

ORDINANCE NO. 16-Q

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS AMENDING CHAPTER 35, CORRIDOR LAND USE REGULATIONS; NAMING THE ENGINEERING DEPARTMENT TO ADMINISTER THE CHAPTER; REVISING CERTAIN SECTIONS PERTAINING TO FACADES WITHIN VIEW ALONG THE CORRIDOR AND THE SCREENING OF CERTAIN VEHICLES FOR SALE OR LEASE ADJACENT TO THE CORRIDOR; PROVIDING FOR A PENALTY, PROVIDING FOR A REPEALER CLAUSE AND SEVERABILITY CLAUSE, PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN:

Section 1. That certain sections of Chapter 35, of the Code of Ordinances, City of Alvin, Texas is hereby amended by repealing and adding the following language as follows:

Chapter 35

CORRIDOR LAND USE REGULATIONS

ARTICLE I. IN GENERAL

Sec. 35-1. Purpose and applicability.

The following regulations are created for the purpose of imposing special standards in designated areas of the city to accomplish the intentions of the comprehensive plan. The regulations are intended to protect and preserve the appearance and character of the community's primary highway corridors, including the S.H. 35 North and South, S.H. 35 Bypass, S.H. 35 Business, S.H. 6, F.M. 528, and F.M. 1462. The provisions herein shall apply to all lands, in whole or in part, within three hundred (300) feet of either side of the rights-of-way of the above described roadways, within the city limits, as may be changed from time to time. The rights-of-way shall be determined by the adopted thoroughfare plan, as amended from time to time.

Sec. 35-2. Exemptions.

The regulations contained within this chapter shall not apply to the following:

- (1) Single family residential dwellings; and
- (2) Those projects that, on the effective date of this chapter, have submitted administratively complete plans as determined by the engineering department.

Sec. 35-3. Compliance required.

(a) There shall be no alteration of the existing condition of the lands, buildings, or structures within the above described areas from the date of enactment of this chapter, except as provided by this or other sections of this Code. This chapter shall be applied to building additions, expansions, alterations, installation, and construction and new development under building permits issued after the effective date of this chapter, except as may otherwise be provided for under the provisions of this chapter.

(b) The regulations set forth in this chapter are in addition to any other applicable requirements set forth in this Code. In the event of a conflict between this chapter and another provision of this Code, the most restrictive shall apply.

(c) It shall be the responsibility of each applicant submitting a request for approval of a change or building permit to confirm that the proposed development complies fully with the special development requirements of these regulations. A pre-development meeting with pertinent city departments is required regarding the applicability of these standards to the proposed development.

Sec. 35-4. Variance process.

(a) Where unique natural features such as soil and geological characteristics, topography, or significant vegetation; historical features such as building design and materials and site configuration; or man-made features such as peculiarly-shaped lots, joint or split ownership patterns or location of existing structures and infrastructure on the site inhibit creative site design or pose unnecessary constraints to appropriate development as a result of strict compliance with these requirements, the building official may approve an alternative plan upon determining that such plan meets or exceeds the intent of these standards.

(b) If the building official determines alternative compliance is not applicable, an applicant may file a written request for a variance from these standards with the building official who will forward the request to the planning commission. An applicant for a variance shall pay a non-refundable fee, in an amount provided for in the fee schedule in chapter 28. The planning commission shall review all requests for variances to these requirements regarding appropriate measures for compliance with the intent of these standards. The city council shall take action on the recommendation of the planning commission.

Sec. 35-5. Definitions.

When used in this chapter, the following definitions shall apply unless the context clearly indicates otherwise. All definitions in chapter 21 shall apply herein for the purpose of interpreting this chapter:

Berm refers to an earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other purposes.

Bufferyard refers to a strip of land on the periphery of a property created to separate one type of development or land use from another when they are incompatible or in conflict.

Building official is the officer, or a duly authorized representative, hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this Code and to enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code.

Caliper refers to a horticultural method of measuring the diameter of nursery stock. For trees less than four (4) inches in diameter, the measurement shall be taken at six (6) inches above ground level. For trees greater than four (4) inches in diameter up to and including twelve (12) inches, the caliper measurement must be taken at twelve (12) inches above the ground level. For trees greater than twelve (12) inches in diameter, the trunk is measured four and one-half (4.5) feet above the ground.

Chain link fence refers to an open mesh fence made entirely of wire woven in squares of approximately one and one-half (1.5) inches with vertical supports not less than one and one-half (1.5) inches in diameter spaced not less than six (6) feet, and not more than eight (8) feet, apart.

Corner clearance refers to the distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

Corridor means all lands, in whole or in part, within three hundred (300) feet of either side of the rights-of-way of S.H. 35 North and South, S.H. 35 Bypass, S.H. 35 Business-Gordon Street, S.H. 6, F.M. 528, and F.M. 1462.

Cross access refers to a service drive providing vehicular access between two or more contiguous sites so a driver need not enter the public street right-of-way to pass between sites.

Feeder line refers to that portion of an electrical circuit that provides power from a power substation, and which has a rated capacity of three thousand (3,000) KVA or more.

Front yard refers to open space extending across the full width of the lot between the front lot line and the nearest line of the building or any enclosed portion of the building.

Ground cover refers to any evergreen or broadleaf evergreen plant that does not attain a mature height of more than one foot. Such plants shall be characterized by a growth habitat in which the plant spreads across the ground to connect with other similar plants forming a continuous vegetative cover on the ground.

Indigenous refers to plant material that occurs or lives naturally in an area, also referred to as native plant materials.

Intensity category, use category means the classifications of land in the corridor set forth in subsection 35-44(a).

Interior side yard refers to a yard between any building and the side lot line, extending from the front yard to the rear yard.

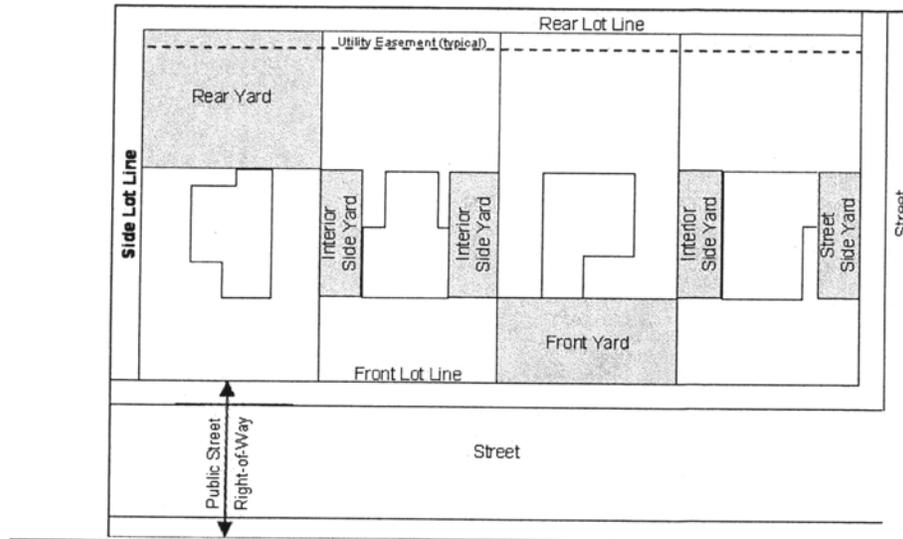


Figure 1 Definition of Yards

Irrigation system refers to a permanent, artificial watering system designed to transport and distribute water to plants.

