RESTRICTIVE COVENANT MODIFICATION AGREEMENT

JL-6-84 4933 * 77.00

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

3-75-5864

This Agreement, made on the date last shown below, by and among the undersigned parties;

WHEREAS, Frankie Glass of Travis County, Texas is the owner of the following described property, to wit:

> Lots No. 14, 15, and 16 of Oak Acres, a subdivision in Travis County, Texas, of record at Page 24, Book 5 of the Plat Records of Travis County, Texas; and Lots No. 9A, 10A, and 10B, of a resubdivision of Oak Acres, a subdivision in Travis County, Texas, of record at Page 91, Book 9 of the Plat Records of Travis County, Texas; and

WHEREAS, the above described property and Lots No. 1A through 8B, Lots No. 17 and 18, and Lots No. 23 through 49 of the Oak Acres Subdivision (hereinafter called "Oak Acres") are impressed with certain covenants and restrictions by instrument recorded in Volume 1786, Page 329, Deed Records, Travis County, Texas and amended by the following instruments: Vol. 1846, Page 537, Deed Records, Travis County, Texas; Vol. 1848, Page 37, Deed Records, Travis County, Texas; and Vol. 2134, Page 126, Deed Records, Travis County, Texas; and

WHEREAS, Frankie Glass desires a modification of the aforementioned covenants and restrictions to allow certain types of commercial use of Lots 9A, 10A, 10B, 14, 15, and 16 of the Oak Acres Subdivision; and

WHEREAS, a drainage easement containing a dry weather creek creates a natural barrier between lots 9A, 10A, 10B, 14, 15, and 16 and the interior neighborhood; and

WHEREAS, Lots 9A, 10A, 10B, 14, 15, and 16 have never been developed residentially; and

WHEREAS, the configuration created by combining lots 9A, 10A 10B, 14, 15, and 16 abuts U. S. Highway 290 and can be accessed therefrom without entry onto any interior street in the Oak Acres subdivision; and

REAL PROPERTY RECORDS
Travis County, Texas

WHEREAS, the owner of lots 9A, 10A, 10B, 14, 15, and 16 has agreed to create additional landscape buffers and fencing that will further create a separation of these lots from the neighborhood; and

WHEREAS, the owners of lots in Oak Acres insist, for now and all time, to retain the residential character of the remaining lots in Oak Acres, to wit: Lots No. 1A through 8B, Lots No. 17 and 18, and Lots No. 23 through 49; and

WHEREAS, for the above stated reasons, the configuration of Lots 9A, 10A, 10B, 14, 15, and 16 are unique and distinct from the remaining lots in Oak Acres impressed with the above-referenced Restrictive Covenants; and

WHEREAS, the aforementioned covenants and restrictions may be amended by a vote of a three-fourths majority of the then owners of the said lots of Oak Acres impressed with the above-referenced Restrictive Covenants; and

WHEREAS, the lot owners in Oak Acres listed in the attached Exhibit "A" which is made a part hereof for all purposes constitute at least three-fourths (3/4) of the landowners whose lots are impressed with the above-mentioned Restrictive Covenants; and

NOW THEREFORE, the landowners in Oak Acres whose lots are impressed with the above referenced Restrictive Covenants, for and in consideration of the mutual promises, covenants, and agreements of the parties hereto and in compliance with the above-mentioned Restrictive Covenants, hereby amend said Restrictive Covenants as they apply only to Lots 9A, 10A, 10B, 14, 15, and 16. Lots 9A, 10A, 10B, 14, 15, and 16 hereinafter referred to as "the Property," shall be held, sold, and conveyed subject to the following restrictions and covenants, which are for the purpose of allowing certain types of commercial development on the Property and protecting the residential value and character of Lots 1A through 8B, Lots 17 and 18, and lots 23 through 49 of Oak Acres, and said restrictions and covenants shall run with the land and shall be binding on all parties and their heirs, successors, and assigns having any right, title, or

interest in the Property or any part thereof, and each restriction and covenant shall inure to the benefit of each lot owner whose lot is impressed with the above-referenced Restrictive Covenants.

