

ORDINANCE NO. 98-O-253

AN ORDINANCE ESTABLISHING ARTICLE 1 SECTION 24.1.7 IN THE *LAREDO LAND DEVELOPMENT CODE* PROVIDING FOR A TREE BOARD; AMENDING ARTICLE V SECTION 24.83 RELATING TO THE PLANTING OF TREES AND SHRUBS, SPECIFICALLY THE ADDITION OF SECTION 24.83.5 PROVIDING FOR PROTECTED TREES, SECTION 24.83.6 PROVIDING FOR SPECIAL REQUIREMENTS, SECTION 24.83.7 PROVIDING FOR VIOLATION AND PENALTY, AND SECTION 24.83.10 PROVIDING FOR PLANTING & MAINTENANCE; AMENDING APPENDIX "A", AND RESCINDING APPENDIX F-2.

Whereas, trees are of great value to public health and welfare; aid in the conservation of energy resources and natural resources in the preservation of the City's heritage and quality of life; are a valuable addition to the attractiveness of the city by providing shade, cooling the air, restoring oxygen to the atmosphere, and reducing glare; and

Whereas, trees should be preserved to the maximum extent for the enjoyment of residents and visitors since, if destroyed, they can be replaced only after decades of time; and

Whereas, once a tree ordinance and Tree Board are established the City will be eligible to become a member of Tree City USA, with all its benefits and responsibilities.

Whereas, the planting of trees and other vegetation reduces the rate and volume of storm water run-off and soil erosion, thereby protecting and enhancing the public health, safety, and welfare; and

Whereas, the establishment of a uniform city policy for the planting of trees and shrubs will encourage the use of suitable heat tolerant and drought resistant plant species; facilitating upkeep, reducing the use of water, and lowering unit maintenance costs; and

Whereas, the planting of trees and shrubs will improve the quality of life for the citizens of Laredo by providing an aesthetically pleasing environment in which to live and work.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Laredo that Article 1 Section 24.1.7 is established, and Section 24.83 and Appendix "A" of the *Laredo Land Development Code* are hereby amended to read as follows:

Section 1. Article 1 Section 24.1.7 is hereby established to read as follows:

Section 24.1.7 TREE BOARD

Section 24.1.7.1 Organization; Power and Duties.

(1) The City of Laredo Tree Board shall be composed of nine (9) members appointed by the Mayor and City Council, with no more than two (2) of the members from or affiliated with a development company within the City of Laredo.

(a) The nine (9) persons shall be residents of the City of Laredo or a regional forestry professional.

- (b) The members of the Tree Board shall serve without compensation.
- (2) Ex-Officio members may be voted in by the Board. Ex-Officio members do not have voting rights.
- (3) The terms of the Board members shall be for four (4) years.
 - (a) Members named to refill a vacant position shall be appointed for the unexpired term of that position.
 - (b) If an Officer resigns, members shall elect a replacement from among their membership to fill the unexpired term.
- (4) A member of the Board shall forfeit his or her position if:
 - (a) said board member accepts any elected or paid City office; or
 - (b) no longer resides within the City limits of the City of Laredo (with the exception of the regional forestry professionals); or
 - (c) fails to attend three (3) consecutive meetings without being excused by vote of the majority of the members present.
- (5) The Tree Board shall meet at least once a month, at a time and place to be established, such meetings to be open to the public and noticed not less than 72 hours before the scheduled date and time.
- (6) It shall be the responsibility of the Board to:
 - (a) study, investigate, advise, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public spaces. Such plan shall be presented to the City Council and upon their acceptance and approval shall constitute the official city tree plan for the City of Laredo, Texas. The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.
 - (b) review landscaping plans when required for preliminary plat approval for compliance with Article V Section 24.83 of the *Laredo Land Development Code*, Trees and Shrubs. The Board may request changes to the proposed landscaping plan. A letter from the Tree Board accepting the proposed landscaping plan must be received before the plan can be submitted for final approval.

