

OCA No. 132019

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ORDINANCE NO. 50-340

AN ORDINANCE CREATING CHAPTER 28.06 AND REPEALING CHAPTER 10.32 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE RULES AND REGULATIONS GOVERNING LANDSCAPING AND PARKING LOT SCREENING.

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

SECTION 1. Section 28.06.010 of the Code of the City of Wichita, Kansas, is hereby created 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 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. Parking lot screening and landscaping, but not Landscaped Street Yard requirements, shall apply to development occurring on property in the “CBD” Central Business District as described in the Wichita / Sedgwick County Unified Zoning Code (UZC).

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 28.06.020 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

Definitions.

As used in this Chapter:

"Average Lot Depth" means the horizontal distance between the front and rear lot lines measured along the median between the Side Lot Lines. For multiple-frontage lots, the average Lot Depth measured from each street shall be divided by the total number of streets to obtain one average depth for the lot.

"Berm(s)" means an earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

"Board of Zoning Appeals" means the Wichita Board of Zoning Appeals.

"Conifer Tree" means an evergreen tree, usually of the pine, spruce or juniper genus, bearing cones and generally used for its screening qualities. For purposes of these regulations, a Conifer Tree shall be considered a shade tree if it is at least five (5) feet tall when planted and is one of the Evergreen Trees listed in the Kansas Forest Service's publication titled "Preferred Tree Species for South Central Kansas" and will obtain a mature height of twenty (20) feet or greater.

"Deciduous Trees" means trees and shrubs that shed their leaves annually.

"Evergreen" means trees and shrubs that do not shed their leaves annually.

"Ground Cover" means living Landscape Materials or low-growing plants, other than turf grasses, installed in such a manner so as to provide a continuous cover of the ground surface, and which upon maturity normally reach the average maximum height of not greater than twenty-four (24) inches.

"Landscape Materials" means living plants, such as trees, shrubs, vines, ground cover, flowers and grasses. It may include such nonliving features as bark, wood chips, rock, brick, stone or similar materials (monolithic paving not included) and structural and/or decorative features such as fountains, pools, gazebos, walls, fences, benches, light fixtures, sculpture pieces, and earthen Berms, terraces and mounds.

"Landscaping" means the product of careful planning and installation using any combination of Landscape Materials subject to the limitations set out in this Chapter which results in the softening of building lines, the modification of environmental extremes, the definition of separate functional spaces and the presentation of a pleasing visual effect on the premises.

"Metropolitan Area Building and Construction Department (MABCD)" means the Wichita-Sedgwick County Metropolitan Area Building and Construction Department.

"Mulch" means nonliving organic, inorganic or synthetic materials customarily used in landscape design and maintenance to retard soil erosion, retain moisture, insulate soil against temperature extremes, suppress weeds, deter soil compaction and provide visual interest.

"Ornamental Tree" means a Deciduous Tree possessing qualities such as flowers or fruit, attractive foliage, bark or shape, with a mature height generally under forty (40) feet. Trees listed in the Kansas Forest Service's publication titled "Preferred Tree Species for South Central Kansas" or the Wichita Landscape Ordinance Guidebook as small Deciduous Trees and medium Deciduous Trees will be classified as ornamental trees for purposes of this Chapter.

"Parking Lot" means an area not within a building or other structure where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. This definition shall include vehicle queuing or holding areas such as at car washes, drive-up windows, gasoline

pumps, etc., but shall not include vehicle storage and display area for new and used vehicle sales lots or parking for one-family and two-family dwellings.

"Shade Tree" means usually a Deciduous Tree—rarely an Evergreen—planted primarily for its high crown of foliage or overhead canopy. Trees listed in the Kansas Forest Service's publication titled "Preferred Tree Species for South Central Kansas" or the Wichita Landscape Ordinance Guidebook as large Deciduous Trees and very large Deciduous Trees will be classified as Shade Trees for purposes of this Chapter.

"Shrub" or "Shrubbery" means a deciduous or evergreen woody plant smaller than a tree and larger than ground cover, consisting of multiple stems from the ground or small branches near the ground, which attains a height of twenty-four (24) inches or more.

"Site Specific" means that the plant material chosen to be used on a site is particularly well suited to withstand the physical growing conditions which are normal for that location.

"Street Frontage" means the length of the property abutting on one side of a street measured along the dividing line between the property and the street.

"Street Wall" means any building wall facing a street.

"Street Wall Line" means a line that extends from the building parallel to the Street Wall until it intersects a side or rear lot line or a wall line of another building.

"Street Yard" means the area of a lot which lies between the property line abutting a street and the Street Wall Line of the building. If a building has a rounded Street Wall or if the building is on an irregular-shaped lot, street wall lines extending parallel to the street wall from the points of the Street Wall closest to the side property lines shall be used to define the limits of the Street Yard.

