

CITY OF LAREDO ORDINANCE 2004-0-105

AMENDING THE CITY OF LAREDO LAND DEVELOPMENT CODE, ARTICLE III, BY CREATING SECTION 24-57, ENTITLED "GREEN SPACE PRESERVATION", AND AMENDING THE CITY OF LAREDO LAND DEVELOPMENT CODE, APPENDIX A, BY INCLUDING DEFINITIONS RELATING TO GREEN SPACE PRESERVATION; PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, buffers adjacent to stream systems provide numerous essential environmental protections including reduction of erosion and sediments entering the stream; stabilization of stream banks; maintenance of base flow in streams; infiltration of stormwater runoff; and,

WHEREAS, the natural resource management benefits of buffers include the restoring and maintaining of the chemical, physical and biological integrity of water resources; provision for riparian wildlife habitat; the contribution of organic matter that is a source of food and energy for an aquatic ecosystem; and,

WHEREAS, buffers along stream systems furnish scenic value and recreational opportunity; and,

WHEREAS, it is the goal of the City of Laredo to protect and maintain the native vegetation in riparian and wetland areas by implementing specifications for the establishment, protection, and maintenance of vegetation along protected stream systems within its corporate boundary.

WHEREAS, notice of the ordinance was advertised in the newspaper at least fifteen (15) days prior to the public hearing held before the Planning and Zoning Commission on this matter; and,

WHEREAS, the Planning and Zoning Commission, after a public hearing, has recommended approval of the ordinance amendment; and,

WHEREAS, notice of the ordinance was advertised in the newspaper at least fifteen (15) days prior to the public hearing held before the City of Laredo City Council on this matter; and,

WHEREAS, the City Council has held a public hearing on May 3, 2004, on the item and finds the ordinance appropriate and consistent with the General Plan of the City of Laredo.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

Section 1: Amending the City of Laredo Land Development Code, Appendix 'A' by including definitions relating to Green Space Preservation to read as follows:

Appendix 'A':

City Engineer- shall mean the person appointed to the position of Director of the Engineering Department or his/her authorized representative.

ESD Director- shall mean the administrative head of the city Environmental Services Department and/or his/her authorized representative.

Environmentally Sensitive Area- Any area wherein plant or animal life, listed in the Texas Endangered Species Act and/or the Federal Endangered Species Act, exists or there is evidence of their inhabitation.

Erosion- shall mean the wearing away of land surface by the action of wind, water, gravity, ice or any combination of these forces.

First Order Stream- No defined tributaries drain into this stream and it normally originates from springs, seeps or rain runoff from the higher elevations in a watershed and conducts water into a higher order stream. First order streams appear on a USGS 1:24000 Topographical Map.

Fourth Order Stream- is a stream formed by the confluence of two third order streams.

Illegal Dumping- shall mean the act of illegally placing any material as described in City of Laredo Code of Ordinances Sec. 33-405, on any location other than the appropriate place of disposal whether the location is public or private.

Main Stem- a single line following the bed of the creeks connecting the mouth of the Chacon and Sombretillo Creeks to the center point of the spillway of Lake Casa Blanca and the Middle Pasture Lake, respectively.

One Hundred-Year Floodplain-The area of land identified on the most current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps that is subject to inundation during a storm event that has a recurrence interval of 100 years.

Ordinary High Water Mark (OHWM)- shall mean "that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the char-

acteristics of the surrounding areas,” as defined in 33 CFR Part 328 Definition of Waters of the United States - Section 328.3 e.

Right of Way (ROW)-shall mean property that has been dedicated for uses of the public including but not limited to any street, highway, road, alley, or land used for vehicular and passenger movement and/or ingress or egress.

Second Order Stream- is a stream formed by the confluence of two first order streams.

Stream Order- is a classification system for streams based on stream hierarchy, with the smallest stream having the lowest numerical classification.

Streams - are identified on U.S. Geological Survey (1:24,000) maps.

Stream System- means a stream channel of a given order together with one or more of the following:

- 1) 100-year floodplain;
- 2) Hydrologically related wetland;
- 3) Reservoir receiving water from one or more streams.

Third Order Stream-is a stream formed by the confluence of two second order streams.

Vegetative Buffer-A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system. A vegetative buffer for a stream system generally consists of a strip of land, with native vegetation, along both sides of a stream system.

