



AGENDA
SPECIAL CITY COUNCIL MEETING
THURSDAY, MARCH 4, 2021 - 10:00 AM
CITY HALL COUNCIL CHAMBERS
209 S. WASHINGTON STREET
KAUFMAN, TEXAS 75142
AND VIA VIDEOCONFERENCE/TELECONFERENCE

**This meeting will be held using
videoconferencing/teleconferencing
technology with public access via:
WWW.ZOOM.US/JOIN OR
(888)788-0099 (TOLL FREE)
MEETING/WEBINAR ID: 839 4192 3996
PASSWORD: 095837**

CALL MEETING TO ORDER Mayor calls the Meeting to order, states the date and time, state Councilmembers present, and declares a quorum present.**

CITIZENS COMMENTS / REQUEST TO SPEAK ON AGENDA ITEMS (5 MINUTES) Comments about any of the Council agenda items may be taken into consideration at this time or during the agenda item. Comments are limited to five (5) minutes per individual unless additional time is otherwise required by law for translation. Speaking time is not transferable. Citizens may address the City Council on any subject but must first complete a Request to Speak Form so that the Mayor may call your name to speak at the appropriate time on the Agenda. Comments must be directed to the Council as a whole. **When addressing the Council, please step forward to the speaker's podium, state your name and address, and direct your comments to the Mayor and City Council.**

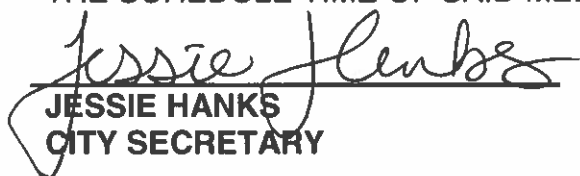
DISCUSSION/ACTION ITEMS

1. Consider and take appropriate action on Ordinance O-07-21, an ordinance of the City Council of the City of Kaufman, Texas, confirming and extending a local disaster due to winter weather emergency; providing for modified City regulations; and providing an effective date.
2. Conduct a Public Hearing and consider and take appropriate action on Ordinance O-08-21, an ordinance of the City Council of the City of Kaufman, Texas, amending Section V., "Improvements Required Prior to Acceptance of the Subdivision by the City", of the Subdivision Regulations of the City, Ordinance O-24-99, as amended, by adding a new section, Section 5.12, "Tree Preservation Requirements", to provide for tree preservation requirements throughout the City; establishing a tree mitigation fund; establishing a tree mitigation fee; and providing an effective date.

- a. Presentation.
- b. Conduct a Public Hearing.
- c. Consider and take appropriate action on Ordinance O-08-21.

ADJOURNMENT

I, JESSIE HANKS, CITY SECRETARY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE WINDOW AT KAUFMAN MUNICIPAL COMPLEX, 209 S. WASHINGTON, KAUFMAN, TEXAS, A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AT ALL TIMES AND SAID NOTICE WAS POSTED AT THE KAUFMAN MUNICIPAL COMPLEX, 209 S. WASHINGTON, KAUFMAN, TEXAS AT 9:45 A.M. ON MONDAY, MARCH 1, 2021, AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST TWO HOURS PRECEDING THE SCHEDULE TIME OF SAID MEETING.


JESSIE HANKS
CITY SECRETARY



THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE. SECTION 551.071 (CONSULTATION WITH ATTORNEY).

****PURSUANT TO SECTION 551.127, TEXAS GOVERNMENT CODE, ONE OR MORE COUNCILMEMBERS OR EMPLOYEES MAY ATTEND THIS MEETING REMOTELY USING VIDEOCONFERENCING TECHNOLOGY. THE VIDEO AND AUDIO FEED OF THE VIDEOCONFERENCING EQUIPMENT CAN BE VIEWED AND HEARD BY THE PUBLIC BY ACCESSING WWW.ZOOM.US/JOIN OR (888)788-0099 (TOLL FREE) MEETING /WEBINAR ID: 839 4192 3996 PASSWORD: 095837**

THE BUILDING IN WHICH THE ABOVE MEETING WILL BE CONDUCTED IS WHEELCHAIR ACCESSIBLE AND PARKING SPACES FOR THE MOBILITY IMPAIRED ARE AVAILABLE. PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, OR LARGE PRINT ARE REQUESTED TO CONTACT THE CITY SECRETARY'S OFFICE AT 972-932-2216 AT LEAST TWO (2) WORKING DAYS PRIOR TO THE TIME OF THE MEETING SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.



