

AN ORDINANCE REVISING, REPEALING AND REPLACING LEON VALLEY CITY CODE, CHAPTER 30, "ZONING", SECTIONS 30.202, "DEFINITIONS", AND 30.900, "LANDSCAPING", WITH REVISIONS TO SECTION 30.202, AND A NEW SECTION 30.900, "LANDSCAPING"

WHEREAS, the City Council of Leon Valley wishes to establish rules and guidelines regarding tree preservation because the current tree requirements are insufficient for the City of Leon Valley's needs and desires; and

WHEREAS, the City Council of Leon Valley wishes to establish tree preservation regulations to prevent unwarranted clear cutting and other destruction of trees and preserve the many beneficial effects the Leon Valley tree canopy provides for the city and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS, THAT:

1. Section 30.202, "Definitions" is hereby revised to add the following:

ARBORIST, CERTIFIED: An individual who has a current and valid designation of "ISA Certified Arborist" by the International Society of Arboriculture.

BUILDABLE AREA: The area of a lot remaining after the minimum yard and open space requirements of this code and Chapter 24, "Subdivisions and Plats" have been met. For recreational property or uses such as golf courses and baseball, soccer, football or similar athletic facilities, and public works projects such as water or waste water treatment plants, pump stations, storage tanks, and public streets and drainage improvements, the buildable area of the property shall include that portion of the property necessary for the construction of such recreational and public works improvements, including sufficient adjacent area to allow the normal operation of construction equipment.

CALIPER: The diameter of a tree four feet (4') above the natural grade measured with a tree caliper instrument or a flexible tape. If a tape is used, the circumference of the tree is measured and the result divided by 3.14 to determine diameter.

CALIPER OF MULTI-TRUNK TREES: The caliper of the largest trunk at a point four feet (4') above the natural grade added to half of the sum of the calipers of the remaining trunks measured at the same height. If branching occurs less than four foot (4') above the natural grade, the diameter of the trunk may be measured below the branching for a single measurement.

DRIPLINE: The area of ground surrounding the trunk of the tree considered essential to protecting the root structure of a tree. For the purposes of this Ordinance, the dripline shall be calculated at one foot (1') for every one inch (1") of caliper width measured at four feet (4') above natural grade level. i.e., a twelve-inch (12") tree would require a dripline with a twelve-foot (12') radius (*producing an area twenty-four feet (24') in diameter*).

TREE, HERITAGE: Any tree that has been designated by the City Council, after public hearing and due notice to the owner of the tree, as a tree of notable interest and value to the City of Leon Valley because of its location, size, age, or historical association with the community or having a diameter of twenty-four inches (24") or greater.

TREE, LARGE: Trees of any species that are twelve inches (12") or larger in diameter.

TREE, LIVING: Trees having at least fifty percent (50%) of the total normal canopy intact and in a healthy condition.

TREE, MULTI-TRUNK: A tree having two (2) or more trunks arising from the root collar or main trunk.

TREE, MEDIUM: Trees that are eight inches (8") in diameter or larger, up to twelve (12") inches.

TREE, SMALL: Trees that are four to seven inches (4 to 7") in diameter, sometimes providing an underlying layer of tree canopy for medium to large and heritage trees.

XERISCAPE: A landscaping method that employs drought-resistant plants and landscaping arrangements in an effort to conserve resources, especially water. "

2. Section 30.800, is hereby revised as follows:

"(5) ALTERNATE LANDSCAPING

In all districts in which a shopping center or office building is a permitted use, and where such shopping center or office building contains in excess of 50,000 square feet of gross leasable area or where not less than 200 off-street parking spaces are required, then the first eighteen (18) feet of the parking lot serving such facility, and which portion abuts an arterial thoroughfare, may be devoted to landscaped open space in lieu of the required off-street parking spaces that would otherwise occupy such space. Such alternate landscaping shall be subject to the following conditions:

A. That such credit shall result in a reduction of at least ten (10) percent of the required off-street parking spaces for the shopping center or office building;

B. That the shopping center or office building would otherwise meet all applicable off-street parking requirements if such area was devoted to parking space rather than alternate landscaped area;

C. Such credit shall not be applicable to a reduction in off-loading requirements;

D. Such alternate landscaping area shall not count toward satisfying the minimum on-site landscaping requirements as may be applicable to the district in which the shopping center or office building is located;

E. Such alternate landscaping area shall be measured from, and be perpendicular to, the property line which abuts an arterial thoroughfare. Where landscaped open space is provided on private property in accordance with the required on-site landscaping provisions of the applicable zoning district, and such required landscaping is located adjacent to an arterial thoroughfare, the alternate landscape area shall be measured from the edge of, and in addition to, such required landscape area. In any event, all required dimensions of vehicle maneuvering areas and aisles as prescribed by this section shall be complied with.

F. All landscape areas shall be landscaped with living plant material, shall incorporate trees in accordance with Section 30.900 of this Chapter, shall be planted and maintained in compliance with the American Nursery and Landscape Association, "American Standard for Nursery Stock" and ANSI Z60.1-2004 and ANSI A300 "Tree Care Standards" guidelines, and shall have installed an irrigation system meeting all applicable requirements of the City and approved by the Zoning Administrator, or shall be located within seventy-five (75) feet of a bibcock, faucet or other water source; and

G. The alternate landscape area may **not** be converted to parking spaces, designed and constructed in accordance with the provisions of this section, at any time.

