

Chapter 9
LANDSCAPE REGULATIONS¹

11-9-1. Purpose.

The purpose of the landscape regulations is to:

- A. Promote water conservation;
- B. Promote energy conservation;
- C. Encourage planting and preservation of trees and vegetation;
- D. Decrease runoff; and
- E. Enhance the aesthetic quality of Midland.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-2. Applicability.

The provisions of these regulations shall apply to all land within the corporate limits of the City of Midland in any zoning district when new or expanded non-residential uses are proposed.

Sections 11-9-3 through 11-9-10 shall apply: when a building permit is required for new construction or the expansion of an existing structure, or when a parking lot permit for a new or expanded parking area is required.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-3. Landscape design standards.

A landscape plan shall be submitted at the time a building or paving permit is requested from the Code Administration Division. Landscaping elements shall include but are not limited to plant material and shade trees. The use of water efficient landscaping is strongly encouraged and may also satisfy several of the required components of the landscape point system (11-9-4).

- A. *Plant material.* A minimum of all of the adjacent right-of-way to the edge of street pavement or back of curb, as well as an additional ten percent of the total lot area shall be landscaped with plant material that includes but is not limited to turf grass, planted groundcover, and/or permeable groundcover with shrubs. Permeable groundcovers shall be resistant to wash-out, wind, and weed growth. The total lot area used to calculate the required ten percent shall not include the area of any existing or proposed structures. Plant material landscaping shall be located within the front and side yard setbacks.
- B. *Required trees.*

¹Editor's note(s)—Ord. No. 8889, § 1, passed May 10, 2011, amended former Ch. 11-9, §§ 11-9-1—11-9-8, in its entirety to read as herein set out. Former Ch. 11-9 derived from Ord. No. 8267, § 1, adopted Oct. 26, 2004.

1. *Street front trees.* Shade trees shall be provided at the equivalent of one tree per 30 linear feet of street frontage, or fraction thereof. Such trees shall be located where they are visible from a public street, public sidewalk, or paved parking area adjacent to a public street. Trees may be placed in the public right-of-way if adequate space is available and if they do not interfere with existing or future utility services. Approval of trees in the right-of-way is required from the Transportation Division Manager.
2. *Parking lot trees.* Shade trees shall be required in parking areas at a minimum rate of one tree per 15 uncovered parking spaces as indicated below. The first 150 spaces shall include tree planting at a ratio of one tree for each 15 uncovered parking spaces. When 151 or more spaces are provided, the tree ratio shall be reduced to one shade tree per 20 parking spaces. Trees shall be planted throughout the parking area so that they become an integral part of the parking design.

Number of Spaces	Number of Required Trees
15 or fewer	1
16 to 30	2
31 to 45, etc.	3, etc.
150	10
200	13 (10 for the first 150 spaces plus 3 for additional 50)

3. All shade trees shall be a minimum of three-inch caliper as measured 12 inches above grade. Evergreen tree height shall be a minimum of six feet above grade.
 4. All existing trees of three-inch caliper or greater or evergreen trees of six feet or more in height will be counted towards satisfying the requirements of this chapter, as long as such trees do not endanger safety, health and public welfare and are listed in Appendix A - Recommended Plant Material [on file with the city].
 5. No tree or shrub shall be placed in such a manner as to create a hazard to vehicular or pedestrian traffic.
- C. *Undesirable trees species.* The following trees, existing or proposed, shall not be credited towards tree requirements under this section.
1. Fruitless Mulberry - *Moras alba*
 2. Siberian Elm - *Ulmus pumila*
 3. Salt Cedar - *Tamarix sp.*
- D. *Irrigation systems.*
1. Irrigation systems shall comply with state law requirements.
 2. All sprinkler systems shall be designed in such a manner as to minimize water runoff and to eliminate over spray into adjoining streets, driveways and parking areas. Refer to 11-9-4 Landscape Point System indicating additional points when drip irrigation is installed.
 3. Drip systems shall be required in confined spaces of four feet or less between paved surfaces.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-4. Landscape point system.

All submitted landscape plans as required under Section 11-9-5 shall achieve a score of at least 20 points awarded for the following items:

A. *Points awarded for:*

1. Approved rainwater harvesting system 10 Points
2. Permeable weed barrier installed 2 Points
3. Drip irrigation system in all areas 15 feet or less in width 10 Points
4. Tree quantity exceeds required quantity (per tree) 2 Points
5. Drought tolerant sod is primary variety of turf grass 5 Points
6. Landscape area is curbed or shaped to hold water 2 Points
7. Landscape area exceeds requirement by an additional 10 percent of setback area 2 Points
8. 50 percent of all plant material is water efficient as listed in Exhibit A 2 Points
9. Polymer injection system or other water saving technology 2 Points

B. *Points deducted for:*

1. More than 20 percent of the required areas to be landscaped with plant material, is proposed to be turf grass. 5 Points
2. Existing tree material larger than 12-inch caliper is removed 5 Points
3. Fescue and/or St. Augustine grass is primary type of turf grass 10 Points
4. Slope within ten feet of street or parking area exceeds 20 percent 5 Points
5. Undesirable tree species are used 5 Points

(Ord. No. 8889, § 1, 5-10-2011)

11-9-5. Landscape and irrigation plan submittal standards.

At a minimum, landscape and irrigation construction plans shall include the following details and all additional information necessary to illustrate compliance with the regulations of this chapter and the illustration of those elements preferred within Section 11-9-4, Landscape point system.

