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ORDINANCE NO. 3882

**AN ORDINANCE AMENDING CHAPTER 71 OF THE CITY
OF HAYS, KANSAS, MUNICIPAL CODE, BY MODIFYING
ARTICLE VI REGARDING LANDSCAPE AND
IRRIGATION PLANS.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS,
KANSAS:

Section 1. Chapter 71, Article VI, Section 71-1172 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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ARTICLE VI. LANDSCAPE AND IRRIGATION PLANS

Sec. 71-1172. Definitions.

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

(a)*Cool Season Grass* means a grass species that possesses a C3 photosynthetic pathway and favors the cooler weather of spring and autumn, typically going dormant in hot, dry periods without supplemental irrigation. Most cool season grasses perform better in partial to full shade conditions. Common species of cool season grasses grown in the Hays area include varieties of Kentucky Bluegrass, fine fescues, tall fescues, sheep fescues, creeping bentgrasses and ryegrasses. For the purpose of this article, native cool season grasses grown in a turf, such as western wheatgrass, will not be considered cool season grass and can be planted up to the allowable limits of warm season grasses.

(b)*Significant alterations to existing development* means development on improved real estate that is altered or changed in such a manner that one or more of the following is applicable:

(1)The alteration results in the construction of a building, structure or addition that increases the gross square footage of the existing development by more than 30 percent; provided that separate incremental developments below the 30-percent amount shall not be used to avoid the requirements of this section if, in

the aggregate, the developments over a period of 18 months would meet those requirements;

(2)The estimated construction costs of the alterations exceed 50 percent of the most recent appraised fair market value of the existing property as determined by the county appraiser; provided that separate incremental developments below the 50-percent amount shall not be used to avoid the requirements of this section if in the aggregate the development over the period of 18 months would meet those requirements.

(3)The alteration results in the construction of a new, permanent, irrigation system.

(4)The alteration results in changes to an existing permanent irrigation system that have the effect of connecting an existing irrigation system to the City's water system.

(5)The alteration increases the permanently irrigated area of an existing property by more than 400 square feet.

(6)The alteration results in the replacement of existing vegetation or parts of existing vegetation in any proportion which requires additional supplemental irrigation once established.

(7)The alteration results in the replacement of permanent irrigation system components responsible for irrigating greater than 50% of an existing irrigated area on a property.

(c)Significant alterations to existing development do not include the following:

(1)The replacement of permanent irrigation system components responsible for irrigation of 50% or less of an existing irrigation system, so long as the vegetation type does not change to vegetation requiring additional supplemental irrigation, once established.

(2)The replacement and/or movement of sprinkler heads without the expansion of existing irrigation, so long as vegetation type does not change to vegetation requiring additional supplemental irrigation, once established.

(3)Irrigation systems connected to privately owned wells under non-domestic water rights in good standing with the State of Kansas.

(4)Irrigation systems used to serve public properties.

(5)Irrigation systems constructed, altered or repaired in connection with an audit or rebate program.

(d)*Warm Season Grass* means a grass species which possesses a C4 photosynthetic pathway and favors warmer weather of summer. These grasses typically stay dormant until adequate warmth has reached the soil and air and again go dormant when cold temperatures arrive in autumn. Most warm season grasses perform best in areas with little or no shade. Perennial varieties will typically enter dormancy during drought. Most warm season grasses used for turf in the Hays area require significantly lower amounts of supplemental irrigation to maintain vigor. Common species of warm season grasses grown in the Hays area include varieties of buffalo grass, Bermuda grass and blue grama grass. Zoysia grass varieties are now being grown near Hays and may become more common locally.

(e)*Vegetation requiring additional supplemental irrigation once established* refers to the removal of existing vegetation when that vegetation is replaced with vegetation types with greater water needs than the existing vegetation. Appropriate horticultural and turf literature will be referenced to determine specific cases, but in general, the following are common examples: replacement of warm season grass species with cool season grass species and replacement of a xeriscape with a cool season grass species.

