

**ORDINANCE NO. 2004 - 33**

**AN ORDINANCE REGULATING MINIMUM LANDSCAPING STANDARDS FOR NON-RESIDENTIAL PROPERTIES INSIDE THE CITY LIMITS OF THE CITY OF CANTON, TEXAS; PROVIDING FOR ENFORCEMENT AND ADMINISTRATION OF LANDSCAPE PLANS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000.00 PER DAY PER VIOLATION THEREOF; AND ESTABLISHING AN EFFECTIVE DATE.**

Sec.A. Interpretations and Definitions

1. Applicability

The provisions of this section shall apply to all zoning districts except residential zoning districts, and shall be subject to the limitations, exceptions and additional requirements of this ordinance.

2. Interpretations

The provisions of this section shall constitute the minimum requirements of this section. Where the provisions of this section impose greater restrictions than those of other sections of this, or any other, ordinance, the provisions of this section shall prevail. When the provisions of other sections of this, or any other, ordinance, impose restrictions greater than those contained in this section, the more restrictive regulations shall prevail. When referring to this section, the following rules of interpretation shall be applied, except when the context clearly requires otherwise:

a. The specific shall control the general.

b. In the case of any conflict between the text of this section and the implications of any chart, graph, illustration or table, the text shall control.

c. The words "shall," "will," and "must" are always mandatory and are not discretionary. The word "may" is permissive and discretionary.

d. The words "building" and "structure" shall be construed as though followed by the words, "or portion thereof."

e. The word "lot" shall be synonymous with the words, "parcel," "plot," and "tract."

f. The word "occupied" shall be construed as though followed by the words "or intended, arranged or designed to be occupied."

3. Definitions

Words in the text of this section shall be interpreted in accordance with the provisions set forth in this section. Where a word has not been defined, the standard dictionary definition shall apply. City Building Inspector shall have the authority to interpret the definition of a word as it relates to the provisions of this section.

a. BARRICADE AREA FOR EXISTING TREES: A protected area extending in a radius from protected trees designed to prevent intrusion by construction equipment, construction traffic and vehicles.

b. BARRIER: A device/ treatment controlling the management, circulation, separation, or direction of traffic, including but not

Limited to, wheel stops, raised islands, dividers or barricades.

c. BERM: An earthen mound designed to provide visual interest, screening or decrease noise.

d. BUFFER YARD: Open spaces, landscaped areas, fences, walls, berms or any combination thereof, or of similar materials, used to physically separate or screen higher intensity uses of property from less intensive uses (whether existing or contemplated by the Zoning Ordinance) on adjoining properties to physically shield or block noise, lights or other nuisances generated on the higher intensity use and affecting the less intensive use. The higher intensity use shall bear the responsibility of providing required buffering.

e. CALIPER: Diameter of a predominant tree trunk measured ten (10) inches above grade for trees four (4) inches in diameter or less. For trees with larger diameter, the caliper shall be the measurement of the tree diameter two and one-half (2½) feet above grade.

f. CANOPY TREE: Any self- supporting woody plant with one well-defined trunk and a distinct and definite formed crown, which attains a height of at least thirty (30) feet above grade.

g. DECIDUOUS: A plant with foliage that is shed annually.

h. DEVELOPMENT: The construction, reconstruction or enlargement of any structure or use.

i. EVERGREEN: A plant with foliage that remains green year-round.

j. EXISTING TREE: Any self- supporting woody plant with at least one well-defined trunk, which is present on property prior to development.

k. GRASS: Any of numerous grass species that will attain a thick green cover of turf over the available soil area.

l. GROUND COVER: Any woody or herbaceous plant that effectively shades sod that will not generally attain a height above two (2) feet.

m. LANDSCAPED AREA: An area devoted to and which may consist of plant materials, trees, water forms, planters, brick, stone, aggregate and other materials customarily utilized for landscaping purposes, or any combination of these items, but not including the use of smooth concrete or asphalt and like materials.

n. LANDSCAPE PLAN: The landscape plan, or sufficiently detailed site development plan, containing adequate information to demonstrate compliance with all applicable buffer yard, screening and landscaping requirements of this ordinance.

