

Chapter 16.10

TREE PRESERVATION AND LANDSCAPING*

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ARTICLE I. GENERAL

Sec. 16.10-1. Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare of the citizens of the city and is intended to achieve one or more of the following:

- (1) Creation of an aesthetically pleasing environment that improves the quality of life for the citizens;
- (2) Enhancement of property values and protection of public and private investment;
- (3) Provide visual buffering and promote the beautification of the city;
- (4) Provide adequate light and air space;
- (5) Prevent overcrowding of land;
- (6) Retention of as many significant trees as possible without placing an undue burden on those persons whose properties already contain multiple trees;
- (7) Ensure that the local stock of native trees and vegetation is replenished;
- (8) Stabilization of the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge, storm water runoff, and soil erosion retardation, while at the same time aiding in noise, glare, and heat abatement; and/or
- (9) Assure that all undeveloped properties meet minimum landscaping requirements at the time of their initial occupancy, so that the burden of creating a beautiful, treed environment shall be shared by the owners of naturally treed properties and naturally untreed properties alike.

(Ord. No. 498-2003, § 1, 1-13-04)

***Editor's note**—Ord. No. 498-2003, § 1, adopted Jan. 13, 2004, amended ch. 16.10 in its entirety. Said ordinance further provided for a new ch. 16.10 to read as herein set out. Formerly, said chapter pertained to similar subject matter as enacted by Ord. No. 404-2000, § 1, adopted Nov. 14, 2000. See the Code Comparative Table for a detailed analysis of inclusion.

Sec. 16.10-2. Definitions.

The following definitions, and the definitions contained in the Code of Ordinances of the city, shall apply to this chapter.

Building official shall mean the city's building official or his/her designated representative.

Caliper shall mean the width of the trunk of a tree and shall be measured at four (4) inches to six (6) inches above grade. This measurement is used for measuring nursery stock and is only used for trees that are to be planted, relocated, or measure less than seven (7) inches in diameter at four (4) feet six (6) inches above grade.

Certified arborist shall mean any person who is currently licensed as such by the International Society of Arboriculture (ISA).

Circumference shall mean the outermost measurement of a tree trunk and shall be measured four (4) feet six (6) inches above surrounding grade, using an ordinary tape measure. For multiple-trunk trees, the trunk circumference is deemed to equal the circumference of the largest trunk, plus one-half ($\frac{1}{2}$) the sum of all additional trunks at four (4) feet six (6) inch above grade. Measurements should be accurate to the nearest one-half ($\frac{1}{2}$) inch. To convert to diameter inches, divide circumference inches by 3.142.

Deadwood shall mean limbs, branches, or a portion of a tree that contains no live foliage or living tissue during a period of the year when such foliage or tissue should be present.

Dripline shall mean the outermost edge of a tree's canopy.

Person shall mean and include an individual, partnership, corporation, trust, estate, unincorporated organization or association.

Primary structure shall mean a building in which the primary use of the lot on which the building is located is conducted.

Qualifying trees shall mean trees having a trunk diameter of at least eight (8) inches and of a type listed on the qualified tree list of the city. A qualifying tree may not be diseased, dying, or dead, as determined by an urban forester or ISA certified arborist.

Qualified tree list shall mean a list of acceptable trees as shown on attachment "A" hereof.

Secondary structure shall mean any building not meeting the definition herein of a primary structure.

Significant tree(s) shall mean any tree having a trunk diameter of nineteen (19) inches or greater, and that is not diseased, dying, or dead, as determined by an urban forester or ISA certified arborist.

Trees shall mean woody plants having well-defined trunks, defined crowns, and a height at maturity of twenty (20) feet.

Trunk diameter shall be measured at four (4) feet six (6) inches above grade using a diameter tape. Measurement shall be taken just above or below any unusual swells in the

trunk, as closely as possible to the four (4) feet six (6) inch level. For multiple-trunk trees, the trunk diameter shall be deemed to equal the diameter of the largest trunk, plus one-half ($\frac{1}{2}$) the sum of all additional trunks at the four (4) feet six (6) inch level. Measurements should be accurate to the nearest one-half ($\frac{1}{2}$) inch.

Visibility triangle shall mean all of that portion of land lying within a triangular shaped area on each street corner, beginning at the corner of the intersection point of the curb or edge of pavement of each of the two (2) streets forming said corner, and extending a distance of twenty (20) feet along each such curb line or pavement edge from the intersection point, and the third side being determined by drawing a straight line from the ends of the twenty-foot-extensions, regardless of whether the land is publicly or privately owned.