Section 2: Amending the City of Laredo Land Development Code, Article III, by creating Section 24-57 entitled “Green Space Preservation” which will read as follows:

24-57.1 Purpose

The purpose of this ordinance is to establish minimal acceptable requirements for the design of buffers to protect the streams, wetlands and floodplains of Laredo, Texas; to protect the water courses, reservoirs, lakes, and other significant water resources within Laredo, Texas; to protect Laredo’s riparian and aquatic ecosystems; and to provide for the environmentally sound use of Laredo’s land.

24-57.2 Applicability

- A) This ordinance shall apply to development subject to the Land Development Code. A development is exempt from this ordinance if it does not contain a stream system.
- B) This ordinance shall apply to surface mining operations except that the design standards shall not apply to active surface mining operations that are operating in compliance with an approved U. S. Department of the Interior surface mining permit.
- C) This ordinance shall apply to the City of Laredo, a municipal corporation.
- D) This ordinance shall apply to all development except for activities that were initiated prior to the effective date of this ordinance and meets the following criteria:
1. Valid, unexpired permit in accordance with development regulations;
 2. A current, executed public works agreement;
 3. A valid, unexpired building permit;
 4. A complete, unexpired plat application;
 5. A current, approved master plan on file with the City of Laredo Planning Department;
 6. Platted property.

24-57.3 Preservation and Buffering Requirements

- A) All third order and higher stream systems including the Rio Grande are required to be preserved and buffered in accordance with this ordinance.
- B) First and Second order stream systems which include any of the following criteria are required to be preserved and buffered in accordance with this ordinance unless the requirements of 24-57.7 are satisfied.
1. An environmentally sensitive area.
 2. Wetlands & Waters of the U.S. according to the Wetland Map.
 3. Existing trees with a caliper equal to or greater than 8 inches (excluding salt cedar) within the stream channel or potential stream buffer.

24-57.4 Design Standards for Stream Buffers

- A) The width for vegetative buffers shall depend on the order of the stream being developed. First and second order streams that are to be protected shall have a buffer originating from OHWM extending 50 ft. on either side of the stream.

- B) The required width of a buffer for a third order stream will be 50 ft. on both sides measured from the OHWM 25 ft. shall be added for each level of increase in stream order. For example, a fourth order stream shall have a 75ft. buffer, a fifth order stream should have a 100-foot buffer, etc.

- C) For the Rio Grande, the boundary of the buffer zone shall be the 100 year flood plain or 200 ft. from the OHWM of the watercourse , which ever is less.

- D) Permanent boundary signs approved by the ESD Director shall be installed after construction has been completed.

- E) The following are the exceptions:
 - 1. Regardless of the stream order, the maximum width of the buffer, excluding the Rio Grande is 100 ft. from the OHWM.

 - 2. All development shall comply with the City’s floodplain management ordinance (2002-O-164) and stormwater management ordinance (99-O-186).

 - 3. The width of the buffer on each side of the stream maybe adjusted (both width and length) as long as the total square footage of the buffer remains the same for the stream order but in no event shall the buffer be less than 25 ft. on any side.

 - 4. The 25 ft. of buffer immediately adjacent to the OHWM, containing undisturbed native vegetation, is restricted to permitted road, utility crossings, stormwater management facilities and recreational facilities approved by the city. The remainder of the buffer, also containing native vegetation, is restricted to utility right of ways, designated biking/hiking paths, stormwater management facilities, and recreational facilities by the City.

24-57.5 Design Standards for Existing Ponds and Buffers

- A) Existing ponds may be used as stormwater management facilities, in accordance with the Stormwater Management and Flood Plain Management Ordinances, if a conservation plan is submitted (please see 24-57.7). Existing ponds, to be used as a stormwater management facility, shall have a buffer width of 20 ft. in addition to

the Maintenance Access Easement requirements. (Please refer to Stormwater Management Ordinance, Section 24-59.3.2.5 'Retention/Detention Facilities.')

- B) The area of the 20 ft. buffer may include the embankment as long as the total square footage is maintained.

24-57.6 Green Space Plan Requirements

- A) Stream systems and buffers shall be shown on site-specific drainage maps.
- B) Prior to construction, signs shall be placed every 100 feet on orange construction border fencing at the edge of the buffer zone to inform workers that the placing of construction materials in the buffer zones during the construction phase is prohibited.