o. LANDSCAPING: Changing, rearranging or adding to the original vegetation or scenery of land, including the reshaping of the land by moving earth, preservation of original vegetation or addition of new vegetation, or any combination of these treatments.

p. NON-CANOPY TREE: Any self-supporting woody plant with one or more trunks, which will attain a height of at least fifteen (15) feet.

q. NON-CONFORMING DEVELOPMENT: A development, or use, lawfully established prior to the adoption of this Ordinance but which fails to comply with the requirements of this Ordinance.

r. PARKWAY: That portion of the public right-of-way located between the edge of the pavement (or curb) of any public street (which is not an alley) and the boundary of the public right-of-way.

s. PLANT MATERIALS: Living trees, shrubs, vines, grass, ground covers, cactus and flowering annuals, biennials and perennials.

t. PROPERTY: The real property included within the boundaries of any lot approved and recorded in the plat records of the county of jurisdiction, or an unplatted tract or parcel of land as described and recorded in the Real Property Records of the county of jurisdiction.

u. PROTECTED AREA: An area barricaded so that construction practices in the field will protect existing trees and other vegetation from compaction of soil, changes in grade, erosion, and damage from vehicles and construction machinery.

v. PROTECTED TREE: A tree for which a temporary or permanent barrier was constructed to protect the tree from damage during construction and/or from normal site usage and vehicle movements.

w. SCREENING: A method of visually shielding one abutting or nearby structure or use from another by fencing, walls, berms and/or densely planted vegetation, or any combination of these methods.

x. SHRUB: A woody perennial plant distinguished from herbaceous plants by its persistent woody stem and from a tree by a mature height of less than fifteen feet (15') and having no distinctive elevated crown of foliage.

y. STREET YARD: The area of a lot located between the street right(s)-of-way line(s) and each building that faces the said street right(s)-of-way.

z. UNPROTECTED TREE: A tree that has no specially constructed protection barriers to prevent damage due to construction or normal vehicular movement.

aa. VEGETATED AREA: Ground area of a site that is covered by plants, including trees, undergrowth and grasses.

bb. VEGETATION: Any type of growing plant material.

cc. WALL BUILDING LINE: A line extending along the facade of the building(s), parallel to the property line(s) facing a street right-of-way line(s). Such line shall be used to determine the overall area, depth and shape of the required street yard.

## Sec.B. Landscape Requirements

### 1. Landscape Area Requirements

a. The landscaping requirements shall be determined by the total square footage of the lot. The developer shall be required to install/maintain landscaping based on a percentage of the total lot area.

b. The minimum required area of landscaping shall be five (5) percent of the total lot area, except for lots zoned General industrial (GI-1) and Gateway District (GWD).

c. The minimum required area of landscaping for lots zoned (GI-1) shall be two and one-half (2½) percent of the total lot area. One hundred (100) percent of the required landscaping shall be located in the street yard on properties zoned (GI-1).

d. For a lot abutting one street, a minimum of seventy-five (75) percent of the landscaping area shall be located in the street yard. The remaining percentage of landscaping shall be reasonably dispersed throughout the lot.

e. When a lot abuts two streets, a minimum of ninety (90) percent of the landscaping area shall be located in the front street yards. The remaining percentage of landscaping shall be reasonably dispersed throughout the lot.

f. For lots abutting three or more streets, landscaping shall be reasonably dispersed so that each street yard includes a reasonable quantity of landscaping.

### 2. Landscaping Requirements

a. Required landscaping areas shall contain one (1) tree per 2,500 square feet, or fraction thereof. Trees planted to satisfy this requirement shall have a minimum caliper of three (3) inches measured ten (10) inches from top of root ball.

b. Required landscaping areas shall contain one (1) shrub per one hundred (100) square feet, or fraction thereof. Shrubs planted to satisfy this requirement shall be a minimum size of two (2) gallons.

c. All required landscaping areas that are not occupied by trees, shrubs, planting beds, signs or other permitted fixtures shall be planted with grass, sod or other suitable groundcover. The use of decorative gravel and like materials may be permitted by the City Building Inspector, provided that such surfaces do not constitute more than thirty (30) percent of the area constituting the landscape area requirement.

