

ORDINANCE NO. 1151

AN ORDINANCE AMENDING SECTION 25.R. LANDSCAPING, OF ORDINANCE NO. 613 OF THE CITY OF WILLISTON, ALSO KNOWN AS THE ZONING ORDINANCE OF THE CITY OF WILLISTON, WHICH CLARIFIES QUALIFYING PROJECTS, PLANTING REQUIREMENTS, PARKING LOT PERIMETER SCREENING, STREET TREES, SCREENING OF TRASH CONTAINERS AND OUTDOOR STORAGE AND GENERAL REQUIREMENTS.

BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA, AS FOLLOWS:

SECTION 25 R. LANDSCAPING (Ord. No. 1133)

The purpose of this subsection is to maintain the City of Williston's quality and character by enhancing its visual appearance through the use of landscaping. Benefits of landscaping include providing shade, air purification, reducing dust and storm water run-off, dampening noise, and buffering residential properties from the impacts of activities on adjacent land. These benefits coincide with the main goals of Williston's adopted comprehensive plan, which is to protect the health, safety and welfare of the community.

1. COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, GOVERNMENT, AND MULTIFAMILY LANDSCAPING

Applicability. The landscaping requirements of this section shall apply within the City of Williston and within the extra-territorial jurisdiction of the City of Williston to any of the following:

- a. The construction of any new principal commercial, industrial, institutional, government or multi-family buildings, or an accessory building for any of the above uses.
- b. Landscaping for expansions of existing buildings mentioned in (a) above that occur after the effective date of this ordinance amendment will be calculated based on the following:
 - i. Projects less than 1,000 square feet or 10 percent of the existing footprint, whichever is greater do not require landscaping.
 - ii. 11 to 25 percent building expansion shall require 25 percent of the required landscaping.
 - iii. 26 – 50 percent building expansion shall require 50 percent of the required landscaping.
 - iv. 51-75 percent building expansion shall require 75 percent of the required landscaping.
 - v. 76 percent or more shall require 100 percent of the required landscaping.
- c. The installation of any new parking area or the expansion of any existing parking area by six (6) or more off-street parking spaces.
- d. The installation of any new outdoor storage areas.

- e. A rezoning to a higher intensity use or approval of a special permitted use to a higher intensity.
- f. Preliminary plat. A conceptual landscape plan shall be made a part of any development agreement associated with a preliminary plat.
- g. Planned Unit Development (PUD). A conceptual landscape plan shall be made a part of any PUD master plan.
- h. Modifications of existing lots shall be subject to the General Requirements identified subsection (a) "Minimum Landscape Area" and (f) "Maintenance".

General Requirements.

- a. Minimum Landscaped Area. All ground areas, excluding areas required for off-street parking, access, public improvements, or any area within any public right of way, shall be landscaped with grass, vegetative ground cover, shrubs, trees or other landscape materials in conjunction with site development. Other landscape materials, including steppingstones and ponds, may also be allowed in areas for employee or customer enjoyment or near the building's main entrance, as an enhancement to property appearance and as a visually interesting open space.
- b. Planting Requirements.
 - 1. Commercial Property : for every 2,500 square feet of lot area:
 - a. The minimum planting requirements are 5 plant units;
 - 2. Industrial and Highway Corridor Commercial (HCC) properties:
 - a. Adjacent to Highway 2 or the Highway 2 frontage road, between 2nd Street West and 58th Street along Highway 2;
 - b. Adjacent to the southernmost truck route known as Highway 1804 between Highway 2 and the Little Muddy River:
 - i. For every 2,500 square feet of property. A maximum of two acres will be used for the landscaping calculation if the property is greater than two acres.
 - ii. Minimum planting requirements are 5 plant units.
 - iii. Emphasis of landscaping shall be toward the Highway corridors.
 - 3.
 - ii.
 - 4. Plant units are defined in Table 1 of this section:

