

**ORDINANCE NO. 2017-06-21**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING EXISTING ARTICLE 14.800, "LANDSCAPE STANDARDS," OF CHAPTER 14, THE LANCASTER DEVELOPMENT CODE, AND REPLACING IT WITH A NEW ARTICLE 14.800, "LANDSCAPE REGULATIONS AND STANDARDS"; REPEALING EXISTING ARTICLE 14.900, "TREE PRESERVATION," OF CHAPTER 14, THE LANCASTER DEVELOPMENT CODE, AND REPLACING IT WITH A NEW ARTICLE 14.900, "TREE CONSERVATION"; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the City Council has determined that in order to preserve and enhance the City as a desirable community in which to live and do business, a pleasing, visually attractive environment is of the foremost importance; and

**WHEREAS**, the City Council, possessing the full power of self-government, as authorized by the Texas Constitution and the City's duly adopted Charter, has determined that the adoption of new landscape regulations and tree conservation regulations is in the best interests of the citizens of the City and will promote the public health, safety and general welfare; and

**WHEREAS**, the City Council further has determined that Chapter 14, the Lancaster Development Code, of the Code of Ordinances should be amended, as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS, THAT:**

**SECTION 1.** All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** From and after the effective date of this Ordinance, existing Article 14.800, "Landscape Standards," of Chapter 14, the Lancaster Development Code, is repealed in its entirety and replaced with a new Article 14.800, "Landscape Regulations and Standards," to read as follows:

## **“ARTICLE 14.800 LANDSCAPE REGULATIONS AND STANDARDS**

### **Sec. 14.801 Purpose**

(a) Purpose. Landscaping is accepted as adding value to property and is in the interest of the general welfare of the City. The City Council of the City of Lancaster has declared that a goal for the City is to provide an optimal quality of life for all citizens of Lancaster by improving the appearance of the City through increased public and private landscaping and reducing litter.

(b) Intent. These landscaping regulations provide standards and criteria for new landscaping with live plant material, and are intended to promote the value of property, enhance the general welfare, improve the physical appearance of the City, and enhance the community’s ecological, environmental and aesthetic qualities. It is further the intent of this Article:

- To establish requirements for the installation and maintenance of landscaping elements and other means of site improvement on existing and newly developed property in order to enhance the community’s ecological, environmental and aesthetic qualities:
- To reduce the negative effects of increases in air temperatures, glare, noise, erosion and sedimentation caused by expanses of impervious and non-vegetated surfaces within the urban environment;
- To preserve and improve the natural urban environment by recognizing that the use of landscaping elements can contribute to the processes of air purification; oxygen regeneration; groundwater recharge; storm water runoff retardation; and the abatement of noise, glare and heat;
- To safeguard and enhance property values and protect public and private investment; and
- To support water conservation.

### **Sec. 14.802 Application of Article**

(a) Applicability.

(1) Except as otherwise provided herein, this article applies to all uses on a lot when an application for a building permit for work on the lot is made.

(2) This article does not apply to:

- (1) Any property with a previously approved landscape and/or site plan prior to adoption of this article, unless such plan is required to be resubmitted for consideration; and

- (2) Restoration of a building that has been damaged by fire, flood, explosion, riot, act of the public enemy, other natural disaster, or accident of any kind, if said structure may be restored under the nonconforming use provisions of the Comprehensive Zoning Ordinance. For purposes of this Subsection, restoration means the act of putting back into a former or original state.
- (3) Planned Development Districts. Landscaping requirements consistent with the standards and purposes of this article shall be a part of all ordinances establishing or amending planned development districts, unless otherwise approved by the City Council.
- (4) Exceptions. The Planning and Zoning Commission may grant a special exception to the requirements upon evidence presented that:
  - (a) Strict compliance with the requirements of this article will unreasonably burden the use of the property;
  - (b) The requirements are not imposed by a site-specific landscape plan approved by the Planning and Zoning Commission or City Council; or
  - (c) The extent to which other existing or proposed amenities will compensate for the reduction of landscaping.
- (5) Permits.
  - (a) No permit shall be issued for building, paving, grading, construction or reconstruction until a detailed landscape plan complying with this section is approved by the building official. Prior to the issuance of a certificate of occupancy, all landscaping shall be in place in accordance with the approved landscape plan.
  - (b) If the Building Official determines that it would be impractical to plant trees, shrubs or grass or to lay turf, due to adverse weather conditions or the season of the year, a temporary certificate of occupancy may be issued. Issuance of a temporary certificate of occupancy will be subsequent to receipt of a letter of agreement from the property owner, tenant and/or agent agreeing to compliance with the terms of this section stating when the installation shall occur, and a letter of credit or bond for one hundred fifty percent (150%) of the estimated cost of the landscaping. All required landscaping shall be installed within six (6) months of the date of the issuance of the temporary certificate of occupancy.

**Sec. 14.803 Landscape Plan Submission**

- (a) Landscape Plan Required. A landscape plan shall be submitted to the City for approval by

the Director of Development Services or designee prior to the issuance of a building, paving, grading or construction permit. The Director or designee shall review the landscape plan to determine compliance with the criteria of these regulations. If the plans are not in compliance, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

(b) Plan Content. Landscape plans shall be prepared by a registered Landscape Architect knowledgeable in plant material usage and landscape design (*e.g.*, landscape architect, landscape contractor, landscape designer) and shall contain the following minimum information in the form and number as prescribed by the City:

- (1) Date, scale, north arrow, and the names, addresses, and telephone numbers of both the property owner and the person preparing the plan.
- (2) Project name, street address, and lot and block description.
- (3) Location of existing boundary lines and dimensions of the lot, street address, approximate centerline of existing water courses and the location of the 100-year flood plain, if applicable; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, utility easements, driveways and sidewalks on or adjacent to the lot.
- (4) Location, height, and material of proposed screening and fencing (with berms to be delineated by one-foot contours).
- (5) Locations and dimensions of proposed landscape buffer strips.
- (6) Complete description of plant materials shown on the plan, including names, locations, quantities, container or caliper sizes at installation, heights, spread, and spacing. The location and type of all existing trees on the lot over six inches in caliper must be specifically indicated.
- (7) Complete description of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area to be provided internal to parking areas, the total square footage included in the parking area, and the number and location of required off-street parking and loading spaces.
- (8) A computation or table showing the landscaping that is required and the landscaping being provided.
- (9) Location and description, by type and size, of existing trees proposed to be retained. Such trees shall be marked and drip-line of said trees shall be protected prior to and during all construction, including all dirt work.
- (10) Size, height, location and material of proposed seating, lighting, planters,

sculptures, water features and landscape paving and other site amenities.

- (11) Identification of visibility triangles on the lot for all driveway intersections with public streets.
- (12) Trees relocated on-site must be identified with their existing and proposed locations.
- (13) Location of centerlines of overhead and underground utility lines adjacent to and within the building site, and the location of all utilities, utility easements, including the location of utility poles, generators, and equipment.

#### **Sec. 14.804      Mandatory Provisions**

##### **(a)      Right-of-way Landscaping Requirements**

- (1)      Streetscape Buffer. A Street Landscape Buffer strip with a minimum width of 6 feet, must be provided along the entire length of the property to be developed, between the back-of-curb and sidewalk, that is adjacent to any residential land use. This shall also apply to all commercial land uses where there is no adjacent on-street parking. This shall be exclusive of driveways and access-ways.
- (2)      Street Tree Requirement. Large shade trees, as defined in Sec. 14.805 for rights-of-way, shall be provided in the required buffer in numbers equal to one tree for each fifty feet of street frontage.
  - (A)      When the location of local utility prohibits planting large trees, two small trees may be planted for each large tree.
- (3)      Other Landscaping. All street rights-of-way located adjacent to the development shall be improved with grass or ground cover material and shall be maintained. It shall be the responsibility of the developer to design the irrigation system within the lot to ensure that the grass placed in the right-of-way is watered and maintained and to ensure that minimal water will enter the street itself. The designer of the irrigation system shall base the design on the ultimate proposed width of the street when designing the system. The plans for design of the irrigation system shall be approved by the City prior to installation.

##### **(b)      Required Site Landscaping**

###### **(1)      Minimum Landscaping Requirements**

- (A)      Area Required. For all nonresidential and multi-family (with more than 6 units) parcels, at least twenty percent (20%) of the site shall be permanently landscaped. All of the required landscaped area shall be located in the Street Yards, side yards and parking lots.

(B) Trees Required. At least one large tree shall be provided as follows:

- (1) Street Yards Less than 10,000 square feet. In Street Yards of less than ten thousand (10,000) square feet, one (1) tree per one thousand (1,000) square feet, or fraction thereof, of Street Yard.
- (2) Street Yards More than 10,000 square feet. In Street Yards of more than ten thousand (10,000) square feet, ten (10) trees plus one (1) tree per two thousand (2,000) square feet, or fraction thereof, of Street Yard area over ten thousand (10,000) square feet.
- (3) Credits for Existing Trees. Any trees not listed on the Cities non-Protected Tree list that are preserved on a site may be credited toward meeting the tree requirement of any landscaping provision of this section according to the following table:

Diameter	CREDIT
F	TOWA
6" to 8"	1.0 tree
9" to 30"	1.5 trees
31" to 46"	2.0 trees
47" or more	3.0 trees

**Note 1:** Tree diameter shall be measured four and one-half feet (4 1/2') above natural grade.

**Note 2:** Due to their limited height and size, mesquite trees will receive only fifty percent (50%) of the above credit for tree preservation.

