

**CITY OF JORDAN
ORDINANCE 2021-08**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 154 REGARDING RESIDENTIAL
LANDSCAPING REQUIREMENTS AND CORRECTIONS FOR CONSISTENCY**

Subdivision 1. Purpose. As part of a City-initiated review process, staff worked under the direction of the City's Planning commission to create language that would allow for flexibility with respect to residential landscaping requirements. Code changes are also identified and proposed to create further consistency with existing City Code provisions and City policies.

Subdivision 2. Amendment. NOW BE IT ORDAINED AND ENACTED by the City Council of the City of Jordan that City Code Sections 154.020, 154.322 – 154.326, of the Jordan City Code is hereby amended to read as follows:

§ 154.020 DEFINITIONS.

[THE FOLLOWING DEFINITIONS ARE HEREBY ADDED]

CLEARING or **CLEAR**. The trimming and/or removal, as appropriate, and the proper disposal of vegetation.

NATIVE GRASSES and **FORBS**. Grasses, including prairie grasses, and flowering broad-leaf plants which are indigenous to the state.

NATIVE PLANT COMMUNITIES. Groups of native plants which generally occur together in an area. Examples include wet prairie, dry prairie, oak savannah, or maple-basswood forest.

ORNAMENTAL GROUNDCOVER. A groundcover, other than turf grass, ornamental plantings, or native plantings, which includes mulch, woodchips, and landscaping rocks.

ORNAMENTAL PLANTING. Grasses, flowering perennial and annual plants and groundcovers that may not be indigenous to Minnesota, but are adaptable. Ornamental grasses do not include turf grasses.

OWNER. Any person or entity having a legal or equitable interest in real property and its fixtures and appurtenances, including the interests of a tenant or lessee.

PROPERTY. Real property and its fixtures and appurtenances. The phrase **PRIVATE PROPERTY** shall include, in addition to the privately owned property, the adjacent land and improvements located in the public right-of-way from the street curb or edge of the road to the property line and in any public alley from the centerline of the alley to the property line.

SHRUB. A woody perennial plant smaller than a tree with several main perennial stems arising at or near the ground.

TREE. A large woody perennial plant with normally one main trunk and many branches.

TREE, DECIDUOUS. A tree that loses its leaves in the winter.

TREE, CONIFEROUS. A tree that retains its leaves in the winter. Generally, a coniferous tree's leaves are needles.

TREE, ORNAMENTAL. A deciduous tree that is anticipated to be 25 feet or less in height when mature.

TREE, OVERSTORY. A deciduous tree that is anticipated to be over 25 feet in height when mature.

TURF GRASS. Commercially available cultured grass plant varieties, including bluegrass, fescue and ryegrass blends, that are commonly used in regularly cut lawn areas and low maintenance turf grasses as defined herein.

UNATTENDED VEGETATION. Overgrown or untrimmed shrubs, brush, or grasses; diseased, dead, noxious, or poisonous vegetative growth; weeds; and any other improperly maintained or inappropriate vegetation as proscribed in rules and regulations.

VECTOR. Any animal, insect, or other vermin that can transmit disease to humans or is the potential cause of a public health nuisance.

§ 154.322 LANDSCAPE ESCROW

Prior to issuance of a building permit for construction of the first structure on a lot, an applicant shall post an escrow in an amount set by resolution of the City Council to guarantee compliance with the city's landscaping requirements governed by city ordinance, a list of which is available at City Hall. The city shall release the escrow once the applicant has satisfied ALL requirements concerning landscaping. The city will not make any PARTIAL escrow releases.

(A) Requirements. Prior to landscape escrows being released, the property owner or builder shall:

- (1) Provide a form to the City of Jordan stating the property is graded to the approved plans and signed by a registered land surveyor.
- (2) Grade yards and setback areas, except driveways and areas used as a garage or accessory building, to final elevations.
- (3) Sod or seed yard areas and landscape with trees that are of an acceptable variety, and shrubs if so desired.

