

**ORDINANCE NO. 5878**

**AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE III, DIVISION 8,  
LANDSCAPE REVIEW AND BEAUTIFICATION COMMISSION AND  
FGC SECTIONS 10-436, 438, 439, AND 441 OF THE FAIRBANKS  
LANDSCAPE ORDINANCE**

**WHEREAS**, The Landscape Review and Beautification Commission was established by Ordinance No. 5566 in 2004; and

**WHEREAS**, that ordinance also created the Landscape Review Board from within the Commission's membership; and

**WHEREAS**, the Commission has fulfilled its role in preparing a Landscape Manual for use by the Building Department; and

**WHEREAS**, during Fairbanks' short construction season, review of landscaping plans by the Commission is often not practicable; and

**WHEREAS**, the functions of the Landscape Review Board are still valuable and are retained within this ordinance under the new name of the Fairbanks Landscape Review and Appeals Commission; and

**WHEREAS**, the proposed changes to Chapter 2, Art. III, Div. 8 will require amendments to related sections of the Fairbanks Landscape Ordinance (FGC Sections 10-435 – 441),

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:**

**SECTION 1.** That Fairbanks General Code Chapter 2, Article III, Division 8 Landscape Review and Beautification Commission is amended as follows [new text is in **bold/underlined** font; deleted text is in ~~strike-out~~ font]:

**ARTICLE III. Boards and Commissions**

**DIVISION 8. LANDSCAPE REVIEW AND APPEALS BEAUTIFICATION  
COMMISSION**

**Sec. 2-371. Created.**

(a) There is created a landscape review and **appeals** ~~beautification~~ commission consisting of ~~five~~**nine** members, serving without compensation, to be appointed by the mayor subject to confirmation by the city council.

(b) At least ~~three~~**five** members of the commission shall be residents of the city or own property or operate a business within the city limits. The membership of

the commission shall consist of a minimum of ~~one~~three architects or landscape architects and a maximum of ~~four~~six lay members interested in civic improvements. The chair shall be elected by and from the commission subject to approval by the city council and shall serve in this capacity for one year. ~~Of the nine members first appointed, three shall be appointed for one year, three for two years, and three for three years; thereafter, A~~appointments to the commission shall be for three years except where an interim appointment is necessary to complete the term of a commissioner who resigns or dies while in office.

(c) The city building official shall be an ex officio members of the commission without vote. A secretary, who need not be a commission member, shall also be appointed by the members of the commission.

~~(d) Five members of the commission shall be appointed to serve as the landscape review board with no more than one architect or landscape architect. Two alternates shall be appointed. The landscape review board shall be nominated by the city mayor and confirmed by the city council. The landscape review board shall be available to meet in public upon five days public notice to any matter and render a decision.~~

#### Sec. 2-372. Meetings.

~~(a) The landscape review and beautification commission shall establish rules of procedure. There shall be regular meetings of the commission not less than once each calendar quarter which shall be open to the public. The chair is authorized to call special meetings, or a majority of the members may require a special meeting to be called.~~

~~(a)~~ A majority of the commission shall constitute a quorum for the transaction of business, and ~~three~~five affirmative votes shall be necessary to carry any question.

~~(b)~~ The physical attendance of four members of the landscape review board constitutes a quorum and three affirmative votes shall be necessary to carry any question. An applicant's appeal to the landscape review and appeals commission board is deemed granted if the commission landscape review board does not deny the appeal within ten city working days of submission of the matter to the commission landscape review board by the building official.

#### Sec. 2-373. Records.

Permanent records, or minutes of meetings of the landscape review and appeals beautification commission (“LRBC”), as well as the landscape review board, (“LRB”), shall be kept. The minutes shall promptly be filed in the office of the city clerk and shall be open to inspection by any person.

## Sec. 2-374. Powers and duties.

The landscape review and **appeals** beautification commission shall have the duties and be empowered to:

- (1) ~~Act when requested in an advisory capacity to the city council on urban beautification matters. The landscape review board is granted powers and duties as provided at FGC Sec. 2-375, subject to the applicant's right of appeal to the city council.~~
- (2) ~~Review the proposed plans of federal, state, borough and city governments concerning structures, appurtenances or other improvements in, upon or adjacent to city property, including city streets and sidewalks, in order to make recommendations which will make the proposed structures, appurtenances or improvements compatible with city beautification plans and aesthetics.~~
- (3) ~~Advise owners of private property in relation to beautification of such property when anyone contemplating the erection of any building or the making of any improvement submits the plans and designs or sketches thereof to the commission for advice and suggestions for which no charge shall be made by the commission.~~
- (4) ~~Investigate and make recommendations to the city administration and the city council concerning the abatement of public nuisances in the city.~~
- (5) ~~Cooperate with other city boards and commissions and the borough planning commission to promote plans and programs aesthetically compatible with policies and programs of the commission.~~
- (6) ~~Help unite citizens toward common goals of civic pride in urban beautification.~~
- (7) ~~Submit quarterly reports to the city council concerning its activities.~~