- (4) Ornamental Trees. Two (2) ornamental trees may be substituted for one (1) required large tree. Not more than fifty percent (50%) of the required large trees may be substituted by installing ornamental trees. Ornamental trees shall be a minimum of six feet (6') in height at the time of planting.
- (5) Shrubbery Required. At least one shrub shall be required for every fifty (50) square feet of the required landscape area. Placement of such shrubbery shall be taken into consideration as to the plant at full maturity, and be located so as not to conflict with vehicular or pedestrian traffic visibility.
- (6) Ground Cover Required. At least ten percent (10%) of the required landscape area shall be maintained in ground cover. The remaining landscape area shall be maintained in lawn grasses and mulch used around bedding plants, shrubs and trees.

- (B) Location of Landscaping. No less than thirty percent (30%) of the total requirement shall be located in front of and along the side of buildings with street frontage in Multi-family and Commercial zoning districts, including the ORT district. One hundred percent (100%) of the total requirement shall be located in front of and along the side of buildings with street frontage in Industrial zoning districts, not including the ORT district.
- (C) Detention Basins. Detention basins shall be landscaped in a natural manner using grown cover, grasses, shrubs and trees in all dry land areas. There shall be a minimum of one (1) tree for each 750 square feet of dry land area.
  - (1) In the interest of public health, detention basins should be used sparingly and alternative methods of collecting and filtering storm water should be considered as not to promote standing water.

(c) Landscaping for Non-residential Land Uses.

- (1) Screening of Parking. Where on-site parking is located adjacent to a street, roadway or public open space, a minimum ten-foot (10') landscape buffer is required between the property lines and any parking, paving or internal driveways. Driveway openings are permitted in the landscape buffer area. The area of the landscaped buffer may be included in the total required landscape area for the lot.
  - (A) Location. The landscaped buffer requirement shall apply to all sides of the lot adjacent to a public street, open space or right-of-way.
  - (B) Screen. The screening shall be between a minimum height of three feet (3') and a maximum of four feet (4') above the grade of the parking lot and located adjacent to the parking lot. Screening shall be opaque and consist of shrubs and/or berms.
  - (C) Materials. Shrubs shall be capable of reaching a height of three feet (3') within eighteen (18) months of planting, and shall be planted no more than thirty-six inches (36') on center. Berms shall comply with provisions set forth in Section 14.805. Screening walls shall be masonry.
- (2) Internal Parking Lot Landscaping. It is the intent of this sub-section to encourage the high quality design and construction of parking areas in the City. It is also the intent of this section to aid in the abatement of noise, glare and heat associated with large expanses of hard paved surfaces and motor vehicles.
  - (A) Parking Lot Landscape Area. Parking lot landscape area requirements shall be on the percentage of parking located between the building façade and the R.O.W.:

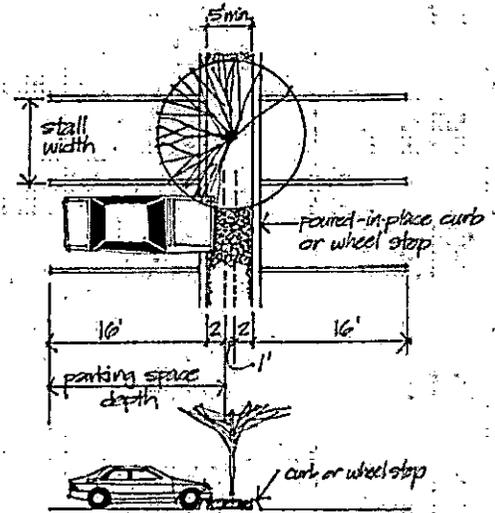
Less than 25% = 15 sq. ft. per parking stall

25% - 75% = 20 sq. ft. per parking stall

Greater than 75% = 30 sq. ft. per parking stall

Notwithstanding the standards above, the parking lot landscaping area requirement may be reduced by fifty percent (50%) for that portion of parking located behind the building's or development's primary façade.

(B) Distribution of Islands, Peninsulas and Medians. The number, size and shape of islands, peninsulas and medians, in both street and non-Street Yards shall be at the discretion of the property owner or applicant. All required islands, peninsulas and medians shall be more or less evenly distributed throughout such parking areas. However, the distribution and location of landscaped islands, peninsulas and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirements for landscaped islands, peninsulas and medians for the respective parking areas above are satisfied.



**EXAMPLE OF A  
LANDSCAPE BUFFER  
BETWEEN PARKING  
BAYS**

(1) Planter islands shall have a minimum width of ten feet (10') from edge of pavement to edge of pavement unless used as a landscape buffer between parking bays, which shall be a minimum of five feet (5') in width.

(2) No required parking space may be located more than eighty feet (80') from the trunk of a large canopy tree. Notwithstanding the minimum planter dimension above, where required to meet this standard, the minimum

size tree planting area shall be five (5) feet square and only trees approved for use in street rights-of-way may be used.

1. The center of no tree may be planted closer than two and one-half feet (2½') to the pavement.

(C) Planting Requirements. All planter islands in parking areas shall contain a minimum of one (1) canopy tree with the remaining area in shrubs, ground cover, grasses or seasonal color. Planter islands which have light poles for lighting the parking areas may substitute two (2) understory/accent trees for the required canopy tree.

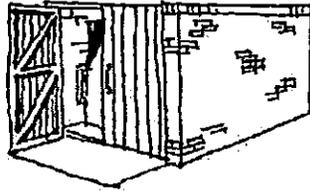
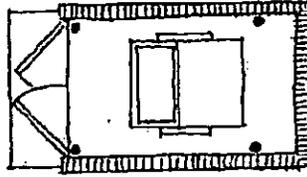
(3) Screening of Off-Street Loading Docks

(A) Off-street loading docks in Commercial and Industrial zoning classifications must be screened from all public streets and open space, and any residential district that abuts or is directly across a public street or alley from the lot.

(B) Screening may be achieved by any method listed above, but must be at least 8 feet (8') in height.

(4) Screening of Trash Dumpsters. All refuse storage areas for trash dumpsters shall be visually screened by a solid masonry fence not less than 6 feet (6') in height. Six-inch (6") concrete filled steel protective poles shall be placed at possible impact areas. The access area shall not face a public street unless otherwise approved during site plan approval.

Dumpster storage should be located to the rear of building with proper access. Trash dumpsters shall not be located in any required parking space and shall allow proper access by service trucks. Dumpster pad sites shall be designed to City standards specified in the Subdivision Standards of Design.



### Wall Enclosure

#### (5) Screening from Residential Uses

- (A) Any Commercial or Industrial use or parking lot that has a side or rear contiguous to any Residential district, shall be screened with a masonry fence (excluding tilt wall or concrete block unless approved by the Planning and Zoning Commission) which is a minimum of six feet (6') in height, unless otherwise approved by the Planning and Zoning Commission. Berms in conjunction with a fence can be utilized to meet this requirement. Any ordinances concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street, alley or driveway.
- (B) Prior to construction of any required screens, complete plans showing type of material, depth of beam, and structural support shall be reviewed by the Director to determine whether or not:
- (1) The screen will withstand the pressures of time and nature;
  - (2) The screen adequately accomplishes the purpose for which it was intended.
  - (3) Plans shall be sealed by a Registered Engineer or they shall conform to the City's standard design for screening walls.
- (C) Such screen shall be constructed prior to the issuance of a Certificate of Occupancy for any building or portion thereof.

- (D) The areas adjacent to the required screening wall, or areas adjacent to a public street or right-of-way, shall be maintained by the property owner in a clean and orderly condition, free of debris and trash in accordance with the applicable codes of the City.

(6) Special Requirements for Facilities with Gasoline Sales.

- (A) Gasoline service stations, retail gasoline sales and other similar uses as determined by the Director shall require a minimum landscaped area of fifteen percent (15%) of the total lot area.
- (B) Gasoline service stations and other retail gasoline sales shall also provide a minimum six hundred (600) square foot landscaped area at each driveway intersection and at each corner of the lot adjacent to a street frontage. This additional landscaped area may be counted toward the minimum fifteen percent (15%) requirement.

- (d) Dimensions of Landscaping. All required landscaping shall be no less than five feet (5') wide and a minimum of 25 square feet in area.

**Sec. 14.805 Landscape Materials & Standards**

(a) General

- (1) No Artificial or Synthetic Plant Material. No artificial or synthetic plant materials may be used to satisfy the requirements of this article.
- (2) Soil and planting area requirements
  - (A) In general. Planting areas dedicated to the growth of roots may include open space areas, covered soil areas, root paths, and drainage.
  - (B) Planting area requirements, except as provided in this section, must meet the following requirements.
    - (1) For each small tree installation, a minimum of 24 inches (24") of soil depth and 25 square feet of open soil area (total of 50 cubic feet).
    - (2) For each medium and large tree installation, a minimum of 36 inches (36") of soil depth and 200 square feet of open soil area (total of 600 cubic feet)

- (3) Trees may share open soil area.
  - (4) Large trees and medium trees must be planted a minimum of four feet (4') from pavement.
  - (5) The planting area must have native soil, prepared soil, or structural soil, and may include permeable pavement, sidewalks support systems, and soil cells.
- (C) Waivers. The Director of Development or designee may waive the minimum open soil and planting area requirements if a landscape architect certifies that:
- (1) The proposed alternative soil depth and dimensions are sufficient to support the healthy and vigorous growth of the plant material affected;
  - (2) The depth to impermeable subsurface prohibits minimum soil depth requirements; or
  - (3) That the proposed structural soil or suspended pavement system are sufficient to support healthy and vigorous growth of the plant material.
- (3) Approved Plant List.
- (A) Plant materials shall conform to the standards of the American Standard for Nursery Stock. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects. Plant materials used to satisfy the requirements of this article must comply with the following minimum size requirements at the time of installation:
  - (B) A list of acceptable plant material will be maintained by the City and updated annually to ensure it is in coordination with industry standards.
  - (C) All required landscaped open areas shall be completely covered with living plant material. Landscaping materials such as wood chips and gravel may only be used under trees, shrubs and other plants.
  - (D) Trees. All trees shall comply with the following:
    - (1) A maximum of 35 percent (35%) of the required or replacement trees planted on a lot or tract may be of a single species.

