

1. Agenda

Documents:

[2022-12-07 BOARD OF PARK COMMISSIONERS - PUBLIC AGENDA-1769.PDF](#)

2. Meeting Materials

Documents:

[2022-12-07 BOARD OF PARK COMMISSIONERS - FULL AGENDA-1769.PDF](#)

AGENDA

Special Meeting of the
Nichols Hills Board of Park Commissioners
Wednesday, December 7, 2022 at 4:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

If special assistance is needed for this meeting by any person wishing to attend, please contact the City Clerk's office no later than 48 hours prior to the meeting, and such assistance will be provided.

Official action may be taken by the Board of Park Commissioners only on items that appear on this Agenda. The Board of Park Commissioners may dispose of the business set out on this Agenda by accepting, approving, adopting, rejecting, amending, or postponing action as to each item, as determined by the Board of Park Commissioners.

1. Call to Order
2. Roll Call
3. Minutes
 - a. Board of Park Commissioners Minutes - October 20, 2021
4. Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:
 - a. An ordinance deleting chapter 48 of the Nichols Hills city code and replacing it with a revised version of chapter 48 retitled "Trees and Vegetation;" repealing all conflicting ordinances or parts of ordinances; providing for severability; and declaring an emergency.
 - b. Draft ordinance regarding landscape requirements.
 - c. Love Family Park update.
5. Adjournment

I certify that the forgoing was filed in the Office of the City Clerk at 9:23 A.M. on the 5th day of December, 2022 and posted in prominent view on the window at City Hall, 6407 Avondale Drive, at 9:30 A.M. on the 5th day of December, 2022; posted to the City of Nichols Hills website at <http://www.nicholshills.net> at 5:00 P.M. on the 5th day of December, 2022; and transmitted by email at 5:00 P.M. on the 5th day of December, 2022 to those persons who

have requested to be included on such notices pursuant to the Open Meeting Act and to those who have requested such notice.



City Clerk
City of Nichols Hills, Oklahoma

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City Clerk
City of Nichols Hills, Oklahoma

MINUTES

Special Meeting of the
Nichols Hills Board of Park Commissioners
Wednesday, October 20, 2021 at 4:00 PM
City Hall, 6407 Avondale Drive
Nichols Hills, OK 73116

**Original agenda filed in the Office of the City Clerk at 2:31 PM on
the 15th day of October, 2021.**

1. Call to Order
2. Roll Call

Attendee Name	Title	Status	Arrived
Pete Everest	Chairman	Present	
Rainey Williams		Present	
Karen Browne		Absent	
Vicki English		Present	
Coe London		Absent	
Chip Oppenheim		Present	
Patty Anthony		Present	
Blake Fitzgerald		Absent	
Erin Clark	Member	Present	

City Manager Shane Pate welcomed Erin Clark to the Commission.

3. Minutes
 1. Board of Park Commissioners Minutes - September 15, 2021

MOTION: Williams moved to approve the September 15, 2021 minutes as presented. Oppenheim seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rainey Williams
SECONDER:	Chip Oppenheim
AYES:	Everest, Williams, English, Oppenheim, Anthony, Clark
ABSENT:	Browne, London, Fitzgerald

4. Consideration of adoption, approval, acceptance, rejection, amendment, and/or postponement of the following:
- a. Butterfly garden presentation.

Nancy Herzel, Chairman of the Environmental, Health and Sustainability Commission, presented the proposed plans for the Butterfly Garden in Nichols Hills to the Board of Park Commissioners. Mrs. Herzel discussed the proposed plan of the pollinator garden, created by Sweet Leaf, would be placed below the parking lot of the United Methodist Church.

Former Mayor and founder of Planet Nichols Hills, Kathy Walker, announced the funding for this project, if approved. Mrs. Walker stated the funds that were left over in the Planet Nichols Hills account was \$10,474.97 which would be donated for the Butterfly Garden project. The anticipated cost of the garden is \$11,375.75 to include plantings and maintenance. The remaining funds for the project would be raised by donors.

Mrs. Herzel requested that a plaque be placed at the garden stating the Planet Nichols Hills gift to start the project.

MOTION: English moved to approve agenda item 4a as presented. Oppenheim seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Vicki English
SECONDER:	Chip Oppenheim
AYES:	Everest, Williams, English, Oppenheim, Anthony, Clark
ABSENT:	Browne, London, Fitzgerald

- b. The official street tree species list in Section 48-88 of the Nichols Hills City Code.

Chairman Everest recommended to table this agenda item to allow time for the Board of Park Commissioners to review the tree species list.

- c. Parking of vehicles in and along Woods Park.

City Manager Shane Pate presented parking lot plans, created by the City Engineer, to the Board of Park Commissioners for Woods Park and South Grand Boulevard Park. Mr. Pate will email the commissioners with the proposed cost of the project to be discussed in a future meeting.

- d. Donor recognition for donations to city parks.

Board of Park Commissioners discussed with staff and Nichols Hills Parks Inc. Chairman Susan Marshall the need to create a donor recognition policy which shows what recognition will be received by the dollar amount of the donation. Board of Park Commissioners will research neighboring communities and their policies for park donations. The Commissioners requested that an inventory of parks be taken that shows what parks have been named, maintained, and not maintained by previous donors.

- e. City wide park improvements of \$750,000 from 2021 GO Bond Funds.

Mr. Shane Pate, City Manager, reviewed the 2021 GO Bond Funds of \$750,000 for City wide park improvements to the Board of Park Commissioners. \$510,000.00 of the money will go to Grand Boulevard Park, initially thought to be used to extend the trails and tree trimming expenses. \$130,000.00 for Davis Park to be used to correct the erosion problems, which preliminary

estimates are coming in at \$13,000.00. The remaining funds could be used for playground equipment or other improvements. Board of Park Commissioners would like to create or update the current policy to be used for the solicitation of donations.

- f. Recent amendments to the City Code regarding procedures for adopting city parks.

No action taken.

- g. Art in city parks.

Board of Park Commissioners discussed with City staff having a policy to be able to display art in the City's parks. The Commissioners will review other communities' policies to create a policy for the City of Nichols Hills.

5. Adjournment

Chairman Everest adjourned the meeting.

Chairman
Board of Park Commissioners
City of Nichols Hills, Oklahoma

City Manager
Board of Park Commissioners
City of Nichols Hills, Oklahoma

City Clerk
City of Nichols Hills, Oklahoma

Memorandum

To: Nichols Hills Board of Park Commissioners and City Tree Board

From: City Attorney Carla Sharpe

CC: Shane Pate

Re: Proposed revisions to Nichols Hills City Code – Chapter 48, *Vegetation*

Date: November 16, 2022

This memorandum outlines proposed changes to the Nichols Hills City Code’s Chapter 48. Jeff Oakley has assisted in preparing these proposed changes. Also, Jeff and Pete Everest created the new “City Tree List” and the new list of prohibited trees, found at proposed new Sections 48-2 and 48-3.

Chapter 48 Revision Overview.

Much of Chapter 48 had not been revised since enacted in the late 1980s, with some revisions in the 1990s. While most of the existing provisions remain, many new ones have been added, and the applicability of existing provisions has been clarified (as discussed further below). Because the Chapter has also been reorganized, the ordinance provides that all of the Chapter is being deleted and replaced. However, note that many of the existing provisions are still included but now in different order throughout the Chapter.

At the same time, the landscaping ordinance (now found at Section 50-133 of the City Code) has been significantly revised, with those revisions to be considered by the Planning Commission and City Council in December. The new landscaping ordinance refers as needed to Chapter 48, and, as you’ll see, Chapter 48 refers to the landscaping ordinance’s concept of “significant trees” and “sight triangles.” Further, some provisions that are now in Section 50-133 have been moved to Chapter 48.