Meeting Date: 3/4/2021 **Date:** 2/25/2021

Item #: 1.

Dept.: Administration

Ordinance

SUBJECT:

Consider and take appropriate action on Ordinance O-07-21, an ordinance of the City Council of the City of Kaufman, Texas, confirming and extending a local disaster due to winter weather emergency; providing for modified City regulations; and providing an effective date.

BACKGROUND:

Mayor Jordan declared a local Disaster on February 26, 2021 as a result of the damages incurred from the severe winter weather event the week before. This ordinance is required by the City Council to extend that disaster declaration. The Mayor can only declare the disaster for 7 days. Any further extension requires Council approval. This ordinance extends the disaster declaration to April 19, 2021. That is enough time to execute all of the citizen/business relief efforts as our community recovers.

Author:

Mike Slye, City Manager

Reviewed:

Mike Slye, City Manager

Cost:

Funds Available:

Source:

Recommendation: Staff recommends approval of Ordinance O-07-21 as presented.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☐	☐	☐

ORDINANCE NO. O-07-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS, DECLARING A LOCAL DISASTER FOR WINTER WEATHER EMERGENCY; PROVIDING FOR MODIFIED CITY REGULATIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on the 26TH day of February 2021, the Mayor of the City of Kaufman, Texas ("City"), through his Mayoral Declaration of Local Disaster for Winter Weather Emergency, attached hereto and incorporated as if set forth fully herein as Exhibit "A", determined that severe winter weather that occurred in the State of Texas during the week of February 15, 2021 (the "February Severe Weather Event") caused a significant negative impact on the residents of the City due to the effects of prolonged freezing temperatures, heavy snow and freezing weather conditions; and

WHEREAS, during the February Severe Weather Event, Texas experienced record cold conditions with temperatures remaining below freezing, and this caused service interruptions which left residents without vital utilities such as electricity and water; and

WHEREAS, in some cases, City residents have incurred property damage as a result of freezing pipes and financial hardship due to the need to allow continuous water flow to prevent the freezing of pipes; and

WHEREAS, the Mayor of Kaufman serves as the Director of the Office of Emergency Management, has designated the Kaufman Fire Chief, Ronnie Davis, as the coordinator and delegated to the coordinator the authority for execution of his duties and responsibilities as set forth in Article II, Emergency Management, of the Code of Ordinances of the City of Kaufman, Texas ("Article II"); and

WHEREAS, the Mayor has determined it necessary to declare a local state of disaster due to winter weather emergency, and rather than exercising his authority to issue a declaration of local disaster for a seven-day period and seek extension or continuation by City Council, the Mayor has determined it necessary to present this Order to the City Council to take effect upon passage and to remain in effect until April 19, 2021, or as continued or discontinued by other action of the City Council; and

WHEREAS, the City Council has determined that the following measures must be taken to alleviate the financial hardship experienced by residents, and to facilitate the rehabilitation of property damaged, by the effects of the severe weather emergency.

NOW, THEREFORE, BE IT DECLARED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS:

Section 1. Incorporation of Premises. The premises set forth above are the stated findings of the City Council of the City of Kaufman, serve as the basis for, and are incorporated into this Declaration as if written word for word.

Section 2. Local Disaster for Winter Weather Emergency Declared. A local state of disaster for winter weather emergency is hereby declared for the City of Kaufman, a Texas home-rule municipal corporation, pursuant to Article II, Emergency Management, of the Code of Ordinances of the City of Kaufman, Texas ("Article II") effective upon passage of this Order and shall continue in effect until April 19, 2021, or as continued or discontinued by action of the City Council.

Section 3. Publication and Filing of Declaration and Order. Pursuant to Section 30-32 of Article II, this declaration of a local state of disaster for public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary. The City of Kaufman will promptly provide copies of this Order by posting on the City of Kaufman website.

Section 4. Modification of City Regulations and Fees.

