

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 011-037

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING SECTION 10 (LANDSCAPE MAINTENANCE) OF ARTICLE XXI (LANDSCAPING REGULATIONS) OF APPENDIX A – ZONING OF THE CODE OF ORDINANCES BY ADDING THERETO PROVISIONS AND REGULATIONS REGARDING, INCLUDING STANDARDS AND CRITERIA FOR, THE PRUNING AND TRIMMING OF SHADE TREES AND CRAPE MYRTLES; REQUIRING A PERMIT PRIOR TO PRUNING OR TRIMMING THE SAME; PROVIDING FOR A PROCESS TO OBTAIN A PERMIT, INCLUDING THE APPLICATION THEREFOR AND THE REVIEW THEREOF; INCLUDING PROVISIONS FOR APPEAL OF A PERMIT DENIAL; PROVIDING PROVISIONS FOR REVOCATION OF A PERMIT; PROVIDING DEFINITIONS; PROVIDING FOR REGISTRATION BY A PERSON, COMPANY, OR BUSINESS THAT PERFORMS OR PROVIDES PRUNING OR TRIMMING AS DESCRIBED HEREIN; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the “City”), a Texas home rule municipality, is authorized and empowered, including by Chapter 211 of the Texas Local Government Code, to promote the public health, safety, morals, or general welfare of the City and its citizens, to regulate land use for such purposes and to protect and preserve places and areas of historical, cultural or architectural importance and significance, and to enforce its reasonable land development regulations for the purposes of maintaining aesthetics and property values which would include landscaping and tree preservation; and

WHEREAS, in order to maintain and enhance a positive image and a livable municipality, it is important and imperative to promote planning, including the pruning and trimming of certain trees, that furthers the preservation and natural beauty of the trees in order to, among other things, contribute to the long term viability of trees; and

WHEREAS, the City has recently experienced instances when certain trees located within the City have been disfigured or destroyed by pruning or trimming that does not conform to nationally accepted pruning and trimming standards, with the result that the aesthetic and natural beauty of the trees has been significantly diminished or altogether eliminated, resulting in a diminution in the quality of life and the health and welfare of the City and its citizens;

WHEREAS, in order to protect shade trees and crape myrtles identified and described in this Ordinance, to promote the orderly development of the City, and to protect the public health, safety and general welfare of the citizens of the City, the City Council desires to adopt the

regulations and provisions set forth in this Ordinance regarding pruning and trimming of shade trees and crape myrtles; and

WHEREAS, the regulations adopted by and the provisions of this Ordinance have, among others, the following objectives: to promote the preservation of trees throughout the City; to recognize the benefits of trees in the urban environment; to encourage the careful pruning and trimming of the trees identified herein; to promote a safe environment that includes healthy trees; to aid in stabilizing the environment's ecological balance by contributing to the process of air purification, oxygen regeneration, ground-water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, wind and heat abatement; to provide visual buffering within and between land uses of differing character to alleviate the harshness of urban life; to enhance the beautification and aesthetics of the City; and to safeguard and enhance property values and to protect public and private investment; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding amending Appendix A – Zoning, the same being the comprehensive Zoning Ordinance of the City, to amend the same and to address the matters set forth herein and as hereinafter described; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended to the City Council the amendments to the said Appendix A – Zoning as set forth in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

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

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part of this Ordinance for all purposes.

Section 2. Amendment. The Code of Ordinances (the “Code”) of the Town of Addison, Texas (the “City”) is hereby amended by amending Appendix A - Zoning of the Code in the following particulars, and all other parts of the said Code are not amended but are ratified and affirmed:

A. Article XXI (Landscaping Regulations), Section 10 (Landscape Maintenance) of the said Appendix A – Zoning of the Code is amended by adding thereto a new subsection (C) regarding tree pruning, to read as follows:

(C) *Tree pruning.*

(1) *Permit required.* Prior to the pruning or trimming of any tree or trees subject to this subsection (C) that are located on property subject to this subsection (C), a permit for such pruning or trimming shall be obtained from the Director of Parks and Recreation or the designee of the said Director (the “Director”) for the Town of Addison. All such pruning and trimming shall be in accordance with and subject to the provisions of this subsection (C), with the Town’s Tree Pruning Guidelines, and with the International Society of Arboriculture (“ISA”) American National Standards Institute (“ANSI”) A300 Pruning Guidelines.

(2) *Property subject to permit requirement.* Any property in the town that is zoned for local retail, commercial, industrial, or apartment uses or purposes, or for condominium uses or purposes, is subject to the provisions of this subsection (C). This includes, without limitation, such property that is subject to any of the following zoning districts: “A” Apartment District, LR Local Retail District, PD Planned Development District, PDTC Planned Development Townhouse/Condominium District, PDCC Planned Development Condominium Conversions District, MXR Mixed Use Residential District, C-1 Commercial-1 District, C-2 Commercial-2 District, I-1 Industrial-1 District, I-2 Industrial-2 District, I-3 Industrial-3 District, UC Urban Center District, and Belt Line District.

(3) *Conditions for which a permit is required.* A permit required under subsection (C)(1) is required only in the following instances:

- (a) for the removal of any scaffold branches (branches that grows laterally from the trunk) higher than 8 feet measured from the soil surface along the main trunk(s) of any shade tree;
- (b) if more than 10 percent of the total leaf or limb material of the live canopy of any shade tree or crape myrtle is to be removed.

