

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LUFKIN, TEXAS, BEING ORDINANCE 3368, TO ADD LANDSCAPE REQUIREMENTS; DELETE CURRENT LANDSCAPING; REPEALING CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Planning and Zoning Commission of the City of Lufkin, Texas, after due notice and hearing, recommends that the Zoning Ordinance of the City of Lufkin, Texas, being Ordinance 3368 be amended; and

WHEREAS, the City Council of the City of Lufkin, Texas, after receiving such recommendation, caused a notice, stating the date, place, and time thereof, of a public hearing on such proposed zone change to be published in the Lufkin Daily News, a newspaper published within the City of Lufkin, Texas, such publication being more than fifteen (15) days prior to the date of such hearing which was held in the City Hall in the City of Lufkin, Texas, on the ____ day of _____, 2008, and

WHEREAS, at such public hearing each person present and interested in such proposed amendments was given an opportunity to be heard by the City Council; and,

WHEREAS, the City Council of the City of Lufkin, Texas, after giving due consideration to the recommendation of the City Planning and Zoning Commission and the statements made and facts brought out at such hearing on such proposed amendments to the Zoning Ordinance, and further, after giving due consideration to the orderly growth and development of the City of Lufkin, Texas, having decided that it is to the best interest of the citizens of the City such change be made.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUFKIN, TEXAS:

SECTION I. That the Zoning Ordinance of the City of Lufkin, being Ordinance 3368 of the Civil Ordinances of the City of Lufkin as heretofore amended, and as recorded in Volume 40 of the Civil Ordinances of the City of Lufkin, Texas, be, and the same hereby is amended by creating a new Landscape section by adding the following provisions:

Landscape Requirements

Section 1 - Purpose and Intent

- A. The purpose of this Ordinance is to enhance the beautification of the City. This Ordinance is enacted to improve the appearance and character of certain setback and yard areas, including off-street vehicular parking and open lot sales and service areas within the City. Further, the purpose of this Ordinance is to protect and preserve the appearance and character of the surrounding neighborhood, and therefore promote the general public safety and welfare by providing for the installation and maintenance of landscaping and screening. This Ordinance is intended to assure that reasonable provisions will be made for such matters as sound and sight buffers between adjoining land uses, particularly between residential areas and all nonresidential areas, preservation of scenic views and those elements of site design which may have substantial effects on adjoining land uses.

- B. This Ordinance establishes the procedure, regulations and standards whereby landscape plans will be reviewed by the City for compliance with this Ordinance, and specifies the submittal and content requirements for such landscape plans.
- C. It is also the purpose of this Ordinance to:
 - 1. facilitate site design and construction
 - 2. protect and increase the value of properties within the City;
 - 3. maintain and enhance a positive image for the attraction of new enterprises to the City;
 - 4. protect healthy quality trees and promote natural ecological, environmental and aesthetic qualities of the City;
 - 5. Prohibit the indiscriminate clearing of property. Note: “Indiscriminate clearing” of property is defined as any clearing that occurs with no distinction made regarding whether any trees on the site could be preserved and incorporated into future development on the site, whether such clearing will alter the storm water drainage patterns on the site in a way that could be detrimental to the City’s goals for protecting private property from flood damage and runoff, or whether such clearing would be counter to the overall City policies and objectives for planting and protecting trees throughout the City.

Section 2 – Jurisdiction and Applicability

- A. The landscape requirements in this Ordinance shall apply to all land within the City limits, as now or hereafter set, in all zoning districts, except for land zoned Agricultural (AG), Residential Large Single-Family Dwelling (RL), Residential Medium Single-Family Dwelling (RM), Residential Small Single-Family Dwelling (RS), Duplex (D), and Manufactured Dwelling District (MD). Areas zoned as Planned Unit Development (PUD), Restrictive Professional Office Districts (RPO), or Adaptive Reuse Overlay (ARO) and containing landscaping standards shall be regulated by the more restrictive requirements.
- B. The landscape requirements shall apply to all private and institutional developments. Landscape requirements shall become applicable to each individual lot at such time as an application for a Building Permit on such lot is made. All landscape requirements of this Ordinance, shall continue after the Building Permit is issued to any owner or subsequent owner.
- C. The City of Lufkin must comply with the requirements of the Landscape Ordinance.