(6) RETENTION OF EXISTING TREES

Refer to Section 30.900, for regulations regarding mandatory retention and preservation of existing trees, prior to the removal of any trees on site. In all districts, where an existing tree is maintained in a living and growing condition and is located internally within the parking area of any use or facility, such tree may be credited in lieu of four (4) required off-street spaces. Such credit shall be subject to the following conditions:

A. Each existing tree shall be of at least four (4") inches in trunk diameter, measured four feet (4');

B. Each tree counted toward a parking credit shall be maintained in a living and growing condition. In the event of the death of the existing tree, such parking credit shall remain in effect only if the tree is replaced with a tree of equal or greater caliper;

C. Each tree shall be located within a landscape island, peninsula or median, delineated from the surrounding paved area by a masonry or concrete curb of not less than six (6) inches in height around the entire perimeter of the island or module;

D. At least half (1/2) of the tree's extended drip line at maturity must be in permeable area;

E. The area devoted to each landscape island or module shall not count toward satisfying the on-site landscaping requirements of any use in any zoning district if such area is to be applied as a credit toward the off-street parking standard;

F. Such reduction of off-street parking shall not exceed ten (10) percent of the total required off-street parking for the use or facility; and

G. The landscape islands, peninsulas or medians may not be converted to parking spaces, designed and constructed with these provisions, at any time. Any conversion of parking spaces into landscape areas shall not be in conflict with, or in lieu of, the minimum landscape requirements set forth elsewhere within this Chapter."

3. Section 30.900 "LANDSCAPING" is repealed and replaced as follows:

"30.900 LANDSCAPING

a. GENERAL PROVISIONS.

It is the intent of this section:

(1) To recognize the particular characteristics, qualities and beauty of the natural environment of Leon Valley;

(2) To establish specific standards for the installation and maintenance of trees, shrubs, landscaping and buffering elements and other means of site improvement on developed property; and

(3) To enhance the community's ecological, environmental, and aesthetic qualities for the preservation of these unique features.

(4) To promote xeriscape concepts and practices in order to conserve valuable water resources.

b. FINDINGS.

The City Council of the City of Leon Valley finds that the peculiar characteristics, qualities and natural beauty of the City justify the following regulations to perpetuate the aesthetic appeal of Leon Valley on a City-wide basis.

c. OBJECTIVES.

The objectives of the Landscape Chapter include:

(1) Improvement in the appearance of certain setback and yard areas in the City, including off-street vehicular parking and open-lot sales and service areas;

(2) Protection and preservation of the appearance, character and value of the surrounding properties and neighborhoods, thereby promoting the general welfare by providing for the installation and maintenance of landscaping for screening and aesthetic purposes;

(3) Reduction of the negative effects of increases in air temperature, glare, noise, erosion and sedimentation caused by expanses of impervious, non-vegetated surfaces within the urban environment;

(4) Provision of visual buffering between land uses of different character;

(5) Preservation and improvement of the natural and urban environment by recognizing that the use of landscaping elements can contribute to the process of air purification, oxygen regeneration, groundwater recharge, abatement of noise, glare and heat, and enhance the aesthetic qualities of the City;

(6) Preservation of existing native and naturalized plants and incorporate them into landscape design; and

(7) Promotion of water conservation through use of landscape design, soil preparation, species selection and management, appropriate to local climate.

d. MINIMUM STANDARD AND APPLICABILITY.

(1) Regulations shall be a minimum standard, and shall apply to the entire incorporated area of Leon Valley, Texas. A minimum percentage of the total area of the lot upon which development, construction or reconstruction occurs for any use after the effective date of this ordinance shall be devoted to landscaping in accordance with the provisions contained herein.

(2) This section shall apply to any new development or to the expansion of existing development within the City, unless specifically exempted. Split ownership, planning or construction in phases, or multiple building permits for a project shall not prevent it from complying with these requirements.

(3) Projects, which are expansions of existing development, shall provide landscaping based upon the ratio of the area of the expansion to the area of the existing development. Projects for which building permits total fifty (50) percent or more of the appraised value of the existing improvements shall comply with all landscaping requirements.

(4) This section shall become applicable to a lot with existing improvements when an application is made for a building permit for construction work that:

A. Increases the combined floor areas of all buildings on a lot by more than twenty-five (25) percent or 5,000 square feet, whichever is less; or

B. Increases the impermeable coverage on a lot by more than 2,000 square feet.

(5) When this section becomes applicable to a lot, its requirements are binding on all current and subsequent owners of the lot.

e. CONFORMANCE.

No building and/or occupancy permits shall be issued unless and until such issuance conforms to the requirements set forth in the landscaping requirements, Section 30.900.

f. LANDSCAPING REQUIREMENTS.

(1) A buffering landscaped area shall be provided along all dedicated streets and highways. This area shall be a minimum of six (6) feet from the property line to any vehicular paving and/or building line.

(2) Areas of a lot, land parcel or building site devoted to and consisting of plant material, including but not limited to turf grasses, grasses-bunch, trees, shrub forms, flowers, vines and other ground cover, native plant materials, planters, brick pavers, stone, natural forms, water forms, public art forms, stone aggregate and other landscape features, but excluding smooth concrete, asphalt or paving for vehicular traffic; provided that the use of brick, stone aggregate or other inorganic materials shall not be greater in total area than that of organic plant material, and further provided that turf/grass shall not qualify to meet the landscaping requirements where they exceed forty (40) percent of the total landscape area.

