

## ARTICLE 09 | TREE PRESERVATION

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**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this Article is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this Article; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree maybe removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or "V-cut") may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(10)(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in *Table 1.1: Required Trees by District* contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(11)(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more~~ is eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(12)(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (*i.e. trunk diameter and height*), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the location ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see *Table 2: Example of Treescape Plan Spreadsheet below*).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

~~(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).~~

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of a development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
<b>TOTAL:</b>								<b>56"</b>

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height. ~~11 inches DBH for hackberry and cedar trees.~~ In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey ~~locust~~ Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1), four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

- (E) Tree preservation. ~~Preservation credits~~ Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) Mitigation balance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 [i.e. (20% x 100) x \$200.00 = \$4,000.00] into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK; ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
~~REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS~~
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- *indicating the trees relationship to the treescape plan* -- and flag (*i.e. bright fluorescent red vinyl tape*). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (*i.e. two [2] inches or greater*) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install (*including the equipment or labor necessary to install the plant materials*) and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

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- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree maybe removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
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- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or "V-cut") may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(10)(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in Table 1.1: *Required Trees by District* contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(11)(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more is~~ eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(12)(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (*i.e. trunk diameter and height*), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the location ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see Table 2: *Example of Treescape Plan Spreadsheet below*).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
<b>TOTAL:</b>								<b>56"</b>

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height ~~11 inches DBH for hackberry and cedar trees~~. In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey ~~locust~~ Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1), four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

- (E) Tree preservation ~~Preservation credits~~ Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) Mitigation balance Balance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 [i.e. (20% x 100) x \$200.00 = \$4,000.00] into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK; ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
  
~~REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS~~
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- *indicating the trees relationship to the treescape plan* -- and flag (*i.e. bright fluorescent red vinyl tape*). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (*i.e. two [2] inches or greater*) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install *(including the equipment or labor necessary to install the plant materials)* and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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# CITY OF ROCKWALL

## PLANNING AND ZONING COMMISSION MEMORANDUM

### PLANNING AND ZONING DEPARTMENT

385 S. GOLIAD STREET • ROCKWALL, TX 75087

PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

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**TO:** Planning and Zoning Commission  
**FROM:** Ryan Miller, *Director of Planning and Zoning*  
**DATE:** August 30, 2022  
**SUBJECT:** Z2022-043; *Amendment to Article 09, Tree Preservation, of the Unified Development Code (UDC)*

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In accordance with Subsection 02.01(C), *Authority to Order Changes to the Unified Development Code (UDC)*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), the Director of Planning and Zoning has initiated a text amendment. The purpose of the text amendment is to make minor changes, identified by the Director of Parks and Recreation and Director of Planning and Zoning, to the *Tree Preservation* requirements contained within Article 09, *Tree Preservation*, of the UDC. Specifically, staff is proposing the following changes for the consideration of the Planning and Zoning Commission and City Council:

- (1) Add an exemption to Subsection 01.03, *Exemptions*, addressing trees that have been clearance pruned by a utility company.
- (2) Add a definition of *Cedar Tree* to Section 02, *Definitions*.
- (3) Remove Hackberry Trees from the *Secondary Protected Tree* classification, and make them *Non-Protected Trees*.
- (4) Amend the *Treescape Plan* requirements.
- (5) Amend the *Secondary Protected Tree* mitigation requirements to stipulate that any *Cedar Tree* eight (8) feet or taller be mitigated with one (1), four (4) inch caliper tree on-site.
- (6) Provide references to the *ANSI* number.

A redlined copy of the proposed changes along with a draft ordinance has been provided in the attached packet. In accordance with Subsection 02.01(C) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), the Director of Planning and Zoning is bringing forward the proposed text amendment to the City Council for consideration, and -- *in accordance with Section 02.04(B) of Article 11, Development Applications and Review Procedures, of the Unified Development Code (UDC)* -- staff is bringing the proposed amendment forward to the Planning and Zoning Commission for a recommendation to the City Council. The schedule for this text amendment is as follows:

Planning and Zoning Commission Work Session: August 30, 2022  
Planning and Zoning Commission Public Hearing: September 13, 2022  
City Council Public Hearing/First Reading: September 19, 2022  
City Council Second Reading: October 3, 2022

Staff will send out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 02.03(A)(3) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC). Should the Planning and Zoning Commission have any questions staff will be available at the meeting on August 30, 2022.

## ARTICLE 09 | TREE PRESERVATION

SECTION 01	PURPOSE, APPLICABILITY, AND EXEMPTIONS
SECTION 02	DEFINITIONS
SECTION 03	TREESCAPE PLAN
SECTION 04	TREE REMOVAL PERMIT
SECTION 05	TREE MITIGATION REQUIREMENTS
SECTION 06	TREE PLANTING AND TRANSPLANTING REQUIREMENTS
SECTION 07	TREE PROTECTION DURING CONSTRUCTION
SECTION 08	TREE PRUNING
SECTION 09	TREE FUND
SECTION 10	VIOLATIONS





**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this Article is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this Article; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree maybe removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or "V-cut") may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(10)(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in Table 1.1: *Required Trees by District* contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(11)(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more is~~ eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(12)(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (*i.e. trunk diameter and height*), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the location ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see Table 2: *Example of Treescape Plan Spreadsheet below*).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
<b>TOTAL:</b>								<b>56"</b>

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height ~~11 inches DBH for hackberry and cedar trees~~. In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey ~~locust~~ Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1), four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

- (E) Tree preservation ~~Preservation credits~~ Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) Mitigation balance Balance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 [i.e. (20% x 100) x \$200.00 = \$4,000.00] into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK; ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
  
~~REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS~~
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- *indicating the trees relationship to the treescape plan* -- and flag (*i.e. bright fluorescent red vinyl tape*). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (*i.e. two [2] inches or greater*) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install *(including the equipment or labor necessary to install the plant materials)* and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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CITY OF ROCKWALL