Section 3 – Compliance

- A. All required landscaping and screening shall be installed as part of the project construction. All items required by this Ordinance must be installed prior to the issuance of a Temporary Certificate of Occupancy, where required, or prior to the commencement of use. This requirement is intended to assure compliance with the landscape requirements of this Ordinance and the adherence to a specific landscape plan which has been approved by the City prior to the issuance of a Building Permit.
- B. All landscaping shall be installed in a sound manner and in accordance with accepted good planting procedures; all elements of landscaping shall be installed so as to meet all other applicable City ordinances and policies. Landscape areas, both those proposed and those to be retained, shall be protected from vehicular encroachment during and after the construction phase by appropriate barriers. All landscape requirements of this Ordinance shall continue after the Building Permit is issued to an owner or subsequent owner.
- C. Appeals from this Ordinance are handled by the Board of Adjustment and Appeals.

- D. There shall be no pre-development clearing of land or issuance of a building or Clearing permit until the City has received proof of an approved TCEQ Storm Water Pollution Prevention Plan and all TCEQ requirements have been complied with on the property. The City of Lufkin Code Enforcement office shall enforce the TCEQ standard when notified of non-compliance by the City Engineer.

Section 4 – Landscape Plan Requirements

- A. The landscape plan shall be required and submitted upon application for a building permit. The landscape plan may be a separate site plan or when preferred the landscape plan information may be included on the building site plan. It is recommended that the landscape plans be prepared by a professional landscape architect or landscape contractor and submitted prior to the building permit. The landscape plan shall include:
1. The location of existing boundary lines and dimensions of the lot.
 2. The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities.
 3. A plant schedule listing the name and size of all plant materials. All canopy trees shall be identified as containerized or balled and burlapped.
 4. The location, size and type of vegetation of new and existing plant materials to be planted or retained in the proposed landscaped areas.
 5. An indication of how the developer plans to barricade existing trees, which are to be retained, in order to prevent damage to the trees during construction. The location and size of the barricade(s) shall be indicated.
 6. The location of the proposed water faucet(s) or a note indicating the installation of the irrigation system.
 7. The location of existing development, adjacent land uses and roadways.
 8. Information necessary for verifying whether the minimum required landscaping area has been met and, if not, what areas are deficient.
 9. A statement indicating the total square footage of landscaping area required, including the number of trees and shrubs required, for the proposed development to be in compliance with this Ordinance, and a calculation to verify that the number, size and type of vegetation listed on the plant schedule shall render the proposed development to be in compliance with this Ordinance.
- B. Plan Revisions
- Minor revisions to landscape plans are acceptable if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (i.e., shade, ornamental, or evergreen trees) and have the same general characteristics (mature height, caliper crown spread, etc.) as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy plant growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted and reviewed for approval.

Section 5 – Definitions

In the event of a dispute, the Planning Director, or designee, shall have the authority to interpret the definition of a word as it relates to this Ordinance. As used herein, the following definitions are applicable:

Barricade Area for Existing Trees: A protected area extending in a radius no less than the drip line from every protected tree that prevents intrusion by construction equipment, vehicles and people.

Barrier: A device or treatment, which controls the management, circulation, separation, or direction of traffic. Such treatments include, but are not limited to, wheel stops, raised islands, dividers or barricades.

Berm: An earthen mound designed to provide visual interest, screening and/or decrease noise.

Branching Height: Diameter of a predominant tree trunk measured six inches (6") above grade for trees four inches (4") in diameter or less. For trees with a larger diameter, the caliper measurement shall be the diameter at breast height (DBH), measured four and one-half feet (4'6") above grade.

