

ORDINANCE NO. _____

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 15 OF THE LITTLE ROCK CODE OF ORDINANCES ENTITLED “LANDSCAPING AND TREE PROTECTION”; AND FOR OTHER PURPOSES.

WHEREAS, Chapter 15 of the Code of Ordinances of the City of Little Rock entitled “Landscaping and Tree Protection” was last amended in 2000; and

WHEREAS, it has been determined that a review of the Chapter was desirable; and

WHEREAS, it has been determined that it is appropriate to amend various sections of the Chapter to better carry out the Chapter’s purpose and intent; and

WHEREAS, at its _____ meeting, the Little Rock City Beautiful Commission voted to recommend approval of the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS.

SECTION 1. That various provisions of Chapter 15 of the Little Rock Code of Ordinances are amended as follow:

Subsection (a). That Chapter 15, Section 15-3. be amended to add a new subsection 8 to read as follows:

(8) Encourage green/sustainable practices as a purpose to aspire towards for all applicable landscape projects.

Subsection (b). That Chapter 15., Section 15-6. Definitions be amended to provide for the amending of various defined terms as follow:

Caliper means the diameter of a tree as measured twelve (12) inches above ground level for nursery stock trees and at breast height (4 ½ feet) for preserved trees.

Replacement trees means trees that are planted to replace trees that have been severely damaged or have died or have been otherwise removed. Fifty (50) percent of replacement trees shall be a minimum of three (3) inches in caliper at planting and the balance shall be four (4) inches in caliper or greater at planting.

Tree topping means cutting the main vertical leader of the tree or the severe cutting back of limbs to stubs larger than two (2) inches in diameter within the

crown of the tree to such an extent as to remove the normal canopy and disfigure the tree.

Subsection (c). That Chapter 15., Section 15-6. Definitions be amended to provide for the alphabetical insertion of new defined terms as follows:

Automatic irrigation means the watering of land or plant material by artificial means to foster plant growth by the use of underground pipes, valves, sprayheads, and/or drip lines. Automatic irrigation shall be in compliance with all state and city standards and must include an RPZ, a backflow preventor, and an automatic controller.

Damaged tree means a tree that has been damaged or diseased greater than fifty (50) percent. An inspection and approval by the City official is required prior to removal and replacement of a damaged tree.

Hydroseeding means a planting process which utilizes a slurry of seed and mulch. The slurry is transported in a tank, either truck or trailer mounted and sprayed over prepared ground in a uniform layer; helicopters may be used in cases where larger areas must be covered. Hydroseeding is an alternative to the traditional process of broadcasting or sowing dry seed. Hydroseeding promotes quick germination and inhibits soil erosion.

Nursery stock means all plants, trees, shrubs, vines, cuttings and grafts, scions and buds grown or kept for, or capable of, propagation, distribution or sale; provided, that vegetable, grass and other soft-wood herbaceous plants shall not be considered nursery stock except when grown by a producer of hardwood plants. At that point, it becomes nursery stock and subject to fees based on acreage and other requirements that govern the sale of nursery stock.

Rip rap means a foundation or sustaining wall of stones placed together without order on an embankment slope to prevent erosion. The rip-rap shall be covered from both the top and bottom with vegetative cover.

Subsection (d). That Chapter 15., Section 15-31., title and Subsection 15-31.(a), be amended to correct a typographical error as follows:

That the word “roll” in the title of Section 15-31. and the first sentence of subsection 15-31.(a) be changed to “role”.

Subsection (e). That Chapter 15., Section 15-33. be amended to replace “parks and recreation” in line one of that section with “planning and development”.

Subsection (f). That Chapter 15., Section 15-36., Subsection (a) be amended to correct typographical errors as follow:

That the words “variance” and “provision” in sentence two of that subsection be changed to “variances” and “provisions”.

Subsection (g). That Chapter 15., Section 15-36., Subsection (c) be amended to change the fee amount from one hundred dollars (\$100.00) to two hundred fifty dollars (\$250.00).

Subsection (h). That Chapter 15., Section 15-37., Subsection (c) be amended to insert the word “certified” prior to the word “arborist”.

Subsection (i). That Chapter 15., Section 15-37., Subsection (h) be amended to read as follows:

(h) In-lieu contribution funds shall be dedicated to planting and maintaining trees on public property and rights-of-way within the area of the site where the trees were removed as defined by section map.

Subsection (j). That Chapter 15., Section 15-37. be amended to delete Subsections (i) and (j) in their entirety.

Subsection (k). That Chapter 15., Article III be deleted in its entirety and replaced with the following provisions:

ARTICLE III. TREE PROTECTION

Sec. 15-51. Tree cutting permit.

