

ORDINANCE NO. 1453

An ordinance amending Chapter 2 of the Code of the City of Jamestown, North Dakota by adding new Sections 2-88 through 2-101 which sets forth landscaping requirements for new structures or for modifications to existing structures in the City of Jamestown.

WHEREAS, the City of Jamestown has determined it is important to provide for the orderly and aesthetic development of the City by providing guidelines and regulations for landscaping.

WHEREAS, establishing guidelines and regulations for landscaping will help promote the health, safety, and general welfare of the City.

NOW, THEREFORE, be it ordered by the City Council of the City of Jamestown, North Dakota that Chapter 2, be amended by enacting new Sections 2-88 through 2-101 as follows:

Sec. 2-88. Definitions.

As used in this Chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Berm* means an earthen mound designed to provide visual interest on a site, simulate natural terrain, screen undesirable views, reduce noise, or for any other purpose which creates a landscaped barrier.
2. *Boulevard* means the area within the public right-of-way between the curb line and the property line or the portion of the sidewalk closest to the property line.
3. *Buffer or Buffer yard* means an area landscaped to separate or partially obstruct the view between two adjacent land uses or properties.
4. *Caliper* means the measurement of a plant's diameter as measured six inches (6") above the top of the root ball if not planted, or six inches (6") above the top soil level if planted.
5. *Deciduous ornamental tree* means a single stem woody plant that grows less than thirty-five (35) feet in height at maturity.
6. *Deciduous shade tree* means a single stem woody plant that grows taller than thirty-five (35) feet in height at maturity.
7. *Diameter at breast height (dbh)* means the measurement of a plant's diameter as measured four and half (4 ½) feet above the ground.
8. *Evergreen* means a plant that retains its green growth through more than one growing season. The term "evergreen" is often used as a synonym for conifers, such as spruce and pine, which remain green throughout the winter.
9. *Hedge* means a barrier or fence formed by bushes or shrubs growing together.
10. *Landscaped Island* means a landscaped area surrounded on all sides by a parking area.

11. Landscaped Peninsula means a landscaped area bordered on three sides by a parking area.
12. Mulch means nonliving organic material used in landscaped areas to retard erosion, retain moisture, and provide a protective covering around plants to reduce weed growth and maintain even temperatures around plant roots.
13. Plant Materials means trees, shrubs, hedges, or any other plants used for landscaping.
14. Screening means a vertical construction that is either vegetative or structural, which shields an area with high negative effects from the view of adjacent land uses or properties, or public property and rights-of-way.
15. Shrub means a self-supporting deciduous shade tree or evergreen woody plant which is normally branched near the base, bushy, and less than fifteen (15) feet in height.
16. Xeriscaping means landscaping materials which are appropriate for local conditions and require little or no irrigation or maintenance.

Sec. 2-89. Applicability; exceptions.

1. *Applicability.* The landscaping requirements of this Chapter shall apply to any of the following:
 - a. The construction of new commercial, institutional, or industrial buildings, a commercial, institutional, or industrial accessory building, or a multi-family residential structure with three (3) or more units;
 - b. The installation of any off street parking area or the expansion of any existing parking area by five (5) or more off-street parking spaces;
 - c. A change in the use of the property that requires rezoning to a more intensive zoning classification or a special use permit;
 - d. Any commercial, institutional, or industrial construction that increases the existing building footprint by more than one thousand (1000) square feet, increases the building square footage by more than ten percent (10%), increases the building occupancy load by more than ten percent (10%), or increases the building footprint, square footage, or occupancy load through any additions or modifications which cumulatively meet the increase requirements.
 - e. Any commercial, institutional, or industrial construction that increases the asphalt, concrete, gravel, or any other paved or hard surface area by ten percent (10%) of the existing square footage for such surface shall be deemed New Construction and shall meet all landscaping requirements for New Construction.
2. *Exceptions.* The following structures are exempt from the landscaping requirements of this Chapter:
 - a. A single-family residence, duplex, or two-unit townhouse residential structure on its own lot;

- b. Vehicle use areas located within a parking garage or building;
- c. Any commercial property used solely for vehicle or equipment sales;
- d. Repair or replacement of a structure due to property damage caused by an act of God; however, any voluntary landscaping done in conjunction with the repair or replacement shall comply with the requirements of this Chapter.