- (2) Palm trees may not be used to satisfy the requirements of this article.
  - (3) Invasive plant material is prohibited in required landscapes
  - (4) A large tree shall have a caliper measuring at least three inches (3") in caliper when measured six inches (6") above the ground.
  - (5) An ornamental tree shall measure at least one inch (1") in caliper when measured six inches (6") above the ground.
- (E) Shrubs. Shrubs except of the dwarf variety shall be a minimum of two feet (2') in height when measured immediately after planting. Hedges, where installed for screening purposes, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will reach the required height within one (1) year after the time of planting.
  - (F) Vines. Vines not intended as ground cover shall be a minimum of two feet (2') in height immediately after planting and may be used in conjunction with fences, screens or walls to meet landscape screening requirements.
  - (G) Grass. Grass areas shall be sodded, plugged, sprigged, hydro-mulched or seeded. However, solid sod shall be used in swales, on earthen berms or in other areas subject to erosion.
  - (H) Ground Cover. Ground cover used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one (1) year of planting.
  - (I) Berms. Earthen berms shall have side slopes not to exceed 33 percent (33%) or 3:1 slope. All berms shall provide necessary drainage provisions which shall also be shown on any required site drainage plans.
  - (J) Obstruction Prohibited. All placement of landscaping materials, with the exception of turf and grass covered areas, shall be designed so that any interference with pedestrians loading and unloading in designated parking areas is minimized; and so that the normal parking of vehicles and opening of doors in designated parking areas will not open into or damage the landscaping materials.
  - (K) Height. For purposes of this sub-section, "height" is measured from the root crown or, if the plant is in a container, from the soil level in the container.

(b) Xeriscape Landscaping:

- (1) Xeriscape landscaping is an innovative, comprehensive approach to landscaping to promote water conservation. Xeriscape landscaping incorporates seven basic principles: planning and design, soil analysis, appropriate plant selection, practical turf areas, efficient irrigation, use of mulches and appropriate maintenance.
- (2) In order to reduce excessive water use, Xeriscape landscaping is encouraged. The total square footage of the required landscape area may be reduced by twenty percent (20%) if all landscaping materials have lower water demand, as identified by the Texas A&M Extension Service.

(c) Distance from overhead electric distribution lines.

- (1) Large and medium trees must be planted a minimum of 30 feet (30') from the closest point of an overhead electric distribution line.

(d) Adequate space. All trees must be planted with adequate space to allow unobstructed growth to maturity.

(e) Protection of Landscape Areas

- (1) Protection of Landscaping. Required landscape areas must be protected from vehicular traffic through the use of concrete curbs, or other permanent barriers. Vehicular wheels shall be prevented from extending into landscaped areas.

- (2) Nonresidential Development

- (A) During any construction or land development, the developer shall clearly mark all trees to be preserved on site and may be required to erect and maintain protective barriers around all such trees or group of trees. No living trees greater than eight inches (8") in caliper may be cut, destroyed or damaged on the development site until approved as part of the landscape plan.
- (B) The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the drip line of any trees.
- (C) During the construction stage of development, the developer shall not allow the cleaning of equipment or material under the canopy of any tree or group of trees to be preserved. The developer shall not allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete or mortar under the canopy of any tree or group

of trees to be preserved.

- (D) No attachments, nails, screws or wires of any kind, other than those of a protective nature, shall be attached to any tree.

(3) Residential Development

- (A) Prior to any land development, the developer shall clearly mark all trees to be preserved on site and may be required to erect and maintain protective barriers around all such trees or groups of trees. No living trees greater than eight inches (8") in caliper may be cut, destroyed or damaged on the development site until approved as part of the preliminary plat.
- (B) No land may be proposed for development within twenty-four (24) months of having been cleared for agricultural purposes.
- (C) During the construction stage of development, the developer shall not allow the cleaning of equipment or material under the canopy of any tree or groups of trees to be preserved. The developer shall not allow the disposal of any waste materials such as but not limited to paint, oil, solvents, asphalt, concrete or mortar under the canopy of any trees or groups of trees to be preserved.
- (D) No attachments, nails, screws or wires of any kind, other than those of a protective nature, shall be attached to any tree.

(f) Irrigation Requirements.

(1) General.

- (A) All landscape irrigation shall be designed by a registered licensed irrigator.
- (B) The owner shall be responsible for the health and vitality of plant material through irrigation of all landscaped areas and plant materials, and shall
  - (1) Provide a moisture level in an amount and frequency adequate to sustain growth of the plant materials on a permanent basis.
  - (2) Be in place and operational at the time of the landscape inspection for Certificate of Occupancy.
  - (3) Be maintained and kept operational at all times to provide for efficient water distribution.

(2) Irrigation Methods

(A) Landscaped Areas. One of the following irrigation methods shall be used to ensure adequate watering of plant material in landscaped areas:

(1) Conventional System. An automatic or manual underground irrigation system which may be a conventional spray or bubbler type heads.

(2) Drip or Leaky-Pipe System. An automatic or manual underground irrigation system in conjunction with a water-saving system such as a drip or a leaky pipe system.

(3) Temporary and Above Ground Watering. Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses and wildflowers, may use a temporary and above ground system, and shall be required to provide irrigation for the first two growing seasons only.

(B) Natural and Undisturbed Areas. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

**Sec. 14.806 Public Right Of Way Visibility**

(a) Visibility Triangles. A landscape plan showing the plan of the street on both sides of each proposed drive/street to the proposed development with the grades, curb elevations, proposed street/drive locations, and all items (both natural and man-made) within the visibility triangles as prescribed below shall be provided with all site plans, if they are not on engineering plans that are submitted at the same time. This plan shall show no horizontal or vertical restrictions (either existing or future) within the areas defined below.

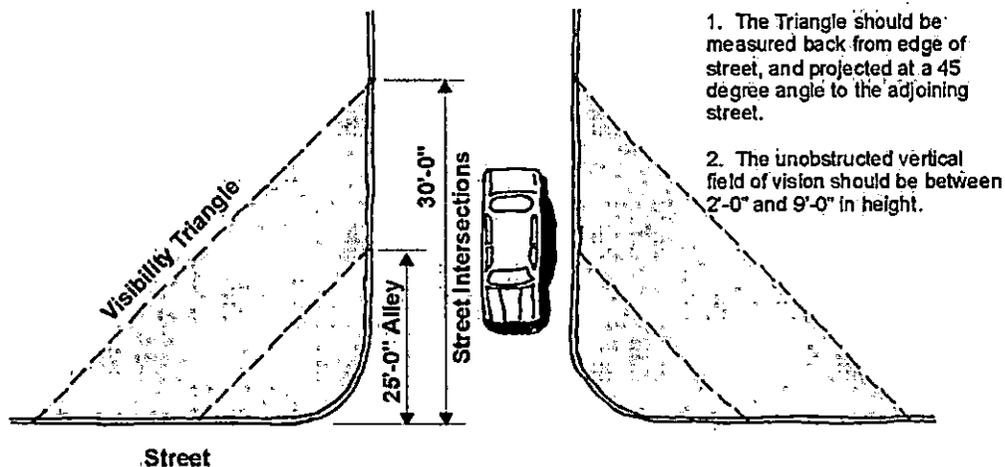
(b) Visibility Triangles-Defined. No fence, wall screen, billboard, sign face, tree or shrub foliage, berm, or any other item, either man-made or natural shall be erected, planted, or maintained in such a position or place so as to obstruct or interfere within the following minimum standards; however, on non-residentially zoned lots, a single pole for mounting a sign may be placed within this area provided the pole does not exceed 12 inches (12') in diameter, and provided every portion of the sign has a minimum height clearance of 9 feet (9'):

(1) Vision at all intersections which intersect at or near right angles shall be clear at elevations between twenty-four inches (24") and nine feet (9') above the top of the curb elevation, within a triangular area formed by extending the two curb lines from their point of intersection, for the following minimum distances for the applicable intersection, and connecting these points with an imaginary line, thereby making a triangle. If there are no curbs existing, the triangular area shall

be formed by extending the property lines from their point of intersection for a distance as prescribed below, and connecting these points with an imaginary line, thereby making a triangle as shown below.

- (2) Intersection of **Two Public Streets** – the minimum required distance from the curb shall be 30 feet (30') and the minimum distance from the property line on streets without a curb shall be 20 feet (20').
- (3) Intersection of a **Public Street and an Alley** – the minimum required distance measured from the property line shall be 15 feet (15'), or 25 feet (25') from street curb.
- (4) Intersection of **Private Drive and Public Street** – the minimum required distance from the curb shall be 15 feet (15') and the minimum distance from the property line on streets without a curb shall be 10 feet (10').
- (5) Intersection of **Private Drive and an Alley** – the minimum required distance measured from the property line shall be 10 feet (10').

(c) Sight Distance Requirements. The City hereby adopts the standards for both vertical and horizontal sight distance requirements set forth in the 1984 Edition of AASHTO Green Book, "A Policy on Geometric Design of Highways and Streets" for the construction of both public street intersections and private drive intersections, unless otherwise approved by the City Engineer. If, in the opinion of the City Engineer, a proposed street or drive intersection may not meet these standards, additional engineering information exhibiting how the standards have been addressed may be required for submission and approval by the City's Engineer.



**Sec. 14.807      Completion of Landscaping**

(a)    In Accordance with Approved Plans

Except as otherwise provided herein, all landscaping must be completed in accordance with the approved landscape plan before a Certificate of Occupancy may be issued for any building on the lot.

(b)    Escrow and Assurance

If, due to circumstances beyond the property owner's control, the required landscaping cannot be installed prior to completion of the building and if the property owner provides the building official with documented assurance that the landscaping will be completed within six months and the funds required to complete the project are placed in escrow with the City, the building official may issue one six-month temporary Certificate of Occupancy and permit the property owner to complete his landscaping during the six month period. For purposes of this Subsection, "documented assurance" means a copy of a valid contract to install the landscaping in accordance with the landscape plan within the six month period. The City shall hold the funds in escrow until such time as the landscaping is completed in accordance with the approved plan.