(4) Ensure that the property conforms with all other relevant provisions of this section

(B) Timeline. Said grading and landscaping shall be completed within 90 days after the certificate of occupancy is issued. If a certificate of occupancy is issued between the months of November and April 15, the 90-day period shall begin to run on April 15.

(C) Noncompliance. The city or its designee shall apply all costs for remedial work or correction of landscaping deficiencies in the permittee's landscaping measures against the escrow. The city may draw on the escrow if all areas of the site disturbed by construction activities are not restored within the timeline required. The permittee shall also forfeit all escrow amounts held by the city and its designees if work is not completed within the required timeline. After providing 10 days written notice sent via U.S. mail to the property owner, the City of Jordan may complete any work required under this chapter and may draw against the escrow for payment of its costs. If the necessary corrections cost more than the escrowed amount, the City of Jordan may make the corrections and levy the cost of corrections as an assessment against the property pursuant to M.S. Chapter 429 Local Improvements, Special Assessments for a maximum of 1 year at an interest rate determined by Council. A fee as set by resolution of the Council shall be added to, and become part of, all assessments for landscaping improvements to cover city staff time, noticing requirements, and filing fees.

(Ord. 2013-05, passed 5-20-2013; Am. Ord. 2020-01, passed 2-3-2020, Am. Ord. 2021-08, passed 8-2-2021)

§ 154.323 LANDSCAPING AND REQUIRED YARDS/SETBACKS.

All developed uses shall provide a landscaped yard, including grass, decorative stones, or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage, and off-street parking.

(A) Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot: such yard shall have a depth of at least 10 feet. Unless expressly permitted, no landscape material, other than grass, shall be placed within drainage or utility easements. Rock or riprap may be allowed upon review and approval by the City Council provided the proposed material does not interfere with drainage or utilities.

(B) Maintenance. Maintenance shall be the responsibility of the individual property owner. All structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions. ~~Maintenance shall be the responsibility of the individual property owner.~~ This shall include the following for landscaping and plantings in yard areas:

(1) Maintain a healthy, pest free condition.

(2) Remove dead, diseased or dangerous trees or shrubs or parts thereof in accordance with requirements of § 90.051.

(3) Provide appropriate pruning per applicable forestry or horticultural best practices.

(4) Mowing and/or removal of noxious weeds and grasses according to the requirements of § 90.028.

(5) Establishing and sustaining sufficient groundcover to prevent erosion and control sediment runoff.

(6) Remove trash and other debris.

(7) Watering and other maintenance to ensure plant growth and survival, except when prohibited by citywide watering ban.

(C) Required yards and setback areas, except driveways and areas used as a garage or accessory building, shall be graded to final elevations and sodded or seeded and landscaped with trees and shrubs.

(D) Tree and woodland preservation shall be accomplished in accordance with the tree and woodland requirements of § 153.11(M).

(E) Parking lot landscaping. Requirements for parking lots are outlined in §§ 154.221 through 154.230.

(Ord. 2013-05, passed 5-20-2013, Am. Ord. 2021-08, passed 8-2-2021)

§ 154.324 LANDSCAPE REQUIREMENTS RESIDENTIAL.

(A) *Tree requirements.* A minimum of 1 deciduous, disease-free, 2-inch caliper tree, as measured 6 inches off the ground shall be planted within the front yard setback area. The clump size equivalent to a 2-inch caliper tree shall be at least 8 feet tall. The tree must be planted within the property lines and in a location as not to interfere with sight line visibility at maturity. Please ask to see the City of Jordan's list of acceptable varieties, available at City Hall.

(B) Landscaping Yard Areas. All yard areas shall be landscaped with turf grass, shrubs, trees or an approved ornamental groundcover.