“Unified Zoning Code (UZC)” means the Wichita-Sedgwick County Unified Zoning Code.

"Xeriscape" means water conservation through creative landscaping which applies the following seven principles:

- (1) Plan and design carefully;
- (2) Improve the soil water-holding capacity through use of soil amendments;
- (3) Use efficient irrigation methods and equipment;
- (4) Select Site-Specific, hardy plant materials, and then group all plants according to their sun and moisture needs;
- (5) Use turf grass appropriately in locations where it provides functional benefits;
- (6) Mulch;
- (7) Give appropriate and timely maintenance.

"Zoning Lot" means a parcel of land that is designated by its owner or developer at the time of applying for an occupancy certificate as a tract, all of which is to be used, developed or built upon as a unit under single ownership. Such lot may consist of

- (1) A single lot of record; or
- (2) A portion of a lot of record; or
- (3) A combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

SECTION 3. Section 28.06.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Required Landscaped Street Yard.”

- A. The minimum amount of Landscaped Street Yard for all uses except single-family, two-family and neighborhood swimming pools, as defined by the UZC, which are adjacent to

at-grade expressway or freeway frontage roads, arterial or collector streets designated in the Kansas Department of Transportation Functional Classification Map, or which are adjacent to local streets when across from residential districts, except as provided for in Subsections (A)(4) and (A)(5) 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 by the Chapter, would require more Landscaped Street Yard than would be required if each Street 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 “CBD” Central Business District, no Landscaped Street Yard shall be required.
6. No Landscaped Street Yard shall be required for “vehicle and equipment sales” as defined by the UZC.

B. Minimum number of trees within Street Yards:

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 Forest Service and titled "Preferred Tree Species for South Kansas" or the Wichita Landscape Ordinance Guidebook.

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 a Right-of-Way Use Permit issued by the Traffic Engineer and approved as to type of tree 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. Fences which are twenty-five (25) percent or more opaque in design shall be constructed no higher than four (4) 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 and walls which are twenty-five (25) percent or more opaque in design shall be constructed no higher thirty three (33) inches above the bottom of the gutter or the lowest point of the traveled surface of the roadway 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 the City 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 4. Section 28.06.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Required buffers.”

A. Buffers between Nonresidential and Residential Development:

1. Where Required. 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 should generally be evenly spaced, but may be located in a manner to achieve maximum screening benefit. Trees 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 Unified Zoning Code.

B. Buffers between adjacent Multi-Family Residential or Manufactured Home Parks and Single-Family/Two-Family Residential Projects:

1. Where Required. 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 Tree—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 5. Section 28.06.050 of the Code of the City of Wichita is hereby created to read as follows:

“Parking lot screening and landscaping.”

A. Required Screening. All new parking lots or additions to parking lots shall be continuously screened from view from adjacent residential districts and certain types of streets when within one hundred fifty (150) feet thereof (measured from the property line adjacent to the street), except at points of vehicular and/or pedestrian ingress and egress, to a minimum height of three (3) feet above the parking surface by the use of Berms and/or plantings, with the following exemptions: (1) open parking lots in one-family and two-family residential projects in any zoning district and (2) open parking lots in industrial districts located on collector streets with industrial zoning on both sides of the street. Walls and fences may be used in combination with Berms and plantings but may not be used as the sole means of screening a parking lot, except in the Central Business District where walls and fences may be used as the sole screening if they are compatible (i.e., similar in color, texture and pattern) with the architectural character of adjacent buildings and if it can be demonstrated that Berms or plantings would result in loss of parking spaces. This requirement shall apply to all at-grade expressway, freeway, and arterial and collector Street Frontages and to all local streets when parking is across from residential zoning districts. On corner lots where parking is within one hundred fifty (150) feet of two (2) or more streets but not all the Street Frontages require parking lot screening (due either to type of street or zoning district across the street), the parking lot screening shall wrap around the corner of the lot from the frontage which does require screening for a distance of not less than one hundred (100) feet.

1. Walls or fences used in combination with Berms and/or plantings shall avoid a blank and monotonous appearance by such measures as architectural articulation and placement of vines, shrubs and/or trees.