Caliper: Diameter of the trunk measured six inches (6") above grade.

Canopy Tree: Any self-supporting woody plant with one well-defined trunk and a distinct and definite formed crown, which attains a height of at least thirty feet (30').

Clearing of Land: A property owner, developer, or contractor shall be considered "clearing" land if performing one of the following actions: excavating, grading, re-grading, land filling, berming, paving, diking, removing trees, clearing, grubbing, or other earth changes.

Construction: Any activity on the property, normally following a building permit.

Critical Root Zone (CRZ): The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

Cut/Fill: Areas where the natural ground level has been excavated or fill brought in.

Deciduous: A plant with foliage that sheds annually.

Development: The construction, reconstruction or enlargement of any structure or property.

Diameter at Breast Height: A standard method of expressing the diameter of the trunk of a tree. The trunk is measured at a height of four and one-half feet (4'6") above grade.

Director: The Director of Planning and Zoning or designee.

Drip Line: The area beneath the canopy of a tree defined by a vertical line extending from the outermost edges of the tree branches to the ground.

Evergreen: A plant with foliage that remains green year-round.

Existing Tree: Any self-supporting woody plant with one (1) well-defined trunk which exists on the lot prior to development.

Grass: Any of numerous grass species that will attain a thick green cover of turf over the available soil area.

Ground Cover: Any woody or herbaceous plant that effectively shades out sod and will not generally reach a height of over two feet (2').

Hardscape Screening: Non-living screening materials such as walls, fences and baffles.

Landscaped Area: An area within the boundary of a property which is devoted to and consists of plant material, trees, water forms, planters, brick, stone, aggregate and other features used primarily for landscaping purposes, but not including the use of smooth concrete or asphalt.

Landscape Plan: The Landscape Site Plan or landscape plan information required to be submitted and approved in accordance with this Ordinance.

Landscaping: Changing, rearranging or adding to the original vegetation or scenery of a piece of land. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

Municipal/Government Property: Examples of this would include City Hall, public parks, Corps of Engineers Property, State of Texas R.O.W., library, fire stations, water tower sites or similar properties.

Non-Canopy Tree: Any self-supporting woody plant with one or more trunks, which attains a height of at least fifteen feet (15').

Non-Conforming Development: A development which was lawful prior to the adoption of this Ordinance but fails by reason of such adoption to comply with this Ordinance.

Ornamental Tree: A tree planted primarily for its decorative value or for screening purposes; tends to be smaller at maturity than a canopy tree.

Plant Materials: Living trees, shrubs, vines, grass, ground covers and flowering annuals, biennials and perennials.

Pre-Development Clearing of Land: The clearing of land before the issuance of a building permit.

Property: The real property included within the boundaries of any lot approved and recorded in the plat records of Angelina County or an unplatted tract or parcel of land as described and recorded in the Real Property Records of Angelina County, Texas.

Protected Tree: A tree that has a barrier constructed in such a way that the tree is protected from damage due to construction or from normal vehicular movement.

Protective Fencing: Snow fencing, chain link fence, orange vinyl construction fencing or other similar fencing with a minimum height of four feet (4').

Removal: Uprooting, severing the main trunk of a tree, or any act, which causes or may reasonably be expected to cause a tree to die, including without limitation damage inflicted upon the root system by machinery, storage or materials, or soil compaction.

Saved Tree: An existing tree, which is maintained in a living and growing condition.

Screening: A method of visual shielding or obscuring one (1) abutting or nearby structure or use from another by fencing, walls and berms or densely planted vegetation.

Shrub: A woody perennial plant distinguished from a perennial herb by its persistent, woody stem and from a tree by a mature height of less than fifteen feet (15') and having no distinctive elevated crown of foliage.

Street Yard: The area of a lot which lies between the street right-of-way line and the front, side, and/or rear wall building line.

Tree: Any self-supporting woody perennial plant which will attain a trunk diameter of three inches (3") or more when measured at a point four and one-half feet (4'6") above ground level and normally an overall height of at least twelve feet (12') at maturity, usually with one (1) main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks.