1.01. Residential Improvements. No building shall be constructed, placed or permitted to remain upon any lot nearer than 50 feet to the street on which the lot faces, nor shall any dwelling house be constructed nearer than 9 feet to the side property line. No structure containing less than 1,800 square feet of floor area exclusive of attached garages, breezeways and porches shall be constructed, placed or permitted to remain on any lot. Said dwelling house shall be of frame or better design, shall be of one story construction and of no more than twenty feet in height and shall have a brick or masonry exterior appearance. Not more than one dwelling house shall be erected on any one lot as shown on the plat for this subdivision. No garage or other facilities except for the principal dwelling house shall be used for residential purposes. No duplexes, mobile homes, apartments, garage apartments, condominiums, townhouses, or any other multi-family structure shall be permitted on the Property. No dwelling house or structure shall be moved onto the Property. No commercial activity shall take place in conjunction with a residential use of the Property.

1.02 No sod, earth, sand, gravel or stone shall be removed from the Property to be sold or to the injury of the value or appearance of the Property for residential use.

2.01. Prohibited Uses. None of the following uses shall be allowed on the Property: trailer courts; automobile, truck, motorcycle, boat, trailer, or tractor servicing, repairing, storage, or fueling; car washes; body shops; restaurants; food preparation, dispensing or catering facilities; lounges, night clubs or meeting halls where alcohol is sold, consumed, or served; laundry; cloths, rugs, or curtains to be cleaned on the premises; no dyeing activites; video game arcades, pool halls, or amusement facilities; dog kennels, stables or veterinary clinics; photographic developing facilities except as provided in paragraph 3.01; facilities used by the United States Postal

Service, United Parcel Service, or any other similar type operation; massage parlors; adult cinema theatres; nude modeling; storage units or facilities; industrial refining or manufacturing facilities; taxi or any type of dispatch offices; new or used car, motorcycle, trailer, or recreational vehicle dealerships; new or used boat dealerships; drive through banking facilities; drive-through facilities of any type; automatic banking machines; community buildings; day care centers; flea markets; bakeries; grocery stores, meat markets; studios for dance, television, filming, and music; cleaners, washaterias or self-service laundries; saw filing; lawnmower sharpening; motels, hotels, and churches; reducing studios; maternity homes; drive-in theatres, motion pictures theatre; soft drink stands; ambulance service; car washes; frozen food lockers; skating rinks; firecracker stands; wrecking yards, wrecker services; flea markets; sheet metal shops; lumberyards; funeral homes; and bowling alleys. No livestock shall be permitted on the Property.

3.01. Permitted Commercial Uses. Permitted commercial uses shall be limited to retail and office use and parking for retail and office uses located on the Property. No retail activity shall take place on Sunday. Retail activities shall primarily take place only between the hours of seven (7) a.m. and eight (8) p.m. Commercial uses shall be limited to the following:

a) An office for the conduct of the professional and semi-professional occupations of architect, engineer, surveyor, lawyer, personal or family counselor, public secretary, insurance agent, accountant, real estate agents, dentist, physician, surgeon, physical therapist (not to include a massage business), barber, cosmetologist, hairdresser or manicurist;

b) Studios for art, drama, photography, and interior decorating;

c) Rental library or book, stationery, stamp or coin collector's shops;

d) Gift, glass, china, fabric, art object, including antiques, or retail florist shops;

e) Seamstress, dressmaker or tailor shops (excluding cleaning);

f) Art galleries;

g) Office or headquarters for associations of businesses, trades, professions, or industries;

h) Dental and medical clinics;

i) Business machine display, sales and rental; and instant printing-copy duplicating service (excluding blueprint and lithograph type service);

j) Service and repair of office or business machines;

k) Employee or customer training facilities;

l) Facilities for data processing and computing;

m) Banks, wholesale sales offices and sample rooms;

o) Camera shops and photographic supplies;

p) Drugstores, candy and tobacco shops;

q) Jewelry and optical goods;

r) Nurseries and greenhouses;

s) Shoe repair shops;

t) Variety shops;

u) Wearing apparel shops;

v) Aquariums, bird and pet shops;

w) Craft and hobby shops, bicycle repairs;

x) Department stores, sporting goods, novelty or toy shops;

y) Electrical goods: Electronic wholesale distributors subject to the following limitations:

(1) The distributor's place of business shall have no more than ten thousand (10,000) square feet of floor area.