2. All screening and landscape elements may be located within and be substituted for required landscape buffers and Street Yards, provided sight clearances are maintained as specified in this Chapter and provided further that the minimum number of trees otherwise required in the yard or buffer are established in the Street Yard. Shrubs used in meeting screening requirements shall not be substituted for required trees.
3. Where walls and fences are to be combined with vines and shrubs to create the screening effect, they should be located in a planting strip with a minimum width of no less than three (3) feet from the edge of any adjacent sidewalk. Landscape Materials shall be located on the public right-of-way side of the wall or fence.
4. Where shrubs, trees and other landscape materials are used exclusively to create the screening effect, they should be located in a planting strip with a minimum width of no less than five feet from the edge of the parking lot paving to the edge of any adjacent sidewalk.
5. Where Berms are to be combined with trees, lawn, turf, grasses, shrubs, walls or fences to create the screening effect, they should be located in a planting strip with a minimum width of no less than ten (10) feet from the edge of the parking lot paving to the edge of any adjacent sidewalk.
6. Planting strips associated with parking lot screening may be located in whole or in part on public street right-of-way on the basis of an approved landscape plan, provided adequate public right of way exists, there is no less than fourteen and one-half feet of right-of-way between the property line and the curb, no conflict exists with public utilities, and the location of Berms, walks, irrigation fixtures and other

permanent landscape features is subject to a Right of Way Use Permit granted by the City Engineer.

7. The minimum size at the time of installation of plant materials used for parking lot screening 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; Shrubs—eighteen-inch (18) height. Shrubs used for parking lot screening shall be expected to obtain a height of at least thirty-six (36) inches within the third year after planting. Spacing between shrubs will depend upon the type of Shrub but shall be close enough to achieve a visual screen when the plants reach maturity.

8. Evergreen and/or deciduous plant materials may be used, provided a solid screening effect is maintained on at least two-thirds (2/3) of the treated street frontage during all seasons of the year.

9. All screening materials and landscape features shall be protected from vehicular damage or encroachment by appropriately located curbs or wheel stops.

B. Required Landscaping. All new parking lots or additions to parking lots which create twenty (20) or more spaces and which are required to provide screening in accordance with this Chapter shall also be required to provide at least one (1) shade tree or two (2) ornamental trees for each twenty (20) parking spaces or fraction thereof over twenty (20) spaces. Vehicle queuing and holding areas shall not be counted when determining the number of spaces in a lot. Up to one-half (1/2) of all trees required by the Landscaped Street Yard calculations may be used to satisfy these parking lot landscaping requirements. The trees shall be located within

and around the parking lot to enhance the appearance of the lot and to reduce the deleterious effect of large expanses of paved areas. In parking lots containing fifty (50) spaces or more with two (2) or more drive aisles and three (3) or more parking bays, all of which are contiguous, at least one-half (1/2) of the required trees shall be planted in interior planting islands with each tree having a minimum permeable ground surface area of twenty-five (25) square feet. Trees shall be protected from possible damage caused by vehicle bumpers by the use of bumper blocks, raised curbs or other protective means. Whenever this requirement results in loss of potential spaces to the extent that the number of parking spaces required by the UZC cannot then be provided, an adjustment in the number of parking spaces shall automatically be granted without having to receive Board of Zoning Appeals' approval. The minimum acceptable tree size at the time of installation shall be a two (2) inch caliper for a shade tree and a one (1) inch caliper for an ornamental tree, both measured at a height of six inches above the ground.

SECTION 6. Section 28.06.060 of the Code of the City of Wichita is hereby created to read as follows:

“Percentage of living materials.”

Unless otherwise specified, required landscape area shall consist of a minimum of fifty-five (55) percent in ground surface covering by living grass or other plant materials. The foliage crown of trees that may extend over monolithic paved surfaces beyond the required landscaped area or over nonliving surfaces within the required landscaped area shall not be used in the fifty-five (55) percent or other required percentage calculation. The remaining forty-five (45) percent of the required landscape area may be covered with bark, wood chips, rock, bricks, stone, or similar materials (monolithic paving not included). An effective weed barrier shall be required

in nonliving landscaped areas. The use of nonliving materials in required landscape areas for other than mulching around trees, shrubs and planting beds shall be on the basis of a landscape plan submitted for approval to the planning department.

SECTION 7. Section 28.06.070 of the Code of the City of Wichita, Kansas, is hereby created 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 (15) 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 and physically locating such utilities.
- 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 by the City Engineer.
- L. Walls on permanent foundations and fences over eight (8) feet in height require a building permit. Walls shall not be constructed within utility easements or street right 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. In addition to required shrubs and trees, a landscape plan may not provide for more than eight-five (85) percent 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 Z60.1-2014 *et seq.*

SECTION 8. Section 28.060.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Maintenance.”

- A. The landowner is responsible for the maintenance of all Landscaping Materials and shall keep them in a proper, neat and orderly appearance free from refuse and debris at all times.
- B. Maintenance shall include mowing, trimming, weeding, cultivation, mulching, tightening and repairing of guys and stakes, resetting plants to proper grades and upright position, restoration of planting saucer, fertilizing, pruning, disease and insect control and other necessary operations.