(3) Landscaping shall consist of any of the following, or combination thereof: material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, or palms; and non-living durable material commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences-but excluding paving. Consideration shall be given toward choosing drought tolerant plant cover.

(4) An overall percentage of the street yard area, see "Appendix A," within the property line shall be landscaped according to the use of the property and not necessarily the zoning of the property, as follows:

A. R-1 Single-Family, R-2 Two-Family, R-3 Multiple-Family, R-3A Multiple-Family Retirement, R-4 Townhouse, and R-6 Garden Home projects —thirty-five percent (35%).

B. Building(s) for which sixty percent (60%) or more of the available interior space is used or proposed to be used for office—twenty percent (20%).

C. All other retail and commercial uses, including all uses allowed in the B-1, B-2, or B-3 zoning districts in the City --twenty percent (20%).

D. Light Industrial, I-1 -- twelve percent (12%).

E. The landscaping requirements of this Chapter shall apply to governmental, educational, institutional uses and churches. Where such uses are located in any residential district, not less than thirty-five percent (35%) of the total area of the lot upon which such use occurs shall be devoted to landscaping. Where a governmental, educational, institutional use or church, is located in any nonresidential district, the landscaping requirements of such district shall apply.

F. If a project consists of more than one (1) building (use) type the percentage of landscaped area should be that derived by prorating the linear street frontage used by each particular building type.

(5) In all street yard areas there shall be a minimum number of trees, depending on the size of the total street yard area. This minimum number of trees should be:

A. One (1) tree for each 1,500 square feet of the first 9,000 square feet of street yard area.

B. One (1) tree for each 3,000 square feet of the portion of street yard area between 9,000 square feet and 90,000 square feet.

C. One (1) tree for each 6,000 square feet of the portion of street yard area over 90,000 feet.

(6) To encourage the preservation of existing large trees and planting of large new trees, a credit can be used toward either the total number of trees required by subsection (5) above or toward the amount of landscaped area required by subsection (4) above.

A. Each tree over three inches (3") in diameter can count as two (2) trees or the required landscaped area may be reduced by fifty (50) square feet. Each tree over eight (8) inches in diameter may count as three (3) trees or the required landscaped area may be reduced by 100 square feet. Each tree over twelve (12) inches in diameter may count as four (4) trees or the required landscaped area may be reduced by 150 square feet. Tree diameter shall be measured at a main trunk height of twelve (12) inches or more above ground level.

B. This credit is given only for trees of a variety listed in Appendix A or as recognized by Bexar County Extension Service as native or drought tolerant, excluding oak trees, except that the Building Official may in special circumstances, allow the credit on tree varieties other than those named.

(7) Vehicular use areas, parking areas, parking lots, and the vehicles associated with them shall have effective buffering from the street view. The following requirements are set forth as minimum standards for vehicular use areas, parking areas, and parking lots and are intended to be applied in conjunction with the landscaping requirements for street yard areas. For example, the landscaping of a parking area may be applied to meet the minimum requirements for landscaping in the street yard area, and vice versa. However, the landscaping requirements for vehicular use areas, parking areas and parking lots applies regardless of whether or not they are located in a street yard area.

A. A minimum amount of the total area in islands, peninsulas and medians in parking areas in the street yard area of a vehicular use area, parking area or parking lot shall be ninety (90) square feet for each twelve (12) parking spaces.

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

C. 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 fifty (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. Distribution should also accommodate existing trees and other natural features so long as the total area requirement is satisfied.

D. All areas used for the display or parking of any and all types of vehicles shall conform to minimum landscape requirements hereinafter provided. This includes parking lots, parking areas designed and used for parking of automobiles, trailers and other vehicles intended to be sold. Included are parking areas used or intended to be used for boats or heavy construction equipment, whether such vehicles, boats or equipment are self-propelled or not. All land upon which vehicles traverse the property as a function of the primary use, hereinafter referred to as "other vehicular uses", including, but not limited to, activities of a drive-in nature such as, but not limited to, gasoline service stations, grocery stores, convenience stores, banks, office buildings, restaurants, etc., shall conform to the minimum landscaping requirements hereinafter provided.

E. All street yard areas shall conform to the minimum landscaping requirements.

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

A. An underground sprinkling system permitted by the City;

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; or,

C. Directing drainage from paved areas across landscaped areas, provided that the same is accomplished in a manner not likely to result in erosion and subject to review by the City Engineer.

(9) 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 concrete car bumpers, curbing, continuous border plants or hedgerows) when necessary to protect trees.

(10) When an access way intersects a public right-of-way, or when the subject property abuts the intersection of two (2) or more public rights-of-way, all landscaping within the triangular areas described below shall provide unobstructed cross-visibility at a level between three (3) feet and six (6) feet, provided however, trees or palms having limbs and foliage extending into the cross-visibility area shall be allowed, provided they are so located so as not to create a traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than three (3) feet from the edge of any access way pavement. The triangular areas referred to above are:

A. The areas of property on both sides of an access way formed by the intersection of each side of the access way and the public right-of-way line with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third side being a line connecting the ends of the two (2) other sides; and

B. The area of property located at a corner formed by the intersection of two (2) or more public rights-of-way with two (2) sides of the triangular area being thirty (30) feet in length along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two (2) lines.

(11) Landowners are encouraged to landscape the areas within the non-paved right-of-way abutting their land, provided the following items are adhered to:

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 removed by the City.