(a) Except for public utilities operating within the scope of a valid franchise agreement or otherwise authorized by law, it shall be unlawful to remove any tree located within the public rights-of-way or other city owned property without the appropriate permit. Such permit may be applied for in conjunction with the application for a building permit.

(b) Except for public utilities operating within the scope of a valid franchise agreement or as otherwise authorized by law, no permit for the cutting down and removal of trees in the public rights-of-way or on city property shall be granted unless the city official finds that one (1) or more of the following conditions exist:

- (1) The tree is less than three (3) inches in caliper;
- (2) The tree is diseased or injured and is unlikely to survive;
- (3) The tree is within the area of a proposed structure on the property or so close as to render it dangerous to the structure or unlikely to survive;

- (4) It is necessary that the tree be removed to protect existing or proposed public facilities.
- (5) The area is within a driveway designated on an approved site plan.
- (6) The area is included within an approved grading plan.

(c) Any tree removed from the areas described in this section shall be replaced with a tree meeting the specifications of article IV of this chapter within six (6) months of removal.

(d) No tree growing near a sidewalk shall be removed solely because of interference with the sidewalk unless the city official finds that the sidewalk cannot reasonably be constructed without removal of the tree. It is the intent of this section that sidewalks be reconstructed around trees and that trees are not to be removed solely to facilitate construction of sidewalks.

Sec. 15-52. Preservation, protection and planting.

(a) There is no requirement under this chapter to preserve trees other than within a land use buffer. However, the responsible party may select certain trees to be preserved elsewhere on the site to comply with the provisions of this chapter and to accomplish passive sustainable energy conservation.

(b) Trees selected for preservation or planted shall have the area within the dripline fenced with protective fencing and protected from development activities in accordance with the design standards contained within this chapter. For each existing tree preserved and incorporated into the landscape design, the following credits shall be applied to the minimum tree requirements:

TREE CREDIT CHART

<i>Preserved Tree DBH</i>	<i>Credits Toward</i>
4 – 5 inches	2 required trees
6 – 12 inches	3 required trees
13 – 18 inches	4 required trees
19 – 24 inches	6 required trees
25 –32 inches	8 required trees
32 – 48 inches	10 required trees
above 48 inches	12 required trees

(c) Continuous maintenance. Once a landscape plan has been approved, a digital and hard copy of the approved plan shall be provided to the City and also kept on file with the owner/management company. The plan shall remain on file with the city, and the site shall be maintained in conformance with the landscape plan. Any landscaping materials or preserved or required trees that die within one year of planting shall be replaced one (1) for one (1) by the responsible party unless additional trees are required to be planted to meet the spacing requirements of this chapter in effect on the date of the most recent approved landscape plan.

After one year of planting, any trees that die shall be replaced in accordance with the tree credits set forth in this section. Trees that are destroyed or removed by act or consent of the responsible party shall be replaced in accordance with the tree credits set forth in this section. Replacement shall occur as soon as reasonably possible in accordance with the approved landscape plan and good horticultural practices and in compliance with this chapter.

(d) Plant material used for compliance with the provisions of this chapter shall conform to the “American Standards for Nursery Stock, I-73”, Grade No. 1, American Association of Nurserymen, Inc., or equivalent. This article specifically prohibits the use of artificial plants or trees in landscaping to satisfy the requirements of this chapter.

(e) Within land use buffers, a minimum of seventy (70) percent of the land area shall be undisturbed.

(f) Land alteration work shall be properly supervised in accordance with chapter 29 of this Code.

(g) Prohibited activities. It shall be unlawful to allow any of the following activities to occur in protected trees or groups of trees or any area designated “undisturbed” or “preserved” on the landscape plan:

- (1) *Material storage.* No storage of any kind is permitted within the critical root zone, including but not limited to, construction materials, waste storage, and excess materials from excavation.
- (2) *Equipment cleaning and liquid disposal.* Equipment shall not be cleaned nor liquids, including but not limited to, paint, oil, solvents, asphalt, concrete, and mortar, shall be deposited or allowed to flow within the limits of the critical root zone.

- (3) *Tree attachments.* No signs, wires, or other attachments shall be attached.
- (4) *Vehicular traffic.* No vehicular or construction equipment traffic or parking shall be permitted within the critical root zone other than on an existing street pavement except as provided for buffers in chapter 36 of this Code.
- (5) *Grade changes.* No grade changes shall be permitted within the limits of the critical root zone unless adequate construction methods are approved by the city official.
- (6) *Impervious paving.* No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone, except as provided for in chapter 36 of this Code.