(2) Sales by such distributor of household merchandise (as opposed to industrial merchandise) shall constitute at least eighty (80) percent of the business of such establishment.

z)) Electrical repairing (household appliances);

aa)) Furniture repairs and upholstering, with all storage, actual repair work, and display within the building;

bb) Hardware, paint, and wallpaper stores;

cc) Household and office furniture, furnishing and appliances;

8683 507

dd) Piano, musical instrument, record, tape, and stereo stores which do not produce a noise level in excess of fifty (50) dB(A) at any property line (the "A" scale shall be used for reference);

ee) Plumbing shops without warehouse facilities (to include store for ordinary repairs but not storage of materials for contracting work);

ff) Seed stores;

4.01. Commercial Improvements. No commercial buildings shall be constructed on the Property except within the "L" shaped building foot print shown on the site plan which is attached hereto and made a part hereof for all purposes, and marked Exhibit "B." Parking is specifically prohibited between any commercial building and Oak Blvd. and between any commercial building and the drainage easement. Any commercial building constructed on the Property shall face South toward Highway 290 and shall not exceed two stories or a height of twenty-eight (28) feet. No commercial building shall have wooden or metal exterior walls. No commercial building shall have windows on the second floor which face the drainage easement or Oak Blvd. All commercial buildings shall be constructed behind the 50-foot building-set-back lines shown on the attached Exhibit "B." No public address system shall be allowed which produces a noise level in excess of fifty (50) dB(A) at any property line (the "A" scale shall be used for reference).

4.02. Six to eight foot privacy fences shall be constructed on the northern and western sides of the Property at a location to be determined in accordance with paragraph 6 below, and, in any event, said fences shall be located between Oak Blvd. and the most western wall(s) of commercial structure(s) and between the drainage easement and the most northern wall(s) of commercial structure(s). Said fences shall be constructed at the same grade as the commercial structure(s).

4.03. No driveway, impervious cover or parking shall be allowed between the drainage easement and the most northern wall(s) of

commercial structure(s) or between Oak Blvd. and the most western wall(s) of commercial structure(s) constructed on the Property, save and except for a five (5) foot wide sidewalk which can be built along the north and west side of the structure(s). Said sidewalks shall be constructed inside the fences required by this Paragraph so as to be not seen from Oak Blvd. or the most northern property line of the Property. No vehicular traffic shall be allowed between the structure(s) and the drainage easement or between the structure(s) and Oak Blvd. except for emergency vehicles.

4.04. The owner or owners of the Property shall make every effort possible to have wastewater service provided from City of Austin water and wastewater mains located on the southern side of Highway 290, but all said water and wastewater connections shall be made where required by the City of Austin.

5.01. Site Plan Restrictions. Commercial development on the Property shall be subject to the following restrictions which are more fully described in the attached Exhibit "B":

a) The trash bin shall be placed only at that location indicated in Exhibit "B" by reference to the northern and eastern property lines or further south along the adjacent east property line.

b) The entrance/driveway on to Highway 290 shall be no closer to Oak Blvd. than shown in Exhibit "B" by reference to the western property line with the final location of said entrance/driveway to be subject to approval by the Texas Highway Department.

c) The site plan notes in Exhibit "B" are fully incorporated into and are made a part of these Restrictive Covenants for all purposes.

Unless specifically referenced in this paragraph or Paragraph 4, the attached Exhibit "B" shall not bind or restrict the Property in any way.