ORDINANCE NO. 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE 09, TREE PRESERVATION, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [Ordinance No. 20-02] has been initiated by the City Council of the City of Rockwall to amend Article 09, *Tree Preservation*, of the Unified Development Code [Ordinance No. 20-02]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [Ordinance No. 20-02] should be amended as follows:

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

**SECTION 1.** That Article 09, *Tree Preservation*, of the Unified Development Code [Ordinance No. 20-02] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

**SECTION 2.** That 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 not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [Ordinance No. 20-02], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 3<sup>RD</sup> DAY OF OCTOBER, 2022.**

\_\_\_\_\_  
Kevin Fowler, Mayor

**ATTEST:**

---

Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

---

Frank J. Garza, *City Attorney*

*1<sup>st</sup> Reading:* September 19, 2022

*2<sup>nd</sup> Reading:* October 3, 2022

DRAFT  
ORDINANCE  
08.30.2022

**Exhibit 'A'**  
*Article 09, Tree Preservation, of the  
Unified Development Code (UDC)*

See Next Page ...

DRAFT  
ORDINANCE  
08.30.2022

## ARTICLE 09 | TREE PRESERVATION

SECTION 01	PURPOSE, APPLICABILITY, AND EXEMPTIONS
SECTION 02	DEFINITIONS
SECTION 03	TREESCAPE PLAN
SECTION 04	TREE REMOVAL PERMIT
SECTION 05	TREE MITIGATION REQUIREMENTS
SECTION 06	TREE PLANTING AND TRANSPLANTING REQUIREMENTS
SECTION 07	TREE PROTECTION DURING CONSTRUCTION
SECTION 08	TREE PRUNING
SECTION 09	TREE FUND
SECTION 10	VIOLATIONS





**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this ~~Article~~ is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this ~~Article~~; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree may be removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this ~~Article~~.

~~(G)(H)~~ Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or V-cut) may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)(2)~~ Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)(3)~~ Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)(4)~~ Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)(5)~~ Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)(6)~~ Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)(7)~~ Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)(8)~~ Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)(9)~~ Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)(10)~~ Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in *Table 1.1: Required Trees by District* contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more is~~ eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (*i.e. trunk diameter and height*), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the locational ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see *Table 2: Example of Treescape Plan Spreadsheet below*).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

~~(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).~~

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of a development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
TOTAL:								56"

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height. ~~11 inches DBH for hackberry and cedar trees.~~ In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey locust-Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1) four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

- (E) Tree preservation-Preservation credits/Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) Mitigation balanceBalance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 (i.e. (20% x 100) x \$200.00 = \$4,000.00) into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK: ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
**REFERENCE: TREE CARE INDUSTRY ASSOCIATION: ANSI A300 STANDARDS**
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

**ARTICLE 09 | TREE PRESERVATION**

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- indicating the trees relationship to the treescape plan -- and flag (i.e. bright fluorescent red vinyl tape). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (i.e. two [2] inches or greater) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install (including the equipment or labor necessary to install the plant materials) and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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# CITY OF ROCKWALL

## PLANNING AND ZONING COMMISSION MEMORANDUM

### PLANNING AND ZONING DEPARTMENT

385 S. GOLIAD STREET • ROCKWALL, TX 75087

PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

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**TO:** Planning and Zoning Commission  
**FROM:** Ryan Miller, *Director of Planning and Zoning*  
**DATE:** September 13, 2022  
**SUBJECT:** Z2022-043; *Amendment to Article 09, Tree Preservation, of the Unified Development Code (UDC)*

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In accordance with Subsection 02.01(C), *Authority to Order Changes to the Unified Development Code (UDC)*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), the Director of Planning and Zoning has initiated a text amendment. The purpose of the text amendment is to make minor changes, identified by the Director of Parks and Recreation and Director of Planning and Zoning, to the *Tree Preservation* requirements contained within Article 09, *Tree Preservation*, of the UDC. Specifically, staff is proposing the following changes for the consideration of the Planning and Zoning Commission and City Council:

- (1) Add an exemption to Subsection 01.03, *Exemptions*, addressing trees that have been clearance pruned by a utility company.
- (2) Add a definition of *Cedar Tree* to Section 02, *Definitions*.
- (3) Remove Hackberry Trees from the *Secondary Protected Tree* classification, and make them *Non-Protected Trees*.
- (4) Amend the *Treescape Plan* requirements.
- (5) Amend the *Secondary Protected Tree* mitigation requirements to stipulate that any *Cedar Tree* eight (8) feet or taller be mitigated with one (1), four (4) inch caliper tree on-site.
- (6) Provide references to the *ANSI* number.

A redlined copy of the proposed changes along with a draft ordinance has been provided in the attached packet. In accordance with Subsection 02.01(C) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), the Director of Planning and Zoning is bringing forward the proposed text amendment to the City Council for consideration, and -- *in accordance with Section 02.04(B) of Article 11, Development Applications and Review Procedures, of the Unified Development Code (UDC)* -- staff is bringing the proposed amendment forward to the Planning and Zoning Commission for a recommendation to the City Council. The schedule for this text amendment is as follows:

~~Planning and Zoning Commission Work Session: August 30, 2022~~

Planning and Zoning Commission Public Hearing: September 13, 2022

City Council Public Hearing/First Reading: September 19, 2022

City Council Second Reading: October 3, 2022

Staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Section 02.03(A)(3) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC). Should the Planning and Zoning Commission have any questions staff will be available at the meeting on September 13, 2022.