(h) Tree protection measures. Tree protection measures shall be in place prior to the arrival of any heavy equipment on the site or the beginning of any construction including land alteration except as necessary to install tree protection. Such measures shall remain in place until commencement of final landscaping and shall include:

- (1) Protective fencing located around the perimeter of the critical root zone, and
- (2) Flagging with brightly colored vinyl tape wrapped around the main trunk at a height of four (4) feet or more such that the tape is clearly visible to workers on foot or operating equipment.

Sec. 15-53. Tree pruning.

(a) *Required pruning.* The owners of all trees adjacent to public roadways shall be required to maintain a minimum clearance of fourteen (14) feet above the public street and eight (8) feet above sidewalks. Owners shall also prune and maintain trees so that they do not interfere with traffic signals or signs, street lighting, or roadway line of sight requirements. Owners shall remove all dead, diseased or dangerous trees, and broken or decayed limbs.

Pruning shall be done in accordance within accepted industry standards that maintain both the appearance and health of the tree. “Tree topping” is specifically prohibited by this section. Crape Myrtles shall not be trimmed lower than six (6) feet in height above grade to be classified as a tree.

(b) *Construction pruning.* In a case where a low hanging limb may be broken during construction, the limb may be cut. In no instance shall the pruning involve a portion of the trunk or more than ten (10) percent of the canopy.

Sec. 15-54. Standards for preserved trees.

The city official may visit each site and review photographs of each site for which there is a plan in order to verify that the trees to be preserved pursuant to the plan are of sufficient size, quantity and quality to warrant preservation. Trees that do not warrant preservation shall not qualify as preserved trees as determined by the city official.

Subsection (l). That Chapter 15., Section 15-81.(a) be amended to read as follows:

(a) *Landscape permit.* A landscape permit shall be obtained from the city before constructing or expanding a vehicular use area and before expanding or rehabilitating a building if landscaping is required under this chapter.

Subsection (m). That Chapter 15., Section 15-81.(b) be amended to read as follows:

(b) *Landscape plan.* Before a landscape permit is issued, the applicant shall submit the required number of copies of a landscape plan to the city. When the vehicular use area is accessory to a building or structure, the landscape plan should be submitted concurrently with the building and site plans of the proposed structure. The landscape plan may be shown on the building site plan and need not be a separate drawing. However, development of one (1) acre or more requires the landscape plan be affixed with the seal of a registered landscape architect.

Subsection (n). That Chapter 15., Sections 15-81.(c) and 15-81.(d) be amended to combine the two subsections into one single subsection (c) to read as follows:

(c) *Information required.* The landscape plan shall provide at a minimum the following information:

- (1) Names, addresses and telephone numbers of all responsible parties.
- (2) A separate document showing all dimensions, property lines and lease lines.
- (3) North arrow, graphic and written scale and date of preparation.
- (4) The location, species and size of all existing trees six (6) inches or more DBH to be designated preserved trees and the outline of all tree masses and shrub masses to be preserved including corresponding critical root zones and areas being preserved. The tree credit chart for each preserved tree is described in section 15-52.
- (5) Significant water flows and rock outcroppings, occurring in nature.
- (6) The location of all proposed plant materials and the common and botanical names, together with the quantity, spacing and size of all plant materials.
- (7) Tree fencing and other methods of protection during construction.
- (8) Extent of irrigation or water sources.
- (9) Phasing lines if development is to be constructed in phases.
- (10) Existing and proposed structures, mechanicals, parking spaces, driveways, sidewalks, dumpster locations and screening, wheel stops and curbing or other vehicular use controls.
- (11) Existing and proposed utility easements and whether the utilities will be above ground or below ground, fire hydrants, and storm sewers (this would include those in the adjacent right-of-way).
- (12) The location of cuts or fills, drainage, wet or dry detention basins.
- (13) Planting specifications including soil reparation, staking and necessary measures to ensure plants thrive.

- (14) A graphic elevation illustration of proposed opaque screening.
- (15) Procedures and methods to be followed concerning slopes or cuts and associated trees within hillside benches.
- (16) Submittal of evidence of review and approval of requirements stipulated in chapter 29.
- (17) Description of existing soil types, vegetation and other landscape considerations.
- (18) An overlay identifying the outline of existing tree masses and the predominate tree species, the average DBH and condition of the trees in each mass that are to be preserved.
- (19) Identification of trees, vegetation and soils that are to be protected or removed.
- (20) All buffer areas.
- (21) A statement indicating timetable for commencing and completing work.

Subsection (o). That Chapter 15., Section 15-82.(b) be amended to read as follows:

(b) When the city official determines that the current season of the year is not conducive to sustaining life or trees and plants required hereunder, compliance with these provisions may be deferred for not more than six (6) months. Either cash, surety bond or letter of credit in favor of the city (collectively referred to as “surety”) in an amount equal to the estimated cost of the deferred improvements shall be provided to the city by the responsible party. The responsibly party may choose the form of the surety. A temporary certificate of occupancy may be issued conditioned upon such provision.

