



**PLANNING & ZONING
COMMISSION MEETING
TUESDAY, FEBRUARY 21, 2017 AT 6:30 P.M.
JUSTIN CITY HALL
415 NORTH COLLEGE STREET
JUSTIN, TEXAS 76247**

I. Call to Order:

Invocation and Pledge of Allegiance.

II. Public Comment

In order to expedite the flow of business and to provide all citizens the opportunity to speak, the Planning & Zoning Chair may impose a three-minute limitation on any person addressing the Planning & Zoning Commission.

III. ACTION ITEMS

1. Discuss, consider, and act on the City of Justin Comprehensive Plan draft.
2. Discuss, consider, and act on the Landscape and Buffer Zone ordinance draft.
3. Discuss, consider, and act on the Fence ordinance draft.

IV. CONSENT ITEMS

4. Consider, and act on the consent of the Planning and Zoning Commission minutes for January 17, 2017

V. FUTURE AGENDA ITEMS

VI. ADJOURNMENT

Prepared and posted, this 17th day of February 2017, in accordance with the Texas Local Government Code.

Cori Reaume, Interim City Manager

Planning & Zoning Meeting

February 21, 2017

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: #2

Title: Landscape & Buffer Regulations

Department: Planning & Development

Contact: Cori Reaume, Interim City Manager, Barry Hudson, Planning Consultant

Background:

At the P&Z meeting in November, the Planning & Zoning Commission went through the first portion of this ordinance in conjunction with Barry Hudson to begin revisions. The attached draft shows changes tracked.

A summary of changes thus far is below:

- Updated formatting of illustrations/tables
- Ensured references to other places in the document are current
- Added requirement for F2 screening wall and 5 foot bufferyard for rear/side yards where residential abuts a thoroughfare, collector, or local street.
- Added Interior Landscaping Requirements (Section D)
- Added Landscape & Tree Canopy Requirements (Section E)
 - With additional required tables to outline requirements for landscaping and tree canopy cover
- Adjusted language from Building Official to City Manager or designee, where appropriate
- Made note of areas within Parking Lot Landscaping Requirements where we may want to consider an increase

Additionally, at the last meeting, a revision of Table 12-1 Bufferyards Adjacent to Other Land Uses was conducted by P&Z in Nov. Changes are tracked in the table. The 2F (duplex) category was separated from MF (multifamily) and included in the SF (single family) category and many changes were made to upgrade fence requirements to F2.

Line Item: NA

Amount remaining in line item: NA

Expenditure Required: NA

Additional Required: NA

Budget Amendment Needed: NA

City Attorney Review: No

Recommendation:

Discuss and consider Landscape & Buffer Regulations.

Attachments:

(1) DRAFT Landscape & Buffer Regulations

Section 12.1050 - LANDSCAPE AND BUFFER REQUIREMENTS

A. Purpose

The purpose of the landscaping and buffer requirements is to provide for the orderly and aesthetic development of the city. It is the intent of these requirements to:

1. A balance between the need for landscape treatments and the need for commercial growth in the city.
2. Promote a flexible attitude of enforcement sufficient to meet the spirit and intent of these requirements.
3. Promote mutually beneficial improvements by utilizing incentives rather than penalties.
4. To aid in stabilizing the environmental balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation and erosion control.
5. Provide for the separation and buffering of incongruous uses and intensity of activities and provide for the visual softening of building masses.
6. Reduce glare from paved surfaces, dust nuisances and the impact of noise.
7. Protect and promote the value of residential and commercial properties within the city.
8. Promote a positive image for the attraction of new business enterprises within the city.
9. Encourage the protection of healthy trees and vegetation and promote the natural ecological, environmental and aesthetic qualities of the city.

B. Landscaping and Bufferyards Required

The requirements of this Section shall apply to all new nonresidential and multifamily construction. Buildings in existence on the effective date of this ordinance shall be considered legally nonconforming. Any new construction that exceeds 5,000 square feet, or more than a 30 percent expansion of an existing building, shall be required to meet the requirements herein. Pad site developments or ground lease developments shall be required to provide landscaping in accordance with the interior landscaping requirements of Section D. Bufferyard and landscaping requirements include required bufferyards, interior landscaping, and parking lot landscaping. Each requirement is in addition to the others.

C. Bufferyards

Bufferyards shall be required in accordance with this Section to separate different land uses from each other to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor or danger from fire or explosions. Both the amount of land and the type and amount of planting and specified structures for each bufferyard are designed to lessen nuisances between adjacent land uses or between a land use and a public road.

1. Location

Bufferyards shall be located within and along the outer perimeter of a lot or boundary line. Bufferyards may overlap drainage and/or utility easements; however, plantings should not impede the flow of water within a drainage easement. Bufferyards shall not be located on any portion of an existing or dedicated public street or right-of-way.

2. Bufferyard Requirements

- a. Tables 12-1 and 12-2 determine the type of bufferyard required between two adjacent parcels or a parcel and a roadway. The letter designations contained in the tables refer

to the different bufferyards described in Figure 12-1, Illustration of Bufferyards in this Section. The following is a summary of the bufferyards:

Bufferyard	Width (feet)	Plantings per 100 feet			Fence Requirements
		Canopy Trees	Understory Trees	Shrubs	
A	5	1	2	8	none
B	10	2	3	10	none
C	10	3	4	12	none
D	10	4	5	18	none
E	10	1	2	8	Berm-B1
F1	10	3	6	8	Fence-F1
F2	10	4	8	12	Fence-F2

Commented [CR1]: Changed from "Accent Trees" to Understory to conform with the remainder of the tables noting canopy or understory trees.

