

CITY OF JOSHUA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, AMENDING SECTION 8.15, "TREE PRESERVATION STATE REQUIREMENTS," OF ARTICLE 8, "LANDSCAPE, OPEN SPACE AND TREE PRESERVATION," OF THE ZONING ORDINANCE, CONTAINED IN CHAPTER 14, "ZONING," 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 Zoning Ordinance to address current issues encountered since the adoption of the Zoning 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 Planning and Zoning Commission of the City of Joshua and the City Council of the City of Joshua, in compliance with the laws of the State of Texas, have given the requisite notices and after public hearings that were held before both the Planning and Zoning Commission and the City Council, the City Council 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 8.15, "Tree Preservation State Requirements," of Article 8, "Landscape, Open Space and Tree Preservation," of the City's Zoning Ordinance, found in Chapter 14, "Zoning," of the Code of Ordinances of the City of Joshua, Texas, is hereby amended to read as follows:

"Section 8.15 Tree Preservation State Requirements

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8.15.2 Definitions

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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 below.

* * *

Tree, Protected. Tree species that are listed on the City's Preferred Tree List (contained in Section 8.7 of this Article, 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.

8.15.3 Tree Removal Permit

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C. Residential Subdivisions. All areas within public rights-of-way, utility easements, or drainage easements as shown on an approved final plat shall be exempt from the tree protection and replacement requirements specified herein. All other areas shall be subject to the requirements of this Section and the applicant for a tree removal permit shall indicate how protected trees may be saved.

* * *

G. 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.

* * *"

SECTION 3

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 4

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 5

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 two thousand dollars (\$2,000.00) for each offense.

SECTION 6

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:

Alice Holloway, City Secretary

APPROVED AS TO FORM:

Terrence S. Welch, City Attorney