

ORDINANCE NO. 2017-06

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SPRING VALLEY VILLAGE, TEXAS ARTICLE 3.100, TREE SURVEY REQUIRED AS PART OF BUILDING PERMIT APPLICATION, OF CHAPTER 3, BUILDING AND CONSTRUCTION, TO ADD OR AMEND DEFINITIONS, TREE REMOVAL PERMIT REQUIREMENTS, TREE REQUIREMENTS, TREE CREDITS AND APPROVED TREES; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION HEREOF, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City Council of the City of Spring Valley Village has determined that the urban forest is valuable to the community; and

WHEREAS, the City Council desires to amend the City's tree regulations in the manner set forth in this ordinance; and

WHEREAS, the City Council finds that these regulations are in the best interest of the health, safety and welfare of the citizens; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPRING VALLEY, TEXAS:

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Spring Valley Village, Texas is hereby amended by amending Article 3.100, Tree Survey Required as Part of Building Permit Application, of Chapter 3, Building and Construction, to delete the language struckthrough below and add the language underscored below:

“ARTICLE 3.1000 - TREE SURVEY REQUIRED AS PART OF BUILDING PERMIT APPLICATION URBAN FOREST PRESERVATION AND PROTECTION.

§3.100 – Purpose; Findings.

- (a) The purpose of this Article is to preserve and enhance the urban forest of the City.
- (b) The City Council has determined that the urban forest is of great value in the maintenance of public health and welfare. The urban forest can aid in the conservation of vital energy resources and natural resources and in the preservation of the City’s heritage and quality of life. Trees are a valuable amenity to the urban environment, restoring oxygen to the atmosphere, reducing glare, reducing noise levels, providing an ecological habitat for songbirds and other animal and plant species, providing for more effective transitions between different land uses and breaking the monotony of urbanized development, pre-development, or construction. The urban forest of the City should be preserved and enhanced, to the maximum extent feasible, consistent with the property rights of its citizens.

§ 3.1001 – Definitions

As used in this article, the following terms shall have the meaning given below.

Building permit. Shall mean any building or construction permit issued by the City of Spring Valley, Texas, for the construction, erection, or exterior alteration of any residential or commercial building, structure, or improvement.

Circumference or diameter of a tree. Shall mean circumference or diameter measured at a point on the tree 4½ feet above the surrounding ground level. The equivalent tree circumference or diameter may be used for measurement purposes. Tree diameter in inches × 3.14 = Tree Circumference in inches. (For example: 910" diameter × 3.14 = ~~28.26~~ 31.4 circumference).

To measure a tree which forks ~~or has two boles or stems~~ at or below 4½ feet, only the circumference or diameter of the larger ~~bole or stem~~ trunk will be measured.

Critical Root Zone shall mean, for any given tree, the area within a circle centered on the trunk location. The circle’s diameter is one-half the sum of the broadest and narrowest dripline diameters.

Landscape or Tree Professional. As defined by certification either by a state agency or by a recognized trade association or alternatively by ten or more

years of proven continuous experience in the planting, care, and maintenance of trees.

Qualified Tree shall mean a tree which is included on the City's approved planting list and has a diameter of at least twenty inches (20").

Protected Tree shall mean a tree which is included on the City's approved planting list and has a diameter of at least thirty inches (30").

Right-of-way Area shall mean and area in the right-of-way of a street.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner.

Subject Site shall mean (1) the building site, or other site, upon which construction activity is to occur, and (2) the right-of-way area for that site.

Tree. Shall mean a long-lived, branching, woody plant, usually with one main stem, which may attain a height of fifty feet (50') or more.

Tree Survey shall mean an on-the-ground survey containing the location of trees, their circumferences, types (species), crown areas (dripline) and other data to accurately describe existing and proposed trees.

Understory tree. Shall mean a long-lived, branching, woody plant, which usually obtains a height less than ~~forty~~ thirty feet (~~30~~').

§ 3.1002 - Tree Survey Required; Exception; Tree Protection Plan Required

Prior to the issuance of any building permit, a tree survey shall be submitted concurrent with, and shall be approved as a part of, the application for a building permit.

(1) Exceptions. A tree survey is not required as a part of the application for a building permit in the following circumstances only:

(A) For a minor or small construction project for which the applicant certifies as true by signature that "No tree ~~nine~~ ten inches (~~9~~10)" or larger in diameter (~~28.86~~31.4" or larger in circumference) will be removed or destroyed in connection with the construction of the improvements covered by this building permit application;" and provided, however, the Tree Protection Plan required by this Article in the following section shall be required.

