

ORDINANCE NO. O-17-14

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 32 SECTION 29 OF THE CITY OF MARSHALL, TEXAS CODE OF ORDINANCES ENTITLED "LANDSCAPE & BUFFER YARD" FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS CONDUCTED IN STRICT COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the proposed amend to the Zoning Ordinance is now before the City Commission after being acted upon by the Planning & Zoning Commission as required by state law and city ordinance and after legal notices, requirements, conditions, and prerequisites have been complied with; and

WHEREAS, the City Commission of the City of Marshall, Texas (the "City") deems it necessary and proper and in the best interests of the citizens of the City to repeal and replace Chapter 32 Section 29 of the Marshall Code of Ordinances entitled "Landscape and Buffer Yard";

WHEREAS, the City Commission finds that there is now public necessity for the adoption of this amendment to the Zoning Ordinance; **NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MARSHALL:**

Section 1. That the findings set out in the preamble to this ordinance are hereby in all things approved.

Section 2. That Chapter 32 Section 29, in the City of Marshall's Code of Ordinances the new subsection shall read as follows:

"Landscaping Requirements

29.01 Purpose. Landscaping is accepted as adding value to property and is in the interest of the general welfare of the City. The provision of landscaped areas also serves to increase the amount of property that is devoted to pervious surface area which, in turn, helps to reduce the amount of impervious surface area, storm water runoff, and consequent non-point pollution in local waterways. Therefore, landscaping is hereafter required of new development, except single- and two family and agricultural uses, adjacent to public streets. Single- and two-family uses are generally not required to provide extensive landscaping at the time of development because they rarely fail to comply with the requirements set forth herein.

29.02 Applicability. All new, altered, expanded, repaired, or redeveloped non-residential and multi-family land uses (including schools, churches, day care centers, and other similar uses) located on a lot greater than 7,500 square feet shall install landscaping pursuant to the requirements of this section. When an expansion of existing building square footage or parking area does not exceed fifty percent (50 %), only the expanded portion of the building or parking area shall conform to these requirements. When building or parking area expansions exceed fifty percent (50%), the entire site shall conform to these requirements. In addition, land uses not previously subject to landscaping or buffer yard requirements may be required to comply with this Section upon the occurrence of one of the following:

- a. Zoning Change and/or land use change;
- b. Requirement of landscaping or buffer yard as a condition of a Specific Use Permit; or
- c. Loss of legal non-conforming status.

29.03 Minimum Landscaping Requirements. Minimum standards shall be determined by the square footage of the subject parcel. The required landscaped area shall be defined as the total square footage of the lot minus the area occupied by any structure, parking area, sidewalk, or other paved or impervious surface area.

Area of Lot	Minimum Requirements
7,501 to 25,000 sq ft Lot	<ul style="list-style-type: none">- Minimum of 5% of the lot shall be permanently landscaped area (i.e. pervious surface).- Minimum five (5) foot landscape buffer adjacent to the right-of-way.- Corner lots fronting two public right-of-ways shall be required to provide the five (5) foot buffer on both street frontages.
25,001 sq ft to 1 acre Lot	<ul style="list-style-type: none">- Minimum of 10% of the lot shall be permanently landscaped area (i.e. pervious surface).- Minimum ten foot (10') landscape buffer adjacent to the right-of-way is required.- Corner lots fronting two public right-of-ways shall be required to provide the ten-foot (10') buffer on both street frontages.- Minimum of one (1) tree per five-thousand (5,000) square feet (or portion thereof) of lot area is required.
1 Acre + Lot	<ul style="list-style-type: none">- Minimum of 10% of the lot shall be permanently landscaped area (i.e. pervious surface).- Minimum ten foot (10') landscape buffer adjacent to the right-of-way is required.- Corner lots fronting two public right-of-ways shall be required to provide the ten-foot (10') buffer on both street frontages.- Minimum of one (1) tree per five-thousand (5,000) square feet (or portion thereof) of lot area is required.- Parking lots containing more than 35 spaces shall require a minimum of ten (10) square feet of landscaped area per 400 square feet of parking area.

Landscaping must include a combination of grass and/or groundcover and shrubs and must be visible from the public right-of-way. The use of drought tolerant landscape material is encouraged. All landscaped areas are encouraged to be irrigated with an irrigation system designed according to current professional irrigation standards, unless the landscaping is a xeriscape design of native plants that does not need irrigation. It is the property owner's responsibility to ensure all plantings are properly maintained, the property owner shall be responsible to ensure the property remains in compliance with the approved landscape plan.

