



City of Grand Island

Tuesday, June 25, 2019

Council Session

Item F-1

#9738 - Consideration of Approving Amendments to the Grand Island City Code Section 36-70 Heavy Business Zone and Section 36-102 Landscaping Requirements and Heavy Business Zone

This item relates to the aforementioned Public Hearing item E-4.

Staff Contact: Chad Nabity

ORDINANCE NO. 9738

An ordinance to amend Chapter 36 of the Grand Island City Code specifically, to amend Section 36-7 (B-3) Heavy Business Zone and Section 36-102 Landscaping Requirements; to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication in pamphlet form and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
GRAND ISLAND, NEBRASKA:

SECTION 1. Sections 36-70 and 36-102 of the Grand Island City Code is hereby amended to read as follows:

§36-70. (B-3) Heavy Business Zone

Intent: The intent of this zoning district is to provide for the multiple uses within the central business district. Residential uses are permitted at the density of the (RO) Residential Office Zone.

(A) Permitted Principal Uses: The following principal uses are permitted in the (B-3) Heavy Business Zoning District.

- (1) Agencies as found in the Zoning Matrix [Attachment A hereto]
- (2) Boarding and lodging houses, fraternity and sorority houses
- (3) Churches, synagogues, chapels, and similar places of religious worship and instruction of a quiet nature
- (4) Colleges offering courses of general instruction, including convents, monasteries, dormitories, and other related living structures when located on the same site as the college
- (5) Country clubs
- (6) Dwelling units
- (7) Elderly Home, Assisted Living
- (8) Group Care Home with less than eight (8) individuals
- (9) Hospitals, nursing homes, convalescent or rest homes
- (10) Hotel and motel uses
- (11) Mortuaries, funeral homes, and funeral chapels
- (12) Nonprofit community buildings and social welfare establishments
- (13) Office and office buildings for professional and personal services as found in the Zoning Matrix [Attachment A hereto]
- (14) Parking Lots
- (15) Preschools, nursery schools, day care centers, children's homes, and similar facilities
- (16) Public parks and recreational areas
- (17) Public, parochial and private schools having a curriculum equivalent to an elementary or higher educational level
- (18) Public and quasi-public buildings for cultural use
- (19) Radio and television stations (no antennae), private clubs and meeting halls
- (20) Railway right-of-way but not including railway yards or facilities
- (21) Retail activities of a prescriptive service provided it is limited to being secondary to said use. Retail space is limited to 25% of the total floor area
- (22) Stores and shops that conduct retail business, provided, all activities and display goods are carried on within an enclosed building except that green plants and shrubs may be displayed in the open, as per the Zoning Matrix [Attachment A hereto]
- (23) Truck, bush and tree farming, provided, there is no display or sale at retail of such products on the premises

Approved as to Form	<input type="checkbox"/>	_____
June 19, 2019	<input type="checkbox"/>	City Attorney

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(24) Utility substations necessary to the functioning of the utility, but not including general business offices, maintenance facilities and other general system facilities, when located according to the yard space rules set forth in this section for dwellings and having a landscaped or masonry barrier on all sides. Buildings shall be of such exterior design as to harmonize with nearby properties

(25) Vocational or trade schools, business colleges, art and music schools and conservatories, and other similar uses

(26) Other uses as indicated in the Zoning Matrix [Attachment A hereto]

(B) Conditional Uses: The following uses are subject to any conditions listed in this chapter and are subject to other conditions relating to the placement of said use on a specific tract of ground in the (B-3) Heavy Business Zoning District as approved by City Council.

(1) Manufacture, fabrication or assembly uses incidental to wholesale or retail sales wherein not more than 20% of the floor area is so used

(2) Outdoor sales and rental lots for new or used automobiles, boats, motor vehicles, trailers, manufactured homes, farm and construction machinery

(3) Stores and shops for the conduct of wholesale business, including sale of used merchandise.

(4) Towers

(5) Automobile body repair; subject to the following minimum standards:

No storage of parts or unlicensed vehicles outside of an enclosed building.

The facility shall meet or exceed all building and fire code requirements.

(6) Other uses as indicated in the Zoning Matrix [Attachment A hereto]

(C) Permitted Accessory Uses:

(1) Buildings and uses accessory to the permitted principal use.