Landscape plan refers to a plan, drawn to scale, showing locations and dimensions of existing and proposed site features and the quantity, size, and name of proposed plant material, including shade trees, evergreens, shrubs, groundcovers, and turf.

Landscape surface refers to the surface area of land not covered by any buildings, storage areas, or impervious surfaces. These areas shall be maintained as lawn, natural area, or landscaped beds and may be left undisturbed.

Loading berth refers to a space within a building or on the premises providing for the standing, loading, or unloading, and together with apron space for maneuvering of vehicles, trucks, and semi-tractor trailers.

National branding means a nationally standardized trademark, logo, service mark, symbol, sign, decor, architecture, or layout.

Nonconforming structure or building means a structure or building the size dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of this chapter.

Nonconforming use means any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this chapter or amendments thereto, which does not, by reason of design or use, conform after the passage of this chapter or amendments with the regulations of the chapter or amendment.

Opacity refers to the relative measurement of the screening effectiveness of a bufferyard expressed as the percent of vision that the screen blocks.

Outdoor display area refers to an area of designated size used for the display of merchandise or tangible property normally vended within the contiguous business or organization.

Outdoor storage refers to the storage of any material, or personal or business property, for a period greater than twenty-four (24) consecutive hours, including items for sale, lease, processing, and repair not within an enclosed building.

Parking structure refers to a structure composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be below grade or either partially or totally above grade with those levels being either open or enclosed.

Planning Commission means the City of Alvin planning commission.

Principal building or structure refers to a structure in which is conducted the principal use of the lot on which it is located.

Principal facade refers to exterior walls of a building that are adjacent to or front on a public street, park or other special feature, which are of an architectural design and building standard that contributes to the quality appearance of the environment.

Principal use refers to the main use to which a premise is devoted and the primary purpose for which a premise exists.

Rear yard refers to open space extending across the full width of the lot between the rear lot line and the nearest line of the building or any enclosed portion of the building. See figure 1.

Retaining wall refers to any fence or wall built or designed to retain or restrain lateral forces of soil or other materials.

Sight distance triangle refers to the triangular area formed by a diagonal line connecting two points located on intersecting street right-of-way lines, or a right-of-way line and the curb or edge of a driveway. See figure in section 35-35.

Soil stabilization refers to measures that protect soil from the erosive forces of raindrop impact and flowing water and include, but are not limited to, vegetative establishment, mulching, and the early application of gravel base on areas to be paved.

Street side yard refers to that portion of a yard, which abuts the street right-of-way along the side of the lot extending from the front lot line to the rear lot line. This may also be referred to as a corner yard. See figure 1.

Surface parking lot refers to a parking area for motor vehicles where there is no gross building area below the parking area and no gross building area or roof above the parking area.

Swale refers to a linear depression in land running downhill or having a marked change in contour direction in which sheet runoff would collect and form a temporary watercourse.

Thoroughfare plan is the thoroughfare street system plan adopted by the city, as amended from time to time, and filed in the city clerk's office.

Wall refers to a constructed solid barrier of concrete, masonry, stone, brick, tile, wood, or similar type of material that closes or borders a field, yard, or lot, and limits visibility and restricts the flow of light and air.

Yard refers to an open space at grade between a building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise allowed in these regulations.

Secs. 35-6 - 35-11. Reserved.

ARTICLE II. LOT STANDARDS

Sec. 35-12. Lots.

- (a) General yard provisions.
 - (1) Yard restrictions. Except as otherwise provided in these regulations, a building must not be erected, established, altered, converted, or relocated so as to be located or extend within the required front, rear, interior side, or street side yard.
 - (2) Shared yards. No part of a yard, or other open space required in connection with any building or use for the purpose of complying with these regulations, shall be used to meet the requirements of any other building or use as part of a yard or landscape surface.
 - (3) Measurement of yard depth. The depth of the required front yard and rear yard is determined by measuring along the interior side lot lines, beginning at the respective front and rear lot lines and extending the required minimum distances. The depth of the required interior side and street side yards is determined by measuring along the front and rear yards, beginning at the respective interior side and street side lot lines, as applicable, and extending the required minimum distances. See figure 2.
 - (4) Yard determination. The front yard of a corner lot shall be considered as parallel to the street upon which the lot has its least dimension.

- (5) Lot width. The minimum lot width shall be measured along the front setback line. See figure 2.
- (6) Double frontage. On lots abutting public streets to the front and rear, the required front yard setback shall be provided to the front and rear or, alternatively, the average setback of buildings along the same side of the block if it is greater than the required front yard setback. See figure 2.
- (7) Conflict with other codes. The yard requirements set forth in this section shall not be construed as repealing or in any manner amending applicable building or fire code requirements regarding building separation, which may be more restrictive than the requirements set forth in this section.

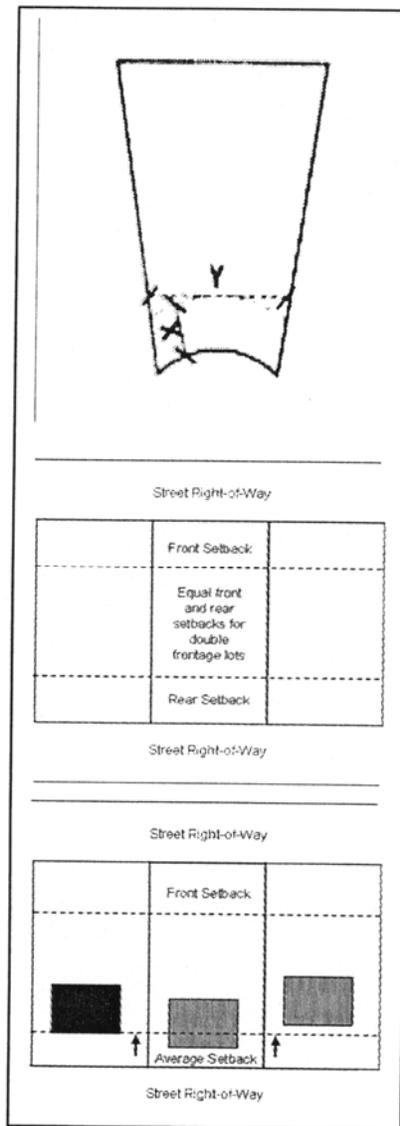


Figure 2 Measurement of Yards

(b) Yard allowances. Every part of a required yard must be open and unobstructed of structures from ground level of the graded lot to the sky, except as follows:

- (1) Landscaping, fountains, sculptures, lighting fixtures, and flagpoles, which are situated and constructed in compliance with all other provisions of these regulations, provided they do not obstruct the view of traffic.
- (2) Fences, walls, and bufferyard treatments.
- (3) Driveways, sidewalks, vehicular use areas, parking and loading areas.
- (4) Building or ground-mounted mechanical equipment.