TABLE 1: PLANT UNITS

TYPE OF MATERIAL	MINIMUM SIZE AT TIME OF PLANTING	MINIMUM HEIGHT AT MATURITY	UNIT EQUIVALENCY
Shade Trees	Caliper of 1 inch measured 4 1/2 feet above grade.	20 feet	10

Ornamental Trees	Caliper of 1 inch measured 4 1/2 feet above grade.	12 feet	5
Small Upright Evergreen Trees	Height 2 feet above grade or container size of 5 gallons	6 feet	5
Large Upright Evergreen Trees	Height 4 feet above grade.	20 feet	10
Shrubs	Height 2 feet above grade or container size of 2 gallons	3 feet	1

- c. **Plant Quality.** Plants installed to satisfy the requirements of this section must meet or exceed the plant quality standards of the most recent edition of American Standards for Nursery Stock, published by the American Nursery & Landscape Association; be nursery grown; and be adapted to Climate Zone 3.
- d. **Plant Lists.** Plants must be selected from lists maintained by the City of Williston. The City Forestry Department may, at their discretion, modify these plant lists.
- e. **Installation.** All trees and landscaping must be installed according to Arboricultural Specifications and Standards of Practice of the City of Williston.
- f. **Maintenance.** Landscaping must be maintained as described in Section 25 (R)(6) below. Maintenance of the landscaping is the responsibility of the property owner.
- g. **Existing Plants.** Plants that exist on a site that will remain after site development may be used to satisfy the landscaping standards of this section provided that they meet all size, variety and locational requirements; are determined by the City Forestry Department to be in good health; and are adequately protected to ensure survival during and after site development.
- h. **Soils.** Soil in landscaped areas shall consist of loose, friable, loamy topsoil that is free of excess acid and alkali. Soil shall be free from chunks of sod, hard lumps, gravel, subsoil or other undesirable material to a depth of eighteen to twenty-four (18 - 24) inches.
- i. **Visibility:** Visibility Triangles shall be consistent with Section 25(A)(1) and associated Figure 2. Any required plantings which may intrude on the visibility triangle shall be subject to Section 6 of this ordinance.
- j. **Overhead Utility Line Interference.** Trees shall not be planted under utility lines when their mature height may interfere with the lowest lines. Any required plantings which may interfere with overhead utility lines shall be subject to Section 6 of this ordinance.

- k. **Underground Utility Interference.** Trees shall not be planted over, or within seven (7) horizontal feet of, any underground water or sewer line. Any required plantings which may interfere with underground utility lines shall be subject to Section 6 of this ordinance.
- l. **Fire Hydrants.** No tree shall be planted within ten (10) feet of any fire hydrant. Any required plantings which may intrude on the protection area around any fire hydrant shall be subject to Section 6 of this ordinance.
- m. **Diversity.** A variety of tree and shrub species shall be utilized to provide year around visual interest. Except for continuous hedges and street trees, not more than fifty percent (50%) of the required number of trees or shrubs may be comprised of any one (1) species.
- n. **Installation Timeline:** All required landscaping shall be completed prior to the issuance of a Certificate of Occupancy.
 - 1. The installation of landscaping shall be determined by a cut-off date established as October 15th.
 - 2. A project with a Conditional Certificate of Occupancy issued by the Building Official prior to October 15th shall install the required landscaping by October 15th.
 - 3. A project with a Conditional Certificate of Occupancy issued on or after October 15th shall install the required landscaping by May 31st of the following calendar year.
 - 4. Failure to install the required landscaping as required by this ordinance shall be deemed a violation of any validly issued Conditional Certificate of Occupancy.
 - 5. The Building Official shall have the right to revoke a certificate of occupancy and/or seek alternate enforcement measures as outlined in Section XII, "Violations" Section 5-321.