Section 2. Article V Section 24.83 of the *Laredo Land Development Code* is hereby amended to read as follows:

ARTICLE V

SECTION 24.83 TREES AND SHRUBS

Section 24.83.1 Street Tree Planting Required In New Subdivisions

~~A.~~ (1) The owner or subdivider of property in new subdivisions shall plant, or require the planting of the total number of street trees (T) required under the following calculations, whichever is greatest:

1) ~~(a)~~ $T = (X \times 2)/30$ in the case of a street dedication plat and/or where the property to be platted lies adjacent to both sides of a public street. X will represent the length of the public street measured in linear feet at the centerline of the street or thoroughfare; or

2) ~~(b)~~ $T = X/30$ where the property to be platted lies adjacent to only one side of a public street or thoroughfare. X shall represent the length of the public street or thoroughfare measured in linear feet at the centerline of the street and adjacent to the property; or

3) ~~(c)~~ $T = Y \times 2$ where the property is proposed to be platted into single-family residential lots. Y shall represent the number of single family residential lots included in the proposed plat.

~~B.~~ (2) Where the subdivider proposes that the trees required under this section are to be planted in conjunction with construction or development of the property, this requirement shall be noted on the plat. Such note shall not relieve the subdivider of the responsibility to plant trees along any collector or arterial where a new single family residential subdivision abuts a collector or arterial street along the rear property line of any single family residential lot.

~~C.~~ (3) The trees required under this section shall be planted within the public rights-of-way, within landscape or other reserves restricted for the purpose, or on private property within the ten feet (10'-0") parallel and adjacent to a local street right-of-way, or on private non-residential property within twenty-five feet (25'-0") parallel and adjacent to a major thoroughfare.

~~D.~~ (4) Median Planting

1) ~~(a)~~ Trees or shrubs planted within the median of a major arterial shall not be planted less than seventy-five feet (75'-0") from the nose of the median.

2) ~~(b)~~ Trees or shrubs planted within the median of a minor arterial shall not be planted less than fifty feet (50'-0") from the nose of the median.

3) ~~(c)~~ Trees or shrubs in any median shall not be planted less than fifty feet (50'-0") from any mid-block opening in the median.

4) ~~(d)~~ Trees or shrubs planted in the median shall not be planted less than five feet (5'-0") from the back of the final approved design line for the curb, and trees shall be spaced at intervals of not less than thirty feet (30'-0").

~~E.~~ (5) Visibility Maintained

1) ~~(a)~~ Within the visibility triangle no shrub, tree, plant or structure shall be permitted with a height greater than twenty-four inches (0'-24") measured from the centerline of the adjacent roadway.

- 2) (b) Trees shall be kept trimmed at all times so that no branch or growth is less than ten feet (10'-0") above the adjacent roadway measured from the centerline of that roadway.

Section 24.83.2 Street Tree Planting Required In Existing Subdivisions

(1) The planting of street trees is required as a condition of the issuance of a building permit in the City of Laredo, save and except permits issued for the reconstruction, modification or addition to property used for single family residential purposes, or the expansion of non-residential structures which do not exceed 1,000 square feet or twenty-five percent (25%) of an existing structure, whichever is more. Also excluded are those subdivisions approved before the effective date of this ordinance where the street tree or money-in-lieu of requirement has been met. The requirement for planting shall be as follows:

- (a) Two trees per single family residential lot shall be planted within the public right-of-way, within a landscape or other reserve restricted for the purpose, or on private property within the ten feet (10'-0") parallel and adjacent to a local street right-of-way.
- (b) One tree for each thirty feet (30'-0") of non-residential or multi-family residential property abutting a public street right-of-way shall be planted. Trees shall be planted within the public rights-of-way, within landscape or other reserves restricted for the purpose, or on private property within the ten feet (10'-0") parallel and adjacent to a local street right-of-way, or within twenty-five feet (25'-0") parallel and adjacent to a major thoroughfare.

Section 24.83.3 Surface Parking Lot Requirements

(1) Number of Trees Required

(a) New surface parking lots with more than fifteen (15) parking spaces shall require one (1) eligible tree for every ten (10) parking spaces or fraction thereof. The trees shall be located within and/or on the perimeter of the parking lot.

~~(b) Parking lots which have been expanded to provide additional parking spaces shall require one (1) eligible tree for every ten (10) spaces, or fraction thereof, added as part of the expansion, but in no event less than one (1) eligible tree.~~

(b) Existing parking lots which are to be expanded to comply with the requirements of Section 24.78 of the Laredo Land Development Code "Off-Street Parking & Loading Requirements" and which, after such expansion, will contain more than fifteen (15) parking spaces, shall provide one (1) eligible tree for each ten (10) additional spaces or fraction thereof. The trees shall be located within and/or on the perimeter of the parking lot

(c) A permeable area with a radius of not less than three feet (3'-0") measured from the trunk of each eligible tree shall be maintained, and each eligible tree shall be protected from automobiles by curbs or tire stops located at least three feet (3'-0") from the trunk of the tree.