Chapter 48 proposed Revisions.

We propose that the Chapter be retitled “Trees and Vegetation” because much of its content applies to trees.

Existing provisions that have been modified:

- *Public Trees*. Sec. 48-6 – Previously, much of Chapter 48 arguably applied just to “Street Trees” and “Park Trees.” Those definitions are now removed and replaced with the definition of “Public Trees.” Section 48-6 is now the only provision that specifically applies to Public Trees.

- *City Tree Board. Sec. 48-19* – This section includes a policy change for consideration whereby other citizens with expertise could also serve on the City Tree Board (as opposed to just those then on the City’s Board of Park Commissioners).
- *Landscape Service Standards. Article IV, Standards for Landscape Service*, has been revised to apply to all persons providing “Landscape Service.” Previously this section applied only to those provision “Tree Service.” The revisions to this Article also clarify that these standards apply to all trees in the City, not just public trees (as could be argued from language in the existing Code). The proposed landscaping ordinance includes references to these standards as to general landscape maintenance requirements.
- *Contractor Registration Process. Article V, Landscape Service Registration Requirement and Process*, has been revised to require all landscape servicemen performing any landscape service to register with the City pursuant to the contractor registration requirement in Chapter 8. The current Code arguably now requires only those persons performing services on trees to register. The City wishes to have all landscape servicemen register. Note that the proposed ordinance also includes a revision to the definition of “Contractor” in Chapter 8 to specifically include Landscape Servicemen.

Provisions that have been added:

- *New City Tree List. Section 48-2* sets out a new City Tree List (created by Jeff Oakley and Pete Everest) for trees that the City recommends be planted. This list is also referred to in the proposed landscaping ordinance. (Previously the ordinance referred to OKC’s list.)
- *New City Prohibited Tree List. Section 48-3* sets out the City’s new list of prohibited trees (also created by Jeff Oakley and Pete Everest). This list is also referred to in the proposed landscaping ordinance.
- *Significant Trees. Section 48-4* encourages the preservation and protection of “Significant Trees” as defined in the landscaping ordinance as “any existing Tree with a Caliper of six inches or greater, and in good health. Trees that are materially damaged or diseased will not be deemed to be Significant Trees.”
- *Treatment of Vegetation. Section 48-38* requires property owners to treat vegetation on their properties for disease and insect pests. This section is the same as one in the OKC Municipal Code.
- *Bagworms. Section 48-41* prohibits property owners from allowing bagworms to remain and declares doing so to be a public nuisance. This section is the same as one in the OKC Municipal Code.

Published in _____ on _____, 2022

ORDINANCE NO. _____

AN ORDINANCE DELETING CHAPTER 48 OF THE NICHOLS HILLS CITY CODE AND REPLACING IT WITH A REVISED VERSION OF CHAPTER 48 RETITLED "TREES AND VEGETATION;" REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NICHOLS HILLS, OKLAHOMA:

Section 1. Chapter 48 of the Nichols Hills City Code is deleted in its entirety and retitled and replaced with the following, with new language underlined, to wit:

Chapter 48 – Trees and Vegetation

Sec. 48-1. Definitions.

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

Crew means one or more persons engaged in servicing Trees at any one location, residence or business.

Landscaped Area means any area containing Trees, shrubs, or groundcover that are intended to meet the requirements of these regulations.

Property Owner means the owner of record of real property as shown by the most current tax rolls of the County Treasurer, or the occupant of such property, or the Person listed as the water customer of the City for the subject property.

Public Trees means Trees, shrubs, bushes and all other woody vegetation on public property in the City, including the City's parks.

Shrub means a living self-supporting woody deciduous or evergreen species no less than eight inches in height, and no greater than 15 feet in height, that is ornamental and is full and attractive throughout the year.

Sight Triangle has the meaning given it in Section 50-300.

Significant Tree has the meaning given it in Section 50-300.

Tree means a living self-supporting woody or evergreen plant that normally grows to a minimum height of 15 feet, and which has one or several self-supporting stems or trunks and numerous branches.

Landscape Service means any work performed in maintaining the Landscaped Area of a property and including work on shade or ornamental Trees and including Tree removal, shade and ornamental Tree trimming and cavity work, spraying for pest and disease control, and fertilizing of shade and ornamental Trees.

Landscape Serviceman means any person servicing Trees and providing other Landscape Services other than on such person’s own property.

Vegetation means all Shrubs and living plants, including turf, except Trees.

Sec. 48-2. City list of Tree species to be planted.

The following list (the “City Tree List”) constitutes the City’s official suggested tree species list for species recommended for planting in the City. No other species other than those included in the City Tree List may be planted as Public Trees without the City Tree Board’s written permission. The City Tree List also includes a list of Trees that are not recommended for Nichols Hills due to their proven inability to withstand Oklahoma weather and other deficiencies. Also note that Section 48-3 lists certain Trees that are prohibited.

Recommended Small Trees	Recommended Medium Trees	Recommended Large Trees	Recommended Evergreen Trees	Trees that are not recommended
<u>Choke Cherry</u>	<u>Ash, Urbanite</u>	<u>Bald Cypress</u>	<u>Arborvitae – several varieties</u>	<u>Bradford Pear</u>
<u>Chitalpa</u>	<u>European Hornbeam</u>	<u>Bald Cypress, Shawnee Brave</u>	<u>Cedar, Blue Atlas – several varieties</u>	<u>Cottonwood-Female</u>
<u>Chinese Fringe</u>	<u>Golden Rain Tree</u>	<u>Chinese Pistache</u>	<u>Cedar, Deodar –several varieties</u>	<u>Green Ash</u>
<u>Crabapple, Royal Raindrops</u>	<u>Maple, Autumn Blaze</u>	<u>Chinese Pistache multi-trunk</u>	<u>Cherry Laurel</u>	<u>Locusts (with the exception of Shademaster)</u>

<u>Crabapple, Spring Snow</u>	<u>Maple, Autumn Splendor</u>	<u>Elm, Allee</u>	<u>Cypress, Arizona</u>	<u>Mulberry</u>
<u>Crabapple, Prairie Fire</u>	<u>Maple, Caddo</u>	<u>Elm, Bosque</u>	<u>Cypress, Leyland</u>	<u>Osage Orange</u>
<u>Crabapple – other varieties</u>	<u>Maple, October Glory</u>	<u>Elm, Cedar</u>	<u>Holly, American</u>	<u>Pin Oak</u>
<u>Crapemyrtles – many varieties</u>	<u>Maple, Redpointe</u>	<u>Elm, Frontier</u>	<u>Holly, Burford</u>	<u>Russian Olive</u>
<u>Deciduous Holly</u>	<u>Maple, Shantung – several varieties</u>	<u>Elm, Jefferson</u>	<u>Holly, Foster</u>	
<u>Deciduous Magnolia</u>	<u>River Birch</u>	<u>Elm, Princeton</u>	<u>Holly, Nellie Stevens</u>	
<u>Desert Willow, Bubba</u>	<u>Zelkova</u>	<u>Honey Locust, Shademaster</u>	<u>Holly, Yaupon</u>	
<u>Gingko</u>		<u>Oak, Bur</u>	<u>Juniper, Canaerti</u>	
<u>Japanese Maple – many varieties</u>		<u>Oak, Chinkapin</u>	<u>Juniper, Keteeri</u>	
<u>Maple, Trident</u>		<u>Oak, English</u>	<u>Juniper, Spartan</u>	
<u>Maple, Amur</u>		<u>Oak, Live</u>	<u>Juniper, Taylor</u>	
<u>Redbud, Eastern</u>		<u>Oak, Sawtooth</u>	<u>Magnolia – several varieties</u>	
<u>Redbud, Oklahoma</u>		<u>Oak, Shumard</u>	<u>Pine, Austrian</u>	
<u>Redbud – other varieties</u>		<u>Oak, Swamp White</u>	<u>Pine, Bosnian</u>	
<u>Rose of Sharon</u>		<u>Oak, Texas Red Oak</u>	<u>Pine, Japanese Black</u>	
<u>Smoke Tree</u>		<u>Oak, Water</u>	<u>Pine, Loblolly</u>	

<u>Vitex</u>		<u>Sweetgum, Explanation Point</u>	<u>Pine, Slash</u>	
<u>Washington Hawthorn</u>		<u>Sycamore</u>		
		<u>Willow, Globe</u>		
		<u>Willow, Weeping</u>		

Sec. 48-3. Certain Trees are prohibited.