Working days shall mean those days during which City Hall is open to the public.

Yard or street yard shall mean that area of a lot that lies between the street right-of-way line and the actual front wall line of a building or structure, excluding any unenclosed and uncovered porch or steps. On corner lots, the street yard shall consist of all the area of such lot between all abutting street right-of-way lines and the corresponding front wall line or adjacent side wall line, excluding any unenclosed or uncovered porch steps.

(Ord. No. 498-2003, § 1, 1-13-04)

Editor's note—Attachment A referred to above is not set out herein, but is on file as attachment to Ord. No. 498-2003.

Sec. 16.10-3. Properties governed by this chapter.

This chapter shall apply to all non-subdivided property, to all improved subdivided lots, to other improved lands where primary structures are being added, replaced or expanded by fifty (50) percent or more, and to all unimproved subdivided lots, tracts, green and/or open spaces, or reserves within the city.

This chapter shall not apply to any lot or tract of land containing a primary structure that has been granted a certificate of occupancy by the city on or before the date of the adoption of this chapter, unless such primary structure is being replaced or expanded by fifty (50) percent or more. A person who has applied for a building permit to construct a primary structure prior to the date of adoption of this chapter shall not be required to adhere to the requirements of this chapter, provided construction is completed before the permit expires.

Any building permit application for construction of a primary structure and/or any request for subdivision of any lot, block, or tract of land, which is received after the date of adoption of this chapter, must conform to the requirements of this chapter.

(Ord. No. 498-2003, § 1, 1-13-04)

Secs. 16.10-4, 16.10-5. Reserved.

ARTICLE II. TREE PRESERVATION**Sec. 16.10-6. Intent.**

It is the intent of this section to encourage the preservation of existing trees within the city and to prohibit their unwarranted destruction. It shall be unlawful for any person to cause or permit the destruction of any qualifying tree, except as permitted by subsection 16.10-10(a) hereof, without a tree removal permit.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-7. Permit required.

(a) No person shall commence construction or development site preparation of, or for, any portion of any property subject to this chapter without first obtaining a tree removal permit from the building official. Land clearing or grading shall not commence until qualifying and significant tree canopies have had fencing installed around the perimeter of the driplines.

(b) No person shall remove or destroy qualifying or significant trees upon any real property within the city that is subject to this chapter, prior to the issuance of a tree removal permit.

(c) No person shall fail to comply with the required qualifying tree protection measures set forth herein if such failure will cause, or may reasonably be expected to cause, the tree to die.

(d) Nothing contained herein shall require any permit to take actions reasonably required to maintain the continued good health of a qualifying tree including, but not limited to, removal of deadwood, integrated pest management, watering, and root feeding.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-8. Permit information and procedures.

An application for a tree removal permit shall be reviewed within fifteen (15) working days after receipt by the building official. If the application contains complete and accurate information and is in accordance with this chapter, a tree removal permit shall be issued within that time period. If the permit application is incomplete or incorrect, the building official shall deny the requested permit within fifteen (15) working days after receipt of the application.

The application for a tree removal permit shall be on a form promulgated by the building official, signed by the property owner, accompanied by a nonrefundable application fee in the amount specified in the city's "schedule of fees" adopted by resolution by the city council, and contain at least the following minimum information:

- (1) A preliminary plat overlay drawing, a tree survey, drawn to scale, showing:
 - a. Diameter, species, and location of all qualifying and significant trees, and a designation of which qualifying and significant trees are to be saved and which qualifying trees and significant trees are proposed to be removed. Any trees on adjacent properties that have canopies that will encroach upon the platted

property shall be included on the tree survey. In addition, all such qualifying and significant trees on the property shall be flagged in an acceptable manner to enable the building official to identify such trees when visiting the site;

- b. Diameter, species, and location of trees to be planted;
- c. The location of all existing and proposed roads, utility easements, and waterways, including canals, on the property;
- d. The location of the minimum front setback line, as required by the city's building code;
- e. If known, the proposed location of all primary structures, secondary structures, and private utilities to be built or installed on the property;
- f. The location and depth of any fill to be placed on the property; and
- g. The signature, printed name, title, full address, and phone number of the person submitting the application.