Undisturbed Area: The area of a lot, which maintains the original natural vegetation including trees, shrubs, grasses, groundcover, and plant materials as approved by the Planning Director.

Unprotected Tree: A tree that has no specially constructed protection barriers to prevent damage due to construction or normal vehicular movement.

Vegetated Area: Ground area of a site that is covered by plants, including trees, undergrowth and grasses.

Vegetation: Any type or kind of growing plant material.

Wall Building Line: A line extending along the façade of the building(s), parallel to the property line(s) abutting a street right-of-way line. Such line shall be used to determine the overall area, depth and shape of the street yard.

Weeds or Grasses: Weeds and/or grasses or other uncultivated plants on any premises or right-of-way, which grow in such rank profusion as to harbor reptiles or rodents, or create a fire hazard; and weeds and/or grasses, excluding ornamental grasses, or other cultivated plants on any premises which are permitted to, or do attain a height greater than twelve inches (12").

Section 6 – Landscape Area Requirements

A. Landscape Area Requirements

1. The landscaping requirements shall be determined by the total square footage of the lot less any areas exempted by phased development, classification as 100 Year Floodway or undisturbed area.
2. Indiscriminate clearing of property within the City limits is prohibited.
3. Pre-development clearing of land must comply with the requirements of this ordinance.
4. The minimum required area of landscaping shall be ten percent (10%) of the total lot area, except for lots zoned for manufacturing. The minimum area of landscaping for lots zoned "Light Manufacturing" or "Heavy Manufacturing" shall be five percent (5%) of the total lot area. Each existing tree, which is maintained in a living and growing condition, may be

credited (for a single credit) towards the required landscape area according to the following schedule:

Existing One Tree Saved of	Credit
10" – 12" Caliper	200 Square feet of Landscaped Area
13" or greater Caliper	250 Square feet of Landscaped Area
Credits shall not exceed 25% of the required landscaped area.	

5. Of the required landscape area, a minimum of one (1) tree per five hundred (500) square feet, or fraction thereof, shall be required. A minimum of one (1) tree is required for all development. Trees planted in order to satisfy this requirement shall have a minimum caliper of three inches (3") or greater.
 - a. Each existing tree which is maintained in a living and growing condition may be credited towards the number of required trees.
 - b. The use of the tree credit provisions below is not intended to promote the removal of all or a majority of the trees on a site with retention of only the minimum required number of mature trees per acre. It is instead provided as a means of preserving existing vegetation, including a variety of tree sizes.
 - c. Retention credits will not be approved when the plan indicates removal of all trees except one (1). Retention of a minimum number of mature trees for mitigation purposes should, to the extent feasible, be supplemented by the preservation of existing vegetation within the setback areas. Variances of this requirement are considered by the Board of Adjustment and Appeals. The credits are provided according to the following schedule:

Existing One Tree Saved of:	Credit
6" – 9" Caliper	3 Trees
10" – 12" Caliper	4 Trees
13" or greater Caliper	5 Trees

6. Of the required landscape area, a minimum of one (1) shrub per two hundred (200') square feet, or fraction thereof, shall be required. Shrubs planted in order to satisfy this requirement shall be a minimum size of two (2) gallons or greater.
7. Each existing tree or newly planted tree which is maintained in a living and growing condition may be credited towards the required number of shrubs according to the following schedule:

Existing One Tree Saved of	Credit
3" – 6" Caliper	4 shrubs
7" – 9" Caliper	6 shrubs
10" – 12" Caliper	8 shrubs
13" or greater Caliper	10 shrubs

Credit for trees in areas zoned Apartment (A) (or having an apartment use), Planned Unit Development (PUD), Adaptive Reuse Overlay (ARO) or Restrictive Professional Office District (RPO), shall not exceed seventy-five percent (75%) of the required landscaped area.