## ARTICLE 09 | TREE PRESERVATION

SECTION 01	PURPOSE, APPLICABILITY, AND EXEMPTIONS
SECTION 02	DEFINITIONS
SECTION 03	TREESCAPE PLAN
SECTION 04	TREE REMOVAL PERMIT
SECTION 05	TREE MITIGATION REQUIREMENTS
SECTION 06	TREE PLANTING AND TRANSPLANTING REQUIREMENTS
SECTION 07	TREE PROTECTION DURING CONSTRUCTION
SECTION 08	TREE PRUNING
SECTION 09	TREE FUND
SECTION 10	VIOLATIONS





**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this Article is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this Article; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree maybe removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or "V-cut") may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(10)(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in Table 1.1: *Required Trees by District* contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(11)(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more is~~ eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(12)(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (*i.e. trunk diameter and height*), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the location ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see Table 2: *Example of Treescape Plan Spreadsheet below*).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
<b>TOTAL:</b>								<b>56"</b>

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height ~~11 inches DBH for hackberry and cedar trees~~. In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey locust-Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1), four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

(E) Tree preservation ~~Preservation credits~~ Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).

(F) Mitigation balance Balance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:

- (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
- (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
- (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 [i.e. (20% x 100) x \$200.00 = \$4,000.00] into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
- (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK; ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
  
~~REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS~~
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- *indicating the trees relationship to the treescape plan* -- and flag (*i.e. bright fluorescent red vinyl tape*). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (*i.e. two [2] inches or greater*) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install (*including the equipment or labor necessary to install the plant materials*) and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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CITY OF ROCKWALL

ORDINANCE NO. 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE 09, TREE PRESERVATION, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [Ordinance No. 20-02] has been initiated by the City Council of the City of Rockwall to amend Article 09, *Tree Preservation*, of the Unified Development Code [Ordinance No. 20-02]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [Ordinance No. 20-02] should be amended as follows:

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

**SECTION 1.** That Article 09, *Tree Preservation*, of the Unified Development Code [Ordinance No. 20-02] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

**SECTION 2.** That 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 not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [Ordinance No. 20-02], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 3<sup>RD</sup> DAY OF OCTOBER, 2022.**

\_\_\_\_\_  
Kevin Fowler, Mayor

**ATTEST:**

---

Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

---

Frank J. Garza, *City Attorney*

*1<sup>st</sup> Reading:* September 19, 2022

*2<sup>nd</sup> Reading:* October 3, 2022

DRAFT  
ORDINANCE  
09.13.2022

**Exhibit 'A'**  
*Article 09, Tree Preservation, of the  
Unified Development Code (UDC)*

See Next Page ...

## ARTICLE 09 | TREE PRESERVATION

SECTION 01	PURPOSE, APPLICABILITY, AND EXEMPTIONS
SECTION 02	DEFINITIONS
SECTION 03	TREESCAPE PLAN
SECTION 04	TREE REMOVAL PERMIT
SECTION 05	TREE MITIGATION REQUIREMENTS
SECTION 06	TREE PLANTING AND TRANSPLANTING REQUIREMENTS
SECTION 07	TREE PROTECTION DURING CONSTRUCTION
SECTION 08	TREE PRUNING
SECTION 09	TREE FUND
SECTION 10	VIOLATIONS





**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this Article is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this Article; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree may be removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or V-cut) may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(10)(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in Table 1.1: Required Trees by District contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(11)(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more is~~ eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(12)(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (i.e. trunk diameter and height), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the Location ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see Table 2: Example of Treescape Plan Spreadsheet below).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

~~(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).~~

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
TOTAL:								56"

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height. ~~11 inches DBH for hackberry and cedar trees.~~ In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~Willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey locust-Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1) four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

- (E) Tree preservation. Preservation credits/Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) Mitigation balance. Balance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 (i.e. (20% x 100) x \$200.00 = \$4,000.00) into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- indicating the trees relationship to the treescape plan -- and flag (i.e. bright fluorescent red vinyl tape). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK: ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
  
~~REFERENCE: TREE CARE INDUSTRY ASSOCIATION: ANSI A300 STANDARDS~~
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (i.e. two [2] inches or greater) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install *(including the equipment or labor necessary to install the plant materials)* and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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**CITY OF ROCKWALL**  
CITY COUNCIL MEMORANDUM

PLANNING AND ZONING DEPARTMENT  
385 S. GOLIAD STREET • ROCKWALL, TX 75087  
PHONE: (972) 771-7745 • EMAIL: PLANNING@ROCKWALL.COM

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**TO:** Mayor and City Council  
**CC:** Mary Smith, *City Manager*  
Joey Boyd, *Assistant City Manager*  
**FROM:** Ryan Miller, *Director of Planning and Zoning*  
**DATE:** September 19, 2022  
**SUBJECT:** Z2022-043; *Amendment to Article 09, Tree Preservation, of the Unified Development Code (UDC)*

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In accordance with Subsection 02.01(C), *Authority to Order Changes to the Unified Development Code (UDC)*, of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), the Director of Planning and Zoning has initiated a text amendment. The purpose of the text amendment is to make minor changes, identified by the Director of Parks and Recreation and Director of Planning and Zoning, to the *Tree Preservation* requirements contained within Article 09, *Tree Preservation*, of the UDC. Specifically, staff is proposing the following changes for the consideration of the Planning and Zoning Commission and City Council:

- (1) Add an exemption to Subsection 01.03, *Exemptions*, addressing trees that have been clearance pruned by a utility company.
- (2) Add a definition of *Cedar Tree* to Section 02, *Definitions*.
- (3) Remove Hackberry Trees from the *Secondary Protected Tree* classification, and make them *Non-Protected Trees*.
- (4) Amend the *Treescape Plan* requirements.
- (5) Amend the *Secondary Protected Tree* mitigation requirements to stipulate that any *Cedar Tree* eight (8) feet or taller be mitigated with one (1), four (4) inch caliper tree on-site.
- (6) Provide references to the *ANSI* number.

A redlined copy of the proposed changes along with a draft ordinance has been provided in the attached packet for the City Council's review. In accordance with Subsection 02.04(B) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC), staff brought the proposed text amendment to the Planning and Zoning Commission for a recommendation to the City Council, and on September 13, 2022 the Planning and Zoning Commission approved a motion to recommend approval by a vote of 6-0 (*with Commissioner Welch absent*). In addition, staff has sent out a 15-day notice to the Rockwall Herald Banner in accordance with all applicable state laws and Subsection 02.03(A)(3) of Article 11, *Development Applications and Review Procedures*, of the Unified Development Code (UDC). Should the Planning and Zoning Commission have any questions staff will be available at the meeting on September 13, 2022.