d. To receive landscaping credit for an existing canopy tree with a caliper of eight (8) inches or greater, a barricade along the tree's drip line shall be installed prior to grading and construction. Additional landscape credit, equivalent to two (2) or more new trees, may be awarded for barricading an existing tree if the age, size and condition of the tree are such that the tree is judged to be significant. Such judgment and the amount of additional credit awarded shall be determined by the City Building Inspector. Landscape credit may also be awarded to trees with small caliper, such as for a stand of trees, subject to approval by the City Building Inspector and the barricade requirements listed in this section.

e. All existing undergrowth in a protected area shall remain until construction is complete and can only be removed at that time by hand clearing.

f. Every development shall be required to install either an irrigation system or a hose connection located within fifty (50) feet of all landscaping areas. A Ten (10) percent reduction in the required landscape area shall be made in those instances where an irrigation system is provided for the entire landscape area.

g. Landscaping islands are required in parking areas that are in excess of 20,000 square feet in area at each end of rows containing ten (10) or more parking spaces. If provided, each separate landscape area should contain a minimum area of fifty (50) square feet; should have a minimum width of five (5) feet; and should include at least one tree. The remaining area should be landscaped with grass, groundcover and/or shrubs, with shrubs limited to a maximum height of three (3) feet from grade.

### Sec.C. Landscape Area Maintenance

1. The owner, or an agent for the owner, shall be responsible for the continued maintenance of all landscaping, which shall be maintained in good condition so as to present a healthy, neat and orderly appearance, and shall be kept free from refuse, debris and weeds.

2. Replacement of dead landscaping materials required by this ordinance is the responsibility of the property owner. Replacement must occur within one hundred twenty (120) days, season permitting, upon notification of the City Building Inspector. Replacement material should be of reasonably similar character to planting material being replaced. At a minimum, replacement-landscaping material shall be sufficient to satisfy the minimum requirements of this ordinance. Failure to replace dead landscaping shall constitute a violation of this section of the ordinance.

3. With the exception of sod, grasses and groundcovers, landscaping in utility easements shall be prohibited, except with the prior written consent of the City of Canton and all affected utilities. Any damage or interference with utility lines or other utility facilities resulting from landscape placement, landscape installation or from negligence by the property owner, or the agent or employees of the owner, in the installation and/or maintenance of required landscaping is the responsibility of the property owner. If permitted landscaping that is installed in a utility easement, or required landscaping installed adjacent to an easement or public right-of-way, is damaged or killed in conjunction with the maintenance of utilities or right-of-way, it shall be the responsibility of the property owner to repair said landscaping and replace any plants that are dead or damaged.

4. Nothing in this ordinance shall prohibit or restrict the City or any public utility company from trimming trees or removing plant material that are a hazard to its employees, the public or to its utility facilities, or that may threaten to interfere with the provision of continuous services by the public utility company.

#### Sec.D. Phased Development

1. Each phase of a phased project shall comply with requirements of this ordinance. The portion(s) of a property left for subsequent phases shall remain of a developable size and quality. No building permit shall be issued for a subsequent phase of the project until all requirements of this ordinance have been satisfied on the developed phases.

#### Sec.E. For future use.

#### Sec.F. Landscape Planting Standards and Specifications

##### 1. Plant Criteria

a. All plant materials planted to satisfy the requirements of this ordinance shall be of a species, which will conform to the selection criteria of this ordinance.

i. Plant materials shall either be acceptable native plants or plants that are known to be acclimated to the North East Texas region.

ii. The selection of individual plant materials shall require that the species chosen be adaptable to the specific environment and conditions in which it will be planted; i.e., soils, water availability, height limitations, shade and similar concerns.

b. Trees and shrubs planted in order to satisfy the requirements of the ordinance shall conform to the minimum size specified in this ordinance.

i. Canopy trees shall have a minimum caliper of three (3) inches; shall have a minimum branching height of six (6) feet; and shall have a minimum overall height of eight (8) feet upon being planted.

ii. Shrubs shall be a minimum size of two (2) gallons.

iii. Trees shall be selected so as to avoid those species known to cause damage to public improvements when located in relative close proximity to public improvements.

iv. Artificial plants are not acceptable in satisfying any requirement of this ordinance.