- a. Permits/Inspections. The following modifications of City Ordinance provisions and/or City policies are hereby declared for all snow/ice damage that occurred as a result of the February Severe Weather Event:
 - i. City shall waive all plumbing inspection fees for work performed by plumbing contractors to repair damages to plumbing systems suffered by residents and business owners as a result of the February Severe Weather Event; provided that the plumbing contractor performing the work is registered with the City and provides required documentation to the City such that the City may verify that the work has been performed in accordance with state code and City Ordinance standards; and
 - ii. In order to reduce the inconvenience experienced when residents must remain home to wait for inspections of work performed by contractors, inspections will be performed virtually via the process adopted by the Building Official and in accordance with ICC procedures.
- b. Water Bill Adjustment. I hereby authorize the City Manager to adjust water consumption amounts for residential and commercial customers for the period in which the February Severe Weather Event occurred to be the lesser of the City's average residential consumption; or the customer's consumption during the same period in 2020, or for newer customers, the lesser of the City's average residential consumption; or the average of the customer's average monthly consumption amounts prior to the February Severe Weather Event.

- c. Sewer Rate Adjustment. I hereby authorize the City Manager to use January and February 2021 water consumption meter reads only when calculating the 2022 sewer rate.

The above modified City regulations and/or policies are temporary modifications and do not necessitate an amendment to the Code of Ordinances.

Section 5. Severability. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order. This Order approves and ratifies all actions taken in response to the February Severe Weather Event prior to its issuance.

Section 6. Continuation and Effective Date. The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency. This Declaration shall become effective immediately upon passage.

PASSED AND APPROVED this the 4th day of March, 2021.

Jeff Jordan, Mayor

CERTIFICATE

I certify that the above notice of this Declaration and Order was posted on the bulletin board at the City Hall of the City of Kaufman, Texas, on the 5th day of March, 2020 at _____ p.m., was posted on the City of Kaufman website, and is on file in the Office of the Kaufman City Secretary.

JESSIE HANKS, CITY SECRETARY

Exhibit "A"

CITY OF KAUFMAN, TEXAS MAYORAL DECLARATION OF LOCAL DISASTER FOR WINTER WEATHER EMERGENCY

WHEREAS, the Mayor of the City of Kaufman ("City") on the 26TH day of February 2021, has determined that severe winter weather that occurred in the State of Texas during the week of February 15, 2021 (the "February Severe Weather Event") has caused a significant negative impact on the residents of the City due to the effects of prolonged freezing temperatures, heavy snow and freezing weather conditions; and

WHEREAS, during the February Severe Weather Event, Texas experienced record cold conditions with temperatures remaining below freezing, and this caused service interruptions which left residents without vital utilities such as electricity and water; and

WHEREAS, in some cases, City residents have incurred property damage as a result of freezing pipes and financial hardship due to the need to allow continuous water flow to prevent the freezing of pipes; and

WHEREAS, Section 418.108 of the Texas Government Code provides that the Mayor of the City may declare a local state of disaster to reduce the vulnerability of people and communities in the City resulting from natural disasters, including a winter weather emergency; and

WHEREAS, the Mayor of Kaufman serves as the Director of the Office of Emergency Management and has designated the Kaufman Fire Chief, Ronnie Davis, as the coordinator and delegated to the coordinator the authority for execution of his duties and responsibilities as set forth in Article II, "Emergency Management", of the Code of Ordinances of the City of Kaufman, Texas ("Article II"); and

WHEREAS, the Mayor has found it necessary to declare a local state of disaster due to the impact of the February Severe Weather Event on the residents of the City; and

WHEREAS, the Mayor has determined that the following measures must be taken to alleviate the financial hardships experienced by residents, and to facilitate the rehabilitation of property damaged, by the effects of the severe weather emergency.

NOW, THEREFORE, BE IT DECLARED AND ORDERED BY THE MAYOR OF THE CITY OF KAUFMAN, TEXAS:

Section 1. Incorporation of Premises; Disaster Declared; Modification of Regulations and Fees.

- 1.01. Recitals.** The premises set forth above are the stated findings of the Mayor of the City of Kaufman, serve as the basis for and are incorporated into this Declaration as if written word for word.

1.02. Local Public Disaster Declared. In accordance with Section 418.108 of the Texas Government Code, a local state of disaster and severe weather emergency is hereby proclaimed for the City of Kaufman. The local state of disaster hereby proclaimed shall continue for a period of seven (7) days from the date of this declaration unless continued or renewed by the City Council of the City of Kaufman, Texas or terminated by the Mayor. Pursuant to Section 418.108(d) of the Texas Government Code, this declaration of a local state of disaster activates the City of Kaufman Emergency Plan under Article II, Emergency Management, of the Code of Ordinances of the City of Kaufman.