(c)    Forfeiture of Escrow

If a temporary Certificate of Occupancy is issued, and, at the end of the six month period, no permanent Certificate of Occupancy has been issued because the landscaping has not been installed in accordance with the landscape plan, the property owner shall be deemed in violation of this article, the funds placed in escrow shall be forfeited, and the City shall issue a citation for said violation, unless an extension is granted by the City Manager.

**Sec. 14.808      General Maintenance**

(a)    Maintenance Requirement

(1)    Maintenance of Landscaping

(A)    The owner, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. The owner, tenant and/or their agent is responsible for regular mowing, edging, pruning, fertilizing, watering, weeding and other such activities common to the maintenance of landscaping.

(B)    All required landscaping shall be maintained in a neat and orderly manner at all times. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is

appropriate for the season of the year.

- (2) Replacement of Dead Plant Materials. Plant materials which die shall be removed and replaced with plant material of similar variety and size within sixty (60) days. Trees with a trunk diameter in excess of six inches (6") measured twenty-four inches (24") above the ground may be replaced with ones of similar variety having a trunk caliper of no less than three inches (3") measured twenty-four inches (24") above the ground. A time extension may be granted by the building official for conditions relating to a season of the year per the requirements of this section.

(b) Enforcement. Failure to maintain any landscape area in compliance with this section is considered a violation of this article and shall be subject to penalties of this article. If at any time after the issuance of a certificate of occupancy the approved landscaping is found to be in nonconformance to the standards and criteria of this section, the building official or designee shall issue notice to the owner, tenant and/or their agent citing the violation and describing the action required to comply with this section.

(c) Utility Lines and Rights-of-Way. Any damage to utility lines resulting from the negligence of the property owner, his agents, or employees in the installation and maintenance of required landscaping in a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials, and return them to their prior locations after the utility work. If, nevertheless, some plant materials die, it is the obligation of the property owner to replace the plant materials."

**SECTION 3.** From and after the effective date of this Ordinance, existing Article 14.900, "Tree Preservation," of Chapter 14, the Lancaster Development Code, is repealed in its entirety and replaced with a new Article 14.900, "Tree Conservation," to read as follows:

#### **"ARTICLE 14.900 TREE CONSERVATION**

##### **Sec. 14.901 General Provisions**

(a) Purpose. The purpose of this article is to promote site planning which furthers the preservation of trees and natural areas; to protect trees during construction; to facilitate site design and construction; contribute to the long-term viability of existing trees; and to prohibit clear cutting of trees. It is the further purpose of this article to achieve the following broader objectives:

- Prohibit the clearing of trees and natural areas;

- Protect and increase the value of residential and commercial properties within the City as well as forest value;
- Maintain and enhance a positive image, which will encourage further development in the City;
- Protect healthy quality trees and promote, enhance the ecological, environmental and aesthetic qualities of the City in future development;
- To encourage the increase of arboreal elements in design plans so as to improve both aesthetic and healthful conditions within the City;
- To further the preservation of trees and natural areas by protecting them during the planning, site design, construction and maintenance phases of any residential or commercial development within the City of Lancaster, Texas and
- To retain the optimum number of trees on any development site.

(b) Application: This article applies to all property in the City except for:

- (1) Lots smaller than two (2) acres in size that contain single-family or duplex uses in residential districts.
- (2) Lots in an overlay district or a planned development district with specified tree preservation regulations that vary from those in this article, as determined by the Director of Development Services or designee.

(c) In this section, a tree removal property one acre or less, in a residential district is considered to be vacant when an application is made for a demolition permit for a single family or duplex structure. The Director of Development Services or designee shall not waive mitigation of Protected Trees for an area greater than seventy percent (70%) of the tree removal property. Trees must be mitigated on a pro-rata basis if the development impact area exceeds seventy percent (70%) of the tree removal property.

#### **Sec. 14.902 Definitions**

For purposes of this article, certain words or terms applicable hereto are hereinafter defined. Words and terms used in this article, but not defined in this article, shall have the meanings ascribed to them in the Lancaster Development Code or other ordinances of the City. Words and terms defined in two ordinances shall be read in harmony unless there exists an irreconcilable conflict in which case the definition contained in this article shall control. For purposes of this article, the Director of Development Services or designee shall have interpretive authority to use commonly accepted definitions and/or to utilize generally accepted

professional standards when any such conflict cannot otherwise be resolved.

***Agricultural Use.*** The use of land to produce plant or animal products, such as the growing of crops, raising and pasturing of livestock, timber production, Christmas tree, or farming.

***Administrative Official.*** Provisions of this article shall be administered by the Director of Development Services, who shall be appointed by the City Manager.

***ANSI.*** American National Standards Institute; standards used by the horticulture and landscape professionals to measure and evaluate trees.

***Bark Protection.*** Where a Protected Tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with approved padding material and 2" x 4" lumber encircled with wire or any other method approved by the Director of Development Services or designee. The intent is to protect the bark of the tree against incidental contact or damage by large construction equipment.

***Boring.*** Boring of utilities shall be required in those circumstances where it is not possible to trench around the critical root zone of the Protected Tree. When required, the length of the bore shall be the width of the critical root zone at a minimum depth approved on site by Director of Development Services or designee.

***Buildable Area.*** That portion of a building site, exclusive of the required yard areas, on which a structure or building improvements may be erected and including the actual structure, driveway, parking lot, pool and other construction as shown on a site plan.

***Buffer Zone.*** Buffer zone is a method of screening or separating adjacent land use areas, which are improved with predominate non-residential use and whose side or rear lines are adjacent to a residential district or use and not separated by a public street or roadway. These buffers, when required, should be densely maintained with trees and shrubs and be a minimum of twenty-five (25') feet in depth.

***Builder/Contractor (New Construction Only).*** A builder or contractor who has purchased land or lots for construction with intent to sell is subject to all requirements specified herein.

***Building Envelope (BE).*** The area surrounding and adjacent to the building pad that may be cleared to allow for all necessary construction equipment and construction. Residential BE shall not exceed ten (10') feet from the Building Pad. Commercial BE shall be determined by the Director of Development Services for the necessary tree protection. All existing natural vegetation beyond the building envelope shall be protected by protective fencing.

***Building Pad.*** The actual foundation area of a building.

**Caliper.** The diameter of a tree measured is as follows: Height to measure depends on size: zero to four inches (0-4"), measured at six inches (6") from natural ground level. Trees four inches (4") to transplantable size are measured at twelve inches (12") from natural ground level. All others at four and one-half feet (4.5') from the ground level in Diameter at Breast Height (see ANSI standard).

**Class 1 Tree** means all specimen trees; except Eastern Red Cedar and Osage Orange, and all trees located in a primary natural area, floodplain, or geologically similar area measured to fifty feet above the escarpment zone.

**Class 2 Tree** means a tree that is not otherwise classified.

**Class 3 Tree** means Arizona ash, black willow, cottonwood, Eastern Red Cedar 24 inches (24") in diameter or more, crabapple, honey locust, mimosa, mulberry, sweet gum, ornamentals, Osage Orange and Hackberry/Sugarberry 24 inches (24") in diameter or more, pinus spp., Siberian elm, and Silver maple larger than eight inches (8") in diameter.

**Clear-Cutting.** The removal of all of the trees or a significant majority of the trees within an area of land.

**Conservation Design.** A development design or pattern intended or having the effect of creating, retaining or preserving environmentally sensitive areas, natural habitats, wooded areas or areas of natural beauty in greater amount than would be otherwise be provided using Conventional Design or Traditional Neighborhood Design. Techniques used to achieve this result principally include the grouping together and/or concentration of buildings into clusters, reduction in lot size, reduction in paved areas and/or streets, and the use of shared common areas.

**Conventional Design.** A development design or pattern characterized by homes and non-residential buildings located on large individual lots, physical separation of buildings, segregation of land uses, and a predominance of individual yards within privately owned lots rather than the use of commonly-owned open areas. This pattern frequently features long block lengths, wide streets, cul-de-sacs, alleys and an emphasis on transportation service via the privately owned automobile.

**Critically Alter, Critical Alteration.** Uprooting or severing the main trunk of a tree, or any act which causes or may reasonably be expected to cause a tree to die. This includes, but is not limited to: damage inflicted upon the root system of a tree; a change in the natural grade above the root system of a tree, storage of materials, or the compaction of soil above the root system of a tree; an application of herbicidal chemical or the misapplication of beneficial chemicals; excessive pruning; placement of non-permeable pavement over the root system or a tree; or trenching within the primary root zone. Additionally, a tree may be considered critically altered if more than twenty-five percent (25%) of the primary root zone is altered or disturbed at natural grade, or more than twenty-five percent (25%) of the canopy is removed.

**Critical Root Zone (CRZ).** The area of undisturbed natural soil around a tree defined by a circle with a radius equal to the distance from the trunk to the outermost portion of the drip line. If the CRZ is compromised by site conditions, such as but not limited to, roads, sidewalks, existing buildings, utility easements, etc., the CRZ will be determined by the Director of Development Services or designee.

**Cut/Fill.** Areas where the natural ground level has been excavated (cut) or raised (fill).

**Drip Line.** A circular line, which follows the outermost portion of the canopy of a tree and extending to the ground.

**Diameter at Breast Height (DBH).** The DBH is measured four and one-half feet (4.5') from natural ground level.

**Early succession stage.** The biotic community that develops immediately following the removal or mortality of most or all of forest canopy, resulting in a predominance of woody species regeneration primarily comprised by "pioneer" plant species.