B. such landscaping in the right-of-way shall observe all provisions found elsewhere in this Code pertaining to traffic and pedestrian safety; and

C. if any other governmental jurisdiction is trustee of the public right-of-way at the particular location in question, permission from that governmental jurisdiction must be granted.

g. 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 Zoning Administrator if so recommended by the Building Official. The recommendation shall be based on his findings that such plan is as good or better than a plan in strict compliance with the various landscaping requirements of Section 30.900 and meets the provisions of the Alternate Landscaping and Tree Preservation sections of this Chapter

h. INSTALLATION AND GENERAL MAINTENANCE.

(1) Landscaping shall be installed according to accepted and proper planting procedures. Irrigation systems shall be installed upon receipt of permit and in accordance with all plumbing code requirements.

(2) Required landscaping must be maintained in compliance with the American Nursery and Landscape Association, "American Standard for Nursery Stock" and ANSI Z60.1-2004 and ANSI A300 "Tree Care Standards" guidelines at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as necessary. Any plant that dies shall be replaced with another living plant. A minimum of ninety (90) days shall be allowed to replace a tree, shrub or plant; however, the time period may be extended due to climatic conditions, upon request. Replacement plants must be the same size and species as shown on the approved landscape plan or must be equivalent in terms of quality and size.

(3) Any damage to utility lines resulting from the negligence of the property owner, or his agents, in the installation and maintenance of required landscaping in a utility easement is the responsibility of the property owner.

i. PLAN REVIEW PROCEDURES

(1) LANDSCAPING PLAN REQUIRED.

When an application is made for a Building Permit, including a Certificate of Occupancy, on any land, lot or parcel where the landscaping requirements of this Chapter are applicable, such Building Permit application shall be accompanied by a landscaping site plan containing the information requested below:

A. A landscaping plan demonstrating compliance with the provisions of this section shall be submitted to the Zoning Administrator, or his designate, for approval.

B. Such plan shall be prepared and submitted in a manner as prescribed by the City. The plan shall clearly delineate and identify existing trees, shrubs and landscaping, and proposed landscape development to be used to satisfy the requirements of, and include the calculations performed relative to the required landscaping schedule.

C. The use of drought-tolerant plant materials is recommended to satisfy the requirements of this section. Appendix B, contained within this Chapter, should be considered as a reference list of plant material suitable for the climate of this area. This list is not exhaustive, and any plant material not listed therein may be used so long as it satisfies the requirements of this section.

(2) PLAN CONTENTS.

A. Two (2) blue or black line copies of the landscape plan are required. The plan must be drawn at a scale of one (1) inch equals twenty (20) feet or larger and be on a standard drawing sheet of a size not to exceed 24 x 36 inches. A plan which cannot be drawn in its entirety on a 24 x 36 inch sheet must be drawn with appropriate match lines on two (2) or more sheets.

B. The landscaping plan shall include the following information:

1. The date, scale, north arrow, project name, legal description, street address, name, telephone number of owner of the lot or lots shown on the landscaping site plan, and the name and telephone number of the person preparing the plan;

2. The location of existing (or proposed if applicable) lot boundary lines and dimensions of the tract, zoning classification of the lot and all adjacent properties;

3. The approximate center line of existing water courses, the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys; existing and proposed utility

easements on or adjacent to the lot; and existing and proposed sidewalks adjacent to the street;

4. The location, size, and type (tree, shrub, ground cover, or grass) of proposed landscaping in proposed landscaped areas; and the location and size of proposed landscaped areas. Description of plant materials shown on the plan (including both common and botanical names), locations, quantities, container or caliper sizes at installation, heights, spread and spacing. The location, type, and caliper of existing trees for which tree credits are claimed must also be indicated;

5. The location and species of all existing trees (whether or not they are to remain or are proposed to be moved), having trunks four inches (4") or larger in diameter, and the approximate size of their crowns;

6. Location, dimensions and size (in square feet) of all existing and proposing parking spaces, driveways, and other vehicle use areas;

7. Designation/description of areas of nonliving ground cover which are not intended as mulches;

8. Description of how existing, healthy trees proposed to be retained will be protected from damage during construction;

9. Description of proposed irrigation methods, as required by Subsection 30.900(8), to include the location of sprinklers and water outlets;

10. The certification of a landscape architect, registered to practice in the State of Texas, that the plans satisfy applicable subsections of the Landscaping section, the Building Code, and meet or exceed appropriate standards for landscape architectural design and construction. In some cases, the requirement for landscape architectural certification can be waived by the Zoning Administrator;

11. Information necessary for verifying whether the required minimum percent of landscaped area has been met as required by this Chapter's landscaping requirements; and

12. Such other information that may be required by the City that is reasonable and necessary to determine that the plan meets the requirements of this section.

(3) APPROVAL AND INSPECTION.

A. Upon submission, each landscape plan shall be reviewed by the Zoning Administrator, or his designate, to determine whether or not it complies with the requirements of this section. The plan must be approved prior to issuance of any Building Permit.

B. The City may deny without further processing, any landscape plan which does not contain the required information. The applicant may be allowed to amend the plan and resubmit in order to complete processing.

C. It shall be the duty of the Zoning Administrator, or his designate, to review landscape plans, in the format as stated above, before the issuance of any Building Permit. Furthermore, staff shall be required to perform on-site inspections prior to the issuance of any occupancy permits. Temporary occupancy permits may be issued prior to compliance with this Chapter, but said temporary permits are not to exceed ninety (90) days, unless under Section D, below. No permanent occupancy permits shall be issued unless and until the requirements of this Code shall have been met.

