

ORDINANCE NO. 4730

AN ORDINANCE ADOPTING LANDSCAPE REGULATIONS.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Hot Springs, Arkansas, as follows:

SECTION 1. Landscape regulations for the City of Hot Springs are hereby adopted as follows:

HOT SPRINGS LANDSCAPE REGULATIONS

1. Short title.

This Ordinance shall be known as the Hot Springs Landscape Ordinance.

2. Purpose and intent.

The purpose and intent of this Ordinance is to promulgate the health, safety and general welfare of the citizens of the City of Hot Springs National Park through the establishment of reasonable standards for the preservation, planting and care of natural vegetation and introduced landscaping. Through these standards, this Ordinance advances the following objectives of the City's Comprehensive Plan:

- (a) Promotion of responsible land use design and development;
- (b) Protection, conservation and regeneration of a natural, renewable resource;
- (c) Expansion of tourism and economic base by improving the ambiance and beautification of the City;
- (d) Protection of public and private property values and enhancement of neighborhoods by means of landscape buffering and screening; and
- (e) Mitigation of noise, glare, erosion, sedimentation and storm water runoff.

Definitions.

For the purposes of this Ordinance, certain words and terms used herein shall be interpreted as defined below. Words in a plural number include the singular number; words in the singular number include the plural number; and the word *shall* when used in this Ordinance is always mandatory.

- (a) *Accessway* - An area on private property for vehicular traffic intended to provide entrance from or exit to a public right-of-way.
- (b) *Berm* - An earthen mound or wall of earth that is designed to provide visual interest and/or screen undesirable views.
- (c) *Buffer* - An area of land together with planting and screening that is designed to minimize or eliminate conflicts between dissimilar land uses.
- (d) *Building Street Wall* - A building wall fronting on a dedicated city street. Such building wall line shall follow and include any irregular indentations in the building. Steps and unenclosed porches shall be excluded for the purposes of this Ordinance.
- (e) *Caliper* - Diameter at breast height (4½ feet.)
- (f) *Clump* - A grouping of three or more trees of 8" diameter or greater that are separated by a distance of not less than twelve (12) feet and whose protected root zone and understory are undisturbed.
- (g) *Canopy Tree* - A perennial woody plant, deciduous or evergreen, single or multiple trunk, that contributes to the uppermost spreading branchy layer of a forest and that is commonly referred to as a shade tree.
- (h) *Dripline* - The outside edge of the area underneath a plant which would be encompassed by perpendicular lines dropped from the farthest edges of the crown of the plant.
- (i) *Fence* - A barrier intended to mark a boundary, screen a view or prevent intrusion that is designed and built in a sound workmanlike manner with adequate footings to withstand normal wear while keeping an attractive appearance.

- (j) *Good Planting Soil* - Soil that easily crumbles in either a moist or dry state, is free from rocks and other foreign matter, and does not contain a large proportion of heavy clay, sand, or other materials unsuitable for healthy plant growth.
- (k) *Introduced Plant* - Any nonexisting plant that is added during the development of a property.
- (l) *Permeable Paving* - Any paving which due to its inherent nature, or construction, allows fluids and gases to penetrate through it at least in some areas, such as GRASSCRETE™ brand permeable paving.
- (m) *Preserved Plant* - Any plant existing prior to development of a property that is protected so that it remains after the development of a property.
- (n) *Property, Commercial* - Property, regardless of the zoning district, that is used wholly or partially for offices, wholesale or retail sale of goods and services, or community services such as governmental facilities, places of worship and schools.
- (o) *Property, Manufacturing/Industrial* - Property, regardless of the zoning district, that is other than commercial property, multifamily property or residential property as defined in this Ordinance.
- (p) *Property, Multifamily Residential* - Property, regardless of the zoning district, that is used as residences and that contains three or more dwelling units per structure.
- (q) *Property, Single Family / Duplex Residential* - Property, regardless of the zoning district, that is used as residences and that contains one or two dwelling units per structure.
- (r) *Root Protection Zone* - The root protection zone for a shrub shall be the area contained by the shrub's dripline. The root protection zone for a tree shall be the area defined by a concentric circle with a radius equal to the diameter of the trunk in inches at breast height by 1 foot but no less than 100 square feet. Planting or open ground areas shall be located so that the trunk of any preserved tree is as close to the center of the open ground area as possible, and in no case shall the trunk be closer than 1/3 of the maximum dimension of the designated open ground area to any edge of that area.