Plant materials shall be arranged so as to not interfere with driver vision and vehicle circulation.

All landscape planting areas shall be stabilized and maintained with seed, sod, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainfall infiltration.

29.04 Landscape Plan Required. The landscape plan may be prepared by the applicant or his/her designee. The landscape plan is not required to be prepared by a registered or certified professional.

A landscaping plan shall be submitted to the city for approval. The landscape plan shall be submitted as a part of the site plan submittal, a site plan or building permit will not be issued until a landscape plan meeting the requirements below has been approved.

The landscape plan shall contain the following information:

- A. Drawn to scale; minimum scale of one (1) inch equals fifty (50) feet;
- B. Location of all trees to be preserved and method of tree protection during construction phase of development.
- C. Location of all plants and landscaping materials to be used including paving, screens, and other landscaping features;
- D. Species of all plant materials to be used;
- E. Size of plant materials to be used;
- F. Spacing of plant materials where appropriate;
- G. Layout and description of irrigation, sprinkler, or water system, including placement of water sources;
- H. Description of maintenance provisions of the landscape plan;
- I. Persons responsible for the preparation of the landscape plan; and
- J. The location, spacing, size and species of trees to be used for credit must be shown on the landscape plan.

29.05 Planting Standards. Only landscape materials approved by the City of Marshall shall be installed. Minimum plant sizes are as follows (unless otherwise required):

- A. Canopy trees shall be at least twelve feet (12') tall and two- and-a half inches (2 ½") caliper at the time of planting, and shall have an expected mature height of at least thirty feet (30').
- B. Evergreen canopy trees shall be at least eight feet (8') tall and two-and-a-half inches (2 ½") caliper at the time of planting, and shall have an expected mature height of at least thirty feet (30").
- C. Understory trees shall be at least eight feet (8') tall and one-and-a-half inches (1 ½") caliper at the time of planting, and shall have an expected mature height of at least eighteen feet (18').
- D. Large shrubs shall be at least thirty inches (30") tall at the time of planting and at least five (5) gallon container size, and shall have an expected mature height between six (6) and ten (10) feet.
- E. Small type shrubs shall be at least eighteen inches (18") tall at the time of planting and at least three (3) gallon container size, and shall have an expected mature height between two (2) and six (6) feet.

29.06 Alternative Landscaping Plan.

The Alternative Landscape Plan provides the option to address the goals of this subchapter through a flexible discretionary process utilizing the Planning & Zoning Commission. After conducting a public hearing, in accordance with Section 14 of this Chapter, the Planning & Zoning Commission may grant such a plan.

The goals and objectives which must be met, and by which the alternative plan will be judged are:

- A. Preserve and protect existing neighborhoods.
- B. Encourage infill development and reduces the continuation of urban sprawl.
- C. Ensure that the property owner's alternative proposal results overall in a high quality development meeting the intent of the standards within this subchapter.
- D. Assure quality development that fits in the character of the City of Marshall.

29.06 Landscape & Buffer Yard Installation and Inspection. All landscaping, including mulching, seeding and sod, shall be installed in accordance with the approved landscape plan prior to the issuance of a Certificate of Occupancy. In cases where landscaping or buffer yard plantings cannot be completed prior to building occupancy due to weather or other conditions, the City may require surety to be provided in the amount of 120 percent (120%) of the estimated cost of the landscaping to be provided. The form of the surety must be approved by the City Attorney.

29.07 Maintenance of Landscaping & Buffer Yard. All landscaping required in this section shall be maintained in a neat and healthy condition, and such maintenance shall be ongoing obligation of the owner of the property. Plant material that dies shall be replaced by the property owner with living plant material that complies with the approved landscape plan within a period of ninety (90) days.

Buffer Yard Requirements

29.08 Purpose. Buffer yards are intended to eliminate or minimize conflicts between potentially incompatible, but otherwise permitted land uses on adjoining lots. Buffering may include a combination of setbacks and visual buffers or barriers.

29.9 Applicability. The buffer yard standards of this section apply to:

- A. All new development on vacant land;
- B. Redevelopment or expansion of existing site development by more than fifty percent (50%), not including single-family dwellings or the addition of accessory uses or structures;
- C. Addition or expansion of an existing building by more than 5,000 square feet;
- D. Any change in use that increases development intensity and results in increased traffic, processes, noise, water or air pollution, etc. For the purposes of this Section, a change in use includes: from a residential use to a commercial use; from a commercial use to an industrial use; and in some cases from a manufacturing use to a commercial use.