- b. Plant material shall be credited to meet only one bufferyard (i.e. plants on corners do not satisfy two bufferyards.)
- c. Existing Plant Credits: Existing trees which are within fifty feet (50') of the property line and have a minimum of 50 percent of the drip line within a landscaped area shall be granted credits toward reducing the required plantings as follows:

Size of Tree Saved	Canopy Tree	Understory Tree
6" to 12" caliper	2	3
12" caliper or greater	3	4

- d. Existing trees between 1-½" caliper and 6" caliper that are within the bufferyard may be granted credits on a one for one basis.

Table 12-1: **BUFFERYARDS ADJACENT TO OTHER LAND USES**

Zoning of Developing Tract	Zoning of Adjacent Tract				
	SF-LL, SF-1, SF-1A, SF2, 2F	2F , MF	LR, GB	LI	MH
SF-OT	*	F1	F1	F2	F1
SF-LL, SF-1, SF-1A, SF-2, 2F	*	*	*	*	*
2F , MF	F1F2	A	AF2	*F2	AF2
LR, GB	F1F2	F1F2	A	*F2	F1F2
LI	F2	F1F2	F1F2	A	F1
MH	F1F2	D	A	*	*

Commented [CR2]: Moved 2F to SF column

Commented [CR3]: Moved 2F to the SF row above

* No bufferyard required

(Ord. No. 246-A, 3-24-97; Ord. No. 338, § 1, 1-14-02)

Table 12-2: **BUFFERYARDS REQUIRED ADJACENT TO STREETS**

Zoning of Developing Tract	Frontage On State Highway	Frontage on Thoroughfares, Collectors		Frontage on Residential Street
		Across From Commercial/Industrial	Across From Residential	
SF-LL, SF-1, SF-1A, SF-2	B	*	*	*
SF-OT	B	*	*	
2F, MF	C	A	A	A
LR, GB	E	E	E	E

LI	D	E	E	E
MH	C	B	C	D

* No bufferyard required

(Ord. No. 338, § 1, 1-14-02)

Notes:

An F2 screening wall and a five-foot bufferyard is required when the rear yards and/or side yards of a residential subdivision abut a thoroughfare, collector, or local street. The screening wall and landscaping shall be located in a five-foot screening wall easement with the wall located between the landscaping and the residential lots.

Requirements for Plant Materials: Plant materials shall conform to Paragraph of this Section. All bufferyards, unless grass or ground cover is already established, shall be seeded with grass or planted with ground cover so as to assure coverage within three years.

Commented [CR4]: Added to require masonry fence between rear or side yards of residential when yards abut a thoroughfare, collector, or local street.

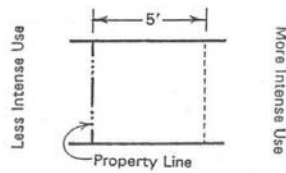
Commented [CR5]: Added in images for Figure 12-1 for ease of formatting.

Figure 12-1
ILLUSTRATION OF BUFFERYARDS

Bufferyard "A"

Minimum width is five feet (5')
A minimum width of ten feet (10') may be used in combination with a twenty percent (20%) reduction in planting density

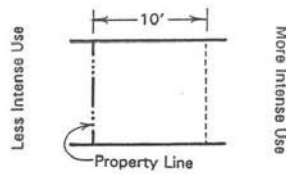
Required Plants per 100 Linear Feet	
Canopy trees	1
Understory	2
Shrubs	8



Bufferyard "B"

Minimum width is ten feet (10')
A minimum width of twenty feet (20') may be used in combination with a twenty percent (20%) reduction in planting density

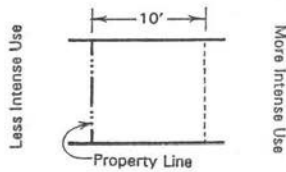
Required Plants per 100 Linear Feet	
Canopy trees	2
Understory	3
Shrubs	10



Bufferyard "C"

Minimum width is ten feet (10')
A minimum width of twenty feet (20') may be used in combination with a twenty percent (20%) reduction in planting density

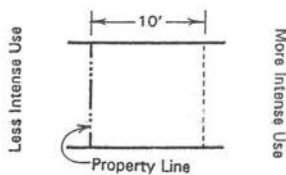
Required Plants per 100 Linear Feet	
Canopy trees	3
Understory	4
Shrubs	12



Bufferyard "D"

Minimum width is ten feet (10')
A minimum width of twenty feet (20') may be used in combination with a twenty percent (20%) reduction in planting density

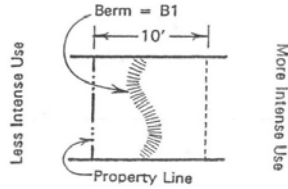
Required Plants per 100 Linear Feet	
Canopy trees	4
Understory	5
Shrubs	18



Bufferyard "E"

Minimum width is ten feet (10')
 A minimum width of twenty feet (20') may be used in combination with a twenty percent (20%) reduction in planting density

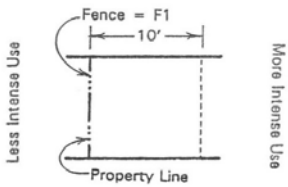
Required Plants per 100 Linear Feet	
Canopy trees	1
Understory	2
Shrubs	8



Bufferyard "F1"

Minimum width is ten feet (10')
 A minimum width of twenty feet (20') may be used in combination with a twenty percent (20%) reduction in planting density