- (s) *Screening* - The use of plant materials, berms, walls, fences or any combination thereof, that at least partially block in a continuous manner, the view from one area to another.
- (t) *Sight Triangle* - The triangular-shaped area on either side of an intersection of traffic lanes and/or accessways within which clear visibility for traffic and pedestrians shall be maintained. The sight triangle is the area formed by extending lines 15 feet along each of the two intersecting lanes and/or accessways connected by a third line.
- (u) *Turfgrass* - Any of several grasses grown specifically as lawns including but not limited to bermuda grass, zoysia, centipede, turf-type tall fescues such as 'Rebel', and buffalo grass.
- (v) *Understory / Accent Trees* - Small deciduous or evergreen perennial woody plants that grow below the top layer of surrounding trees and that typically have unique branching, textural and/or seasonal color characteristics.
- (w) *Vehicular Use Area* - That area of private development subject to vehicular traffic, including accessways, loading and service areas, areas used for parking or storage of vehicles, boats, or portable construction equipment, and all land which vehicles cross over as a function of primary use.

4. **Applicability.**

Generally, this Ordinance applies to new multifamily and nonresidential development and additions to existing multifamily and nonresidential development. The following specific criteria determine the applicability of the Ordinance:

- (a) The requirements herein shall not apply to:
 - i. Detached single family and duplex structures.
 - ii. Structures existing at the effective date of this Ordinance.
 - iii. Replacement of existing structures destroyed by natural or unnatural causes.
 - iv. Proposed structures on projects with development and/or site plans that have been approved by the Planning Commission prior to the effective date of this Ordinance.
 - v. Expansions or additions to existing structures that increase the area of the structure up to the lesser of 30% in area or 5000 square feet.

vi. Proposed structures or expansions or additions to existing structures on property that is zoned C-1, Central Business District according to the Zoning Code.

(b) The requirements herein shall apply to:

- i. All new nonresidential structures and multifamily residential structures (excluding duplex structures) 1000 square feet in area and larger.
- ii. The new structure portions only of an expansion or addition to a structure existing at the effective date of this Ordinance that increases the area of the structure more than the lesser of 30% in area or 5000 square feet.

Requirements.

All applicable development shall comply with the following landscape and buffer and miscellaneous requirements:

(a) Landscape Requirements - Landscaping requirements shall be determined by either the point system or area ratio system options below (at the option of the property owner and/or the developer.)

i. Point System - The point system determines landscape requirements by first calculating the number of required points for the development. Landscape improvements are assigned point values and the point values are then summed. The development satisfies the landscape requirements if the cumulative number of points provided by the landscape improvements are equal to or exceed the required number of points. The specific point system requirements are as follows:

- (1) The number of required points for a proposed structure or expansion to an exiting structure shall be calculated by multiplying the number of off-street parking spaces by 100 points per space. (The minimum number of required off-street parking spaces is established by the Zoning Code.)
- (2) The required number of points above shall be satisfied by landscape improvements according to the schedule in Table I.
- (3) A minimum of forty percent (40%) of the required points shall be through the preservation or planting of trees.
- (4) A minimum of ten percent (10%) of the required points shall be shrubs, groundcovers and/or turfgrasses.

- (5) The landscape improvements shall be located so that a minimum of fifty percent (50%) of the required points are located in vehicular use areas or within twenty feet (20') of vehicular use areas.

Table I
LANDSCAPE IMPROVEMENTS POINT SCHEDULE

Landscape Improvement	Points per Unit	Unit
TREES		
Existing trees (in clumps) - greater than 8" caliper	400	each tree in clump
Existing trees - greater than 8" caliper	300	each
Existing trees - 2"-8" caliper	150	each
Introduced canopy trees - 2" and greater caliper	100	each
Introduced canopy trees - 1"-2" caliper	50	each
Introduced canopy trees - less than 1" caliper	25	each
Introduced understory / accent trees - 4' in height and greater	50	each
Introduced understory / accent trees - less than 4' in height	25	each
SHRUBS		
Existing shrubs - 3' minimum height	40	each
Introduced shrubs - 15 gallons or larger*	30	each
Introduced shrubs - 10 gallon*	20	each
Introduced shrubs - 5 gallon*	10	each
Introduced shrubs - smaller than 5 gallon	2	per gallon per shrub
<i>* for ball & burlapped shrubs, the point value shall be determined by the container size of an equivalent size shrub</i>		
GROUNDCOVERS & PAVING		
Existing groundcovers, herbs and/or grasses	40	100 square feet
Introduced groundcovers or flowers	40	100 square feet
Introduced turfgrass	5	100 square feet
Concrete or brick pavers; flagstone	100	100 square feet
Colored or exposed aggregate concrete paving	30	100 square feet
Water permeable paving including gravel or rip-rap	10	100 square feet

