

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 8, OFFENSES AND NUISANCES, OF THE EDMOND MUNICIPAL CODE BY AMENDING CHAPTER 8.16 OF THE EDMOND MUNICIPAL CODE, PROPERTY; BY AMENDING AND RENAMING SECTION 8.16.100 TREE REMOVAL, CUTTING TREES, OR FOILAGE; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF EDMOND, OKLAHOMA:

SECTION 1. Section 8.16.100 of the Edmond Municipal Code is hereby amended to read as follows:

8.16.100 Tree Removal, Cutting Trees, or Foliage.
A. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- 1.) "Tree canopy" shall mean the layers of leaves, branches, and stems of a tree or trees, which obscures the ground directly below when viewed from above;
- 2.) "Tree removal" shall mean the removal of a tree, through either direct or indirect actions, including but not limited to: (1) clearing, damaging or poisoning resulting in a significantly stressed, declining, or dead tree; (2) removal of half or more of the live crown; or (3) damage to roots or trunk that is likely to impact structural stability of the tree to an extent that risk of failure increases to probable or imminent, under normal conditions;
- 3.) "Grower" shall mean any person who raises, grows, or propagates for profit or other reason any nursery stock or plant;
- 4.) "Nursery" shall mean and includes any field, ground, greenhouse, bin, pit, plot, or premise where nursery or floral stock is grown, propagated, or sold;

B. Unauthorized cutting or gathering of trees or parts of trees and/or the removal of wood or foliage, grass, turf, humus, shrubs, vines, cones, or deadwood from City-owned or managed property is prohibited.

C. Tree Removal or damaging of trees upon any un-platted area is prohibited prior to obtaining a tree removal permit, unless otherwise indicated in this section. Tree Removal or damaging of trees upon land zoned as any Nonresidential, Special Purpose, or PUD district, as identified in 22.4.1(E), is prohibited without a tree removal permit, unless otherwise indicated in this section.

- 1.) A Tree Removal Permit shall **not** be required for the following activities:
 - a. Tree removal occurring upon land within any plat recorded with Oklahoma County;
 - b. Tree removal on parcels less than five acres in size;
 - c. Tree removal within 20 feet any existing structure or improvement;
 - d. Tree removal that will result in no loss of tree canopy;
 - e. Tree removal associated with emergency response made on public or private property necessary for the preservation of life, health, or property, and which is made under such circumstances where it would be impossible or impracticable to obtain a Tree Removal Permit;
 - f. Tree removal for the purpose of maintaining or repairing any public street, alley, public utility, drainage easement or any service lines and appurtenances;
 - g. Tree removal deemed by the City's Urban Forestry staff to be dead, diseased, or of an elevated level of risk due to structural defects, fire hazard, and potential targets that may be impacted as a result of failure;

- h. The removal of eastern red cedar or invasive species not native to North America;
 - i. The removal of trees from a nursery by a grower who is licensed by the State;
 - j. The removal of trees with a trunk diameter less than 3 inches as measured at a height of 4.5 feet from base of tree, at grade level;
- 2.) Tree Removal Permit applications are approved or denied as follows:
- a. Tree removal from property for which a plat has been approved shall be approved, except upon any land zoned as any Nonresidential district, Special Purpose district, or F/SD, as listed in 22.4.1(E). (Tree removal within any Tree Preservation Area(s) provided to meet the requirements of 21.02.170 - Tree Preservation Required or 21.03.112 - Tree Protection Required, is prohibited).
 - b. Tree removal from any property for which a Site Plan has been approved shall be approved. (Tree removal within any area provided as tree preservation or otherwise provided as a provision of an approved Site Plan is prohibited).
 - c. Tree removal from any property for which a Planned Unit Development has been approved shall be approved. (Tree removal within any area provided for the purpose of providing tree preservation, to meet Site Plan requirements, for purposes identified by the PUD master plan, as identified in 22.3.4(C), or for any conditions of the PUD approval is prohibited.)
 - d. Tree removal which, cumulative with any previously permitted tree removal, equals less than 25 percent of the existing tree canopy shall be approved.
 - e. Tree Removal Permit applications shall be denied for all other tree removal, unless otherwise approved by variance as provided in 8.16.100.C.3.
- 3.) Administrative Procedure.
- a. *Application contents.* A Tree Removal Permit shall include, but may not be limited to, the following: (1) name and contact information for the applicant, (2) proof of ownership for all property from which trees

are to be removed, (3) signed consent for application of the land owner(s), (4) a current scaled aerial photo of the subject property indicating all trees to be removed and all areas on which trees will be preserved, and (5) a completed Tree Removal Permit form. Scaled aerial photos are available from the City.