**FEMA 100-Year Flood Plain.** The area designated as being within the one hundred year flood plain on the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) as of the effective date of this article. The boundary may be verified and established through field surveys based on elevation. Any changes made by FEMA to the 100-year flood plain boundary after the effective date of this article due to filling of the flood plain, channelization, or other drainage improvements shall not reduce the area in which tree preservation, replacement or protection requirements apply.

**Grade Change.** Any changes in ground level or soil compaction within the area just beyond the spread of the branches that will damage the roots.

**Ground Level Cuts.** Where Protected Tree removal is allowed through exemption or by tree removal permit, and the root system is intertwined with Protected Trees which are intended to be saved, the tree shall be removed by flush cutting with the natural level of the surrounding ground. If stump removal is desired stump grinding shall be allowed upon approval of the Director of Development Services.

**Grubbing.** Excavating or removing a significant part of the root system.

**Residential Homestead.** Owners of property zoned as residential, who reside at the property as their primary residence. This term does not include properties zoned "MF" Multi-Family Residential district.

**Limits of Construction.** Delineation on the site plan defining the areas within which all construction activity may occur.

***Municipal/Public Domain Property.*** Property in which title is held in the name of a governmental entity. 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, public schools or similar properties.

***Old field.*** Land no longer under cultivation because the fertility of the soil has been exhausted.

***Open Space.*** A public or semi- public space, including common areas or parks, that:

- is open and unobstructed from its lowest level to the sky. (Vegetation and complimentary amenity structures such as open pavilions shade structures, picnic tables, playground equipment, bicycle racks drinking fountains, trash receptacles, goal posts, lighting etc. shall not be considered obstructions.)
- Is accessible to, designed for, and intended for the common use or enjoyment of the general public or the residents/occupants of a building, neighborhood or subdivision.
- Is used for recreation, resource protection, amenity or buffer yard/greenbelt purposes.
- Is not an existing or future right-of-way.
- Is not part of the roof of any building.

***Protective Fencing.*** Protective fencing shall be orange vinyl construction fencing or other material approved by Director of Development Services or designee with a four-foot (4') approximate height adequately supported.

***Pruning, Allowed.*** Approved pruning of Protected Tree(s) by Director of Development Services in cases where tree(s) must be strategically pruned to allow construction or demolition of a structure. When allowed, all pruning shall be in accordance with approved arboricultural technique and/or guidelines established by the Director of Development Services or designee.

***Pruning Permit.*** Permit required for all utility, franchise and City projects. No fee is required.

***R.O.W.*** means right-of-way.

***Thinning, Selective.*** The removal of selected trees from within a forested area. The purpose of Selective Thinning is to improve the health and natural growth form of remaining trees or remove invasive and sometimes non-native species.

***Top Soil.*** Top layer of soil native to the site.

***Traditional Neighborhood Design.*** A development design or pattern that is characterized by a mixture of housing types and densities, a mixture of land uses including retail, office, and civic uses, reduced paving and street sizes, and that affords ease of pedestrian access. This design typically features a gridiron street pattern, short block lengths, narrow streets, reduced

building setbacks from the street and close proximity of residential and non-residential buildings and uses.

**Tree.** Any self-supporting woody perennial plant, which will attain a trunk diameter of two inches (2") or more when measured at a point four and one-half feet (4.5') above ground level and normally an overall height of at least fifteen feet (15') at maturity, singular or multi-trunk. The diameter of a multi-trunk tree shall be determined by adding the total diameter of ½ diameter of each additional trunk to the diameter of the largest trunk.

**Tree Board.** The City's Planning and Zoning Commission shall sit as the Tree and Landscape Advisory Board, and all references herein to the "Tree Board" shall refer to the City's Planning and Zoning Commission sitting in that capacity. The Board will meet as needed to review and monitor the Tree Protection and Landscape Ordinances, and to advise the Director of Development Services, Park Board, City Council, and citizens.

**Tree Diversity.** A condition wherein no single species of tree or plant material comprises more than 30% of the cumulative total of plantings on a site or of replacement trees required due to mitigation and remediation.

**Tree Health.** The condition of the tree, including structural integrity, pest and/or pathogen related problems.

**Tree, Heritage.** Any tree planted and related to the heritage of the community, individual or homestead, or dedicated or planted as a public memorial, as designated by City Council

**Tree, Historic.** Any tree that has been identified as having historical value or is associated with a notable local or regional historic event, person, structure or landscape, as designated by City Council.

**Tree, Park.** Trees located in public parks and all areas owned by the City to which the public has free access to as a park.

**Tree, Preserved.** A Protected Tree shall be considered preserved only if a minimum of seventy-five percent (75%) of the critical root zone is maintained at undisturbed natural grade and not more than twenty-five percent (25%) of the canopy is removed due to building encroachment. The canopy shall retain its natural form and integrity.

**Tree, Protected.** A tree of any species that has a minimum diameter of six inches (6") that is not classified as unprotected in this article. The caliper of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk to one-half (1/2) diameter of each additional trunk (refer to ANSI).

**Tree, Specimen.** Means a healthy tree whose age, size, unique type, or natural character are of special importance to the City, and meets the following species and size requirements:

- (a) Post oaks with a minimum diameter of 12 inches (12"); and
- (b) Trees of all species having a minimum diameter of 24 inches (24").

**Tree, Street.** Trees, shrubs, and all other woody vegetation on land lying between property lines planted at recommended intervals with consideration of visibility triangle on either side of all streets, avenues, right-of-ways or entrances to the City. Tree species and planting techniques shall be selected to create a unified image for the street, provide an effective canopy, avoid sidewalk damage and minimize water consumption.

**Tree, Understory.** A tree which the City has determined has significant positive characteristics worthy of preservation and that does not typically attain height greater than thirty feet (30').

**Tree Survey.** The Tree Survey is the heart of this article. Its purpose is not to penalize, but to aid in protecting our valuable natural resources during development and construction. The Tree Survey will also help determine the quantity of trees, if any, that may be removed or cannot be safely and adequately protected during the street utility, engineering/drainage, and construction phases of development.

**Tree Topping.** The severe cutting back of limbs to stubs larger than three inches 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 causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this article at the determination of the Director of Development Services or designee.

**Tree, Canopy or Shade.** Canopy or Shade Tree means a species of tree which normally bears crown foliage no lower than six feet (6') above ground level upon maturity.

**Unprotected Tree** means the following:

- (a) Callery pear (all cultivars)
- (b) Chinaberry
- (c) Mesquite (with a diameter of less than 24 inches)
- (d) Eastern Red Cedar (with a diameter of less than 24 inches)
- (e) Chinese Tallow
- (f) Hackberry & Sugarberry Species (with a diameter of less than 24 inches)
- (g) Ilex Species (except for yaupon holly and Possumhaw holly)
- (h) Palm (all plants in *Palmae*)
- (i) Tree-of-heaven or Ailanthus
- (j) Other trees listed on the Texas A&M invasive plant list

#### **Sec. 14.903 Permit Required**

A tree removal permit shall be obtained from the Director of Development Services or designee before any person, directly or indirectly, shall clear cut/remove, destroy or do selective thinning

on any Protected Tree(s) situated on property regulated by this article, except as specified herein (definitions of clear cutting, selective thinning, and ground level cuts).

(a) New Development/Construction. In the event it becomes necessary to remove a tree for development or construction, a Tree Removal Permit shall be required. New construction shall include Residential, Non Residential, Special Developments, Planned Developments and individual contractor builders shall be required to meet the criteria herein specified and shall require a Tree Removal Permit for the removal of any Protected Tree. During platting, a permit shall be issued after preliminary plat approval by Planning and Zoning Commission.

- (1) Submission of a Tree Removal Permit Application to the City shall authorize the Director of Development Services or designee to conduct field inspections of the site as necessary to meet the provisions of this Article and any published Guidelines. After thorough review of the Tree Removal Permit Application and accompanying documents, the Director of Development Services or designee will approve as submitted, approve with conditions, or disapprove the applications.
- (2) All developers and/or builders who have not submitted preliminary plats as of the effective date of this article shall be subject to the requirements for tree protection and replacement specified in this article.
- (3) All areas within public R.O.W., utility easements or drainage easements, as shown on an approved Preliminary Plat and areas designated as cut/fill on the master drainage construction plan approved by the Director of Development Services, shall be subject to the tree protection requirements specified herein except as otherwise provided herein.

(b) Municipal/Public Domain Property. All municipal or public domain property shall be subject to this Article regarding protection and replacement specified. A Tree Removal Permit shall be required with fee exemption for the removal of a Protected Tree. Any Protected Tree to be removed must be shown on construction plans approved by the Director of Development Services or designee.

(c) City/Franchise for Existing R.O.W. and Public Easements. All construction and maintenance activity within public R.O.W. or easements shall be subject to the requirements for tree protection and replacement specified in this article.

- (1) City Projects. The City shall be subject to the requirements for tree protection and replacement on all projects. A Tree Removal Permit shall be required with fee exemption for the removal of a Protected Tree.
- (2) Pruning. The owners of all trees adjacent to public R.O.W. shall be required to maintain a minimum clearance of fourteen feet (14') above the traveled

pavement or curb of a public street. Said owners shall also remove all dead, diseased or dangerous trees, or broken or decayed limbs, which shall constitute a menace to public safety. (The City shall also have the right to prune trees overhanging within the Public R.O.W. which interfere with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or a s necessary to preserve the public safety.)