Planting or permitting the planting of the following Trees is prohibited for the purpose of protecting the public health and to prevent destruction of other plants by spread of disease:

- (a) Black locust, seed-bearing female cottonwood (but not the male non-seed-bearing cottonwood)
- (b) Eastern Red Cedar
- (c) Mimosa
- (d) Silver Maple
- (e) Any other Tree condemned by the City Tree Board.

The City Tree List also includes certain tree species that the City discourages.

Sec. 48-4. Significant Trees should be preserved and protected.

The City encourages the preservation of Significant Trees. Property Owners should take all steps necessary to reasonably preserve and protect Significant Trees.

Sec. 48-5. Entry on private property by the City.

The provisions of this Chapter may not be construed as authorizing the City personnel to make entry onto private property beyond the City right-of-way unless the Property Owner’s written permission is first obtained.

Sec. 48-6. Public Trees; unlawful to injure; topping of Public Trees.

(a) City’s rights in streets and public grounds. The City shall have the right to plant, prune, maintain and remove Public Trees and other Vegetation within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) *Unlawful to injure Public Trees.* It is unlawful for any person to injure any Public Tree; provided, that this shall not prohibit the lawful and proper care and removal of such Public Trees.

(c) *Topping of Public Trees prohibited.* It is unlawful as a normal practice to top any Public Tree. Topping means the severe cutting back of a Tree's limbs to stubs larger than three inches in diameter within the Tree's crown to such a degree so as to remove the normal canopy and disfigure the Tree. Trees severely damaged by storms or other causes, or certain Trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this Section at the determination of the City Tree Board.

Sec. 48-7. Minimum Sight Triangles.

Nothing in this Chapter permits reduction of required Minimum Sight Triangles. The Minimum Sight Triangles are 25 feet for street intersections and 20 feet for all driveways and alley access points. Plantings within a required Site Triangle may not exceed a height of 24 inches.

Secs. 48-8—48-18. Reserved.

ARTICLE II. CITY TREE BOARD

Sec. 48-19. Creation; members.

There is hereby created and established a City Tree Board for the City. The members of the City Tree Board shall be those persons who are then members of the Board of Park Commissioners of the City or are other citizens with expertise regarding Trees.

Sec. 48-20. Compensation of members.

Members of the City Tree Board shall serve without compensation.

Sec. 48-21. Duties and responsibilities.

It shall be the responsibility of the City Tree Board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of Trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon its acceptance and approval shall constitute the official comprehensive City Tree Plan for the City. The City Tree Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

Sec. 48-22. Organization, rules.

The City Tree Board shall choose its own officers, make its own rules and regulations and keep minutes of its meetings. A majority of the members shall be a quorum for the transaction of business.

Sec. 48-23. Review by City Council.

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council which may hear the matter and make final decision.

Secs. 48-24—48-34. Reserved.

ARTICLE III. TREE AND VEGETATION MAINTENANCE; THE CITY'S RIGHTS

Sec. 48-35. Overhead lines, utility lines, and traffic ways must be kept clear.

Property Owners must keep all Trees and Vegetation on their properties clear of overhead power lines, utility lines, and trafficways. Trees that reach a mature height of more than 15 feet may not be planted within ten feet of an overhead utility line; provided however that this requirement may be waived by the Code Official if the Property Owner submits a letter stating no objection from the utility company, in which case the Property Owner will be responsible for properly maintaining the required clearance from utility lines.

Sec. 48-36. Trees and Vegetation overhanging Streets and interfering with light and visibility.

Every Property Owner of any Tree or Vegetation overhanging any street or right-of-way within the City shall prune the branches and shall not obstruct the light from any street lamp or obstruct the view of any street intersection. All Trees and Vegetation must be kept trimmed to a minimum height of eight feet above any street or sidewalk.

Sec. 48-37. Dead and diseased Trees; limbs.

Property Owners shall remove from their property all dead, diseased or dangerous Trees or Shrubs, and any broken or decayed limbs that constitute a menace to public safety within 30 days. Any storm-destroyed Trees must be removed within 30 days after the storm occurrence. Failure to do so will be cause for the City to initiate procedures for removal of such Trees, as set out in Section 48-42.

Sec. 48-38. Diseased or infested Vegetation.

Property Owners shall treat any Vegetation on such Property Owner's property for any disease or insect pest affecting or infesting such Vegetation in such a manner as to kill and control the disease or insect pest.

Sec. 48-39. Distance from curb and sidewalk.

Trees may not be planted closer to any curb or sidewalk than the following: small Trees, six feet; medium Trees, six feet; and large Trees, eight feet (with size of Trees using the information set out in the City Tree List).

Sec. 48-40. Distance from street corners and fire hydrants.

Trees may not be planted closer than 17 feet to any street corner, measured from the point of nearest intersecting radius of curb or curblineline. Trees may not be planted closer than 15 feet to any fire hydrant.

Sec. 48-41. Larval moths (bagworms).

Permitting or allowing the bags of the larval moth, commonly called "bagworms," to remain upon or attached to any Tree or other Vegetation within the City is declared to be a public nuisance.

Sec. 48-42. City's and City Tree Board's rights regarding Trees and Vegetation on private property.

(a) The City's right to prune on private property to ensure light. The City has the right to prune any Tree or Vegetation on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

(b) City and City Tree Board's right to order Tree removal. The City may remove or cause or order to be removed, any Tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. Further, the City Tree Board has the right to cause such Tree removal.

Secs. 48-43—48-53. Reserved.**ARTICLE IV. STANDARDS FOR LANDSCAPE SERVICE****Sec. 48-54. Compliance mandatory.**

It shall be unlawful and an offense for any person engaging in the Landscape Service business to engage in, operate or perform such Landscape Service in violation of this

Article. All persons performing Landscape Service in the City, whether for residents or businesses in the City or for the City, must comply with the following standards, which are the City's Code of Forestry Standards.

Sec. 48-55. Standards for pruning Trees.

(a) All final cuts made on Trees will be made flush with the remaining limb or trunk.

(b) All cuts will be painted with a wound dressing if over the size of one inch in diameter, and all cuts on the main limbs and trunks of Trees will be painted.

(c) Limbs which are too large to hold with the hand while sawing shall first be cut from one to two feet beyond the final cut. Such cuts shall include an under cut to prevent stripping and tearing of the bark.

(d) There shall be no removal of more than one-third of the Tree from the top downward, which type Tree branch removal is commonly referred to as dehorning. Dehorning of any Public Trees requires written permission from the City Tree Board.

(e) There shall be no complete thinning and removal of leaf branches from the center of the Tree so as to keep leaf branches on the ends of the main branches only, which type of cutting is commonly referred to as muletailing.

(f) There shall be no removal of lower limbs that adjoin the trunk of the Tree to more than one-third of the height of the Tree.