(B) For a non-residential Planned Area Development ("PAD") in the City's PAD Zoning District which as approved by City Council includes tree and

landscaping plans (an "Approved, Non-Residential PAD"); provided, however, the Tree Protection Plan required by this Article in the following section shall be required.

(2) Components of the Tree Survey. The tree survey shall be accurate and shall be prepared by a person with expertise to prepare such a document: for example, an architect, engineer, landscape or tree professional, or surveyor, ~~or homeowner~~. The tree survey shall include and contain as a minimum the following information.

(A) The actual location (i.e. trunk location) of each tree on the subject lot or tract which is ~~nine ten~~ nine ten inches in diameter (~~28.26~~31.4" in circumference) or larger, identifying those which are to be removed or destroyed as a result of the building permit being requested.

(B) ~~Building or structure~~ Outlines of existing and proposed buildings or structure, including driveways, parking areas or other paved surfaces, pools, spas, fences, ~~sprinkler~~ irrigation systems, utilities, drainage, and other improvements and structural features to be constructed.

(C) The tree survey shall be accompanied by a Tree Protection Plan, as set out in the following section.

(D) The tree survey shall contain a scale, north arrow, name, address, and profession or occupation of the person who prepared it, and the name of the site owner and/or homebuilder/developer. The tree survey shall also identify the development and provide a description of the subject property and its location. The tree survey shall also depict (a) every Qualified Tree in the Subject Site, and (b) every Qualified Tree located elsewhere which has 30% or more of its Critical Root Zone in the Subject Site.

§ 3.1003 - Tree Protection Plan

The tree survey shall be accompanied by a "Tree Protection Plan" which shall be prepared by a landscape or tree professional.

The Tree Protection Plan shall indicate how all trees ~~nine ten~~ nine ten inches (910" in diameter (31.4 inches in circumference) or larger, which are identified by the tree survey, ~~are to~~ shall be protected, according to the following minimum requirements.

(1) Basic Tree Protection. During construction each tree or group of trees ~~nine ten~~ nine ten inches (910" in diameter (31.4 inches in circumference) or larger shall be completely enclosed within ~~four six~~ six feet (46' or higher ~~high~~ chain link ~~fence or equivalent fencing~~, with lateral supports spaced no more than eight feet (8') apart, located outside the ~~tree or trees~~ drip line of all trees. Each such fence

shall have a sign affixed to it as shown on Exhibit "C" attached hereto. Such sign shall be weatherproof and affixed securely to the fence such that the sign can be read from the street. The minimum drip line for this purpose is one foot (1') of radial distance from the base of the tree for every inch of tree diameter unless construction of improvements is to occur within this drip line area. In that event, the tree protection fence shall enclose the balance of the drip line or construction area, and the area upon which construction activities will take place, must be first covered with a minimum of six inches (6") of organic mulch or covered with three quarter inch (¾") plywood to protect the tree roots protected with a wooden grid constructed of 2" by 6" lumber fastened both horizontally and vertically by wood screws on 18" centers on top of a four inch (4") to six inch (6") layer of organic mulch.

(2) Tree Protection from Concrete Construction. During construction of concrete improvements to be constructed within the drip line of a tree, in addition to the basic tree protection required by the preceding subsection, the following additional minimum protection measures must be implemented.

(A) Plans for feeding, watering, pruning of limbs or roots, and drainage must be prepared and submitted. The plan must be approved by a landscape or tree professional who is retained by the applicant.

(B) Forced feeding and watering to assist in tree survival must be done on a schedule recommended in the Tree Protection Plan.

(C) A plastic vapor barrier must be installed beneath all concrete construction within the drip line of a tree.

(D) Recommended or necessary pruning of limbs or roots must be performed according to the Tree Protection Plan. Pruning of limbs or roots must be accomplished at least two (2) weeks prior to the construction in the drip line, if more than twenty percent (20%) of the construction is within the drip line; unless a landscape or tree professional approved by the City approves of provisions for an alternative plan to protect the tree or trees. ~~Pruning of roots exposed during construction, including utility installation, must be recommended by the Tree Protection Plan.~~ No roots larger than one inch (1") in diameter shall be cut.