Landscape Improvement	Points per Unit	Unit
MISCELLANEOUS		
Irrigation	15	100 square feet
Earthen Berms	400	100 linear feet
Masonry or ornamental iron fences	100	100 linear feet for each 1' in height
Architectural wooden fences	30	100 linear feet for each 1' in height
Wooden stockade fences	20	100 linear feet for each 1' in height
Metal panel fences	1	100 linear feet for each 1' in height

ii. Area Ratio System - The area ratio system determines landscape requirements by first determining the required site landscape area. The required landscape improvements are then obtained by multiplying the site landscape area by ratios for landscape improvements. The specific area ratio system requirements are as follows:

(1) The required site landscape area shall be obtained by multiplying the number of off-street parking spaces by 125 square feet per space. (The minimum number of required off-street parking spaces is established by the Zoning Code.)

(2) Landscape improvements for the site landscape area shall be satisfied according to the ratios as follows:

<u>Required Improvement</u>	<u>Ratio</u>
Canopy Tree, 2" min. caliper	1 per 300 square feet
Understory Tree, 4' min. ht.	1 per 150 square feet
Shrub, 5-gallon minimum size	1 per 200 square feet
Groundcover	10% of total required landscape area
Turfgrass	total landscape area less groundcover area

(3) The following substitutions may be used to vary the required landscape improvements above:

<u>Substitution</u>	<u>Required Improvement</u>
1 Preserved Tree, 8"+ caliper	3 introduced trees
1 Preserved Tree, 2"-8" caliper	1 introduced tree
1 Preserved Shrub	4 (5-gallon) introd. shrubs
Irrigation of total area	10% reduction of required improvements
Rip-rap, gravel & water permeable paving	1:1 area replacement for turfgrass; max. 50%

(4) The site landscape areas shall be located so that a minimum of fifty percent (50%) of the landscape areas are located in vehicular use areas or within twenty feet (20') of vehicular use areas.

(b) Buffer Requirements - The buffer requirements are designed to provide space for landscape improvements for the separation and visual screening between dissimilar land uses and public thoroughfares. The requirements of this section apply to new development only and do not apply to applicable expansions or additions as defined in Section 4, *Applicability*, in this Ordinance. The specific land use and thoroughfare buffer requirements are as follows:

- i. All new development shall provide land use buffers according to Table II. If the property adjacent to the developing property is vacant or undeveloped, then the *Adjacent Property Type* shall be the type corresponding to the most intense permitted use allowed in the zoning district of the adjacent property.
- ii. All new development shall provide thoroughfare buffers as follows:

<u>Thoroughfare Type</u>	<u>Thoroughfare Buffer Width</u>
State Highway	10'
Arterial	10'
Collector	5'
Local Street	5'

- iii. Landscape improvements in land use and thoroughfare buffers shall count toward Section 5, *Requirements*, in this Ordinance.
- iv. A continuous screen, 6' minimum height, consisting of fencing, plantings, berms or a combination of these shall be placed in the land use buffers between *Manufacturing / Industrial* or *Commercial (other than C-1 zoning)* property types and *Single Family / Duplex* or *Multifamily Residential* property types.