- (3) Stump Removals. All stumps of street and park tree shall be removed below the surface of the ground so the top of the stump shall not project above the surface of the ground.
  - (4) Franchise and Other Utility Companies. All utility company projects shall be subject to the requirements for tree protection and replacement specified in this article. Companies shall meet beforehand on site with Director of Development Services or designee, and obtain pruning permit before work is begun. Pruning activities by a utility company must comply with Definitions on Pruning, allowed, Pruning required, and Tree Topping. Prior to beginning any pruning not requested by the owner of the tree; the contractor shall submit a Tree Pruning Request for approval. A Tree Removal Permit must be obtained prior to the removal of a Protected Tree. This permit must be accompanied by current pictures, site plan or construction plan meeting the site plan requirements specified in this article.
    - (A) Utility companies may prune trees as necessary to re-establish disrupted electric service without obtaining a permit.
    - (B) Compliance with this article shall be amended to and included with all future revision of all franchise agreements.
    - (C) All trenching shall be designed to avoid trenching across the critical root zone of any Protected Tree. Although this is not intended to prohibit the placement of underground service such as electric, phone, gas, etc., the placement of these utilities is encouraged to be located outside of the critical root zone of Protected Tree(s).
    - (D) Pictures of work site shall be submitted with all permit applications and is a requirement for procurement prior to work beginning.
- (d) No fee shall be charged to make application for a tree removal permit for the removal of Protected Trees located on real property having an agricultural zoning district classification. However, if within any 12-month period, (i) tree removal permits for the removal of twenty (20) or more Protected Trees are issued for the same agricultural property or tract, or any of its portions, or (ii) fifty percent (50%) or more of the trees on the property (where the number of trees on the property prior to removal is reasonably determined to exceed forty (40) or more

trees) have been removed, the agricultural zoning district classification of such property cannot be changed, nor can an application for approval of a subdivision plat, planned development or zoning amendment relative to such property be made, for a period of 24 months following the most recent 12-month period during which twenty (20) or more Protected Trees were removed, or fifty percent (50%) or more of the trees on the property have been removed, from such agricultural zoned property.

(e) Permit Expiration. Permits for tree removal shall become void one hundred eighty (180) days after the issue date on the permit.

#### **Sec. 14.904 Submittal Requirements**

Prior to removing a Protected Tree(s) and receiving a tree removal permit, the applicant shall submit a Tree Removal Permit Application and pay the application fee to the City. The applicant shall also submit a written reason for the request to remove the Protected Tree(s), as well as the following information as applicable:

(a) Tree Survey

(1) Purpose. The Tree Survey is vital to this article. Its purpose is to aid in protecting the City's valuable natural resources during all phases of development and construction. Additionally, the Tree Survey will help identify; the trees to be mitigated on the site that may be damaged in the construction zone; determine the trees that must be accommodated in the development of essential streets, utilities and building construction, and in the adjustment of these streets, utilities and building envelopes, to protect as much of the native vegetation as possible.

(2) Scope. A Tree Survey shall be conducted on all residential and non-residential tracts and be current to within the twenty-four (24) months immediately prior to submission of and included with the following:

(A) Preliminary Plat

(B) Replat

(C) Final Plat

(D) Site Plan Review

(E) Application for Building Permit

(F) Street, Utility, and drainage plans

(G) Concept Plan for a Planned Development

(3) Detail

- (A) The Tree Survey shall be performed by a degreed urban forester, certified arborist, registered surveyor or qualified personnel as approved by the Director of Development Services or designee.
- (B) The Tree Survey shall be accurate and include: Location, size (DBH), species, and trees with health problems (structural integrity, pest and/or pathogens) with a six-inch (6") or greater caliper. The Tree Survey information shall be compiled in a tabular format with each Tree identified by a number corresponding to a numbered tree on the Site Plan.
- (C) The entire parcel being proposed for development should be included in the Tree Survey.
- (D) Once the Tree Survey has been accomplished and submitted to the City, all Trees on the Tree Survey shall be classified as Protected Trees, with the exception of those classified as Unprotected Tree species under this article.

(b) Commercial Development. Additional requirements for the tree survey on commercial tracts of land shall require a complete tree survey, which shall include the following:

- (1) All areas within public R.O.W.;
- (2) Public utility or drainage easements shown on an approved Final Plat; and
- (3) Fire lanes, parking and drive areas, exclusive of the building pad, shall be subject to the tree protection and replacement requirements specified herein.

(c) Aerial Photos and Sampling. With the submittal of a concept plan or preliminary plat, whichever occurs first for property containing large, heavily wooded areas, the Director of Development Services or designee may, in lieu of a tree survey, authorize the submittal of an aerial photograph accompanied by a transparent plan of the development at the same scale as the photograph, showing all non-disturbance areas and proposed exemption areas where no trees will be critically altered.

For heavily wooded areas where development activity and disturbance is intended or likely, the Director of Development Services or designee is authorized, but not required, to accept sampling of the property in lieu of a tree survey for all or any part of a property, provided that a tree survey of all other areas is submitted to the Director of Development Services prior to any grading or construction. Said Sample or sampling techniques should be

representational of the site or wooded area and should comprise at least fifteen percent (15%) of the total site or wooded area and the sampling technique shall be approved by the Director of Development Services or designee prior to conducting the sample.

The Director of Development Services or designee may approve the submission of photographs or samples in phases for a multiphase project.

(d) Tree canopy cover assessment for old-field and undeveloped lots, two (2) acres or larger, in early succession stages will constitute a fifty percent (50%) reduction of Class 3 trees when:

- (1) at least 60 percent (60%) of the trees in the stand are Class 3 and unprotected species; and
- (2) the average tree diameter is less than 12 inches (12") in diameter.
- (3) The tree canopy cover assessment excludes areas within 50 feet (50') of a 100-year floodplain, 50 feet (50') of a wetland, 50 feet (50') of an escarpment zone, and 150 feet (150') of a stream bank.
- (4) The trees in the stand are designated in an age class of fifty (50) years or less by the Director of Development Services or designee based on site and historic data.
- (5) The stand is assessed and surveyed using tree sampling methods which provide general species quantity and size approved by the Director of Development Services or designee.

(e) Affidavit of No Protected Trees. If a property contains no Protected Tree species, or if construction, grading, trenching or related activities are not to be performed in an area containing Protected Trees, the applicant may submit an Affidavit of No Protected Trees in lieu of a tree survey. This affidavit shall act in lieu of a tree survey upon a determination by the Director of Development Services that no Protected Trees exist on the site. The Director of Development Services shall review the Affidavit. The Affidavit shall be denied or approved when determined if the property contains Protected Tree(s) or non-protected tree(s) by the Director of Development Services.

(f) A Tree Preservation Plan. A tree preservation plan shall be submitted showing major site construction features, existing trees to remain, existing trees that may be removed, and replacement trees showing species, location, number and size. The Tree Preservation Plan information may be included on the tree survey if all information can be clearly delineated.

## **Sec. 14.905 Exemptions**

Any exemption shall be approved by the Director of Development Services or designee prior to removal of any tree(s). A Tree Removal Permit and tree protection and replacement requirements shall not be required under any of the following circumstances.

(a) Public Safety. The tree endangers the public health, welfare of safety and immediate removal is required due to structural integrity concerns.

(b) Utility Service Interruption. The tree has disrupted a public utility service due to a tornado, storm, flood or other act of nature. Removal shall be limited to the portion of the tree reasonably necessary to reestablish and maintain reliable utility service.

(c) Landscape Nursery. All licensed plant or tree nurseries shall be exempt from the tree protection and replacement requirements and from the tree-removal permit requirements only in relation to those trees planted and growing on the premises of said licensee, which are so planted and growing for the sale or intended sale to the general public in the ordinary course of said licensee's business.

(d) Diseased Trees. Tree removal is permissible when a tree is infected with transmittable pathogens, damaged beyond the point of recovery, or in danger of falling as determined by the Director of Development Services or designee prior to the removal of the tree.

(e) Residential Property. Owners of property zoned as residential, who reside at the property and use the residence as their primary residence. Citizens of Lancaster who have a homestead within the City of Lancaster and own residential rental properties shall have an exemption on a maximum of two (2) properties for removal of Protected Trees.

(f) Building Pad. The building foundation and an area extending ten feet (10') from the building foundation as shown on an approved Site Plan shall be exempt from tree replacement and mitigation.

## **Sec. 14.906 Review and Approval Process**

(a) Authority for Review. The Director of Development Services or designee shall evaluate any plans required by this article for determination that the applicant has made a good faith effort in saving as many Protected Trees as possible. An analysis prepared by the Director of Development Services or designee shall be forwarded to the Tree Board and the City Council for their consideration regarding denial or approval of the development in accordance with the procedures set forth below. The Director of Development Services or designee shall be responsible for the review and approval of all requests for tree removal permits submitted in accordance with the requirements specified herein.

(1) Deferrals. The Director of Development Services or designee may defer the approval of a tree removal permit to the Tree Board for any reason. All decisions made by the Tree Board shall be final.

- (2) Appeals. Decisions made by the Director of Development Services may be appealed to the City Council. Any such appeal shall first be considered by the Tree Board. The Tree Board shall forward a non-binding recommendation to the City Council. All decisions made by the City Council shall be final.

(b) Fee Schedules. The Director of Development Services or designee shall establish administrative procedures necessary to facilitate the implementation and enforcement of this article. All tree removal permits shall be accompanied by a payment made to the City of Lancaster in the amount established by resolution of the City Council to cover the cost of review and passed by Resolution.

#### **Sec. 14.907 Transplanted Trees**

(a) Procedure: Established and healthy Protected Trees on a tree removal property may be transplanted within the City. The transplanting process must conform to operational and safety standards stated in ANSI A300, as amended, and with ISA Best Management Practices for Tree Planting, as amended.

- (1) A Protected Tree that meets the requirements of this section is not considered removed, or seriously injured, if the transplanted tree is planted and maintained in a healthy growing condition.
- (2) Director of Development Services approval is required before beginning the transplantation for credit as a landscape tree, or for tree replacement.
- (3) The following information is required to obtain Director of Development Services approval in this section:
  - (a) An initial assessment report must be provided to the Director of Development Services describing the transplanting practice from beginning to end, including post planting care practices.
  - (b) A tree survey or landscape plan which identifies the original and final location of the Protected Tree.
  - (c) Company names, contact information, and credentials of contractor performing work.
  - (d) Other information required by the Director of Development Services.
- (4) Credit for transplanted trees.
  - (a) Healthy large and medium Protected Trees less than six inches (6") in

diameter qualify for one inch of replacement credit for each inch of the transplanted tree.