(c) Yard requirements. The following indicates the dimensional yard requirements that apply to the corridor.

- (1) Front yard. All uses and activities shall maintain a minimum building front set back line of twenty-five (25) feet. Such front building line shall be measured from the ultimate rights-of-way of the corridor, which shall be determined by the thoroughfare plan.
- (2) Interior side yard. All uses and activities, including both principal buildings and accessory buildings or structures, shall be setback a minimum distance of ten (10) feet.
- (3) Street side yard.
 - a. All uses and activities, including both principal buildings and accessory buildings or structures, shall have a minimum street side yard setback of fifteen (15) feet. Such street side building line shall be measured from the ultimate rights-of-way of the corridor, which shall be determined by the thoroughfare plan.
 - b. The ultimate rights-of-way of all other streets shall be in accordance with the thoroughfare plan.
 - c. A street side yard that abuts the corridor shall remain open and unobstructed in accordance with this chapter.
 - d. A street side yard that abuts street rights-of-way other than the corridor may be used for the required parking and vehicular use areas, subject to sections 35-30, 35-31, and 35-44.
- (4) Rear yard.
 - a. All uses and activities, including both principal buildings and accessory buildings or structures, shall have a minimum rear yard setback of twenty (20) feet, subject to the requirements of section 35-44.
 - b. In the case of a lot that abuts the corridor to the rear, the same provisions required for front yards shall apply.

Secs. 35-13 - 35-18. Reserved.

ARTICLE III. PROPERTY AND LAND STANDARDS

Sec. 35-19. Street elevations; building facades; exterior materials.

(a) The street elevations, building facades, and exterior materials of buildings in the corridor shall abide by the following standards:

- (1) Where a building abuts the corridor, to the extent practicable, the front facade shall be oriented to the highway frontage. In the case of a side building facade oriented generally parallel to the highway frontage, the building wall elevation shall form a principal facade.
- (2) In the case of a building that abuts the frontage of more than one of the roadways of the corridor, a principal facade shall be constructed adjacent to both highway frontages.
- (3) Long-monotonous facades, including, but not limited to, those characterized by unrelieved repetition of shape or form or by an unbroken extension of planes shall be avoided.
- (4) Eighty percent (80%) of all building facades adjacent to and within public view of the corridor shall be constructed of clay or masonry brick; customized concrete masonry with scored or broken faced brick type units (sealed) with color consistent with the design theme; poured in place, tilt-up, or pre-cast concrete with a stone textured or coated finish; steel frame structures with glass curtain walls; natural stone; exterior insulation and finish systems (EIFS); or stucco. Non-decorative exposed concrete block buildings are prohibited.
- (5) To provide a professional appearance along the corridors, all siding and roof materials seen from ground level must be of earth tone colors as defined in this chapter. Signs and glass are not restricted to color; however, signs are limited to size as defined in chapter 17½. National branding colors are allowed for no more than twenty (20) percent of the structure's visible elevation. Approved colors in all structures built or installed along the corridors must be in one, or a combination of, shade(s) from white to dark of the following palettes:

- Grey
- Brown
- Terracotta
- Green

The building official shall maintain an approved color sample chart that the owner or builder may use to select colors. The approved color sample chart represents the intent of this chapter and may be updated from time to time by the building official, with approval of council. The building official shall have the authority to approve slight variations in color from the color sample chart so long as the colors fall within the approved color palettes.

All non-conforming structures shall be required to comply with this section regulating color:

- a. Within five (5) years of the date of final passage of this chapter; or
- b. Upon repainting of the structure's exterior.

Any request for an extension of time for compliance with this section regulating color shall be considered by council.

(b) Property maintenance. Property located in the corridor, including all principal and accessory buildings and appurtenances thereto, display and/or storage areas, parking and loading spaces, and open areas, shall be maintained in accordance with this section and all applicable ordinances. The exterior of all structures shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Sec. 35-20. - Nonconforming uses and structures.

(a) This section applies to buildings or land which fail to conform to the regulations set forth in this chapter on the date of enactment of this chapter. The lawful use of any building or land existing as of the date of enactment of this chapter may be continued, although such use does not conform to the provisions of this chapter, provided that:

- (1) No nonconforming use shall be extended to displace a conforming use.
- (2) A building that contains a nonconforming use may not be reconstructed or structurally altered in excess of fifty (50) percent of the assessed value of the building prior to construction, unless the building is changed to a conforming use approved by the building official.
- (3) Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- (4) Whenever a building used in whole or in part for a nonconforming use becomes and remains vacant for a continuous period of one-hundred and eighty (180) days, or whenever the commercial operations carried on in such a building have been discontinued for a period of more than one-hundred and eighty (180) days, the subsequent use of the property must conform to the provisions of this chapter.
- (5) An abandoned nonconforming use may be re-established within ninety (90) days after one-hundred and eighty (180) days of the abandonment, upon a showing that the continuation of a conditional nonconforming use would not adversely affect the health, safety or welfare

of the public; and is in substantial compliance with existing or permitted uses of adjacent properties.

- (6) This section shall apply to any nonconforming uses which may arise whenever the boundaries of a corridor are altered.

(b) Nonconforming structures. Any structure lawfully existing on the effective date of this chapter, or any amendment hereto that is designed for a use not permitted where the structure is located shall be designated a nonconforming structure.

- (1) No such nonconforming structure may be enlarged or altered except to redesign it for a use permitted within the corridor where the structure is located or to bring the structure into compliance with the facade and exterior material standards of this chapter. Ordinary maintenance and repair are permitted; provided that when a structure is repainted, the color shall comply with the requirements of this chapter.
- (2) Should such nonconforming structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should such nonconforming structure be moved for any reason for any distance within the corridor, it shall thereafter conform to the corridor regulations.

Sec. 35-21. Common access and internal cross access.

The use of common access and cross access between properties with compatible land uses is highly encouraged to minimize direct access off public streets, resulting in improved street capacity and reduced traffic conflicts. In cases where access control is especially critical to the safe and efficient flow of traffic, such as multi-use developments, the building official may require common or cross access as a contingency of site plan approval. A cross access requirement may include one or more of the following:

- (1) A continuous drive extending the entire length of each block it serves, or at least one thousand (1,000) feet of linear frontage along a thoroughfare, whichever is less.
- (2) Sufficient width to accommodate a two-way access between properties, designed to accommodate automobiles and service and loading vehicles.
- (3) Stub-outs and other design features to allow abutting properties to be tied in to provide future cross access.
- (4) Linkage to other cross access drives in the area.

Access that is shared by adjacent properties, whether under single or separate ownership, requires that an access easement and agreement between property owners be approved by the city attorney and recorded. The recorded book and page number shall be denoted on any subsequent subdivision plats of the property.

Secs. 35-22 - 35-27. Reserved.

ARTICLE IV. LANDSCAPING

Sec. 35-28. Landscape plan requirements.

