

ORDINANCE NO. 089-026

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 10.1, PARKS AND RECREATION, OF THE CODE OF ORDINANCES, TOWN OF ADDISON, TEXAS, PROVIDING FOR INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR AUTHORITY OF DIRECTOR; PROVIDING FOR TREES IN PUBLIC PROPERTY; REQUIRING PERMIT FOR REMOVAL OR PLANTING OF PLANT MATERIALS ON PUBLIC PROPERTY; PROVIDING FOR REMOVAL OF DANGEROUS TREES AND SHRUBS; PROVIDING FOR MAINTENANCE STANDARDS; PROVIDING FOR APPLICATION OF THIS ORDINANCE TO CONSTRUCTION; PROVIDING FOR COMPLIANCE WITH LANDSCAPE PLAN; REQUIRING LANDSCAPE PLAN ON APPLICATION FOR BUILDING PERMITS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That the Code of Ordinances, Town of Addison, Texas, is hereby amended by adding AN ARTICLE, to be numbered III, which article shall read as follows:

ARTICLE III. LANDSCAPE PRESERVATION AND PROTECTION

Sec. 10.1-25. Intent and Purpose. The intent of this ordinance is, through the preservation, protection, maintenance and planting of Trees and other Plant Materials to: aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water runoff, replenish ground water supplies, and the cost associated therewith; aid in the removal of carbon dioxide in generation of oxygen

in the atmosphere; provide a buffer and screen against noise pollution; reduce glare; provide protection against severe weather; aid in control of draining and restoration of denuded soil subsequent to construction or grading; provide a haven for birds which in turn assist in control of certain insects; protect and increase property values; conserve and enhance the City's physical and aesthetic environment; and generally protect and enhance the quality of life and general welfare of the City.

Sec. 10.1-26. Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include plural number. The word "shall" is always mandatory and not merely directory.

(a) "City" or "Town" means the Town of Addison, Texas.

(b) "Director" means the Director of Parks and Recreation who is the actual individual or his or her agent assigned to enforce this ordinance.

(c) "Landscape Plan" means a detailed drawing measuring twenty-four inches (24") by thirty-six inches (36") or other dimensions acceptable to the Director and which shows thereon quantities or numbers, placement, type, and common and botanical names of Plant Materials to be used.

(d) "Person" means a public or private individual, group, company, firm, corporation, partnership, trust, association, society or two (2) or more persons having a joint or common economic interest.

(e) "Plant Material" means Trees, Shrubs, grasses, ground covers and other vegetation acceptable to the Director and shall not include Weeds.

(f) "Property Owner" means the owner, occupant, tenant, manager or other Person in control of property or his agent or designee.

(g) "Public Property" means interests in easements, rights-of-way, fee-simple property and public ways owned by the City.

(h) "Shrub" means any woody plant of low height with several stems.

(i) "Tree" means:

(1) a woody plant having one well-defined stem or multi-trunk system and more or less definitely formed crown, and usually attaining a mature height of at least eight feet;

(2) a plant listed as a Tree in any of the following:

(i) Forest Trees of Texas, by the Texas Forest Service of the Texas A & M University system;

(ii) Hortus Third;

(iii) the Audubon Society's Field Guide to North American Trees; or

(iv) a list of Trees prepared by the City Parks and Recreation Department.

(j) "Weed" means grass, weed, or brush in excess of twelve (12) inches, but not cultivated vegetation or crops.

(k) "Zoning Ordinance" means the Addison Zoning Ordinance in effect at the time of passage of this ordinance and any and all amendments thereto.

Sec. 10.1-27. Authority of Director.

(a) The Director shall have the authority to inspect and approve all work performed under any permit issued under this Ordinance. He has the authority to enter private property in order to enforce the terms of this ordinance.

(b) It shall be unlawful for any Person to hinder, prevent, delay or interfere with the Director while engaged in the lawful execution or enforcement of this ordinance. This shall not be construed as an attempt to prohibit the pursuit of any legal or equitable remedy in a court of competent jurisdiction for the protection of personal or property rights by any Property Owner within the City.

Sec. 10.1-28. Trees in Public Property. The Director shall have exclusive jurisdiction and supervision over all Trees and Plant Materials planted or growing in Public Property. The Director shall have the authority and it shall be his or her duty to plant, trim, spray, treat, preserve and remove Trees and Plant Materials in Public

Property to insure safety or preservation of the symmetry and beauty of such Public Property.

Sec. 10.1-29. Permit Required for the Removal or Planting of Plant Materials on Public Property.

(a) No Person shall trim, spray, treat, remove or plant any Plant Materials in any Public Property or excavate, trench, grade, remove or fill dirt upon Public Property which may endanger or affect Trees or Plant Materials growing thereon without first obtaining a permit.

(b) Any Person desiring a permit to trim, spray, treat or remove Plant Materials in any Public Property shall submit a written application to the Director which sets forth the following:

(1) the number, kind and size of Plant Materials to be trimmed, sprayed, treated, preserved or removed;

(2) the kind of treatment to be administered;

(3) the kind and condition of the nearest Plant Material upon adjoining property; and

(4) such other information as the Director shall find reasonably necessary to a fair determination of whether a permit should be issued.

(c) Any Person desiring to excavate, trench, grade, remove or fill dirt thereby endangering any Plant Material in a Public Property or area shall submit a written application to the Director setting forth:

(1) diagram of the area showing the proposed work and location of Plant Materials;

(2) the number, location and variety of Plant Materials;

(3) a method of excavating, trenching, grading, removing or filling to be used; and

(4) such other information as the Director shall find reasonably necessary to a fair determination of whether a permit should be issued.

