

## **ORDINANCE NO. 2025-04-07B**

**AN ORDINANCE OF THE CITY OF SPLENDORA AMENDING CHAPTER 34, SUBDIVISION AND DEVELOPMENT REGULATIONS OF THE SPLENDORA, TEXAS CODE OF ORDINANCES BY ADDING A NEW ARTICLE IV "TREE PRESERVATION" REQUIRING THE PUBLICATION OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR A PENALTY; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the Codes of Ordinances of the City of Splendor, Chapter 34 "Subdivision and Development Regulations" establishes minimum requirements for development of properties, and;

**WHEREAS**, the City Council wishes to adopt measures and standards to protect established trees that otherwise be damaged or removed during construction, landscaping, or maintenance activities.

**WHEREAS**, the City Council held a public hearing at their meeting on April 7, 2025, prior to consideration of amending the Ordinance; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPLENDORA, TEXAS, that:**

**SECTION 1:** All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Splendor, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**SECTION 2:** The Codes of Ordinances of the City of Splendor, Texas, Chapter 34 is amended by adding an Article IV, "Tree Preservation" as shown on Exhibit "A" attached hereto and incorporated herein.

**SECTION 3:** All ordinances or parts of Ordinances that are in conflict or inconsistent with the provisions of this Ordinance shall be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 4:** Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

**Section 5. Compliance Clause and Effective Date.** The City Council finds, determines and declares that a sufficient written notice was posted and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish this Ordinance in the Official Newspaper of the City of Splendor in the manner provided and for the time required by Section 52.011(a) of the Local Government Code, at which time this Ordinance takes effect.

**PASSED AND APPROVED** on this the 7<sup>th</sup> day of April 2025.

**THE CITY OF SPLENDORA**

  
Dorothy Welch, Mayor

**ATTEST:**

  
Anita Davis, City Secretary

**APPROVED AS TO FORM:**

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City Attorney

## **EXHIBIT A**

### **Chapter 34- SUBDIVISION AND DEVELOPMENT REGULATION**

#### **ARTICLE IV- TREE PRESERVATION**

##### **Sec. 34-100. - Purpose**

The purpose of this section is to establish rules and regulations governing the protection of trees within the City of Splendor, to encourage the protection of native, healthy and desirable trees and to provide for the replacement and replanting of trees that are removed from developed or undeveloped property, or are necessarily removed during construction, development, or redevelopment. This Tree Preservation Criteria may be used as credit to comply with the Landscaping and Buffer requirements **in the Splendor Code of Ordinances.**

##### **Sec. 34-101.- Applicability**

The terms and provisions of this section shall apply to real property as follows:

- (1) All real property upon which any designated protected tree is located.
- (2) All vacant and undeveloped property.
- (3) All property to be redeveloped, including additions and alterations.
- (4) The yard areas of all developed property, excluding owner-occupied single-family residential property; rental properties are not excluded and are specifically subject to the provisions of this section.
- (5) All easements and rights-of-way except those included in a plat approved by the City Council shall meet the terms and provisions of this section. Protected trees located within platted rights-of-way, easements and buildable areas need not be included in calculated replacement plans.
- (6) City of Splendor Officials may require the removal of nuisance trees that can have an adverse effect on other trees or structures, either on public or private properties, by requiring their removal.

##### **Sec. 34-102. - Inspections, permits and fees**

- (1) Tree removal permit required  
A tree removal permit shall be required when protected trees are to be removed from a site. No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any protected tree situated on property described above without first obtaining a tree removal permit from the city.
- (2) Protected tree removal permit

Permits for removal or replacement of protected trees covered herein shall be obtained by making application on a form prescribed by the city and submitted to the City . The application shall be accompanied by a Tree Survey/Inventory showing the exact location, caliper size, height, and common name of all protected trees to be removed. The application shall also be accompanied by a written document indicating the reasons for removal or replacement of protected trees and two copies of a Tree Survey/Inventory plan drawn to the largest practicable scale indicating the following:

- a. Location of all existing or proposed structures, improvements such as streets, alleyways, etc. and site uses, properly dimensioned and referenced to property lines, setback and yard requirements and special relationships.
- b. Date, scale, north point, and vicinity map.
- c. Location of existing and proposed public utility easements, public access easements and drainage easements on the lot.
- d. Location and dimensions of visibility triangles on the lot.
- e. Location of all protected trees on the site to remain that are three-inch caliper or greater when measured at a point 4½ feet above the ground level. Protected trees to remain shall be designated by a circle.
- f. Location of all protected trees on the site to be removed that are three-inch caliper or greater when measured at point 4½ feet above the ground level. Protected trees to be removed shall be designated by a triangle.
- g. Tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal.
- h. Protected tree replacement plan: The plan shall exhibit the location of protected trees proposed to be replaced and include a legend indicating the species, caliper size and height of proposed tree replacement. Replacement trees shall be designated by a square.

