

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROWNWOOD, TEXAS, BY AMENDING CHAPTER 158 OF THE ZONING CODE TO ESTABLISH LANDSCAPING REGULATIONS FOR NEW OR EXPANDED OFFICE OR RETAIL USES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City desires to establish landscaping regulations applicable to new or expanded office or retail uses;

NOW THEREFORE, be it ordained by the Council of the City of Brownwood, Brown County, Texas:

SECTION I. APPENDIX A

The following is hereby added as Appendix A to Chapter 158 of the Zoning Code:

“Landscape Regulations

- A. Purpose
- B. Applicability
- C. Plant Material Recommendations and Landscape Requirements
- D. Landscape and Irrigation Plan
- E. Tree Preservation
- F. Compliance
- G. Exception
- H. Enforcement and Penalty Clause
- I. Required Elements
- J. Point System

A. Purpose.

The purpose of the landscape regulations is to:

1. Promote a positive image for the City of Brownwood;
2. Protect property values;
3. Promote water conservation;
4. Encourage planting and preservation of trees and vegetation;
5. Increase ground permeability, retard water runoff, and control erosion; and
6. Abate noise, glare, dust and heat.

B. Applicability.

These regulations do not apply to development in the Brownwood Industrial Park District. Development in the Brownwood Industrial Park District shall be required to provide landscaping in accordance with Section 157.32 of the Code of Ordinances.

The provisions of these regulations shall apply to all other land within the corporate limits of the City of Brownwood when new or expanded office or retail uses are proposed in the following zoning areas:

CO, C-N, C-1, C-2, C-U, M-1 and M-2

These regulations apply:

1. When a building permit for a new office or retail structure is required;
2. When a paving permit for a new, additional parking area for an office or retail business is required; or
3. When a building permit for the remodeling, renovation, or expansion of an existing office or retail business increases the gross floor area by 30% or more.

C. Plant Material Recommendations and Landscape Requirements

1. Use of water efficient plant materials is recommended. See the list below for recommended plant materials. Other plant materials may be used upon approval of the Building Official, provided that plant materials shall conform to the requirements described in the latest edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

Shade Tree	Accent Trees	Shrubs	Ground Covers	Vines
Bur Oak	Mountain Laurel	Autumn Sage	Prostrate Rosemary	Coral Honeysuckle
Cedar Elm	Southern Wax Myrtle	Evergreen Sumac	Meadow Sedge	Crossvine
Chinquapin Oak	Texas Redbud	Mexican Oregano	Texas Sedge	Virginia Creeper
Drake Elm	Vitex	Rosemary	Liriope	Lady Banks Rose
Lacey Oak	Crape Myrtle	Texas Sage	Germander	Trumpet Vine
Montezuma Cypress	Desert Willow	American Beautyberry	Lambs Ear	Carolina Jessamine
Texas Ash	Possumhaw Holley	Coralberry	Inland Seoats	Texas Wisteria
Austrian Pine	Texas Persimmon	Flame Acanthus	Trailing Lantana	
Chinese Pistache	Mexican Buckeye	Eleagnus	Horseherb	
Bald Cypress	Yaupon Tree	Lantana	Turk's Cap	

2. Landscaping shall consist of required trees (see C.3 below) and a choice of the following types of plant material, including but not limited to, planted grass, shrub, and ground cover. All of the adjacent right-of-way, as well as an additional 10% (ten percent) of the lot area, shall be landscaped.

3. Required Trees:

a. Street Front Trees. Shade or accent trees shall be provided at the equivalent of one (1) tree per thirty (30) linear feet of street frontage. When measuring the linear feet of street frontage, any street frontage located on a corner lot shall be reduced by thirty (30) feet. Such trees may be located in any area facing a public street or paved parking area adjacent to a public street. Trees may be placed in the public right-of-way if adequate space is available, and if they do not interfere with existing or future utility services and/or traffic control devices. Approval of trees in the right-of-way is required from the Building Official.

b. Parking Lot Trees. Shade trees shall also be required in parking areas at a minimum rate of one tree per fifteen (15) parking spaces, as indicated below. The first 150 spaces shall include tree planting at a ratio of one tree for each fifteen (15) parking spaces. When 151 or more spaces are provided, the tree ratio shall be reduced to one shade tree per twenty (20) parking spaces. Trees shall be planted throughout the parking area so that they become an integral part of the parking design.

<u>Number of Spaces</u>	<u>Number of Required Trees</u>
15 or fewer	1
16 to 30	2
31 to 45	3
150	10
200	13 (10 for the first 150 spaces plus 3 for additional 50)

c. All shade trees shall be a minimum of 3 inches caliper as measured 12 inches above grade. Accent trees shall be a minimum of 2 inches caliper as measure 12 inches above grade. Evergreen tree height shall be a minimum of 6 feet above grade. (See Section C, Recommended Plant Materials, for examples)

d. All existing shade trees of at least 3 inches caliper, or accent trees of at least 2 inches caliper, or evergreen trees of at least 6 feet in height will be counted towards satisfying the requirements of this ordinance, as long as such trees do not endanger safety, health or public welfare. All trees must be healthy.