(a) For any property to be developed or redeveloped, or for any land, building, or structural alteration within the corridor, a landscape plan must be submitted showing how the requirements of this article are to be met. The required plan must be submitted in a form and manner specified by the city.

(b) In approving a landscape plan for new development, the building official may allow or require minor deviations from the requirements of this article whenever a literal application of a requirement to a property or premise would, because of circumstances or situations not generally common to other premises, not achieve the purpose or intent of the regulation or may cause an undesirable result.

(c) Where improvements are proposed for lands, buildings, or structures that existed prior to the effective date of this chapter, the building official may approve a landscape plan with deviations from the requirements of this article or impose alternative requirements that serve the purpose and intent of this article, if the requirements cannot be reasonably complied with because of the existing developed conditions. The decision as to whether or not to allow deviations shall be at the discretion of the building official.

Sec. 35-29. Selection, installation, and maintenance.

(a) Trees, shrubs and other landscaping materials depicted on the approved landscape plan shall be considered to be characteristics of use (site improvements) in the same manner as parking, buildings, and other details. The property owner, and his/her successor and/or subsequent owner(s) and their agents shall be responsible for maintenance of landscaping on the property on a continuing basis for the life of the development. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated, and dead plants promptly removed and replaced. All landscaping will be subject to periodic inspection. Should landscaping not be installed, maintained, and replaced as needed to comply with the approved landscape plan, the owner shall be considered in violation of this chapter.

(b) All landscape materials shall be installed in accordance with the current planting procedures established by the most recent edition of The American Standard for Nursery Stock, as published by the American Association of Nurserymen.

Sec. 35-30. Streetscape standards.

Streetscape improvements shall be designed in accordance with the following standards:

- (1) Streetscape buffer. A minimum planting strip between the ultimate right-of-way line of the corridor and all proposed buildings/structures and parking and vehicular use areas is required, which shall be continuous along the full length of said corridor frontage and shall be no less than ten (10) feet in width.
- (2) Abutting residential use. If the premises abutting the opposite side of the Corridor are vacant or used for residential use, one canopy tree is required in the streetscape buffer for each thirty (30) feet of lot width, or portion thereof, measured along the front property line. The trees may be clustered or spaced linearly and need not be placed evenly.
- (3) Abutting nonresidential use. If the premises abutting the opposite side of the highway is used for nonresidential use, one canopy tree is required in the streetscape buffer for each fifty (50) feet of lot width, or portion thereof, measured along the front property line. The trees may be clustered or spaced linearly and need not be placed evenly.
- (4) Ground cover. All portions of the ground located in a streetscape buffer that are not covered by driveways, parking lots, sidewalks, and similar permanent improvements, must be covered with live plants, grass or ground cover.

Sec. 35-31. Parking lot landscaping standards.

This section applies to all surface parking lots with more than five (5) parking spaces on properties within the defined limits of the corridor, regardless of whether the parking is required by other applicable city ordinances. All parking lots shall be screened from adjacent properties in accordance with section 35-44.

- (1) Landscaping along corridors. Landscaping shall be provided for all parking and vehicular use areas adjacent to the corridor as well as all private street rights-of-way, street easements, or internal access aisles in multi-use or multi-tract developments within, in part or in whole, the defined limits of the Corridor, in accordance with the following standards:
 - a. Features and height. Landscaping may include features such as planter boxes, fences, walls, shrubs, or earthen berms in combination with trees and other plantings, but must be a minimum height of thirty-six (36) inches.
 - b. Shrubs and hedges. Non-deciduous or evergreen shrubs shall be planted in a double row with triangular spacing along seventy-five (75) percent of all parking and vehicular use areas that are parallel or roughly adjacent to the corridor, as well as all private street rights-of-way, street easements, or internal access aisles in multi-use or multi-tract developments within, in whole or in part, the defined limits of the corridor. See figure 3.

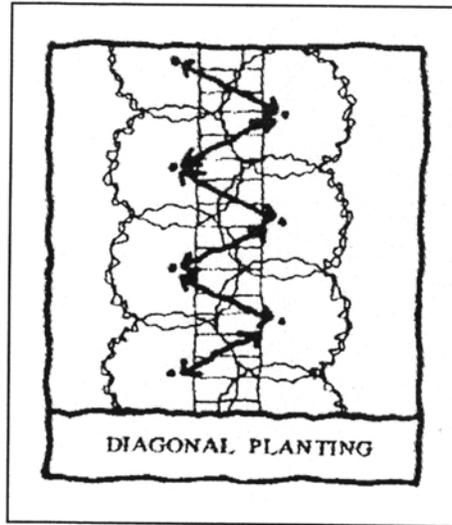


Figure 3 Diagonal Planting

- c. Fences or walls. If a fence or wall is used along seventy-five (75) percent of all parking and vehicular use areas as stated in subsection b. above, one shrub or vine shall be planted on the street side of the fence or wall for each ten (10) feet of street frontage, but the plants need not be spaced evenly. The maximum height of a fence or wall shall be no more than forty-two (42) inches.
 - d. Earthen berms. An earthen berm may be used along seventy-five (75) percent of all parking and vehicular use areas as stated in subsection b. above, provided it has a minimum height of thirty (30) inches. Deciduous or evergreen shrubs shall be planted in a single row on top of an earthen berm along twenty-five (25) percent of said parking and vehicular use areas, but the plants need not be spaced evenly.
- (2) Interior parking lot landscaping.
- a. Any premises containing a parking lot that has fewer than fifteen (15) parking spaces must provide a minimum of one island containing at least one hundred sixty-two (162) square feet, subject to the provisions of this subsection.
 - b. Any premises containing a parking lot that has fifteen (15) or more parking spaces must meet the following landscaping requirements:
 - 1. Islands. For each fifteen (15) parking spaces, or fraction thereof, a landscape island containing at least one hundred sixty-two (162) square feet must be provided within the parking lot. Landscaped islands must be a minimum of seven and one-half (7½) feet in width, measured from the back of the curb, and must be dispersed throughout the parking lot. Islands measuring less than one hundred sixty-two (162) square feet may be permitted provided the total required minimum square footage for the site is met. See figure 4.

2. Diamonds. Diamond-shaped islands between abutting parking rows may be used to fulfill the requirement for islands provided the total required minimum square footage for the site required in subsection 1. above is met. The minimum area of a diamond shall be thirty-six (36) square feet. See figure 4.