~~(2) Existing parking lots which are to be expanded to comply with the requirements of Section 24.78 of the Zoning Ordinance Handbook Off-Street Parking & Loading Requirements and which, after such expansion, will contain more than fifteen (15) parking spaces, shall provide one (1) eligible tree for each ten (10) additional spaces or fraction thereof.~~

3)(2) Parking surface areas adjacent to the public street right-of-way shall have shrubs planted at regular intervals along the perimeter of all parking surfaces adjacent to the right-of-way, exclusive of driveway entrances, pedestrian walkways and cutback areas. The shrubs shall be maintained at a height of no more than thirty-six inches (0'-36") nor less than eighteen inches (0'-18"). The number of shrubs required under this section shall be equal to the total number of street trees required under this section multiplied by four. Seventy-five percent (75%) or more of the required shrubs shall be planted along the perimeter of the parking surface.

Section 24.83.4 Tree Preservation Credit

(1) In the event that the owner or subdivider of the property proposes to preserve existing healthy trees, credit toward the tree requirement shall be given at the rate of two (2) street trees for each existing tree actually preserved. The owner or subdivider shall propose reasonable measures calculated to ensure the continued survival of existing trees for which credit is claimed. Any eligible tree for which credit is claimed shall have a minimum caliper of six inches (0'-6"). ~~measured four feet (4'-0") above the soil level.~~

(2) The owner or subdivider of the property may request credit for the planting of up to fifty percent (50%) of the trees required under this code.

(3) If the preserved tree dies the tree must be replaced with a minimum of a three inch (0'-3") caliper tree.

Section 24.83.5 Removal, Replanting, and Replacement of Protected Trees

(1) All trees on public land within the city limits of Laredo with a caliper of eight inches (8") shall be considered protected trees.

(2) Removal of Protected Trees

(a) No person or corporation shall remove or cause the removal of any protected tree on public land without first securing approval from the Tree Board as provided in subsections (i) and (ii).

(i) When site plan approval is required by Building Services Department for any improvements on public land, the actual or schematic location of existing protected trees shall be shown on those site plans for review by the Tree Board. The Tree Board shall submit their order regarding the proposed plan within fourteen days of the date the plans were received by the Board.

(ii) The Tree Board shall review site plans for all improvement projects from any city, state, and federal government agency. The Tree Board's approval of these public projects shall constitute approval for the removal of any protected tree indicated on the project plans.

(b) The Tree Board shall approve removal of a protected tree located on public property when it is shown that the tree is diseased, severely damaged, dead on the site, or constitutes a hazard. Removal of such protected trees may require replacement trees as deemed necessary by the Tree Board.

(c) The Tree Board shall approve removal of a protected tree located on public property when the tree's location prevents reasonable access to the property or precludes reasonable and lawful use of the property. Removal of such protected trees may require replacement trees as deemed necessary by the Tree Board.

(d) The Tree Board may approve the removal of a protected tree in connection with construction, maintenance, or repair of public facilities in or upon a public street, alley, right-of-way, greenbelt, or other public land under one or more of the following conditions:

(i) The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes.

(ii) The location of the tree prevents the construction of utility lines or drainage facilities which may not be feasibly rerouted.

(e) Removal of such protected trees shall require replacement trees.

(3) Replacement Trees

(a) Where replacement trees are required the specified criteria shall be followed:

(i) The minimum diameter of replacement trees shall be no less than three (3) caliper inches, unless otherwise approved by the Tree Board.

(ii) When it is found impractical to relocate or replace the removed trees on the same property, replacement may be made upon any public owned property, property of non-profit organizations, public parks, or right-of-ways, subject to the approval of the Tree Board.

(iii) Tree species used for replacement shall conform with Appendix F-1 of the *Laredo Land Development Code*.

(4) Any person aggrieved by the decision of the Tree Board may appeal the decision to the City Council by filing a written appeal, specifying the reasons thereof, within thirty (30) days of the time the order is issued.

Section 24.83.6 Special Requirements

(1) Any tree on privately owned property that is found to be a nuisance shall receive a notice to abate such nuisance as described in Chapter 21 of the *Code of Ordinances, City of Laredo*.