29.10 Location & Measurement. Required buffer yards must be developed along the perimeter of the lot and are measured from the property line of the development site and extending inward. Buffer yard planting may be located in a required setback area. Buffer yards may not be located within any dedicated public or private street right-of-way.

29.11 Buffer Yard Plan. When required a buffer yard plan must be submitted in accordance with Section 29.05, Landscape Plan.

29.12 Buffer Yard Standards. The chart below describes the minimum requirements for each buffer yard type. Native and wildlife beneficial species are preferred and credit will be given to all natural landscape preserved onsite.

	Buffer Yard Types		
	A	B	C
Buffer Yard Width (ft)	10	20	30
Canopy Trees (per 100 linear ft)	4	4	4
Ornamental Trees (per 100 linear ft)	4	4	4
Shrubs	continuous	continuous	continuous
Berm Height (ft) if provided	--	--	4
Fence Height (ft) if provided	6	6	8

Additional Buffer Yard Standards:

- A. On any portion of the development this Section would require two buffer yard types, the greater buffer yard type shall be required.
- B. All plantings must comply with Section 29.06 of this Section.
- C. If a fence is provided then all trees shall be planted at least eight (8) feet from the fence.
- D. If a fence is provided then all shrubs shall be planted at least four (4) feet from the fence.
- E. The requirement for a berm may be waived if a fence is provided in a Type C buffer yard.
- F. Fences are not required as a part of buffer yards; however if a fence is provided, then the required width of the buffer yard may be reduced by five (5) feet provided that the fence provides a solid barrier.

29.13 Required Buffer Yards. Buffer yards are required between certain land uses with the type of yard depending on the adjoining zoning district. The chart below prescribes the required buffer yard between proposed development and adjoining development by zoning district. For each zoning district, the required buffer yard type is specified. In some cases, a buffer yard is not required.

Proposed Development Providing Buffer	Adjoining Development or District								
	A-E, R-1, R-2, R-3, R-4, R-5	R-6	MF	O	C-1	C-2	C-3	I-1	I-2
A-E, R-1, R-	--	A	A	A	A	A	A	A	A

2, R-3, R-4, R-5									
R-6	A	--	A	A	A	A	A	A	A
MF	A	A	--	A	A	A	A	A	A
O	B	B	A	--	--	--	--	--	--
C-1	B	B	A	--	--	--	--	--	--
C-2	B	B	A	--	--	--	--	--	--
C-3	C	C	A	--	--	--	--	--	--
I-1	C	C	B	A	A	A	A	--	--
I-2	C	C	B	B	A	A	A	--	--

29.14 Buffer Yard Variance. In cases where shape, topography, easements, existing buildings or other factors are present, the developer may request a variance to the buffer yard requirements. After conducting a public hearing, in accordance with Section 14 of Section 14 of this Chapter, the Planning & Zoning Commission may grant such variance. “

Section 3. That the meeting at which this ordinance was passed was conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

Section 4. That all other prior ordinances or portions of ordinances of the City of Marshall in conflict with the terms and provisions of this ordinance are hereby repealed to the extent of such conflict only.

Section 5. That the repeal of any ordinance or portion of an ordinance by this ordinance shall not affect the validity of any pending enforcement action or fines outstanding and due and payable on or before the effective date of this ordinance.

Section 6. That if any section, paragraph, subdivision, clause, phrase or provision of this ordinance is hereafter determined to be invalid or in violation of the laws of the State of Texas or the Constitution of the United States by a court of appropriate jurisdiction, such finding of invalidity shall affect the continued enforcement only of the provision or provisions so determined to be invalid, it being the intent of the City Commission of the City of Marshall that all other terms and provisions of this ordinance not affected thereby shall remain in full force and effect.


Section 7. That this ordinance shall be effective from and after its passage and publication as required by law.

Section 8. The provisions of this ordinance shall be included and incorporated in the City of Marshall Code of Ordinances as an addition and/or amendment thereto.

PASSED AND APPROVED this 13th day of July, 2017.
 AYES: 7
 NOES: 0
 ABSTAINED: 0

PASSED, APPROVED AND ADOPTED this 27th day of July, 2017.
 AYES: 7

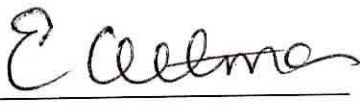
NOES: 0
ABSTAINED: 0



Larry Hurta
CHAIRMAN OF THE CITY COMMISSION
THE CITY OF MARSHALL, TEXAS

OF

Attest:



Elaine Altman, City Secretary