- (2) The applicant shall indicate the number of significant trees located on the property, which are to be removed because they are located in the path of roads, waterways or structures. Installation of underground utilities under qualified or significant trees shall be bored instead of trenched and shall be indicated such on the preliminary plat.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-9. Issuance of permit and inspection.

After receipt of a tree removal permit, the applicant may commence site preparation in accordance with such permit. Upon completion of site preparation, the applicant shall notify the building official so an inspection can be performed. No additional permits shall be issued for the property until the building official has finally inspected and approved the final site development.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-10. Minimum tree preservation requirements: qualifying trees.

No qualifying tree shall be removed prior to the issuance of a tree removal permit, unless the tree either:

- (1) Is injured, dying, diseased, or infested with harmful insects, as determined by an urban forester or ISA certified arborist; or
 - (A) Is injured, dying, diseased, or infested with harmful insects, as determined by an urban forester or ISA certified arborist; or
 - (B) Is in danger of falling, interferes with utility service, creates unsafe vision clearance or otherwise creates a hazardous or dangerous condition, as determined by the building official.

- (2) A minimum of twenty-five (25) percent of the qualifying trees shall be preserved. If more than seventy-five (75) percent of such trees are removed, each diameter inch of the qualifying trees in excess of the seventy-five (75) percent permitted to be removed must be replaced with a diameter ratio of 1.30 inches of new trees.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-11. Minimum tree preservation requirements: significant trees.

(a) No tree removal permit shall be issued for a significant tree, unless the city council has approved its removal. Such request for removal shall be accompanied by a plan for the replacement of said tree(s).

(b) A minimum of sixty (60) percent of the significant trees shall be preserved. If more than forty (40) percent of such trees are removed, each diameter inch of the qualifying trees in excess of the forty (40) percent permitted to be removed must be replaced with a diameter ratio of 1.30 inches of new trees.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-12. Replacement tree requirements.

(a) Replacement trees must be of a species included on the qualified tree list.

(b) Replacement trees shall be a minimum caliper of three (3) inches or in a 65-gallon container.

(c) Replacement trees may count toward the general landscaping requirement if planted on-premises.

(d) Replacement trees are permitted to be planted off-premises at the request of the developer. Off-premises replacement trees will be planted on public property. The exact location will be approved by the building official.

(e) The developer may choose to pay the off-site replacement fee rather than planting trees on-premises. The off-site replacement fee is listed on the schedule of fees and charges, which is adopted by the city council.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-13. Guidelines for tree preservation.

Building permit holders shall adhere to the following tree protection measures on all construction sites within the city that are subject to this chapter:

- (1) Prior to land development or redevelopment, or any construction thereon, the developer shall clearly mark all trees to be preserved.
- (2) The developer shall erect a fence around each tree or group of trees to prohibit the placement of debris, fill or the parking of vehicles within the dripline of any tree or group of trees.

- (3) During construction, the developer shall prohibit cleaning of equipment or materials within the dripline of any tree or group of trees that are scheduled to remain. The developer shall not allow the disposal of any waste material, such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., within the dripline of any tree or group of trees that are scheduled to remain.
- (4) No attachments or wires of any kind shall be attached to any tree, except those used to stabilize or protect such tree.
- (5) Grade changes of one (1) inch or greater will require additional measures in order to maintain proper oxygen and water exchange with tree roots. With major grade changes, a retaining wall or tree well of rock or brick shall be constructed around the tree not closer than one-half (1/2) the distance between the trunk and the dripline. The mid-point of the retaining wall shall be constructed at the new grade. Grade changes greater than one (1) inch may not be made without the prior approval of the building official.

If a patio, sidewalk, drive, or parking lot must be placed within the dripline of an existing qualifying or significant tree, material such as a porous pavement shall be used to allow the passage of water and oxygen to the roots of the tree.

(Ord. No. 498-2003, § 1, 1-13-04)

Secs. 16.10-14, 16.10-15. Reserved.

ARTICLE III. LANDSCAPING REQUIREMENTS

Sec. 16.10-16. General landscaping requirements.