D. The Zoning Administrator may, upon approval of a landscape plan, issue consecutive temporary occupancy permits for periods not to exceed ninety (90) days, if under Chapter 29 of the Leon Valley Code, any Stage of the Drought Management Plan has been declared. Such permits shall not continue, however, past ninety (90) days from the time Stage I of that plan is rescinded, unless during that ninety (90) days a Drought Stage is again declared.

(4) COMPLIANCE.

Failure to comply with this section shall prevent the issuance of any Building Permits and/or permanent occupancy permits.

(5) EXCEPTIONS.

The requirements of this Chapter shall not apply to the following:

A. Areas used for parking or other vehicular uses under, on, or within buildings;

B. Parking areas serving single- and two-family residential uses;

C. Building and/or occupancy permits for remodeling, as long as front and side exterior walls of the building remain in the same location, to include lease space finish-outs;

D. Building and/or occupancy permits for the substantial restoration, within a period of twelve (12) months, of a building which has been damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind; or,

E. Where a valid Building Permit is issued prior to the effective date of this Chapter, the landscaping requirements in effect at the time of issuance, including all requirements of an applicable Specific Use Permit, shall apply to such permit.

(6) FEES.

Fees may be set for certain landscape site plan review(s) and inspection(s) prior to the City's review of a landscape site plan.

j. TREE PRESERVATION

(1) PURPOSE

It is the policy of the City of Leon Valley to preserve existing trees and habitat to the greatest extent possible and add to the tree population of the City, while allowing reasonable development of land. The terms and provisions of this section are intended to accomplish the following public purposes:

A. Establish rules and regulations governing the protection and preservation of native and established trees within the City of Leon Valley and achieve the maximum preservation of trees;

B. Preserve trees as an important public resource that enhance the quality of life, protects habitat and the general welfare of the city, its unique character and physical, historical and aesthetic environment;

C. Protect healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment; and

E. Prevent the clear-cutting of land.

(2) Permit Required

A. The removal or replanting of any trees shall require the issuance of an approved Tree Removal or Planting permit, with the exception of the following:

1. In the event that any tree is determined by the City to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and requires immediate removal without delay, written authorization for removal may be given by the Zoning Administrator, and such tree may then be removed without obtaining a written permit as herein required.

2. With the recommendation of a Certified Arborist, a tree determined by the City to be diseased, dying or dead may be removed.

3. During the period of an emergency, such as a tornado, storm, flood or other act of God, the requirements of this section may be waived as may be deemed necessary by the City Council.

4. All licensed plant or tree nurseries shall be exempt from the terms and provisions of this section only in relation to those trees planted and growing on the premises of said licensee, that are so planted and growing

for the sale or intended sale to the general public in the ordinary course of said licensed business.

5. Utility companies franchised or otherwise authorized to provide utility service may remove trees that endanger public safety and welfare by interfering with utility service provided that the applicant demonstrates to the Zoning Administrator and Public Works Director that the removal is the minimum necessary for the utilities to function properly and no other alternative is available.

6. The partial mowing, clearing and grubbing of brush located within or under the drip lines of trees shall be allowed, provided such mowing, clearing or grubbing is accomplished by hand or by mowers. The use of bulldozers, loaders or other construction or earth moving equipment for this purpose shall not be allowed.

7. The Zoning Administrator may exempt certain easements and rights-of-way included on an approved plat, provided that the applicant, or City Engineer in the case of a City project, demonstrates that the removal is necessary for the rights-of-way and easements to function properly and no other alternative is available.

8. Platted lots occupied by an occupied single-family residence designated as a homestead and located in an area zoned residential are exempted from these requirements except for provisions pertaining to the protection of Heritage trees. However, builders, contractors and owners are subject to all requirements established herein for all new construction prior to any person moving into and living on the homestead.

9. The regulations in this division shall not apply to the clearing of understory necessary to perform boundary surveying of real property or to conduct tree surveys or inventories. Clearing for surveying may not exceed a width of two (2) feet for general survey (i.e. of easement boundary, etc.) and eight (8) feet for survey of property boundary lines. Except for surveys done in connection with residential development, no tree ten (10) inches or larger may be removed in any manner during such boundary or general surveying.

B. Trees to be removed, replanted or planted in a right-of-way and/or easement shall require prior approval from the City, State or utility agency having authority of or in said right-of-way or easement.

C. Permit fees shall be as set forth in Leon Valley City Code, Chapter 32, "Schedule of Fees".

(3) TREE REMOVAL OR PLANTING PERMIT PROCESS

A. The permit application for Tree Removal or Planting shall state or depict the following information:

1. Location of all existing or proposed structures, improvements such as streets, alleyways, etc. and site uses, properly dimensioned and referenced to property lines, setback and yard requirements.

2. Date, scale, north point, and the names, addresses and telephone numbers of both property owner and the person preparing the plan.

3. Location of existing and proposed utility easements and drainage easements on the lot.

4. Location and dimensions of visibility triangles on the lot.

5. Point of contact information/responsible party information to include address, telephone number and any state registration or license numbers in the event of a violation (i.e., P.E. RPLS).

6. A survey identifying the building footprint, buildable area, existing topographical information, easements, rights-of-way, set backs, property lines and all trees over four inches (4") in diameter shall be submitted. Trees to remain shall be designated by a circle. Trees to be removed shall be designated by an "X". Each tree shall be numbered referencing a legend specifying the caliper or diameter, common name, and whether it is small, medium, large or "Heritage". Drip lines shall be indicated for trees to remain. The number of small trees shall be provided at the end of the legend by species. Tree information required above shall be summarized in legend form on the plan and shall include the reason for any removals.