- (b) Healthy large and medium Protected Trees between 6 inches (6") and less than 12 inches (12") in diameter qualify for two-inch replacement credit for each inch of the transplanted tree.
- (c) Healthy large and medium Protected Trees between 12 and less than 24 inches in diameter qualify for three-inch replacement credit for each inch of the transplanted tree.
- (d) Healthy large and medium Protected Trees 24 inches (24") or more in diameter qualify for five inch (5") replacement credit for each inch of the transplanted tree.

### Credit for Transplanted Trees

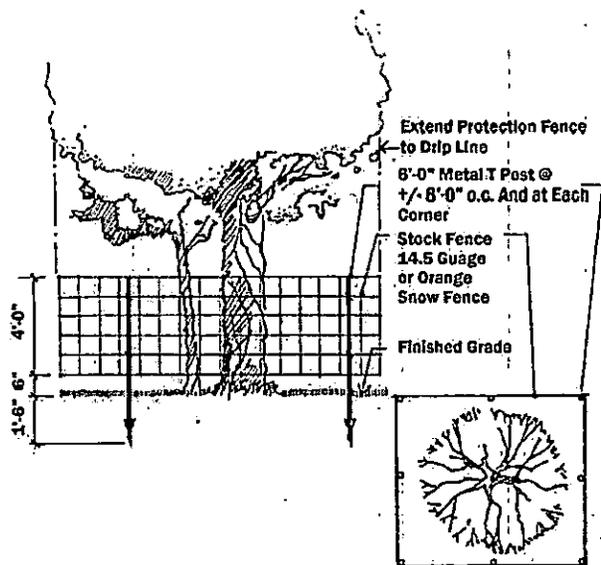
Tree inches (diameter)	Number of Credits
6" or less	1
6" – less than 12"	2
12" – less than 24"	3
24" or more	5

### Sec. 14.908 Guidelines for Tree Protection

A major purpose of this Section is to protect all the Protected Trees retained on the site for approved development and construction to occur.

(a) During Construction. Minimum requirements for the protection of all Protected Trees on the development and construction site related, but not limited to, streets, parking lots, building sites, driveways and sidewalks shall be strictly adhered to. This shall include:

- (1) Establishing a Building Envelope enclosed with approved fencing; establishing designated areas for parking all vehicles, trailers, construction equipment, related items as well as storage of all supplies and materials;



- (2) Clearly identifying designated restricted areas on construction and site plans and the project location;
- (3) Proper protection of Drip line of a Protected Tree with appropriate fencing as defined by the Director of Development or designee;
- (4) Approved bilingual (English and Spanish) signage visibly located at site;
- (5) Retention and protection of Under Story Vegetation and leaf litter during all phases of development;
- (6) Boring of any underground utilities, which passes within a Protected Tree or Critical Root Zone; and
- (7) Enactment of preventive measures to prevent grade changes of one-half inch (1/2") or more, or fill, within a Tree Protection or Critical Root Zone.

Additional protective measures may be required by the Director of Development Services or designee as a condition of permit approval. Such conditions may be established by the publication of Tree Preservation Guidelines and/or by attaching conditions of permit approval.

(b) Trenching. All trenching shall be designed to avoid trenching across the critical root zone of any Protected Tree. Although this is not intended to prohibit the placement of underground service such as electric, phone, gas, etc., the placement of these utilities is encouraged to be located outside of the critical root zone of Protected Tree(s). Irrigation system trenching shall be placed outside the critical root zone with only the minimum required single head supply allowed within that area placed radially to the tree trunk and shall be hand trenched with roots cleanly cut or use of air spade to reduce damage.

(c) Prohibited Activities. Prior to and during development and construction, the following activities shall be prohibited. The Director of Development Services or designee shall be authorized to provide more detailed explanations by publication of Tree Preservation Guidelines or by attachment of conditions to any permit issued pursuant to this article. All such directions shall be strictly adhered to.

- (1) Clear cutting of trees on a property for any purpose at any time except for the exceptions provided for in Section 14.905.
- (2) Construction vehicles and equipment parking and storage around Protected Trees.
- (3) Storage, placing or disposing of construction and waste materials around Protected Trees.

- (4) Restrictions and prohibitions on unapproved grade changes that may damage or destroy Protected Trees.
- (5) Water accumulations due to construction-related activities.
- (6) Unapproved attachments to Protected Trees.
- (7) Removal of more than twenty-five percent (25%) of a Protected Tree's foliage in a given year. No pruning or topping may significantly disfigure the tree, or be done in a manner, which would reasonably lead to the death of the tree.
- (8) Any person acting to circumvent the purpose of this article.
- (9) Impervious materials used in or near Protected Trees.
- (10) Unapproved fencing and bark protection methods on any construction sites in and near the Protected Tree areas.
- (11) Construction methods such as boring, grade change, trenching, and root pruning that damage or destroy Protected Trees.
- (12) Placement of fill within the drip line of any Protected Tree on any undeveloped property.

**Sec. 14.909 Tree Replacement**

(a) In the event that it is necessary to remove a Protected Tree(s) as authorized by this article, the applicant shall be required to replace the tree(s) being removed with approved trees.

(b) Except as provided in this section the minimum total caliper inches of replacement trees must equal or exceed the total diameter of the protect trees removed or seriously injured as listed below:

- (1) Tree classification for mitigation:
 

Historic & Heritage Trees:	3:1
Specimen Trees:	1.5:1
Class 1:	1:1
Class 2:	0.7:1
Class 3:	0.4:1

(2) Species:

- (A) A replacement tree must be an approved tree determined by the Director of Development Services or designee.
- (B) For a lot or tract two (2) acres in size or more, no one species of tree may constitute more than 30 percent (30%) of the same species.

(c) Responsibility and Site Requirements. The Director of Development Services or designee shall determine the agent responsible for replacement, the time frame for replacement and the location of the new trees. The replacement trees shall be located on the subject site whenever possible. However, if this is not feasible, the Director of Development Services or designee has the authority to allow the planting to take place on another property, including public property. If the Director of Development Services or designee approves the planting of replacement trees more than thirty (30) days after the removal of Protected Trees, the applicant shall provide the City with an affidavit that all replacement trees will be planted within six (6) months and maintained by the applicant for a minimum of two (2) years in good condition. Developers shall plant all the replacement trees identified on the Mitigation Plan. The Director of Development Services or designee shall document the date of replacement trees on the reforestation plan and record for review of the 2-year commitment.

Inasmuch as it is reasonable and feasible, replanting on the development or construction site will be encouraged in order to restore the original natural landscape character of the site.

- (1) The Director of Development Services or designee has the authority to reject any trees not meeting these standards.
- (2) One (1) 6-month extension may be approved by the Director of Parks and Recreation or designee due only to seasonal limitations that would make planting of trees impractical, and shall require an escrow deposit in an amount equal to one hundred ten percent (110%) of the mitigated value.
- (3) The applicant shall be required to maintain the replacement trees in good condition for a minimum of two (2) years. If a replacement tree dies or is damaged within the initial two-year period, the applicant shall replace it with a tree approved by the Director of Development Services or designee.

(d) Payment in Lieu of Replacement.

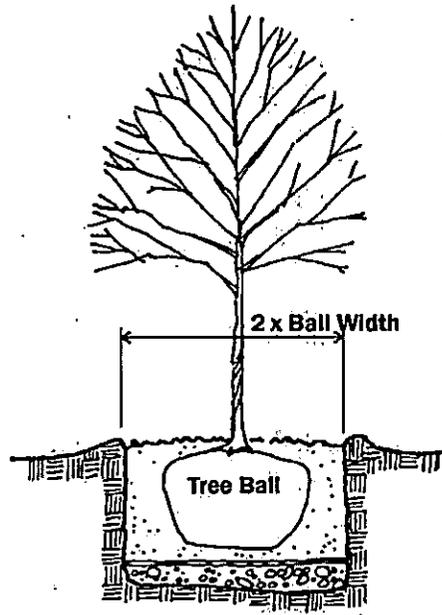
- (1) To the extent that tree replacement is not feasible, the Director of Development Services or designee shall determine in accordance with the provisions provided herein, the amount of the payment by the developer or other responsible party. Upon such determination, said payment shall be made to the City of Lancaster

Reforestation and Natural Area Fund based on the following guidelines:

- (2) For Protected Trees, payment will be made in the amount of one hundred sixty dollars (\$160.00) per one inch (1") DBH. The Director of Development Services or designee shall be authorized to reduce this amount in accordance with the following:
  - (A) In cases when at least fifty percent (50%) of the required mitigation is provided by on-site or off-site tree planting, a reduction to not less than one hundred dollars (\$100) per one inch (1") DBH may be allowed.
  - (B) A two (2") inch credit against mitigation and/or reparations may be authorized for each inch of large tree that is preserved and designated as Specimen, Historic, or Heritage tree. Designation of Specimen, Historic, Champion, or Heritage trees not located on the same property may also be used for this credit upon review and approval of same. The property owner or responsible party for said tree designated as a Specimen, Historic, or Heritage tree shall be responsible for the care and maintenance of said tree.
  - (C) A one (1") inch for one (1") inch credit against mitigation and/or payment shall be authorized for the preservation of any tree provided that:
    - (i) Said tree to be preserved is a minimum of six (6) caliper inches and is listed as a Class 1 tree.
    - (ii) Said tree to be preserved is located in an exempted area or is otherwise free from mitigation and/or reparations requirements.
    - (iii) Said tree is protected from future removal, destruction or critical alteration by the establishment of protective covenants, easements, or agreements.
- (3) Subsequent removal damage, or critical alteration of any tree used for credit as identified in this section shall require mitigation replacement and/or reparations in accordance with this article.
- (4) If any Protected and/or Replacement Tree(s) dies within two (2) years of initial planting or issuance of Certificate of Occupancy and is brought to the attention of the Director of Development Services or designee, the original permit applicant shall be subject to the same replacement fee as for a Protected Tree.
- (5) Money paid in lieu of tree replacement made in compliance with this section

shall be considered contributions to the LRNA Fund.