## ARTICLE 09 | TREE PRESERVATION

SECTION 01	PURPOSE, APPLICABILITY, AND EXEMPTIONS
SECTION 02	DEFINITIONS
SECTION 03	TREESCAPE PLAN
SECTION 04	TREE REMOVAL PERMIT
SECTION 05	TREE MITIGATION REQUIREMENTS
SECTION 06	TREE PLANTING AND TRANSPLANTING REQUIREMENTS
SECTION 07	TREE PROTECTION DURING CONSTRUCTION
SECTION 08	TREE PRUNING
SECTION 09	TREE FUND
SECTION 10	VIOLATIONS





**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this Article is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this Article; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree maybe removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or "V-cut") may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(10)(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in Table 1.1: *Required Trees by District* contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(11)(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more~~ is eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(12)(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (*i.e. trunk diameter and height*), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the location ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see Table 2: *Example of Treescape Plan Spreadsheet below*).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for an arborist certified by the International Society of Arboriculture (ISA).

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of a development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
<b>TOTAL:</b>								<b>56"</b>

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) Primary Protected Trees. Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) Secondary Protected Trees. ~~Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed).~~ Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) Featured Trees. Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) Non-Protected Tree. No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height ~~11 inches DBH for hackberry and cedar trees~~. In addition, no mitigation shall be required for the removal of Bois d'Arc, ~~willow~~ Willow, ~~cottonwood~~ Cottonwood, Honey ~~locust~~ Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1":1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1":1/2" or 1":0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1), four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1":2"	A 30-inch tree would require 60-inches of mitigation.

- (E) Tree preservation ~~Preservation credits~~ Credits. For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) Mitigation balance Balance. The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 [i.e. (20% x 100) x \$200.00 = \$4,000.00] into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK; ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
  
~~REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS~~
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- *indicating the trees relationship to the treescape plan* -- and flag (*i.e. bright fluorescent red vinyl tape*). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (*i.e. two [2] inches or greater*) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install *(including the equipment or labor necessary to install the plant materials)* and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offence subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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CITY OF ROCKWALL

ORDINANCE NO. 22-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE 09, TREE PRESERVATION, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [Ordinance No. 20-02] has been initiated by the City Council of the City of Rockwall to amend Article 09, *Tree Preservation*, of the Unified Development Code [Ordinance No. 20-02]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [Ordinance No. 20-02] should be amended as follows:

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

**SECTION 1.** That Article 09, *Tree Preservation*, of the Unified Development Code [Ordinance No. 20-02] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

**SECTION 2.** That 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 not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [Ordinance No. 20-02], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 3<sup>RD</sup> DAY OF OCTOBER, 2022.**

\_\_\_\_\_  
Kevin Fowler, Mayor

**ATTEST:**

---

Kristy Cole, *City Secretary*

**APPROVED AS TO FORM:**

---

Frank J. Garza, *City Attorney*

*1<sup>st</sup> Reading:* September 19, 2022

*2<sup>nd</sup> Reading:* October 3, 2022

DRAFT  
ORDINANCE  
09.19.2022

**Exhibit 'A'**  
*Article 09, Tree Preservation, of the  
Unified Development Code (UDC)*

See Next Page ...

DRAFT  
ORDINANCE  
09.19.2022

## ARTICLE 09 | TREE PRESERVATION

SECTION 01	PURPOSE, APPLICABILITY, AND EXEMPTIONS
SECTION 02	DEFINITIONS
SECTION 03	TREESCAPE PLAN
SECTION 04	TREE REMOVAL PERMIT
SECTION 05	TREE MITIGATION REQUIREMENTS
SECTION 06	TREE PLANTING AND TRANSPLANTING REQUIREMENTS
SECTION 07	TREE PROTECTION DURING CONSTRUCTION
SECTION 08	TREE PRUNING
SECTION 09	TREE FUND
SECTION 10	VIOLATIONS





**SECTION 01 | PURPOSE, APPLICABILITY, AND EXEMPTIONS**

**SUBSECTION 01.01: PURPOSE**

The purpose of this Article is to secure the preservation of mature, healthy trees and natural areas, and to ensure the consideration of protected trees during the planning and design process for development and/or redevelopment within the City. In addition, this Article is intended to layout procedures for the protection of trees during the construction process, and outline the requirements for the replacement and replanting of trees that have been removed. This Article also provides protection for the indiscriminate clearing of any property within the City.

**SUBSECTION 01.02: APPLICABILITY**

The terms and provisions of this Article shall apply to all real property within the City's corporate limits that meets one of the following criteria:

- (A) The establishment of a new subdivision of land.
- (B) The replatting of undeveloped land for the purpose of combining and/or subdividing real property.
- (C) The development of a residential tract of land that is greater than or equal to three (3) acres.
- (D) The development and/or removal of trees on a non-residential tract of land that is greater than or equal to one acre.
- (E) A submission of a site plan and/or plat for the purpose of developing, subdividing or combing non-residential land.