7. Tree Relocation Plan: The plan shall exhibit the current location of all small, medium, large and Heritage Trees proposed for replanting and indicate the proposed replanting location for each. The plan shall include the proposed building footprint, driveways, parking lots, topographical information, easements, rights-of-way, set backs, and property lines.

8. Tree Replacement Plan: The plan shall exhibit the location of proposed replacement trees and remaining small, medium, large and Heritage trees. It shall include a legend indicating the common name, caliper or diameter size and height of proposed replacement trees. Replacement trees shall be designated by a square. Remaining small, medium, large and Heritage Trees shall be designated by a circle. Species to be removed and/or remain shall be designated with the same symbols. The plan shall include the proposed building footprint, driveways, parking lots, topographical information, easements, rights-of-way, set backs, and property lines.

B. Application Review. Upon receipt of proper application, the Zoning Administrator shall review for compliance with the provisions of this chapter. Said review will include a field inspection of the site by the Zoning Administrator prior to the issuance of a permit. The application may be referred to the City Engineer and/or City Manager as deemed appropriate for review and recommendations.

1. An application for a Tree Planting or Removal Permit will not be accepted until the following is submitted, with the application, to the Zoning Administrator:

- a. Application fee; and
- b. an amount sufficient to recover all of the City's costs for the services of a contract professional, that are directly incurred by the City for review of the application.
- c. The original tree survey for a tract that is provided with the original application for a tree removal permit shall be the reference by which all subsequent tree removal permits for the tract or portions of the tract shall be considered. An applicant may not circumvent the minimum preservation requirements set forth in this Ordinance for the tract through the filing of multiple tree removal applications.

(4) TREE PRUNING RESTRICTIONS.

A. No tree shall be pruned in such a manner that would reasonably lead to the death of the tree.

B. The City may approve pruning of a large or Heritage Tree in cases where it must be strategically pruned to allow construction or demolition of a structure. All pruning of trees by franchise utility companies to insure the safe operation of utility services shall be allowed. When allowed, all pruning shall be by approved arboricultural techniques. This section is not intended to require a permit for reasonable pruning performed by the owner of the tree when unrelated to construction activity.

C. The City shall have the right to prune trees overhanging which interfere with visibility of any traffic control device or sign or as necessary to preserve the public safety.

D. It shall be unlawful as a normal practice for any person, firm or city department to severely cut back limbs to stubs larger than three-inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other acts of God, or certain trees under obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Zoning Administrator.

E. All broken branches and exposed roots one half inch (1/2") in diameter or greater of small, medium, large, Heritage and Relocated and Replacement trees shall be cut cleanly. In the case of oak species, in order to prevent infection by oak wilt spores, wounds must be painted with an acceptable wound dressing within thirty (30) minutes of any cutting.

F. When roots of a tree planted within the planting area damage city curbs, gutters and sidewalks (including driveway ramps), the city shall be responsible for appropriate corrective measures which are least damaging to the tree.

G. Where sidewalk or curb damage due to tree roots occurs, every effort shall be made to correct the problem without removing or damaging the tree. The Public Works Director shall be responsible for developing or approving corrective measures in consultation with the City Engineer. Corrective actions taken shall be reported to the Zoning Administrator.

(5) PRESERVATION REQUIREMENTS.

The minimum Tree Preservation requirements below establishes the minimum diameter inches of small, medium, large and Heritage trees that must be preserved or mitigated. For single-family dwellings, developers and builders may elect to preserve trees at the platting or permitting stage; if a developer or builder elects to preserve at the platting stage, this method must be used throughout completion of the project. Exceptions, where authorized, may be granted and variances to the City's development regulations may be recommended to maximize the preservation of existing trees.

Type of Tree	Regulation
Small Trees	For each tree removed, at least two trees of three (3") or more inches in diameter must be planted within each platted lot, excluding street rights of way and easements.
Medium Trees	For each tree removed, at least two trees of six (6) or more inches in diameter must be planted within each platted lot, excluding rights-of-way and easements.
Large Trees	Fore each tree removed, at least three trees of eight (8") inches or more in diameter must be planted within each platted lot, excluding rights of way and easements.
Heritage Trees	None can be removed.
100 year flood plain(s)	50% of small, medium and large trees and 100% of all Heritage trees within the flood plain must be preserved, which shall not apply toward preservation requirements on the remainder of the lot.
Mitigation Maximum	Up to 20% of medium and large trees may be mitigated rather than preserved. Up to 25% of small trees may be mitigated.

(6) REMOVAL, REPLACEMENT, RELOCATION OF SMALL, MEDIUM, AND LARGE TREES

A. Platted lots occupied by an occupied single-family residence designated as a homestead and located in an area zoned residential are exempted from these requirements except for provisions pertaining to the protection of Heritage trees. However, builders, contractors and owners are subject to all requirements established herein for all new construction prior to any person moving into and living on the homestead.

B. No person, directly or indirectly, shall cut down, destroy, remove or effectively destroy through damaging, any small, medium or large tree on any real property within the City of Leon Valley without first obtaining a Permit, except as permitted herein.

C. Under no circumstances shall the clear-cutting of small, medium or large trees on any real property within the City of Leon Valley be allowed prior to the issuance of a Tree Removal Permit for said tree(s).