Subsection (p). That Chapter 15., Section 15-84. be amended to change the title of that section to read as follows:

Sec. 15-84. Nursery stock tree caliper requirements.

Subsection (q). That Chapter 15., Section 15-87. be amended to change the title of that section to read as follows:

Sec. 15-87. Tree species and hillside plantings.

Subsection (r). That Chapter 15., Section 15-87.(a) be amended to add new text and to read as follows:

(a) *Recommended list.* The following list of trees represents those which have been found to be best suited to this area and require the least amount of maintenance. The following list of trees is recommended for planting in the required landscaped area. For any site, trees from two (2) different genuses are required and fifty percent (50%) of the trees must be evergreen.

Subsection (s). That Chapter 15., Section 15-87.(b)(3) be amended to delete the following item from that subsection.

Lagerstroemia indica Crape Myrtle.

Subsection (t). That Chapter 15., Section 15-89.(a) be amended to add new text and to read as follows:

(a) *Recommended list.* The following list of shrubs are those which have been found to be best suited to this area and require the least amount of maintenance. This list includes those shrubs which may be planted in the required landscaping area. For any site, shrubs from two (2) different genuses are required and fifty percent (50%) of the shrubs must be evergreen except as specified in Section 15-95.(4).

Subsection (u). That Chapter 15., Section 15-92. be amended to read as follows:

Sec. 15-92. Earth berms.

Earth berms shall be protected from erosion with suitable plant material, ground cover or grass. Earth berms shall not be installed in designated preserved tree zones or designated undisturbed areas within the site.

Subsection (v). That Chapter 15., Section 15-95.(6) be amended to read as follows:

(6) *Security and aesthetic concerns.* Breaks may be incorporated in the screen for aesthetic or security reasons as determined by the city official.

Subsection (w). That Chapter 15., Section 15-95.(5) be deleted in its entirety and the following subsection (6) be renumbered accordingly.

Subsection (x). That Chapter 15., Section 15-96.(a) be amended to add new text to read as follows:

(a) A perimeter planting strip is required along any side of a vehicular use area that abuts adjoining property or the right-of-way of any street, highway or freeway. This strip shall be at least nine (9) feet wide. The perimeter planting strip adjacent to freeways or expressways shall be at least thirty (30) feet wide except within mature areas. All trees within the perimeter planting strip adjacent to freeways or expressways with a DBH of four (4) inches or greater shall be designated preserved trees.

Subsection (y). That Chapter 15., Section 15-96.(b) be amended to read as follows:

(b) One (1) tree shall be planted for every seven hundred fifty (750) square feet of required landscape or buffer area with an average linear spacing of not less than thirty (30) feet. Three (3) shrubs or vines for every ten (10) linear feet shall be planted in the perimeter planting strip.

Massing is permitted as long as trees are spaced not more than one hundred (100) linear feet apart including width of driveway.

Subsection (z). That Chapter 15., Section 15-97.(a) be amended to read as follows:

(a) Interior landscape areas shall comprise at least ten (10) percent of any vehicular use area containing twelve (12) or more parking spaces.

Subsection (aa). That Chapter 15., Section 15-97.(b) be amended to read as follows:

(b) In order to apply toward the required ten (10) percent landscape area, the minimum size of an interior landscape area shall be one hundred fifty (150) square feet for developments with one hundred fifty (150) or fewer parking spaces. For developments with more than one hundred fifty (150) parking spaces the minimum size of an interior landscape area shall be three hundred (300) square feet.

Subsection (bb). That Chapter 15., Section 15-99. be amended to delete certain text and to then read as follows:

Sec. 15-99. Exceptions.

Industrial sites shall meet the landscape requirements with the following exceptions:

- (1) Industrial yards and compounds used for storing materials, manufactured products, equipment, truck loading and unloading are excluded from interior landscape requirements.
- (2) Industrial sites adjacent to other industrial sites are not required to provide perimeter planting strips outside of the front yard setback.

Subsection (cc). That Chapter 15., Section 15-103. (b) be amended to read as follows:

(b) Existing trees and ground covers shall be protected when feasible and vegetation shall be reestablished within six (6) months of project completion to avoid erosion and siltation.

SECTION 2. Severability. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, as if such invalid or unconstitutional provision was not originally a part of this ordinance.

SECTION 3. Repealer. All laws, ordinances, resolutions, bylaws, or parts of the same that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

PASSED:

ATTEST:

APPROVED:

Nancy Wood, City Clerk

Mark Stodola, Mayor