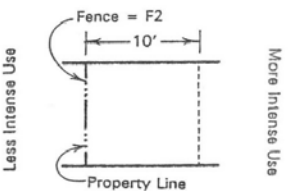
Required Plants per 100 Linear Feet	
Canopy trees	3
Understory	6
Shrubs	8



Bufferyards "F2"

Minimum width is ten feet (10')
 A minimum width of twenty feet (20') may be used in combination with a twenty percent (20%) reduction in planting density

Required Plants per 100 Linear Feet	
Canopy trees	4
Understory	8
Shrubs	12



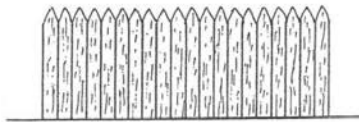
Required Structures

**Fence/Berm
Type**

Graphic Depiction

Notes

F1

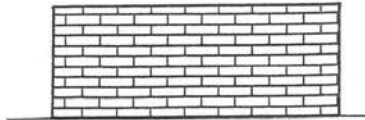


Finished side to face the less
intense use

Six feet (6') minimum height

Wood Stockade Fence

F2



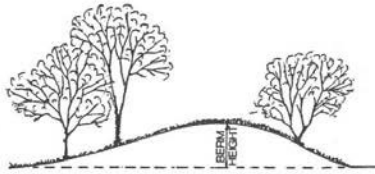
Poured concrete, brick, etc.

Concrete block or hadite block
allowed with
ornamental/textured face
towards less intensive use

Six feet (6') minimum height

Masonry wall

B1



Three foot (3') minimum height

Curved layout

Covers 75% of total length

Shrubs in a hedge may
substitute for berm

Earthen berm

3. Required Structures

- a. Walls and Fences: Whenever a wall or fence is required within a bufferyard, it shall be six feet (6') in height and constructed in accordance with specifications set forth in the City's Design Standards. A "F1" fence may be wood stockade, a "F2" fence shall be of masonry construction. A "finished" side of a wall or fence shall face the residential or less intense land use side.
- b. Berms: Whenever a berm is required in a bufferyard, it shall be a minimum of three feet in height and constructed in accordance with the specifications set forth in the City's Design Standards. Berms shall have side slopes no steeper than 2:1. When possible, all berms shall be curvilinear, rather than straight. Berms are not required to be continuous and are preferred to be broken periodically, but must cover a minimum of 75 percent of the length of the property line to be buffered. A hedge of plants obtaining a mature height greater than three feet may be substituted for a berm. When planting, this hedge shall be a minimum of two feet in height and planted no further than 30 inches on center.

Commented [CR6]: Need to be sure this is outlined correctly in Design Standards with any changes.

4. Optional Bufferyards

The applicant may choose to provide a more intense bufferyard than required, in order to reduce the number of plantings, according to the following:

Bufferyard Required	Optional Bufferyards
A	B, C, D, E
B	C, D, F1
C	D, F1
D	F1
E	B, C, D
F1	F2
F2	none

- 5. Uses of Bufferyards: A bufferyard may be used for passive recreation, such as pedestrian, bike or equestrian trails, provided that (a) no plant material is eliminated, (b) the total width of the bufferyard is maintained, and all other requirements of this section are met. Bufferyards may not be used for play fields, stables, swimming pools, tennis courts, accessory buildings, parking facilities or trash dumpster locations.

D. Interior Landscaping Requirements

1. Interior Landscaping Requirements: The amount of landscape area required on the interior of the lot (excluding bufferyards) shall be based on the square footage of the building footprint of the proposed buildings.

For single story anchor tenants having more than twenty thousand square feet of floor area, the building square footage shall be the front width of the building multiplied by a depth of sixty feet.

The required landscape area for the zoning districts listed below shall be ten percent of the floor area.

Zoning District	Percent of Floor Area
MF, LR, GB, LI	10 %

a. Planting Requirements: The following plants shall be required within the interior landscaped areas:

- 1. One Canopy Tree per 600 square feet.
- 2. One Understory Tree per 300 square feet.
- 3. One shrub per 60 square feet.
- 4. Ground Cover – ten percent of required area.

b. Location requirements: A minimum of seventy-five percent of all required plant materials within the interior landscape area shall be in the front or along either side of the building between the building and the interior edge of the bufferyards.

c. Enhanced Pavement Credits: For every one square foot of enhanced pavement area, the required interior landscape area may be reduced by one-half square foot. The maximum credit given for enhanced pavement area shall be ten percent of the required interior landscape area.

d. Right-of-way Landscaping Credits: The required interior landscape area may be reduced by a maximum of ten percent when the applicant chooses to establish, irrigate, and maintain turfgrass within the parkway along the front of their property. The percent credit given will be prorated based on the portion of the parkway irrigated (i.e. fifty percent parkway irrigated provides five percent credit).

2. Residential lots: Each residential lot shall have a minimum of one canopy tree within the required front yard.

Commented [CR7]: Newly added to include interior landscaping requirements

E. Landscape and Tree Canopy Requirements

The following requirements shall apply to all lots within residential developments

1. The minimum percentages of landscape and tree canopy requirements are listed in Table 12-3, entitled Minimum Landscape and Tree Canopy Requirements. Landscaping that is preserved from natural conditions, or is provided to meet the bufferyard, parking lot, or interior landscaping requirement may be counted toward meeting the minimum coverage requirements in this subsection.

2. The following may count towards meeting the landscape and tree canopy requirements:

- a. Undisturbed vegetative areas, natural areas, or native landscape areas.