D. No more than 20% of small, medium or large trees may be removed in the 100 year floodplain as defined by FEMA. Site plans should accommodate medium and large trees six inch (6") in diameter or greater by: providing islands in parking lots; grading and landscaping to allow preservation of more such trees; and, reasonable revision of the location of planned structures, driveways and parking lots so as to preserve as many trees of this size as possible.

(7) REPLACEMENT TREES REQUIRED

It shall be the responsibility of any person obtaining a Tree Removal Permit for a tree to provide replacement tree(s).

A. Such replacement trees shall:

1. have a minimum diameter of three inches (3");
2. have a minimum height of at least four feet (4') when planted;
3. when mature shall have a crown of at least fifteen feet (15') in diameter or substituted by a grouping of smaller species so as to create at maturity a crown of at least fifteen feet (15'); and,
4. be planted in locations shown on the approved tree replacement plan.

B. No more than thirty-five (35%) percent of replacement trees may be of the same species.

C. A replacement tree that dies within two (2) years of the date it was planted must be replaced by another tree in compliance with this ordinance. A new two (2) year warranty period starts for a tree used to replace a dead replacement tree.

D. Replacement trees shall be dispersed throughout the site, particularly in parking lots.

E. Small trees that meet the specifications of replacement trees may and are encouraged to be used in lieu of new plantings.

F. Only those tree species found on in Appendix "A" of this Chapter shall satisfy the tree planting and replacement standards and requirements of this section.

(8) MITIGATION IN LIEU OF REPLACEMENT.

Money may be paid to the City of Leon Valley instead of providing the replacement trees required by this section.

A. This provision is limited to twenty percent (20%) of the required tree replacement.

B. Any such payments shall be deposited to the Tree Mitigation and Replacement Fund.

C. The per-diameter-inch cash value for replacement trees and planting is \$50 per caliper inch tree. The City shall maintain a record of the current cash value of replacement trees and planting.

(9) PENALTIES FOR UNAUTHORIZED REMOVAL OF SMALL, MEDIUM AND LARGE TREES

If any small, medium, or large trees are removed from any real property, or injured due to failure to follow required tree protection measures such that the tree(s) die or may reasonably be expected to die, the City shall have the authority to enact any or all of the following administrative and civil penalties on the developer and/or owner of the property:

A. A monetary penalty of one hundred dollars (\$100.00) per diameter inch of tree removed, payable to the City of Leon Valley. Funds paid to the City of Leon Valley as tree removal penalties shall be deposited in the Tree Mitigation and Replacement Fund.

B. Requirement to replace trees. Replacement trees shall have a minimum of at least a diameter width of three inches (3") and a minimum height of five feet (5'). All other replacement requirements for medium and large trees shall apply.

D. If the precise diameter of a tree cannot be determined, the cost of replacement shall be established by a certified Arborist based on the Arborist's estimate of the caliper of the removed or damaged tree.

(10) REPLANTING OF PROTECTED TREES

No person, directly or indirectly, shall replant, relocate, transfer or move from one location to another any tree on any real property within the City of Leon Valley without first obtaining a Permit, except as otherwise provided herein.

A. Only trees that meet and are replanted in compliance with Appendix A of this Chapter and the American National Standards Institute A300 guidelines, shall satisfy the tree replanting requirements contained herein.

B. Any person replanting, relocating, transferring or moving from one location to another any trees on any real property within the City of

Leon Valley, without first obtaining a Permit, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in this ordinance.

(11) HERITAGE TREE REMOVAL NOT ALLOWED

No person, directly or indirectly, shall cut down, destroy, remove or effectively destroy through damaging a Heritage Tree on any real property within the City of Leon Valley.

A. PENALTIES FOR REMOVAL OF HERITAGE TREES

If any Heritage Trees are removed from any real property, or if a Heritage Tree is injured because of failure to follow required tree protection measures such that the tree dies or may reasonably be expected to die, the City shall have the authority to enact the following administrative and civil penalties on the developer and/or owner of the property:

1. A monetary penalty of one hundred dollars (\$100.00) per caliper inch of Heritage Tree(s) removed, payable to the City of Leon Valley. Funds paid to the City of Leon Valley as tree removal penalties shall be deposited in the Tree Mitigation and Replacement Fund; and/or

2. Replacement with tree(s) having a total tree caliper equal to that of the removed tree(s). Such replacement trees shall have a minimum diameter of three inches (3") and a minimum height of at least five feet (5'). All other replacement requirements for trees shall apply.

(12) TREE PROTECTION MEASURES

The following tree protection measures shall be required:

A. Prior to construction or land development, the developer shall establish and maintain a root protection zone and install four-foot high (4') plastic (or equivalent) safety fencing outside the drip line of existing and replacement trees for the duration of the construction and development. Warranty for the survival of the trees may not be accepted in-lieu-of a root zone that is less than the area within the dripline. Trees may not be pruned to reduce the root zone.

B. During construction, the developer shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any existing or replacement tree or group thereof.

C. No attachments or wires of any kind, other than those of a protective nature, shall be attached to any tree.

D. With major grade changes of six inches (6") or greater, a retaining wall or tree well of rock, brick, landscape timbers or other approved materials shall be constructed around the tree no closer than the drip line of the tree.

The top of the retaining wall or tree well shall be constructed at the new grade. The area contained within the first one thousand five hundred feet (1500') of the root zone must be left in a pervious condition after construction and development is completed.