Landscape Plan Required. A landscape plan shall be required for all development subject to the provisions of this subsection. Landscape plans submitted for approval shall contain the following information:

- a. The square footage of the site and the square footage and percentage of the site designated as planting areas, exclusive of parking lot perimeter landscaping and buffer yards;
- b. The common and scientific name of each plant to be used;
- c. The number, height and caliper of trees to be used;
- d. The pounds of lawn seed mix per square foot to be used;
- e. The number of ground cover plants per unit area to be used;

- f. The locations where different plant types will be used;
- g. The locations, size and type of existing trees to be preserved in their natural state;
- h. Planting details;
- i. Location of any retaining walls and fences;
- j. Location of any utility easements;
- k. Location of any existing or proposed structures or parking areas;
- l. North arrow and scale; and
- m. Drainage patterns.

2. SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL LANDSCAPING

Applicability: The landscaping requirements of this section shall apply within the City of Williston and within the extra-territorial jurisdiction of the City of Williston to any of the following:

- a. The construction of any new single-family residence, including townhouses, twinhomes, and detached condominiums, or any two-family residence.
- b. Preliminary plat. A conceptual landscape plan shall be made a part of any development agreement associated with a preliminary plat.
- c. Planned Unit Development (PUD). A conceptual landscape plan shall be made a part of any PUD master plan.
- d. Lots with existing landscaping shall be subject to the General Requirements identified subsection (a) "Minimum Landscape Area" and (f) "Maintenance".

General Requirements:

- a. Minimum Landscaped Area. The area of all yards bounded by the front property line, side property lines, and the boundary of the required rear yard closest to the residence, excluding areas required for off-street parking, access, public improvements, or any area within any public right of way, shall be landscaped with grass, vegetative ground cover, or xeriscape landscaping (a style of landscape design requiring little or no irrigation or other maintenance) in conjunction with site development. If any required area is unable to be planted due to overhead utility lines, underground utility lines, site triangles, fire hydrants, or other condition as deemed appropriate by the City Planner, the regulations in Section 6 of this ordinance shall apply.
- b. Planting Requirements. Live turf, vegetative ground cover, or xeriscape.

- c. Plant Quality. Plants installed to satisfy the requirements of this section must be adapted to Climate Zone 3.
- d. Installation. All trees and landscaping must be installed in a manner designed to encourage vigorous growth.
- e. Existing Plants. Plants that exist on a site that will remain after site development may be used to satisfy the landscaping standards of this section provided that they meet all size, variety and locational requirements, are determined by the City Forestry Department to be in good health and are adequately protected to ensure survival during and after site development.
- f. Maintenance. Landscaping must be maintained as described in Section 25 (R)(6) below. Maintenance of the landscaping is the responsibility of the property owner.
- o. Installation Timeline. All required landscaping shall be completed prior to the issuance of a Certificate of Occupancy.
 - 1. The installation of landscaping shall be determined by a cut-off date established as October 15th.
 - 2. A project with a Conditional Certificate of Occupancy issued by the Building Official prior to October 15th shall install the required landscaping by October 15th of that year.
 - 3. A project with a Conditional Certificate of Occupancy issued on or after October 15th shall install the required landscaping by May 31st of the following calendar year.
 - 4. Failure to install the required landscaping as required by this ordinance shall be deemed a violation of the Conditional Certificate of Occupancy.
 - 5. The Building Official shall have the right to revoke a certificate of occupancy and seek alternate enforcement measures as outlined in Section XII, "Violations" Section 5-321(a)(7).

3. PARKING LOT PERIMETER SCREENING

- a. If the edge of parking area is within 20 feet of the property line the off-street parking areas in any zone shall be screened from adjacent street rights-of-way by landscaping in planting strips in accordance with Table 2 of this section. No screening shall be installed in any area of any public right of way. When street trees are required, additional trees will not be required within the parking lot screening, only shrubs per the required plant units.. If any required area is unable to be planted due to overhead utility lines, underground utility lines, site triangles, fire hydrants, or other condition as deemed appropriate by the City Planner, the regulations in Section 6 of this ordinance shall apply. This applies to all zones listed under Section 1. except:
 - i. This applies to Industrial and Highway Corridor Commercial (HCC) zoned properties:

1. Adjacent to Highway 2 or the Highway 2 frontage road between 2nd Street West and 58th Street along Highway 2;
2. Adjacent to the southernmost truck route known as Highway 1804 between Highway 2 and the Little Muddy River.