6.01. Landscaping. Any landscaping planned in connection with commercial uses shall be subject to the prior approval of the Oak Acres Neighborhood Group. The Oak Acres Neighborhood Group shall consist of not more than five landowners selected by the Oak

Acres Neighborhood Association. Said Oak Acres Neighborhood Group shall be authorized to represent the Oak Acres Neighborhood Association in approving any landscape plans or landscape alterations proposed by the owner or owners of the Property in connection with any commercial development of the Property. The Oak Acres Neighborhood Group shall not unreasonably deny approval of landscaping plans or landscaping alterations. Said Neighborhood Group shall denote its approval of a landscaping plan by having its members sign the original of the landscaping plan prepared by the owner of the Property. No member of the Neighborhood Group shall unreasonably withhold approval of a landscaping plan.

6.02. In any event, the owners of the Property shall not begin on-site landscaping work until the signatures of three-fourths (3/4) of the members of the Oak Acres Neighborhood Group have been obtained. Grading of the Property and site preparation of the Property for construction shall not be deemed landscaping for purposes of this paragraph or of any other paragraph of these Restrictive Covenants.

6.03. The type of exterior lighting and the style, material, and location of the fence along the western and northern property lines are hereby deemed a part of landscaping for planning and approval purposes. The owner or owners of the Property shall maintain all landscaping in reasonable fashion and shall keep all fences in good repair. Exterior lighting shall be of a type and located in such a way so as to minimize the illumination of adjacent lots.

6.04. In the event that any landscaping plans submitted to the Oak Acres Neighborhood Group as provided herein and said Group shall fail either to approve or return such plans and specifications with suggested changes within a period of fourteen (14) days following such submission to each member of the Group by regular and certified mail, return receipt requested, approval by the Group shall not be required, and full compliance with this Paragraph shall be deemed to have been had. In the event that no member of the Group acknowledges the receipt of landscaping plans within ten (10) days, the submission of plans and specifications

for approval may be effected by delivery of said plans by certified mail, return receipt requested to any officer of the Oak Acres Neighborhood Association in which event the Group shall have eighteen (18) days from the date of delivery to respond formally to the plans. The owner of the Property shall submit one copy of the landscaping plans per each member of the Group.

6.05. The Oak Acres Neighborhood Association shall notify, the owner of the Property, in writing, who the members of the Group are, their address and telephone numbers.

6.06. The owner of the Property shall comply with the following provisions of the City of Austin Landscape Ordinance regardless of whether the Property is in the corporate limits of Austin at the time of construction: Section 13-2-135 (a), (d), (e), and (f), a copy of which is attached hereto as Exhibit "C" and made a part hereof for all purposes. The owner of the Property shall not be required to comply with any amendments to the above-referenced ordinance which are passed by the Austin City Council after the execution of this instrument.

6.07 Unless otherwise directed by the City of Austin or any other governmental entity having the Property within its jurisdiction, the owner of the Property shall carry out landscape watering so as to minimize possible pressure problems within Oak Acres.

7.01. Driveway Access to Oak Blvd. In conjunction with the commercial use of the Property, no driveway access to or curbcuts onto Oak Blvd. shall be allowed.

8.01. Storage of Building Materials. No unused building material, or other unsightly debris shall be left on the Property, except during actual building operation and no unused building material or other debris shall be stored in the drainage easement at any time. The owner of the Property shall not obstruct at any time the drainage easement located on the Property. The construction of exterior walls and the roof, landscaping, and paving of the property shall be completed within six (6) months after site preparation begins. This paragraph shall not apply to interior construction and finishing of any

residential or commercial structure nor shall this paragraph apply to the repair and maintenance of the building(s) or of the grounds.

8.02. To the extent allowable by local utilities, all utilities shall be located underground. All heating and air conditioner units shall be located or covered in order to minimize noise in Oak Acres.

9.01. Runoff. Any commercial or residential improvements shall conform with the City of Austin runoff requirements regardless of whether the property is within the City of Austin at the time of construction. A detention pond shall be located in the northeast quadrant of the property unless the City of Austin requires a different location.

10.01. Sewage. No sewage or waste shall be allowed to run or flow into existing creeks, drains or branches, or on the surface of the ground. All sewage or waste shall be disposed of by owner by means of a septic tank as approved by the Travis County Health Department, unless connection to a public sewage system is possible.