1.03. Modification of City Regulations and Fees.

a. Permits/Inspections. The following modifications of City Ordinance provisions are hereby declared for all snow/ice damage that occurred as a result of the February Severe Weather Event:

- i. City shall waive all plumbing inspection fees for work performed by plumbing contractors to repair damages to plumbing systems suffered by residents and business owners as a result of the February Severe Weather Event; provided that the plumbing contractor performing the work is registered with the City and provides required documentation to the City such that the City may verify that the work has been performed in accordance with state code and City Ordinance standards; and
- ii. In order to reduce the inconvenience experienced when residents must remain home to wait for inspections of work performed by contractors, inspections will be performed virtually via the process adopted by the Building Official and in accordance with ICC procedures.

b. Water Bill Adjustment. I hereby authorize the City Manager to adjust water consumption amounts for residential and commercial customers for the period in which the February Severe Weather Event occurred to be the lesser of the city's average residential consumption; or the customer's consumption during the same period in 2020, or for newer customers, the lesser of the city's average residential consumption; or the average of the customer's average monthly consumption amounts prior to the February Severe Weather Event.

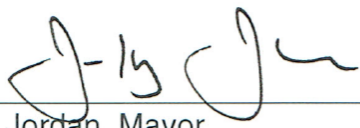
c. Sewer Rate Adjustment. I hereby authorize the City Manager to use January and February 2021 water consumption meter reads only when calculating the 2022 sewer rate.

Section 4. Publication and Filing of Declaration. Pursuant to Section 418.108(c) of the Texas Government Code, this declaration of a local state of disaster due to the February Severe Weather Event dated February 26, 2021, shall be given prompt and general publicity and shall be filed promptly with the City Secretary. A copy shall also be posted on the City's website.

Section 5. Severability. If any subsection, sentence, clause, phrase, or word of this Declaration or application of it to any person, structure, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions of applications of this Declaration. This Declaration approves and ratifies all actions taken in response to the February Severe Weather Event prior to its issuance.

Section 6. Continuation and Effective Date. The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency. This Declaration shall become effective immediately upon passage.

ORDERED THIS THE 26TH DAY OF FEBRUARY, 2021.



Jeff Jordan, Mayor



Meeting Date: 3/4/2021 **Date:** 2/25/2021

Item #: 2.

Dept.: Administration

Ordinance

SUBJECT:

Conduct a Public Hearing and consider and take appropriate action on Ordinance O-08-21, an ordinance of the City Council of the City of Kaufman, Texas, amending Section V., "Improvements Required Prior to Acceptance of the Subdivision by the City", of the Subdivision Regulations of the City, Ordinance O-24-99, as amended, by adding a new section, Section 5.12, "Tree Preservation Requirements", to provide for tree preservation requirements throughout the City; establishing a tree mitigation fund; establishing a tree mitigation fee; and providing an effective date.

BACKGROUND:

This proposed ordinance would put the responsibility of replacing existing non-exempt trees (or paying for them) that are uprooted as a result of a development project. Tree mitigation fee is \$125/caliper inch of non-exempt trees that are not replaced IAW this ordinance.

Author:

Mike Slye, City Manager

Reviewed:

Mike Slye, City Manager

Cost:

Funds Available:

Source:

Recommendation: Staff recommends approval of Ordinance O-08-21 as presented.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☐	☐	☐

ORDINANCE O-08-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS, AMENDING SECTION V., "IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE CITY", OF THE SUBDIVISION REGULATIONS OF THE CITY OF KAUFMAN, ORDINANCE O-24-99, AS AMENDED, BY ADDING SECTION 5.12, "TREE PRESERVATION REQUIREMENTS"; PROVIDING FOR A TREE MITIGATION FEE; ESTABLISHING A TREE MITIGATION FUND; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AN AMENDMENT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kaufman, Texas is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 212 of the Texas Local Government Code, the City is authorized to adopt regulations governing the development of land within the City and its extraterritorial jurisdiction in the interest of the public health, safety and welfare of its citizens; and

WHEREAS, the City Council recognizes that trees play a role in the quality of life of its citizens by improving air quality, providing shade, reducing energy costs, reducing soil erosion, and improving the City's general appearance; and

WHEREAS, the City Council adopted Ordinance O-24-99, as amended, the City's Subdivision Regulations, which sets forth various regulations and development standards, and has determined it to be beneficial to amend the Subdivision Regulations to establish requirements regarding tree preservation; and

WHEREAS, after complying with the laws of the State of Texas and the City's Code of Ordinances, having given the requisite notices and holding a public hearing, the City Council has determined that the amendments to the Subdivision Regulations as set forth below are in the public's best interest and in support of the health, safety, and general welfare of the City.