(f)*Xeriscape or xeriscaping* means a method of landscaping which requires little to no supplemental irrigation once the vegetation is established. Plants used in xeriscape must be well adapted to the extremes of the local climate, particularly drought, high solar radiation, wind gusts and low winter temperatures. Xeriscape may be constructed with many types of groundcover, including 100% ground coverage with living plants or individual and group plantings surrounded by mulches and the incorporation of decorative rocks and gravels. Weed barriers must be made of water-permeable material. Xeriscape includes traditional hardscapes such as sidewalks, decks, driveways and patios only if they incorporate vegetation.

Section 2. Chapter 71, Article VI, Section 71-1173 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1173. Submission.

Concurrent with the submission of and as part of the approval of a site plan, if required, and prior to the issuance of a building permit for any development on unimproved real estate, excluding structures for agricultural uses, and for significant alterations to existing development on improved real estate, a landscape plan shall be submitted to and approved by the planning/inspection staff. If permanent irrigation will

be used, an irrigation plan must also be submitted to and approved by the planning/inspection staff. The proposed plans may be forwarded to either the planning commission, or the appropriate governing body, or both, for approval, if in the judgment of planning/inspection staff, it is inconsistent with the comprehensive plan, the landscaping process or the zoning and subdivision regulations.

Section 3. Chapter 71, Article VI, Section 71-1174 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1174. Applicability.

(a)The requirement for a landscape plan shall apply to the following zoning districts: R-3A, R-4, M-P, M-S, C-O, C-1, C-2, C-3, B-P, I-1, and I-2.

(1)Single-family dwellings and two-family units are expressly exempted from this requirement.

(2)In the case of conflict between the regulations in this chapter and the regulations of the particular zoning district, the stricter application shall apply.

(b)The requirement for an irrigation plan shall apply to all zoning districts.

Section 4. Chapter 71, Article VI, Section 71-1175 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1175. Approval criteria.

In addition to the criteria contained elsewhere in this chapter, the following criteria shall be considered when reviewing a plan submitted under this article:

- (1)The maintenance of the City's quality, heritage and character by enhancing the visual appearance of the community through the use of landscaping materials and techniques;
- (2)The provision of greenery to visually soften paved areas and buildings;
- (3)The establishment of optimal environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, retardation of stormwater runoff, abatement of noise, glare and heat;
- (4)The replenishment of native trees by utilizing plant materials that are generally native or hearty for the region;
- (5)The screening of certain unsightly equipment or materials from view of persons on public streets or adjoining properties;
- (6)The buffering of uncomplementary uses;
- (7)The prevention of light pollution and intrusion;
- (8)The preservation of and protection of existing quality trees and natural landscape from destruction and removal.
- (9)The conservation of the City's water resources.

Section 5. Chapter 71, Article VI, Section 71-1176 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1176. Requirements and contents.

Two copies of a plan shall be submitted. The plan shall contain the following information:

- (1)A north arrow and scale;
- (2)The location of all proposed landscape materials, including existing trees proposed to be saved;

- (3) A listing of the proposed plant materials indicating the type, number and size at the time of planting;
- (4) The location of proposed structures and parking areas showing the type of surfacing;
- (5) The location, type and size of all aboveground and underground utilities;
- (6) Topography and final grading adequate to specify plantings for sloping areas;
- (7) Proposed plans for provision of water to plant materials including the location of permanent irrigation systems, the scope of irrigation system work proposed, the dimensions of any existing or proposed irrigation system and the name and address of the designer and installer performing the work on the irrigation system;
- (8) The types of materials to be used in any permanent irrigation system, including manufacturer submittals;
- (9) Conformance to the requirements for required landscaping for front yards;
- (10) Conformance to the requirements for required buffers;
- (11) Conformance to the requirements for parking lot screening;
- (12) Conformance to additional other landscape standards;
- (13) Any other provisions applicable to the project, including measures to be taken during construction to protect existing trees to be saved or plans requiring excavation or construction within street right-of-way or utility easements.
- (14) Any other relevant or pertinent information requested by the City.