(3) ~~Within the tree drip line, it~~ shall be unlawful to pour or dispose of waste concrete, lime, paint, paint thinner, chemicals or other soil contaminants, or place any building or construction materials or topsoil.

(4) Drainage Affecting Trees. In the event construction causes or results in standing water or wet soil conditions which are harmful to the species of trees present, drainage must be provided for in the Tree Protection Plan to prevent suffocation and/or root rot of the tree.

(5) Physical Damage To Be Prevented. In connection with construction activities, no person shall damage any tree trunk or limb with any equipment, or by nailing or bolting into the tree, or by attachment of guy wires or cables. In the event that an existing tree is damaged more than twenty-five percent (25%), the damaged tree shall be replaced with an approved tree not less than three inches (3") in diameter (9.42" in circumference).

(6) Fill Placed Within a Tree Drip Line. No fill dirt, soil, or sand, is permitted in excess of two inches (2") under any tree drip line except within the footprint or area of the building or structure constructed.

§ 3.1004—Tree Replacement Required; Exceptions

~~The owner and the homebuilder/developer of any lot or tract of land who remove or have removed any tree nine inches (9") in diameter (28.86" in circumference) or larger, according to the tree survey made a part of a building permit application, shall be required to replace each such tree removed with an approved tree planted on the lot or tract which is no less than three inches (3") in diameter (9.42" in circumference) measured after planting. The maximum number of trees which must be placed in accordance with this section is five (5). Such planted trees shall be any of the trees listed on the "Approved Replacement Trees" list attached hereto and made a part hereof as Exhibit A.~~

§ 3.1005—Additional Trees Required

~~The owner and/or the homebuilder/developer of any lot or tract of land shall be required to plant on the lot or tract one (1) viable tree of no less than one inch (1") in diameter (3.14" in circumference) measured after planting, for each increment of one thousand square feet (1,000 sq. ft.), rounded up to the next higher increment for any partial increment, of non permeable constructed surface as reflected in the building permit application. Such planted trees shall be any of the trees listed on the "Approved Trees" list attached hereto and made a part hereof as Exhibit A.~~

§ 3.10064 - New Home Construction – Tree Permit Required; Minimum Tree Requirement for Each Lot

(1) A tree permit shall be required for the removal of any and all trees greater than ten inches (10").

(a) Exceptions:

(i) Any tree which is dead or in an advanced stage of disease may be removed without a permit; and

(ii) Any tree which poses a threat to life or property may be removed without a permit.

~~(2) Without reducing or affecting the requirements of the previous Sections 3.1004 and 3.1005 of this article, and subject to the exception stated below, the owner and the homebuilder/developer of any lot or tract who construct any new home shall be required to have a minimum of five (5) viable trees, each a minimum of two inches (2") in diameter (6.28" in circumference), on the lot or tract after construction is complete, whether such trees are "replacement" trees planted in accordance with Section 3.1004 above, "additional" trees planted in accordance with Section 3.1005 above, or trees already growing on such lot or tract. Provided, further, a minimum of two (2) of the above required five (5) trees shall be planted or growing in the front yard, that is in front of the principal residential building constructed on the lot or tract. It is the intent of this section that, for example, if the otherwise qualifying five (5) trees are native trees growing on the lot or tract in other areas which are not in front of the principal residential structure, that two (2) additional, viable two inch (2") trees (6.28" in circumference) must be planted in the front area as described. It is, accordingly, the intent of this section that each newly constructed home on a lot or tract have the minimum five (5) trees, at least two (2) of which are in the front, as stated. Any trees planted in accordance with this section shall be any of the trees listed on the "Approved Trees" list attached hereto and made a part hereof as Exhibit A.~~

~~Exceptions: If the lot or tract is less than 9,000 square feet in area (total area including easements), four trees are required.~~