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

SECTION 1. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. Section V., "Improvements Required Prior to Acceptance of the Subdivision by the City", of the City's Subdivision Regulations, Ordinance O-24-99, as

amended, is hereby amended by adding Section 5.12, "Tree Preservation Requirements", to be and read in its entirety as follows with all other provisions of Section V not hereby amended remaining in full force and effect:

Section 5.12: Tree Preservation Requirements

- a. Purpose. Trees provide vital benefits by cleaning the air, conserving energy, preventing soil erosion and providing shade, thus, the City has determined that trees, both within its corporate limits and in its extraterritorial jurisdiction, should be protected as vital assets of the community as they serve the public health, safety and welfare by protecting the environment and providing aesthetic beauty. This section establishes rules and regulations to protect and preserve trees within the City and its extraterritorial jurisdiction.
- b. Definitions.
 - 1. **Buildable Area:** The portion of a lot exclusive of required yard areas on which a structure or building improvements may be erected.
 - 2. **Building Pad:** The actual foundation area of a building and a ten (10) foot clear area around the foundation necessary for construction and grade transitions.
 - 3. **Caliper Inch:** Method of measuring the trunk diameter of a nursery grown tree. The point of measurement is approximately six (6) inches above the top of the root ball.
 - 4. **Clear-Cutting:** The random cutting, plowing, or Grubbing of trees without regard to type or size for the purpose of clearing the land.
 - 5. **Development:** Any manmade change to improved or unimproved real estate including, but not limited to, buildings and other structures, paving, drainage, or utilities, and agricultural activities.
 - 6. **Diameter at Breast Height (DBH):** The diameter of the tree trunk diameter measured in inches at a height of four (4) feet above the soil line. For multiple-trunk trees, the diameter of the tree trunk shall be the sum of the diameter of the individual trunks for purpose of measuring DBH.
 - 7. **Drip Line:** A vertical line run through the outermost portion of the crown of a tree and extending to the ground.

8. Floodplain: The area designated as being within the 100-year flood plain on the Federal Emergency Management Agency flood insurance map.
9. Grubbing: Excavating or removing a significant part of the root system.
10. Protective Fencing: Chain link, orange vinyl construction fence or other fencing at least four (4) feet in height.
11. Replacement Trees: Trees planted to mitigate the loss of protected trees during Development.
12. Tree: Any self-supporting woody plant which will attain a trunk Caliper of three (3) inches or more DBH and which normally attains a height of at least fifteen (15) feet at maturity, with one (1) or more main stems or trunks and many branches.
13. Tree Mitigation Fee. The Tree Mitigation Fee shall be the amount deemed necessary to purchase, plant, and irrigate a new tree, as provided in this section.
14. Tree Preservation Plan: A plan or drawing that illustrates which trees are to be preserved, which trees are to be removed, and the manner in which trees will be protected during the construction process.
15. Tree Survey: A plan or drawing that identifies the size, location and species of trees eighteen (18) Caliper Inches DBH on a property, as well as smaller trees that will be used to qualify for incentives under subsection (i) below.

c. Applicability. The provisions of this section apply to:

1. All vacant and undeveloped property, and
2. All property to be redeveloped, including additions and/or alterations.

d. Exemptions.

1. This section does not apply to individual single-family, duplex, and townhouse lots after initial Development and final inspection of the dwelling units by the Development Services Department. Individual single-family and duplex lots 10 acres or less in size created through a minor plat in accordance with the City's Subdivision Regulations are also exempt. However, Clear-Cutting is prohibited on all

individual single-family, duplex and townhouse lots 10 acres or larger in size.