Section 6. Chapter 71, Article VI, Section 71-1177 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1177. Required landscaping.

(a)The minimum amount of landscaped area of covered zoning districts and uses when located adjacent to public streets shall be as follows:

(1)On a zoning lot with an average depth of 150 feet or less, ten square feet of landscaped yard per lineal foot of street frontage.

(2)On a zoning lot with an average depth of more than 150 feet but less than 250 feet, 15 square feet of landscaped yard per lineal foot of street frontage.

(3)On a zoning lot with an average depth of more than 250 feet, 20 square feet of landscaped yard per lineal foot of street frontage.

(b)The applicant for the building permit shall plant a minimum of one shade tree, two evergreen trees, or three ornamental trees for every 500 square feet of landscaped yard.

(c)The following design standards shall apply to required landscaping and trees in yards:

(1)Trees shall be selected from the recommended tree list for the City.

(2)The minimum size at the time of planting of required trees shall be as follows: shade trees, 1½-inch caliper measured six inches above the ground; ornamental trees, one-inch caliper measured six inches above the ground; evergreen trees, five feet in height.

(3)Trees shall be located in planter areas of sufficient size to allow for growth, to prevent damage from vehicles, and to avoid unnecessary maintenance to structures, walks and drives. A minimum of 25 square feet of permeable area around each tree is recommended.

(4)Adequate distance between individual trees shall be provided; minimum spacing should be 15 feet for ornamental trees and 30 feet for shade trees.

(5)Shrubbery may be substituted for up to one-third of required trees at the rate of ten shrubs per one required tree. Substitute shrubbery shall attain a mature height of at least two feet and shall be placed in no less than a two-gallon container size at the time of planting.

(6)The required trees and shrubs may be located in adjacent public rights-of-way, if approved by the zoning administrator, if there are no conflicts with utilities and if the plantings are in accordance with [Section 68-57](#). No tree shall be planted between the curb and the sidewalk if the clear space is less than four feet wide.

(7)No landscaping tree or shrub shall be placed in a way that the zoning administrator determines is an obstruction to visibility, extends into a sight distance triangle, as set forth in these regulations, or is otherwise a traffic hazard.

(8)Shelter belts are permissible when necessary to protect improvements to real property from wind and when they are established in a fashion that does not require frequent irrigation. Shelter belts shall use drip system irrigation, no overhead irrigation, for the subsistence of the trees only.

Section 7. Chapter 71, Article VI, Section 71-1181 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1181. Maintenance.

The maintenance requirements for all landscaped areas shall be as follows:

(1)The landowner is responsible for the maintenance of all landscaped areas and shall keep them in a proper, neat and orderly appearance and free from litter and debris at all times.

(2)Maintenance shall include mowing, trimming, weeding, mulching, restaking, pruning, fertilizing, disease and insect control, irrigation and other necessary operations.

(3)For residential properties of four units or fewer, the maximum area served by the irrigation system shall not exceed 10,000 square feet. Of that 10,000 square feet, no more than 5,000 square feet may be comprised of turf. Of the 5,000 square feet of turf, no more than 2,000 square feet may be comprised of cool season turf, unless the area is not permanently irrigated.

(4)For all other properties, the maximum area served by the irrigation system shall not exceed 10,000 square feet. Of that 10,000 square feet, no more than 5,000 square feet may be comprised of turf. Of the 5,000 square feet of turf, no more than 30% of the property area (less impervious surface area) or 2,000 square feet per zoning lot, whichever is less, may be comprised of cool season turf. A minimum of 30% of the landscaped area must be xeriscaped.

(5) Irrigation systems shall be designed and operated to avoid watering impervious surfaces and streets and shall comply with all applicable codes. Overhead irrigation methods shall not be used within five feet of driveways, sidewalks or other hard surfaces. Landscape designers and property owners are encouraged to utilize xeriscaping and take advantage of its watersaving principles and practices.