## Sec. 2-375. Review.

(a) ~~Landscape review board.~~ The landscape review **and appeals commission** shall, within ten city working days of submission, review any disputes arising from the building official's application of the prescriptive design method (FGC Sec. 10-438(C)(1)), an applicant's election to use the professional design method (FGC Sec. 10-438(C)(2)), ~~and~~ an applicant's election to use the alternative compliance method (FGC Sec. 10-438(C)(3)). Applicants may appeal an adverse decision of the landscape review **and appeals commission** to the city council at the next regular meeting of the city council that occurs at least

~~seventhree~~ calendar days after a denial by the commission landscape review board.

~~(b) Full landscape review and beautification commission. The landscape review and beautification commission may review:~~

~~(1) Any proposed design and location of any structure, appurtenance or other improvements erected, or to be erected by the city upon property belonging to the city, including the city streets and sidewalks.~~

~~(2) Any proposed city plan or program which may have an effect on the aesthetics of the city. Any person proposing to extend or alter any structure, appurtenance, sign or other device over or upon any city street or sidewalk shall submit to the commission for review and approval design drawings and plans of the proposal.~~

~~(c) The design of traffic signal or control device need not be submitted if the design is determined by state law and cannot be altered or varied consistent with such law.~~

~~(d) The commission shall decide any matters submitted to it within 30 days after submission unless the commission shall by resolution declare the nature and complexity of the proposal submitted requires an additional period of time for decision and shall set forth in the resolution the additional period of time needed.~~

~~(e) If the commission fails to decide within the required period of time, its recommendations shall be considered unnecessary.~~

~~(f) The commission shall submit all proposed recommendations, plans and programs to the mayor for administrative action prior to any city council action recommended by the commission.~~

~~(g) The city mayor, with the concurrence of the city council, may remove any commission member who has three unexcused absences in any calendar year. An unexcused absence is an absence of which the chair is not notified in advance.~~

Section 2. Fairbanks General Code Sections 10-438, 439, and 441 are amended as follows [new text **bold and underlined** font; deleted text in strikeout font]:

## ARTICLE XV. FAIRBANKS LANDSCAPE ORDINANCE

### Sec. 10-436. Scope and applicability

A. *[Minimum requirements.]* The minimum requirements and standards set forth in this section shall apply to all public and private, commercial, industrial, religious, educational, institutional and multi family uses that are developed or expanded after

January 1, 2004. For the purpose of this section, a building which undergoes a change of use as defined by the building code, shall comply with this ordinance. If a building covered by this ordinance expands its floor area, compliance with this ordinance is required on a pro-rata percentage basis, with a 15% minimum compliance, under the alternative design method (FGC 10-438(C)(3)). The Fairbanks Landscape Ordinance shall apply to the construction of a new parking lot, expansion of an existing parking lot or a surface improvement to an existing parking lot. The intent of the landscape ordinance is to apply to provided parking, whether required by zoning ordinances, or provided for any other reason. Multiple residential buildings located on one lot shall also comply with all provisions of the Landscape Ordinance.

**B. Exemptions**

- (1) Property with one, two, and three family dwelling units located on individual lots are exempt from the provisions of the Fairbanks Landscape Ordinance.
- (2) Property of which the principle use is the sale of vehicles is not required to comply with the prescriptive method FGC 10-438(C)(1).
- (3) Property located within the area specified by Borough Code section 18.50.060(C)(12) (presently described as: First Avenue to Fifth Avenue, Noble Street to Barnette Street, and First Avenue to Third Avenue, Barnette Street to Wickersham Street, and as may be subsequently expanded), provided that, if a new parking lot is constructed within said area, compliance shall be with the alternative design method or the professional design method (FGC 10-438(C)(2) and (C)(3). The City Landscape Manual will provide a map of this region of the City.

**C. Landscape Plan** Where a landscape plan is required under this section, the plan shall include:

1. The common name of each plant used;
2. The number, height and diameter of each plant;
3. The locations where different plant types will be used;
4. The locations, size and type of vegetation to be preserved in their natural state;
5. Location of any retaining walls and fences;
6. Location of existing or proposed utilities and easements of record;
7. Location of all property lines including all streets which border the lot;
8. Location of any existing or proposed structures or parking areas;
9. North arrow and scale;
10. Site drainage and drainage patterns; unless shown on civil drawings

**D. Approved Plant Materials.** ~~The Landscape Review and Beautification Commission will adopt and publish a Landscape Manual, which shall include~~ A list of approved plant and ground cover materials, a map of the area described in Section 10-436(B)(3), and general landscaping information, will be set out in a Landscape Manual. The Manual,

which will be revised as needed **by the Landscape Review and Appeals Commission, will be** made available at the Building Department and on the Building Department web site.