Commented [CR10]: Newly added to include tree canopy requirements

- b. Landscaping in the adjacent public right-of-way.
 - c. Plazas and pedestrian circulation areas if constructed with pervious material.
 - d. A percentage of parking areas if constructed with prick pavers or pervious pavement systems as approved by the planning director.
3. Landscape Areas: Landscape area is the portion of a site which is not defined as "lot coverage" and meets the definition in Chapter of this title.
 4. Tree Canopy: Tree canopy is measured by computing the area that the mature canopy will encompass based on the Standard Tree Characteristics contained in Table 12-4. The mature canopies shall be estimated for existing trees on site. Any tree not on the tree list shall be estimated by use of standard landscaping references.
 5. Artificial Lot Line: An artificial lot is intended to provided administrative relief for large sites that will achieve planting areas that exceed substantially more than twenty percent of gross platted lot area after development is completed. The use of artificial lots is limited by the following:
 - a. If the platted property is over two acres in size, the applicant may request permission to create an "artificial lot" to satisfy the requirements of this Subsection.
 - b. The city manager or designee shall approve the creation of an artificial lot only if the spirit and intent of this chapter will not be violated. If approved, artificial lot lines shall be indicated on the proposed landscape plan and shall contain, at minimum, the total amount of impervious surface coverage, plus twenty percent of the area inside the artificial lot reserved for required planting area.
 - c. The area within the artificial lot lines shall provide trees and landscaping in compliance with the requirement of this section, and may not extend beyond the property boundaries of a single platted lot.
 - d. The area outside the artificial lot shall be maintained as planting area with live vegetation determined by the applicant. No trees located outside the artificial lot lines may be used for tree credits.
 - e. The artificial lot lines shall include areas that are adjacent to a public right-of-way or are necessary to accomplish buffering of adjacent properties.

Commented [CR8]: Need to add "landscape areas" to definitions section and confirm "lot coverage" is identified clearly in definitions, as well.

Table 12-3: MINIMUM LANDSCAPE AND TREE CANOPY REQUIREMENTS

Districts	Percent Landscape Area	Percent Tree Canopy Cover
MH	70%	20%
SF-LL, SF-1, SF-1A, SF-2, SF-OT	60%	50%
2F, MF	40%	50%
LR, GB, OT,	20%	30%
LI	10%	15%

Commented [CR9]: Is 50% too aggressive for tree canopy cover requirements? (Need to consider for SF and MF)

Table 12-4: STANDARD TREE CHARACTERISTICS

<u>Common Name</u>	<u>Botanical Name</u>	<u>Mature Height (ft.)</u>	<u>Mature Spread (ft.)</u>	<u>Mature Canopy (sq. ft.)</u>
<u>Pecan</u>	<u>Carya illinoensis</u>	<u>70</u>	<u>70</u>	<u>3,848</u>
<u>White ash</u>	<u>Fraxinus Americana</u>	<u>70</u>	<u>60</u>	<u>2,827</u>
<u>Shumard red oak</u>	<u>Quercus shumardii</u>	<u>70</u>	<u>50</u>	<u>1,963</u>
<u>American elm</u>	<u>Ulmus Americana</u>	<u>70</u>	<u>70</u>	<u>3,848</u>
<u>Bur oak</u>	<u>Quercus macrocarpa</u>	<u>60</u>	<u>60</u>	<u>2,827</u>
<u>Bald cypress</u>	<u>Taxodium distichum</u>	<u>60</u>	<u>30</u>	<u>707</u>
<u>Cedar elm</u>	<u>Ulmus crassifolia</u>	<u>60</u>	<u>40</u>	<u>1,256</u>
<u>American sweetgum</u>	<u>Liquidambar styraciflua</u>	<u>50</u>	<u>30</u>	<u>707</u>
<u>Live oak</u>	<u>Quercus vrginiana</u>	<u>50</u>	<u>50</u>	<u>1,963</u>
<u>Chinquapin oak</u>	<u>Quercus muehlenbergii</u>	<u>50</u>	<u>40</u>	<u>1,256</u>
<u>Common persimmon</u>	<u>Diospyrus virginiana</u>	<u>40</u>	<u>30</u>	<u>707</u>
<u>Texas ash</u>	<u>Fraxinus texensis</u>	<u>40</u>	<u>30</u>	<u>707</u>
<u>Afghan pine</u>	<u>Pinus eldorica</u>	<u>40</u>	<u>30</u>	<u>707</u>
<u>Chinese pistache</u>	<u>Pistacia chinensis</u>	<u>40</u>	<u>40</u>	<u>1,256</u>
<u>Lacebark elm</u>	<u>Ulmus parvifolia</u>	<u>40</u>	<u>40</u>	<u>1,256</u>

<u>Winged elm</u>	<u>Ulmus alata</u>	<u>30</u>	<u>30</u>	<u>707</u>
<u>Eastern redbud</u>	<u>Cercis Canadensis</u>	<u>25</u>	<u>25</u>	<u>491</u>
<u>Mexican plum</u>	<u>Prunus Mexicana</u>	<u>20</u>	<u>20</u>	<u>314</u>
<u>Eve's necklace</u>	<u>Sophora affinis</u>	<u>20</u>	<u>15</u>	<u>177</u>

F. Parking Lot Landscaping Requirements

Planter islands shall be provided in parking areas on the basis of ~~ten~~ twenty (20) square feet of landscape area for each parking stall provided (approximately one island per ~~468~~ stalls.) Each row of parking stalls shall provide the required landscape area, however it shall be the applicant's right to place the islands near the building, throughout the parking or at the end of the rows away from the building. The Building official may modify the island requirement for each row in situations where it would be beneficial to combine islands into a larger island. Planter islands shall have a minimum width of 8 feet back to back, if curbed, or 9 feet edge to edge if no curb is provided. Parking lot landscaping does not count toward the total required interior landscape area.

