

Ordinance No. 20-057

An ordinance amending the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article 5, Design and Development Standards, Section 5.2.3, Tree Preservation and Replacement, related to preserving tree species native to Arlington, revising tree incentive points, and clarifying the need for a tree removal permit; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; governmental immunity; injunctions; publication and an effective date

WHEREAS, after notice and public hearing on the 4th day of November 2020, the Planning and Zoning Commission heard and recommended amendment to the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, as amended; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals and general welfare of the citizens that the amendments relative to the "Unified Development Code" Chapter be approved; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article 5, Design and Development Standards, Section 5.2.3, Tree Preservation and Replacement, Subsection A., Non-residential and Mixed-Use Development: Tree Preservation Requirements, Paragraph 1., Purpose, and Paragraph 1.(sic), Applicability**, which are repealed and replaced in their entirety and shall hereafter read as follows:

1. Purpose and Applicability

This section provides a methodology for tree removal and replacement. The intent is to preserve certain size trees and/or require that their removal shall be mitigated through replacement. This section is applicable to all non-residential and mixed-use development, including non-structural improvements such as parking lots, site layouts, landscape setbacks, and buffer yards.

Further, that **Subsection A., Non-residential and Mixed-Use Development: Tree Preservation Requirements, Paragraph 4., Determining Tree Points Lost on a Lot, Subparagraph c.**, is hereby amended to read as follows:

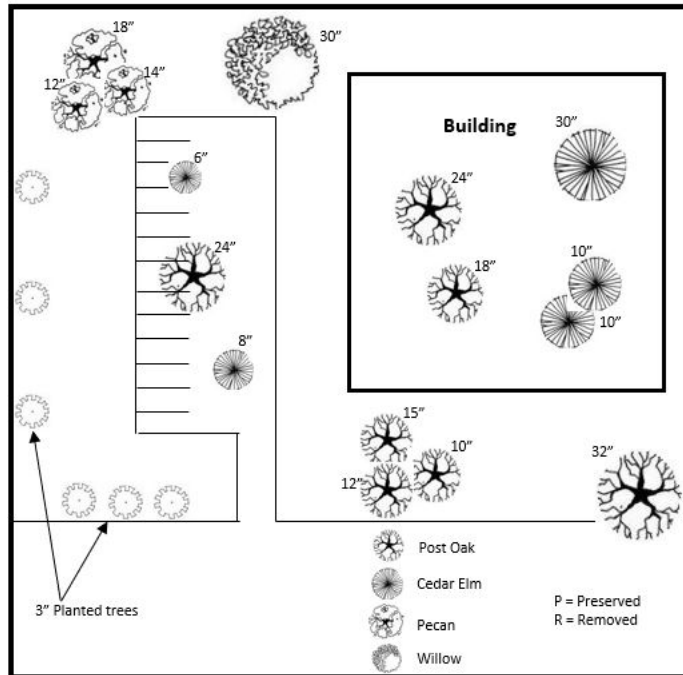
- c. To determine the number of tree points required by this section, the applicant shall inventory and combine the total caliper inches of all protected trees that are to be removed and that are:
 - (i) Located within the area formed by the proposed building footprint and ten feet around it, plus adjoining patios and terraces within the street frontage building setback, and are at least 18 inches or greater in size; and
 - (ii) Located elsewhere on-site and are at least six inches or greater in size.

Further, that **Subsection A., Non-residential and Mixed-Use Development: Tree Preservation Requirements, Paragraph 5., Determining Tree Points Earned, Subparagraph b.**, is hereby amended to read as follows:

- b. The total of the two inventories represents the number of tree points earned. Trees planted in accordance with perimeter landscape setback requirements may be counted toward tree points. All replacement trees installed shall be at least three inches of caliper at the time of planting in order to earn tree points.
 - (i) Additional tree points may be earned for the following:
 - (1) Cross Timbers oaks: Post oak, blackjack oak, or Texas oak trees shall earn two additional tree points per caliper inch preserved.
 - (2) For all other trees:
 - (a) Bonus trees: Native species as identified on the Bonus Tree List in the UDC User's Guide, shall earn one-half additional tree points per caliper inch planted or preserved.
 - (b) Trees meeting the definition of "significant stand" and identified on the landscape plan as "to remain" shall earn one-half additional tree points per caliper inch preserved.

Further, that **Table 5.2-2: Example of Tree Point System**, is hereby amended to read as follows:

TABLE 5.2-2: Example of Tree Point System					
Protected Trees Removed					
Canopy Trees		Notes			
2 post oaks @ 24" + 18"	42"	Protected trees in building footprint Trees <18" not inventoried			
1 cedar elm @ 30"	30"				
2 cedar elms @ 10"	0"				
1 post oak @ 24"	24"				
1 cedar elm @ 8"	8"				
1 cedar elm @ 6"	6"				
110" Canopy tree points					
Trees Preserved and Planted					
Canopy Trees	Tree Points	Cross Timbers	Bonus Points	Significant Stand	Notes
1 post oak @ 32"	32	64	0	0	Cross Timbers oaks maximum 3x points
3 clustered post oaks @ 37" total	37	74	0	0	
3 clustered pecans @ 44" total	44	0	22	22	
1 willow @ 30"	0		0	0	Prohibited species
6 planted trees @ 3" each	18		0	0	
Total	131	138	22	22	
Total Positive Tree Points				313	
Total Negative Tree Points				<110>	
Overall Positive Tree Points, No Mitigation Needed				203	



Further, that **Subsection B., Residential Development: Tree Preservation Requirements, Paragraph 3., Tree Preservation Plan, Subparagraph c.**, is hereby amended with the addition of a new **Item (iii)**, which shall read as follows:

- (iii) For tracts and/or platted lots one-acre or greater in size with an occupied structure, the applicant shall inventory only the protected trees, post oak, blackjack oak, and Texas oak trees that are at least ten inches or greater in size.

Further, that existing **Items (iii) through (vi)** shall be renumbered as **Items (iv) through (vii)**.

Further, that **Subsection B., Residential Development: Tree Preservation Requirements, Paragraph 3., Tree Preservation Plan, Subparagraph c., Item (v)**, is hereby amended to read as follows:

- (v) Determine the area to be preserved in perpetuity. The applicant shall inventory and combine the total caliper inches of all trees that are designed for preservation. For residential development, all post oak, blackjack oak, and Texas oak trees three inches in caliper or greater shall be permitted to be counted twice for credit to achieve the 35 percent preservation requirement.

Further, that **Section 5.2.3, Tree Preservation and Replacement**, is hereby amended with the addition of **Subsection C., Administrative Approval of Comparable Methods**, which shall read as follows:

C. Administrative Approval of Comparable Methods

1. Sampling

For a site or portion of a site greater than five acres, where trees are numerous and where areas of such trees remain undisturbed by development, the Zoning Administrator may approve an accepted sampling method for not less than twenty-five percent of the undisturbed area in lieu of a complete inventory. Sampling shall be conducted by a qualified arborist, forester or landscape architect and shall be capable of rendering a statistically reliable profile as to density and species of the site as a whole.

2. Parking Reduction for Preservation of Certain Species

To promote the preservation of post oaks, blackjack oaks, and Texas oaks, the Zoning Administrator may approve a reduction of not more than ten percent of the number of required parking spaces for a site, provided the applicant demonstrates adequate parking through industry best practices.

Further, that **Section 5.2.3, Tree Preservation and Replacement**, is hereby amended with the addition of **Subsection D., Non-Developmental Tree Removal and Preservation**, which shall read as follows:

D. Non-Developmental Tree Removal and Preservation

1. Tree Removal Permit Required

Except as provided in Sections 5.2.3.A(2) and 5.2.3.B(1), a permit shall be required for the removal of trees on property not subject to tree preservation, mitigation and replacement standards for residential or non-residential development.

2. Agricultural Tree Clearing

All open land converted to or developed for animal or crop production shall preserve a minimum of 35 percent of the existing total protected caliper inches.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all

personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on the 1st day of January 2021.

PRESENTED AND GIVEN FIRST READING on the 10th day of November 2020, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 17th day of November 2020, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ATTEST:

W. JEFF WILLIAMS, Mayor

ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____