Credit for saving an existing tree cannot count toward more than one (1) landscape element on a site.

8. Twenty percent (20%) of the required landscape area or required number of trees should be planted within the street yard to provide, at a minimum, a ten foot (10') wide area (the length of the front property line) of landscaped area.
 - a. Where no setback line is required for a property, the landscaping requirements of this ordinance, including placement of the street yard landscaping, shall apply for all land uses undertaken, or structures built, after passage of this ordinance.
 - b. Modification to the placement standard is permitted where placement of landscaping would interfere with the use or maintenance of a dedicated utility easement. Landscaping which is moved to avoid interference with a dedicated utility easement will be placed to abut the rear edge of the easement and the interior of the property, utilizing the width of the easement or ten feet (10'), whichever is greater, as the minimum width of the landscape area.
9. An exception to the required placement of twenty percent (20%) of the landscaping in the street yard may also be granted where tree preservation areas are desired at the rear of the property, regardless of whether the trees saved are credited toward the tree planting requirement or are saved to supplement the required number of trees to be planted. Requests for exceptions must be done in writing and will be reviewed for approval or disapproval by the Planning Director. Appeals from these requirements may be made to the Board of Adjustment and Appeals.

The city of Lufkin is required to comply with this ordinance.

Section 7 – Landscape Location Requirements

- A. For a lot abutting a street, a minimum of a ten foot (10') wide area (the length of the front property line) must be planted as a landscaped area on the street side. The remaining square footage of landscaped areas shall be reasonably dispersed throughout the lot. Upon written application of the owner of the development, the distribution of landscaping may be amended in order to ensure the maximum benefit of the required landscaping when approved by the Planning Director.
- B. Trees planted in the street yard must be planted, on average, every forty linear feet (40'), but may be grouped in the street yard in such a way that:
 1. They will not block the view of traffic entering or exiting the property;
 2. The primary building entrance, or indication thereof, is visible from the roadway;
 3. And the species of trees selected do not crowd or otherwise inhibit the growth of other trees in the same grouping.
- C. All existing undergrowth in a protected area shall remain until construction is complete and may be removed at that time by hand clearing only.
- D. Any surface of the street yard not occupied by trees, shrubs, planting beds, signs or other permitted fixtures shall be planted with sod or other suitable groundcover.

Section 8 – Island Landscaping and Parking Lot

A. Landscape Island

Landscape islands are required in all parking lots in excess of fifty (50) spaces unless a xeriscape plan is submitted detailing a design using drought tolerant plants.

1. One landscaped island must be placed a minimum of every fifty (50) parking spaces and at both ends of each row of fifty (50) or more parking spaces.
2. Each landscaped island must be at least fifty square feet (50'); have a minimum dimension of five (5') feet; and must include at least one (1) tree.
3. The remaining area of the landscape island must contain live landscaping material, including shrubs, turf or planted groundcover, none of which may exceed, at maturity, three feet (3') in height measured from the grade of the island's lowest point.

B. Parking Lots

Where a parking lot or a commercial property abuts property zoned or used residentially, and the parking area is not screened from view by a solid fence that completely obscures the view of the adjoining property and is a minimum height of six feet (6'), bermed, or otherwise screened, a continuous screen of shrubs is required.

1. Shrubs shall be a minimum of two (2) gallons in size. Shrubs must be planted adjacent to the parking lot or property. The shrubs should create a minimum three (3') foot tall screen in two (2) years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and must be planted in a prepared bed at least five (5') feet in width. All parking lots or commercial properties that abut residential zones or property used for residential purposes must be screened using screening methods as described below:
2. Screening must be a solid fence that completely obscures the view of the adjoining property and is a minimum height of six feet (6'); or be at least three feet (3') in height and be achieved through one (1) of the following methods:
 - a. A berm with a slope no greater than three to one (3:1) feet;
 - b. A planting screen or hedge comprised of drought and freeze-resistant shrubs must be used; e.g., dwarf Buford Holly or dwarf Yaupon Holly;
 - c. A combination of any of the above along with trees.
3. Planted materials used as screening must be capable of providing a solid three (3) foot screen within two (2) years.
4. Screening is not required along abutting property lines utilized for joint access to two (2) or more properties.