2. For all new single-family developments, the Buildable Area, as defined above, plus the area needed to establish proper drainage, detention and retention areas, sidewalks, septic systems and lateral lines, fences, screening walls, swimming pools and decking, driveways, public street rights-of-way, private street lots and utility easements are exempt. Sufficient area to allow the normal operation of construction equipment for these improvements is also exempt.
3. For all nonresidential and multifamily developments, the Building Pads, proposed public street rights-of-way, utility easements, areas needed to establish property drainage, detention and retention areas, drive aisles, sidewalks and fire lanes are exempt. Sufficient area to allow the normal operation of construction equipment for these improvements is also exempt.
4. During the period of an emergency such as a tornado, severe thunderstorm, ice storm, flood, or other natural disaster, the requirements of this section may be waived as deemed necessary by the City Manager or designee.
5. In addition to rights granted by easement, utility companies franchised by the City may remove trees during the period of an emergency that are determined by the company to be a danger to public safety and welfare by interfering with utility service.
6. Any plant nursery (growing for commercial sales) shall be exempt from the terms and provisions of this section only in relation to those trees planted and growing on the premises for the sale or intended sale to the public.
7. Utility and drainage easements required by the City and utility companies to install and maintain infrastructure.
8. Trees that are diseased or dead unless the tree was required to be planted as part of an approved landscape plan or tree mitigation plan.
9. The City may approve selective thinning of trees protected by this section, upon the recommendation of a certified arborist engaged by the developer, that will enhance the likelihood of survival of a larger tree or trees.
10. Exempt Tree Species: the following tree species are exempt from the provisions of this section if less than eight (8) Caliper Inches in

DBH, or if located in a Floodplain, or as otherwise determined in writing by the City Manager or designee:

SCIENTIFIC NAME	COMMON NAME
<i>Acer saccherinum</i>	Silver Maple
<i>Celtis occidentalis</i>	Common Hackberry
<i>Maclura Pomifera</i>	Bois d’Arc
<i>Melia azedearach</i>	Chinaberry
<i>Morus alba</i>	Mulberry
<i>Populus spp.</i>	Cottonwood

e. Tree Preservation Requirements. The following requirements must be met:

1. In all zoning districts, no Clear-Cutting of land is allowed without a permit. An approved Tree Preservation Plan or approved site plan is the permit that allows the removal of trees subject to this section.
2. Removal and clearing of underbrush (but not Grubbing) is allowed and does not require a permit.
3. No tree eighteen (18) Caliper Inches in DBH may be removed unless located in areas specifically exempted by this section, the City has approved removal based on the tree’s health and condition, or the City has approved removal after assessment of a Tree Mitigation Fee.

f. Tree Survey and Preservation Plan Requirements.

1. Tree Survey: A Tree Survey must be submitted with all site plan and preliminary plat applications. A Tree Preservation Plan, if applicable, shall be submitted with all final plat applications. The Planning Department is authorized to maintain a list of required information for tree surveys and tree preservation plans. The Tree Survey shall include the exact location, size, condition if damaged or diseased, and common name of each tree protected by this section, including those located in a Floodplain. Trees that will be used to qualify for tree preservation incentives in accordance with subsection (i) below must also be shown on the Tree Survey. The Tree Survey for properties with ten (10) or fewer protected trees may be shown on the site plan or preliminary plat instead of a separate plan.
 - i) For property containing large heavily wooded areas, the City may, in lieu of a Tree Survey, authorize the submittal of an aerial photograph indicating all areas of tree cover that will not be disturbed or critically altered, provided that a Tree Survey and Tree Preservation Plan of

all other areas is submitted prior to any grading or construction. Trees within the non-disturbance area do not need to be individually identified unless they will be used for tree preservation incentives.

- ii) In lieu of a Tree Survey, the applicant may submit a statement from a certified arborist certifying that there are no protected trees on a property.
- 2. Tree Preservation Plan: The Tree Preservation Plan shall indicate which trees are to be preserved, which are to be removed and the manner in which they will be protected during the construction period. A tree mitigation plan, if required, must be included as part of the Tree Preservation Plan.
- g. Requirements for Tree Preservation. Developers shall adhere to the following tree protection measures on all construction sites:
 - 1. Prior to grading, brush removal, or construction, the developer shall clearly tag or mark all trees to be preserved.
 - 2. The developer shall erect Protective Fencing around each tree or group of trees to prevent the placement of debris or fill within the root protection zone. The fence shall be installed prior to the release of any permit. If the protection fence is found removed, down, or altered at any time during construction prior to final inspection or landscape installation, a stop work order may be issued.
 - 3. During the construction phase of Development, the developer shall prohibit cleaning, parking, or storage of equipment or materials under the canopy of any tree or group of trees being preserved. The developer shall not allow the disposal of any waste material such as, but not limited to, paint, oil solvents, asphalt, concrete, mortar, etc. in the canopy area.
 - 4. No attachments or wires of any kind, other than those of a protective nature shall be attached to any tree.
 - 5. No fill or excavation may occur within the Drip Line of a tree to be preserved unless there is a specific approved plan for use of tree wells or retaining walls. Major changes of grade (6 inches or greater) will require additional measures to maintain proper oxygen and water exchange with the roots.

h. Tree Replacement and Mitigation.