(4) *Permit application, review, revocation, issuance, appeal; site inspection.*

(a) The owner or authorized manager of any property that is subject to this subsection (C) shall apply for and seek to obtain a permit required by this subsection. An application shall be submitted to the Director on a form provided by the Town. Among other things as determined necessary or appropriate by the Director, the application shall:

(i) specify and identify the name of the person, company, or business that is to perform the tree pruning or trimming, which person, company, or business shall be registered with the Town as set forth in subsection (C)() below; and

(ii) be signed by, in addition to the owner or authorized manager, an ISA Certified Arborist, such signatures being a certification and representation to the Town that the persons signing the application have reviewed the same and the provisions of this subsection (C) and all other applicable ordinances, rules and regulations of the Town, and that the tree

or trees for which the permit is sought shall be pruned or trimmed in accordance with the provisions of the same.

(b) A non-refundable application fee in the amount of \$75.00 must be submitted with the application.

(c) Following the Director's receipt of a fully completed application for a permit (including, without limitation, the payment of the application fee), the Director will schedule through the applicant a meeting between a representative of the Town's Department of Parks and Recreation ("Representative") and the person, company, or business identified in the application that is to perform the tree pruning or trimming and that is registered with the Town. The said meeting, to take place at the site where the pruning or trimming is to occur, shall be for the purpose of reviewing the proposed scope of pruning and/or trimming work to ensure that proper tree-pruning or trimming techniques will be followed according to the provisions of this subsection (C), including, without limitation, the provisions of the ISA ANSI A300 – Pruning Guidelines (as set forth in Section 9(a)(3), above).

(d) The Director shall review the application and the information obtained by the Representative at the meeting described in subsection (C)(4)(c), above, and make a determination regarding the same within 30 days following the date of the meeting. If the Director determines that clarification or additional information is necessary for proper consideration of an application, the review time period may be extended for an additional 10 days. The Director may approve, approve with conditions, or deny an application. If an application is approved with conditions, the conditions shall be specified in writing by the Director; if an application is denied, the Director shall specify the reasons for the denial. The Director may also revoke a permit if the Director determines, at any time after approval of the permit, that the work for which a permit is issued is not in compliance with the permit or any of the provisions of this subsection (C).

(e) The Director's decision of denial of an application for a permit, or revocation of a permit once issued, may be appealed to the City Manager (or the City Manager's designee) of the Town. The appeal must be in writing and filed with the City Manager within 10 days after the date of denial. If such appeal is not made within the said 10-day period, the decision of the Director shall be final. The appeal shall be decided by the City Manager (or the City Manager's designee) within 30 days after the date of timely filed appeal.

(f) A permit that is issued shall be issued in the name of the owner or authorized property manager. A permit must be obtained at least 5 business days prior to the commencement of the proposed pruning or trimming.

(g) Following the completion of pruning or trimming performed pursuant to a permit, the owner or authorized property manager shall, no later than 5 business days following the date of such completion, schedule with the Director a meeting at the site where the pruning or trimming was performed to review whether or not

the pruning or trimming was conducted in accordance with the permit and this subsection (C).

(5) *Registration.* Any person, company, or business who performs or provides pruning or trimming as described in this subsection (C) must, prior to providing such pruning or trimming, register as a provider of such pruning or trimming with the Director and receive from the Director a registration certificate evidencing such registration. Application for registration shall be on a form provided by the Director and shall include such information as the Director deems necessary or appropriate in connection with such registration and the matters described in this subsection (C). Among other things, each person, company, or business to whom a registration certificate is issued shall, by virtue of such issuance, have certified to the Town that any pruning or trimming described in this subsection (C) shall be in accordance with the Town's Tree Pruning Guidelines and with the ISA ANSI A300 Pruning Guidelines.

Each person, company or business who is issued a registration certificate by the Director shall and will, prior to any pruning or trimming described in this subsection (C) by the person, company or business, have the proposed pruning or trimming reviewed and approved by an ISA Certified Arborist or ISA Board Certified Master Arborist.

(6) *Additional requirements.* The following standards and provisions shall apply to any pruning or trimming that is subject to the provisions of this subsection (C):

(a) No more than 25 percent of the total leaf or limb material in the live canopy of a tree shall be removed at any one time or within any 12-month period.

(b) "Lion-tailing" or excessive limbing up of trees is not allowed. "Lion Tailing" means pruning the interior branches and/or excessive removal of lower branches which removes too much of the live canopy and weakens the tree.

(c) Trees shall be pruned or trimmed to enhance the natural appearance, size, and shape of the tree. Trees shall not be trimmed, limbed up or altered to create lopsided or void areas in the canopy branching structure to enhance views to signs.

(d) Tree topping is prohibited.

(e) All tree pruning or trimming shall comply with the ISA Arboriculture ANSI A300 – Pruning Guidelines.

(f) Severe topping or cutting back of crape myrtles is prohibited. Crape myrtles may be trimmed to remove old seed heads, or dead, broken, diseased or interfering limbs. Crape myrtle canes one-fourth of an inch (1/4") in diameter or larger shall not be cut or "tipped" back. Crape myrtle canes shall not be cut back by more than 10 percent at any one time or within a 12-month period.

Section 3. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the

particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

Section 4. No Other Amendment; Savings. Except for the amendment and change made herein, Appendix A - Zoning of the City's Code of Ordinances is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 5. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 6. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid, void, unlawful or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 7. Effective date. This Ordinance shall become effective from and after its passage and approval and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 10th day of May, 2011.


Joe Chow, Mayor

ATTEST:

By: 
Lea Dunn, City Secretary

APPROVED AS TO FORM:

By: 
John Hill, City Attorney