Sec. 48-56. Standards for filling Tree cavities.

(a) All tree cavities must be well drained so they will not catch water, will be open to air and avoid rotting and will not need filling. All cavities which need to be filled shall be filled with concrete or other approved compounds.

(b) All cavities filled in Trees shall be traced out in an elliptical design and shall run parallel with the grain of the wood.

(c) When filling a Tree cavity, all decayed matter shall be removed and the cavity cleaned out up to and beyond the healthy wood.

(d) All cavities shall be disinfected with a standard wood disinfectant prior to installing filling.

(e) All large size cavities shall be lip bolted a maximum of 12 inches apart.

(f) All filling containing cement shall not contain more than three parts sand to one part cement.

- (g) The concrete in all Tree cavities when finished shall be in sections.
- (h) All Tree cavities shall first be reinforced with nails, wire, etc., as needed to hold filling firm in the cavity.
- (i) The filling in all Tree cavities shall be installed with the outer edge of filling resting behind the cambium layer of the Tree.
- (j) All Tree cavities shall have a drain tube located at the lower edge of the cavity.

Sec. 48-57. Tree removals.

- (a) All large Trees shall be topped before felling.
- (b) When possible, Tree stumps shall be pulled over away from the street.
- (c) Large limbs shall be laid on the sidewalks and street to break the impact of the fall when pulling a Tree on the parking area toward the street.
- (d) All limbs, three or more inches in diameter shall be lowered by ropes or by other approved methods.

Sec. 48-58. Tree cabling and bracing.

- (a) Cables shall be used only to meet definite needs indicated by the existing condition of the Tree or by the nature of the environment.
- (b) Each cable shall be located and attached so that it serves its purpose as nearly independent of other cables as is possible.
- (c) As a general principle, cables shall be placed as high as approximately two-thirds of the distance between the crotch and branch ends.
- (d) The ends of a cable shall be attached to hooks or eyes of lags or bolts securely set in the branches in the line of pull on the attachments.
- (e) Rods to support a weak or split crotch shall be placed above the crotch and be supplemented by one or more cables above the midway point on the branches.
- (f) Nuts and washers on the ends of a rod shall be sufficiently countersunk, and the exit holes of woodscrew rods and bolts shall be reamed and otherwise treated to permit rapid healing of the area. All exposed bracing rods and pipe shall be completely covered with rustproofing material.
- (g) All cables shall be of a galvanized material of sufficient tensile strength to support the limbs to which it is attached.

Sec. 48-59. Tree Fertilizing.

(a) The use of Foliar applied elements for treatment of deficiencies are approved for use only when soil or other suitable tests indicate their need.

(b) The use of Foliar applied fertilizers may be used in lieu of or in combination with soil fertilizers if the chemicals contain nutrients needed for plant growth and are approved by the United States Department of Agriculture.

(c) The amount of fertilizer applied shall be based on the volume of vegetation which will be served and percentage of ingredients used.

Sec. 48-60. Insect and disease control.

A person hired to spray trees shall use only chemicals approved by the City Tree Board for control of insects and diseases. A list of approved chemicals shall be on file in the office of the City Clerk.

Sec. 48-61. Removal of Tree stumps.

All stumps of Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 48-62. Proper Precautions.

Proper precautions and safety measures to protect life and property must be taken at all times by all persons engaged in Landscape Service.

Secs. 48-63—48-72. Reserved.

**ARTICLE V. LANDSCAPE SERVICE REGISTRATION
REQUIREMENT AND PROCESS**

Sec. 48-73. Registration required.

It shall be unlawful and an offense for any person, on behalf of himself or for any firm or corporation, to solicit or engage within the City in the business or calling of Landscape Service unless and until such person has completed the registration process with the City as set out in Article XI of Chapter 8 of this Code. Further, each such person must file with the City Clerk evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. However, of any Crew of workers doing Landscape Service, only the person in charge, hereinafter designated as the foreman of the Crew, need be registered.

Sec. 48-74. Exam required.

In addition to registration, all persons seeking registration with the City as a Landscape Serviceman must satisfactorily pass an examination with a minimum grade of 70 percent. The examination shall be conducted by the City Clerk and shall be based upon the City's Code of Forestry Standards. There shall be a fee in the amount established in the City Fee Schedule for each examination taken by an applicant for registration.

Sec. 48-75. Requirements for Crew foreman.

Every Crew must have a foreman. It shall be the duty of the foreman to properly supervise and direct the work of the Crew of which he is in charge and he shall be responsible for any violations or infractions of the provisions of this Article committed by himself or any member of the Crew.

Sec. 48-76. Suspension or revocation.

In addition to the provisions for suspension or revocation of the registration certificate stated in Chapter 8 of this Code, the Code Official or his designee shall have the authority to suspend or revoke the registration of any Landscape Serviceman who does not comply with this Chapter, including the City's Code of Forestry Standards.

Secs. 48-77—48-87. Reserved**ARTICLE VI. LAWN AND LANDSCAPE IRRIGATION****Sec. 48-88. Purpose.**

Failure to implement certain lawn and landscape irrigation practices results in the waste of valuable water resources within the City, especially during high-demand summer months, and can create dangerous conditions in the winter. The purpose of this landscape water management regulation is to provide a consistent mechanism for preventing the waste and dangerous use of water resources supplied by the City in addition to the water use restrictions the City may impose under Section 46-54 of the Nichols Hills City Code.

Sec. 48-89. Rain and freeze shut-off and compliance with state regulations.

(a) Any new irrigation system installed on or after January 1, 2017, shall be equipped with rain and freeze shut off functions, which functions shall be in use.

(b) Any new irrigation system installed on or after January 1, 2017, shall be in compliance with state design and installation regulations.

Sec. 48-90. Lawn and Landscape Irrigation Systems: Water Use Management.

No person shall:

- (1) Overwater a lawn or landscape such that a constant stream of water overflows from the lawn or landscape onto a Street or other drainage area;
or
- (2) Allow water from an irrigation system to pond in a Street or Parking Lot to a depth greater than one inch.

Any violation of this Section is hereby declared a nuisance. Such nuisance or nuisances shall be corrected or abated by the Property Owner from which the water emanates. Any person who shall violate any of the provisions of this Section shall also be guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-17. The imposition of penalties hereby proscribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation of this Section.

Secs. 48-91—48-101. Reserved.

ARTICLE VII. ADMINISTRATION AND ENFORCEMENT

Sec. 48-102. Enforcement.

The provisions of this Chapter shall be enforced by the Code Official, and it shall be unlawful for any person to interfere with or hinder the Code Official and his/her duly appointed representative(s) in the exercise of their duties under this Chapter. Notwithstanding any provisions contained herein to the contrary, the Code Official and his/her duly appointed representative(s) are hereby granted the authority to issue immediate citations to persons violating any provision of this Chapter.

Sec. 48-103. Nuisance declared; violation.

Any condition of any Tree or Vegetation prohibited by this Chapter is hereby declared to constitute a nuisance. Any person who shall violate any of the provisions of this Chapter shall also be guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-17. The imposition of penalties hereby proscribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation of this Section as provided for in this Code.

Section 2. Section 8-5 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 8-5. Contractor defined.

Contractor as used in this ~~chapter~~ Code means any person who in the course of an independent occupation undertakes to do work in the City for another person. Contractors include electrical contractors, general contractors, gasfitting contractors, mechanical contractors, plumbing contractors, and subcontractors. Contractors also include all Landscape Servicemen as set out in Chapter 48.