(3) Tree protection plan: The plan shall describe how existing healthy protected trees proposed to be retained will be protected from damage during construction.

(4) Application review. Upon receipt of a complete application, Development Services staff shall review the applications for compliance with this section; said review may include a field inspection of the site, and the application may be referred to such departments as deemed appropriate for review and recommendations. Following the review and inspection, the permit applications will be approved, disapproved, or approved with conditions by Development Services staff as appropriate.

## **Sec. 34-103.- Regulations and Restrictions**

### **(1) Protected tree removal.**

No protected tree or trees shall be removed prior to issuance of a tree removal permit unless one of the following conditions exist:

- a. The protected tree is located in a public utility easement, public access easement or public street right-of-way as recorded on a plat initially approved by the City.

In the event that certain protected trees outside the above areas or protected trees located partially outside the easement are requested to be removed to allow the operation of equipment, the applicant shall submit a site plan which indicates the exact operation area needed.

- b. The protected tree is diseased, injured, in danger of falling, interferes with utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations, the protected tree may be removed with the approval of the City Administrator.
- c. Except for the above, under no circumstances shall there be clear cutting of protected trees on a property prior to the issuance of a tree removal permit.
- d. The City Administrator may approve the removal of protected trees that interfere with the construction of a building and/or the drainage of a lot.
- e. The City Administrator may approve of the removal of a protected tree or trees located within a drainage easement if the removal is determined to be necessary to ensure the proper construction or maintenance of said drainage easement.
- f. The following species of trees are exempt from the protection and preservation requirements stated within this ordinance and are considered invasive species. Invasive trees shall not be planted nor counted towards any tree caliper credit.
  - Tree of Heaven
  - Mimosa, Silk Tree
  - Paper Mulberry
  - Chinese Parasol Tree
  - Large Leaf Privets
  - Chinaberry 1
  - Chinese Pistache 1
  - Chinese Tallow

This list may not be all inclusive and is subject to change and will be periodically reviewed and updated if necessary by the City Council.

- g. If under brushing is essential in order to conduct survey work necessary to produce a Survey/Inventory plan, the applicant shall request approval from the City Administrator prior to any under brushing activities taking place.
- (2) Upon issuance of a tree removal permit: a developer shall be allowed to remove protected trees located on the buildable area of the property as identified on the approved tree survey/inventory.
  - (3) Protected tree replacement requirements. In the event that it is necessary to remove protected tree(s) outside the buildable area, the developer, as a condition of issuance of a protected tree removal permit, may be required to replace the protected tree(s) being removed with comparable trees somewhere within the development. Trees removed from the Buildable Area are not required to be replaced
  - (4) Replacement tree specifications: A sufficient number of trees shall be planted to equal, in caliper, the ratio of diameter of the trees removed. Said replacement trees shall be a minimum of two inches caliper and six (6) feet in height when planted and shall be selected from the list of approved replacement trees maintained by the City.
  - (5) In order to maximize the preservation of existing trees, surveyed trees in good health that have a caliper of at least six (6) inches measured four feet – six inches (4'-6") from the ground may provide credit towards the replacement requirements. Each existing tree preserved between six inches (6") and twelve inches (12") in diameter measured four feet – six inches (4'-6") from the ground may receive replacement credits for two (2) replacement trees. Each existing tree preserved greater than twelve (12") inches in diameter measured four feet – six inches (4'-6") from the ground may receive credit for three (3) replacement trees.
  - (6) Protected trees that are removed without a permit shall be replaced at an equivalent caliper inch equaling 100 percent of those protected trees removed from the site as estimated by the City Administrator.
  - (7) No replacement tree may be planted within a visibility triangle, a watercourse, utility easement or an existing or proposed street or alley.
  - (8) A replacement tree must have a minimum caliper of at least two inches when measured at 4 to 6 inches above ground level.
  - (9) A replacement tree that dies must be replaced by another replacement tree that complies with the tree removal permit.

**Sec. 34-104.- Tree reforestation fund:** In situations in which it is not feasible to place the replacement trees on either the subject site or an alternate site, the applicant, upon approval of the City Administrator, may make a payment into the tree reforestation fund. The fund amount shall be equivalent to 100 percent of the tree ratio replacement cost. For those protected trees removed without a permit, the fund amount shall be the equivalent of 100 percent of the cost to replace the same caliper of trees removed without a permit. The funds shall be used only for purchasing and planting trees on public property. The amount of

payment that is required for each replacement tree should be calculated based on the average cost of a quality tree added to the average cost of planting a tree. No certificates of occupancy shall be issued for the site until the required payment has been made to the tree reforestation fund.