Sec. 2-90. Landscape plans.

A landscape plan shall be required for all developments subject to the provisions of this Chapter. All landscape plans must be submitted for approval to the City Forester or his designee. All landscape plans shall contain, at a minimum, the following information:

- a. The project name, street address, and legal description;
- b. The date prepared, a scale, a north arrow, and the name, address, and telephone number for the property owner and the person who prepared the plan;
- c. The location of existing boundary lines and dimensions of the lot;
- d. The location of all driveways, parking areas, sidewalks, structures, utilities, or other features, existing or proposed, affecting the landscaping of the site;
- e. A complete landscape legend providing a description of all proposed plant materials used in the landscape plan; including but not limited to:
 - i. Typical plant symbols;
 - ii. Common and botanical names for each plant;
 - iii. The location of each plant material;
 - iv. The size of each landscaped area;
 - v. The quantity of each plant material;
 - vi. The container or caliper size at installation;
 - vii. The height and spread of each plant material at installation and the expected height and spread at maturity;
 - viii. The spacing between the plant materials; and
 - ix. The location and type of all existing trees on the lot over six (6) inches in diameter at breast height (dbh).
- f. The location, height, and dimensions of any proposed buffers, including watercourse buffer strips, earthen berms, delineated by one foot contours, masonry fences, dense vegetation, or other features used to meet the landscaping or buffer requirements, provided that slopes greater than 3:1 ratio will not be permitted;

- g. The location of any existing and/or proposed easements;
- h. A statement addressing how existing healthy trees, if any, will be retained and protected from damage during construction;
- i. The square footage of the landscaping area for each interior parking lot and the total square footage of all landscaping areas for all interior parking lots;
- j. Any designated snow removal storage areas;
- k. The location of existing and/or proposed drainage facilities which will be used for drainage control;
- l. The location of pavement, curbs, sidewalks and gutters;
- m. The location of any swales, rain gardens, watercourses, pervious surfaces, and breaks in curbs or any other method to capture storm water;
- n. All sight triangles, driveways, and parking lot entrances and exits; and
- o. The approximate centerlines of existing watercourses and required setbacks, and the location and size of existing and/or proposed streets, alleys, utility easements, utility lines, driveways, and sidewalks on the lot and/or adjacent to the lot.

Sec. 2-91. Appeals/Variance.

1. *Variance standards.* Variances or alternative landscaping methods may be granted when site conditions or other factors so require. The applicant seeking a variance or alternative landscaping method must submit a revised landscape plan, which complies with the requirements of Sec. 2-90, to the City Forester showing the proposed variance or alternative method. No request for a variance or alternative landscaping method shall be approved unless:
 - a. The site in question is affected by physical conditions or constraints which makes compliance with this Chapter practically impossible or unreasonably cost prohibitive;
 - b. The physical conditions or constraints are not a result of the applicant's own actions or attributable to the proposed site or building design;
 - c. The proposed variance or alternative method will not present a safety hazard;
 - d. The proposed variance or alternative method will, upon maturity, provide equivalent landscaping and is reasonably compatible with the natural and topographic features of the site.

2. *Appeals.* Any person aggrieved by the City Forester's application of this Chapter may appeal to the Forestry Shade Tree Committee. The Shade Tree Committee shall have the authority to waive any requirement of this Chapter or to allow for any variance it deems appropriate. The decision of the Shade Tree Committee shall be appealable to the City Council.

Sec. 2-92. Plant quality and acceptable plant material.

1. *Plant Quality.* Plants installed to satisfy requirements of this Chapter must meet or exceed the plant quality standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen. Plants must be nursery grown and adapted to the local area.

2. *Acceptable Plant Material.* The following materials may be acceptable for landscaping:

a. Plant materials identified as “hardy” in Zones 1 through 4 by the United States Department of Agriculture (USDA) will be acceptable. Alternative plant materials which are not identified as “hardy” in Zones 1 through 4 may be considered on a case-by-case basis by the City Forester or his designee.

b. No artificial plant materials may be used to satisfy the requirements of this Chapter.

c. Plant materials must comply with the following minimum size requirements at the time of installation. Size is determined by the standard measuring technique for the species.

i. Plant sizes

Plant Type	Minimum Size of Plant at Installation
Deciduous Shade Tree	2” caliper
Deciduous Ornamental Tree	1 ½” caliper
Evergreen Trees	5’ height above ground
Shrubs	12” height, #2 container

ii. Tree Diversity

No. of Trees Provided on Plan	Minimum No. of Species Required
1 to 5	1
6 to 10	2
11 to 20	3
21 to 30	4
30+	5

Sec. 2-93. Planting requirements in the public right of way.