TABLE 2: PARKING LOT PERMITTER SCREENING REQUIREMENTS

NUMBER OF SPACES IN PARKING LOT	MINIMUM REQUIRED PLANTER WIDTH	MINIMUM PLANTING REQUIREMENTS
1 -50	4 feet	1 shrub every 3 feet plus turf, mulch, woodchips or decorative rock
51+	6 feet	1 ornamental tree plus 6 shrubs every 25 feet, (or) <i>(all grass ground cover and one shade tree every 35-50 feet based on the street type)</i>

Table below to be removed

4. SCREENING OF TRASH CONTAINERS AND OUTDOOR STORAGE

- a. In commercial districts, industrial districts, and for multi-family apartment buildings, all dumpster-style trash containers visible from a right of way shall be placed within a trash enclosure constructed to the standard for such enclosures prescribed by the Williston Department of Public Works. All round-style trash containers shall be screened with shrubbery in such a manner as to allow the containers to be handled by trash trucks. The mature height of the shrubbery shall be the height of the trash containers.
- b. No trash containers, trash container enclosures, or trash container screening shall be placed or installed within any public right of way.
- c. Screening of outdoor equipment installations, pipe yards, and industrial and commercial storage areas which are visible from adjoining principal arterials, minor arterials, and subdivision perimeter collector streets shall be screened from view by evergreen trees, tall shrubs and ground cover which will provide a one hundred percent sight-obscuring screen; OR a combination of evergreen and deciduous trees with large shrubs and ground cover backed by a one hundred percent (100%) sight-obscuring fence OR a 100% sight obscuring fence made of Trex, commercial vinyl, or quality finished metal with designed pilasters, made to withstand up to 115 mile per hour winds. Tree, shrub, and groundcover spacing shall be appropriate for the species type and consistent with the intent of this section. Modifications to the required screening may be considered by the

City Planner with the submittal of drawings depicting how the design will meet the intent of the ordinance.

- d. No such screening shall be installed within any public right of way.

5. STREET TREES

Applicability.

- a. Street trees shall be installed on streets at the time of construction of any building on an existing property by the builder/contractor.
 - b. With regards to new subdivisions and Development Agreements, boulevard trees shall be installed on arterial streets and perimeter subdivision streets at the time of street construction or completion of the curb and gutter by the developer.
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- c. This applies to all zones listed under Section 1. Except for Industrial and Highway Corridor Commercial (HCC) zoned properties.

General Requirements

- a. Street trees shall be installed in accordance with:
 - 1. Section 14 (3) of the Williston Subdivision Regulations;
 - 2. Arboricultural Specifications and Standards of Practice of the City of Williston; and
 - 3. Authorized Boulevard Trees List.
- b. Street trees shall be installed within the public right-of-way
- c. At least one (1) street tree is required for every 35 linear feet of local street frontage and at least one (1) street tree is required for every 50 linear feet of collector and arterial street frontage.
- d. Organic mulch (woodchips) shall be installed to a minimum coverage thickness of two (2) - four (4) inches over the backfilled area, keeping mulch away from the trunk for the first five (5) years after the tree is planted.
- e. Trees at the time of planting shall be one (1) inch or larger in diameter, measured at a point located four and one half (4 ½) feet above ground level.

- f. A planting permit must be obtained from the City Forestry Department prior to planting any trees within the public right-of-way.