- C. All landscaped areas, except those in the Central Business District “CBD”, shall be provided with a readily available permanent water supply; provided, however, that landscaped areas utilizing drought-tolerant plants may use a temporary above ground system and shall be required to provide irrigation for the first two (2) growing seasons only. Irrigation shall not be required for established trees and natural areas that remain undisturbed by development activities. Irrigation systems shall be designed and operated in a manner to avoid water on impervious surfaces and public streets. Long, narrow landscaped areas are difficult to irrigate efficiently, therefore landscaped areas less than five (5) feet in any dimension shall not be irrigated with overhead spray sprinklers. Drip irrigation is acceptable.
- D. Disturbed soil between trees and Shrubs in the planting beds shall be mulched, planted or otherwise treated to prevent wind and water erosion.
- E. Plants which die shall be replaced within sixty (60) days or, if weather prohibits replanting within that time, then replanting shall occur within the first thirty (30) days of the next planting season.

SECTION 9. Section 28.060.090 of the Code of the City of Wichita, Kansas, is hereby created 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 unless written permission is granted by the

adjacent property owner to utilize existing screening or to allow permission for screening to be planted on the adjacent property, 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 this Chapter, 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 the UZC.

- E. For purposes of this Section, the Planning Director shall have the authority to interpret the language and 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 Chapter. Appeals of the decisions of Planning Director shall be filed with the Board of Zoning Appeals. If in the opinion of the Planning Director there exists extraordinary conditions of topography, existing vegetation, land ownership, site boundaries and dimensions, adjacent development characteristics or other circumstances not provided for in this Section, the Planning Director may modify or vary the strict provisions of this Section in such a manner and to such an extent as is deemed appropriate to the public interest, provided that the purposes and intent of this Chapter are maintained through such modification or variance.
- 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 10. Section 28.06.100 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Water conservation measures; rain shut-off devices required.”

When meeting the landscape requirements outlined in this Chapter, property owners are encouraged to use water in the most efficient way possible. A number of principles for effective water usage are found in the accepted approach to landscaping called Xeriscape. Property owners are encouraged to take advantage of the water-saving practices set out in these principles.

Regardless of the extent to which the principles of Xeriscape are applied automatic irrigation systems installed in association with the landscaping requirements of this Section shall be equipped with moisture-sensing devices or automatic rain shut-off devices that forestall scheduled watering cycles when moisture adequate to sustain healthy plant life is present.

SECTION 11. Section 28.06.110 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Enforcement/assurances for installation and completion.”

Prior to the issuance of a certificate of occupancy for any structure where Landscaping is required, except when a certificate of occupancy is obtained by providing acceptable assurance to the City guaranteeing the completion of such landscaping, all work as indicated on a landscaping plan shall be inspected and approved by the MABCD. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the MABCD.

At the time of inspection, MABCD shall check the quantities and locations of Landscape Materials. At the time of such inspection, the landowner shall warrant that the completed landscaping complies with the requirements of this Section. Such warranty shall include the quantities, locations, species and sizes of plants and other landscape materials used for compliance. In the event that an inspection is not conducted by the MABCD prior to the issuance of a certificate of occupancy because acceptable assurance has been provided to the City guaranteeing the completion of such Landscaping, such inspection shall be done by the MABCD subsequent to the installation of such Landscaping but prior to the release or expiration of the acceptable assurance.

A landowner may obtain a final certificate of occupancy for a structure prior to the completion of required Landscaping work if the completion is not possible, due to seasonal or weather conditions, and if the landowner submits the necessary assurances to the MABCD for the completion of the Landscaping. The acceptable assurance guaranteeing the completion of the landscaping, such as an irrevocable letter of credit, certified check, or other acceptable assurance, shall be equal to one hundred twenty-five (125) percent of the cost of the Landscaping work, and

shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the MABCD.

SECTION 12. Section 28.06.120 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Administrative remedies.”

Until the provisions of this Chapter, including the conditions of any permits issued thereunder, have been fully met, the City may withhold issuance of any building permit, certificate of occupancy or inspection required under the current Unified Trade and Building Code or the UZC or the City may issue cease and desist orders for further development.

SECTION 13. Section 28.06.130 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Penalties.”

Any person, individual, partnership, corporation or association 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 one thousand dollars (\$1,000) or by imprisonment of not more than six (6) months, 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 provided for by this Section.

SECTION 14. Section 28.06.140 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 the City 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 15. Section 28.06.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Amendments.”

Any amendments to this Chapter, shall be forwarded to the Wichita-Sedgwick County Metropolitan Area Planning Commission for their review and comment.

SECTION 16. Section 28.06.160 of the Code of the City of Wichita, Kansas, 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 extent possible.

SECTION 17. The original of Chapter 10.32 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 18. 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 11th day of October, 2016.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer L. Magaña
City Attorney and Director of Law