

ORDINANCE NUMBER 2022-3

AN ORDINANCE AMENDING CHAPTER 14 ENVIRONMENT TO ADD ARTICLE VIII HERITAGE OAKS TO PROVIDE REGULATIONS FOR HERITAGE OAKS

WHEREAS, the City council desires to amend Chapter 14 **ENVIRONMENT** of the Municipal Code to add **ARTICLE VIII. HERITAGE OAKS**;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council for the City of Scott in regular session assembled, that Chapter 14 **ENVIRONMENT** of the Municipal Code, be amended to add **ARTICLE VIII. HERITAGE OAKS**, to read as follows:

Sec. 14-207. Definitions.

- (a) Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section.
- (1) Heritage live oak shall mean a live oak tree within the city limits of the City of Scott that has a circumference of 95 inches or more, or a diameter of 30 inches or more when measured at 54 inches (4 ½ feet) from the ground (also referred to as diameter breast height).
- (2) Critical root zone shall mean a circle on the ground corresponding to the dripline of the tree. Determine this dimension by measuring the diameter of the tree trunk in inches at diameter breast height multiplied by twelve.
- (3) Diameter breast height shall mean the diameter of a tree 54 inches (4 ½ feet) above the average ground level.
- (4) Tree removal shall mean cutting, uprooting, or severing the main trunk of the tree, or any other act, which causes or may reasonably be expected to cause the death of the tree.
- (5) Significant alteration or to significantly alter shall mean to cut, prune, trim, break or remove a portion of a tree in such a way that either (i) its natural character is significantly altered, or (ii) the height and/or spread of the tree crown is reduced by more than one-quarter.
- (6) Topping or to top shall mean the severe cutting back of limbs to stubs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

Sec. 14-208. Removal or significant alteration of heritage live oak trees.

- (a) The removal or significant alteration of a heritage live oak tree must be approved by the City according to the following guidelines:
 - (1) *Application submittal.* A permit shall first be obtained from the Mayor, or his designee, prior to removing or significantly altering a heritage live oak tree. The application for a permit to remove or significantly alter a heritage live oak tree shall be on a form provided by the city for this purpose. An application for the removal or significant alteration of a heritage live oak tree shall include the following:
 - i. The reason for proposed removal/significant alteration;
 - ii. The approximate location of the tree(s);
 - iii. The diameter of the trunk of each tree as measured from diameter breast height;
 - iv. The applicant for the permit must state in writing why the proposed tree removal or significant alteration will enhance the health, safety, and welfare of the public or otherwise benefit the public interest and the applicant must offer evidence to that effect.

(2) *Action on application for removal.*

- i. A permit may be granted by the City for removal of a heritage live oak tree if one of the following conditions exist:
 - a. The tree is determined by an Arboriculture certified arborist to be hazardous or diseased, dead, or dying to the point that repair or restoration is not practical;
 - b. Allowing the tree to remain would impose a threat to safety of persons and property;
 - c. Allowing the tree to remain would impose an economic burden upon the owner of the property entirely out of proportion with the benefit gained by retaining the tree;
 - d. The location of the tree prevents necessary vehicular traffic lanes or prevents the construction of utility lines or drainage facilities; but
 - e. To the extent that any of these conditions can be cured by substantial alteration to the tree, rather than removal, then a permit for substantial alteration should be issued in lieu of a permit for removal.
- ii. In considering an application for tree removal, setbacks and parking requirements may be adjusted by the Mayor, in his sole discretion, to facilitate preservation of a heritage live oak tree. A permit for removal of a heritage live oak tree should only be granted as a last resort when all other efforts to save the tree(s) by redesign of building placement and site plans have failed.
- iii. The city is empowered to issue or deny the permit, within 30 days of the date of the application, based upon review of the condition of the tree, location, site conditions and any additional supportive materials required to be submitted as part of the application.
- iv. Any heritage live oak tree that is removed in accordance with this Article shall be replaced with an equal number of inches of live oak tree(s).

Sec. 14-209. Action on application for significant alteration.

- (1) A permit may be granted for the significant alteration of a heritage live oak tree if the proposed pruning or trimming (a) comports with sound arboricultural practices, (b) minimizes the negative effects on the tree, and (c) one of the following conditions exist:
 - a. The tree is determined by an Arboriculture certified arborist to be hazardous, damaged or diseased and the proposed pruning or trimming comports with sound arboricultural practices;
 - b. The tree poses a threat to safety of persons or property or vehicular traffic dictates a substantial alteration;
 - c. The location of the tree prevents necessary vehicular traffic lanes or prevents the construction of utility lines or drainage facilities.

- (2) In considering an application for significant alteration of a heritage live oak, no heritage live oak tree shall be significantly altered in a manner which disfigures the tree or in any manner which would reasonably lead to the death of the tree.

Sec. 14-210. Protection of Heritage Oak Trees During Contruction.

- (a) During construction, the critical root zone of the tree(s) to be preserved shall be fenced and protected from compaction, trenching, harmful grade changes, or other injury.
- (b) Pavement or building foundations shall not encroach into the critical root zone, unless specific preservation practices are followed to insure exchange of oxygen and water to the root system.
- (c) Sidewalks or other forms of hard surfaces that do not require soil compaction and are not intended for vehicular use may be located within the critical root zone only if specific preservation practices are followed to insure exchange of oxygen and water to the root system.

Sec. 14-211. Penalties.

- (1) *Violations.* If a heritage live oak tree should be cut, cleared, removed, caused to become diseased or die, or otherwise acted upon without a permit or in violation of a permit issued under the provisions of this Article, this constitutes an offense punishable by a fine not exceeding \$5,000.00 per tree or imprisonment for a term not exceeding six months, or both, and the heritage live oak tree(s) shall be replaced with an equal number of inches of live oak tree(s).

This ordinance shall become effective immediately upon its adoption. Any provisions of the code or ordinances which are in conflict herewith are hereby repealed.

This ordinance having been submitted to a vote in regular session assembled of the Mayor and the City Council of the City of Scott, the vote thereon being as follows:

YEAS: Councilman Suire Councilman Montoucet Councilman Hollier
Councilman Boudreaux Councilman Bergeron _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

WHEREUPON, the presiding officer declared the above Ordinance duly adopted on this 5th day of May, 2022.

Shelley M. Gautreau
SHELLEY M. GAUTREAU-CITY CLERK

JAN-SCOTT RICHARD
JAN-SCOTT RICHARD-MAYOR

5th I certify that the above Ordinance was presented to the Mayor by me on the day of May, 2022.

Shelley M. Gautreau
SHELLEY M. GAUTREAU-CITY CLERK

5th I acknowledge receipt of the above Ordinance from the City Clerk on the day of May, 2022.

JAN-SCOTT RICHARD
JAN-SCOTT RICHARD - MAYOR

I hereby approve the above Ordinance on this 5th day of May, 2022.

JAN-SCOTT RICHARD
JAN-SCOTT RICHARD - MAYOR

5th I certify that the above Ordinance was received by me from the Mayor on the day of May, 2022.

Shelley M. Gautreau
SHELLEY M. GAUTREAU-CITY CLERK