11.01. Signs. No additional billboards or advertising signs shall be allowed on the Property except as specified in this paragraph. Each tenant of the commercial building(s) on the Property shall be permitted to affix one sign to the front of said commercial structure(s). Any sign attached to a commercial structure shall be no larger than thirty-six (36) inches by forty-eight (48) inches, of professional quality and kept in good repair. One temporary sign may be erected during the construction of any commercial or residential building on the Property and one permanent sign may be erected naming the office/retail complex and listing the tenants of the office/retail complex. The permanent sign naming the office/ retail complex and listing the tenants shall have a display area no larger than twelve (12) feet by fifteen (15) feet, shall have a total height no greater than twenty-eight (28) feet, and shall be located on the east side of the entrance/ driveway to the Property. No sign on the Property shall have flashing lights or moving parts, and no portable signs shall be allowed.

12.01. Trees. No tree with a trunk diameter of eight (8) inches or larger at a height of four (4) feet above the ground, existing on April 1, 1984, shall be removed from the Property; provided, however, that in the event such tree becomes diseased or damaged or a probability of such tree falling, such tree may be removed.

12.02. All newly planted trees shall be at least six (6) feet in height. Any newly planted tree or shrub shall be of a type listed in the attached Exhibit "D" which is made a part hereof for all purposes.

13.01. Noxious Activities. No noxious or offensive activity shall be carried on upon the Property including but not limited to excessive light, odor, smoke, dust, noise, vibration, presence of vermin or rodents, nor shall anything be done thereon which may be or may become an annoyance, a nuisance, or a danger to the neighborhood.

14.01. Rubbish, Trash and Garbage. The Property shall not be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in the trash bin indicated on Exhibit "B" and the trash bin shall be kept closed and in a clean and sanitary condition. No incinerator for the disposal of such materials shall be constructed or used on the Property.

15.01. Use for Storage. Storage of tools, landscaping instruments, household effects, machinery or machinery parts, boats, trailers, empty or filled containers, boxes, bags, or any other item that shall in appearance detract from the aesthetic values of the Property and the Oak Acres Subdivision shall be so placed and stored to be concealed from view from all public rights-of-way, and shall be kept in a clean and sanitary condition. Storage of junk and inoperative or unlicensed cars or any other motor vehicles or junk is expressly prohibited.

16.01. Severability. If any paragraph, section, sentence, clause or phrase of the restrictions and covenants herein contained shall be or become illegal, null, or void, for any reason or shall be held by any court of competent jurisdiction to

be illegal, null, or void, the remaining paragraphs, sections, sentences, clauses or phrases herein contained shall not be affected thereby.

17.01. Remedies. Cumulative of all other common law or statutory remedies, enforcement of any of these restrictive covenants may be by suit at law or in equity, by or on behalf of the Owner or any future purchaser of any lot out of the Oak Acres Subdivision which is impressed with the above-referenced restrictive covenants, against any person, firm, or corporation violating, or apparently about to violate any of these covenants, either before such violation occurs or within a reasonable time thereafter, for an appropriate order or injunction of either a restraining or mandatory nature or both and of either a temporary or permanent nature or both, including, but not limited to, one restraining construction of any improvements commenced, or about to be commenced. In the event enforcement actions are instituted and the enforcing party recovers, then in addition to the remedies specified above, court costs and reasonable attorney's fees shall be assessed against the violator.

18.01. Waiver. The failure at any time to enforce these covenants and conditions, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

19.01. Modification and Renewal of Covenants. These restrictions and covenants are hereby declared to be covenants running with the land and shall be fully binding upon all persons acquiring Lots 9A, 10A, 10B, 14, 15, and 16 whether by descent, devise, purchase, or otherwise, and any person by the acceptance of title to any of the said Lots or portion thereof shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants. These restrictions and covenants shall be binding until January 1, 1994. On and after January 1, 1994, said restrictions and covenants shall be automatically extended for successive periods of ten years each, unless, the owners of three-fourths of the lots of the Oak Acres Subdivision which are impressed with the restrictive covenants found in Vol.