Section 3. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 4. The provisions of this ordinance are severable and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 5. EMERGENCY SECTION. WHEREAS, in the judgment of the Council it is necessary for the preservation of the peace, health, welfare and safety of the City of Nichols Hills, Oklahoma, and of the inhabitants thereof that the provisions of this ordinance be put into full force and effect immediately, and therefore an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED by the Council of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2022.

APPROVED by the Mayor of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2022.

ATTEST:

Mayor

City Clerk

Reviewed as to Form and Legality:

City Attorney

Attachment: NH - Chapter 48, Vegetation ordinance 11.14.22-2.1 (6204 : Trees & Vegetation)

Published in _____ on _____, 2022

ORDINANCE NO. _____

AN ORDINANCE DELETING SECTION 50-133 OF THE NICHOLS HILLS CITY CODE AND REPLACING IT WITH A NEW DIVISION OF THE CODE REGARDING LANDSCAPING; REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NICHOLS HILLS, OKLAHOMA:

Section 1. Section 50-133 of the Nichols Hills City Code is deleted in its entirety and replaced with the following, with new language underlined, to wit:

Chapter 50 – Zoning

Article II, District Regulations

Division 8, Landscaping and Screening Regulations

Sec. 50-300. Definitions.

Caliper means diameter of a Tree trunk. The term “Caliper” is used for Trees less than 12 inches in diameter. For Trees less than four inches in diameter, it is measured six inches from the ground. For Trees between four inches and 12 inches in diameter, it is measured 12 inches from the ground.

Developed Area means the area of a Lot that is disturbed for the purpose of developing Structures, parking facilities, loading or storage areas, paved access to off-street parking or loading areas or other areas paved with an all-weather material, or Landscaped Areas.

Developer means the legal or beneficial owner of a lot or parcel or any land proposed for development or inclusion in a development.

Evergreen means a plant with foliage that persists and remains green year-round.

Groundcover means an Evergreen or deciduous planting 24 inches or less in height.

Irrigation System means a permanent underground piping and sprinkler head system designed using industry standard methods to provide uniform irrigation coverage over a Landscaped Area.

Landscape means the part of a Building's grounds consisting of structures, including patios, retaining walls, and walkways.

Landscape Plan means the preparation of graphic and written criteria, specifications, and detailed plans to arrange and modify the effects of natural and manmade features such as plantings, ground and water forms, circulation, walks, structures, and other features to comply with the provisions of Division XIII.

Landscaped Area means any area containing Trees, Shrubs, or Groundcover that are intended to meet the requirements of these regulations.

Mulch means an organic material such as seed hulls, pine needles or Tree bark used to control weed growth, reduce soil erosion, and reduce water loss.

Planting Plan means the preparation of graphic and written criteria of plant placement, plant specification of type, size and spacing, and other features to comply with the provisions of this Division for certain driveway and hardscape changes as provided for in Section 50-311 and for certain Accessory Buildings, Accessory Structures, and Accessory Uses as provided for in Section 50-312. The Planting Plan may be included in a site plan or other construction document.

Privacy Landscaping means Evergreen landscaping that is at least 12 feet in height at the time of planting and sufficiently spaced to provide effective privacy or such other landscaping that sufficiently addresses privacy concerns as determined by the Building Commission or the Code Official, as applicable.

Shrub means a living self-supporting woody deciduous or Evergreen species no less than eight inches in height, and no greater than 15 feet in height, that is ornamental and is full and attractive throughout the year.

Sight Triangle means the area of clear visibility required on a corner to allow for the safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting streets, driveways, alleys, sidewalks, and bicycle paths. For purposes of determining the required Site Triangle, all distances are to be measured using the curb or if none, along the pavement line. Sight Triangles are calculated by drawing a line along the curb or pavement edge to a point where said line intersects with a similar line on the intersecting street or drive; measuring from that point the required distance for the minimum Sight Triangle; and connecting the two lines at such point to create the base of the triangle.

Significant Tree means any existing Tree with a Caliper of six inches or greater, and in good health. Trees that are materially damaged or diseased will not be deemed to be Significant Trees.

Tree means a living self-supporting woody or Evergreen plant that normally grows to a minimum height of 15 feet, and which has one or several self-supporting stems or trunks and numerous branches.

Sec. 50-301. Purpose of the Landscaping and Screening Regulations.

The purpose of this Division is to establish definitions for landscaping regulations, establish general requirements applicable to all properties in the City, establish specific standards for one- and two-family residential properties, and establish specific standards for all other residential and nonresidential uses in the City.

The City recognizes the values of landscaping in achieving the following goals:

- a. Promote the enhancement of the City's urban forest;
- b. Promote the reestablishment of Vegetation in urban areas for health, ecological, and aesthetic benefits;
- c. Provide new planting in concert with natural vegetation and careful grading;
- d. Encourage the preservation of existing Trees, and especially Significant Trees;
- e. Establish and enhance a pleasant visual character and structure to the built environment, which is sensitive to safety and aesthetics issues;
- f. Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting properties;
- g. Unify development, enhance and define public and private places;
- h. Provide an overall planting scheme that will:
 - (1) reduce soil erosion and the volume and rate of discharge of stormwater runoff;
 - (2) aid in energy conservation by shading and sheltering structures from energy losses caused by weather and wind;
 - (3) mitigate the loss of natural resources;
 - (4) provide visual screens and buffers that mitigate the impact of conflicting land uses to preserve the appearance, character, and value of existing neighborhoods;
 - (5) provide shade, comfort, and seasonal color; and
 - (6) reduce glare, noise, and heat.

It is further recognized that good Landscaping increases property values, attracts potential residents and businesses to the City, and creates a safer, more attractive, and more pleasant living and working environment for all residents and visitors of the City.

These regulations are intended as minimum standards for Landscaping treatment. Owners and Developers are encouraged to exceed this standard in seeking more creative solutions, both for the enhanced value of their land and for the collective health and enjoyment of all citizens of the City.

Sec. 50-302. General landscaping and restrictions for all Zoning Districts.

All properties within the City must comply with the requirements in this Section regardless of Zoning District classification.

(a) Landscaping is required in all front yards. All front yards must be landscaped, except walkways, parking, pertinent equipment, drainage utilities, and other allowed hardscape. Such landscaping must consist of a combination of living vegetation, such as Trees, Shrubs, grasses or Groundcover materials, planted and maintained or preserved as existing natural vegetation areas.

(b) Landscape is required in all visible side yards. Side yards that are visible from a street or any public way must be landscaped. Not only do they have a visual responsibility to the street, but they are the place where impacts on neighbors must be managed. When designing projects, consideration should be given to neighboring residences and their use of outdoor spaces. Landscaping should be placed to help create a sense of separation and privacy. Equal care should be given to consideration of sunlight and views. Placement of landscaping elements should not substantially disrupt existing patterns.

(c) Landscape of the public right-of-way is required. Property owners in all Zoning Districts are responsible for landscaping the area within the street right-of-way between the curb-line and the property line. The type and location of vegetation must not interfere with utilities and the safe and efficient flow of street traffic. No vegetation, except Groundcover and turf, may be planted within three feet of a fire hydrant or above-ground traffic control box.

(d) Non-paved areas and non-built Developed Areas must be covered with vegetation. Lawn-quality sod, Evergreen or deciduous Groundcovers, beds with plantings or Mulch must cover all non-paved and non-built Developed Areas.

(e) Hardscape restrictions. Hardscape installed in the Landscape must meet the restrictions set out in Section 50-304.

(f) City Tree List. The City Tree List of suggested tree species and discouraged tree species for planting in the City is set out in Section 48-2 of this Code.

(g) *Prohibited Trees.* Planting certain Trees is prohibited as set out in Section 48-3 of this Code.