##### 2. Planting and Care Standards

a. Landscaping shall be installed in accordance with professional horticultural/nursery standards and procedures to minimize stress to the plants. Planting of all or a portion of plant materials may be continued during winter months, provided that plant materials are not subject to severe freezing. In the event that weather conditions are not suitable for planting, with the approval of the City Building Inspector, and prior to the issuance of a Certificate of

Occupancy, a bond or irrevocable letter of credit assigned to the City of Canton in an amount equal to the cost of all required landscaping improvements shall be required.

b. The owner or his contractor shall furnish and install all plant materials listed on the plant schedule.

c. Trees shall not be planted so near to sewers, sidewalks or other public improvements as to cause, or potentially cause, damage to such public improvements.

d. The owner or his contractor shall excavate all plant pits, vine pits, hedge trenches and shrub beds as follows:

i. All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth (1/8) of the ball to be above the existing grade. Plants shall rest on undisturbed existing soil or well-compacted backfill. The tree pit must be a minimum of nine (9) inches larger on every side than the ball of the tree.

ii. If areas are designated as shrub beds or hedge trenches, they shall be cultivated to a depth of at least eighteen (18) inches. Areas designated for ground covers and vines shall be cultivated to a depth of at least (12) twelve inches.

e. Each tree, shrub or vine shall be pruned in an appropriate manner, in accordance with accepted standard practice. Broken or bruised branches shall be removed with clean cuts made on the angle from the bark ridge to the bark collar (no flush cuts), to minimize the area cut. All cuts shall be made with a sharp tool, and all edges shall be trimmed smooth.

f. All trenches and shrub beds shall be edged and cultivated to the lines shown on the approved landscape plan. The area around isolated plants shall be edged and cultivated to the full diameter of the pit. Sod that has been removed and stacked shall be used to trim the edges of all excavated areas to the neat lines of the plant pit saucers, the edge of shrub area, hedge trenches and vine pockets.

g. After cultivation, all plant materials shall be mulched with a two to three (2-3) inch layer of tan bark, peat moss or other approved like material over the entire bed or saucer.

#### Sec.G. Tree Preservation/Care during Construction

1. Existing trees to be preserved for landscape credit must be clearly marked as such.

2. Existing trees to be preserved shall be barricaded in accordance with the requirements of this ordinance to prevent said trees from soil compaction, stacking of soil within prescribed drip line areas, construction traffic, changes in grade and similar construction practices that could affect existing tree.

#### Sec.H. Compliance Required

1. The approval of a Landscape Plan, or sufficiently detailed site plan, per the requirements of Section 17-4, shall be submitted demonstrating compliance with the requirements of this section.

2. A Certificate of Occupancy shall be withheld until compliance with all applicable landscaping requirements is attained.

## Sec.I. Landscape Requirements

### A. Landscape Plan Requirements

1. A landscape plan, or a sufficiently detailed site plan, shall be submitted to the City Building Inspector as a part of the application for a Building Permit or Certificate of Occupancy.

2. The landscape plan submission shall consist of two (2) blue line, black line prints or CAD generated plan paper. The plan must have a scale of 1:20, or greater and be depicted on a standard twenty-four (24) inch by thirty-six (36) inch page or compatible size with approval of the Building Inspector. A plan which cannot be drawn in its entirety on a twenty-four (24) inch by thirty-six (36) inch sheet or compatible size must be drawn with appropriate match lines on two (2) or more sheets. The landscape plan may be incorporated as a part of the site plan required by Article 17.

3. The landscape plan may be provided by any individual, provided that the landscape plan is legible and clearly denotes compliance with the requirements of this ordinance. Plans that do not clearly demonstrate compliance with this ordinance, or that do not comply with all applicable regulations, will be returned unapproved.