**Sec. 10-438. Landscape design standards.**

\* \* \* \* \*

C. Technical design standards. One of the following three design methods shall be used to comply with the Fairbanks Landscape Ordinance.

\* \* \* \* \*

2. *Professional Design Method.* A landscape plan, prepared and sealed by a licensed landscape architect registered in the State of Alaska, which is equivalent to the criteria set forth in section 10-438(C)(1), shall be considered as meeting the intent of the landscape ordinance. All Landscape plans which utilize the Professional Design Method shall be reviewed and approved by the City of Fairbanks Landscape Review **and Appeals Commission**Board, **as needed.**
  
3. *Alternative Compliance Method.* Project conditions associated with individual sites may justify approval of alternative methods of compliance with the landscape design requirements. Conditions may arise where normal compliance is impractical or impossible, such as facilities that sell vehicles, or where maximum achievement of the City's objectives and goals can only be obtained through alternative compliance. Such Landscape Plans shall be reviewed and approved by the Landscape Review **and Appeals Commission**Board on a case-by-case basis.

**Sec. 10-439. Plan submittal and inspection requirements.**

A preliminary landscape plan shall be submitted to the building department in conjunction with the required building permit application and related construction documents. A final and complete landscape plan shall be submitted to the building department for review and approval before the final inspection is conducted. A certificate of occupancy shall not be issued until all landscaping has been completed by the contractor or developer and inspected and approved by the building department or Landscape Review **and Appeals Commission**Board. In the event landscaping is not completed due to planting season restrictions, a temporary certificate may be issued but shall expire within one year of such certificate. If a temporary certificate of occupancy is issued, a performance bond or suitable guaranty shall be posted with the City of Fairbanks until such time as the landscaping is completed and approved. The amount of the bond or guaranty shall be equivalent to one percent of the total cost of the construction project up to one million dollars or shall be equal to one half of one percent of the total construction cost if the total construction costs exceed one million dollars.

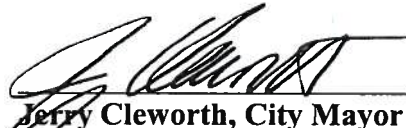
**Sec. 10-441. Enforcement, appeals and penalties**

1. The City of Fairbanks Building Department in conjunction with the Landscape Review and Appeals CommissionBoard shall enforce the requirements of this section and shall be responsible for performing the necessary inspections to determine if the required landscaping has been installed according to the approved landscape design.

2. A Certificate of Occupancy shall not be issued until the landscape requirements are met as shown on the approved landscape design plans and given final approval by either the building department or Landscape Review and Appeals CommissionBoard unless a performance bond is secured in the amount of the estimated cost of the landscaping as approved by the Landscape Review and Appeals CommissionBoard or in accordance with section 10-439. Occupancy of any building prior to the issuance of a temporary or final Certificate of Occupancy shall be unlawful.

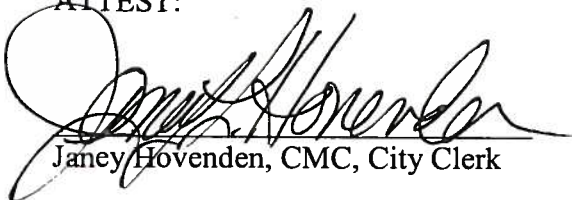
3. Any applicant denied a building permit or issued a stop work order due to non compliance of the landscape ordinance or who wishes to appeal a decision of the building official may appeal to the Landscape Review and Appeals CommissionBoard. The appeal shall be made in writing and submitted within one week upon rejection from the building official. If an applicant, owner or developer wishes to appeal a decision of the Landscape Review and Appeals CommissionBoard, they shall appeal to the City Council acting as a Board of Adjustment. The appeal shall be in writing and fully state the reason or reasons for the appeal. The appeal shall be accompanied by a copy of the landscape design submitted to the Landscape Review and Appeals CommissionBoard.

**SECTION 3.** That the effective date of this Ordinance shall be the 24th day of March 2012.


  
Jerry Cleworth, City Mayor

AYES: Hilling, Eberhart, Roberts, Stiver, Matherly, Gatewood  
NAYS: None  
ABSENT: None  
ADOPTED: March 19, 2012

ATTEST:

  
Janey Hovenden, CMC, City Clerk

APPROVED AS TO FORM:

  
Paul J. Ewers, City Attorney