Any landscaping done in the public rights-of-way within the proposed development site not used for streets, curbs, gutters, sidewalks, or driveways shall be done in accordance with requirements of Sec. 2-82 of this Code.

Sec. 2-94. Non-residential landscaping requirements.

1. *New Construction.*

a. For every two thousand five hundred (2,500) square feet of asphalt, concrete, gravel, or any other paved or hard surface, one (1) two inch (2”) caliper deciduous shade tree and two (2) shrubs/hedges are required to be planted.

- b. When there is more than ten thousand (10,000) square feet of asphalt, concrete, gravel, or any other paved or hard surface, trees and shrubs/hedges shall be planted in landscaped islands and/or landscaped peninsulas which shall be distributed evenly throughout the hard surface area. Landscaped islands and peninsulas shall:
 - i. Be at least eight (8) feet wide and shall have a minimum of one hundred fifty (150) square feet per tree;
 - ii. Contain a depth of at least two (2) feet of suitable mineral/organic non-compacted soil for growing trees and shrubs/hedges;
 - iii. Utilize raised curbs to protect trees, shrubs/hedges and vehicles from damage.
 - iv. Have at least a minimum coverage thickness of three (3) inches of mulch or landscaping rock, with professional weed barrier fabric underneath, throughout the entire landscaped island or peninsula. Mulch shall be installed around trees or shrubs/hedges with a minimum coverage thickness of three (3) inches and extending out from the base of the tree or shrub/hedge in a three (3) foot radius.
- c. When there is ten thousand (10,000) square feet or less of asphalt, concrete, gravel, or any other paved or hard surface, landscaping materials may be planted evenly around the perimeter of the hard surface area.

Sec. 2-95. Erosion and sedimentation control during construction.

- 1. Erosion and sedimentation control measures meeting accepted design criteria, standards, and specifications shall be implemented to reduce and prevent erosion and sedimentation during construction, regardless of whether an erosion and sediment control plan has been required pursuant to Chapter 31 of this Code.
- 2. All unimproved areas, which are areas other than driveways, sidewalks, patios, areas occupied by structures, and landscaped areas, shall have materials in place to prevent erosion and sedimentation. The following are acceptable erosion and sedimentation prevention methods:
 - a. Erosion Control Blankets or Mats;
 - b. Temporary Retaining Walls;
 - c. Residue Covers;
 - d. Grass, Mulch, or Hay; or
 - e. Any other plant or vegetative growth or other material approved by the City Forester or his designee designed to prevent erosion and sedimentation.

Sec. 2-96. Buffer requirements.

Buffers shall be required when a more intensive zoning district is adjacent to a less intensive zoning district. The more intensive zoning district shall be responsible for installing the required buffer.

- a. When a multi-family residential structure abuts a single-family residence or residential area the following is required:
 - i. A ten (10) foot wide buffer along the entire shared border, or alternatively, an opaque wall, berm, decorative fence, or dense vegetative screen, with a height of at least six (6) feet, along the entire shared border;
 - ii. One (1) tree for every thirty-five (35) feet of shared border and three (3) shrubs for every twenty (20) feet of shared border;
- b. When a commercial use abuts a single-family or multi-family residence or residential area the following is required:
 - i. A ten (10) foot wide buffer along the entire shared border, or alternatively, an opaque wall, berm, decorative fence, or dense vegetative screen, with a height of at least six (6) feet, along the entire shared border;
 - ii. One (1) tree for every thirty-five (35) feet of shared border and three (3) shrubs for every twenty (20) feet of shared border.
- c. When an industrial use abuts a single-family or multi-family residence or residential area the following is required:
 - i. A fifteen (15) foot wide buffer along the entire shared border, or alternatively, an opaque wall, berm, decorative fence, or dense vegetative screen, with a height of at least eight (8) feet, along the entire shared border;
 - ii. One (1) tree for every thirty-five (35) feet of shared border and three (3) shrubs for every twenty (20) feet.
- d. When an industrial use abuts a commercial use:
 - i. A ten (10) foot wide buffer along the entire shared border, or alternatively, an opaque wall, berm, decorative fence, or dense vegetative screen, with a height of at least six (6) feet, along the entire shared border;
 - ii. One (1) tree for every thirty-five (35) feet of shared border and three (3) shrubs for every twenty (20) feet.