- b. *Permit review.* Tree Removal Permit Applications are reviewed and approved, or denied, by the City Manager's designee.
- c. *Administrative appeals.* All rulings, requirements, decisions, or interpretations of the City Manager or the City Manager's designee shall be final and binding upon all parties unless appealed to the Urban Forestry Commission. Any person aggrieved thereby shall perfect an appeal by filing a written notice of appeal with the City within ten (10) days receipt of notice of denial of the Tree Removal Permit. All notices of appeal shall specify the facts upon which the aggrieved party considers material to appeal. A hearing on the appeal shall be heard by the Urban Forestry Commission not later than forty-five (45) days from the date of filing the required notice of appeal.
- d. *Variance by procedures.* The Urban Forestry Commission may grant a variance or modification of the terms of this article to ensure the public good, safety, or welfare, provided such variance or modification is not contrary to the spirit, purpose, and intent of this article where, by reason of unique and exceptional physical circumstance or condition of a particular property, the literal enforcement of the adopted City tree preservation goals, standards, or the requirements of this article will result in an unreasonable hardship.
- e. *Period.* Tree Removal Permits expire 12 months after issuance and immediately upon any change of zoning or transfer of all or part ownership of the affected property.
- f. *Fee.* The fee for making application for a Tree Removal Permit shall be zero dollars (\$0.00).

4.) Enforcement and Penalties.

- a. *Notification of noncompliance.* If at any time the work being performed in accordance with a Tree Removal Permit does not conform to the approved permit, including conditions and approved modifications, a notice to comply shall be given to the permit holder by the City, stating the nature and location of the alleged noncompliance.
- b. *Temporary suspension of a Tree Removal Permit.* A Tree Removal Permit may be suspended by the City Manager, or his designee, upon the observance or existence of any condition or the doing of any act constituting or creating a condition that endangers human life or that may cause property damage to others or results in the damage of trees beyond the scope of the Tree Removal Permit.
- c. *Revocation of Tree Removal Permit.* A Tree Removal Permit may be revoked by the City. The City Manager or his designee may issue an immediate Stop Work Order and a Notice of Violation of this Ordinance, giving the permit holder notice specifying the grounds for the Stop Work Order. No further work on the property shall proceed after revocation of Tree Removal Permit or once a Stop Work Order is issued, until such time as the permit holder applies for and obtains a new Tree Removal Permit. A Tree Removal Permit may be revoked upon the occurrence of any violation of any condition of the permit, or violation of any provision of this article or any other applicable law, rule or regulation pertaining to 22.6.1 (6) - Tree Preservation, 21.02.170 -Tree Preservation Required, or 21.03.113 - Tree Protection.

Upon the revocation of a Tree Removal Permit, the City Manager's designee shall issue a Stop Work Order on all construction activity on the permit holder's property which may be directly or indirectly related to, or impacts Tree Removal on the site, and which is being performed under any permits, licenses, franchises, or contracts issued or approved by the City of Edmond. The Stop Work Order may direct cessation of all construction activity on buildings or structures and all appurtenances, including building, electrical, plumbing, mechanical, and street work, storm sewers, sanitary sewers, gas lines, and all

utilities including gas, electric, telephone, and cable TV. Notices and orders required by this section shall be served upon the parties concerned either personally or by certified mail, addressed to the individual contracting party(ies) or permit holder at the address given on the Tree Removal Permit application filed with the City.

- d. *Tree removal or damage presumption. Prima facie* presumption that the owner of the land from where trees were removed or damaged committed violation. In any prosecution charging a violation of Section B, proof that unpermitted Tree Removal occurred together with proof that the individual named in the complaint was the owner of record at the time of the violation constitutes a *prima facie* presumption that the owner of property was the person who committed the violation.

- e. *Fine imposed.* Any person, or legal entity violating the requirements of this article shall be guilty of an offense and, upon conviction, shall be fined not more than two hundred dollars (\$200.00) for each and every violation. Each five hundred (500) square foot of tree canopy removed in violation shall constitute a separate offense. Evidence of tree removal may include, but is not limited to, aerial photography or other data maintained by the City.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

SECTION 3. SEVERABILITY. If any section, sub-section, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

PASSED AND APPROVED the _____ day of _____,
2021.

MAYOR

Attest:

City Clerk

APPROVED as to form and legality this the _____ day
of _____, 2021.

CITY ATTORNEY