(h) *Artificial turf and synthetic plants.* Artificial turf and all forms of synthetic fibers meant to look like natural grass and all synthetic plants are prohibited in the front yards of Dwellings in the Residential Zoning Districts. Artificial grass and all forms of synthetic plants are prohibited in all landscapes in the Church District, the Office District, and the Retail Business District. This restriction does not apply to manholes which may be covered with artificial turf or other synthetic fibers meant to look like natural grass.

(i) *Minimum Sight Triangles may not be reduced.* Nothing in this Division permits reduction of required Minimum Sight Triangles. The minimum Sight Triangles are 25 feet for street intersections and 20 feet for all driveways and alley access points. Plantings within a required Site Triangle may not exceed a height of 24 inches.

(j) *Distances from curbs and sidewalks; street corners and fire hydrants.* Trees must be planted no closer than the permitted distances to curbs, sidewalks, street corners, and fire hydrants, as set out in Section 48-39 and Section 48-40 of this Code.

(k) *Significant Trees should be preserved and protected.* The City encourages the preservation of Significant Trees. Property owners should take all steps necessary to reasonably preserve and protect Significant Trees.

(l) *Chapter 48 Standards for Landscape Service.* Landscape Servicemen must perform work in compliance with the Standards for Landscape Service set out in Chapter 48 which include standards for Tree and Vegetation care. All Owners are further encouraged to utilize such standards when caring for their Trees and Vegetation.

(m) *Privacy Landscaping.* In addition to the requirements for Privacy Landscaping that may be required by the Building Commission in its review process, the Code Official is authorized to require Privacy Landscaping to address privacy concerns raised by adjoining property owners.

(n) *Required sod after Building removal or demolition.* Lawn-quality sod must be installed, watered, and maintained after removal or demolition of a Building in compliance with Section 8-380 or Section 50-132, as applicable.

Sec. 50-303. Screening requirements for outdoor storage and service areas.

Outdoor storage and service areas that are visible from a street or any public way must be screened with landscaping or fencing. Screening must consist of one or both of the following methods:

- (a) *Evergreen Shrubs that will reach a mature height of at least five feet and spaced in a manner to achieve a consistent visual screen.*

- (b) An opaque wall or fence.

Sec. 50-304. Hardscape restrictions.

(a) Front yard hardscape. No hardscape is permitted in the front yard of a Dwelling other than a maximum of two entrance drives and if applicable, a City-provided sidewalk. A circular drive may not encroach on the right-of-way except at the two street access points.

(b) Rear yard hardscape. No more than ____ % of the rear yard may be covered with hardscape. **[TBD]**

(c) Hardscape in the rights-of-way. The public right-of-way may not be hardscape surfaced, other than a permitted driveway or sidewalk; and these areas may not be used for parking, including inset parking (meaning a vehicle parking area created by removal of a curb or extending the width of the street surface along the frontage of a property to permit parking or standing of vehicles, including parallel, perpendicular and angled configurations) or display in any Zoning District.

Sec. 50-305. Landscape maintenance requirements for all Zoning Districts.

All properties within the City must comply with the requirements in this Section regardless of Zoning District classification. In addition to the applicable requirements regarding property maintenance set out in Chapter 8, it shall be the responsibility of property owner(s) to:

(a) Maintain Trees and Vegetation as set out in Chapter 48 of this Code, including keeping overhead lines, utility lines and traffic ways clear and keeping Trees and Vegetation from overhanging Streets and interfering with light and visibility as set out in Section 48-35 and Section 48-36.

(b) Cause all Landscape Service to be performed by Landscape Servicemen in compliance with the Standards for Landscape Service and other requirements set out in Chapter 48 of this Code.

(c) Remove all dead, diseased or dangerous Trees or Shrubs within 30 days and remove all storm-destroyed Trees within 30 days of the storm occurrence in accordance with Section 48-37.

(d) Treat all diseased or insect infested vegetation, as required by Section 48-38.

(e) Keep all Trees and other vegetation free of bagworms, as required by Section 48-41.

(f) Maintain and keep all sight-proof screening and fencing in good repair at all times.

(g) Maintain landscaping by keeping lawns mowed, all plants properly groomed and maintained as disease-free, and all planting beds groomed.

(h) Maintain all plant material in compliance with the minimum requirements of this Division, in a healthy condition at the time of planting.

(i) Replace any planting(s) that were necessary to meet the requirements for a Certificate of Approval from the Building Commission or a Building Permit that are removed, diseased, or are no longer living, within one year or in the first planting season, whichever occurs first, except those in naturally occurring dense growths of Shrubs or undergrowth that were not disturbed during construction.

(j) Maintain lawn-quality sod, other Groundcovers, and/or planting beds with all planting installed and/or Mulch on all non-paved and non-built Developed Areas. Turf grass must be planted, seeded or re-seeded as necessary, watered and maintained in such a manner as to completely cover all exposed areas of soil after one full growing season.

(k) Maintain all required Privacy Landscaping installed to address privacy concerns as to adjoining properties.

Sec. 50-306. Rights of Public Utility Companies and the City.

Nothing in this Division affects in any way the rights of, or exercise by, any Public Utility or City department of its present and future acquired rights to clear Trees and other growth from lands used by the public utility or the City. The utility shall cooperate and coordinate with the property owner when clearing or pruning in the rights-of-way or easements on or adjacent to the property.

Sec. 50-307. Landscaping requirements for construction in the one- and two-family residential zoning districts.

Construction in the E-1 Estate District, the E-2 Urban Estate District, the R-1-75 Single-Family Residential District, the R-1-60 Single-Family Residential District, and the R-2 Two-Family Residential District that requires a Certificate of Approval from the Building Commission must meet the applicable requirements and restrictions set out in Section 50-167 and the provisions applicable for the project set out below.

(a) Requirements related to construction of new Main Buildings and Secondary Buildings. All construction of new Main Buildings and new Secondary Buildings must include landscaping in the front yard and side yards as an integral part of its design set out in a Landscape Plan meeting the requirements of Section 50-310. Privacy Landscaping may also be required in the rear yard to address privacy concerns. All such projects must be landscaped with Trees, Shrubs, and green areas meeting the requirements set out in this Division.

(b) Requirements related to construction of Additions.

(1) Additions in front and side yards. All construction of Additions in the front yard and side yard must include landscaping in the front yard and side yards as an integral part of its design set out in a Landscape Plan meeting the requirements of Section 50-310; provided however, such additional landscaping for an Addition may not be required if the property meets or exceeds the required Landscape Points. In order to make a recommendation whether additional landscaping will be required for such projects, the Code Official will coordinate a meeting with two Building Commissioners, at which meeting the Commissioners will offer a recommendation as to whether the City should require additional landscaping for the proposed Addition. The Code Official will consider such recommendation in making a determination and instruct the applicant accordingly.

(2) Additions in rear yards. If construction of a rear yard Addition will be visible from a street or any public way, it must include landscaping in the rear yard as an integral part of its design set out in a Landscape Plan meeting the requirements of Section 50-310. Otherwise, additional landscaping for rear yard Additions is not required.

(c) Required Landscape Points. The Landscape Plan required by this Section must meet or exceed 33 Landscape Points for every 1000 square feet of front yard and side yard, with a minimum of 300 Landscape Points. Landscape Point values are set out in Section 50-308. For the purpose of determining the required number of Landscape Points, the following apply for calculation:

- (1) The front yard and side yard square footage includes all paving and hardscape.
- (2) The area between the curb and the lot line is treated as Landscaped Area.