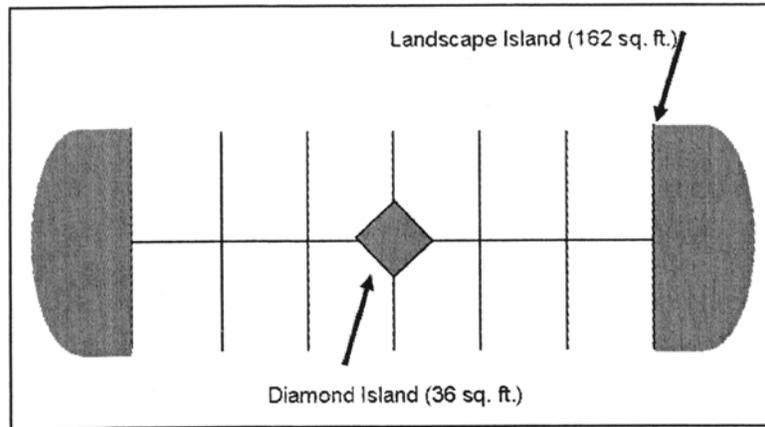


Figure 4 Islands and Diamonds

3. Trees. At least two (2) trees must be provided for each one hundred sixty-two (162) square feet of required island of which at least seventy-five (75) percent must be non-deciduous or evergreen trees. One tree is required for each diamond-shaped island.
4. Ground cover. All island areas shall be completely landscaped with ground cover or plants not exceeding two (2) feet in height.
5. Vertical protection. Landscape islands shall be protected from vehicle intrusion by vertical curbs.

This section applies to all parking structures in the corridor, including the parking requirements of other city ordinances. All parking structures shall be landscaped and screened in accordance with all applicable provisions of this section and in accordance with section 35-44.

Sec. 35-32. Minimum plant sizes and planting standards.

Any tree or shrub installed to satisfy the provisions of this section must meet the following requirements:

- (1) Size of trees. Trees must be a minimum of seven (7) feet in overall height and have a minimum of three (3) inch caliper upon planting and must have an average mature crown spread of at least fifteen (15) feet in diameter. Trees having an average mature crown spread of less than fifteen (15) feet in diameter may be grouped in sufficient number so as to create an equivalent crown spread.
- (2) Size and opacity of shrubs. Shrubs must be a minimum of twenty-four (24) inches in height upon planting. When used for screening purposes, the shrubs must be planted with

triangular centers and not be separated by more than thirty-six (36) inches. Whenever a hedge is used along streets, the plants must be planted and maintained so as to form a continuous, unbroken, solid visual screen within one year of planting.

- (3) Ground covers. When used in lieu of grass, in whole or in part, ground covers must be planted to present a finished appearance and reasonably complete coverage within one year of planting.
- (4) Grass. Grass must be of a species normally grown as permanent lawns in the Gulf Coast Region. Sod with solid coverage must be used to provide soil stabilization in swales or other areas subject to erosion. In areas where other than solid sod or grass seed is used, annual rye grass seed must be sown for immediate effect and protection until coverage is achieved.
- (5) Sturdy plant materials. Indigenous and drought resistant plant material must be used, but if not used, an irrigation system shall be installed or a watering source shall be made available within one hundred fifty (150) feet.

Sec. 35-33. Fences, walls, and earthen berms.

When fences, walls, or earthen berms are used for landscaping, such as for screening under section 35-34, the following requirements apply:

- (1) All fences shall be erected so that the structural supports are not visible from highway rights-of-way or adjacent properties.
- (2) All fences shall be maintained by the owner of record in good condition so that there are no damaged or missing boards or parts, all structural supports are sound and sufficient to maintain the fence in its original upright condition, and any surface treatment, including paint or stucco, is substantially maintained in its original appearance so that there is no noticeable cracking, discoloration, or similar surface blemishes or defects.
- (3) The posts and grade beams of fences and walls used for landscaping shall be designed and constructed using materials and methods expected to last at least twenty (20) years without requiring major repair.
- (4) All wood fences and walls used to meet landscaping requirements shall have either a grade beam or rot board along the entire length of the base of the wooden section of the fence. The grade beam or rot board may be partly below grade. All fence posts shall be set in concrete
- (5) Any fence installed to meet the requirements of this section must, unless otherwise specified, be constructed of wood, stone, brick, masonry, stucco or concrete. Wire-type fencing such as a chain link fence, with or without vertical slats, shall not satisfy the requirements of this section.

- (6) Fences that exceed eight (8) feet in height shall be constructed to meet the city's wind loading design standards.
- (7) Earthen berms shall be constructed with smooth transitions, at a slope of no greater than one unit of rise to three (3) units run, unless stabilized by an anchored, durable retaining wall.
- (8) Earthen berms shall be planted with vines, grasses, or other ground cover.

Sec. 35-34. Screening requirements.

Landscape plans, as required by section 35-28, shall include a detailed drawing of screening methods for all developments adjacent to the corridor. The requirements for screening are as follows:

- (1) Trash enclosures. Areas used to hold refuse containers must be completely screened from public view with a solid masonry or wood fence at least as tall as the container and in no case less than eight (8) feet in height. This provision applies to all refuse containers, including those used for the collection and storage of recyclable materials. All applicable city ordinances shall apply to trash enclosures.
- (2) Mounted equipment. Exterior ground-mounted or building-mounted equipment to serve a building, including mechanical equipment, utility meter banks, and heating or cooling equipment, must be completely screened from public view with landscaping or with an architectural treatment compatible with the building materials and colors. Building mounted equipment may be painted to match the building color on which it is attached.
- (3) Rooftop equipment. All rooftop equipment must be completely screened from public view with a structural treatment that is compatible with the building architecture. The methods of screening rooftop equipment include the use of parapet walls and the encasement of partition screens. This subsection applies to the roofs of buildings within view of the future elevated section of the S.H. 35 Bypass.
- (4) Outdoor storage. All materials, supplies, inventory, and equipment which is stored outside of a fully-enclosed building, must be completely screened from public view.
 - (a) Vehicles for sale or lease
 - (1) The screening requirements for outdoor storage of vehicles for sale or lease are not required for the following:
 - (i) any motorized vehicle advertised for sale or lease; or
 - (ii) any vehicle without motor power which is designed primarily as temporary living quarters for recreational camping, vacation or travel use, which is mounted on or drawn by another vehicle.

- (2) Any area used for the display of vehicles for sale or lease located within one-hundred (100) feet of any single-family residential property shall screen the outdoor storage from such residence with a fence type in compliance with Section 35-33;
- (3) Areas used for the display of vehicles for sale or lease shall comply with the parking lot landscaping standards of Section 35-31.

Sec. 35-35. - Site distance requirements.