24-57.7 Conservation Plan Requirements

Where disturbance of protected first or second order stream systems are proposed, the following shall be submitted:

- A) A copy of the Green Space Plan.
- B) A location or vicinity map of areas outlined in 24-57.3, subsection B(1), B(2), and B(3).
- C) A summary of disturbance activities, and an in-depth detailed description of disturbances that affect or may affect areas outlined in 24-57.3 subsection B(1), B(2), and B(3).
- D) A detailed description of mitigation activities, as outlined below:
 - 1. If Wetlands and/or Waters of the U.S. are affected:
 - a. Section 404 Permit.
 - b. Wetland Mitigation Plan.
 - 2. If trees are removed:
 - a. All 4 in. caliper or greater trees removed must be replaced by an equal caliper sized tree of the same species except salt cedar; or smaller trees of the same tree species that equal the caliper of the removed tree (ie.: 4 one inch trees to replace a 4 inch caliper tree).

b. This/these tree(s) must be located within the stream system or buffer on the property where the removed tree was located.

c. Twenty-five percent of the original tree species must be replaced with the same species. The remaining 75% of original tree species may be replaced with favorable species determined and listed by the Tree Board.

24-57.8 Buffer Management and Maintenance

A) Protected stream systems and vegetative buffers shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are restricted within the vegetative buffer:

1. Clearing of any existing vegetation;
2. Soil disturbance by grading, stripping, or other practices;
3. Filling or dumping;
4. Use, storage, or application of herbicides.

B) The following structures, practices, and activities are permitted in the vegetative buffer, with specific design or maintenance features:

1. Roads, bridges, sidewalks, and utilities:
 - a. These facilities may be constructed if such are required by the City; access to the property would be hindered or compromised because of the property's location; or if conditions specific to the land require it. In any of these instances the ESD Director may administratively grant approval or deny the request for the construction of said structure/s. In the event of denial by the ESD Director the issue may be appealed to the Planning and Zoning Commission whose decision shall be final.
 - b. The right-of-way should be the minimum width needed to allow for maintenance access and installation.
 - c. The angle of the crossing shall be as near to perpendicular as allowed by the ESD Director. In the event of denial by the ESD Director the issue may be appealed to the Planning and Zoning Commission whose decision shall be

final.

- d. Every effort shall be made to minimize the number of road crossings within each subdivision and no more than one road crossing is allowed for every 1,200 ft. of buffer.
2. Stormwater management:
 - a. These facilities may be constructed if such are required by the City, the facilities are necessary for flood control or significantly improves water quality or habitat in the stream. In any of these instances the ESD Director may administratively grant approval or deny the request for the construction of said structure/s. In the event of denial by the ESD Director the issue may be appealed to the Planning and Zoning Commission whose decision shall be final.
 - b. When constructing stormwater management facilities “best management practices” shall be observed (i.e., BMPs). The area cleared will be limited to the area required for construction and adequate maintenance access as outlined in the most recent edition of City of Laredo Stormwater Management Ordinance.
 - c. Material dredged or otherwise removed (during construction or maintenance) from a stormwater management facility shall be stored outside the buffer.
 3. Stream restoration projects approved by the ESD Director are permitted within the vegetative buffer.
 4. Water quality monitoring and stream gauging are permitted within the vegetative buffer as approved by the ESD Director.
 5. Individual trees within the buffer that are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the stream, may be removed. Other tree cutting techniques approved by the ESD Director may be undertaken within the vegetative buffer under the advice and guidance of the Tree Board if necessary to preserve the riparian forest from extensive pest infestation and disease infestation.
 6. Selective clearing for health and safety purposes is allowed as determined by the Fire Chief and/or the Health Department Director.
- C) The Final Plat and all right-of-way plans shall clearly show the extent of any

vegetative buffer on the subject property.

- D) All protected vegetative buffer areas and stream systems shall run with the land and continue in perpetuity. Protected vegetative buffer areas and stream systems may be dedicated to the public by separate instrument (which must be submitted to the City Engineer for approval and recorded in the land records) unless the protected vegetative buffer area and stream system is dedicated to the public on the face of an approved plat. If the owner of the property desires to keep the stream system and buffer private, there shall be a covenant (which must be submitted to the City Engineer for approval and recorded in the land records) restricting the use of the stream system and buffer to uses set forth herein, and the owner must ensure that the stream system and buffer shall be maintained by the owner, his heirs successors and assigns for so long as the stream system and buffer remain private.
- E) The ESD shall inspect the buffer annually and immediately following severe storms for evidence of sediment deposition, erosion, or concentrated flow channels. Corrective actions shall be taken to ensure the integrity and functions of the vegetative buffer.
- F) The City of Laredo will maintain all vegetative buffer and stream systems that are created pursuant to 24.58-3 and have been dedicated to the public.