#### **Sec. 34-105.- Development Standards**

##### **(1) Tree protection.**

- (a) During any construction or land development, the developer shall clearly mark all protected trees to be maintained and may be required to erect and maintain protective barriers around all such trees or groups of trees. The developer shall not allow the movement of equipment or the storage of equipment, materials, and debris or fill to be placed within the drip line of any protected tree.
- (b) During the construction stage of development, the developer shall not allow the cleaning of equipment or material under the canopy of any protected tree or trees to remain. Neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any protected tree or trees.
- (c) No attachment or wires of any kind, other than those of a protective nature, shall be attached to any protected tree.
- (d) Exceptions.
  - (1) In the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate removal without delay, authorization may be given by the City Administrator and the tree may then be removed without obtaining a written permit as herein required.
  - (2) During the period of an emergency such as a tornado, storm, flood, the requirements of this section may be waived as may be deemed necessary by City Administrator.
  - (3) Utility companies franchised by the City may remove trees which endanger public safety and welfare by interfering with utility service.
  - (4) Properties that retain Montgomery County Appraisal District agricultural, timber or wildlife exemptions are excluded from the provisions of this section.
  - (5) The provisions of this section shall not apply to any development that has received a building permit approval prior to the effective date of this ordinance.

#### **Sec. 34-106.- Enforcement for Violations**

- (1) The City shall have the authority to place a Stop Work Order on any activity involving the removal of Protected Tree(s) or that may otherwise endanger trees contrary to the

provisions of this Subsection. The City Administrator may deny all Permits and Certificates of Occupancy for any site which is not in compliance with this Subsection.

- (2) It shall be a violation of this article for any person to intentionally or knowingly remove or destroy or allow the removal or destruction of a protected or Historic tree(s) located on any property to which this article applies, or for any person to knowingly or intentionally perform any regulated activity in manner that does not conform to the requirements of this article. Any act or omission contrary to the requirements or directives of this article, or any breach of any duty imposed by this article shall constitute a violation hereof.
- (3) Any person, firm, company or corporation violating any provision of this article shall, upon conviction be subject to a minimum fine of \$200.00 per violation. Each and every tree removed in violation of this article will be considered a separate violation. Additionally, each and every day until the illegally removed tree has been replaced or otherwise mitigated may be considered a separate violation.
- (4) Protected Tree Species
  - Live Oak
  - Pecan Tree
  - Smooth Hackberry
  - American Elm
  - Water Oak
  - Redbud
  - Loblolly Pine
  - Crepe Myrtle
  - Catalpa
  - Post Oak
  - Bois d'Arc
  - Southern Red Oak
  - Black Hickory
  - Cherry Laurel
  - Winged Elm
  - Sycamore Tree
  - Box Elder
  - Southern Magnolia
  - Cottonwood
  - Mimosa
  - Chinaberry

This list may not be all inclusive and is subject to change and will be periodically reviewed and updated if necessary by the City Council.



## **Sec. 34-107.- DEFINITIONS**

### **Buildable Area**

That portion of a building site on which a structure or building improvements may be erected, and including the actual structure, driveway, parking lot, pool, and other construction as shown on the site plan.

### **Caliper-Existing Tree(s)**

Existing tree caliper shall be determined by measuring the tree width at a point 4½ feet above ground level.

### **Caliper-Replacement Tree(s)**

Replacement tree caliper shall be determined by measuring the tree width at a point 4 to 6 inches above ground level. This measurement is used for measuring nursery stock and is only used for trees that are to be planted or relocated. The minimum caliper of a replacement tree is 2 inches.

### **Protected Tree Replacement Plan**

Is a plan that include all information necessary to demonstrate tree replacement along with tree preservation meet the forestation requirements of this section.

### **Ratio of Replacement**

Refers to protected trees to be replaced at a ratio of one inch for every three inches removed and historic trees are to be replaced at a ratio of two inches for every one inch removed.

### **Tree**

Any self-supporting woody plant species, which normally grows to an overall minimum height of 20 feet.

### **Tree(s) Historic**

A tree(s) which has been found by the city to be of a notable historic interest because of its age, type, size or historic association and has been so designated as part of the official records of the city.

### **Tree(s) Nuisance**

A tree(s) that is non-native invasive, diseased, invested with harmful insects, dying or dead.

### **Tree(s)Protected**

Any self-supporting woody perennial plant which has a caliper of three inches (3") or more when measured at a point of 4½ feet above ground level and which normally attains an overall height of at least 20 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks and is not diseased, dying, dead, or a nuisance tree as determined by an urban forester or International Society of Arboriculture (ISA) certified arborist.

### **Tree Survey/Inventory**

A survey that depicts the location, size and number of trees within the survey area. The survey shall summarize the total number of trees and the diameter inches of trees that will be removed and/or will be preserved. A Tree Survey/Inventory for treed areas that exceed one acre shall be prepared by a registered landscape architect, registered architect, registered engineer or registered surveyor.