~~(C) *Drainage and utility easements. Boulevards and Easement Areas. Plantings and retaining walls shall not be located within a drainage, access or utility easement. The city or utility companies may clear any plantings or retaining walls positioned in violation of the subdivision. The city is not liable for any damage to plantings or retaining walls constructed within the city's easement.*~~

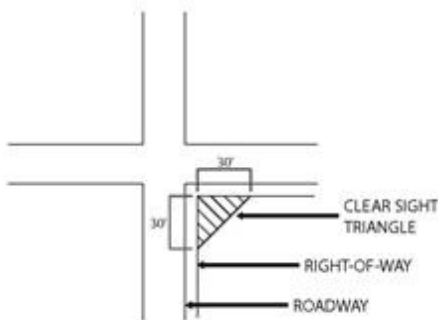
(1) Retaining walls shall not be located within a drainage, access, or utility easement or boulevard.

(2) To ensure satisfactory performance of boulevards and drainage, access, and utility easement areas, any groundcover or planting other than turf grass located in a boulevard or easement area must receive approval by the City Engineer and Public Works Director. If in an easement area, an easement agreement between the property owner and City must be completed.

(a) Appeals to a decision regarding groundcovers and/or plantings may be made subject to the requirements of § 31.22.

- (3) The City may require the owner of any non-turf grass vegetation or ornamental landscaping material, within a drainage and utility easement or a right-of-way of a city street to remove said material from the public easement on the property or public right-of-way abutting the property at no expense to the city.
- (4) The City will not be responsible for damage to any turf grass, ornamental plantings, native plantings, or ornamental groundcover resulting from public works improvements or snow removal activities within public rights-of-way or easements.

(D) *Traffic visibility.* No wall, fence, structure, tree, shrub, vegetation or other obstruction shall be permitted in any yard or setback which poses a danger to traffic by obscuring the view from any street or roadway. Visibility from any street or roadway shall be unobstructed within the triangle described as beginning at the intersection of the projected curb property lines of 2 intersecting streets, thence 30 feet along 1 curb, thence diagonally to a point 30 feet from the point of beginning of the other curb line, thence to the point of beginning.



(Ord. 2013-05, passed 5-20-2013; Am. Ord. 2020-01, passed 2-3-2020, Am. Ord. 2021-08, passed 8-2-2021)

§ 154.325 LANDSCAPE REQUIREMENTS COMMERCIAL AND INDUSTRIAL.

(A) *Tree requirements.* A minimum of 2 deciduous, disease-free, 2-inch caliper tree, as measured 6 inches off the ground shall be planted within the front yard setback area. The clump size equivalent to a 2-inch caliper tree shall be at least 8 feet tall. The tree must be planted within the property lines and in a location as not to interfere with sight line visibility at maturity. ~~Please ask to see the City of Jordan's list of acceptable varieties, available at City Hall~~ Tree species planted must be from the current list of acceptable tree species on file at City Hall.

(B) *Landscaping coverage.*

- (1) Commercial and industrial properties shall have diversified landscaping landscape plantings in addition to the landscaping required in setback areas for free-standing, detached structures. All landscaped areas are to be developed with live

deciduous and coniferous plants, trees and shrubs which provide a variety of color, textures, heights, and forms consistent with the needs of the site and other elements of the plan. All trees are to be according to the above tree requirements. The landscaped areas may contain some stone, wood, patio blocks, sculpture, and other appropriate ornamental features.

- (2) The following zoning classifications will have the following percentage of the lot landscaped.

Neighborhood Business District: $\geq 2\%$
Central Business District: $\geq 2\%$
Highway Commercial: $\geq 5\%$
Industrial: $\geq 2\%$

- (C) *Drainage and utility easements.* Plantings and retaining walls shall not be located within a drainage, access or utility easement. The city or utility companies may clear any plantings or retaining walls positioned in violation of the subdivision. The city is not liable for any damage to plantings or retaining walls constructed within the city's easement.

- (D) *Traffic visibility.* No wall, fence, structure, tree, shrub, vegetation or other obstruction shall be permitted in any yard or setback which poses a danger to traffic by obscuring the view from any street or roadway. Visibility from any street or roadway shall be unobstructed within the triangle described as beginning at the intersection of the projected property lines of 2 intersecting streets, thence 30 feet along 1 curb, thence diagonally to a point 30 feet from the point of beginning of the other curb line, thence to the point of beginning.