**SUBSECTION 01.03: EXEMPTIONS**

The terms and provisions of this Article shall not apply if the following conditions exist:

- (A) Agricultural Property. Property zoned Agricultural (AG) District and being actively used for agricultural purposes shall be exempt from the requirements specified by this Article; however, clear-cutting of land on property zoned Agricultural (AG) District that is not being actively used for agricultural purposes is prohibited.
- (B) Damaged/Diseased Trees. If a certified arborist establishes that the tree is dead, diseased, damaged beyond the point of recovery, or in danger of falling the tree may be removed.
- (C) Residential Property. The owner of a property with an existing single-family home shall be exempt from the tree protection and replacement requirements specified by this Article as it pertains to that property on which the home is located.
- (D) Public Safety. If the City determines that a tree or trees create unsafe vision clearance or conflicts with other ordinances or regulations, or the tree or trees are determined to be in a diseased, dead, hazardous or dangerous condition so as to endanger the public health, safety or welfare of the general public, the City or property owner may remove the tree or trees without being required to follow the terms and provisions of this ordinance.
- (E) Utility Service Interruption. The tree has disrupted a public utility service due to tornado, flood or another act of God. Removal shall be limited to the part of the tree that is found necessary to be removed to reestablish and maintain the utility service.
- (F) Utility Companies, Utility Service and or Distribution/Transmission Lines. Utility companies shall not be subject to the tree protection or

replacement requirements in this Article when establishing distribution and transmission lines. When establishing new utility service, services should be routed between the service pole or transmission and distribution lines and the building being served in a manner that does not require the removal of a protected of feature tree. All right-of-way, easements or similar types of public property maintained by utility companies shall not be subject to the tree protection or replacement requirements of this Article.

- (G) Public Property. All right-of-way, easements or similar types of public property maintained by the City shall not be subject to the terms and provisions of this Article.

~~(G)~~(H) Trees Clearance Pruned by a Utility. At the discretion of the City Arborist or the Director of the Parks and Recreation Department, trees that are located under existing powerlines or within an ONCOR easement that have clearance pruned by a utility (i.e. that have been walled or V-cut) may be exempted from the mitigation requirements stipulated by this Article.

**SECTION 02 | DEFINITIONS**

- (1) Cedar Tree. A Cedar Tree referenced in this Article shall mean Eastern Red Cedar.

~~(1)~~(2) Critical Root Zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line but not less than a one-foot radius for each one-inch DBH.

~~(2)~~(3) Clear-Cutting. The removal of all trees or a significant majority of the trees within an area.

~~(3)~~(4) Diameter at Breast Height (DBH). The diameter in inches of a tree as measured through the main trunk at a point 4½-feet above the natural ground level.

~~(4)~~(5) Drip Line. A vertical line running through the outermost portion of the crown of a tree and extending down to the ground.

~~(5)~~(6) Feature Tree. Any tree -- excluding non-protected trees -- that has a DBH of greater than 25-inches. Feature trees may not be removed without approval of the Planning and Zoning Commission.

~~(6)~~(7) Limits of Construction. A delineation on the treescape plan that shows the boundary of the area within which all construction activity will occur.

~~(7)~~(8) Non-Protected Tree. All Bois d'Arc, ~~willow~~Willow, ~~cottonwood~~Cottonwood, Honey locust,Locust, and Chinaberry, and Hackberry trees regardless of size, and ~~hackberry~~ and cedar trees less than ~~11 inches~~eight (8) feet in height shall be considered non-protected trees and do not require mitigation to be removed.

~~(8)~~(9) Primary Protected Tree. Any tree -- excluding non-protected trees and hackberry and cedar trees -- that have a DBH of four (4) inches or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half (½) the diameter of each additional trunk.

~~(9)~~(10) Protective/Temporary Fencing. Snow fencing, chain-link fencing, orange vinyl construction fencing or similar fencing with a four-foot approximate height. The Director of Planning and Zoning

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and zoning or his/her designee, shall determine the appropriate type of fencing for any particular property or portion thereof.

(11) Replacement Tree. A tree from the reclamation/tree preservation list contained in Table 1.1: Required Trees by District contained in Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code (UDC) with a minimum caliper size of four (4) inches and height of seven (7) feet. For the purpose of determining size, replacement trees should be measured at DBH.

(12) Secondary Protected Tree. Any ~~hackberry or~~ cedar tree that ~~measures 11 inches or more~~ is eight (8) feet in height or greater. The removal of any protected tree shall require the approval of the Planning and Zoning Commission. The diameter of a multi-trunk tree shall be determined by adding the total diameter of the largest trunk at DBH to one-half the diameter of each additional trunk.

(13) Tree. Any self-supported woody perennial plant that will attain a trunk diameter of three (3) inches DBH and normally attains an overall height of at least 15-feet at maturity; usually with one main stem or trunk and many branches.

SECTION 03 | TREESCAPE PLAN

SUBSECTION 03.01: TREESCAPE

A treescape plan is a plan showing the exact location, size (i.e. trunk diameter and height), and common name of all trees, four (4) inches and greater and indicating the trees that are proposed to be removed, transplanted or replaced. A treescape plan shall be prepared by a landscape architect or design professional, be drawn to the largest scale practical, and incorporate the following elements:

- (A) The location of all existing and/or proposed structures, or building pads as shown on the grading plan and all improvements properly dimensioned and referenced to the property lines.
- (B) The building setbacks.
- (C) All existing and proposed site elevations, grades, major contour lines and the limits of construction.
- (D) The location of all existing or proposed utilities and easements.
- (E) The location of all protected and feature trees.
- (F) The location of all trees to be removed from the site and the location of all replacement trees.
- (G) A spreadsheet indicating all trees by species, ~~the locational ID or tree tag number key as shown on the treescape plan, the DBH/caliper inch, the physical condition of health of the tree, and an indication of whether or not the applicant is proposing to remove that tree if the tree has a disease or an insect infestation, if it is structurally sound, and the mitigation necessary if the tree is to be~~

removed. Each column with numeric values shall be totaled. (see Table 2: Example of Treescape Plan Spreadsheet below).

(H) A title block stating street address, lot and block, subdivision name, date and project number.

(I) The name, address, and phone number of the person preparing the plan and the developer/property owner.

(J) Tree survey shall be performed by an arborist, horticulturalist, or landscape architect with a preference for a arborist certified by the International Society of Arboriculture (ISA).

SUBSECTION 03.02: TREESCAPE PLAN REQUIRED

No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any tree situated on a property regulated by this Article without first submitting and receiving approval of a treescape plan unless otherwise allowed by this Article.