No certificate of occupancy shall be issued for any lot or tract of land until and unless the following minimum landscaping requirements have been met:

- (1) Tree requirements for various developments:
 - a. *Residential—Single-family:* Two (2) two-inch caliper trees per lot, at least one (1) of which shall be planted in the front yard. If the front or side street yard of the lot contains two (2) or more existing trees of the required size, this requirement shall be waived.
 - b. *Residential—Multiple-family:* One (1) two-inch caliper tree per living unit plus one (1) two-inch caliper tree per thirty (30) feet of street frontage, or fraction thereof. Trees shall be dispersed throughout the development, within the common areas, and along all street frontages spaced at a distance of no more than thirty (30) linear feet apart. Trees can be placed in clusters and need not be placed at even intervals. If there are existing trees of the required size in the front or side yards equal to the required total number of trees, this requirement shall be waived.

- c. *Manufactured home communities and recreational vehicle parks:* One (1) two-inch caliper tree for every three (3) dwelling spaces or fraction thereof, plus one two-inch caliper tree per thirty (30) feet of linear property within the required greenbelt. Trees shall be dispersed throughout the development, within the common areas, and along all street frontages spaced at a distance of no more than thirty (30) linear feet apart. Trees can be placed in clusters and need not be placed at even intervals. If there are existing trees of the required size in the front or side yards equal to the required total number of trees, this requirement shall be waived.
 - d. *Nonresidential uses (commercial and industrial):* One (1) two-inch caliper tree per thirty (30) feet of street frontage, or fraction thereof. Trees shall be located along all street frontages spaced at a distance of no more than thirty (30) linear feet apart. Trees can be placed in clusters and need not be placed at even intervals. If there are existing trees of the required size in the front or side yards equal to the required total number of trees, this requirement shall be waived.
- (2) Requirements applicable to all developments:
- a. Trees to be removed or preserved shall be measured by diameter and trees to be planted shall be measured by caliper or gallon.
 - b. Landscaping required by calculating the number of parking spaces provided must be generally distributed among the parking areas.
 - c. Quantity of trees to be planted must be determined by calculating the actual number of parking spaces provided.
 - d. Landscaping must be in place and in compliance with this chapter prior to the issuance of a certificate of occupancy.
 - e. All required trees must be selected from the qualified tree list of the city.
 - f. With respect to all development projects, other than those involving single-family residences, adequate irrigation systems shall be installed by the initial owner, in order to provide reasonable assurance that all trees planted under the requirements of this section will survive for a period of two (2) years.
 - g. Trees that do not survive this minimum period must be replaced; provided, however, if the initial owner planted trees in excess of the requirements of this section such owner shall not be required to replace any such excess trees.
 - h. All pervious land areas shall be brought to finish grade and seeded or planted in sod, native grasses or other appropriate ground covers.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-17. Streetscape requirements.

(a) In addition to the general landscaping requirements of section 16.10-16 above, the owner of property subject to this chapter, other than single-family residential property, shall be required to landscape along each side of a parking lot that is adjacent to a street right-of-way. Such landscaping shall hereinafter be termed "streetscape." Streetscapes shall be required along the entire length of a parking lot adjacent to a public right-of-way.

(b) A landscaping screen of not less than one and one-half (1½) feet in height, comprised of a minimum of ten (10) shrubs for every thirty (30) linear feet of frontage on a street right-of-way, excluding any driveways, shall be required along the entire length of such street right-of-way. The landscaping screen shall not be required across driveways, or within eight (8) feet of a driveway. The owner of the property shall maintain the trees and shrubs in such a manner as to prevent visual obstruction.

(c) An increase in the size of an existing parking lot by increasing the number of parking spaces by twenty-five (25) percent or more shall result in the owner of the property being required to add additional landscaping, if necessary, to conform to the requirements of this chapter.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-18. Interior parking lot landscaping requirements.

All multiple-family residential and nonresidential developments with a parking lot containing more than seven (7) parking spaces shall meet the following landscaping requirements:

- (1) For each ten (10) parking spaces, or fraction thereof, landscaped areas of at least seventy-five (75) square feet, or an equivalent area, must be provided within the parking lot. One thirty (30) gallon tree from the qualified tree list shall be provided for each required landscaped island. The remaining area or island must be landscaped with plants not exceeding three (3) feet in height.
- (2) Landscaped islands shall be protected from vehicle intrusion by curbs or similar structures. The front of a vehicle may encroach upon the landscaped island when the area is a minimum of four (4) feet in depth and protected by wheel stops or curbs. Two (2) feet of the landscaped area may be counted as part of the required depth of the parking space.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-19. Visibility triangles.

(a) No person shall plant, grow, or maintain any plant, hedge, shrub, or other growth at a height of more than three (3) feet, as measured from the edge of the pavement, within any visibility triangle.