In creating the Landscape Plan, the applicant should: (1) calculate the required Landscape Points for the project; (2) determine the percentages and location of plantings, quantity, type, and size of plant materials needed to meet the Landscape Point requirements; (3) develop a Landscape Plan that meets the Landscape Point requirements and that shows the calculation of those Landscape Points on it. The City has available a calculation sheet available for assistance in calculating Landscape Points. In addition, the Nichols Hills Building Commission Building Demolition, Design, and Construction Guidelines contain several examples of Landscape Points for the single-family and two-family residential districts.

(d) Tree requirements. A minimum of one Tree with a minimum Caliper of three inches is required for every 2000 square feet of front yard and side yard. Such Trees will count toward the required number of Landscape Points. Existing trees, including

Significant Trees, in the rear yard may not be counted toward the required Landscape Points.

(e) Existing Significant Trees. Significant Trees should generally be preserved and protected. The Developer will be required to provide an acceptable rationale for the proposed removal of any Significant Trees on the property.

- (1) Landscape Points available. In order to encourage the preservation of the City's older Trees, credits toward the required Landscape Points may be claimed for any Significant Tree located in the front yard or side yard that will be preserved through protection from possible impacts of construction. No more than 50% of the required Landscape Points may be attributed to Significant Trees. Significant Trees in the rear yard may not be counted toward Landscape Points. However, efforts should be made to retain any Significant Trees in the rear yard and to maintain their health during any construction, as required by Section 50-167(12).
- (2) Significant Tree health. In its discretion, the Building Commission may require a report from a qualified professional (i.e. Urban Forester, Certified Arborist) following guidelines established by the International Society of Arboriculture that any Significant Tree claimed for credits toward the required Landscape Points is in good health.
- (3) Significant Trees in the Right-of-Way. No more than 25% of the total points for Significant Trees may be located within the public rights-of-way.
- (4) Site Plan and Significant Tree protection requirements. All Site Plans must clearly show any Significant Trees that are intended to be preserved and state how the Trees will be impacted and protected during construction. The Building Commission may require that any Significant Trees be preserved and protected during the construction process.
- (5) Significant Trees that later die. Any Significant Tree claimed for Landscape Points that dies during construction or as a result of construction, must be replaced with a Tree (or Trees) to equal or exceed the point of value of the lost Tree.

(f) Privacy Landscaping to address privacy concerns. The Building Commission may require Privacy Landscaping in all parts of a project, including the rear yard, to address privacy concerns. Privacy Landscaping required by the Building Commission will not be counted toward the required number of Landscape Points.

(g) Irrigation Systems. Irrigation Systems in compliance with Chapter 48 are required for all construction of Main and Secondary Buildings and Additions to Main and Secondary Buildings (except Minor Additions).

(h) *Combination of plantings.* Most any combination of plantings may be used to obtain the necessary number of Landscape Points provided that such combination otherwise complies with this Division. Different lots and landscapes will lend themselves to different types of plantings. The Building Commission encourages creativity and diversity in landscaping.

(i) *Landscaping installation required for occupancy.* The City will not issue a Certificate of Occupancy for a Structure until landscaping and the Irrigation System have been installed in accordance with the filed Landscape Plan; provided, however, that if a Structure and all its site improvements are complete except for the landscaping requirements and the season of the year will not permit planting, temporary occupancy may be permitted until a date certain in the growing season. In such case, the City will set a future inspection date to determine that the landscaping has been installed for issuance of a permanent Certificate of Occupancy.

Sec. 50-308. Landscape Point values for new construction in the one- and two-family residential zoning districts.

Following are the Landscape Point Values for various plantings. The City Tree List, set out in Section 48-2, provides a list of small, medium, and large Trees suggested for planting in the City.

<u>LANDSCAPE POINT VALUES FOR VARIOUS PLANTINGS</u>			
<u>Type of Plant Material</u>	<u>Minimum Size (at time of planting)</u>		<u>Point Value</u>
	<u>Deciduous Trees</u>	<u>Evergreen Trees</u>	
<u>Large Tree</u>	<u>8-inch or greater Caliper</u>	<u>22 ft. and over</u>	<u>26</u>
	<u>7-inch Caliper</u>	<u>19—21 ft. height</u>	<u>24</u>
	<u>6-inch Caliper</u>	<u>16—18 ft. height</u>	<u>22</u>
	<u>5-inch Caliper</u>	<u>13—15 ft. height</u>	<u>20</u>

	<u>4-inch Caliper</u>	<u>11—12 ft. height</u>	<u>18</u>
	<u>3-inch Caliper</u>	<u>9—10 ft. height</u>	<u>15</u>
<u>Medium Tree</u>	<u>2-inch Caliper</u>	<u>7—8 ft. height</u>	<u>12</u>
<u>Small Tree</u>	<u>Single Trunk: 1-inch Caliper</u>	<u>5—6 ft. height</u>	<u>9</u>
<u>Ornamental Tree</u>	<u>Multiple Trunk (minimum 3 trunks): Smallest trunk 1-inch Caliper</u>	<u>5—6 ft. height</u>	<u>9</u>
<u>Large Shrub/Perennial</u>	<u>5 gallon and 24-inch height at planting</u>		<u>3</u>
<u>Medium Shrub/Perennial</u>	<u>3 gallon and 12-inch height at planting</u>		<u>2</u>
<u>Small Shrub/Perennial</u>	<u>2 gallon and 8-inch height at planting</u>		<u>1</u>
<u>Groundcover/Perennial</u>	<u>1 gallon 4-inch pots</u>		<u>1/2 1/4</u>
<u>Existing Significant Tree</u>	<u>6-inch Caliper (Guideline B-8.10 Existing Tree Credits)</u>		<u>22 to 50</u>

- A minimum of 25 percent of required Landscape Points must be used for Evergreen plantings.
- A maximum of 15 percent of required Landscape Points may be used for perennial plantings.
- A maximum of 50 percent of required Landscape Points may be attributed to Significant Trees in the Developed Area.

Landscape points may be applied for each existing Significant Tree of the following sizes:

<u>POINTS FOR EXISTING SIGNIFICANT TREES</u>	
<u>SIZE</u>	<u>LANDSCAPE POINTS APPLIED</u>
<u>6 inch Caliper</u>	<u>22</u>
<u>7 inch Caliper</u>	<u>24</u>
<u>8 inch to 10 inch Caliper</u>	<u>26</u>
<u>10.1 inch Caliper to 15 inch DBH</u>	<u>30</u>
<u>15.1 inch to 20 inch DBH</u>	<u>35</u>
<u>20.1 inch to 25 inch DBH</u>	<u>40</u>
<u>Over 25 DBH</u>	<u>50</u>

DBH = diameter at breast height

Sec. 50-309. Landscaping requirements for new construction in the Multiple-Family Residential Zoning District and the Commercial Zoning Districts.

In addition to meeting the applicable requirements and restrictions set out in Section 50-167, all construction in the R-3 Multiple Family Residential Zoning District, the U-4 Church District, the C-1 Office District, and the C-2 Retail Business District that requires a Certificate of Approval from the Building Commission must include landscaping as an integral part of its design. Privacy Landscaping may also be required in the rear yard to address privacy concerns. All such projects must be landscaped with Trees, Shrubs, and green areas according to the following standards.

(a) Required area to be landscaped. The public right-of-way between the property line and the curb and not less than six percent of the total area of the lot must be landscaped. At least 75 percent of the required Landscaped Area must be in the front yard or side yards and visible from a street or any public way providing access to the property.

(b) Landscape Plans required. Each application for a Certificate of Approval from the Building Commission and for a Building Permit must be accompanied by a Landscape Plan meeting the applicable requirements of Section 50-310.

(c) *Required Landscape Points.* The Landscape Plan must meet The City of Oklahoma City's planting requirements (including frontage Tree requirements) and the required number of points (including site points and parking lot points, as applicable).