(Ord. 2013-05, passed 5-20-2013; Am. Ord. 2020-01, passed 2-3-2020, Am. Ord. 2021-08, passed 8-2-2021)

§ 154.326 NATIVE PLANTINGS.

- (A) *Findings and purpose.*

- (1) Findings. The city finds that traditional turf grass lawns require large amounts of water, fertilizers and chemical pest controls to maintain. Using large amounts of water to maintain lawns threatens the city's groundwater supply while fertilizers and chemical pest controls pollute our lakes, rivers and streams. Alternative landscape techniques have significant advantages over turf grass, specifically:

(a) Native vegetation requires less moisture, fertilizers, and pesticides and places less stress on the public's water resources. Native vegetation also provides food and habitat to wildlife.

(b) Rain gardens filter and infiltrate stormwater, thereby protecting surface water from polluted runoff and recharging groundwater resources.

(c) Producing foods locally:

1. Increases local food security;

2. Addresses global warming by reducing fossil fuel use in transportation of foods; and
3. Addresses the obesity epidemic by insuring access to healthy, fresh foods.

(2) *Purpose.* The purpose of this section is to prohibit the uncontrolled growth of vegetation, while encouraging the planting and maintenance of native vegetation, edible landscapes, and rain gardens. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. Providing standards regarding the maintenance of vegetation and encouraging diverse landscaping meets the following goals of the city's comprehensive plan:

- (a) Create and maintain attractive and safe neighborhoods;
- (b) Restore the city's native vegetation;
- (c) Encourage the local food production system; and
- (d) Protect and improve the city's surface waters through increasing on-site infiltration in existing developed areas.

(B) *Applicability.* This section applies to lots in residential zoning districts or residential lots in mixed use districts, commercial and industrial districts. A conditional use permit shall be required for native grass and forbs sites or rain gardens which are over ½ acre in size, in all districts.

~~(C) *Definitions.* Words and phrases used in this section shall have the following meanings ascribed to them:~~

- ~~(1) **CLEARING or CLEAR.** The trimming and/or removal, as appropriate, and the proper disposal of vegetation.~~
- ~~(2) **NATIVE GRASSES and FORBS.** Grasses, including prairie grasses, and flowering broad leaf plants which are indigenous to the state.~~
- ~~(3) **NATIVE PLANT COMMUNITIES.** Groups of native plants which generally occur together in an area. Examples include wet prairie, dry prairie, oak savannah, or maple basswood forest.~~
- ~~(4) **ORNAMENTAL PLANTS.** Grasses, perennials, annuals, and groundcovers not indigenous to the state. Ornamental grasses and groundcovers do not include turf grasses.~~
- ~~(5) **OWNER.** Any person or entity having a legal or equitable interest in real property and its fixtures and appurtenances, including the interests of a tenant or lessee.~~
- ~~(6) **PROPERTY.** Real property and its fixtures and appurtenances. The phrase **PRIVATE PROPERTY** shall include, in addition to the privately owned property, the adjacent land and improvements located in the public right of way from the street curb or edge of the road to the property line and in any public alley from the centerline of the alley to the property line.~~

- ~~(7) **RAIN GARDEN.** A depression planted with native vegetation that filters and infiltrates rain water.~~
- ~~(8) **RESPONSIBLE PARTY.** An entity or person who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to this section or is responsible for the maintenance or management of said property.~~
- ~~(9) **RESTORATION.** The process of returning degraded native plant communities to their original species composition.~~
- ~~(10) **RESTRICTIVE COVENANT.** Includes any form of declaration of covenants, conditions, and restrictions or similar non-governmental mechanisms for controlling land use on private property, including rules, regulations, or guidelines implemented under the authority of restrictive covenants.~~
- ~~(11) **UNATTENDED VEGETATION.** Overgrown or untrimmed shrubs, brush, or grasses; diseased, dead, noxious, or poisonous vegetative growth; weeds; and any other improperly maintained or inappropriate vegetation as proscribed in rules and regulations.~~
- ~~(12) **VECTOR.** Any animal, insect, or other vermin that can transmit disease to humans or is the potential cause of a public health nuisance.~~

