

ORDINANCE 001-2001

ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF FLOWOOD, MISSISSIPPI ESTABLISHING MINIMUM LANDSCAPING AND TREE PROTECTION REQUIREMENTS FOR THE CITY OF FLOWOOD

WHEREAS, the City of Flowood wishes to establish minimum standards for landscaping on property being developed in the City, and

WHEREAS, the City of Flowood wishes to provide for protection of trees on property being developed in the City, and

WHEREAS, the Standard set forth shall be minimum.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALER MEN OF THE CITY OF FLOWOOD, MISSISSIPPI, AS FOLLOWS:

SECTION 1 – TITLE

This Ordinance shall be known as the “Flowood Landscape Ordinance”.

SECTION 2 – SCOPE

The landscaping regulations set forth in this Ordinance shall apply to all real property within the city limits now and in the future and to all property on which an existing building is being renovated with renovations or additions greater than fifty-one percent (51%) of the building’s appraised or true value as shown on current Tax Records in the office of the Rankin County Tax Assessor. Furthermore, it is the intent of this Ordinance to establish protective regulations for trees located in the City of Flowood in the same context. This Ordinance shall be a minimum standard.

SECTION 3 – EXEMPTIONS

The following uses of property are exempted from the provisions of this Ordinance:

- A. Any single family residential building site shown on a site approved by the City.
- B. Any lot occupied by not more than one (1) residential structure containing (in aggregate) not more than two dwelling units.
- C. All public and licensed private plant or tree nurseries, tree farms, or botanical gardens, but only in relation to those trees which are planted and growing for sale or intended for sale to the general public in the ordinary course of business or for some public purpose.

- D. Any property undergoing renovation or for which an application for building permit for renovation has been submitted to the City, and that already, complies with the provision of this Ordinance.

SECTION 4 – LANDSCAPED AREA

The area to be landscaped shall be fifteen percent (15%) of the total available area. The total available area shall be calculated by subtracting the land area covered by buildings and structures from the total land area of the site, and then multiplying this difference by fifteen percent (15%). This amount of land shall be devoted to vegetative landscaping which includes but is not limited to grass, shrubs, vines and trees. Roadways, parking areas, and drives are specifically excluded from the calculation for landscaped areas.

SECTION 5 – LANDSCAPING REQUIREMENTS FOR PARKING LOTS AND VEHICULAR USE AREAS

Landscaping requirements for parking lots and vehicular areas shall be as follows:

- A. Interior Landscaping: Interior landscaping of parking lots shall contain planter islands located so as to best relieve the expanse of parking. A maximum of twelve (12) parking spaces in a row shall be permitted without a planter island.

Planter islands shall have a minimum of one hundred twenty-five (125) square feet in area and shall contain at least one (1) tree having a minimum height of ten to twelve (10-12) feet. The remaining area shall be landscaped with appropriate plant materials.

Each parking/paved areas of vehicular use must have planted borders not less than ten (10) feet in width parallel to right-of-way lines. (Planting strips parallel to neighboring property are encouraged.) These planted border areas must have at least one (1) tree having a minimum height of ten to twelve (10-12) feet for each twenty-five (25) lineal feet of border area with a minimum of two trees if the lot is 100 feet or less. The remainder shall be landscaped with appropriate plant materials.

This section may be modified by the City when strict application will seriously limit the function of an area. A technical review by the Architectural Review Board shall be made before any modification.

- B. Accessways: Landscaped border areas may be interrupted to provide vehicular and/or pedestrian ingress and egress.
- C. Encroachment: Landscaped areas shall require protection from vehicular encroachment. Car stops shall be located so as to prevent damage by vehicles to any trees, fences, shrubs or other landscaping.

SECTION 6 – TREE PROTECTION ZONE

A tree protection zone is hereby established by the City as follows:

- A. The tree protection zone shall correspond with that portion of any property outside the area where a building or buildings will be located as shown on the site plan.
- B. Within the tree protection zone, no more than fifty percent (50%) of the mature existing trees located on any lot, piece or parcel of land shall be cut, damaged, or destroyed. An emphasis will be placed on the retention of mature trees within any existing R.O.W. Any trees with a minimum trunk diameter of six (6) inches within an existing R.O.W. of a street cannot be removed except by permit as specified herein. On property located within the flood plain of the City, those areas of the property requiring two (2) or more feet of fill are exempt from the 50% requirement for tree removal. However, areas of the property requiring less than two (2) feet of fill are subject to the 50% requirement. By no means does the above-listed limited exemption preclude this property from complying with the other requirements contained in this Ordinance. The desire of the City, either within or without a floodplain, is for developers to leave as many trees as possible on any lot and especially within ten (10) feet of all property lines where possible.
- C. This Ordinance shall not be interpreted to prohibit the removal of dead or decaying trees from public property by any public agency.