### B. Landscape Plan Minimum Requirements

Landscape plans shall, at a minimum, include the following items:

1. Scale and north point;
2. Location and dimensions of boundary lines;
3. Planting schedule, including the location, height and dimensions of proposed landscaping, buffer yard location and height, materials, or detail of proposed fencing and berms;
4. Description of proposed plantings, including names, locations, quantities, container or caliper sizes, heights, spacing at the time of installation;
5. Identification of the names, locations and caliper of existing trees to be preserved to satisfy the requirements of this Section of the Zoning Ordinance;
6. Description of measures to protect existing healthy trees proposed to be retained from construction damage;
7. Description of proposed watering methods and/or submittal of irrigation plan; and
8. Plans may include elevations, cross-sections or renderings demonstrating that the proposed development will comply with all the requirements of Sections

### C. Approved Landscape Plan Amendments



Minor amendments to an approved landscape plan, or a site plan that depicts landscaping improvements, if approved by the City Building Inspector, shall be permitted provided there is no reduction in the quality of plant materials or no significant change in the size or location of plant materials, and provided that the substituted plants are of the same general category (i.e., shade, ornamental, evergreen etc.) as the plant materials being replaced. Proposed planting materials must also be compatible with the area to ensure healthy plant growth.

#### APPLICABILITY OF SECTIONS A. THROUGH I.

For purposes herein the word "tract" shall be interchangeable with the word "lot."

#### Sec.J. General Requirements

The requirements of Sections A. through I. shall apply to all properties and improvements within the City, subject to those limitations contained in each section, and subject to the additional limitations, exceptions or requirements contained in this Section.

#### Sec.K. Limitations, Exceptions and Additional Requirements

1. The requirements of Sections shall apply only where a proposed development, expansion of an existing building, development of undeveloped property or a use intensification, inclusive of parking areas does not involve single-family or two-family development; and will either:

a. Increase the overall building coverage or parking lot coverage of a lot by twenty (20) percent or more over the square footage existing on the effective date of this ordinance; or

b. Increase the number of stories or foot print of a building, which adds twenty (20) percent or more total square footage to the building.

2. Parking lot expansions that exceed the criteria of subsection 1.A above shall only be required to landscape the new portion of the parking lot.

3. If a lot is over two (2) acres in size and the developer does not desire to landscape the entire lot, the applicant may specify building site delineation. The City Building Inspector shall determine that the site delineation satisfies the requirements of this ordinance and which would not violate the spirit and intent of the regulations contained in Sections B. through J. The portion of the lot approved by the City Building Inspector as a delineated building site must include the entire area on which construction is proposed.

4. The requirements of Sections A. through J. shall not be applicable in regards to the reconstruction of a structure on a nonconforming lot, which has been damaged by fire, explosion, flood, tornado, or similar catastrophic event, if the partial destruction does not exceed fifty (50) percent of its reasonable value (to be determined by a appraiser appointed by the city) sec.16-10 5-a.

5. In those instances where a single- family or two-family residential dwelling exists in a zoning district other than (R-1,2,3) or (MF-1) and a change in occupancy occurs to a more intensive use, the property shall be brought into conformance with all applicable requirements contained in Sections A. through J.prior to receiving a Certificate of Occupancy.

6. If a lot is rezoned from either a single-family (R-1 R-2 R-3) or two-family (MF-1) zoning district to another zoning classification other than (R-1,2,3) or (M-F), and if an existing building on the said lot is proposed to be converted to a non-single family or non-two-family use, the lot shall be brought into conformance with all applicable requirements of Sections A. through J. prior to receiving a Certificate of Occupancy.

**Sec. L. Penalties**

Any person or persons violating any provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not to exceed two thousand dollars (\$2,000.00) per day per violation.

**Sec. M. Repeal of Conflicting Ordinances**

That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.


**Sec. N. Severability Clause**

That it is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph, or section shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and section, since the same would have been enacted by the City Council without the incorporation of any unconstitutional phrase, clause, sentence, paragraph, or section.


**Sec. O. Effective Date**

That this ordinance will take effect immediately from and after its passage and the publication of the caption as the law in such case provides.

**Passed and approved** the 22<sup>nd</sup> day of November, 2004.

  
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William F. Hilliard, Mayor

ATTEST:

  
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Julie H. Jackson, City Secretary