Table II
LAND USE BUFFERS

		Adjacent Property Type				
		Single Family / Duplex Residential	Multifamily Residential	Commercial (C-1 zoning)	Commercial (other than C-1 zoning)	Manuf. / Industrial
Developing Property	Single Family / Duplex Residential	-	-	-	-	-
	Multifamily Residential	10'	-	10'	10'	-
	C-1 Central Business District zone	-	-	-	-	-
	Commercial (other than C-1 Central Business District zone)	10'	10'	-	-	10'
	Manufacturing / Industrial	30'	30'	10'	10'	-

- (c) Miscellaneous Requirements - The following miscellaneous requirements apply to landscape improvements:
- i. All plant material shall be No.1 grade, free from plant disease, of typical growth for the species, have a healthy root system, and shall conform to the standards set forth in the current addition of the American Standard for Nursery Stock.
 - ii. Plantings and/or other landscape improvements may be arranged to best suit the development; however, a portion of the improvements should be located according to the following objectives:
 - (1) Improvements should be arranged so that trash containers, loading docks, outdoor storage areas, vehicle use areas and mechanical equipment are screened from view from abutting properties and streets.
 - (2) Improvements should be arranged in required buffer areas so that adjacent uses are screened from abutting incompatible uses.
 - iii. Plantings used for screening should be evergreen varieties.
 - iv. No trees, shrubs, fences, berms or other landscape improvements that would impede visibility shall be located in sight triangles.

- v. Raised concrete curbing or other devices such as wheel stops shall be placed around the base of all planting areas that contain trees and/or shrubs placed within 5' of abutting parking spaces. Parking spaces abutting turfgrass or ground cover areas and circulation lanes within vehicular use areas shall be exempt from this requirement.
- vi. The minimum area for landscape areas within vehicle use areas shall be 150 square feet and the area shall be no less than 5' wide at the narrowest point excluding radii provided for vehicle accessibility.
- vii. The minimum height of berms and fences shall be 3'.
- viii. Plantings whose mature height exceeds 15' shall not be planted beneath overhead utility lines.

6. **Substitute Plan.**

In lieu of the requirements in Section 5, *Requirements*, in this Ordinance, a substitute landscape plan may be submitted to the Planning Commission for their consideration when unusual topographic constraints, site restrictions, siting requirements, preservation of stands of native trees or similar conditions prevent strict compliance with Section 5 requirements.

7. **Tree and Shrub Preservation.**

A major objective of this Ordinance is to encourage the preservation of existing vegetation wherever possible while allowing quality development to take place. Preserved trees and shrubs, therefore, are given higher values toward landscape requirements than introduced trees and shrubs. To qualify for landscape, buffer and screening requirements, the following measures shall be required for preserved trees and shrubs:

- (a) Protective fencing or other construction barrier shall be placed at and completely encompass the root protection zone of all preserved plants.
- (b) Any tree whose root protection zone will be affected by soil removal shall have roots cut cleanly by trenching at a point at least 1' outside the construction barrier installed as required above.
- (c) The following shall be prohibited within the root protection zone of any preserved plant:
 - i. Grading and excavation which involves cutting or filling to a depth of more than 3 inches
 - ii. Pouring of any material which is toxic to plants

- iii. Installing, depositing, placing, storing, or maintaining any stone, brick, sand, concrete, or other materials which may impede the free unobstructed growth of or passage of water, air and fertilizer to the roots
- iv. Attaching any sign, poster, notice or other object, or fastening any guy wire, cable, rope, nail, screw, or other device to any preserved plant for any reason other than that of a protective nature to the plant
- v. Causing or encouraging any fire or burning of any kind near or around any plant
- vi. Parking construction or passenger vehicles of any type.

8. **Review, Permitting and Enforcement Procedures.**

The following procedures shall be used for the review, permitting and enforcement of the requirements in this Ordinance:

- (a) Review - A landscape plan for all applicable developments as defined in Section 4, *Applicability*, of this Ordinance shall be submitted along with other construction plans at the time of building permit request. Upon receipt of a landscape plan, the Director of Planning & Development shall review the plan and provide the applicant with a written summary of the review. If necessary to conform with this Ordinance, the applicant shall make revisions to the landscape plan and resubmit it.

The landscape plan shall be a minimum of 11" x 17" and shall include the following information:

- i. Name and address of the development, name and address of the owner and/or developer, name and address of landscape plan preparer, date of preparation, graphic and written scale, north arrow.
- ii. Vicinity map, names of abutting streets, general topography (existing and finish) of site if not indicated on separate civil plan.
- iii. Property and/or lease lines with dimensions and courses.
- iv. Phasing lines if the development is to be constructed in stages.
- v. Footprint of existing and proposed buildings, sidewalks, vehicular use areas and trash containers.
- vi. Location of existing and/or proposed utilities and utility easements and centerline of existing water courses and other drainage improvements.
- vii. Location, size, quantity, spacing and type of plantings and other landscape improvements.

