

ORDINANCE NO. _____

An ordinance amending Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Sections 51A-10.101, 51A-10.103, 51A-10.135, and 51A-10.140; amending the definitions of “class 3 tree,” “unprotected tree,” and “natural deforestation event;” adding a prohibition of the use of certain plant materials as required landscaping and on city property; providing an additional defense to prosecution; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Paragraph (11) of Section 51A-10.101, “Definitions,” of Division 51A-10.100, “In General,” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(11) CLASS 3 TREE means [~~Arizona—ash,~~] black willow, cottonwood, hackberry, honeylocust, mesquite, mimosa, mulberry, ornamentals, *pinus spp.*, Siberian elm, silver maple, sugarberry, or a small tree.”

SECTION 2. That Paragraph (64) of Section 51A-10.101, “Definitions,” of Division 51A-10.100, “In General,” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(64) UNPROTECTED TREE means the following:

(A) Arizona ash.

(B) Callery pear (all cultivars).

(C[~~B~~]) Chinaberry.

(D[~~C~~]) Chinese tallow.

(E[~~D~~]) Ilex species (except for yaupon holly and Possumhaw holly).

(F[~~E~~]) Palm (all plants in *Palmae*).

(G[~~F~~]) Tree-of-heaven or *Ailanthus*.

(H[~~G~~]) Other trees listed as invasive plants.

(I[~~H~~]) Trees with a diameter of less than 10 inches at the point on the trunk 4.5 feet above the ground, located on a lot with an existing single family or duplex use that is occupied at the time of removal.”

SECTION 3. That Section 51A-10.103, “Acceptable Plant Materials,” of Division 51A-10.100, “In General,” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subsection (g) to read as follows:

“(g) All nursery stock and transplanted ash tree species are prohibited in required landscaping or on city property.”

SECTION 4. That Romanette (i), “Definition,” of Subparagraph (B), “Exception for Natural Deforestation Events,” of Paragraph (2), “Administration,” of Subsection (i), “Reforestation Fund,” of Section 51A-10.135, “Alternative Methods of Compliance with Tree Replacement Requirements,” of Division 51A-10.130, “Urban Forest Conservation,” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(i) Definition. In this paragraph NATURAL DEFORESTATION EVENT means a recorded weather event or a period of infestation of an invasive species damaging threatened tree species which causes localized catastrophic tree failure and irreparable structural tree damage resulting in a loss of the urban forest canopy.”

SECTION 5. That Romanette (iii), “Qualification,” of Subparagraph (B), “Exception for Natural Deforestation Events,” of Paragraph (2), “Administration,” of Subsection (i), “Reforestation Fund,” of Section 51A-10.135, “Alternative Methods of Compliance with Tree Replacement Requirements,” of Division 51A-10.130, “Urban Forest Conservation,” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(iii) Qualification. Private properties affected by a natural deforestation event may qualify for reforestation if they are:

(aa) Located within a declared federal, state, or local disaster area; ~~[or]~~

(bb) Declared eligible for reforestation by the city council; or

(cc) Confirmed by the director to have contained a vulnerable or threatened tree species on the property, as specified by the Texas Department of Agriculture, and was in imminent threat of infestation.”

SECTION 6. That Subsection (b) of Section 51A-10.140, “Criminal Responsibility, and Defenses to Prosecution,” of Division 51A-10.130, “Urban Forest Conservation,” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(b) It is a defense to prosecution under this section that the act is included in one of the enumerated categories listed in this section. A tree removal application or tree replacement is not required if the tree:

(1) was dead and the death was not caused by an intentional or negligent act of the owner or an agent of the owner;

(2) had a disease or injury that threatened the life of the tree and was not caused by an intentional act of the owner or an agent of the owner;

(3) was in danger of falling or had partially fallen and the danger or the fall was not due to an intentional act of the owner or an agent of the owner;

(4) was in a visibility triangle (unless the owner was legally required to maintain the tree there) or obstructed a traffic sign;

way; (5) interfered with service provided by a public utility within a public right-of-

city officials: (6) threatened public health or safety, as determined by one of the following

- (A) the chief of the police department;
- (B) the chief of the fire-rescue department;
- (C) the director of public works;
- (D) the director of transportation;
- (E) the director of sanitation services;
- (F) the director of code compliance;
- (G) the director of park and recreation;
- (H) the director of development services; or
- (I) the director of aviation.

(7) was designated for removal without replacement in a landscape plan approved by the city council, city plan commission, or board of adjustment;

(8) interfered with construction or maintenance of a public utility or public right-of-way; [ø]

(9) was removed or seriously injured to allow construction, including the operation of construction equipment in a normal manner, in accordance with infrastructure engineering plans approved under Article V of Chapter 49 or street paving and grading in a public right-of-way, storm drainage easement, detention or retention pond designation, or bridge construction, for private development; or

(10) was specifically listed as a vulnerable or threatened tree species, or species subject to quarantine, as determined by the Texas Department of Agriculture, and was in imminent threat of infestation.”

SECTION 7. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 8. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 9. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part

thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 10. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 11. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed _____