

495 Commerce Center Master Landscape Development Guidelines

The code set forth here is in addition to the Landscaping requirements set forth by the City of McAllen. It is overlapping in that much of these requirements will satisfy some if not all of the requirements set forth by the City. Landscaping plans must be submitted to the 495 Commerce Center Owners Association for approval. The 495 Commerce Center Owners Association reserves the right to reject a landscape plan that either does not comply with this code or that strays from the theme/concept that has been developed and used throughout the Commerce Center. The theme/concept is best described as any planting that is selected from the vegetation list in the appendix with specific adherence to the buffer requirements.

ACC means the 495 Commerce Center Architectural Control Committee.

Access-way means a paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off-street parking area or loading area.

Association means the 495 Commerce Center Owners Association.

Buffer means a landscape area containing trees, shrubs and ground cover along the frontage of the property.

Buffer Tree means trees planted in the buffer area described above.

Building Site means the minimum area of land within the Protected Tract on which a building may be erected, the configuration of which shall be determined by the Developer. A conveyance by the Developer of any portion of the Protected Tract subject to these Protective Covenants shall be conclusive evidence that such portion described in such conveyance is a Building Site.

Caliper means the diameter of a tree trunk measured at least one foot above the ground. Common Irrigation System means the irrigation system, maintained by the Association, generally for areas around the lake and perimeter signage and other designated areas around the park adjacent to roadways.

Common Landscaped Areas means those portions of the Protected Tract so designated as landscape easements by recorded plat or by the ACC in the landscaping plan for the Protected Tract, as may be amended from time to time, generally located around the lake and perimeter signs and public road Right of Ways.

Developer means the owner or developer of the 495 Commerce Center business park.

Excusable Delay means a period of time equal to the duration of delays caused by fire, act of God, shortage of labor or materials, strike, lockout, casualty, or other conditions beyond a person's reasonable control.

Frontage means lineal distance measured along all street right-of-way adjoining the property including the Access-ways described above.

Ground cover means low growing plants planted in such a manner as to form a continuous cover over the ground not exceeding two feet in height.

Landscape Corridor means that portion of a Building Site located within twenty-five feet of the back of curb of a public street or twenty feet back of curb on private streets.

Landscape Development means trees, shrubs, ground cover, vines or grass installed in planting

areas for the purpose of fulfilling the requirements of this code.

Landscape Easement means that area on a specific property or lot as described on its recorded plat and designated as the easement and that is maintained by the Association.

Ornamental Tree means trees in the vegetation list that are used for their attractive appearance and other than shade.

Property Owner means the individual or individuals who purchased the building site or lot in the 495 Commerce Center business park.

Protective Covenants means the Amended and Restated Protective Covenants and Retained Easements for 495 Commerce Center.

Protected Tract means the tract of land described in Exhibit A hereto, and any future contiguous tracts acquired hereafter and made a part hereof.

Shade Tree means all trees used in the Landscape development described above that are in the vegetation list and exceed a height of fifteen feet.

Shrub means evergreen and/or flowering species with a growth habit from two to six feet.

SEC. 1.2 – LANDSCAPING PLAN 1.2.1 It is the responsibility of the Building Site Owner to supply three (3) sets of printed plans to scale, detailing the proposed landscaping including proposed irrigation to the 495 Commerce Center Owners Association within thirty (30) days of the issuance of the Building Permit, in conjunction with the plan submitted to the City of McAllen. This may be the same plan satisfying this code requirement as well as the City code. The plan should indicate all planted areas, types of plants and a legend describing the quantity and size of plants proposed. 1.2.2 There are a number of Landscape Easements around the 495 Commerce Center, along Pecan Blvd. (FM 495), McColl Road, Jackson Road, Laurel Avenue, and K Center Street, that are provided and maintained by the Association. If the proposed property is adjacent to one of the Associations landscape areas, please indicate on the landscaping plan the Associations landscape area, and show how the proposed landscaping will transition to the private lot. Where sidewalks are incorporated, they may provide a good transition.

SEC. 2 – REQUIRED LANDSCAPE 2.1 The landscape development shall meet, at a minimum, the percentage called out by the McAllen City Ordinance sec. 110-48 or shall comply with these Standards and the ACC. 2.2 A buffer shall be provided along the frontage of the property and in this buffer shall be planted 4" caliper containerized Oak trees. There shall be 3 Oak trees for every 100' of frontage. The trees maybe planted in a random fashion and should be no closer than 4' from any curb or sidewalk. There shall be 4 ornamental trees planted in the buffer for every 100' of frontage and these are any of the following planted in a random fashion; Crepe Myrtle, Lavender (Vitex), Yaupon (Pride of Houston), Desert Willow or Texas Mountain Laurel. There shall be included in the buffer patches of ground cover measuring approximately 6' by 12' planted free form and randomly placed in the buffer. The quantity of patches shall be 2 for every 100' of frontage. The ground cover can be any plant in the vegetation list under the category of ground cover. 2.3 Shade trees distributed in the landscape development shall meet the requirement called out in the McAllen Landscape Ordinance Sec. 110-51 with the exception that the trees must be those listed in the vegetation list. 2.4 Ornamental trees shall be incorporated at a rate of one for every 800 Sq. ft. of landscape development and shall be selected from the vegetation list under ornamental trees. 2.5 Floritam carpet grass shall be used throughout the landscape development in all areas not covered by ground cover or ornamental beds.

SEC. 3 – LANDSCAPE INSTALLATION 3.1 The Developer shall install landscaping and

irrigation in all medians within the public streets in the Protected Tract and in the Common Landscaped Areas around the perimeter signs. Landscaping, underground irrigation and berms for all open, unpaved spaces within a Building Site, including but not limited to such portion of the Landscape Corridor located within a Right of Way but between the sidewalk and the lot line, and front, side and rear building set-back areas, shall be installed by the Building Site owner, at its sole cost and expense, in accordance with these Master Landscape Development Guidelines. Such landscaping shall include, without limitation, visual scenery required by the Protective Covenants and these Master Landscape Development Guidelines. Installation of the required landscaping and irrigation within a Building Site must be completed within thirty (30) days following the occupancy or substantial completion of any building, whichever occurs first, subject to reasonable extensions for Excusable Delay. If such required landscaping and irrigation is not timely installed, the Association may cause the same to be installed at the expense of the Building Site owner, in the same manner and with the same effect as if such installation were maintenance required by the Protective Covenants. The Building Site owner shall require its landscape contractor to guarantee for a minimum period of one (1) year all trees installed on the Building Site and for a minimum period of six (6) months all other plants other than annuals and grass, with such periods to begin upon the date such installation is satisfactorily completed in accordance with these Master Landscape Development Guidelines shall incorporate the following minimum requirements:

Landscaping and irrigation plans for each Building Site shall be submitted for approval by the ACC within thirty (30) days of issuance of the Building Permit. The plan shall include design and list of plant materials and complete plans for an underground landscape watering system. Consideration should be made for water conservation when designing and selecting watering systems;

Landscaping shall comply with the current guidelines as set forth by the City of McAllen and the 495 CC Protective Covenants, but shall cover not less than 10% of a Building Site;

At least 50% of the required landscaping area shall be located within the paved surface area on a Building Site, or within 10' of the edge of the paved surface area;

For each 10,000 square feet of parking area, a minimum of one landscaped area of not less than 45 square feet shall be located and reasonably distributed throughout the paved area;

Earthen berms shall be required along street frontages and as a part of screening treatments;

If approved by the ACC, any building with truck loading on the front of the building must also include landscaped earthen berms with an average height of four feet (4'). Where truck loading occurs on the side of a building landscaped earthen berms shall be built with an average height of three feet (3');

Screening of parking areas landscaped with hedges at least 24" in height may be combined with landscaped earthen berms, to provide an overall screen height of three feet (3');

Front yard landscaping with trees of a minimum of three inch (3") caliper trunks, which shall be located between fifteen feet (15') and thirty feet (30') apart, with an average spacing of not more than twenty feet (20') along the street right-of-way;

A minimum of six (6) trees of a minimum four inch (4") caliper trunk shall be placed at the front of each building located on a Building Site;

Landscaped planting "feature" areas shall be placed to mark entrance points to parking areas and at building entrances;

All trees and plants shall be specimen quality No. 1 or better nursery stock in accordance with the required standards outlined in the American Standard for Nursery Stock, or similar publication approved by the ACC;

Landscape vegetation elements shall be of the "long lived variety". Short lived materials (seasonal color) are to be utilized only as a supplement to longer life elements, and shall not be allowed to remain in place once their useful life is terminated; and

All planting shall conform to the applicable standards of good practice of the American Society of Landscape Architects or such other industry standard as may be approved by the ACC.

Within road Right of Way and the Landscaping Easement, which will be maintained by the Association, Building Site owner may tie into the Common Irrigation System, where provided, if done in accordance with the park standards and provided the Association is notified in advance of

such intended work so as to inspect installation. Such irrigation installation shall be at the sole cost and expense of the Building Site Owner.

SEC. 4 – LANDSCAPE MAINTENANCE AND STORM WATER DRAINAGE 4.1 The Association shall maintain all landscaping, berms and irrigation installed in medians within public streets and within that portion of the Right of Way falling between the street and the sidewalk. Subject to **Section 4.2** hereof, the owner of a Building Site shall, at its sole cost and expense, maintain all landscaping, berms and irrigation required by the Protective Covenants to be installed by the owner of a Building Site located between the sidewalk and the property line, or to the property line, whichever is closer to the public or private street. All landscaping installed in the Protected Tract shall be maintained in accordance with these Master Landscape Development Guidelines. No excavation shall be made, and no sand, gravel or soil shall be removed from the Protected Tract, except in connection with the construction of improvements thereon, and upon completion thereof, exposed ground openings shall be backfilled and disturbed ground shall be graded, leveled, and paved or landscaped. Adequate erosion control shall be maintained during construction on a Building Site. All storm water falling on a Building Site must be collected on site into subsurface drainage structures which must discharge into a storm sewer or other drainage facility approved by the ACC and which complies with applicable laws and regulations.

4.2

The Association is hereby granted an easement and right of way in and to the Landscape Corridor area to maintain, at its sole option, the landscaping in the Landscape Corridor area. In the event the Association determines that uniformity in the landscaping in said Landscape Corridor area is desirable, it shall undertake the maintenance of such landscaping as a common expense of the Association. Otherwise the owners of Building Sites burdened by the Landscape Corridor and Landscape Easement shall maintain the same at their cost in accordance with the requirements of the Protective Covenants and these Master Landscape Development Guidelines.

4.3

The landscape development shall be maintained in the form designated by the proposed plan continuously for the life of the project. Alternate plans or improvements may be submitted to Association throughout the years. It shall be expected that the maintenance will replace any dead plants or trees so as to keep the landscaping in the same form as proposed by the plan.

4.4

Proper mowing, pruning, cultivation and fertilization are required to keep the landscape development in a vigorous and healthy condition. The Association reserves the right to require the replacement of any landscaping it deems as neglected, unhealthy, unsightly or otherwise undesirable and require the replacement as designated by the original proposed plan.

4.5

The Building Site owner will absorb the sole cost and expense of the plants and installation of said plants required in this Master Landscape Development Guidelines. After landscaping is complete and meets the approval of the ACC, the Association will cover the cost for maintenance of the portion designated to the Association. Where a sidewalk is within a road Right of Way or the Landscape Easement, the Association shall maintain that area of the Right of Way or the Landscape Easement between the road and the sidewalk. The portion of the Right of Way between the sidewalk and the adjacent lot shall be continuously maintained by the Building Site Owner.