Commented [CR11]: Recommend increasing from 10 to 20?sf per parking stall (approximately one island per 8 stalls) With example of Justin Elementary, all parties agreed with the need for more landscaping in existing site. Benbrook requires 20.

- Existing Trees: The City Manager or designee may approve variations to the planter island requirements to preserve existing trees in interior parking areas. For existing trees, the minimum width of the planter island shall be as follows:

6" caliper or less	8' minimum width
6" to 12" caliper	12' minimum width
more than 12" caliper	18' minimum width

- Planting Requirements: A minimum of 50 percent of all planter islands in parking areas shall contain a minimum of one canopy tree with the remaining area in shrubs, ground cover, grasses or seasonal color. Planter islands that have light poles may substitute two understory/accent trees for the required canopy tree.

Commented [CR12]: Do we want to increase this? Benbrook requires 90% and does not allow planter islands to be combined with light poles.

G. Plant Materials

- Quality Standard: All plant material shall be of No. 1 grade, free from plant disease, of typical growth for the species, have a healthy, normal root system, rounded branching pattern, and shall conform to the code of standards set forth in the current edition of the American Standard for Nursery Stock.
- Recommended Plants: A list of recommended plants within each plant material type is included in Table 12-5. The applicant may propose plants other than those listed if the plant is appropriate for the intended use or the applicant maintains a plant care program sufficient to properly care for the proposed plant material. Plant materials shall be appropriate for the region and local soil conditions and shall be planted in accordance with good horticultural

practice. Plants selected should require only low maintenance and should be temperature and drought tolerant.

3. Size Requirements when Planted: All plants shall equal or exceed the following measurements when planted. Plants larger than specified may be used, but use of such plants shall not decrease the size requirements of other proposed plants.
 - a. Tree measurement: Canopy and understory trees with single trunks shall be measured by caliper size one foot (1') above the ground line. Multi-trunk trees shall be measured by the height of the tree.

Table 12-5: RECOMMENDED PLANTS

Canopy Tree	Accent/Understory Trees	Shrubs	Ground Covers	Vines
Pecan	Bradford Pear	Photinia	Juniper species	Carolina Jasmine
Cedar Elm	Redbud	Eleagnus	Monkey Grass	Halls Honeysuckle
Red Oak	Yaupon Tree	Dwarf Yaupon Holly	Mondo Grass	Coral Honeysuckle
Live Oak	Vitex	Dwarf Burford Holly	Asian Jasmine	Lady Banks Rose
Bur Oak	Crape Myrtle	Dwarf Chinese Holly	Vinca/Periwinkle	
Lacebark Elm	Japanese Black Pine	Tam Juniper	Purple	
Chinese Pistache	Slash Pine	Sea Green Juniper	Euonymus	
Austrian Pine	Texas Mountain Laurel	Japanese Barberry		
Bald Cypress	Sweetgum	Flowering Quince		
Honeylocust	Purpleleaf Plum	Texas Sage		
Southern Magnolia		Forsythia		
		Spiraea		

		Pampas Grass		
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The City reserves the right to approve plants and planting through an appointed horticulturist, landscape architect, or other persons so qualified.

b. Minimum sizes: The minimum plant size when planted shall be as follows:

Plant Material Type	Minimum Size
Canopy Tree	
Single Stem/trunk	1-½" caliper
Multi-trunk clump	6 feet high
Understory Tree	4 feet high
Shrub	
Deciduous	15 inches high
Evergreen	12 inches high
Groundcover	4 inch containers

The City Manager or designee may approve smaller size shrubs based on unusual growing circumstances and/or on a specific design that reflects the overall intent of this Section.

G. Landscape/Irrigation Plan Requirements

1. Qualification To Prepare Plans: Landscape plans shall be prepared by a Registered Landscape Architect, a Landscape Designer or Landscape Contractor, knowledgeable in plant materials and landscape design. Irrigation plans shall be prepared by a Licensed Irrigator or Landscape Architect.
2. Landscape Plan Requirements. The following items shall be provided on the required landscape plan:
 - a. Sheet size 24" by 36", or as approved,
 - b. Acceptable scale: 1"=10', 1"=20', 1"=40', or as approved.
 - c. North arrow, graphic and written scale