For properties that have no protected or feature trees or where the development of the property will not require the removal of any protected or feature trees, the developer or property owner may submit a letter certifying that no protected or feature trees will be affected as a result of the proposed development. This letter will be submitted with the understanding that if it is determined that there are protected or feature trees on the property any violation of the provisions of this Article shall be subject to the violation provisions and fines stipulated in Section 10, Violations.

Staff may administratively approve any treescape plan or letter that does not involve the removal of any protected or feature trees.

SUBSECTION 03.03: TREESCAPE APPLICATION

All applications for treescape plans shall be submitted to the Director of Planning and Zoning or his/her designee. In addition to the application, an applicant shall also submit [7] a treescape plan conforming to the requirements of this Article and [2] a letter from the applicant or property owner indicating the reason for the removal of any protected or feature trees. A treescape plan may also be required with an application for a site plan and/or a preliminary plat, replat, or final plat.

SUBSECTION 03.04: TREESCAPE PLAN REVIEW PROCESS

The Director of Planning and Zoning, or his/her designee, shall review the treescape plan and approve the plan per the requirements of this Article, or forward any recommendations to the Planning and Zoning Commission. As part of the treescape plan review process, the City has the right to request changes or adjustments in the layout and design of a development to save trees. The Planning and Zoning Commission will review and approve or disapprove the treescape plan. The decision of the Planning and Zoning Commission may be appealed to the City Council.

TABLE 2: EXAMPLE OF TREESCAPE PLAN SPREADSHEET

#	SPECIES	CALIPER	PROTECT OR REMOVE	TREE HEALTH (1-5)	DISEASE (Y/N)	INSECT (Y/N)	STRUCTURAL (Y/N)	MITIGATION REQUIRED
1	Live Oak	4" Caliper	Remove	2	Y	Y	Y	0
2	Cedar	10' Tall	Remove	4	N	N	N	4"
3	Red Oak	26" Caliper	Remove	3	N	N	N	52"
TOTAL:								56"

TREE HEALTH: 1: DEAD; 2: DISEASE/STRUCTURAL ISSUES; 3: VIABLE TREE WITH CARE; 4: GOOD HEALTH; 5: EXCELLENT HEALTH

TREE GRADES: 1-2: NOT PROTECTED; 3-5: PROTECTED

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**SUBSECTION 03.05: TREESCAPE PLAN EXPIRATION**

A treescape plan shall be valid for two years from the approval date. A treescape plan that is approved in conjunction with a preliminary plat, final plat, site plan, and/or building permit shall be valid for the same amount of time as the corresponding plan and/or permit.

**SUBSECTION 03.06: BUILDER/CONTRACTOR RESPONSIBILITY**

It shall be the responsibility of the builder/contractor to verify that a parcel of land has an approved treescape plan prior to commencing work on a property. In addition, the builder/contractor shall be responsible for ensuring that all construction activities meet the requirements of this Article.

**SECTION 04 | TREE REMOVAL PERMIT**

Once a treescape plan has been approved for a property, a tree removal permit will be required to remove any tree(s). Tree removal permits may be approved administratively by the Director of Planning and Zoning or his/her designee, or forwarded on to the Planning and Zoning Commission for approval. Feature trees may not be removed without the approval of the Planning and Zoning Commission. All trees removed through this process will require mitigation in accordance with the sections contained in this Article.

**SECTION 05 | TREE MITIGATION REQUIREMENTS**

The tree mitigation requirements shall apply for all properties that do not fall under the exemptions listed in [Section 01.03, Exemptions](#), of this Article. In addition, if a treescape plan or tree removal permit allows for the removal of a protected or feature tree(s), the applicant and/or property owner shall account for the number of inches of tree being removed using the following criteria:

- (A) **Primary Protected Trees.** Primary protected trees measuring four inches through 25-inches DBH shall be replaced on an inch-for-inch basis (i.e. the total number of caliper inches of tree being replaced shall equal the total number of caliper inches being removed).
- (B) **Secondary Protected Trees.** Hackberry and cedar trees measuring 11 inches through 25 inches DBH shall be replaced with a half inch for every inch removed (i.e. the total number of caliper inches of tree required to be replaced shall be half (1/2) of the inches being removed). Cedar Trees measuring eight (8) feet or greater in height shall be replaced with a single, four (4) inch caliper tree
- (C) **Featured Trees.** Featured trees (i.e. all trees greater than 25-inches) shall be replaced with twice the number of inches being removed (i.e. the total number of caliper inches of tree being replaced shall be twice the number of caliper inches being removed).
- (D) **Non-Protected Tree.** No mitigation will be required for the removal of any tree that is less than four (4) inches DBH or a Cedar Tree less than eight (8) feet in height. 11 inches DBH for hackberry and cedar trees. In addition, no mitigation shall be required for the removal of Bois d'Arc, willow Willow, cottonwood Cottonwood, Honey locust-Locustand, Chinaberry, and Hackberry trees.

TABLE 42: SUMMARY OF MITIGATION REQUIREMENTS

Type of Tree	Mitigation Value	Mitigation Requirement	Example of Mitigation Requirements
Primary Protected Trees	4" – 25"	1"=1"	A 20-inch tree would require 20-inches of mitigation.
Secondary Protect Trees	11" – 25" or Greater	1"=1/2" or 1"=0.5" x 4" Caliper Tree	A 20-inch tree would require ten (10) inches of mitigation. An eight (8) foot tree would require one (1) four (4) inch caliper tree.
Featured Trees	Greater Than 25"	1"=2"	A 30-inch tree would require 60-inches of mitigation.