All lots between 9,000 square feet and 15,000 square feet that are not radial or cul-de-sac lots shall be required to have five (5) approved trees, each with a minimum of three inches (3") in diameter (9.42" in circumference), with two (2) of such trees located in the front yard. Any lot which is less than 9,000 square feet and is not a radial or cul-de-sac lot shall be required to have four (4) approved trees, each with a minimum of three inches (3") in diameter (9.42" in circumference), with two (2) of such trees located in the front yard. Any cul-de-sac or radial lot shall be required to have four (4) approved trees, each with a minimum of three inches (3") in diameter (9.42" in circumference), with one (1) of such trees located in the front yard. All lots larger than 15,000 square feet that are not radial or cul-de-sac lots shall be required to have six (6) approved trees, each with a minimum of three inches (3") in diameter (9.42" in circumference), with two (2) of such trees located in the front yard. All trees shall be planted a minimum of ten feet (10') from other trees. In the event that, in the written opinion of a landscape or tree professional, the topography or natural condition of the site, or the location of permitted structures and other improvements to the site, it is not reasonably possible to plant and maintain an otherwise required tree, an understory tree from the Approved Understory Tree list attached hereto and made a part hereof as Exhibit "B" may be planted in its place.

(3) It is the intent of this ordinance to promote the retention of Qualified Trees and Protected Trees. Accordingly, an owner and/or homebuilder/developer shall be given credit for retaining Qualified Trees and Protected Trees as follows:

(a) Each Qualified Tree shall count as two (2) trees for purposes of determining the number of trees required on a lot; and

(b) Each Protected Tree shall count as three (3) trees for purposes of determining the number of trees required on a lot.

Each Qualified Tree or Protected Tree for which the owner and/or homebuilder/developer is given credit pursuant to this subsection shall remain healthy and living for a period of three (3) years following construction. Should such Qualified Tree or Protected Tree not survive for that period, the minimum tree requirements shall be recalculated without the provided tree credits and the owner and/or homebuilder/developer shall comply with the requirements of this section without consideration of the credit(s) for the Qualified Tree(s) or Protected Tree(s).

§ 3.1007 – Example

~~To illustrate the combined, but independent, application of Sections 3.1004, 3.1005, and 3.1006 of this article, the following example is provided for illustration:~~

~~Facts: Nine trees, 910 inches in diameter, are removed from a lot or tract for construction of a home and improvements. The home and improvements are calculated to total 5,800 square feet of non-permeable constructed surface.~~

~~Trees required: Section 3.1004 requires a maximum of 5 "replacement" trees. In this case, 9 are removed and 5 are to be replaced. Section 3.1005 requires 6 "additional" trees. Section 3.1006 would require 2 of these trees in front of the principal residential building. Total trees required are: 5 + 6 = 11 trees.~~

§ 3.10085 – Timing

Each tree planting required by this article shall be completed within thirty (30) days or, if the season or weather are such that a successful planting is unlikely, no later than the following January after the completion of the improvements, as reflected in the building permit application. In the case of postponed plantings, later than 30 days, tree deposits equivalent to \$1500.00 per tree shall be made to city to assure performance.

~~§ 3.10096 – Modification of the Tree Replacement, Additional Trees, and New Home Construction – Minimum Tree Requirements~~

~~An owner and the homebuilder/developer of any lot or tract of land may plant understory trees as a substitute for standard "replacement trees". Understory tree substitutes must be recommended in writing to the building official by a landscape or tree professional. It must be demonstrated in writing that the spacing of existing trees or the tree canopy cover on the property make such planting of standard replacement trees impractical. If, based on an inspection of the property, the Building Official determines that such conditions in fact exist and the understory tree request is warranted, the building official shall so note such modification on the request, which shall then be filed as a part of the building or construction permit.~~

~~Implementation of this section shall be based, to the extent possible, on objective, verifiable information.~~

§ 3.10106 - Destruction of Damage to Trees on Public Property

Nothing in this article shall prevent the City of Spring Valley or any public utility from performing necessary maintenance and repair activities which may affect trees located on or over public property or utility easements.


§ 3.10117 – Penalty

Any person, firm, partnership, association, corporation, company, or organization of any kind who or which intentionally, knowingly, recklessly, or with criminal negligence violates any of the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in accordance with the general penalty provision found in Section 1.106 of this code. Each day during which such violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this article shall occur, and any agent, contractor, builder, architect, person, association, organization, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense, and, upon conviction thereof, shall be punished as above provided.”

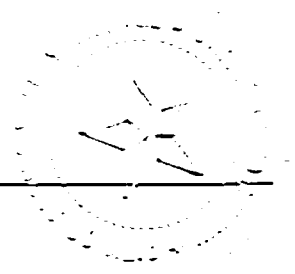
Section 3. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Spring Valley Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

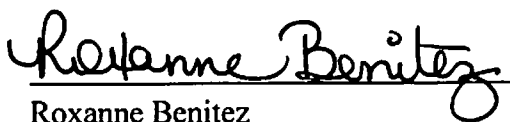
ADOPTED this 28th of February, 2017.