A. *Project description.*

1. Project name and location.
2. Designer name and phone number.

B. *Site elements.*

1. North arrow.
2. Scale.
3. Structure locations.
4. Parking locations.
5. Property lines.

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6. Setback lines.
 7. Existing plant material and tree locations.
 8. Proposed plant material and tree location.
- C. *Landscape legend.*
1. Plant material/tree name.
 2. Plant material/tree symbol.
 3. Plant material/tree caliper.
 4. Plant material/tree quantity.
- D. *Landscape ordinance compliance schedule.*
1. Total lot area.
 2. Total area of building footprint.
 3. Total area required to be landscaped with plant material.
 4. Total area that will be landscaped with plant material.
 5. Total length of street frontage.
 6. Total number of trees required per street frontage.
 7. Total number of trees provided per street frontage.
 8. Total number of parking spaces.
 9. Total number of trees required per parking spaces.
 10. Total number of trees provided per parking spaces.
- E. *Point system compliance schedule.*
1. List of individual items and associated points.
 2. Total point score.
- F. *Estimated monthly water usage.*

(Ord. No. 8889, § 1, 5-10-2011)

11-9-6. Tree preservation.

No living trees shall be removed from any public right-of-way in any zoning district without authorization of the Planning Division Manager and Transportation Division Manager.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-7. Compliance.

All landscaping shall be maintained and plant material shall be kept in a healthy and growing condition.

All requirements of this Chapter shall be completed prior to the receipt of a certificate of occupancy or within 60 days following receipt of a temporary certificate of occupancy or prior to an approved final inspection of a parking lot permit from the Building Official.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-8. Exceptions and alternate proposals.

A. *Plant material.*

1. In cases when an alternate material is proposed or in cases where the desired location for plant materials for the required ten percent of lot area, is not within the front or side yard setback, the Planning Division Manager may approve alternate landscape locations.
2. In cases where the right-of-way and the required ten percent of lot area cannot be landscaped with plant material due to existing improvements, a public safety risk, or a practical hardship, the Building Official may issue a building permit.

B. *Required trees.*

1. In cases where the desired location for required street front trees will not allow them to be visible from the street, the Planning Division Manager may approve alternate locations. In no case shall an alternate proposal result in a net reduction of the tree requirement as measured in total tree caliper inches. Upon this approval, the Building Official may issue a building or paving permit.
2. In cases where street front trees and/or parking lot trees cannot be placed, due to existing improvements, a public safety risk, or a practical hardship, tree requirements may be satisfied by contributing to the City of Midland Parks and Recreation Endowment Fund, an amount equal to the cost of installation plus the current market rate per caliper inch necessary to meet the minimum requirements of Section 11-9-3(B) of this Chapter.

C. *C-I, Central Area District.*

1. In cases where street front trees and/or parking lot trees cannot be placed due to existing improvements, a public safety risk, or a practical hardship, and the property is located within the C-I, Central Area District, tree requirements may be satisfied by contributing to the City of Midland Parks and Recreation Endowment Fund an amount equal to the cost of installation plus the current market rate per caliper inch necessary to meet the minimum requirements of Section 11-9-3(B) of this Chapter or by installing approved civic art and/or a similar streetscape enhancement component, if approved by the Planning and Zoning Commission or the City Council.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-9. Definitions.

Certain words used in this Chapter are defined for the purposes hereof as follows:

1. *Civic art:* Sculpture, painting, murals or similar professionally designed elements in a size appropriate to the scale of the site which it is being located. Art should be of suitable material to resist normal wear and tear, and to be a permanent (15 year +) fixture to the site, and shall be placed in an approved location which is readily viewable by the passing general public. Art shall be of a manner which is not generally considered profane or offensive to the public, and must pass approval by the City prior to acquisition and placement.
2. *Non-residential use:* Any use other than single-family, town home, or two-family residential.

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3. *Permeable ground cover*: Natural or man-made material that is placed a minimum of four inches in depth and is intended to reduce or eliminate regular watering, control weed growth, and inhibit water runoff while maintaining a pleasant aesthetic appearance. Mulches, plant material, and turf grass are not considered permeable ground cover. acceptable examples include: crushed or decomposed granite, gravel, cobblestone, ornamental glass, and lava rock.
 4. *Practical hardship*: A hardship based on a site condition such as size, shape, area, and/or topography. A practical hardship cannot be self imposed, must be distinguished from a mere inconvenience, and may not compromise the spirit of this chapter.
 5. *Rainwater harvesting*: A designed system of collecting rainfall from roofs or other structures, or gray water from buildings, and storing that water on site in engineered cisterns or similar containers so that it can be utilized for the irrigation of surrounding landscape materials.
 6. *Shade tree*: A tree of suitable species that will develop a large elevated canopy of leaves and will provide a shade canopy sufficient enough to aid in the reduction of the overall heat index of the surrounding area. Trees typically classified as "Ornamentals" such as Bradford Pear, Crepe Myrtle, and Purple Leaf Plum, as well as all Pine species, do not qualify as a shade tree.
 7. *Turf grass*: Cultivated grass typically used for lawns which require regular watering and mowing to maintain desired height, color, and aesthetic appearance.

(Ord. No. 8889, § 1, 5-10-2011)

11-9-10. Penalty clause.

The penalty for violation of these regulations shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not to exceed \$2,000.00. A person shall not be in violation of this chapter if he fails to pay the fees.

(Ord. No. 8889, § 1, 5-10-2011)