Within the triangular area formed by the right-of-way lines of intersecting streets with the corridor, and a line connecting points twenty-five (25) feet on either side of such intersecting rights-of-way, including triangles formed from centerlines of driveways, there shall be clear space and no obstruction to vision. No person shall place or maintain any structures, fences, landscaping, or other objects within any sight distance triangle that obstructs or obscures site distance visibility by more than twenty-five (25) percent of the total view in the vertical plane above the sight distance triangle between a height of thirty (30) inches and ninety-six (96) inches above the roadway surface, except for the following (see figure 5):

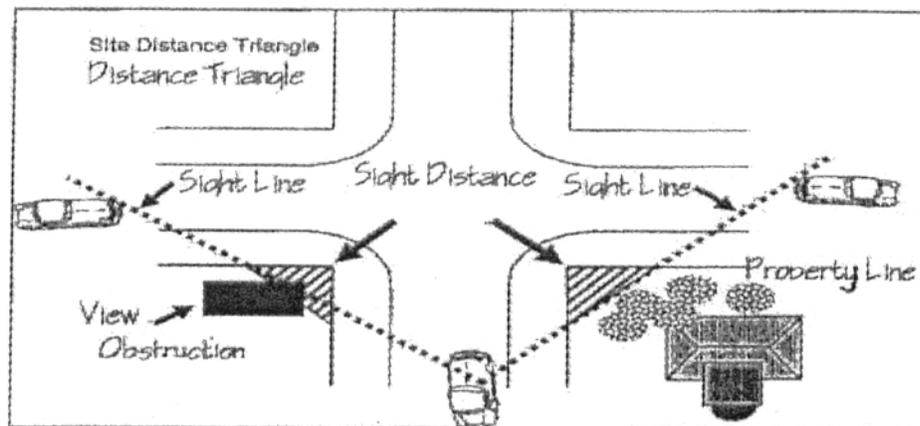


Figure 5 Site Distance Triangle

- (1) Landscaping, structures, or fences that protrude no more than thirty (30) inches above the adjacent roadway surface may be permitted within the site distance triangle.
- (2) Trees may be planted and maintained within the site distance triangle if all branches are trimmed to maintain a clear vision for a vertical height of ninety-six (96) inches above the roadway surface and the location of the trees planted, based on the tree species expected mature height and size, does not obstruct sight visibility by more than twenty-five (25) percent of the site distance triangle area.

Sec. 35-36. Timing of compliance.

(a) All landscaping requirements must be met prior to issuance of a certificate of occupancy for any premises to which these regulations apply. If weather conditions, scheduling delays, or similar conditions delay compliance, the building official may authorize a temporary certificate of occupancy, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal

to one and one-half (1.5) times the estimated cost of the landscaping, with said estimated cost to be certified by a landscape provider. A contract letter or bill of sale from a landscape company or garden center for the required landscape materials may be accepted in lieu of a cash escrow or irrevocable letter of credit as approved by the city attorney. The cash escrow or irrevocable letter of credit may be forfeited if the landscaping is not completed within thirty (30) days after the issuance of a temporary certificate of occupancy. Forfeiture of any cash escrow or irrevocable letter of credit shall not relieve the owner or person in control of the premises of the responsibility to complete the required landscaping, as approved.

(b) Prior to final inspection, when additional parking spaces are required that are less than twenty (20) percent of the number of existing parking spaces, all standards of section 35-31, shall be met for the new portions of the parking lot. Such required landscaping may be distributed throughout the existing and new parking areas.

(c) Prior to final inspection, when additional parking spaces are required that exceed twenty (20) percent of the number of existing parking spaces, all standards of section 35-31, shall be met for the new and existing portions of the parking lot.

Secs. 35-37 - 35-42. Reserved.

ARTICLE V. BUFFERYARDS

Sec. 35-43. Bufferyards.

Bufferyards are required between properties and, in some cases, between individual developments. All bufferyard requirements are specified in terms of opacity, which is a relative term used to describe the degree to which an adjoining use is visible. For instance, an opacity of one-tenth screens ten (10) percent of an object. Where the provisions of this section and section 35-30, both apply, the most restrictive shall apply and the purpose and intent of both sections shall be met.

Sec. 35-44. Bufferyard standards.

These regulations are intended to increase the compatibility of adjacent uses, and to minimize the effects on the surrounding environment due to noise, dust, debris, artificial light intrusions, and other impacts of an adjoining or nearby use.

(1) Intensity categories. Use categories classify land uses and activities based upon common functional and physical characteristics, each of which relate to the requisite intensity of the use or activity. It is possible for there to be uses and activities within the same development that are of different intensities and, hence, categories. The intensities are denoted from least to most intensive by the following categories:

I. Undeveloped, open land.

- II. Detached single and attached single and two (2) family dwellings up to a maximum density of four (4.0) units per acre.
- III. City home, medium density multiple family development, and manufactured home parks and subdivisions up to a maximum density of eight (8.0) units per acre.
- IV. Multiple family developments up to a maximum density of fifteen (15.0) units per acre. See section 31-8.
- V. Light office and commercial retail uses within freestanding or multi-tenant buildings up to a maximum scale of six thousand (6,000) square feet.
- VI. Moderate office and commercial retail uses within freestanding or multi-tenant buildings ranging in scale from six thousand one (6,001) square feet to thirty thousand (30,000) square feet.
- VII. Large-scale office and commercial retail uses within freestanding or multi-tenant buildings ranging in scale from thirty thousand one (30,001) to one hundred thousand (100,000) square feet.
- VIII. Intensive office and commercial retail or wholesale uses within freestanding or multi-tenant buildings that are over one hundred thousand one (100,001) square feet.
- IX. Multi-story (3+ stories) single or mixed use buildings.
- X. Light industrial, non-retail assembly, warehousing, wholesaling, and office uses conducted within a fully enclosed building with outdoor storage in a confined area of less than fifteen (15) percent of the gross floor area of all principal and accessory buildings.
- XI. Heavy industrial manufacturing and processing of materials with outdoor storage and principal or ancillary industrial activity and storage in a confined or unconfined area in excess of fifteen (15) percent of the gross floor area of all principal and accessory buildings.

The building official shall make an official determination as to the appropriate use category for all uses and activities along the corridors. If there is ambiguity as to its proper classification, the building official may seek the judgment of the planning commission, whose decision shall be final.

- (2) The standards in table 1, opacity requirements, address the opacity of the bufferyard that is required between properties and, in some cases, between individual developments within the same property. The table is a matrix showing varying intensities of uses based upon quantifiable factors such as building square footage and height. Site performance characteristics such as loading berths, outdoor storage areas, outdoor use and activity areas, uses with intensive noise and/or lighting, drive-through lanes, and multi-tenant buildings are considered for their increases in intensity, which are addressed in section 35-47.

(3) The columns in table 1, opacity requirements, represent the development or use of the adjoining property or properties while the values in the rows represent the intensity category of the proposed development or use. The black cells are where both properties are similarly used. There are two (2) numbers shown within each cell whereby the first number indicates the required opacity on the property of the proposed development and the second number indicates the opacity required for the adjoining development or use. The total required bufferyard is the sum of the two (2) numbers. For instance, 0.2/0.2 means a total opacity of 0.4. Where the adjacent development or use is existing or where the bufferyards may not be developed, the proposed development or use shall provide the full bufferyard requirement—the sum of the two (2) numbers. Where a proposed development abuts undeveloped land, the first number is that required for installation by the proposed development. At the time of development of the adjoining tract, the total required opacity shall be met by the latter development.