(D) Space Limitations:

Uses			Minimum Setbacks					
		A	B	C	D	E		
	Minimum Parcel Area (feet)	Minimum Lot Width (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Street Side Yard (feet)	Maximum Ground Coverage	Maximum Building Height (feet)
Permitted Uses	3,000	30	10	0 ¹	0 ²	10	100%	
Conditional Uses	3,000	30	10	0 ¹	0 ²	10	100%	

¹ No rear yard setback is required if bounded by an alley, otherwise a setback of 10 feet is required.

² No side yard setback is required, but if provided, not less than 5 feet or unless adjacent to a parcel whose zone requires a side yard setback, then 5 feet.

(E) Miscellaneous Provisions:

(1) Supplementary regulations shall be complied with as defined herein.

(2) Only one principal building shall be permitted on one zoning lot except as otherwise provided

Amended by Ordinance No. 8947, effective 1-5-2005

Amended by Ordinance No. 9166, effective 5-13-2008

§36-102. Landscaping Requirements

(A) Purpose: The landscaping and screening regulations are intended to improve the physical appearance of the community; to improve the environmental performance of new development by contributing to the abatement of heat, noise, glare, wind and dust; to promote natural percolation of storm water and improvement of air quality; to buffer potentially incompatible uses from one another; and, to protect and enhance the value of property and neighborhoods within the city.

(B) Applicability:

(1) The provisions of this section shall apply to the following zones: Medium Density Residential Zone, ~~Medium Density Small Lot Residential Zone~~, High Density Residential Zone, Residential Office Zone, Light Business Zone, General Business Zone, Arterial Commercial Overlay Zone, Heavy Business Zone, Industrial Estates Zone, Light Manufacturing Zone, Heavy Manufacturing Zone, Commercial Development Zone, Residential

Development Zone and Travel Development Zone. Landscaping of lands within districts such as the Central Business District and Fourth Street Business District, as defined in this code, shall be subject to Streetscape Improvement Projects where applicable. In the absence of such projects, the provisions of this section shall apply.

(2) The provisions of this section shall apply to the Airport Overlay Zone with the exception that three shrubs may be substituted for each required shade or ornamental tree to conform to standards of wildlife management required near an airport.

(3) The provisions of this section shall apply to all new development, including surface parking, on each lot or site upon application for a building permit, except as follows:

(a) Reconstruction or replacement of a lawfully existing use or structure.

(b) Remodeling, rehabilitation or improvements to existing uses or structures which do not substantially change the location or building footprint of existing structures, or the location and design of parking facilities or other site improvements. However, additions or enlargements of existing uses or structures, which increase floor area or impervious coverage by more than 25% adjacent to the existing street frontage, shall be subject to the provisions of this section, which shall only apply to that portion of the lot or site where the new development or use occurs.

(c) Residential structures containing three dwelling units on a single lot, or less shall be exempt from the requirements of this section.

(4) Landscaping which exists on any property shall not be altered or reduced below the minimum requirements of this section, unless suitable substitutions are made which meet the requirements of this section, pursuant to a site plan approved by the city.

(5) Any conflict between this section and another section of this chapter shall be resolved in favor of the more restrictive provision.

(C) Nonconforming Status: Any property or use of property, which as of August 1, 2004 or any amendment hereto is lawfully nonconforming only as to the regulations relating to landscaping, may be continued in the same manner as if the landscaping were conforming.

(D) Definitions: The following definitions shall be used for terms contained within this section:

Buffer yard: A landscaped area provided to separate and significantly obstruct the view of two adjacent land uses or properties from one another.

Canopy tree: A deciduous tree having a minimum mature height of 30 feet and a minimum caliper of 1 inch at the time of planting. One canopy tree equals two understory/ornamental or evergreen trees.

Evergreen tree: An evergreen or conifer tree having a minimum mature height of 20 feet and a minimum 2 gallon container size or bare root/ball equivalent at the time of planting.

Landscaped area: That area within the boundaries of a given lot consisting primarily of plant material, including but not limited to grass, trees, shrubs, flowers, vines, groundcover and other organic plant materials (this does not include plant materials typically used as a cash crop). Tall varieties of native and ornamental grasses may be planted and left in their natural state in selective and limited locations, deemed appropriate by the city. Inorganic materials such as brick, stones, aggregate, ponds or fountains may be used within landscaped areas, provided that such materials comprise no more than 35 percent of the required landscaped area. Flat concrete or asphalt, other than walkways five feet or less in width, may not be used within a required landscaped area.

Minimum equivalent street landscaping: The minimum landscaped area which must be provided in a street yard, expressed as a percent of the total area contained within that street yard.