1786, Page 329 and amended by Volume 1846, Page 536 of the Travis County Deed Records; Volume 1848, Page 37, Deed Records, Travis County, Texas; and Volume 2134, Page 126, Deed Records, Travis County, Texas; agree in writing, to modify or remove, in whole or in part, these restrictions and covenants on lots 9A, 9B, 10A, and 10B of the Oak Acres Subdivision.

20.01. Condition Precedent to Effectiveness of Agreement. The signatures affixed hereto shall expire ninety (90) days after the first lot owner in Oak Acres signs below unless this agreement has been executed by the owners of three-fourths of the lots in Oak Acres impressed with the above referenced Restrictive Covenants. In the event that the required number of said owners do not execute this Agreement within the said ninety (90) days, this Restrictive Covenant Modification Agreement shall be void, withdrawn and of no force and effect.

WITNESS MY HAND, this 9 day of April, 1984.

Robert E. Taylor
Robert E. Taylor

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on April 9, 1984, 1984 by Robert E. Taylor.

Robert Kleeman
Notary Public in and for
the State of Texas

Robert Kleeman

My Commission Expires: 2/29/88

WITNESS MY HAND, this 15 day of April, 1984.

Gene C. Cowden
Gene C. Cowden

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on April 15, 1984 by Gene C. Cowden.

Robert Kleeman
Notary Public in and for
the State of Texas

Robert Kleeman

My Commission Expires: 2/29/88

EXHIBIT C

SEC. 13-2-135. LANDSCAPING REQUIREMENTS.

(a) Special Definitions. For the purposes of this Section, the following terms shall have the special meanings respectively ascribed to them below, which special meanings shall govern in case of any conflict with the general definitions set forth in Sec. 13-2-1 of this Chapter:

Street Yard. The street yard is the area of a lot which lies between the street right-of-way line and the actual front wall line of the building, as such building wall line extends from the outward corners of the building, parallel to the street, until such imaginary extensions of such front building wall line intersects the side property lines. In determining the actual building wall of the building for the purposes of this Section, steps and unenclosed porches shall be excluded, but such building wall line shall follow and include the irregular indentations of the building. A front building wall is a building wall fronting on a street.

On corner lots, the street yard shall consist of all the area of such lot between all abutting street right-of-way lines and their corresponding actual front building wall lines, as such lines are imaginarily extended in the manner provided above.

When there are multiple buildings on a lot, the street yard shall consist of all the area of the lot between the street right-of-way line(s) and an imaginary line beginning at one side of the property line, running parallel to the street, connecting to the frontmost corner of the building wall fronting the street and nearest such side property line, then following and connecting the frontmost walls of all buildings fronting on the street, and then extending to the other side property line, running parallel to the street. If a building has a rounded front, the front building wall corners shall be the points closest to the side boundaries. Provided, that isolated buildings (e.g. fast food restaurants in a shopping center, photo processing dropoffs, bank drive-throughs, etc.) shall not be considered in delineating the street yard.

The delineation of the street yard is illustrated by the diagrams accompanying this Ordinance as Exhibit "A" and made part a hereof.

Notwithstanding all of the foregoing, on land used only for parking purposes or only as a commercial or private parking lot, the street yard shall consist of the area between the street right-of-way line and the back property line.

Corner Lot. A corner lot is a lot situated at the junction of two or more streets, or of two segments of a curved street, forming an angle of not more than 135 degrees.

Lot. A lot is land consisting of one or more legal lots or a part of a legal lot being developed on a single development or on a part of a phased development.

Tree. A tree shall be defined and will qualify as such if either of the following are met:

(1) A woody plant having one well defined stem or trunk and a more or less definitely formed crown, and usually attaining a mature height of at least 8 feet.

(2) A plant as a tree in any of the following:

a. Forest Trees of Texas, by the Texas Forest Service of the Texas A & M University System.

b. Simon and Schuster's Guide to Trees.

c. The Audubon Society's Field Guide to North American Trees.

d. A list of trees prepared by the City Parks Department.

Dripline. The dripline is the periphery of the area underneath a tree which would be encompassed by perpendicular lines dropped from the farthest edges of the crown of the tree.

Buffering. Buffering is the use of landscaping (other than mere grass on flat terrain), or the use of landscaping along with berms, walls, or decorative fences that at least partially and periodically obstruct the view from the street, in a continuous manner, of vehicular use areas, parking lots and their parked cars, and detention ponds.

RECORDERS MEMORANDUM
ALL OR PARTS OF THE TEXT ON THIS PAGE WAS NOT CLEARLY LEGIBLE FOR SATISFACTORY RECORDATION.

(d) Landscaping Requirements.

(1) On all lots platted from previously unplatted land, zoned or rezoned, or granted a special permit after the effective date of this Section, at least 20% of the area of the street yard shall be landscaped area. All of the required landscaped area shall be located in the street yard.

(2) On all other land to which this Section applies, at least 10% of the area of the street yard shall be landscaped area if the application for required building permit is filed prior to January 1, 1983; 15% if the application for such building permit is filed between January 1, 1983 and January 1, 1984; and 20% if the application for such building permit is filed after January 1, 1984. All of the required landscaped area shall be located in the street yard.

(3) In the street yard, at least one tree of at least 6 feet in initial height (either existing or planted) shall be included and replaced as necessary as per the following ratios:

a. In street yards less than 10,000 square feet, 1 tree per 1,000 square feet, or fraction thereof, of street yard.

b. In street yards between 10,000 and 110,000 square feet, 1 tree per 2,500 square feet, or fraction thereof, of street yard area over 10,000 square feet is added to the requirements of 10 trees.

c. In street yards over 110,000 square feet, 1 tree per 5,000 square feet, or fraction thereof, of street yard area over 110,000 square feet is added to the requirement of 50 trees.

An existing or planted tree (excluding Juniperus Virginian and Juniperus Ashei) which is at least 8 inches in diameter or at least 6 inches in diameter and at least 15 feet tall shall be considered as two trees for purposes of satisfying this subsection. All newly planted trees shall be planted in a permeable area no less than 3 feet wide.

(4) The existing natural landscape character (especially native oaks, elms, and pecan trees) shall be preserved to the extent reasonable and feasible. As an example of this, in an area of the street yard containing a stand of trees, the developer shall use best good faith efforts to preserve such trees. In determining whether there is compliance with this subsection the Building Official shall consider topographical constraints on design, drainage, access and egress, utilities, and other factors reasonably related to the health, safety and welfare of the public which necessitated disturbance of the existing natural landscape character; economic usefulness of the property without disturbance of its natural character; the nature and quality of the landscaping installed to replace it; and such other factors as may be relevant and proper. Indiscriminate clearing or stripping of the natural vegetation on a lot is prohibited.

(5) The impervious cover within the area encompassed by the dripline of any tree in a required landscaped area may not exceed fifty percent of such area if such area is to receive 150% credit under subsection (e) below.

(6) Vehicular uses areas, parking areas, parking lots and their parked vehicles shall have effective buffering from the street view.

A minimum amount of the total area of all vehicular use areas and parking areas of a lot shall be devoted to landscaped islands, peninsulas, or medians.

The minimum total area in such islands, peninsulas, and medians in the street yard shall be 90 square feet for each 12 parking spaces.

The minimum total area in such islands, peninsulas, and medians in the remainder of the lot (i.e., the non-street yard) shall be 60 square feet for each 12 parking spaces therein.

RECORDERS MEMORANDUM
ALL OR PARTS OF THE TEXT ON THIS PAGE WAS NOT CLEARLY LEGIBLE FOR SATISFACTORY RECORDATION.

The number, size, and shape of islands, peninsulas, and medians in both street yards and non-street yards shall be at the discretion of the owner; however, no parking space shall be located further than 50 feet from a permeable landscaped island, peninsula or median and a tree. All islands, peninsulas and medians required in the areas stated above, shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirement for landscaped islands, peninsulas, and medians for the respective parking areas above, is satisfied.

