

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS CREATING A TREE BOARD, PROVIDING FOR A CITY ARBORIST AND ESTABLISHING STANDARDS FOR THE PLANTING, CARE AND MANAGEMENT OF TREES LOCATED ON PUBLIC PROPERTY WITHIN THE CITY OF MESQUITE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); AND DECLARING AN EMERGENCY.

WHEREAS, the City of Mesquite recognizes the importance and the benefits of trees to the environment; and

WHEREAS, trees add to the citizens quality of life and beautification of the City; and

WHEREAS, it is in the best interest of the citizens of the City of Mesquite that standards be established for the planting, care, and management of trees within the City;

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

Section 1. That there is hereby created a board to be known as the "Tree Board" which shall be composed of the members of the Parks and Recreation advisory board whose members have and will continue to be appointed by the City Council in accordance with the provisions of City of Mesquite Ordinance No. 1302. The duties of the "Tree Board" shall be as follows: 1) To study the needs of the City of Mesquite in connection with its tree planting program and make recommendations to, advise, and assist the municipal arborist in promotion and implementation of the City's tree planting program. 2) To hear disputes which may arise between the Municipal Arborist and any other person concerning the interpretation or implementation of this ordinance, where the jurisdiction for such disputes does not lie in the Municipal Court, and where the jurisdiction for the decision to be made does not lie with any other City Board, Commission or with the City Council. The decision of the "Tree Board" with regard to such disputes shall be binding upon the Arborist and all persons concerned.

Section 2. That the position of Municipal Arborist is hereby established. That the Director of the City of Mesquite Parks and Recreation Department shall appoint a qualified individual from his staff to fulfill the position of Municipal Arborist. The Municipal Arborist, acting with the assistance of the "Tree Board" is granted the authority, control and supervision over all trees growing in, upon, or over all public property in the City of Mesquite. This authority includes but is not limited to the planting, removal, care, maintenance, trimming, spraying, and protection of all such trees. The Municipal Arborist will request assistance from the City of Mesquite Public Services Department and Department of Community Development as such assistance is needed in order that the services and work described in this ordinance may be accomplished, and such departments will provide assistance and services which they have equipment and personnel skilled to perform as such assistance and services is needed to effect the purposes of this ordinance. Such assistance and service shall include but not be limited to the provisions of this ordinance as they relate to streets, alleys, rights-of way, drainage, easements, and all other public properties not under the direct jurisdiction of the Parks and Recreation Department.

Section 3. That the standards and provisions regarding the development of medians and boulevards within the City of Mesquite, established and adopted by the City Council in City of Mesquite Ordinance No. 2617 are hereby made a part of the City tree planting program under the authority of the Municipal Arborist.

Section 4. That trees planted on public property shall be called public trees and shall be approved by the Municipal Arborist. The following trees are approved public trees:

Eastern Red Cedar, Crape Myrtle, Bald Cypress, Pond Cypress, Cedar Elm, Ginkgo, Goldenrain Tree, Deciduous Holly, All Oaks (except Pin Oak), Flowering Peach, Bradford Pear, Eldarica Pine, Chinese Pistachio, Purpleleaf Plum, Redbud, Sweetgum. Other trees that are approved upon review by the Municipal Arborist.

Section 5. Unless specifically authorized by the Municipal Arborist, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come into contact with them; or set any fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

Section 6. No person shall hinder, prevent delay or interfere with the Municipal Arborist or any of his assistants while engaged in carrying out the execution of this Ordinance; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of the property rights of any owner of any property within the municipality.

Section 7. All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work shall be guarded with a good substantial fence, frame or box of not less than four(4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., which ever is greater, and all building materials, dirt, or other debris shall be kept outside the barrier

No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Municipal Arborist.

Section 8. No person shall deposit, place, store, or maintain upon any public place of the City, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written permit of the Municipal Arborist.

Section 9. It shall be the duty of the person owning or occupying real property which borders a public street, alley, or sidewalk to prune the trees located on said property in such a manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten (10) feet over sidewalks, and twelve (12) feet over all streets and alleys.

A. Notice to Prune Should any person, required herein to prune trees, fail to prune trees as herein provided, the Municipal Arborist shall notify such person, in writing, that they are not in compliance with this Ordinance and require that such person comply with the Ordinance within ten (10) days after receipt of the written notice.

B. Notice Required The notice required herein shall be served by personal hand delivery to the owner or occupant, or by mailing a copy of the notice to the last known address of the owner or occupant, by certified mail.

C. Failure to Comply When a person to whom notice is given fails to comply with the Ordinance within the specified time, it shall be lawful for the City to prune the obstructing trees, and the exact cost thereof shall be billed to and become a personal liability of such person.

D. Emergency In any location in the city where an overhanging tree or trees has not been pruned as required herein and is obstructing the view of a stop sign or other traffic control device, or obstructing visibility at an intersection, the City may, without notice to the person owning or occupying the property on which the tree or trees are located, prune such trees so as to eliminate the obstruction. In such case, the City shall assume the cost of the pruning.

SECTION 10. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 11. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars for each offense.

SECTION 12. That the present ordinances of the City of Mesquite are inadequate to properly protect public trees within the City of Mesquite, creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 15th day of October, 1990.

George A. Venner, Sr.
George A. Venner, Sr.
Mayor

ATTEST:

APPROVED:

Lynn Prugel
Lynn Prugel
City Secretary

B.J. Smith
B.J. Smith
City Attorney

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