(d) Any Person desiring a permit to plant any Plant Materials in any Public Property shall submit a written application to the Director setting forth:

(1) a diagram of the area showing pavement, streets, sidewalks, curbs and gutters, with a definite indicated scale;

(2) the number, location and variety of Plant Materials to be planted;

(3) the number, location and variety of Plant Materials already existing in the area;

(4) the method of planting, including the supplying of suitable soil;

(5) the method of water maintenance; and

(6) such other information as the Director shall find reasonably necessary to a fair determination of whether a permit should be issued.

(e) The City shall issue a permit under this section when it is determined that the desired action is necessary, that the proposed methods are satisfactory and that the proposed plantings conform with this ordinance and City standards and practices.

Sec. 10.1-30. Removal of Dangerous Trees and Shrubs.

(a) Upon finding that any Tree, Shrub or part thereof constitutes a nuisance and an immediate danger exists to Persons, property or other vegetation, the Director shall serve notice on the Property Owner to remove it.

(1) The method of service shall be one or more of the following ways:

(i) by personal delivery of the notice to the Person responsible;

(ii) by leaving the notice with a Person of suitable age and discretion on the premises; or

(iii) by mailing the notice by registered mail to the last known address of the Property Owner.

(2) The order shall set forth the time limit for compliance, which shall depend upon the degree of danger created by the Tree or Shrub, but shall in no

case be longer than ten days. In cases of extreme danger, the Director shall have the authority to require immediate compliance.

(b) If at the end of the time period set forth in the order, the Tree or Shrub has not been removed, it shall be declared a nuisance, and the Director shall have it removed. The costs of this service, including labor, equipment and materials, shall be assessed to the Property Owner.

(c) A Tree or Shrub shall be deemed a nuisance if it or any part of it:

(1) appears dead, dangerous or likely to fall;

(2) in the case of Trees, is not pruned to a height of fourteen (14) feet above the street to accommodate vehicles such as garbage trucks, buses and street maintenance trucks;

(3) in the case of Trees, is not pruned to a height of eight (8) feet above the sidewalk;

(4) obstructs a curb, gutter, street or sidewalk;

(5) interferes with sewers;

(6) is in dangerous proximity to interfere with public utilities;

(7) interferes with a planned public improvement;
or

(8) obstructs or interferes with the view or movement of pedestrian or vehicular traffic.

Sec. 10.1-31. No Obligation on City. Nothing in this ordinance shall be deemed to impose any obligation upon the City or upon any of its officers or employees nor to relieve the Property Owner from the duty to keep Trees and other Plant Materials in a safe condition.

Sec. 10.1-32. Reserved.

Sec. 10.1-33. Maintenance Standards. Every Property Owner shall be responsible for the normal care, including watering, of Trees and Plant Materials located on his property.

(a) It shall be the responsibility of the Property Owner to maintain Trees, Plant Materials,

sprinkler systems, walls and other structures on his property in good condition and to replace or repair such Trees, Plant Materials, sprinkler systems, walls and other structures should they be removed, damaged or become dilapidated for any reason. Landscapes shall be maintained in accordance with the following criteria and standards:

(1) Landscaped areas shall be kept reasonably free from Weeds.

(2) Irrigation systems shall be properly maintained, operational and programmed in order to comply with the Addison Water Conservation Ordinance.

(3) Routine maintenance programs shall be provided for and followed.

(4) Dead or missing Trees and Plant Materials shall be removed and replaced in order to comply with the Landscape Plan required in Secs. 10.1-35 and 10.1-36.

(5) Trees and Plant Materials shall be kept free from disease and insects.

(6) Dangerous Trees and Shrubs shall be removed in accordance with Sec. 10.30.

(7) Trees and Plant Materials shall be properly trimmed and pruned so as to avoid hazards to Persons, property and other vegetation.

(8) Any other reasonable conditions imposed by the Director shall be complied with.

(b) Upon determining that one or more of the criteria in subparagraph (a) of this section has not been complied with, the Director shall notify the Property Owner in writing, describing such condition or conditions. He shall also state what actions are necessary for correction and compliance and shall set forth a reasonable time in which the action must be taken. In the event that the Property Owner fails to take the required corrective action, the Director is authorized, and has the right but not the obligation, in the public interest, to enter the property to spray, trim, prune, treat, water, remove or take whatever action is necessary to correct the problem or violation. The cost of this service, including labor, admi-

nistrative costs, equipment and materials, shall be assessed to the Property Owner.

Sec. 10.1-34. Application of this Ordinance to Construction. Implementation of this ordinance shall apply to the following:

(a) building permit application for new development;

(b) building permits for redevelopment or remodeling on lots as outlined below:

(1) construction or remodeling costs which exceed fifty percent (50%) of the value of the structure only;

(2) increase in the overall structure square footage by fifty percent (50%); and

(3) increase in the gross paved area by twenty percent (20%).

Sec. 10.1-35. Compliance with Landscape Plan. If a Property Owner or other Person is required by the Zoning Ordinance to file with the City a Landscape Plan, a certificate of occupancy shall not be issued to such Person until the Plan is approved by the Director and complied with by the Person.

Sec. 10.1-36. Landscape Plan Required on Application for Building Permit. All applicants for building permits shall submit to the Director for his approval a Landscape Plan. No building permit shall be issued until the Landscape Plan has been approved by the Director, or until such submittal of the Landscape Plan has been waived by the Director.

SECTION 2. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held


to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty of fine only not to exceed the sum of Five hundred Dollars (\$500.00) for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

SECTION 5. This ordinance shall take effect and be in force from and after its adoption.

DULY PASSED by the City Council of the Town of Addison, Texas, this the 12th day of September, 1989.

APPROVED:


MAYOR

ATTEST:


CITY SECRETARY

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