(d) *Existing Significant Trees.* Significant Trees should generally be preserved and protected. All Site Plans must clearly show any Significant Trees that are intended to be preserved and state how the Trees will impacted and protected during construction. The Developer will be required to provide an acceptable rationale for the proposed removal of any Significant Trees on the property. The Building Commission may require that any Significant Trees be preserved and protected during the construction process.

(e) *Privacy Landscaping to address privacy concerns.* The Building Commission may require Privacy Landscaping in all parts of a project, including the Rear Yard, to address privacy concerns. Privacy Landscaping required by the Building Commission will not be counted toward the required number of Landscape Points.

(f) *Irrigation Systems.* Irrigation Systems in compliance with Chapter 48 are required for all construction of Main and Secondary Buildings and Additions to Main and Secondary Buildings (except Minor Additions).

(g) *Gravel and chat prohibited.* The use of gravel or chat as Groundcover is prohibited.

(h) *Landscaping installation required for occupancy.* The City will not issue a Certificate of Occupancy for a Structure until landscaping and the Irrigation System have been installed in accordance with the filed Landscape Plan; provided, however, that if a Structure and all its site improvements are complete except for the landscaping requirements and the season of the year will not permit planting, temporary occupancy may be permitted until a date certain in the growing season. In such case, the City will set a future inspection date to determine that the landscaping has been installed for issuance of a permanent Certificate of Occupancy.

Sec. 50-310. Specifications for Landscape Plans.

Landscape Plans must be prepared by a qualified landscape architect or landscape designer and must meet the applicable required number of Landscape Points. Landscape Plans must include the following information:

- (a) The address of the property and its owner.
- (b) The name, address, and contact information of the landscape architect or landscape designer that prepared the Landscape Plan.
- (c) North arrow and scale.

(d) The location of existing property lines and dimensions of the tract, accurately drawn to scale.

(e) Exact locations and outline of all rights-of-way.

(f) The location of all existing and proposed buildings, and parking areas, if any, including the exact number of parking spaces provided.

(g) The location and size of any permanent fixture or structure including sidewalks, walls, fences, trash enclosures, project storage, lighting fixtures, signs, and benches, that are relevant to the Landscape Plan.

(h) The location, size, and type of all above-ground and underground public utilities with notation, where appropriate, as to any safety hazards to avoid during installation of landscaping. Alternatively, a letter of no objection provided by the utility company may be required.

(i) The location, size, type, spacing (on center), and quantity of all proposed plant materials and existing plant materials credited for points must be graphically represented and referenced on the plan by a common name and/or scientific name or an appropriate key of all plant species.

(j) The method of irrigation and area of coverage must be indicated.

(k) All screening required by this Code.

(l) A table listing the square footage of the front and side yards and all plant materials by scientific and common name, size, type, quantity, and point value and totals.

(m) Identification of any Sight Triangles at intersections and all other elements related to traffic control required by this Code.

(n) Calculation of required Landscape Points.

Sec. 50-311. Planting Plans required for certain driveway and hardscape changes.

For construction of an addition to or modification of a driveway or hardscape on that part of a Lot that abuts a street, the application for a Building Permit must be accompanied by a Planting Plan which includes graphic and written criteria of plant placement, plant specification of type, size and spacing, and other features to comply with the provisions of this Division. The Planting Plan will be reviewed as part of the Building Permit review processes. A Building Permit will not be issued until the Planting Plan has been reviewed, approved, and made a part of the Building Permit file.

Sec. 50-312. Planting Plan required for certain Accessory Buildings, Accessory Structures, and Accessory Uses.

For construction of Accessory Buildings, Accessory Structures or Accessory Uses when such Accessory Building, Accessory Structure or Accessory Use is proposed to be located in the rear yard such that it will be visible from a street or any public way, the application for a Building Permit must be accompanied by a Planting Plan for the area between the structure and the abutting property lines showing landscape treatment of the structure that will buffer and mitigate its visual impact on the abutting properties. The Code Official may require additional Privacy Landscaping to address privacy concerns related to construction of the Accessory Building, Accessory Structure or Accessory Use.

Sec. 50-313. Landscape Plans required for residential Planned Unit Developments and developments containing two or more single-family dwellings or duplexes.

A Landscape Plan is required for all new residential Planned Unit Developments and any development, subdivision or lot split that creates building sites for two or more single-family or two-family Dwellings. The Landscape Plan may be divided into a master plan for the total area plus submittal of specific Landscape Plans for individual properties with the application for a Building Permit.

Sec. 50-314. Enforcement of landscaping regulations.

The provisions of this Division shall be enforced by the Code Official, and it shall be unlawful for any person to interfere with or hinder the Code Official and his/her duly appointed representative(s) in the exercise of their duties under this Division. Notwithstanding any provisions contained herein to the contrary, the Code Official and his/her duly appointed representative(s) are hereby granted the authority to issue immediate citations to persons violating any provision of this Division.

Sec. 50-315. Nuisance declared; violation.

Any landscape maintained in a manner that is prohibited by this Division is hereby declared to constitute a nuisance. Any person who shall violate any of the provisions of this Division shall also be guilty of an offense, and upon conviction thereof, shall be pushed as provided in Section 1-17. The imposition of penalties hereby proscribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation of this Section as provided for in this Code.

Secs. 50-316—50-330. Reserved.

Section 2. Section 50-188 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-188. Building permits.

(c) *Procedures.* Application for a Building Permit shall be made with the Director of Public Works on forms provided by the City. The applicant must have first obtained a Certificate of Approval from the Building Commission for the proposed construction if required by Article V of this Chapter. Administrative review of the application shall begin upon submittal of the complete application and the required application fee. To be considered complete, the following supporting information must accompany the application.

- (1) *For single-family and two-family dwellings.*

- e. ~~A planting plan showing conformance with the landscaping requirements of this chapter.~~ A Landscape Plan as required by Division 6, Article II of this Chapter.

- (2) *For multifamily (three or more), commercial, and public buildings, and all public and private institutional development.*

- c. Two copies of a plot plan, drawn to scale, showing the following information on one or more sheets:

- 5. ~~A landscaping plan showing conformance with the landscaping requirements of this chapter.~~ A Landscape Plan as required by Division 6, Article II of this Chapter.

Section 3. Section 50-372 is hereby amended, with deleted language stricken through and new language underlined, to wit:

Sec. 50-372. Application for Certificate of Approval.

Applications for Certificates of Approval shall be filed with the City on forms provided by the City Clerk. Two originals and a digital version of the application and all required documents must be submitted. Applications must be certified by the owner(s) of the property. The following attachments (the details for which are stated in the application form), and all other information required by the application form, must accompany the application:

(b) For construction of a new Main or Secondary Building, or construction of an Addition to an existing Main or Secondary Building:

- (7) ~~For new Main or Secondary buildings, a landscaping or planting plan as required by section 50-133. For additions to main or secondary buildings, a landscaping plan or planting plan, as applicable, is required if changes to existing conditions are to be made.~~ A Landscape Plan as required by Division 6 of Article II of this Chapter.

Section 4. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5. The provisions of this ordinance are severable and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 6. EMERGENCY SECTION. WHEREAS, in the judgment of the Council it is necessary for the preservation of the peace, health, welfare and safety of the City of Nichols Hills, Oklahoma, and of the inhabitants thereof that the provisions of this ordinance be put into full force and effect immediately, and therefore an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED by the Council of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2022.

APPROVED by the Mayor of the City of Nichols Hills, Oklahoma, on the _____ day of _____, 2022.

ATTEST:

Mayor

City Clerk

Reviewed as to Form and Legality:

City Attorney