**Table 1
Opacity Requirements**

Proposed Development	Adjoining Development or Use										
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI
I	0.2/0.0	0.0/0.2	0.1/0.3	0.1/0.4	0.1/0.4	0.1/0.5	0.1/0.5	0.1/0.6	0.1/0.6	0.1/0.7	0.1/0.8
II	0.2/0.0	0.0/0.2	0.1/0.3	0.3/0.1	0.1/0.5	0.1/0.5	0.1/0.5	0.1/0.5	0.1/0.5	0.2/0.6	0.2/0.7
III	0.3/0.1	0.3/0.1	0.0/0.3	0.1/0.3	0.1/0.1	0.1/0.4	0.1/0.5	0.1/0.5	0.1/0.3	0.1/0.6	0.1/0.7
IV	0.4/0.1	0.1/0.3	0.3/0.1	0.0/0.4	0.1/0.1	0.1/0.4	0.1/0.5	0.1/0.5	0.1/0.3	0.2/0.6	0.2/0.7
V	0.4/0.1	0.5/0.1	0.1/0.1	0.1/0.1	0.0/0.5	0.1/0.1	0.1/0.2	0.1/0.2	0.1/0.1	0.0/0.3	0.0/0.4
VI	0.5/0.1	0.5/0.1	0.4/0.1	0.4/0.1	0.1/0.1	0.0/0.6	0.1/0.1	0.1/0.1	0.1/0.5	0.0/0.3	0.0/0.4
VII	0.5/0.1	0.5/0.1	0.5/0.1	0.5/0.1	0.2/0.1	0.1/0.1	0.0/0.7	0.0/0.0	0.0/0.3	0.1/0.2	0.2/0.3
VIII	0.6/0.1	0.5/0.1	0.5/0.1	0.5/0.1	0.2/0.1	0.1/0.1	0.0/0.0	0.0/0.8	0.0/0.3	0.1/0.2	0.1/0.3
IX	0.6/0.1	0.5/0.1	0.3/0.1	0.3/0.1	0.1/0.1	0.5/0.1	0.3/0.0	0.3/0.0	0.0/0.9	0.0/0.3	0.0/0.4
X	0.7/0.1	0.6/0.2	0.6/0.1	0.6/0.2	0.3/0.0	0.3/0.0	0.2/0.1	0.2/0.1	0.3/0.0	0.0/1.0	0.0/0.1
XI	0.8/0.1	0.7/0.2	0.7/0.1	0.7/0.2	0.4/0.0	0.4/0.0	0.3/0.1	0.3/0.1	0.4/0.0	0.1/0.0	0.0/1.1

(4) The corresponding standards for each of the required levels of opacity provided in table 1, opacity requirements, are shown in table 2, bufferyard standards. To use this table, refer first to the intensity category of the subject and adjoining development(s) or use(s). Once the intensity category, or categories in the case of more than one adjacent development or use, is defined, refer to table 1, opacity requirements, to identify the required opacity between the proposed development and the adjoining development or use. Then, refer to table 2, bufferyard standards, to identify the preferred bufferyard width for the proposed development or use and the corresponding plant units for each of nine (9) different widths. The minimum allowable width is eight feet. If an interim bufferyard width is preferred, such as eleven (11) feet, the required plant units must be rounded up to the next bufferyard width, in this case twelve (12) feet. All required plant units for an opacity of 0.3 and above require a six-foot fence, subject to the provisions of section 35-33.

Opacity	Tree Type	Bufferyard Width and Plant Units								
		8'	10'	12'	15'	20'	25'	30'	35'	40'
0.1	Canopy	0.7	0.7	0.7	0.6	0.6	0.5	0.6	0.6	0.7
	Understory	1.4	1.4	1.4	1.3	1.1	1.0	1.1	1.3	1.5
	Evergreen	0.7	0.7	0.7	0.6	0.6	0.5	0.6	0.6	0.7
	Shrubs	7.2	7.0	6.8	6.4	5.7	4.8	5.5	6.4	7.3
0.2	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	1.5	1.4	1.4	1.3	1.2	1.1	1.0	0.9	0.8
	Understory	3.0	2.8	2.8	2.6	2.4	2.2	2.0	1.7	1.5
	Evergreen	1.5	1.4	1.4	1.3	1.2	1.1	1.0	0.9	0.8
0.3	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	0.7	0.7	0.6	0.6	0.4	0.5	0.6	0.6	0.7
	Understory	1.5	1.4	1.3	1.1	0.9	0.9	1.1	1.3	1.5
	Evergreen	0.7	0.7	0.6	0.6	0.4	0.5	0.6	0.6	0.7
0.4	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	1.6	1.5	1.5	1.4	1.2	1.0	0.8	0.7	0.7
	Understory	3.2	3.1	2.9	2.7	2.4	2.0	1.7	1.3	1.5
	Evergreen	1.6	1.5	1.5	1.4	1.2	1.0	0.8	0.7	0.7
0.5	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	2.6	2.5	2.4	2.2	2.0	1.8	1.5	1.3	1.1
	Understory	5.2	5.0	4.8	4.5	4.0	3.6	3.1	2.6	2.3
	Evergreen	2.6	2.5	2.4	2.2	2.0	1.8	1.5	1.3	1.1
0.6	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	3.7	3.6	3.4	3.2	2.9	2.6	2.3	2.1	1.8
	Understory	7.4	7.1	6.8	6.4	5.8	5.2	4.6	4.1	3.6
	Evergreen	3.7	3.6	3.4	3.2	2.9	2.6	2.3	2.1	1.8
0.7	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	5.0	4.8	4.6	4.4	3.9	3.5	3.2	2.8	2.5
	Understory	10.1	9.7	9.3	8.7	7.9	7.1	6.3	5.7	5.0
	Evergreen	5.0	4.8	4.6	4.4	3.9	3.5	3.2	2.8	2.5
0.8	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy	6.8	6.5	6.2	5.8	5.2	4.6	4.1	3.7	3.3
	Understory	13.6	12.9	12.3	11.5	10.3	9.2	8.3	7.4	6.7
	Evergreen	6.8	6.5	6.2	5.8	5.2	4.6	4.1	3.7	3.3
0.9	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy		6.4	6.1	5.7	5.1	4.6	4.1	3.7	3.3
	Understory		12.7	12.1	11.3	10.1	9.1	8.2	7.3	6.5
	Evergreen		6.4	6.1	5.7	5.1	4.6	4.1	3.7	3.3
1.0	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy			8.4	7.6	6.6	5.9	5.2	4.7	4.2
	Understory			16.9	15.2	13.2	11.7	10.4	9.3	8.3
	Evergreen			8.4	7.6	6.6	5.9	5.2	4.7	4.2
1.0	Tree Type	8'	10'	12'	15'	20'	25'	30'	35'	40'
	Canopy			8.4	7.6	6.6	5.9	5.2	4.7	4.2
	Understory			16.9	15.2	13.2	11.7	10.4	9.3	8.3
	Evergreen			8.4	7.6	6.6	5.9	5.2	4.7	4.2

Table 2 Bufferyard Standards

Sec. 35-45. Calculating the bufferyard.

Table 2, bufferyard standards, provides the plant material required for each one hundred (100) feet of bufferyard, or portion thereof. To calculate the site bufferyard, divide the actual length of the bufferyard by one hundred (100). Then multiply the result by the number of plant units required and shown in table 2, bufferyard standards. When calculating the quantity of plant units and plant material required, the number shall be rounded up to the next whole number. For example, 3.12 canopy trees shall be rounded up to four (4) canopy trees.