(C) *Landscape regulations.*

- (1) *Plants allowed.* Ornamental plants; native forbs and grasses; or vegetable and fruit bearing plants are allowed in the landscape area, but they must be planted pursuant to a design. The design must either be created by a professional landscape designer or be consistent with Model Community Soil and Water Conservation District (SWCD) standards.
- (2) *Restoration and establishment of native plant communities.* Restoration or establishment of native plant communities is allowed in the back yard. Restoration projects should be consistent with the Minnesota DNR's brochure, How to Use Native Plants for Landscaping and Restoration in Minnesota.
- (3) *Landscape area and setbacks.* Ornamental plants; native forbs and grasses shall be allowed only in rear and side yards with a minimum of 5 foot setback from the property line. Native forbs and grasses shall not be planted adjacent to a public roadway. Native forbs and plantings shall be prohibited in easements, boulevards, and within the site triangle. Planting shall not impede drainage. The setback may be reduced to 0 feet if:
- (a) A fence is installed adjoining the landscape area; or
 - (b) The planted area abuts:
 - 1. A restored area on any adjoining lot;
 - 2. A public park or open space; or
 - 3. A wetland, pond, lake, stream, or natural area; or

(c) The landscape area is located on a slope equal to or greater than 3 feet horizontal to 1 foot vertical (3:1).

(1) *Composition of setback area.* The setback area required by division (D)(3) of this section shall be composed of rock, gravel, wood chips, regularly mowed turf grass or a groundcover below 8 inches in height.

(2) *Locations encouraged.* Native plantings and forbs are encouraged around ponds, wetlands and on slopes. Native plantings are also encouraged on landscape areas with slopes equal to or greater than 3 feet horizontal to 1 foot vertical (3:1).

(D) *Rain gardens.*

(1) *Rain garden location.* Rain gardens are allowed in side and back yards, but must conform with the setback requirements specified in divisions (D)(3) and (D)(4).

(2) *Construction.* Rain gardens should be constructed consistent with the document Rain Gardens: A How-to Manual for Homeowners, available from the Minnesota DNR.

(E) *Maintenance of landscaping.* The owner, agent, or lessee of any real property located within the city must provide regular weeding, pruning, and other maintenance of all plantings located on said private property. Plant materials which exhibit evidence of pests, disease, or damage shall be appropriately treated, and dead plants shall be removed or replaced. All native plantings must be maintained either by removing weeds, mowing, or city approved and permitted burning.

(F) *Violation.*

(1) *Unattended vegetation.* Every owner and responsible party who fails to keep private property clear of unattended vegetation is in violation of this section and subject to the remedies and enforcement specified herein.

(2) *Prohibited vegetation.* Every owner and responsible party is in violation of this section and subject to the remedies and enforcement specified herein if they fail to keep their private property clear of vegetation that:

(a) Presents a fire hazard;

(b) Attracts or harbors disease vectors;

(c) Obstructs sight lines for the traveling public on streets or alleys; or

(d) Includes noxious weeds or secondary noxious weed as identified by the State Commissioner of Agriculture pursuant to M.S. § 18.171, subd.5.

(G) *Non-conforming landscape areas.* Any planned landscape area or restoration area which lawfully existed prior to the effective date of this section may continue to exist, but shall comply with divisions ~~(G-E)~~ and ~~(H G)~~ of this section. Any expansion or addition to a non-conforming planned landscaped area or restoration area shall comply with all provisions of this section.

(Ord. 2015-13, passed 12-7-2015, Am. Ord. 2021-08, passed 8-2-2021)

Subdivision 3: Effective Date. This ordinance is effective immediately following its publication in the official newspaper of the City.

ORDAINED by the City Council of the City of Jordan, Scott County, Minnesota this 2nd Day of August, 2021.

Mike Franklin, Mayor

ATTEST:

Tom Nikunen, City Administrator

Drafted by:
City of Jordan
210 East First Street
Jordan, MN 55352

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