Sec. 2-97. Screening of trash containers and outdoor storage areas.

In commercial and industrial districts all dumpster style trash containers shall be placed within a trash enclosure which adequately screens the dumpster from view and allows access for trash pickup. Alternatively, a decorative wall, fence, or dense vegetative landscaping may be used to screen trash containers. Vegetative screens must be comprised of a minimum of seventy-five percent (75%) evergreen trees, twenty-five percent (25%) deciduous trees and/or shrubs/hedges, and be backed by a one hundred percent (100%) sight obscuring fence. No dumpster style trash containers, trash enclosures, or trash screens shall be placed or installed within a public right-of-way.

Sec. 2-98. Maintenance.

1. The landowner shall be responsible for regular landscape maintenance on their property including but not limited to weeding, irrigation, fertilizing, pruning, and mowing. Plant materials that exhibit a significant number of insects or pests, or a significant level of disease or damage shall be appropriately treated or replaced.
2. All dead plant materials shall be promptly removed and replaced with living plant materials, in accordance with the approved landscape plan.
3. Vegetation shall be maintained to mitigate any hazards including but not limited to slope failure, soil erosion, and flooding.

Sec. 2-99. Inspection and monitoring.

1. All landscaping required by this Chapter shall be subject to inspection and monitoring by the City Forester or his designee. Landscaped areas not in compliance with the approved landscaping plan or this Chapter are hereby declared nuisances and considered a violation of this Chapter. Upon observing or learning of a violation, the City Forester or his designee shall inspect the property and then provide written notice to the property owner of any violation. The property owner, within thirty (30) days of receipt of such notice, shall abate the nuisance by coming into compliance with any applicable landscaping plan and/or the requirements of this Chapter.
2. Should the property owner fail to abate the nuisance within thirty (30) days, the City Forester or his designee may abate or hire individuals to abate the nuisance and bring the property into compliance. In the event the property owner is unable to abate the nuisance within thirty (30) days of receipt of the notice, the owner may request additional time by submitting a request to the City Forester or his designee explaining the reason the nuisance cannot be abated within thirty (30) days and proposing a plan and timeline for abatement.
3. The expense for any materials, supplies, labor, or other costs related to the work performed by the City Forester, his designee, or individuals hired by the City Forester or his designee to abate the nuisance shall be assessed against the property.

Sec. 2-100. Timing of installation.

1. Any landscaping required by this Chapter shall be installed before a final Certificate of Occupancy may be issued. A ninety (90) day temporary Certificate of Occupancy may be issued, or a final plat may be filed, if the property owner deposits with the City Administrator for the City of Jamestown U.S. currency or a cashier's check in an amount equal to one hundred fifty percent (150%) of the estimated cost of the uninstalled plant materials.
2. In the event the property owner fails to install the landscaping within the ninety (90) days, the City may retain the deposited funds and the City Forester or his designee may install or perform any necessary landscaping work, or may hire individuals to install or perform any necessary landscaping work, to bring the property into compliance with any applicable landscaping plan and/or the requirements of this Chapter.

3. The expense for any materials, supplies, labor, or other costs related to the work performed by the City Forester, his designee, or individuals hired by the City Forester or his designee to bring the property into compliance, above and beyond the funds deposited by the property owner with the City, shall be assessed against the property.

Sec. 2-101. Conflicts.

In the event a requirement of this Chapter conflicts with another requirement of this Chapter or this Code, the more restrictive standard prevails.

ATTEST:

APPROVED:

Jeff Fuchs
City Auditor

Katie Andersen
Mayor

Introduced by Council Member Buchanan

Seconded by Council Member Brubakken

First Reading: March 2, 2015

Second Reading: April 6, 2015

Final Passage: April 6, 2015

Roll Call No. 6 showed: 4 ayes, 0 nays, 1 absent.