- (E) **Tree preservation-Preservation creditsCredits.** For each saved oak, pecan or elm tree(s) 25-inches DBH or greater the mitigation balance can be reduced on an inch-for-inch basis for up to 20% of the total mitigation balance (i.e. total mitigation balance x 20% = total eligible tree preservation credit).
- (F) **Mitigation balanceBalance.** The total mitigation balance (i.e. mitigation balance - tree preservation credits = total mitigation balance) may be satisfied through one or a combination of the following:
  - (1) The developer/property owner can provide the required number of trees -- four (4) inch caliper DBH minimum -- on the subject property to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be planted on-site to satisfy the mitigation requirements).
  - (2) The developer/property owner may petition the parks and recreation department to accept the required number of trees - four (4) inch caliper DBH minimum -- to offset the total mitigation balance (e.g. if the total mitigation balance is 12-inches then three (3), four (4) inch caliper trees could be submitted to the parks and recreation department to satisfy the mitigation requirements). Depending on the number of trees being submitted the Director of Parks and Recreation or his/her designee could require a facilities agreement be approved prior to accepting the trees.
  - (3) Tree preservation credits may be purchased at a rate of \$200.00 per inch for up to 20% of the total replacement inches. For example, if total mitigation required was 100-inches the developer/property owner could pay a total of \$4,000.00 (i.e. (20% x 100) x \$200.00 = \$4,000.00) into the City's tree fund; however, the developer/property owner would still be required to satisfy a remaining tree mitigation balance of 80-inches. In addition, if the developer/property owner plants a tree on [1] the property for which the tree preservation credit was assessed or [2] a location that is mutually agreed upon by the City and the developer/property owner, the developer/property owner shall be eligible for a reduction in the cost of tree preservation credits of up to 50%. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.
  - (4) Trees required by [Article 08, Landscape Standards, of the Unified Development Code \(UDC\)](#) shall be permitted to be subtracted from the total mitigation balance if provided on site as part of the required landscaping.

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(G) *Alternative tree mitigation settlement agreements.* In certain cases, the City Council -- upon recommendation from the Planning and Zoning Commission -- may consider an alternative tree mitigation settlement agreement where, due to hardship, the applicant is unable to meet the requirements of this Article or where it is determined that adherence to the tree mitigation requirements will create a hardship for an applicant. These funds will be deposited in the City's tree mitigation fund and will be used for planting trees in the City's parks, medians, street rights-of-way, or other similar areas as determined by the parks and recreation department.

(A) Prior to any construction or land development, the developer shall clearly mark all protected and feature trees with an aluminum tag -- indicating the trees relationship to the treescape plan -- and flag (i.e. bright fluorescent red vinyl tape). The red tape should be wrapped around the main trunk of the protected and/or feature tree at a height of approximately five (5) feet so that the tape is clearly visible during construction. In those instances where a protected tree is so close to the construction area that construction equipment could possibly damage the tree, a protective fence shall be required. The protective fence must be maintained during all construction phases until the project is finished.

(B) The developer or property owner shall be responsible for preserving all protected and feature trees during construction. This includes hiring an arborist, if necessary.

**SECTION 06 | TREE PLANTING AND TRANSPLANTING REQUIREMENTS**

**SUBSECTION 06.01: REPLACEMENT TREES**

All replacement trees shall be subject to the following planting requirements:

- (A) All replacement trees must be maintained in a healthy growing condition for a minimum of two (2) years from the date of planting.
- (B) Replacement trees shall not be planted within an area such that the mature root zone will interfere with underground public utility lines, and/or where the mature canopy of the tree will interfere with overhead utility lines. In addition, no tree shall be planted within five (5) feet of an existing fire hydrant, water line or sewer line.
- (C) Replacement trees shall be selected from the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#).
- (D) All replacement trees shall be a minimum of four (4) caliper inches DBH.

~~REFERENCE: AMERICAN STANDARD FOR NURSERY STOCK: ANSI Z60.1-2014 STANDARDS~~

**SUBSECTION 06.02: TRANSPLANTING TREES**

All trees conforming to the species permitted in the reclamation/tree preservation section of *Table 1.1: Required Trees by District* contained in [Appendix C, Landscape Guidelines and Requirements, of the Unified Development Code \(UDC\)](#) can be transplanted to meet the replacement requirements and shall be subject to the following planting requirements:

- (A) All trees three (3) caliper inches DBH through six (6) caliper inches DBH are eligible for transplanting.  
**REFERENCE: TREE CARE INDUSTRY ASSOCIATION: ANSI A300 STANDARDS**
- (B) All transplanted trees must survive and be maintained in a healthy condition for a minimum of two (2) years from the date of transplanting. The developer/property owner who received the transplanting credit must replace trees that do not meet these criteria.
- (C) Transplanted protected trees will be listed in the tree survey with the notation that they are being transplanted.

**SECTION 07 | TREE PROTECTION DURING CONSTRUCTION**

**SUBSECTION 07.01: TREE PROTECTION**

**SUBSECTION 07.02: MATERIAL AND EQUIPMENT STORAGE**

The developer or contractor shall not store any material or equipment under the canopy of any protected or featured tree. During the construction stage of the development no cleaning or storage of equipment or material shall be allowed within the drip line of any tree scheduled to be preserved on an approved treescape plan. Those materials include, but are not limited to, oils, solvents, mortar, asphalt and concrete.

**SUBSECTION 07.03: SIGNS**

No signs, wire or other attachments shall be affixed to any tree scheduled to be preserved on an approved treescape plan.

**SUBSECTION 07.04: TRAFFIC**

No vehicular traffic, construction equipment traffic or parking shall take place within the drip line of any tree unless on existing street pavement. This restriction does not apply to single incident access for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

**SUBSECTION 07.05: GRADE**

No grade change in excess of two (2) inches shall be allowed within the drip line of any protected or featured tree unless adequate construction methods are approved beforehand. If approved, major grade changes (i.e. two [2] inches or greater) within the critical root zone of a protected or featured tree will require additional measures to maintain proper oxygen and water exchange with the roots. Root pruning will be required when disturbance will result in root exposure.

**SUBSECTION 07.06: TREE FLAGGING**

At the time of submittal of a treescape plan all protected trees or feature trees should be marked with an aluminum tag, which indicates its relationship to the treescape plan, and clearly flagged with bright fluorescent red vinyl tape. The red tape should be wrapped around the main trunk of the protected tree at a height of approximately four (4) feet so that the tape is clearly visible.