1. Permits

- (a) Tree Removal: A permit shall be required to remove or cause the death of more than fifty percent (50%) of the existing trees located within a development's tree protection zone. Written application for a permit shall be made to the City a minimum of one month prior to the date scheduled for work to begin.
- (b) Earth Moving and Defoliation: A permit shall be required for earthmoving, grading or defoliation of property other than for the construction of a private road or drive, or single-family homesite.

The City may withhold issuance of a permit for grading, bulldozing, defoliation or the destruction of trees where the site has been stripped of its vegetation in violation of this Section, or, where no replanting has occurred as called for in the specifications of an approved site plan. The City may require the planting of grass, trees, or foliage on the entire property. In such event, the City shall give written notice to the owner of the property specifying the type and amount of replanting and providing a reasonable period of time for its accomplishment.

Grading of property which results in greatly increased water run-off, siltation, erosion, and/or unsightly and objectionable appearance and which is wholly incompatible to surrounding properties, shall constitute a public nuisance in violation of this ordinance, unless a replanting schedule has been previously accepted by the City and the developer maintains good faith actions.

2. Standards – Administration of the provisions of the section shall be guided by the following standards:

- (a) The provisions herein shall not be interpreted to prohibit or unduly inhibit development of private property. In every case, the paramount considerations to be observed shall be:
 - (1) The property owner's desired and intended use of the property consistent with its present zoning.
 - (2) The application of equitable reasonable, practicable and uniform standards, as nearly as possible to each case alike, within each zoning category, but recognizing the district land use needs for the different zoning districts.
- (b) Trees lying inside the tree protection areas and other trees to be removed need not be replaced by trees of equal size of the same species. However, replacement trees of any tree greater than twelve (12) feet in height may be replaced by trees ten (10) to twelve (12) feet in height of the same species. Where it is economically feasible an effort shall be made to save large, healthy trees of the more desirable species.
- (c) For every application, consideration shall be given to the needs of the intended use of the property, together with a realistic evaluation of the following:
 - (1) existing tree coverage;
 - (2) number of trees to be removed on the entire property;
 - (3) area to be covered with structures, parking and driveways;
 - (4) topography and drainage;
 - (5) character of the site and its environs;
 - (6) ecology; and,

- (7) site distances afforded to motor traffic.

SECTION 7 – PLANTING, MAINTENANCE AND REMOVAL

The following planting, maintenance and removal standards are hereby established:

- A. Planting: All trees and landscaping shall be installed in a sound and workmanlike manner and according to accepted planting procedures with quality materials as defined by the American Association of Nurserymen’s “American Standard for Nursery Stock”. All landscaping shall be completed as soon as possible but no later than six (6) months after the date of the issuance of the Certificate of Occupancy. Should the landscaping not be completed it shall be deemed a violation of this Section.
- B. Maintenance: The owner, tenant or agent shall be jointly and severable responsible for the maintenance of all landscaping. Landscaping shall be maintained in a good condition so as to present a healthy, neat and orderly appearance at least equal to the original planting. Any dead vegetation and landscaping material or any damaged non-living landscaping materials shall be promptly replaced.
- C. Removal and Protection:
1. The natural landscape shall be preserved in all possible instances.
 2. Prior to Development

Where a building permit or subdivision approval has not been issued, the destruction within any five (5) year period of more than twenty-five percent (25%) of the landscaping on any nonexempt land, without prior approval of the City, which approval shall not be unreasonable withheld, shall be prohibited. However, it is not the intention of this requirement to prevent any owner from thinning by cutting and removing undesirable shrubs, vines and excess trees, consistent with good forestry practices, in order to protect and promote the development and growth of the remaining trees and shrubbery.
 3. During Development
 - (a) Where a building permit (or subdivision approval) has been requested fifteen percent (15%) of the total available area shall be landscaped. If some or all of the existing trees and landscaping cannot be retained, replacement of said trees and landscaping shall be required to meet the provisions of this Ordinance.

- (b) During development, there shall be erected and maintained suitable protective barriers around all trees to be retained so as to prevent damage thereto. All building materials, dirt or other debris shall be kept outside the barriers. There shall be no paving with any impervious materials or grading within the drip line of any trees retained.
- (c) No person, firm, organization, society, association or corporation, or any agent or representative thereof, shall directly or indirectly destroy or remove any tree in violation of the provisions of this ordinance.

SECTION 8 – UTILITIES

To insure a productive environment for large plant material growth and development and to promote and enhance the beautification of the City of Flowood, utility service lines including, but not limited to, electrical power, telephone, cable television and others, shall be installed and subsequently maintained underground in areas designated for same including dedicated street rights-of-ways and designated utility easements.