- d. Appropriate title (i.e. "Landscape Plan")
 - e. Title block, including street address, legal description, and date of preparation.
 - f. Name and address of owner
 - g. Name, address and telephone number of person preparing plan.
 - h. Property line shown with dimensions
 - i. Existing utilities (water, sewer, storm drain, gas, electric, cable TV, etc.)
 - j. Width and type of bufferyards labeled on all sides
 - k. Location, caliper size and species of all existing trees 6" caliper or greater which are to be preserved,
 - l. Location, quantity, size and species of all proposed plant materials.
 - m. Maintenance Note
 - n. Label type of any enhanced pavement proposed.
 - o. Visibility triangles shown
 - p. Seal and dated signature of Landscape Architect (if applicable)
 - q. Plant list, and
 - r. Any berms delineated with one-foot (1') contours
3. Irrigation Plan Requirements: The following items shall be provided on the required irrigation plan:
- a. Sheet size 24" by 36", or as approved
 - b. Acceptable scale: 1" = 10', 1"=20', 1"=40', or as approved (Must be at same scale as landscape plan)
 - c. North arrow, graphic and written scale
 - d. Appropriate title (i.e. "Irrigation Plan")
 - e. Title block including street address, legal description, and date of preparation.
 - f. Name and address of owner
 - g. Name, address and telephone number of person preparing plan.
 - h. Property line with dimensions
 - i. Location of all existing trees 6" caliper or larger which are to be saved
 - j. All pipes labeled as to size
 - k. All sprinkler heads labeled as to type (key is acceptable)
 - l. Backflow prevention device labeled with type and size
 - m. Location of water meter and connection to water service
 - n. Any existing utilities (water, sewer, storm drain, gas, electric, cable TV, etc.)
 - o. Note indicating that installation must be inspected by the City of Justin
 - p. Maintenance Note indicated.
 - r. Seal and dated signature of professional who prepared plan.
- G. Maintenance

1. General: The owner, tenant and the agent, if any, shall be jointly and severably responsible for the maintenance of all landscaping and irrigation. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping, all plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation heads or lines that are broken and flow water shall be replaced or repaired immediately to prevent the waste of water.
2. Plant Replacement: The owner shall be responsible for replacing all plant materials which shows dead branching over 75 percent or more of the normal branching pattern and repair irrigation system for a period of one year from the date of issuance of the Certificate of Occupancy. Plant materials that die shall be replaced with plant material of similar variety and similar initial size. The Owner shall make such necessary replacements within 30 days of notification by the City.

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JUSTIN, DENTON COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF JUSTIN, BY AMENDING ARTICLE 3.500 TO PROVIDE FOR THE REGULATION OF FENCES WITHIN THE CITY; PROVIDING A REPEALING CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that the regulation of the type, size and location of a fence within the City of Justin is necessary in the interest of the public health, safety and welfare;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JUSTIN, DENTON COUNTY, TEXAS, THAT;

SECTION 1. The Code of Ordinances of the City of Justin, Texas, is hereby amended by amending Chapter 3.500

SECTION 2. That all provisions of the Code of the City of Justin, Texas in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. That should any word, sentence, paragraph, subdivision, clause phrase, or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 4. Any person violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Justin, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day and such violation shall continue shall constitute a separate offense.

Definitions

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this section:

City. The City of Justin, Texas

Easement. A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another dedicated by plat or implied by right. It is either for the benefit of appurtenant land, including but not limited to land for the right to cross, or egress, such as a public utility easement, or in specific, such as an exclusive utility easement. An easement may or may not have descriptive bounds.

Fence. An artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this code, regulations governing the height, location and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence. A fence is any part of a fence including the base, footings, supporting columns, post, braces, structural members, or any other of its appendages.

Game court. A structure having a playing surface, paved, or unpaved, with or without enclosing fences, designed to be used for playing or practicing tennis, badminton, volleyball, paddle tennis handball, baseball, batting, handball, racquet ball, squash, basketball, or similar uses.

Lot key. A corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and not separated by an alley.

Opacity. The degree of openness which light or views are blocked measured perpendicular to the fence for each fence section between supports.

Public Right of Way. A strip of land which is used as a roadbed for a street, alley, or highway intended for use by the public at large, or land set aside as an easement or in fee, either by agreement or condemnation.

Repair. A repair to a fence shall be defined as maintenance to a fence where replacement of materials does not exceed fifty percent (50%) of the total length of the fence and does not change the scope, location, or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, size, shape, and quality of the original fence to which the repair is being made.

Residential district. A district where the primary purpose is residential use and is defined in the comprehensive zoning ordinance excluding multifamily.

Retaining wall. A wall not laterally supported at the top that resists lateral soil loads and other imposed loads.

Street. Any dedicated public thoroughfare that affords the principal means of access to abutting property.

Vision or visibility triangle. The corner visibility triangle is defined at an intersection by extending the two right-of-way/property lines at the corner of a property from their point of intersection to a distance. These two points are connected with an imaginary line to form the corner visibility triangle. This distance shall be ten (10) feet at the intersection of residential streets and forty (40) feet for streets of collector size or larger.

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and not obstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, front. A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear. The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side. The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Permitting requirements

(a) **Permit required.**

It is unlawful for any person to construct or replace, or cause to be constructed or replaced, a fence or any part of a fence in the city without first obtaining a fence permit from the city. No permit is required for repairs as defined by this article. In residential zoning districts on tracts or lots that are five (5) acres or greater in area, a permit is not required except for fences located in the front yard, along the side or rear property lines, or fences required to enclose swimming pools as required by city code or state federal law.

(b) **Permit fees.** The fee for a permit shall be in the amount established in appendix A to this code. When a person begins any work for which a permit is required by this article without first obtaining a permit, the permit application fee shall double. Payment of the fee shall not exempt any person, from compliance with all other provisions of this ordinance nor from any penalty prescribed by law.

(c) **Application for permit.** Any person making application for a fence permit shall complete a permit application on a form prescribed by the city showing the following information.

(1) Applicant's name, address, phone number and if the applicant represents a corporation, the name, address and phone number of the registered agent of the corporation, or if the applicant represents as association, the name, address and phone number of a high managerial agent of the association.