- (6) The LRNA Fund shall be used for purchasing and planting trees on public property, acquiring property that shall remain in a naturalistic state in perpetuity through outright purchase or Development Rights, and assisting in the cost of administering this article.
- (7) The Director of Development Services or designee shall be authorized to temporarily defer the payment of any mitigation or reparation fees when such action is deemed to be warranted due to unique circumstances, such as when the amount of mitigation is subject to change, when a development agreement is pending, or other similar transitory circumstances. Any such deferred fee shall be rectified and paid in full prior to the filing of a plat in the County records.



**Sec. 14.910 Alternative methods of compliance with tree replacement requirements**

(a) Mitigation. If the Director of Development Services determines that, due to inhospitable soil conditions or inadequate space, it would be impracticable or imprudent for the responsible party to plant a replacement tree on the tree removal property the responsibly party may comply with one or more of the following requirements:

- (1) Donate the replacement tree to the City's Parks and Recreation Department, with the approval of the Director of the Parks and Recreation Department.
- (2) The responsible party may pay for the installation of irrigation in a City park with

the approval of the Director of the Parks and Recreation Department or designee if the number of inches being planted by the Parks and Recreation Department meets a minimum of fifty percent (50%) of the required replacement inches.

- (3) Plant the replacement trees on another City-authorized property, the responsible property must obtain the written approval of the following:
    - (A) The property owner where the replacement trees will be planted and the responsible party, to transfer responsibility for the replacement tree under this article to the receiving party.
    - (B) A site plan indicating the address of the property where the replacement tree will be planted, and a site plan indicating the location of the replacement tree.
    - (C) The agreement may be structured to allow a non-profit association dedicated to tree advocacy or conservation of land to plant, manage, and monitor replacement tree.
  - (4) Grant a conservation easement to the City that combine Protected Trees with a combined caliper equal to or exceeding the caliper for which mitigation is being requested. The City Manager is authorized to accept and approve on behalf of the City a conservation easement to conserve trees and other natural features.
    - (A) Detailed baseline document prepared by a qualified professional describing the properties physical and biological condition, the general age of any tree stands, locations of easements and construction, and the conservation values protected by the easement.
    - (B) Parcels identified through the Parks and Recreation Master plan as future potential open space may be donated to the City as approved by the City Manager.
- (b) Street Trees & Open Space. New developments incorporating Traditional Neighborhood Design with a minimum of fifteen percent (15%) open space, Conventional Design with a minimum of twenty percent (20%) open space, or Conservation Design with a minimum of twenty-five percent (25%) open space and the provision of street trees shall be exempt from the mitigation applicable for Protected Tree loss within rights-of-way (ROW) areas. For purposes of this section the following apply:
- (1) Street trees shall be planted an average of thirty feet (30') on center, in minimum five-foot (5') wide planter strips located between the curb and minimum five-foot (5') wide sidewalk. In secondary areas without planter strips, trees shall

be kept as close to the sidewalk to provide shade canopy, be aligned to visually frame the street, avoid sidewalk damage, and minimize water consumption. Street trees shall be of a limited selection of tree species, as listed in the City's Approved Plant List, to give them a unified and distinct image.

- (2) Tree species and placement shall be designed to avoid the use of a single species, to visually frame streets and to create an identifiable and distinct image.
- (3) Adequate sight distances must be maintained, in order to ensure safety.
- (4) Infrastructure shall be engineered and constructed to assure placement of street trees will not be injurious to utilities, vision clearance, or other public improvements.
- (5) Maintenance of "street trees" including adequate irrigation shall be provided by homeowners individually or shall be incorporated into the homeowner association (H.O.A.) and business development agreements.

#### **Sec. 14.911 Tree Planting Restrictions**

- (a) Overhead Lines. Any required replacement trees shall not be planted within an area such that the mature canopy of the selected tree will interfere with overhead utility lines.
- (b) Underground Utilities. Any required replacement trees or street trees shall not be planted within an area such that the mature root zone of the tree will interfere with underground public utility lines (including water lines, sewer lines, transmission lines or other utilities). Selection of tree species whose root systems are the least invasive to utilities may be considered.
- (c) Fire Hydrants. No trees shall be planted within ten feet (10') of a fire hydrant.
- (d) Street Corners. No street trees shall be planted closer than thirty-five feet (35') of any street corner, measured from the point of nearest intersecting curbs or curb-lines.

#### **Sec. 14.912 Street Trees**

- (a) Acceptable Trees. The City shall maintain a list of acceptable trees for planting along streets, buffer yards, medians, within parks, or within other public areas. Trees other than those listed as acceptable may only be planted within said public areas upon approval of the Director of Development Services.
- (b) Street Tree Spacing. The spacing of street trees will be in accordance with recommendations of the Director of Development Services. Closer spacing or group plantings may be approved by the Director of Development Services in unique situations.

(c) Homeowner Associations (HOAs), PIDs or Property Owners. HOAs, public improvement districts (PIDs) or property owners shall maintain a clearance above the street level of fourteen feet (14'), seven to eight feet (7' to 8') above sidewalks, and branching of trees out of the Visibility Triangle. Landscape maintenance of street trees to accommodate buses and service vehicles shall be incorporated into homeowner association and business agreements. HOAs and PIDs will be responsible for replacement of trees along public rights-of-way within their neighborhoods.

(d) Public Tree Care. The City shall have the right to prune and maintain street trees, and park trees within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public health, safety and welfare. The City may, by determination of the Director of Development Services or designee, remove, cause or order to be removed, any tree or part thereof which is in an unsafe condition; or which by reason of its nature maybe injurious to sewers, electric power lines, gas lines, water lines, vision clearance or other public improvements.

#### **Sec. 14.913 Enforcement**

(a) Developers Agreement. No developer's agreement shall be approved which does not state that all construction activities shall meet the requirements of this article.

(b) Building Permit. No building permit shall be issued unless the applicant signs an application or permit request which states that all construction activities shall meet the requirements of this article.

(c) Acceptance of Improvements. No acceptance of public improvements shall be authorized until all fines for violation of this article have been paid to the City or otherwise disposed of through the Municipal Court. No acceptance of public improvements shall be authorized until all replacement trees have been planted, or appropriate payments have been made to the Reforestation Fund; however, the acceptance of public improvements may be authorized before all trees have been replaced provided a fiscal security deposit is posted in the amount equal to one and one-half times (1½ X) the prevailing rate for installed trees with a two (2) year guarantee, plus fifteen percent (15%) to cover administrative costs. Said deposit shall be forfeited if subject trees are not planted within thirty (30) days of notification by the Director of Development Services or designee.

(d) Certificate of Occupancy. No Certificate of Occupancy shall be issued until all fines for violations of this article have been paid to the City or otherwise disposed of through the Municipal Court. No Certificate of Occupancy shall be issued until all replacement trees have been planted or appropriate payments have been made to the Reforestation Fund; however, that a Certificate of Occupancy may be granted before all trees have been replaced provided a fiscal security deposited is posted in the amount equal to one and one half times (1½ X) the prevailing rate for installed trees with a two (2) year guarantee, plus fifteen percent (15%) to cover

administrative costs. Said deposit shall be forfeited if subject tree(s) are not planted within thirty (30) days of notification by the City of Lancaster.

**Sec. 14.914 Violations**

(a) In addition to any criminal penalty for violation of this article, any person, firm, corporation, agent, City, state, or federal organization or employee thereof who violates the provisions of this article where such violation results in the removal or damage to applicable trees shall be guilty of a misdemeanor and upon conviction shall be assessed a civil penalty of one hundred ninety-five dollars (\$195.00) per diameter inch of the tree(s) removed or damaged.

(b) The unlawful injury, destruction or removal of each Protected Tree shall be considered a separate incident, and each incident subjects the violator to the penalty set forth herein per tree. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

(c) Removal of Public Trees. It shall be deemed a violation of this article for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first adhering to the requirements of this article and procuring approval from the Director of Development Services.

(d) Violations and Assessments. Violations of this article and non-payment of fines levied will be attached to property involved through standard legal methods.

(e) Any person, firm, corporation, agent, City, state, or federal organization or employee thereof who violates a procedural requirement or who fails to comply with conditions established with a permit issued by the Director of Development Services or designee pursuant to this article shall be guilty of a misdemeanor and upon conviction shall be fined five hundred dollars (\$500.00) per violation. Each procedural violation or failure to comply each day shall be considered a separate incident, and each incident subjects the violator to the penalty set forth herein.”

**SECTION 4.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 5.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 6.** Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

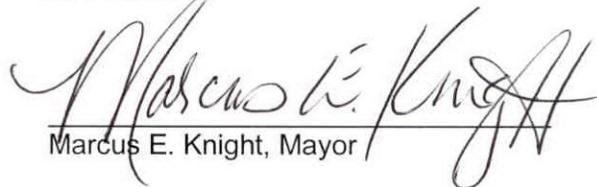
**SECTION 7.** This Ordinance shall become effective from and after its passage and publication.

**DULY PASSED** and approved by the City Council of the City of Lancaster, Texas, on this the 26th day of June, 2017.

**ATTEST:**

  
\_\_\_\_\_  
Sorangel O. Arenas, City Secretary

**APPROVED:**

  
\_\_\_\_\_  
Marcus E. Knight, Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
David T. Ritter, City Attorney