24-57.9 Incentives

- A) If buffer widths on first and second order streams are strictly adhered to, the conservation plan requirement shall be waived.
- B) Credit shall be given as determined by the Planning Director for the development of Linear Parks around natural drainage and wooded areas that provide potential recreational uses. Criteria for flood plain areas (based upon a hundred-year flood plain) that is dedicated as parkland, will be given credit as determined by the Planning Director by meeting the following requirements:
 - 1. Flood plain and natural drainage area shall generally not exceed 75% of total park site.
 - 2. At least 50% of required dedicated parkland shall have slopes in range of <5%, well-drained and suitable for active use.
 - 3. Additional flood plain acreage over 75% of required parkland may be dedicated at a (3:1) ratio in acres in lieu of non flood plain property and any such consideration of acreage shall be at the discretion of the Planning Director in compliance with the Parks and Open Space Master Plan.

4. The Director of the Planning Department shall determine whether land offered for dedication complies with the standards for dedication as provided in the Parks Master Plan.

C) Stormwater discharges into large creeks

1. For development adjacent to the main stem of Sombreretillo Creek, below Middle Pasture Lake, and Chacon Creek below Lake Casa Blanca, stormwater discharge does not require detention facilities, so long as there is compliance with the floodplain management ordinance and stormwater management ordinance.

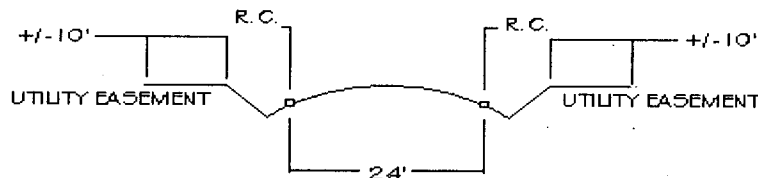
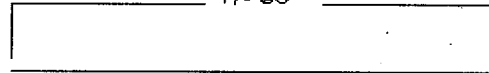
D) On-site detention within the plat boundaries of residential subdivision

1. For detention ponds in residential developments voluntarily created to enhance the protection of 1st & 2nd order streams, the required private maintenance shall extend to the warranty period as provided by other ordinances.
2. When a first or second order stream within development is voluntarily protected, a R.O.W. section may be similarly modified as provided below:

10,000 SQ. FT. LOT DEVELOPMENTS

NO SIDEWALK

+/- 60



E) Commercial subdivisions distributed detention

1. Distributed detention on commercial subdivisions where streams are to be voluntarily protected shall be allowed, deferring the construction of required storm water detention facilities to the building permit (construction) phase, so long as the deferral is approved at final platting and covered by a note on the face of the plat.
2. In cases where a development includes a protected stream system, the required detention volume may be distributed over the site provided the plat is annotated with a note indicating the "Q" (volumetric discharge) of each lot.
3. The required private maintenance period for off-line detention facilities shall extend to the warranty period. Warranties shall remain in effect as provided by other ordinances.
4. For developments where all lots are at least one acre in area, minimum storage requirements for detention as well as maximum discharge rate requirements shall be included on the plat for each lot, specifying the requirement for each lot to individually meet the requirements of the Stormwater Management Ordinance included in the City of Laredo Land Development Code during the building permit process. A note approved by the City of Laredo Planning Department indicating the requirement shall be included on the face of the plat. Calculations for said lot storage volumes and discharge rates shall be approved by the City Engineer in conjunction with their review of the improvement plans for the development during the platting process.

F) Park credit transferability

1. Voluntary protection of first and second order streams entitle the owner to a park credit for the stream system protected and its surrounding buffer on an equivalent square footage basis. If the following criteria is met:
 - a. Flood plain and natural drainage area shall generally not exceed 75% of the site;
 - b. At least 50% of the buffer shall have slopes in the range of 2% and not to exceed 5%, be well drained and suitable for active use;
 - c. Additional park requirements, if any, shall be incorporated (be adjacent) to any buffer.
 - d. The buffer and the park space shall be reviewed by the Planning Director to

ensure that the buffer and park space requirement comply with the City Standards for Dedication as a park and buffer.

e. If the buffer and park meet the requirements set forth herein the Planning Director shall make a recommendation to the City Council regarding the acceptance of said buffer and park.