D. Landscape and Irrigation Plan

1. At the time a building or paving permit is requested, the developer or owner shall provide proof of compliance with the landscape requirement by providing a basic plan showing proposed landscape areas.
2. Prior to the installation of an irrigation system two (2) copies of a Landscape Plan and Irrigation Plan, drawn to scale (1 inch equal 100 feet or larger), shall be submitted to the Building Official for review. The Landscape Plan shall include all details, and shall contain all of the elements as contained in Section J (Landscape Point System). Irrigation Plans shall comply with state law requirements.
3. Landscape Plan approval is based on a point scoring system of required landscaping elements with a minimum score of 22 (twenty-two) points.
4. All sprinkler systems shall be designed in such a manner as to minimize water runoff and to eliminate over-spray into adjoining streets, driveways, and parking areas. Refer to Section J (Landscape Point System) indicating additional points when drip irrigation is installed.
5. All landscaping shall be maintained, and plant material shall be kept in a healthy and growing condition.
6. Drip systems shall be required in confined spaces of 4 feet or less between paved surfaces.
7. No tree or shrub shall be placed in such a manner as to create a hazard to vehicular or pedestrian traffic.

E. Tree Preservation.

No living trees shall be removed from any public right-of-way in any zoning district without authorization of the Building Official. (see Deduct Elements – Section J-Point System).

F. Compliance.

All requirements of this Article shall be completed within 180 days following receipt of a certificate of occupancy, or approval of parking lot paving, from the Building Official.

G. Exception.

There may be circumstances in which the placement of trees in new or expanded parking facilities may be difficult or undesirable. In order to provide for a similar landscaping effect, parking lot trees may be waived in lieu of additional trees, or larger caliper trees

placed in the front and/or side yard setback area or in the public right-of-way. Alternate landscape proposals may be submitted to the Building Official. In no case shall an alternative landscape proposal result in a net reduction of the tree requirements, as measured in total tree caliper inches.

In cases where the required ten percent area cannot be landscaped due to existing improvements, if the desired landscape location is not within the front or side yard setback, the Building Official may approve alternate landscape location(s).

H. Enforcement and Penalty Clause.

1. If, in the opinion of the Building Official, any property owner or tenants have failed in any of the foregoing duties or responsibilities, then the City, shall have the authority to:

(a) Revoke any building permits, certificates of occupancy, or other approvals or permits previously issued for the premises; or

(b) Withhold approval for building permits, certificates of occupancy, and other permits or approvals relating to the premises.

2. In addition to the foregoing, any person violating any provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed \$2,000.00 and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

I. Required Elements:

Landscape Plan:

1. Project Name and Location
2. North Arrow
3. Scale
4. Designer's Name and Phone No.
5. Structure Location(s)
6. Parking Location(s)
7. Property Line(s)
8. Setback Line(s)
9. Plant Type(s)
10. Plant Quantity
11. Plant Size
12. Street Front Tree Locations
13. Parking Space tree Locations
14. Location of Existing Trees
15. All plans must be signed, sealed and dated, if required by law

J. Point System.

Total Required Points for Approval: 22 Points

ADD ELEMENTS:

Landscape bed mulched	3 points
Permeable weed barrier installed	2 points
Drip irrigation system in all areas 15 feet or less in width	10 points
Tree quantity exceeds required quantity	5 points
Majority of tree sizes exceed 3 inch caliper	4 points
Drought tolerant sod is primary variety of lawn grass	4 points
Landscape area is curbed or shaped to hold water	2 points
Rain sensor included in irrigation system	2 points
Landscape area exceeds requirement by an additional 10%	4 points
At least 50% of all plant material is water efficient, as listed in Section C	2 points
Using groundcover, shrubs, vines from Section C for at least 25% of lawn grass area	5 points
Total Possible Add Element Points:	43 points

DEDUCT ELEMENTS:

Existing tree material larger than 8 inches caliper is removed	(7 points)
Fescue and/or St. Augustine grass is primary variety of lawn grass	(5 points)
Slope within ten feet of street or parking lot exceeds 20% grade	(5 points)
No drip irrigation system	(10 points)
Total Possible Deduct Element Points:	(27 Points)

SECTION II. MISCELLANEOUS

A. Non-Waiver. Nothing in this Ordinance shall preclude the City from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of the Ordinance.

B. Severability. If any provision of this Ordinance or the application of any provision of this Ordinance to any person is, to any extent, held invalid or unenforceable by a tribunal of competent jurisdiction, the remainder of this Ordinance and the application of such provision to other persons or circumstance shall not be affected by such holding. In case of such event, this Ordinance and all of its remaining provisions shall, in all other respects, continue to be effective. In the event the law invalidating such an Ordinance provision is subsequently repealed, rescinded, amended or is otherwise changed so that the provision which had previously

been held invalid or unenforceable, no longer conflict with the laws, rules or regulations then in effect, the previously invalid or unenforceable provision shall return to full force and effect.

SECTION III. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED AND APPROVED on First Reading this _____ day of _____, 2006.

PASSED AND APPROVED on Second Reading this _____ day of _____, 2006.

PASSED AND APPROVED on Third/Final Reading this _____ day of _____, 2006.

BERT V. MASSEY, II, Mayor

ATTEST:

JAN KAASE, City Secretary

APPROVED AS TO FORM:

PAT CHESSER, City Attorney