(b) Any tree planted, grown, and/or maintained within any visibility triangle, or extending within five (5) feet of the edge of any pavement, shall not have branches or foliage extending from the trunk thereof at a height lower than fifteen (15) feet as measured from the edge of the pavement.

(Ord. No. 498-2003, § 1, 1-13-04)

Secs. 16.10-20, 16.10-21. Reserved.

ARTICLE IV. SCREENING REQUIREMENTS**Sec. 16.10-22. Screening requirements for multiple-family residential and nonresidential developments.**

Landscape plans for all multiple family residential and nonresidential developments shall include a detailed drawing of enclosure and screening methods as follows:

- (1) Exterior ground- or building-mounted equipment including, but not limited to, mechanical equipment, utility meter banks and coolers shall be screened from public view with landscaping or with an architectural treatment compatible with the building.
- (2) All rooftop equipment shall be screened from public view with an architectural treatment that is compatible with the building architecture. The methods of screening of rooftop equipment include, but are not limited to, painting, encasement, parapet walls, or partition screens.
- (3) In all new construction and at locations where primary structures are being added, replaced or expanded by fifty (50) percent or more, commercial refuse containers shall be placed on a concrete pad of sufficient size to accommodate the entire dumpster, with a minimum thickness of six (6) inches, in accordance with the city's construction standards. A pad shall also be placed in front of the enclosure to adequately support the collector vehicle.
- (4) In all occupancies in which a commercial refuse container is located within the City, the refuse container shall be screened on three (3) sides with a six (6) foot opaque screen of either masonry to match the building architecture, landscaping treatment, or another compatible building or landscaping material, as approved by the building official. The fourth side of the refuse enclosure shall be gated with gates that provide an opaque screen and match the appearance of the enclosure. The orientation of refuse enclosures shall provide easy access for refuse operators but, to the extent possible, shall be oriented away from public view. Existing commercial, multi-family and industrial establishments that are not in compliance with these regulations shall have one hundred eighty (180) days from the date of adoption of this section to comply.
- (5) The location and placement of refuse enclosures and recycling containers shall be submitted to the building official for approval at the time a certificate of occupancy is requested. Furthermore, all refuse and recycling containers located within the city shall be maintained by the property owner and kept in safe, clean, painted (as applicable), and sound condition. Commercial customers shall ensure that no liquid waste of any type is placed in their containers and that no solid waste is placed outside of the container. Enclosures equipped with drains shall ensure that drain plugs are in place at all times, except during cleaning. All refuse containers shall be provided with tight-fitting lids, doors and covers, and shall be kept covered when not in active use.

Commercial establishments that are not in compliance with these regulations shall have one hundred eighty (180) days from the date of adoption of this section to comply. (Ord. No. 498-2003, § 1, 1-13-04)

Secs. 16.10-23, 16.10-24. Reserved.

ARTICLE V. ADMINISTRATION

Sec. 16.10-25. Administration of this chapter.

The building official shall interpret and administer this chapter. Should the applicant disagree with the interpretation of the building official, the applicant may produce written documentation, signed by an urban forester or ISA certified arborist, in support of the applicant's opinion. The building official shall consider all such written documentation when making a final decision.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-26. City council appeal.

Any property owner who disagrees with the final decision of the building official regarding this chapter, or who desires a variance or exception to this chapter, shall apply to the city council. The applicant may produce evidence, including written or oral testimony from an urban forester or ISA certified arborist.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-27. Possible conflict with the city code.

It is the intention of the city to integrate this chapter into the existing requirements set forth in its Code of Ordinances. However, should this chapter be in conflict with said Code, this chapter shall prevail; otherwise, such other provisions shall remain in full force and effect.

(Ord. No. 498-2003, § 1, 1-13-04)

Sec. 16.10-28. Penalty.

Any person who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

(Ord. No. 498-2003, § 1, 1-13-04)

ATTACHMENT "A"

Qualified Tree List

1. Ash
2. Birch
3. Cedar
4. Cherry
5. Crepe Myrtle
6. Cypress
7. Dogwood
8. Elm
9. Hawthorn
10. Hickory
11. Holly
12. Lilac
13. Magnolia
14. Maple
15. Oak
16. Orchid
17. Pear
18. Pecan
19. Pine
20. Plum
21. Redbud
22. Sweetgum
23. Sycamore
24. Walnut