1. If protected trees eighteen (18) Caliper Inches and larger DBH are removed from a property, Replacement Trees a minimum of three (3) Caliper Inches must be planted to equal three (3) times the aggregate diameter of the tree(s) removed. If trees protected by this section less than eighteen (18) Caliper Inches in DBH are removed from a property, Replacement Trees a minimum of three (3) Caliper Inches must be planted to equal the aggregate diameter of such tree(s) removed. Replacement Trees are a credit towards the trees removed from the property and shall be in addition to trees required by other landscape requirements of the City's Code of Ordinances.
2. Replacement Trees planted to mitigate tree removal may be located on the property being developed or in a location mutually agreed upon by the City and developer.
3. If all Replacement Trees cannot be properly located, the developer may pay a Tree Mitigation Fee to the City in lieu of tree replacement. All fees shall be paid prior to the issuance of any building permits associated with the Development or project.

i. Incentives for preservation of protected trees: These incentives are designed to maintain a more natural and less manicured aesthetic through the preservation of existing trees. These incentives shall not be used to reduce the landscaping requirements in the City's Code of Ordinances.

1. Tree Preservation. The following incentives are applicable for existing trees that are protected by this section and that are preserved:
 - i) Reduction in parking. For developments requiring fifty (50) parking spaces or more, the number of parking spaces may be reduced by two (2) spaces for every one (1) protected tree preserved. However, in no case shall the parking requirement be reduced by more than twenty (20) percent.
 - ii) Tree credits. Credit toward the total number of trees required as outlined in the following:

DBH OF EXISTING TREE	CREDIT AGAINST TREE REQUIREMENT
4" to 6"	1.5 trees
Over 6" to 8"	2 trees
Over 8" to 10"	2.5 trees

Over 10" to 12"	3 trees
Over 12" to 15"	4 trees
Over 15"	5 trees

- j. **Tree Mitigation Fee.** The Tree Mitigation Fee shall be in the amount deemed necessary to purchase, plant, and irrigate a new tree, as provided below. The fee shall be reviewed on an annual basis to ensure its adequacy for its designated uses by the Development Services Director. The fee shall be assessed and collected from the owner of the property to be developed as provided for in these Subdivision Regulations. The Director of Development Services, or designee, shall collect the fee and deposit the fee into the Tree Mitigation Fund.

Tree Mitigation	In City	Out City
Tree Mitigation Fee (per Caliper Inch of a protected tree that is removed)	\$125.00	\$125.00

- k. **Penalty; Enforcement.** In addition to the penalties provided by Section 1.12 of Article I of the City's Subdivision Regulations, no building permit(s), certificate of occupancy, or acceptance of public improvements shall be issued or authorized by the City until any and all violation(s) have been mitigated by replacement of the protected tree or payment of the Tree Mitigation Fee in accordance with this section. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this section. Each tree removed or transplanted without a permit shall constitute a separate offence. Violation of this Section shall not constitute an exemption to the replacement requirements of this Section.

SECTION 3. The City Council hereby creates and establishes a Tree Mitigation Fund (the "Fund"). The Fund shall be a restricted account used only for the purposes the fund was established for and may be maintained pursuant to the investment policies of the City in an interest-bearing account or in the general revenue account.

SECTION 4. Designated use of the Fund and administration:

A. The Fund shall be used only for the following purposes:

- 1) Purchase of new trees;
- 2) Planting of new trees on public property;
- 3) Irrigation of new or existing trees on public property;
- 4) Perform and maintain a City-wide tree inventory or study, as needed; or
- 5) To educate citizens and developers on the benefits and value of trees.

B. The Fund shall be administered by the City through the Director of Development Services, or designee, in accordance with the policies and direction adopted by the City Council.

SECTION 5. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6. Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Kaufman hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7. This Ordinance shall become effective immediately upon its passage and adoption in accordance with state law and City Charter.

PASSED AND APPROVED this 4th day of March, 2021.

JEFF JORDAN
MAYOR

ATTEST:

JESSIE HANKS
CITY SECRETARY

APPROVED AS TO LEGAL FORM:

PATRICIA A. ADAMS
CITY ATTORNEY