(2) All utility franchise holders shall present scheduled tree pruning plans to the Tree Board prior to the start of pruning work.

(3) Unless specifically authorized by the Tree Board, no person shall remove, intentionally damage, mutilate, allow any gaseous liquid or solid substance which are harmful to protected trees, to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any protected tree.

(4) All applicants for permits to work on public trees must comply with State and Local liability insurance requirements, workmen's compensation and safety codes.

Section 24.83.7 Violation and Penalty

(1) Each destruction or removal of a protected tree, unless specifically permitted per this ordinance, shall be considered as a separate violation of this ordinance and shall be subject to penalty.

(2) Any person, firm, or corporation violating or failing to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum of up to \$500,000 per violation.

Section 24.83.5 8 Alternate Planting Proposals

(1) It is the intent of the City to provide an opportunity for the development of exceptional or unique landscape designs which cannot meet the express terms of this article. Special consideration shall be given to exceptional landscape designs which attempt to preserve and incorporate existing vegetation in excess of the minimum requirement and/or in innovative ways.

(2) Applicants for approval of an alternate tree/shrub plan shall be entitled to demonstrate that the intent of this article can be more effectively met in whole or in part through an alternate tree/shrub plan. An alternate landscape plan shall be reviewed by the Planning and Zoning Commission and, if approved, shall be substituted in whole or in part for a landscape plan meeting the express terms of this section.

Section 24.83.6 9 Money-in-Lieu of Trees

(1) Up to thirty percent (30%) of the total planting requirements may be met by depositing, with the ~~Education Parks and Recreation Department~~, a sum of money equal to the cost of the required trees and their planting. This money shall be placed in a special fund designated for the purposes of planting of eligible trees in city parks or public rights-of-way. The cost per tree shall be determined by the ~~Education and Recreation Department Tree Board~~ on an annual basis. The remaining seventy per cent (70%) of the trees shall be planted as required by this ordinance.

Section 24.83.7 10 Selection and Maintenance

(1) All trees and shrubs planted in accordance with this Article shall be a native or naturalized species as recommended by the ~~Agricultural Extension Service and Texas Water Development Board~~ in Appendix F-1 - *Recommended Trees For The Laredo Region*, and shall be planted and maintained in accordance with the standards established in ~~Appendix F-2 - General Planting And Maintenance Standards For Trees And Shrubs~~. Section 24.83.10 (3).

(2) The list of native and naturalized trees and shrubs in Appendix F-1 is not all-inclusive and may be updated as needed by the ~~Planning Department Tree Board~~ without formal amendment to this section.

(3) General Planting and Maintenance Standards

(a) All trees shall be planted in holes two (2) to five (5) times wider than the rootball diameter. The depth of the hole should be no deeper than necessary to set the plant at the same depth it was in the nursery. All shrubs shall be planted in holes a minimum of six (6) inches wider on each

side than their root spread, whether container grown or balled and burlapped. This enables the plant to extend the small roots in the first few weeks in the ground.

(b) Place the tree or shrub in the hole. If the tree is container grown, pull the container away from the rootball. Do not pull the tree by its trunk. Pulling the tree out of the container by its trunk will damage the small roots within the ball. Place the tree or shrub in the center of the hole and adjust it so that it is straight and at the proper level.

(c) For balled and burlapped plants pull the top and sides of the burlap away from the ball after the hole has been partially backfilled but before watering. Do not attempt to pull the burlap out from under the ball under any condition. All wire and surplus binding from the top and sides of the ball should be removed.

(d) Backfill with the original soil and firm the soil until approximately two-thirds (2/3) full. Before completing, fill the hole with water and allow the soil to settle around the roots. After the water has been absorbed, add topsoil to bring up to grade and form a watering basin around the tree.

(e) An earth basin, approximately four (4) inches in height, shall be formed around the tree or shrub pit to help retain water and protect the trunk from mower damage. Individual plant pits shall be completely encircled by the basin, except on steep slopes where the basin is formed on the downhill side to serve as a dam.

(f) Trees taller than four (4) feet may need to be staked. Rubber hose shall be used to protect the tree from the staking wire.

(g) The trees and shrubs must be watered immediately after planting and as needed during the first two (2) growing seasons. A thorough soaking is preferred over light, frequent soakings.

(h) The entire area formed within the earth basin shall be filled with 3 to 4 inches of mulch to help conserve moisture and reduce competition from weeds.