Tom Ramsey
Mayor



ATTEST:



Roxanne Benitez
City Secretary

Exhibit A

City of Spring Valley Village Revised Approved Replacement Tree List

	Common Name	Botanical Name
Maple	Drummond Red maple	<i>Acer rubrum</i> var. <i>drummondii</i>
Birch	River Birch	<i>Betula nigra</i>
Hickory	Hickory species	<i>Carya</i> varieties
Ash	Green Ash	<i>Fraxinus pennsylvanica</i>
	White Ash	<i>Fraxinus americana</i>
Holly	American Holly**	<i>Ilex opaca</i>
Walnut	Black Walnut	<i>Juglans nigra</i>
Cedar	Eastern Red Cedar	<i>Juniperus virginiana</i>
Sweet Gum	American Sweet Gum	<i>Liquidambar styraciflua</i>
Magnolia	Southern Magnolia	<i>Magnolia grandiflora</i>
	Little Gem magnolia**	<i>Magnolia grandiflora</i> 'Little Gem'
Pine Tree	Loblolly Pine	<i>Pinus taeda</i>
	Longleaf Pine	<i>Pinus palustris</i>
Pistache	Chinese Pistache	<i>Pistacia chinensis</i>
	Texas Pistache	<i>Pistacia texana</i>
Sycamore	Mexican Sycamore	<i>Platanus</i>
Oak	Live oak	<i>Quercus virginiana</i>
	Shumard Oak	<i>Quercus shumardii</i>
	Nuttall Oak	<i>Quercus nuttallii</i>
	Water Oak	<i>Quercus nigra</i>
	Bur Oak	<i>Quercus macrocarpa</i>
	Swamp Chestnut Oak	<i>Quercus michauxii</i>
	Laurel Oak	<i>Quercus laurifolia</i>

	White Oak	<i>Quercus alba</i>
	Chiquapin Oak	<i>Quercus muehlenbergii</i>
Laurel	Texas Moutain Laurel**	<i>Sophora secundaflora</i>
Cypress	Bald Cypress	<i>Taxodium distichum</i>
	Montezuma Cypress	<i>Taxodium mucranutum</i>
Elm	American Elm	<i>Ulmus Americana</i>
	Lacebark Elm	<i>Ulmus parvifolia</i>
	Winged Elm	<i>Ulmus alata</i>
	Cedar Elm	<i>Ulmus crassifolia</i>

Note: ** refers to trees suitable for restricted grow spaces and power lines

**Exhibit “B”
Understory Trees**

City of Spring Valley Village Revised Replacement Tree List

	Common Name	Botanical Name
Maple	Chalk Maple	Acer leucoderme
Redbud	Redbud	Cercis canadensis
Chinese Fringe Tree	Chinese Fringe Tree	Chionanthus retusus
Hawthorn	Parsley Hawthorn	Crateagus marshallii
Holly	Dahoon Holly	Ilex cassine
	Possumhaw Holly	Ilex decidua
	Yaupon Holly	Ilex vomitoria
Magnolia	Sweet Bay	Magnolia virginiana
	Saucer Magnolia	Magnolia x soulangiana
Wax Myrtle	Southern Wax myrtle	Myrica cerifa
Laurel	Cherry laurel	Prunus caroliniana
	Mexican Plum	Prunus Mexicana
Viburnum	Rusty Black-Haw	Viburnum rufidulum

EXHIBIT C

TREE PROTECTION FENCING

Required by Code of Ordinances
City of Spring Valley Village

DO NOT REMOVE!

FINE: \$100 OR MORE, JOB MAY BE SHUTDOWN, FOR PERMISSION FOR TEMPORARY REMOVAL CALL (713) 465-8308. TO REPORT VIOLATIONS, CALL (713) 465-8308.

CERCAS PARA PROTECCION de ARBOLES

Requerido por Código de Ordenanzas

POR FAVOR NO RETIRE EL LETRERO

MULTA DE: \$100 O MÁS, TRABAJO PUEDE SER TERMINADO, PARA PERMISO PARA REMOCION TEMPORAL LLAME: (713) 465-8308. PARA DENUNCIAR UNA INFRACCION LLAME: (713) 465-8308.