

**CITY OF JOSHUA, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, AMENDING SECTION 10.10.8, "TREE PRESERVATION," OF ARTICLE 10, "MISCELLANEOUS REQUIREMENTS," OF THE SUBDIVISION ORDINANCE, EXHIBIT A TO CHAPTER 10, "SUBDIVISION REGULATION," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS; AMENDING ARTICLE A5.000, "LAND USE AND DEVELOPMENT FEES," OF APPENDIX A, "FEE SCHEDULE," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS; MAKING FINDINGS RELATIVE THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council wishes to amend certain provisions contained in its current tree preservation regulations in the City's Subdivision Ordinance to address current issues encountered since the adoption of the Subdivision Ordinance; and

**WHEREAS**, the City Council has determined that such amendments would be in the best interests of the City, its residents and those who develop property in the City; and

**WHEREAS**, the City Council of the City of Joshua, in compliance with the laws of the State of Texas, has given due notice and has concluded that the amendments referenced in the text of this Ordinance will promote the public health, safety and welfare of the citizens of the City.

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

**SECTION 1**

All of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2**

From and after the effective date of this Ordinance, Section 10.10.8, "Tree Preservation," of Article 10, "Miscellaneous Requirements," of the Subdivision Ordinance, Exhibit A to Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the City of Joshua, Texas, is hereby amended to read as follows:

**"SECTION 10.10.8 - TREE PRESERVATION**

\* \* \*

## **B. Definitions.**

\* \* \*

Protection Fencing - Snow fencing, chain-link fence, barbed wire fence, orange vinyl construction fencing and other similar fencing with a four-foot (4') approximate height. Typical tree protection fencing details are shown in Section 8.15. of the Zoning Ordinance, as amended.

\* \* \*

Tree, Protected - Tree species that are listed on the City's Preferred Tree List (contained in Section 8.7 of the Zoning Ordinance, as amended) with a trunk diameter of 12 inches (12") or greater measured twelve inches (12") above ground. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk to ½ the diameter of each additional trunk.

Trees that are not listed on the City's Preferred Tree List are not protected.

## **C. Tree Removal Permit.**

\* \* \*

### **5. Private Property:**

\* \* \*

- c) Building/Contractors. All builders who have not submitted a request for a building permit as of the effective date of this Article are subject to the requirements herein. All areas within the driveway, sidewalks, patios, septic tank and lateral lines, parking area, pool, and associated deck area within twelve feet (12') of the building foundation as shown on an approved plot plan shall be exempt from the tree protection and replacement requirements of this Section. All other areas of the lot shall be subject to these requirements.

\* \* \*

## **E. Permit Review and Approval Process.**

\* \* \*

1. Authority of Review and Approval/Denial. The Administrative Official shall be responsible for the review and approval/denial of all requests for tree removal permits and replacements thereof. If the Administrative Official

deems it necessary, he/she may require an application to be reviewed by the City Council. A tree removal application may be denied if the removal is not in the public interest, based upon the following factors: (a) the feasibility of relocating a proposed improvement that would require the removal or serious injury of the tree; (b) whether the lot or tract would comply with this article after the removal or serious injury; (c) whether the removal or serious injury is contrary to the public health, safety, or welfare; (d) the impact of the removal or serious injury on the urban and natural environment; (e) whether an economically viable use of the property will exist if the application is denied; (f) whether the tree is worthy of preservation; (g) whether the tree is diseased or has a short remaining life expectancy; (h) the effect of the removal or serious injury on erosion, soil moisture retention, flow of surface waters, and drainage systems; (i) the need for buffering of residential areas from the noise, glare, and visual effects of nonresidential uses; (j) whether a landscape plan has been approved by the Planning & Zoning Commission or City Council; (k) whether the tree interferes with a utility service; (l) whether the tree is near existing or proposed structures; or (m) whether the proposed mitigation for tree removal or serious injury is sufficient.

\* \* \*

5. Payment in Lieu of Tree Replacement:

- a) A land owner or developer responsible for tree replacement under this Section may elect to meet the requirements in whole or in part, by a cash payment in lieu of tree replacement. The payment shall be on a diameter inch unit cost as established by the City Council in the latest approved Fee Schedule. Cash payment shall be deposited in the tree fund and be used to purchase and install landscaping (inclusive of trees, bushes, shrubs, mulch, soil, decorative rocks or stones, irrigation and necessary hardscape) at city parks, city tree farm, or other public areas.
- b) The applicant shall pay the permit fee for tree removal established by City Council as established in the latest approved Fee Schedule.
- c) Fees contributed to the tree fund shall be paid prior to the issuance of a grading permit on all commercial, industrial, or multi-family residential developments, prior to final approval of a gas well drilling permit and prior to filing a final plat in the Johnson County clerk's office for all single-family residential subdivisions.
- d) The penalty for removing or damaging protected trees without an approved permit shall be based on a diameter-inch unit cost (measured twelve inches (12" above ground), as established by the

City Council in the latest approved Fee Schedule.

**F. Required Application.**

\* \* \*

3. Location of existing or proposed utility or drainage easements.

\* \* \*

**SECTION 3**

From and after the effective date of this Ordinance, Article A5.000, "Land Use and Development Fees," of Appendix A, "Fee Schedule," of the Code of Ordinances of the City of Joshua, Texas, is hereby amended to read as follows:

**"ARTICLE A5.000 LAND USE AND DEVELOPMENT FEES**

\* \* \*

- (p) Tree removal permit: \$50.00
  - (1) Tree replacement: \$100.00/diameter-inch for each protected tree removed.
  - (\*) Penalty for removing/damaging protected trees without a permit: \$200.00/diameter inch.

\* \* \*

**SECTION 4**

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this Ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity which remaining portions shall remain in full force and effect.

**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 portion of conflicting ordinances shall remain in full force and effect.

## **SECTION 6**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

## **SECTION 7**

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the laws of the State of Texas.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THIS THE 16TH DAY OF FEBRUARY, 2023.**

\_\_\_\_\_  
Scott Kimble, Mayor

**ATTEST:**

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Alice Holloway, City Secretary

**APPROVED AS TO FORM:**

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Terrence S. Welch, City Attorney