**SUBSECTION 07.07: BORING**

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Boring of utilities under protected or feature trees shall be required in those circumstances where it is not possible to trench around the critical root zone of a protected or feature tree. When required, the length of the bore shall be the width of the critical root zone plus two (2) feet on either side of the critical root zone and shall be at a minimum depth of 48-inches.

**SUBSECTION 07.08: DAMAGE**

Any physical damage to a tree being preserved for a tree credit that is considered to place the survival of the tree in doubt shall be eliminated as a credited tree and will require additional trees to be planted in its place at the required ratio. A certified arborist shall be consulted to determine whether physical damage to a tree places the survival of the tree in doubt.

**SECTION 08 | TREE PRUNING**

**SUBSECTION 08.01: GENERAL**

No protected or featured tree shall be pruned in a manner that would significantly disfigure the tree, or in a manner that would lead to the death of the tree.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.02: PRUNING BY UTILITY COMPANIES**

Utility companies may prune trees as necessary to reestablish disrupted service or maintain existing service without obtaining a permit.

**REFERENCE: TREE CARE INDUSTRY ASSOCIATION; ANSI A300 STANDARDS**

**SUBSECTION 08.03: ALLOWED PRUNING**

A protected or featured tree may be pruned in cases where it is necessary to remove branches broken during the course of construction, or where protected or featured trees must be pruned to allow construction of a structure. Pruning should be done in a manner that does not significantly disfigure the tree or lead to the death of the tree.

**SECTION 09 | TREE FUND**

**SUBSECTION 09.01: ADMINISTRATION OF THE TREE FUND**

The City shall administer the tree fund. The funds shall be used to purchase plant material as permitted by this ordinance, install *(including the equipment or labor necessary to install the plant materials)* and maintain trees on public property including the necessary irrigation equipment, to acquire wooded property that remains in a naturalistic state in perpetuity, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees. The City Council shall have the ability to adopt alternative methods of creating tree credits and methods of distribution of trees and/or funds for purchasing trees.

Funds collected as a result of the mitigation of trees may be used to purchase trees, both deciduous and coniferous, any woody type plant or any perennial appropriate for the climatic conditions of the north Texas region.

**SUBSECTION 09.02: COLLECTION OF MONEY FOR THE TREE FUND**

Money contributed to the tree fund shall be paid prior to the issuance of a building permit and/or prior to the filing of a final plat.

**SECTION 10 | VIOLATIONS**

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Article shall be fined \$500.00 for each offense. The unlawful damage, destruction or removal of each tree shall be considered a separate incident and each offense subjects the violator to the maximum penalty of \$500.00 for the first tree with each subsequent tree increasing by \$500.00 increments.

No acceptance of public improvements shall be authorized and no Certificates of Occupancy (CO) shall be issued until all fines for violations of this Article have been paid to the City.

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CITY OF ROCKWALL

ORDINANCE NO. 22-54

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE UNIFIED DEVELOPMENT CODE [ORDINANCE NO. 20-02] OF THE CITY OF ROCKWALL, AS HERETOFORE AMENDED, BY AMENDING ARTICLE 09, TREE PRESERVATION, AS DEPCITED IN EXHIBIT 'A' OF THIS ORDINANCE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, an amendment to the City of Rockwall's Unified Development Code [*Ordinance No. 20-02*] has been initiated by the City Council of the City of Rockwall to amend Article 09, *Tree Preservation*, of the Unified Development Code [*Ordinance No. 20-02*]; and,

**WHEREAS**, the Planning and Zoning Commission of the City of Rockwall and the governing body of the City of Rockwall in compliance with the laws of the State of Texas and the ordinances of the City of Rockwall have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested in and situated in the city's corporate boundaries, and the governing body in the exercise of its legislative discretion, has concluded that the Unified Development Code [*Ordinance No. 20-02*] should be amended as follows:

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

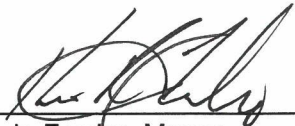
**SECTION 1.** That Article 09, *Tree Preservation*, of the Unified Development Code [*Ordinance No. 20-02*] of the City of Rockwall, as heretofore amended, be and the same is hereby amended as specifically described in *Exhibit 'A'* of this ordinance;

**SECTION 2.** That 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 not to exceed the sum of *Two Thousand Dollars (\$2,000.00)* for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense;

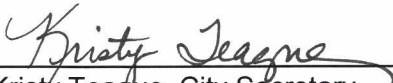
**SECTION 3.** That if any section, paragraph, or provision of this ordinance or the application of that section, paragraph, or provision to any person, firm, corporation or situation is for any reason judged invalid, the adjudication shall not affect any other section, paragraph, or provision of this ordinance or the application of any other section, paragraph or provision to any other person, firm, corporation or situation, nor shall adjudication affect any other section, paragraph, or provision of the Unified Development Code [*Ordinance No. 20-02*], and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions for this ordinance are declared to be severable;

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, THIS THE 3<sup>RD</sup> DAY OF OCTOBER, 2022.**

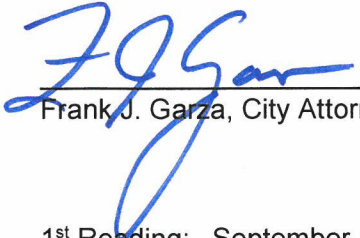
  
Kevin Fowler, Mayor

**ATTEST:**

  
Kristy Teague, City Secretary



**APPROVED AS TO FORM:**

  
Frank J. Garza, City Attorney

1<sup>st</sup> Reading: September 19, 2022

2<sup>nd</sup> Reading: October 3, 2022

**Exhibit 'A'**  
*Article 09, Tree Preservation, of the  
Unified Development Code (UDC)*

*See Next Page ...*