- (2) Name of property owner;
- (3) Local address where the fence is proposed to be erected;
- (4) Type of fence construction (material);
- (5) Height of fence;
- (6) Diagram showing proposed location of the fence and listing relevant dimensions between the fence and other structures on the lot and the location of property lines and easements;
- (7) Approximate value of the proposed fence;
- (8) The fence contractor's registration number if a contractor is used;
- (9) The applicant's authorized signature; and
- (10) Other documentation as required by the city manager or his/her designee.

(d) Construction documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets, as required by the city manager or his/her designee, with each application for a permit. When required by the city manager or his/her designee, the applicant shall also provide additional information as required by the building code most recently adopted by the city. The construction documents shall be prepared by a registered design professional where required by statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the city manager or his/her designee is authorized to require additional construction documents to be prepared by a registered design professional. Exception: The city manager or his/her designee is authorized to waive the submission of construction documents and other data not required to be prepared by a design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code. Construction documents shall not be required of wood, chain link, and pipe and cable fences to be constructed on residential lots.

(e) Availability of plans. One set of approved plans, specifications and a copy of the permit shall be made available, by the applicant, for inspection of the work authorized by the permit.

The said set of approved plans, specifications, and permit shall be kept on the work site by the applicant during the construction process.

(f) Contractor's registration. It is unlawful for any person, to engage in the business of fence contracting without a valid contractor's registration with the City. The owner of a property who is constructing a fence on his/her own property is not required to register as a contractor.

- (1) There is no charge to register a fence contractor provided the applicant completes the required forms furnished for that purpose and files them with the city manager or his/her designee.

- (2) Any person making an application for a fence contractor's registration shall sign an application for the same showing the following information:
- (A) Applicant's name, business address, phone number, and if the applicant represents a corporation, the name and address of the registered agent of the corporation, or if the applicant represents an association, the name and address of a high managerial agent of the association;
 - (B) The fence contractor's authorized signature.
- (3) Every contractor registration provided for this code shall expire on the first day of January and shall be renewed by the city manager or his/her designee upon application.
- (4) The city manager or his/her designee may revoke or suspend a fence contractor's registration for a twelve-month period for either of the following reasons:
- (A) The registrant violates the requirements of this article twice within a twelve-month period.
 - (B) The registrant fails to obtain permits and/or inspections twice within a twelve-month period.

General Requirements

- (a) Encroachment on city or public right-of-way. No person shall construct a fence guy wire, brace or any fence post upon or protruding over any city or public right-of-way.
- (b) Fence not to create a traffic hazard. It is unlawful to erect, maintain, suffer or permit any fence on any corner lot in such a manner as to create a traffic hazard or restrict visibility. Failure of the owner, agent or occupant to remove such obstruction within the specified time limit required on the receipt of notice to do so is a violation of this article.
- (c) Fence orientation. Fence sections essentially parallel with a public street shall have their backside (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public.
- (d) Gate required. Each fence constructed under the provisions of this article shall include in its perimeter at least one gate with a minimum width of three (3) feet.
- (e) Fence not to be located in right-of-way or easement. No fence shall be erected within, on, or across any public right-of-way, drainage easement, or vision or visibility triangle unless otherwise authorized in writing by the city manager or his/her designee. Property owners that allow a fence to be constructed in a utility easement on their property do so at their own risk. Unless the terms of a specific easement state otherwise, fences constructed within utility easements may be removed by a utility company with rights to the easement and such utility company shall not be responsible for replacement of the fence or liable for damage to the fence that occurred during its removal.

(f) Fence materials. Fences may be constructed of materials or products such as chain link, wood planks and boards, commercial or livestock grade vinyl (supported by the manufacturer's specifications), masonry as defined by the building code, pipe and cable, wrought iron or ornamental iron. Materials or products such as rope; string; barbed wire; razor ribbon wire; corrugated metal panels; plywood; or a fence that has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals are prohibited. Wood, metal, or plastic products that are designed specifically for use other than fence construction are also prohibited.

(g) Temporary fences. Temporary fences are prohibited, except where required by city code or state or federal law for construction, excavation, or life safety issues. Temporary fence materials include, but are not limited to, rope; string; wire products such as chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; live bamboo; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence or any other material that are not manufactured specifically as fencing materials. The city manager or his/her designee may require the applicant to provide the manufacturer's standard to establish the intended use of a proposed fencing material. Exceptions shall include:

(1) A dog window may be installed in a fence no larger than two hundred eight-eight (288) square inches with corrosion resistant material capable of restraining the dog.

(2) Temporary fences made of wire, not in excess of thirty-six (36) inches, in residential districts are permitted for residential garden uses only.

(3) Temporary fences or panels used for corrals, pens, or chutes are permitted for the purpose of corralling or confining livestock.

(h) Perimeter walls. Where a fence intersects a screening wall and the height of the fence exceeds the height of a screening wall, the height of the fence shall transition to the height of the screening wall over a distance of twenty (20) feet or greater.

(i) Pool or spa enclosures. A person constructing or maintaining a fence or wall enclosure around a swimming pool, hot tub, or spa shall comply with the minimum requirements of the building code, as it exists or may be amended.

(j) Retaining walls. Retaining walls greater in height than thirty-six (36) inches shall be in compliance with a design submitted by a registered engineer.

(k) Determining fence height and opacity.

(1) Height. Fence height is measured to include the body of the fence, plus allowing a maximum of six (6) inches (on average between posts) above the natural grade (i.e., for drainage purposes). When a fence or wall is placed atop a retaining wall, the height of the fence shall be determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finish grade. Fence posts are permitted to extend a maximum of four (4) inches above the body of the fence. Columns are permitted to extend a maximum of twelve (12) inches

above the body of the fence. The creation of a berm or other method for the primary purpose of increasing the elevation of the fence is not allowed.