SECTION 9 – SUBMISSION OF SITE PLANS

Where application for a building permit is submitted to the City, a landscaping site plan for the development or the improvement of any nonexempt parcel of land shall be submitted. No building permit shall be issued for project/lots until the landscaping site plan has been reviewed and approved by the City. No building permit for projects over five (5) acres in size shall be issued until the landscaping site plan has been reviewed and recommended by the Public Works Department and approved by the City. The landscaping site plan shall show, in addition to the usual requirements, the following information:

- The building site with corresponding dimensions;
- The buildable area with corresponding dimensions;
- The yard area with corresponding dimensions;
- Plat with a location and listing of all trees to be retained on the site and all trees over five (5) inches in diameter measured at 4 ½ feet above the ground, except those trees located in the site areas to be occupied by building and parking lot.
- The specific common and scientific name(s) and location(s) of trees and plant materials (landscaping) to be planted or maintained on the site;
- All plans to a scale no less than one inch equals one hundred feet;
- A location map;
- The name of the project;
- The name of the owner; and,
- Plant material list.

Trees to remain on the property over five (5) inches in diameter shall be clearly identified by the owner or developer prior to submission of the landscaping plan. The identification may be a brightly colored ribbon or other identification acceptable to the City Building Inspectors.

SECTION 10 – EXCEPTIONS

In the event that any tree on any nonexempt parcel of land shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, safety or welfare, and requires immediate removal without delay, written authorization may be given by the City, or its designee, and the tree removed.

SECTION 11 – ENFORCEMENT, VIOLATIONS AND PENALTIES

Enforcement of the provisions of this Ordinance shall be the responsibility of the Architectural Review Board or their designee. The Architectural Review Board, or their designee, has the authority to reject landscape site plans based upon unacceptable plant material and non compliance of the general goals of the ordinance. If, after review of a project by the Architectural Review Board, or their designee, the plant materials installed on the site do not comply with the approved plan, the Architectural Review Board, or their designee, will so note in writing. If the Architectural Review Board deems the deviations from the approved plan acceptable, he will so note, and the owner, developer, occupant, tenant, and/or representative will be required to promptly submit a revised plan showing the actual plantings. This revised plan will be placed on file at City Hall.

If, after review, the Architectural Review Board, or their designee, determines that the site does not comply with approved plan and further determines it to be unacceptable, the owner, developer, occupant, tenant and/or respective agent shall be notified in writing of said violations and given thirty (30) days in which to correct all violations. Failure to make such corrections shall be in violation of the Ordinance.

Any person, owner, developer, occupant, tenant and/or respective agent responsible for the violation shall be deemed guilty of a violation of City Ordinance and, upon conviction thereof, shall be punished by fine not less than Five Hundred (\$500) Dollars and not exceeding One Thousand (\$1,000) Dollars or imprisonment for a term not exceeding thirty (30) days. Each day that any violation of any of the provisions of this Ordinance shall continue, after the thirty (30) day period, shall be construed as a separate offense.

SECTION 12 – APPEALS

The City shall have the authority and duty to consider and act upon any application submitted for adjustment of standards provided herein. Sufficient time shall be given for technical review by the Architectural Review Board before any ruling shall be made.

SECTION 13 – DEFINITIONS

For the purpose of this section, the following words and phrases shall have the meaning ascribed to them.

City: City of Flowood, Mississippi

Developed Property: Property upon which a building has been placed or for which a building permit has been issued.

Grass: Normal lawn materials.

Hedges: A hedge shall consist of a fence or boundary formed by a dense row of shrubs or low trees.

Interior Parking Areas: The area of a lot devoted to parking spaces exclusive of the parking spaces along the perimeter of the lot.

Landscaping: Landscaping shall consist of any of the following or combination thereof material such as, but not limited to, grass, ground covers, shrubs, vines, trees, and any non-living material commonly used in landscaping, such as but not limited to, berms, mulch, sand, walls, screens, fences, lighting and/or signage, and any change in contours of the land, grades, etc., to achieve the effect of landscaping.

Mature Tree: Any tree having a trunk diameter of 5” or greater measured at 4 ½ feet above the ground.

Property Owner: Property owner shall mean the person owning such property or his agent as shown by the City of Flowood records.

Tree Removal: Any intentional or negligent act which will cause a tree to decline or die within a period of one (1) year, including but not limited to such damage inflicted upon the root system of a tree by application of toxic substances, the operation of machinery, the change of natural grade by excavation filling above the root system or around the trunk of a tree, and damages from injury from fire inflicted on trees which result in or permit pest infestation.

Shrubs: Shrubs required by the Ordinance shall be self-supporting plant material.

Vines: Vines are plants which normally require support to reach maturity form.

SECTION 14 – SEVERABILITY

It is hereby declared to be the intention of the Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause and phrase are severable, and of any section, paragraph, sentence, clause or phrase

of the Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of the Ordinance.

SECTION 15 – REPEAL

All Ordinances or parts of Ordinance in conflict with this Ordinance are hereby repealed.

SECTION 16 – EFFECTIVE DATE

This Ordinance shall become effective upon the signature of the Mayor of the City of Flowood.

DATE: _____ APPROVED: _____
MAYOR

ATTEST: _____
CITY CLERK