

CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. 193

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS, ESTABLISHING REGULATIONS GOVERNING THE PRESERVATION AND REMOVAL OF TREES WITHIN THE CITY; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lowry Crossing, Texas, has determined that it is within the public interest to provide regulations governing the preservation and removal of trees within the City; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWRY CROSSING, TEXAS:

Section 1. Purpose. Because the process of development with its alteration of the natural topography, vegetation, and creation of impervious cover can have a negative effect on the ecological balance of an area by causing increases in air temperatures and accelerating the processes of runoff, erosion, and sedimentation, the City Council adopts this ordinance generally to promote and protect the health, safety, and welfare of the public, and for the following specific purposes:

- (1) To preserve and enhance the unique natural beauty, environment, and vegetative space within the City.
- (2) To encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment.
- (3) To provide for the preservation and protection of larger native or established trees, which provide a valuable amenity to the environment and which, once destroyed, can only be replaced after generations.
- (4) To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground-water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, wind, and heat abatement.
- (5) To provide for open space and more efficient drainage of land, thereby reducing the effects of soil erosion and the need for additional drainage facilities.
- (6) To conserve energy.
- (7) To preserve the country atmosphere and natural environment that define the community character of Lowry Crossing and make it a unique and desirable community.
- (8) To mitigate the ill effects of rapid and intense urbanization.

(9) To safeguard and enhance property values and to protect public and private investment.

Section 2. Applicability.

(a) Except as otherwise provided, this ordinance applies to real property within the City's corporate limits and within the City's extraterritorial jurisdiction, where stated, as follows:

(1) All vacant and undeveloped real property.

(2) Redevelopment that affects thirty percent (30%) or more of an existing development.

(3) All real property to be subdivided, re-subdivided, or otherwise replatted, including record plats and replats, whether such property is located within the corporate limits or within the extraterritorial jurisdiction of the City.

(b) This ordinance does not apply to the following:

(1) Lots in the Agricultural District.

(2) Property governed by a landscape plan approved by the City Council or the City Plan Commission.

(3) The lot on which an existing and occupied single-family or two-family structure is located.

(4) Plant or tree nurseries in relation to those trees planted and growing on the premises for sale or intended sale to the general public in the ordinary course of business.

(5) Public utility construction and maintenance.

Section 3. Definitions. The following words, terms and phrases when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *City* means the City of Lowry Crossing, Texas.

(b) *City Council* means the City Council of the City of Lowry Crossing, Texas.

(c) *Person* means an individual, firm, partnership, corporation, association, or other legal entity.

(d) *Recommended tree* means a tree listed in Section 8 of this ordinance.

(e) *Recommended tree list* means the list of recommended trees contained in Section 8 of this ordinance.

Section 4. Permit Required. No person, directly or indirectly, shall cut down, destroy, remove, move, or effectively destroy through damaging the roots, trunk or canopy, any tree situated on property regulated by this ordinance without first obtaining a tree removal permit, unless otherwise exempted by the provisions of this ordinance.

Section 5. Permit Fee. A permit fee of \$15.00 must be submitted with each application for a tree removal permit. All checks must be made payable to the City of Lowry Crossing, Texas.

Section 6. Tree Survey. An application for a tree removal permit must be accompanied by a tree survey. Such survey shall show the location, caliper, and name of all trees on the lot.

Section 7. Consideration of Tree Removal Permit Application.

(a) In rendering a decision concerning a tree removal permit application, the council shall consider the following factors:

- (1) The feasibility of relocating a proposed improvement that would require the removal.
- (2) The cost of preserving the tree.
- (3) Whether the removal is contrary to the public health, safety, or welfare.
- (4) The impact of the removal on the urban and natural environment.
- (5) Whether an economically viable use of the property will exist if the application is denied.
- (6) Whether the tree is worthy of preservation.
- (7) Whether the tree is diseased.
- (8) The effect of the removal on erosion, soil moisture retention, flow of surface waters, and drainage systems.
- (9) Whether a tree interferes with a utility service.
- (10) The proximity of the tree to existing or proposed structures.

(b) The City Council may approve a tree removal permit, deny the permit or approve the permit with conditions. If a tree removal application is approved, one or more trees may be required to be planted as mitigation, as determined by the City Council. A recommended

tree list is contained in Section 8. An application approved subject to conditions shall not be considered as finally approved until all conditions are met.

Section 8. Recommended Trees. The following is the recommended tree list of the City. Other species may be planted.

<u>Common Name</u>	<u>Botanical Name</u>
Bald Cypress	Taxodium distichum
Cedar Elm	Ulmus crassifolia
Lacebark (Drake) Elm	Ulmus parvifolia 'Drake'
Pecan	Carya illinoensis
Chinese Pistache	Pistacia chinensis
Bur Oak	Quercus macrocarpa
Shumard or Texas Red Oak	Quercus shumardii or texana
Sweet Gum	Liquidambar styraciflua
Green Ash	Fraxinus pennsylvanica
Live Oak	Quercus virginiana
Western Soapberry	Sapindus drummondii
Eastern Red Cedar	Juniperus virginiana
Chinquapin Oak	Quercus muhlenbergii
American Elm	Ulmus americana

Section 9. Additional Requirements.

(a) Plant materials must be measured and sized according to the Texas Association of Nursery standards.

(b) All plantings for erosion control must be maintained by the property owner.

Section 10. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction be subject to a fine not to exceed \$500.00 for each offense, and each unauthorized tree removed shall constitute a distinct and separate offense.

Section 11. That all ordinances of the City of Lowry Crossing, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 12. That the sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person, firm or corporation, or to any circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity.

Section 13. That this ordinance shall take effect upon passage and publication.

9th **DULY ADOPTED** by the City Council of the City of Lowry Crossing, Texas on the
day of November, 2004.

APPROVED:



~~Brett Mayes, Mayor~~
Greg Diatt
mayor PRO - Tem

ATTEST:


Eddie Sturgal, City Secretary

APPROVED AS TO FORM:

City Attorney