- viii. Location and size of preserved trees and shrubs with notation as "preserved" and location of corresponding root protection zones. Tree fencing and/or other method of protection of during construction shall also be indicated.
- ix. Note if irrigation is to be provided and, if so, extent of area to be irrigated. Irrigation plans are helpful but are not required.
- x. Schedule or table of improvements and preserved trees and shrubs.

(b) Permitting - Upon approval of the landscape plan, a landscape permit shall be issued to the applicant.

(c) Enforcement - The following procedures shall be implemented for compliance with this Ordinance:

- i. No building permits shall be issued until a landscape plan meeting the requirements of this Ordinance has been approved by the Director of Planning & Development.
- ii. All requirements of this Ordinance shall be satisfied prior to the issuance of the respective building certificate of occupancy; however, a temporary certificate of occupancy may be issued subject to the following criteria:
 - (1) The completion of requirements would result in a delay in opening for the applicant or whereby completion of the requirements in the months of June through August could result in undue stress on installed planting materials.
 - (2) The completion of requirements shall be accomplished within 150 days of the issuance of a temporary certificate of occupancy.
 - (3) The applicant provides the City a letter of credit, bond, escrow deposit or other fiscal arrangement satisfactory to the City to cover the completion of requirements. If the applicant fails to complete the requirements within the 150-day period of the temporary certificate of occupancy, the City shall have the right to draw upon the letter of credit, bond, escrow deposit or other fiscal arrangement to complete the requirements herein.

9. Maintenance.

The developer, owner, tenant and/or their agents shall jointly and severally be responsible for the maintenance of landscape improvements and other requirements of this Ordinance. The requirements of this Ordinance shall be maintained according to the following:

- (a) All landscaping shall be maintained in a neat and orderly manner.
- (b) Preserved plants which die within five years of development shall be replaced by introduced plants with corresponding point values or credits.
- (c) Introduced plants which die shall be replaced with plants of similar variety and size.
- (d) Although not mandatory, pruning should be done according to National Arborists Association pruning standards.
- (e) Broken irrigation lines or heads shall be replaced promptly to ensure adequate irrigation and prevent waste of water.
- (f) Fencing, permeable paving and other non-plant landscaping improvements shall be maintained in as close to installation conditions as possible.

10. Variances and appeals.

Any applicant who desires a variance to the requirements herein or who desires to appeal an interpretation of the ordinance by the Director of Planning & Development, shall file a written appeal with the City Manager for consideration by the Board of Zoning Adjustment. The Board of Zoning Adjustment shall have the authority to grant an interpretation or variance to the requirements of this Ordinance. In granting any variance, the Board of Zoning Adjustment shall determine that a literal enforcement of the regulations herein will create an unnecessary hardship or practical difficulty on the applicant, that situation causing the unnecessary hardship or practical difficulty is unique to the affected property and is not self-imposed, and that the granting of the variance will be in harmony with the spirit and purpose of this Ordinance.

11. Handbook.

A handbook will be available from the City's Parks and Recreation Department and the Hot Springs/Garland County Beautification Commission that provides landscaping information for the Garland County area. Although the recommendations in the handbook are not part of this Ordinance, the handbook provides beneficial tips on landscape planning, tree preservation, recommended plant lists, planting guidelines, pruning, etc.

12. Administrative Authority.

All references to the Planning and Development Director or other official of the City shall be deemed to be the City Manager or his/her designee.

13. Penalty for Violation.

The fine or penalty for violating any provisions of this Ordinance shall, upon conviction in the Municipal Court, not exceed five hundred dollars (\$500.00) for any one specified offense or violation, or double that sum for each repetition of such offense or violation; provided, further, that if a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of said Ordinance or any Ordinance of this City, shall not exceed two hundred fifty dollars (\$250.00) for each day that it may be unlawfully continued.

SECTION 2. CONFLICT WITH OTHER ORDINANCES. Should the provisions of this Ordinance be in conflict with any other ordinances, codes or regulations, the provisions of this Ordinance shall apply.

SECTION 3. SEVERABILITY. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. CODIFICATION. This Ordinance shall be codified in the Code of Ordinances and the sections may be renumbered or relettered to accomplish such intention.

PASSED: May 18, 1998

APPROVED: Helen Selig
HELEN SELIG, MAYOR

ATTEST: Lance Hudnell
LANCE HUDNELL, CITY CLERK

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