(6)The city shall have the authority to require that all dead trees, shrubs and plants be replaced during the next planting season.

(7)All landscaping shall be subject to periodic inspection by the zoning administrator or an authorized representative, to determine compliance with the approved plan(s) and the requirements of this section. When the landscaping or permanent irrigation system has not been installed, maintained or replaced to comply with the plan(s) and other requirements, a written corrective order shall be issued to the alleged violator. The order shall specify the parts of this article that are alleged to have been violated. Removal of any required landscaping or permanent irrigation system is prohibited at any time unless just cause is demonstrated by the owner and approval given by the zoning administrator or authorized representative.

Section 8. Chapter 71, Article VI, Section 71-1183 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1183. Assurance of performance.

(a)*Performance Agreement; Bonds.* If a site plan performance agreement is not required, the governing body shall require a landscape plan performance agreement to guarantee compliance and completion of the landscape plan requirements for the parcel as provided in the landscape plan as approved. In addition, the governing body may require alternate forms of performance assurance, such as a performance bond, escrow bond, or some other form of surety acceptable to the governing body if the landscape plan is to be developed in phases, allowing temporary occupancy of a portion of the site, or if the governing body determines that other aspects of the landscape plan require alternate performance assurance.

(b)*Certificate of Occupancy.*

(1) Prior to the issuance of a certificate of occupancy, for any structure where landscaping is required or a permanent irrigation system was installed, except as provided in subsection (b)(2) of this section, all work indicated on the approved plan(s) shall be completed, inspected and approved by the zoning administrator. Prior to approval, the quantities, locations, types and sizes of plants and other landscape materials shall be checked for compliance.

(2) A landowner may obtain a temporary certificate of occupancy for a structure prior to completion of required landscaping work if completion is not possible due to seasonal or weather conditions and if acceptable assurances are submitted guaranteeing the completion of such landscaping. The acceptable assurances, such as an irrevocable letter of credit, performance bond, certified check, or escrow account, shall be equal to 125 percent of the cost to complete the landscaping work and shall be accompanied by a written agreement assuring that such landscaping will be completed prior to the expiration date of such assurance. If an inspection reveals that such landscaping work is not completed prior to the expiration date of such assurance, the governing body shall utilize such assurance to pay for the completion of the landscaping work.

Section 9. Chapter 71, Article VI, Section 71-1184 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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Sec. 71-1184. Recording of landscape plans.

Following the approval of a landscape plan, a statement will be recorded with the register of deeds acknowledging that a landscape plan has been approved for the property. The recorded statement shall contain the following information:

- (1) A legal description of the property;
- (2) A specification of the nature of the plan by identifying the zoning districts which apply to the property;
- (3) A statement that the restrictions on development established by the landscape plan shall be binding upon all successors and assigns unless amended in conformance with this article.

Section 10. Chapter 71, Article VI, Section 71-1185 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

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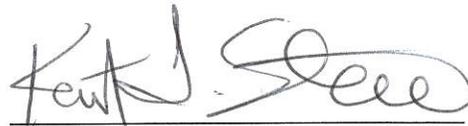
ARTICLE VI. LANDSCAPE AND IRRIGATION PLANS

Sec. 71-1185. Period of validity for landscape plan approval.

Final plan approval by the governing body shall not be valid for a period longer than 12 months from the date it is approved, unless within such period a building permit is obtained and all additional building permits necessary to complete the project, as approved in the final plan completion schedule, are obtained in a timely fashion as determined by the zoning administrator. The governing body may grant an extension not exceeding 12 months upon written request of the original applicant and resubmission of the application. However, the governing body has the power in such cases to attach new conditions to its reapproval or to disapprove the reapplication.

Section 11. The ordinance shall take effect and be in force from and after its passage and publication in the Hays Daily News, the official city newspaper.

PASSED by the Commission on March 27, 2014.



KENT L. STEWARD

Mayor

ATTEST:



BRENDA KITCHEN

City Clerk

(SEAL)