2. Mandatory protected third order streams and higher qualify for a park credit for the surrounding buffer on an equivalent square footage basis. If the following criteria is met:

a. Flood plain and natural drainage area shall generally not exceed 75% of the site;

b. At least 50% of the buffer shall have slopes in the range of 2% and not to exceed 5%, well drained and suitable for active use;

c. Additional park requirement, if any, shall be incorporated (be adjacent to) any buffer.

d. The buffer and the park space shall be reviewed by the Planning Director to insure that the buffer and park space requirement comply with the City standards for dedication as a park and buffer.

e. If the buffer and park meet the requirements set forth herein the Planning Director shall make a recommendation to the City Council regarding the acceptance of said buffer and park.

3. Park credits obtained pursuant to this provision shall be transferable but may only be used within the Council District in which they were originally acquired.

4. In the event there is first or second order stream systems located on a tract ten acres or smaller and the owner or said tract wishes to voluntarily preserve the stream system he shall be entitled to a park credit.

5. Any decision by the Planning Director which does not favor the acceptance of park and buffer may be appealed to the Planning and Zoning Commission for a recommendation regarding the acceptance of the park and buffer to the City Council.

24-57.10 Waivers/Variances

A) The ESD Director may grant a variance for the following:

1. Those projects or activities for which it can be demonstrated that strict compliance with the ordinance would result in a practical difficulty.
2. Those projects or activities serving a public need where no feasible alternative is available

B) The City of Laredo may, as deemed appropriate by the ESD Director, give credit towards the average buffer width on the platted property for the restoration of riparian habitat and/or installation of a wetlands area within the property boundaries if such installations are ecologically integrated with the riparian system. The square footage of the restored area or wetlands area shall be credited toward the square footage required for the buffer zone.

C) The applicant shall submit a written request for a variance to the ESD Director. The application shall include specific reasons justifying the variance and any other information necessary to evaluate the proposed variance request. The ESD Director may require an analysis demonstrating undue hardship would result from a strict application of the ordinance.

D) In granting a request for a variance, the Director may require site design, landscape planting, fencing, and signs.

24-57.11 Enforcement Procedures

Please Refer to Sections 24-59.8, 24-59.10 and 24-59.11

24-57.12 Appeal

The Planning and Zoning Commission shall hear appeals from ESD and Planning Director whose ruling shall be final.

Any person whose petition for variance has not been granted and who remains adversely affected by the Director's order, or who is subject to an order of the Director issued following a Show Cause Hearing may challenge the final action of the Director to the Planning and Zoning Commission.

The Planning and Zoning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the ESD or Planning Director in the enforcement or administration of this ordinance.

24-57.13 Conflict with Other Regulations

Where the standards and management requirements of this buffer ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply.

Section 3: This ordinance shall be published in a manner provided by Section 2.09 (D) of the Charter of the City of Laredo.

Section 4: This ordinance shall become effective as and from the date of publication specified in Section 3.

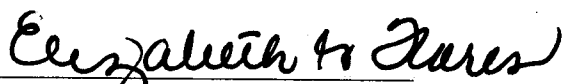
Section 5: Severability

If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of another portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

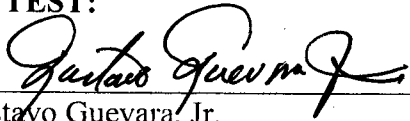
Section 6: Open Meetings

The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the city hall of the City for the time required by law preceding this meeting, as required by the Open Meeting Act, Texas Government Code Sect. 551.001 ET. AT.; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter approves and confirms such written notice and the contents and posting hereof.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS
17th DAY OF May, 2004.


Elizabeth G. Flores
Mayor

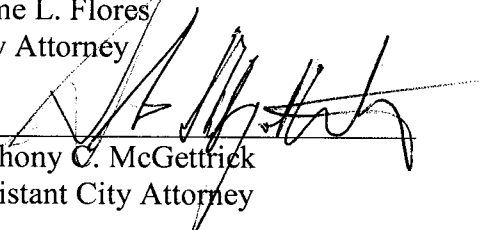
ATTEST:



Gustavo Guevara, Jr.
City Secretary

APPROVED AS TO FORM:

Jaime L. Flores
City Attorney

By: 

Anthony C. McGettrick
Assistant City Attorney