E. Unless otherwise approved by the City, no construction or construction-related activity shall occur under the drip line of any existing or replacement tree or group thereof. Furthermore, if a foundation, street or alley pavement, utility line, on-site sewerage facility, pool, tennis court, patio, sidewalk, drive or parking lot must be constructed within the drip line of said trees, it shall be constructed no closer than five feet (5') from the trunk of such trees; and, provided further, that the portion of any driveway or parking lot constructed within the drip line of any existing or replacement tree or group thereof shall be constructed of pervious materials, such as pervious paverstone or ecocrete, approved by both the Zoning Administrator and City Engineer.

F. Any trees removed during land development, construction, or construction related activities are encouraged to be chipped or hauled off-site.

(13) APPROVED TREE LISTS

Appendix A, "Landscape Plantings" attached hereto, will be periodically updated by the Zoning Administrator. The List shall be maintained and distributed to the public as guides for the identification and selection of tree species that meet the various standards and requirements of this section. Trees included on these tree species lists are selected on the basis of one or more of the following criteria or factors: hardiness, resistance to disease, suitability relative to local climate and soil conditions, adaptability for transplantation, longevity, adaptability to various landscape conditions, resistance to drought, aesthetic qualities, shade provision, windbreak provision, screening qualities, improvement of the City tree canopy, and/or contribution to the diversity of the City forest.

(14) ENFORCEMENT

The Zoning Administrator is hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

(15) TREE MITIGATION/REPLACEMENT FUND

A. The City Manager will maintain a dedicated Account to be entitled Tree Mitigation and Replacement Fund (hereinafter the "Fund"). Civil penalties collected pursuant to these regulations shall be recorded in the Fund created pursuant to this Section, unless expressly prohibited by law. Likewise, all funds received from the payment of mitigation fees pursuant to these regulations shall be recorded in the Fund.

B. Use of Funds. The funds collected from civil penalties and mitigation fees in the Fund shall be utilized solely to pay for the planting and maintenance of trees, the funding of tree preservation and planting programs within

the City of Leon Valley and/or to support supplemental landscape plantings in public areas of Leon Valley and/or acquiring wooded property that shall remain in a naturalistic state in perpetuity, to be administered by the Public Works Director who shall report annually to the City Council with respect to the balance of the fund and the expenditures that have been made from the fund.

C. Funds to Be Kept Separate. The balance of this fund shall not be transferred to the General Fund at the end of each budget year, but rather, the balance remaining in the fund at the close of the City's fiscal year shall roll over and become the beginning balance for the next fiscal year. The balance within the Fund shall be recorded and accounted for in a manner that distinguishes them from other general funds of the City and shall be disbursed in a manner that is consistent with the purposes for which this Fund has been established.

(16) VARIANCES, APPEALS AND SPECIAL EXCEPTIONS

A. Variances to the terms of this ordinance may be granted by the Board of Adjustment where a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. A variance request must be submitted to the Zoning Administrator in writing setting out the basis for the request along with the payment as set forth in L.V.C.C., Chapter 32, "Schedule of Fees". No variance can be granted unless:

1. such variance will not be contrary to public interest;
2. such variance will be in harmony with the spirit and purposes of this ordinance;
3. the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial; and
4. the variance will not substantially weaken the general purposes of this ordinance.

(17) LIABILITY

A. Nothing in this ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of public property or the owner of any private property shall have a duty to keep the trees upon the property and under their control in a safe, healthy condition. Any person who feels a tree located on property possessed, owned or controlled by them is a danger to the safety of themselves, others or structural improvements on-site or off-site shall have an obligation to secure the area around the tree or support the tree, as appropriate to safeguard both persons and improvements from harm.

(18) INFORMATIONAL ASSISTANCE

A. In furtherance of the purposes and provisions hereof, the City may develop, distribute to persons making application for Permits, and make available to the general public an informational pamphlet identifying appropriate

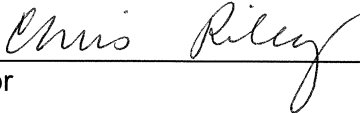
and useful facts, guidelines and how-to information relative to the preservation, protection and replanting of trees, on the Leon Valley City website.

B. The City may also develop, maintain and make available to applicants for permits and to the general public a Tree Species Reference Book to provide more detailed information concerning tree care in general and the characteristics, soil and growth requirements and other traits of specific tree species identified in Appendix A.

C. A current edition of the American Standard for Nursery Stock as published by the American Nursery and Landscape Association, as applicable to the tree species in Appendix A, shall be maintained by the City and made available to applicants for building permits, Tree Removal Permits or Tree Replanting Permits and to the general public, as only those trees meeting and planted or replanted compliance with the American Nursery and Landscape Association, "American Standard for Nursery Stock" and ANSI Z60.1-2004 and ANSI A300 "Tree Care Standards" guidelines shall satisfy the tree planting, replanting and/or replacement standards and requirements contained herein."

4. This ordinance shall take effect immediately upon its approval, passage and the meeting of all publication requirements under law.

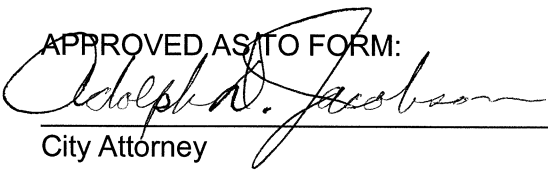
PASSED and APPROVED this the 8th day of August, 2007.



Mayor

ATTEST:


City Secretary

APPROVED AS TO FORM:


City Attorney