Only landscaped islands, peninsulas, and medians in the street yard shall count toward fulfilling the requirements of subsections (d)(1) and (d)(2) above, as applicable.

(7) All required landscaping shall be irrigated by one of the following methods:

a. An underground sprinkling system.
b. A hose attachment within 100 feet of all landscaping, provided, however, a hose attachment within 200 feet of all landscaping in non-street yards shall be sufficient.
c. Directing drainage from paved areas across landscaped areas, provided, that the same is accomplished in a manner not likely to result in erosion.

(8) All landscaping which is in required landscaped areas and which is adjacent to pavement shall be protected with concrete curbs or equivalent barriers (such as car bumpers, railroad ties, continuous border plants or hedgerows) when necessary to protect trees.

(9) Landscaping in landscaped areas shall not obstruct the view between the street and the access drives and parking aisles near the street yard entries and exits, nor shall any landscaping which creates an obstruction of view be located in the radius of any curb return.

(10) Required landscaping areas shall be continuously maintained free of debris and litter.

(11) Landowners are encouraged to landscape the areas within the non-paved street right-of-way abutting their land. Provided, however:

a. The City may at any time require such landscaping to be removed and the City shall not be responsible or liable in the event any landscaping in the right-of-way must be removed or is requested to be moved by the City.
b. Such landscaping in the right-of-way shall observe the provisions of Article VII of Chapter 11-2 of this Code pertaining to traffic and pedestrian safety.
c. Any underground sprinkler systems, planters or other permanent structures placed in the right-of-way shall require a license agreement with the City of Austin. When any other governmental jurisdiction is trustee of the public right-of-way at the particular location in question, arrangements must be made with such other jurisdiction.
d. No landscaping shall be placed in an area of right-of-way where a Capital Improvements Project has been funded for such location, unless and until such project has been completed.

(e) Credits Toward Landscaping Requirements.

Each square foot of landscaped area which is permeable and within the area encompassed by the dripline of a tree of at least 4 inches in trunk diameter, measured 4 feet off the ground, shall count as 1.5 square feet of landscaped area for the purpose of satisfying the requirements of subsections (d)(1), and (d)(2) above, as applicable. In order to encourage growth of smaller trees between 4 and 8 inches in trunk diameter, measured 4 feet off the ground, such trees may receive such special credit for twice the area of the dripline. Thus, each square foot of landscaped area around such 4 inch to 8 inch trees which is permeable and contiguous to the landscaped area for the purposes of satisfying the requirements of subsections (d)(1) and (d)(2) above, as applicable.

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The foregoing 150% credit shall be subject to the following limitations. Neither overlapping dripline areas nor areas contiguous to the dripline areas which overlap shall be counted twice. Moreover, a tree dripline area shall not qualify for credit under this subsection if (1) less than one-half of the dripline area is permeable cover, (2) there have been any damaging changes in the original grade of the dripline under the tree, or (3) the total of such area receiving such credit around the tree exceeds the total square footage of landscaped area within the dripline. Permeable pavers shall be considered as permeable cover. Changes in grade required by city ordinance such as sidewalks, curbing, driveway approaches, etc., shall not be considered as damaging changes. In no case shall the actual landscaped area in the street yard of a lot be less than two-thirds of the required minimum percentages, as applicable under subsection (d)(1) and (d)(2) above.

(f) Alternative Compliance.

Notwithstanding all of the foregoing provisions of this Section, a landscape plan which is alternative to strict compliance with the various landscaping requirements of this Section may be approved by the Planning Commission or the Building Official, as applicable, if recommended by the Director of the Office of Environmental Management, and if the Planning Commission or the Building Official finds that such plan is as good or better than a plan in strict compliance with the various landscaping requirements of this Section in accomplishing the purposes of this Section. Consideration should be given to preservation of large oak, elm, and pecan trees which are not necessarily in required landscape areas. (Ord. No. 820408-E, pt. 3)

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