Section 9 – Reduction in Required Landscape Areas

The required landscape area can be reduced through the following techniques:

A. Phased Development

Each phase of a phased project shall comply with this Ordinance. Phase lines, if drawn, shall be drawn twenty feet (20') or more from developed site elements (parking, buildings, ponds, etc.). The portion of property left for subsequent phases shall remain of developable size and quality. No building permit shall be issued for a subsequent phase of a project until all requirements of this Ordinance have been met on prior phases.

B. 100 Year Floodway

On sites where a floodway exists, the 100 Year Floodway area will be subtracted from the total lot area when calculating landscape requirements. Trees, shrubs or groundcover in this area may be applied in meeting the landscaping requirements for the development of the property. The plants in this area must be protected for current and future periods.

C. Undisturbed Area

On sites where the Planning Director has determined that an undisturbed area exists; the area will be subtracted from the total lot area when calculating landscape requirements. Trees, shrubs, or groundcover in this area may be applied in meeting the landscape requirements for development of the property when the area remains undisturbed. No building permit shall be issued for development within the undisturbed area if plants in this area are used for meeting landscape requirements.

D. Retention and Detention Areas

Site areas dedicated to retention and detention, as required by the City Engineer; will be subtracted from the total area, when calculating land requirements.

Section 10 – Tree Preservation and Care during Construction

Tree Preservation and Care during Construction involves the following:

1. Existing trees to be preserved for landscape credit must be clearly marked.
2. Existing trees to be saved for landscape credit shall have a barricade along the tree's drip line prior to grading and construction.
3. Areas to remain preserved are to be barricaded so that construction practices in the field will protect existing trees from compaction of soil, changes in grades and damage from machines.

Section 11 – Irrigation Requirements

Every development shall be required to comply with one of the following irrigation system standards:

- A. Conventional System—automatic, underground irrigation systems which may be a conventional spray or bubbler type head.
- B. Drip or Leaky-Pipe System—an automatic underground irrigation system in conjunction with a water-saving system such as a drip or a leaky pipe system.
- C. Temporary and Above-Ground Watering—Landscape areas using drought resistant plants and installation techniques, including areas planted with native grasses, wildflowers, and trees may use a temporary and above ground system. Provision of temporary irrigation for the first three growing seasons is recommended though not mandatory. While irrigation is not required for undisturbed natural areas or undisturbed existing trees, those trees within parking lots or adjacent to parking lots where root health may be impacted must have a water source consisting of a hose bib accessible to each area at a minimum.

Section 12 – Standards and Specifications

A. Plant Criteria

1. All plant materials planted in order to satisfy this ordinance shall be of a species, which will conform to the selection criteria of this ordinance.
 - a. Plant materials shall be either native plants acceptable to the Lufkin area or plants that are known to be acclimated to the East Texas region.
 - b. Bradford pear and Chinese Tallow trees may not be counted or planted for tree credit.
 - c. The selection of individual plant materials shall require that the species chosen be adaptable to the specific environment and conditions in which it will be planted; i.e., soils, water availability, height limitations and shade.
2. Trees and shrubs planted in order to satisfy this ordinance shall conform to the minimum size specified below:
 - a. Canopy trees shall have a minimum caliper of three inches (3”) in DBH; shall have a minimum branching height of six feet (6’); and shall have a minimum overall height of eight feet (8’) immediately after planting.
 - b. Shrubs shall be a minimum size of two (2) gallons.
3. Trees shall be selected so as to avoid those known to cause damage to public improvements.
4. Artificial plants are not acceptable in satisfying this Ordinance.