Shrub: A deciduous or evergreen plant having a minimum height of 18 inches at the time of planting, with a maximum mature height of less than 10 feet.

Street yard:

(1) The area of a lot or parcel which lies between any street property line and the fronting walls of any building or buildings on the parcel. The street yard shall follow all irregularities or indentations in the front wall of the building, excluding minor projections or indentations such as steps or unenclosed porches. For the purposes of defining the street yard area, the front wall shall be extended from the outermost corners of the building, parallel with the fronting street, until intersecting with the side property line [see Attachment B hereto]. Street yard depth shall not exceed 100 feet for the purposes of calculating the minimum equivalent street landscaping area requirement.

(2) On lots or parcels with multiple buildings, the street yard area shall be defined by all building front walls having direct, visual frontage onto the street. Any space between buildings equal to 15 percent of the length of such frontage, but in no case more than 100 feet, shall be considered an extension of the continuous building front wall for the purpose of delineating the street yard.

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Understory/ornamental tree: A flowering or non-flowering deciduous tree having a maximum mature height of 30 feet and a minimum caliper of 2 inch at the time of planting.

(E) Street Yard Landscaping Standards:

(1) Street yard landscaping shall be provided adjacent to each street property line and within street yards, as set forth below, in accordance with an approved site landscaping plan.

(2) Minimum equivalent street landscaping area:

(Minimum Equivalent Street Landscaping Area)		
Zoning District	Percent of Street Yard (%)	Minimum Landscaping Depth of Street Yard*** (ft.)
R3 <u>R3SL</u>	65 <u>65</u>	20 <u>20</u>
R3	65	20
R4	60	10
RO	30	10
B1	25	10
B2	20*	10*
AC	20	20*
B3	20 <u>20</u>	10 <u>10</u> *
ME	20	20
M1	20	20
M2	20	10
M3	20	10
TD	30	30
CD	**	30
RD	**	10 or 30

*Unless otherwise established in an approved Streetscape Improvement Project.

**As determined by approved plan

(3) When a lot contains more than one street frontage, the area of all street yards and the proposed street yard landscaped areas may be combined for the purposes of determining compliance with this section.

(4) Any required street yard landscaping shall include the following minimum shrub and tree plantings (or an appropriate equivalent as determined by the city) for every 100 feet (any fraction of .5 or less rounded to the next lowest number; any fraction exceeding .5 rounded to the next highest number) of property line adjacent to a public street right-of-way: 1 canopy tree; 1 understory/ornamental or evergreen tree; 3 shrubs. Existing trees or shrubs approved for preservation shall be counted toward satisfaction of this provision.

(F) Buffer Yard and Parking Landscaping Screening Standards:

(1) Buffer yard landscaping shall be installed and maintained adjacent to the affected common side or rear property line(s), when a use is established in a more intensive zoning district located adjacent to a less intensive zoning district, as set forth below:

More Intensive Zoning District	Required Buffer Yard Width (ft.)*	Less Intensive Zoning District
RO, B1, B2, AC, B3 , CD, TD	10	TA, LLR, R1, R2, R3, <u>R3SL</u> , R4, RD
ME, M1, M2, M3	20	TA, LLR, R1, R2, R3, <u>R3SL</u> , R4, RO, RD, CD, TD, B1, B2, B2, AC, B3

*When an alley, street or railroad R.O.W. separates adjacent districts requiring a buffer yard, the buffer yard width shall be halved.

(2) Buffer yard landscaping is intended to provide screening of loading docks, refuse collection points, truck/equipment parking, sources of noise, glare, light, dust, or other negative impacts. Buffer yard landscaping shall include hedges or screens of evergreen or approved deciduous plant material, capable of providing a

substantial opaque barrier, and attaining a minimum height of 6 feet within three years of planting. Opaque fencing may also supplement the vegetative plantings, but shall be installed no closer to the property line than the width of the required buffer yard.

(3) Buffer yard landscaping and parking landscaping screening strips shall not be placed on an easement.

(4) A parking landscaping screening strip, having a Minimum Landscaping Depth of Street Yard as identified above, shall be installed along any parking area adjacent to a public street right-of-way. No parking area shall contain more than 100 spaces except as allowed within these regulations. If a greater number of parking spaces is required, separate parking areas shall be provided, and shall be separated from other parking areas by landscaped dividing strips, having a minimum width of 6 feet. These strips shall include trees, shrubs, grasses and other vegetative coverings for a creative aesthetic appearance. A parking landscaping screening strip shall also count towards meeting any requirements associated with minimum equivalent street or buffer yard landscaping.