(i) All trees and shrubs shall be planted in individual holes with the exception of hedges. Hedges may be planted in a continuous trench as long as adequate room is allowed for root development.

(4) Staking, Guying and Wrapping

(a) All evergreen and deciduous trees over four (4) feet tall need to be supported by an acceptable method to keep the tree trunk in an upright position immediately after planting. Bracing prevents the tree from being damaged by strong winds which loosens the soil around the base of the tree and injures the rooting system.

(b) Trees shall be staked or guyed for a minimum of one growing season. All bracing and tree supports should be eliminated as soon as the tree becomes self-supporting.

(c) If the tree has sparse foliage and is exposed to full sun, the trunk shall be wrapped with an appropriate material to prevent sun scalding. Special tree wrap paper is available; however strips of burlap and aluminum foil will also protect the tree.

(5) Irrigation Requirements

(a) The installation of a supplemental irrigation system is required to give the trees and shrubs an adequate amount of water without waste. All required landscaping shall be irrigated by either an underground sprinkling system, drip irrigation system or a hose attachment within 100 feet (100'-0") of the landscaped area.

(b) The irrigation systems shall be designed and calibrated in order to thoroughly soak the root area of the plant area with the frequency necessary to establish newly planted trees and shrubs and to sustain their healthy growth.

(c) The system used shall be designed to minimize the amount of spray that will fall on sidewalks, neighboring properties and adjacent buildings in order to achieve water conservation.

(d) The property owner shall be responsible for irrigation as well as regular maintenance of the trees and shrubs.

Section 3. Appendix "A" of the *Laredo Land Development Code* is hereby amended as follows:

Caliper - shall mean the diameter of a tree measured twelve (12) inches above the ground. the measurement of the size of the tree equal to the diameter of its trunk measured above the normal stem/ground level juncture.

City - shall mean the City of Laredo, Texas

City Tree Official - The Director of Parks and Recreation or his appointed designee.

Critical Root Zone - shall mean, for any tree, the area within a circle centered on the location of the trunk. The circle's diameter is one-half the sum of the broadest and narrowest dripline diameters.

Damage - shall mean any action taken which could cause a tree's death, either immediately or after a reasonable period of time, such as severing the main trunk or large branches or large roots, girdling, poisoning, carving, mutilating, touching with live wires, crushing or exposing roots, digging or drilling a hole larger than three (3) cubic feet (or a trench) within the Critical Root Zone, covering a substantial part of the Critical Root Zone, or compacting a substantial part of the soil within the Critical Root Zone. The above are examples and not intended to limit this definition.

Dripline Diameter - shall mean an imaginary line on the ground, at the furthest extension of the canopy around the circumference of a tree. Typically the dripline is not a perfect circle.

Greenbelt - shall mean that section of street or highway right-of-way that is usually unpaved. Greenbelt may also refer to medians and other designated areas reserved for landscaping or pedestrian traffic. Greenbelt areas are not limited to streets or highways on public land.

Park Trees - shall mean those trees located within public parks and all those areas owned by the City, or to which the public has free access as a park.

Protected Trees - shall mean any tree, on public property, with a trunk caliper of eight inches (8") or more.

Replacement Trees - shall mean a tree meeting the minimum criteria for replacement trees as set out in Article 1, Section 24.1.7, of the *Laredo Land Development Code*.

Street Tree - shall mean ~~an eligible tree recommended by the Texas Agricultural Extension Service for its suitability for the Laredo Region~~ those trees located between property lines on either side of streets, avenues, or ways within the city.

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

Section 4. Effective Date

This ordinance shall be effective after sixty (60) days upon its passage and publication according to Section 2.09(D) of the Charter of the City of Laredo.

Section 5. Severability

If any provision, section, subsection, sentence, clause, or phase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

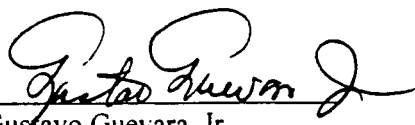
Section 6. Open Meetings

The City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place, and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Article 6252-17, Texas Revised Civil Statutes Annotated; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered, and formally acted upon. The City Council further ratifies, approves, and confirms such written notice and the contents and posting thereof.


PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS 19th DAY OF OCTOBER, 1998.


Elizabeth G. Flores, Mayor

ATTEST:


Gustavo Guevara, Jr.
City Secretary

APPROVED AS TO FORM:


Jaime L. Flores
City Attorney