Sec. 35-46. Constrained sites.

In the case of small sites where there is limited area for bufferyards, a petition may be made by an applicant to the building official requesting a narrower bufferyard. The building official may review the small site and may determine the site exempt from this article, except where painting is concerned. Or, the building official may grant a bufferyard as narrow as five (5) feet provided:

- (1) It can be shown that a bufferyard of the minimum required width would occupy more than ten (10) percent of the site area; and
- (2) The required plant units would remain the same; or
- (3) There are physical constraints that force an alternative site plan, in which case the planning commission shall approve an alternate bufferyard plan.

Sec. 35-47. Special provisions.

The following special provisions apply for uses that have characteristics that increase the extent of intensity and incompatibility with adjacent and nearby uses. These defined characteristics require more stringent bufferyard requirements to ensure there is a requisite compatibility between developments or uses.

- (1) Uses with one or two (2) loading berths shall increase the required plant unit on the subject tract by an opacity of 0.2. For instance, if an opacity of 0.5 is required for the subject development or use, the required opacity shall be 0.7 along the adjacent property line(s) that are within direct view of the loading berths.
- (2) Uses with two (2) or more loading berths that are within fifty (50) feet of an adjacent property line that has a lesser intensity category shall meet the bufferyard requirements and shall provide a masonry wall, with an opacity of 1.0, constructed of a material similar to and consistent with that used as the primary building material of the principal building to a minimum height of twelve (12) feet and sufficient in length to entirely screen trucks from view of the adjacent properties with a lesser intensity category. When such subject use is adjacent to a development or use of equal or higher intensity category the standard bufferyard requirements shall apply, as specified in section 35-44.
- (3) Uses with outdoor storage of materials or an outdoor display area within an enclosed, fenced area shall require an increase in the required plant unit on the subject tract by an opacity of 0.1. If materials are stacked above the enclosure or fencing, the required plant unit shall be increased by an opacity of 0.2.
- (4) Uses with outdoor storage of materials or an outdoor display area not within an enclosed, fenced area shall require an increase in the required plant units on the subject tract by an opacity of 0.2. If the intensity categories of adjacent uses are separated by two (2) or more categories, the opacity of the plant unit on the subject property shall be

increased by 0.3. The opacity shall be increased by 0.4 if the intensity categories of adjacent uses are separated by four (4) or more categories.

- (5) Drive-in or drive-through type uses shall increase the required plant units on the subject tract by an opacity of 0.1.
- (6) Developments or uses with bays for vehicle service or use shall not front an adjoining public right-of-way. Furthermore, when adjacent to an adjoining property line of a development or use of equal or lesser intensity category, the required plant unit on the subject tract shall be increased by an opacity of 0.2.
- (7) Developments or uses with a canopy, such as gasoline stations and the drop-off areas of hotels/motels may extend to within twenty-five (25) feet of the property line provided there is one canopy tree in the streetscape buffer for each twenty (20) feet of lot width, or portion thereof, measured along the front property line, and non-deciduous or evergreen shrubs to a minimum height of forty-two (42) inches (within two (2) years of planting) planted in a double row with triangular spacing along one hundred (100) percent of all parking and vehicular use areas that are parallel or roughly adjacent to the right-of-way.
- (8) Development or uses that propose a one-way drive aisle within the required setback may be allowed provided there is one canopy tree in the streetscape buffer for each twenty (20) feet of lot width, or portion thereof, measured along the front property line, and non-deciduous or evergreen shrubs to a minimum height of forty-two (42) inches (within two (2) years of planting) planted in a double row with triangular spacing along one hundred (100) percent of all parking and vehicular use areas that are parallel or roughly adjacent to the right-of-way.
- (9) Development or uses that have operable automobiles of any type, whether for sale, lease, or service, shall require an increase in the required plant units on the subject tract by an opacity of 0.2. If such development or use abuts or is within direct view of a development or use of lesser intensity category, the required opacity shall be increased by 0.3.
- (10) Development or uses that have inoperable vehicles, as determined by the building official shall be within a fully enclosed area and have an opacity of 1.0 (screened one hundred (100) percent from public view), subject to the provisions of section 35-33.
- (11) Development or uses within intensity categories III or IV may locate parking along up to fifty (50) percent of the right-of-way line provided there is one canopy tree in the streetscape buffer for each twenty (20) feet of lot width, or portion thereof, measured along the front property line, and non-deciduous or evergreen shrubs to a minimum height of forty-two (42) inches (within two (2) years of planting) planted in a double row with triangular spacing along one hundred (100) percent of all parking and vehicular use areas that are parallel or roughly adjacent to the right-of-way.

ARTICLE VI. UNDERGROUND UTILITIES

Sec. 35-54. Underground utilities.

From and after the effective date of this chapter, it shall be unlawful, except as specifically provided in this article, for any person or utility to erect or construct poles, overhead wires, and associated overhead structures to supply electric, communication, or other similar or associated services to any area, platted or unplatted, within the corridor.

The subdivider, developer, or owner of any area shall make the necessary arrangements for the installation of underground facilities, including circuits for street lights and traffic signals that may be required by the city. Such arrangements shall be made with each of the companies or persons supplying the electrical and/or communication services. Letters from each of the companies or persons, indicating that arrangements have been made, shall be submitted to the city at the time a construction plan or site plan is submitted.

The provisions of this subsection shall not apply to any of the following uses:

- (1) All electric power lines rated at or above feeder line class.
- (2) Radio and television antennas.
- (3) Structures on corner lots, in streets and alleys, and on easements, in cases where electrical and communication wires cross a street or other district boundary from an area where overhead wires are not prohibited, may be connected to the overhead wires.
- (4) Existing overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building.
- (5) Poles used exclusively for street or area lighting or for traffic control facilities.
- (6) Service terminals, transformers, regulators, meters, or other on-ground and above-ground facilities normally used with and as part of an underground distribution system.
- (7) Electric substations and the accompanying equipment and apparatus necessary to provide adequate electric service.

Sec. 35-55 - 35-60. Reserved.

ARTICLE VII. ENFORCEMENT

Sec. 35-61. Enforcement.

(a) Penalty. Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine prescribed by section 1-5.

(b) Administrative action. The building official shall enforce this chapter by appropriate administrative action and the issuance of stop work orders, including, but not limited to, rejection of plans, plats and specifications not found to be in compliance with this chapter and good engineering practices.

(c) Court proceedings. Upon the request of the city council, the city attorney or other authorized attorney shall file an action to enjoin the violation or threatened violation of this chapter, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this chapter.

Secs. 35-62 - 35-67. Reserved.

Section 2. That except as amended herein all other provisions of Chapter 35 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 3. **Severability.** Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. **Penalty Provision.** Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine in accordance with the general penalty section 1-5 of the Code of Ordinances.

Section 5. **Publication.** The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the Charter of the City of Alvin, Texas.

Section 6. **Effective Date.** This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter*.

Section 7. **Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on this _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor