.040, 10.32.070, 10.32.080, 10.32.090, 10.32.100, 10.32.110, 10.32.120, 10.32.130, 10.32.140, 10.32.150 and 10.32.160 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magaña
Interim Director of Law and City Attorney