6. EXEMPTIONS: The following are exempt from the requirements of this ordinance:

- a. Agricultural land uses as defined in Sections 8(C), 8(D)(2), 8(E)(3), (4), and (5);
- b. Repair or remodeling of single-family or duplex dwelling units
- c. Improvements or repairs to existing development other than those mentioned in #2 above, that do not:
 - 1. increase the existing floor area by more than 1,000 square feet or 10 percent of the existing building footprint area, whichever is greater;
 - 2. or two or more expansions of square footage on the site that do not, in total, exceed 1,000 square feet or 10 percent of the existing building footprint area, whichever is greater.
 - 3. Total 50% of the building's value in improvements done to the building.
- e.
- f. If an applicant demonstrates through written request and confirmed planning that strict adherence to these guidelines will cause an unreasonable hardship to occur to future development of the property, or if current development is so as to preclude installation, the City Planner and City Forestry Department may review and modify these requirements.
- g. If street trees cannot be installed in the right of way due to insufficient boulevard width or above/underground utilities, said trees must be placed within 10 feet of the public right of way, or, with approval of the City Planner and City Forestry Department, a payment in lieu as per fee schedule _____ shall be required.
- h. On properties where above/underground utilities, visibility triangles, existing conditions on the property such as an amount of existing pavement or the property's status as infill development, or other conditions deemed appropriate (emergency vehicle entrances, etc.) make installing street trees or other required landscaping infeasible, the City Planner and City Forestry Department may review and modify these requirements.

7. REMOVAL OF LANDSCAPING:

- a. If a property owner wishes to remove landscaping from a commercial property, a permit shall be required from the City Planner and City Forestry Department. If a property owner wishes to remove grass or trees from a residential boulevard, a permit shall be required as noted in City Ordinance Section 20, Article II. Regardless of permitting, a property must maintain either the amount of landscaping required by this ordinance or, if property was developed prior to this ordinance and has less landscaping than would be required by this ordinance, the original amount of landscaping on the property. Any additions of landscaping inside the boulevard, or as part of the required landscaping on the property, shall be compliant with all regulations in this ordinance.

8. PAYMENT IN LIEU

- a. Any property owner requesting to pay in lieu of providing required landscaping as per Section 6 of this ordinance, must submit in writing an application to the City Planner, who will route the application to the City Forestry Department. Said application shall include reasoning for the payment in lieu request, as well as an estimation of the number of plant units to be paid for. Also included shall be a site plan of the property showing where required plantings would go, as well as any and all obstacles to placement.
- b. Both City Forestry Department and City Planner will be required to approve the written application of a property owner.
- c. The subsequent payment shall be made to the City of Williston and placed into a fund for use to place or replace boulevard trees throughout the City.


9. ENFORCEMENT:

- a. **Continuing Maintenance Obligation.** All landscape plants must continue to be cared for and maintained in a healthy condition, free of diseases, pests, weeds and litter. This maintenance must include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance as needed and in accordance with acceptable horticultural practices. Dead plants shall be removed and replaced. Plant replacements must occur in a timely manner and no later than the beginning of the next growing season. All trees shall be watered and maintained by owner or developer for a period of no less than three years in order to facilitate establishment. All plants must be planted and maintained according to the City Forestry Department Tree Planting Standards.
- b. **Inspection and Monitoring.** All areas required to be landscaped by this ordinance are subject to inspection and monitoring. Landscaped areas not in compliance with the requirements of this ordinance or not in compliance with the approved landscaping plan will be subject to enforcement actions pursuant to Section 26 of this zoning ordinance. These enforcement actions include the city hiring a contractor to do the required landscape work.

Commissioner Cymbaluk moved the adoption of the foregoing Ordinance. The motion was seconded by Commissioner Siemieniowski. On roll call vote of the Commissioners, the following Commissioners voted "AYE": Bekkedahl, Siemieniowski, Bervig, Cymbaluk, Klug, and the following Commissioners voted "NAY" none. Absent and not voting: none.

WHEREUPON, the motion was passed and the Ordinance declared adopted this 25th day of June, 2024.

ATTEST:



Hercules Cummings,
City Finance Director

APPROVED:



Howard Klug,
President of Commission

PASSED FIRST READING: May 28, 2024

PASSED SECOND READING: June 25, 2024

PUBLISHED:

ADOPTED THIS 25th Day of June, 2024