B. Planting Requirements

1. A professional horticulturist/nurseryman should be consulted to determine the proper time to move and install plant material so that stress to the plant is minimized. Planting of all material may be continued during the winter months provided the plant material is not subject to severe freezing. In the event weather conditions are not suitable for planting, with the approval of the Planning Director (and prior to the issuance of a Certificate of Occupancy), an irrevocable letter of credit assigned to the City shall be provided to cover the cost of postponed planting.
2. The owner or contractor shall furnish and install and/or dig, ball, burlap or transplant all plant materials listed on the plant schedule.
3. Trees shall not be planted so near to sewers, sidewalks, or other public improvements as to cause damage to such improvements.
4. Sight clearance on all sites shall comply with the Zoning Ordinance.
5. Landscaping on all sites shall not interfere with traffic flow or visibility of vehicles on the developed property or on an adjacent property.
6. The owner or contractor shall excavate all plant pits, vine pits, hedge trenches, and shrub beds as follows:
 - a. All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth (1/8) of the ball to be above the existing grade. Plants shall rest on undisturbed existing soil or well-compacted backfill. The tree pit must be a minimum of nine inches (9”) larger on every side than the ball of the tree.
 - b. If the areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least eighteen inches (18”) in depth. Areas designated for ground covers and vines shall be cultivated to at least twelve inches (12”) in depth.
7. Each tree, shrub or vine shall be pruned in an appropriate manner, in accordance with the accepted standard practice. Broken or bruised branches shall be removed with clean cuts made on an angle from the bark ridge to the branch collar, no flush cuts, to minimize the

area cut. All cuts shall be made with sharp tools. Trim all edges smooth.

8. All trenches and shrub beds shall be edged and cultivated to the lines shown on the drawing. The area around isolated plants shall be edged and cultivated to the full diameter of the pit. Sod that has been removed and stacked shall be used to trim the edges of all excavated areas to the neat lines of the plant pit saucers, the edges of shrub areas, hedge trenches and vine pockets.
 9. After cultivation, all plant materials shall be mulched with approved material over the entire area of the bed or saucer according to generally accepted landscape practices.
 10. Contractor's shall certify compliance with planting requirements in writing to the Inspection Services Department prior to issuance of temporary Certificate of Occupancy or complete Certificate of Occupancy if City Inspection has not been done.
- C. Pre-construction standards must be applied to insure the protection of trees, to include the critical root zone, as follows:
1. Tree Flagging:

All saved trees on the subject property within forty feet (40') of a construction area or surface improvements such as driveway, walks, etc. shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of four feet (4') or more such that the tape is very visible to workers operating construction equipment. This shall not include the flagging of all protected trees adjacent to right-of-way within approved residential subdivisions during the construction of the roadway.
 2. Open Space Flagging:

All trees or groups of trees within areas intended to be saved as open space shall be enclosed with fluorescent orange tape along all areas of possible access or intrusion by construction equipment. Tape shall be supported at a maximum of twenty-five foot (25') intervals by wrapping trees or other approved methods. Single incident access for the purposes of clearing underbrush is allowed.
 3. Protective Fencing:

In those situations where a saved tree is so close to the construction area that construction equipment might infringe on the root system or is within twenty feet (20') of the construction area, protective fencing shall be required between the outer limits of the critical root zone of the tree and the construction activity area. Four foot (4') high protective fencing shall be supported at a maximum of ten foot (10') intervals by approved methods. All protective fencing shall be in place prior to commencement of any site work and remain in place until all exterior work has been completed.
 4. Bark Protection:

In situations where a saved tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with 2" x 4" lumber encircled with wire or other means that do not damage the tree. The intent here is to protect the bark of the tree against incidental contact by large construction equipment.
- D. Preservation and Care During Construction:
1. Existing trees to be preserved for landscape credit must be clearly marked.
 2. The following activities shall be prohibited within areas to be preserved or the limits of the critical root zone of any tree to be saved for landscape credit:
 - a. Material Storage:

No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
 - b. Equipment Cleaning/Liquid Disposal:

No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.

c. Tree attachments:

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

d. Vehicular Traffic:

No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on existing street pavement. This restriction does not apply to single incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

e. Grade Changes:

No grade changes may be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Director of Planning or if grading is as directed by the City Engineer.

f. Impervious Paving:

No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree, shall be placed within the limits of the critical root zone of a protected tree except as otherwise allowed in this ordinance.

g. A saved tree shall be considered to be preserved only if a minimum of seventy-five percent (75%) of the critical root zone is maintained at undisturbed natural grade and no more than twenty-five percent (25%) of the canopy is removed due to building encroachment.

h. Areas to remain preserved are to be barricaded so that construction practices in the field will protect existing trees from compaction of soil, changes in grades and damages from machines.

E. Permanent Construction Methods:

1. Boring:

Boring of utilities under saved trees shall be required in those circumstances where it is not possible to trench around the critical root zone of the saved tree. When required, the length of the bore shall be the width of the critical root zone at a minimum and shall be a minimum depth of forty-eight inches (48”).

2. Trenching:

All trenching shall be designed to avoid trenching across the critical root zone of any saved tree. Although this subsection is not intended to prohibit the placement of underground services such as electric, phone, gas, etc., the placement of these utilities is encouraged to be located outside of the critical root zone of saved trees. Irrigation system trenching shall be placed outside of the critical root zone with only the minimum required single head supply line allowed within that area placed radially to the tree trunk.

3. Root Pruning:

All roots two inches (2”) or larger in diameter which are exposed as a result of trenching or other excavation shall be cut off square with a sharp medium tooth saw and covered with pruning compound within two (2) hours of initial exposure.

F. Maintenance:

1. The owner, or agent shall be responsible for the maintenance of all landscaping, which shall be maintained in good condition so as to present a healthy, neat and orderly appearance, and

shall be kept free from refuse and debris. Any plant that dies should be replaced with another living plant that complies with the approved landscape plan within one hundred-twenty (120) days after death or notification by the Director of Planning or designee, season permitting.

2. The property owners shall be responsible for replacement of dead landscaping material. Replacement must occur within one hundred-twenty (120) days, season permitting, of notification by the Director of Planning or designee. Replacement material must be of similar character as the dead landscaping material.
3. Nothing in the ordinance shall prohibit or restrict a public utility company from trimming or removing trees or other plant materials that are a hazard to its employees, the public or its facilities, or that threaten to interfere with the provision of continuous service.

Section 13 – Nonconforming Uses

- A. Land that is under lawful development at the effective date of this ordinance or that is under lawful development at the effective date of annexation of the land, will have a grandfathered, pre-existing, nonconforming status with respect to the requirements herein.
- B. Any land that is annexed and where no lawful development has occurred must comply with the requirements of this ordinance upon development of the land and will not be granted nonconforming status with respect to the requirements of this ordinance.
- C. If a property exists and does not conform to the landscape requirements stated herein at the time of adoption of this ordinance they shall have nonconforming status unless a structure on the property is increased by greater than twenty-five percent (25%) of the original structure existing on the site. On sites where multiple buildings exist the original size is the cumulative sum of the buildings. Phased projects will be measured as additions occur. If a structure is under the twenty-five (25%) after an addition, the requirements of this ordinance will apply to future buildings.

SECTION II. This Ordinance shall take force and effect upon Second and Final Reading by the City Council.

PASSED AND APPROVED on First Reading by the City Council of the City of Lufkin, Texas, at its regular meeting this the _____ day of _____, 2009.

Jack Gorden, Mayor
City of Lufkin

ATTEST:

Renee Thompson, City Secretary
City of Lufkin

PASSED AND APPROVED on Second and Final Reading by the City Council of the City of Lufkin, Texas, at its regular meeting this _____ day of _____, 2009.

Jack Gorden, Mayor
City of Lufkin

ATTEST:

Renee Thompson, City Secretary
City of Lufkin

APPROVED:

Robert L. Flournoy, City Attorney
City of Lufkin