Fences in residential areas

(a) Fences and gates in front yards. All fences, walls, gates, or other enclosures constructed in the front yard of a residential property shall:

- (1) Not exceed forty-eight (48) inches in height.
- (2) Allow a minimum of 50% percent opacity.
- (3) Not encroach into a vision or visibility triangle.

(b) Fences and gates in side yard. It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any side yard or along any side yard lot line which fence exceeds eight (8) feet in height. On key lots, where side yards are required adjacent to the street to conform to minimum front yard setback of lots fronting upon such street, within the same block and upon the same side, no fence shall be constructed or maintained within such required side yard.

(c) Fences and gates in rear yards. It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any rear yard or along any rear lot line which fence exceeds eight (8) feet in height.

(d) Decorative gate embellishments. Ornate gates may exceed the maximum height of a fence by up to two (2) feet.

(e) Vertical support posts. Vertical support posts may extend up to four (4) inches above the top of a fence.

(f) Electrically charged fences in residential districts. It is unlawful for any person to erect, maintain, or permit a fence that is electrically charged in any manner, except single-strand wires designed to conduct electricity through a low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.

Fences in non-residential zoning districts.

(a) Height. A fence in a non-residential zoning district may not exceed eight (8) feet in height.

(b) Vertical support posts. Vertical support posts may extend up to four (4) inches above the top of a fence.

(c) Columns. Columns are permitted to extend a maximum of twelve (12) inches above the body of the fence.

(d) Opacity. Where fencing is constructed in the front yards of nonresidential and multifamily projects, the opacity of the fencing shall be fifty (50) % or greater.

Exemptions.

- (a) Federal or state law. Fences that are required by federal or state law or regulation shall be exempt from the requirements of this ordinance.
- (b) Game court fences. Notwithstanding any other regulation set forth in the ordinance, game court fencing may be constructed up to sixteen (16) feet in height, except that such fencing shall not be constructed in the front yard of a property. All game court fencing shall set back from a neighboring property line in a distance equal to or greater than the height of the fence.
- (c) Large lot residential lots. Notwithstanding any other regulation set forth in the ordinance, fences of up to five (5) feet in height.
- (d) Fences used to contain livestock. In addition to the materials permitted, fences used to contain livestock and/or fences that are located on properties of five (5) acres or greater in area and used for agricultural purposes may be constructed of barbed wire, smooth or non-climb wire, and/or contain electrical current.

Maintenance of fences

- (a) All fences shall be maintained reasonably plumb and structurally sound. Each structural and decorative member of a fence shall be free of deterioration and be compatible in size, material and appearance with the remainder of the fence.
- (b) A fence shall not lean more than one inch out of vertical for each foot of height as measured from the top of the fence.
- (c) A fence that has deteriorated to a condition that it is likely to fall shall be repaired or replaced.
- (d) Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members.
- (e) After receiving notice from the city, the owner shall replace broken, damaged, removed or missing parts of a fence with the same material, or material with comparable composition, size, shape and quality of the original fence to which the repair is being made. No permit is required for repairs as defined in this ordinance. The notice shall include a deadline by which the repairs are to be completed. The deadline shall range from 10 to 30 days after the date of the letter depending upon the extent of the damage and repairs. The city manager or his/her designee may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time at his/her discretion. The owner requesting a replacement time extension shall provide the city manager or his/her designee a written scope and schedule detailing materials and estimated time period of the completed replacement for approval.

Nonconforming fences

The lawful use of any fence on the effective date of the ordinance from which this ordinance derived may be continued, although such use does not conform to the provisions of this

ordinance; provided however, the right to continue such nonconforming use shall be subject to the following regulations:

- (1) Normal repairs and maintenance may be made to a nonconforming fence; provided those repairs do not exceed fifty percent (50%) of the total length of the fence.
- (2) Unless otherwise provided, a nonconforming fence shall not be added to in any manner unless such additions are made to conform to all the requirements of this ordinance
- (3) A nonconforming fence shall not be moved in whole or in part unless every portion of such fence is made to conform to all regulations of the district in which it is located.
- (4) If a nonconforming fence is damaged, destroyed or in disrepair to an extent greater than fifty percent (50%) of the total length of the fence, such fence shall be replaced and must conform to all regulations of the district in which it is located and shall be treated as a new fence.

Variances

The Board of Adjustment shall have the authority to authorize such variances from the terms of this ordinance. In order to approve a variance, the Board of Adjustment shall determine that the requested variance meets three (3) of the following four (4) criteria:

- (1) The proposed fence will not adversely impact the adjacent property (visibility, size and the like);
- (2) The proposed fence is of a unique design or configuration or serves a unique function;
- (3) The variance is needed due to restricted area, shape, topography, physical features, or conditions that are unique to the property on which the proposed fence would be constructed; or
- (4) The variance will substantially improve the health, safety, or welfare of the public and does not violate the spirit of this ordinance.

Offenses; penalties

- (a) Any person violating any of the provisions of this article shall be deemed guilty of a class C misdemeanor and, upon conviction, shall be fined, except as otherwise provided herein, in a sum not to exceed five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.
- (b) If the city council determines that a violation of this ordinance creates a threat to the public safety, the city may bring suit in district court to enjoin the person, firm, partnership, corporation, or condition to the issuance of injunctive relief.