Alternate plans for parking lots with more than 500 spaces may be submitted for approval by a committee comprised of the Planning Director, Building Department Director and Public Works Director with recommendations from other appropriate city staff. The Committee shall establish criteria for the review and approval of larger parking lots based on but not limited to the following areas of concern: overall area and types of landscaping provided shall not be less than would be required under the conventional regulations, provision for storm water management and filtering using best available practices, provisions for adequate lighting, fire protection and security throughout the lot, provisions for pedestrian access through and around the lot, and provisions for pedestrian access to the site requiring said parking lot.

(5) A development may continue to comply with the buffer yard landscaping requirements in effect at the time of issuance of its initial building permit, regardless of whether an adjacent lot or property is rezoned to a less restrictive zoning district which requires additional buffer yard landscaping.

(G) Site Plan Requirements:

(1) A site plan showing the required street yard, buffer yard and/or parking screening landscaping shall be submitted to the city for review and approval as part of the application for a building permit. The plan shall include, but not be limited to the following:

(a) Location of proposed landscaping drawn to scale.

(b) Location, size, type and condition of proposed plant and non-plant landscaping materials including fences, walks, ponds, fountains, benches, lighting and irrigation systems.

(c) Estimated date of completion of the installation of all plantings and finishing materials.

(H) Installation and Maintenance Requirements:

(1) Required landscaping areas shall be installed and maintained in a neat, clean, orderly and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawn and grass areas, weeding, removal of litter, fertilizing, replacement of plants consistent with this section when necessary, and the regular watering of all plantings.

(2) The installation of landscaping shall be completed prior to the issuance of any occupancy permit for buildings on the property, or commencement of the intended use of the property.

(3) If, at the time of commencement of the intended use of the property or application for a certificate of occupancy, any required landscaping has not been installed or completed due to seasonal or climatic conditions or plant material being unavailable, the developer or owner of the property shall submit the following to the Building Department:

(a) A request for extension of the proposed completion date for installation of the required landscaping, stating the reason for the request, the property owner's current mailing address, and a commitment to complete the installation of the landscaping by a date certain, not to exceed six months from the building completion date.

(b) A drawing showing the plan and layout of the landscaping areas.

(c) A cost estimate for the installation of the landscaping area.

(d) A bond, certificate of deposit, letter of credit, cash or other financial surety as may be approved by the City Attorney guaranteeing faithful performance of the owner or developer's commitment to complete installation of the required landscaping and payable to the City of Grand Island in the event that the developer fails to carry out the commitments described in sub-paragraph (a) above.

(4) Upon approval of the foregoing request for extension of time to complete the landscaping installation, the owner or developer shall be issued a conditional certificate of occupancy or a conditional letter authorizing commencement of use of the property by the Building Department. The owner or developer shall complete the

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installation of the landscaping in accordance with the commitments made pursuant to sub-paragraph (a) above, and, upon inspection and approval by the Building Department, a certificate of occupancy or commencement of use letter shall be issued. All limitations on the use of the property relating to landscaping are deemed to be of no force or effect at that time, and the City shall release the surety or other security submitted by the owner or developer.

(5) If the owner or developer has not installed the required landscaping with the commitments made pursuant to sub-paragraph (a) above, the owner or developer shall be deemed to have granted the City or its officers, employees, agents or representatives permission to enter upon the property to install the required landscaping in accordance with the plan submitted pursuant to sub-paragraph (c) above using the surety or security filed by the owner or developer as payment for said installation. The Building Department shall send the owner or developer written notice of default and intention to enter onto the property to install required landscaping by certified mail, return receipt requested, and ordinary first class mail sent to the last known address of said owner or developer at least five (5) business days prior to making such entry.

Amended by Ordinance No. 9256, effective 04-07-2010

Amended by Ordinance No. 9419, effective 02-15-2013

Amended by Ordinance No. 9422, effective 04-02-2013

SECTION 2. Sections 36-70 and 36-102 as existing prior to this amendment, and any ordinances or parts of ordinances in conflict herewith, are repealed.

SECTION 3. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 4. That this ordinance shall be in force and take effect from and after its passage and publication in pamphlet form within 15 days according to law.

Enacted: June 25, 2019

Roger G. Steele, Mayor

Attest:

RaNae Edwards, City Clerk