

**CITY OF CORINTH, TEXAS
ORDINANCE NO. 22-05-19-22**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS, AMENDING SUBSECTION 2.09 – ZONING DEVELOPMENT REGULATIONS OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF CORINTH BY REPEALING SECTION 2.09.02 “TREE PRESERVATION” IN ITS ENTIRETY AND ADOPTING A NEW SECTION 2.09.02 “TREE PRESERVATION”; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AN AMENDMENT; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS/CONFLICT CLAUSE; PROVIDING A PENALTY CLAUSE WITH A PENALTY OF FINE UP TO \$2,000 FOR EACH VIOLATION THAT OCCURS AND FOR EACH DAY SUCH VIOLATION CONTINUES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Corinth (the “City”) is a home-rule municipality located in Denton County, Texas created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas and its home rule charter; and

WHEREAS, trees reduce the erosive effects of rainfall, protect water resources, mitigate ambient air temperatures, improve air quality and provide aesthetic and scenic benefits consistent with the quality of life desired by the residents of the City of Corinth; and

WHEREAS, the Tree Preservation requirements in the Unified Development Code of the City are intended to promote safety, protect the character and stability of property, conserve the value of land, and enhance the aesthetic and visual image of the City; and

WHEREAS, the City Council has determined it necessary to establish regulations for the preservation and replacement of existing Protected Trees within the City of Corinth and to provide for the protection of trees during construction, development, or redevelopment of a site; and

WHEREAS, in order to achieve its goals, the City Council has determined that its existing regulations should be enhanced to promote protection of trees and planting of trees as its primary goals but has also determined it appropriate to allow the payment in lieu of compliance with the City’s tree mitigation regulations, as the option of last resort, based upon the characteristics and plan for development of each individual property; and

WHEREAS, the City Council has determined it necessary to adopt this Ordinance repealing Section 2.09.02, “Tree Preservation” of Subsection 2.09, “Zoning Development Regulations” and adopting a new Section 2.09.02, “Tree Preservation” of the Unified Development Code to promote the preservation of large heritage trees, wildlife habitat, and the concentration of groves and stands of Protected Trees within overall site design in a manner that contributes to the public and environmental health and overall quality of life of the community thereby furthering the health, safety and welfare of the public.

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

SECTION 1 **INCORPORATION OF PREMISES**

The above and foregoing Recitals constitute legislative findings of the City Council, are true and correct and are incorporated into the body of this Ordinance for all purposes.

SECTION 2 **AMENDMENTS**

Section 2.09.02, “Tree Preservation” of Subsection 2.09, “Zoning Development Regulations” of the Unified Development Code of the City of Corinth is hereby repealed and a new Section 2.09.02, “Tree Preservation” of Section 2.09 of the Unified Development Code of the City of Corinth is hereby adopted and shall be read in its entirety as follows, with all other provisions contained within Section 2.09 not expressly amended hereby remaining in full force and effect:

Section 2.09.02. - Tree Preservation

A. Purpose

1. The purpose of this Section 2.09.02 is to establish regulations for the preservation and replacement of existing Protected Trees within the City of Corinth and to provide protection of trees during construction, development, or redevelopment of a site. In addition, this Section shall further the following public purposes:
 - a. Establish a permitting and enforcement process for tree removal;
 - b. Encourage the preservation and protection of existing Protected Trees and Protected Tree stands and groves through the application of design principles that consider the environmental context of the site, and which include the preservation of open spaces in the design of undeveloped residential and non-residential developments (Examples of context and environmentally sensitive site design include practices that incorporate linear open space linkages to preserve trees within riparian buffer zones, tree groves or stands, and/or more formal open space greens such as plazas that strategically designed to contain groupings of Protected Trees within residential, non-residential, multi-family or mixed use developments);
 - c. Reward context sensitive (*environmentally sensitive*) site design that preserves existing Protected Trees and associated habitat by offering preservation credits to off-set required replacement rates for Protected Trees that are necessarily removed during construction, development, and redevelopment;
 - d. Preserve trees that further the ecological, environmental, and unique aesthetic qualities that make Corinth a special place to live, work, and play;
 - e. Preserve and provide for trees that offer shade and windbreaks; reduce the erosive effects of rainfall, protect water resources, mitigate ambient air temperatures and improve air quality;
 - f. Provide for open space and more efficient drainage of land thereby reducing the effects of soil erosion;
 - g. Prevent the untimely and indiscriminate removal or destruction and clear-cutting of trees that once destroyed may only be regenerated after generations have passed;

- h. Maintain the high quality of life in Corinth by preserving the existing mature Protected Trees as important natural features and to require replanting where preservation is not practical; and
- i. Protect healthy quality trees and promote preservation of habitat and the aesthetic qualities of the city.
- j. Preserve Heritage Trees (40 CI and greater) to the greatest extent possible.

B. Scope The scope of this Section 2.09.02 includes the removal and mitigation of Protected Trees as further detailed herein.

C. Definitions For the purposes of this Section 2.09.02. Tree Preservation, the following terms shall have the special meaning ascribed to them below. Special meanings shall govern in case of any conflict with other definitions set forth in the City Code of Ordinances or Unified Development Code.

- 1. **Building Footprint** – The actual foundation area of a building including all parts of a main building that rest, directly or indirectly on the ground, including without limitation, attached garages, bay windows with floor space, chimneys, and porches.
- 2. **Caliper Inch (CI)** – Measurement around a tree's circumference to determine the diameter of the tree trunk.
- 3. **Clear-cutting** – The indiscriminate cutting down or mechanical removal of Trees from a site or tract.
- 4. **Critical root zone** – The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the Drip Line.
- 5. **Development** – Any manmade change to improved or unimproved real estate including, but not limited to, buildings and other structures, paving, drainage, utilities, storage, and agricultural activities.
- 6. **Diameter at Breast Height (DBH)** – Measurement around a tree's circumference to determine the diameter of the tree trunk on an existing tree located in a natural setting as measured at four and one half (4 ½) feet above the natural grade (ground level) in caliper inches. (see Caliper Inch (CI))
- 7. **Drip Line** - is the area directly located under the outer circumference of the tree branches. Also known as a tree's Critical Root Zone (CRZ), sometimes also called the Root Protection Zone (RPZ).
- 8. **Healthy Protected Tree**. A Protected Tree rated in good or excellent condition as determined by a Certified Arborist and/or Registered Landscape Architect in accordance with accepted industry standards.
- 9. **Incident** – A Protected Tree, with at least a 6" DBH that was removed from a site or tract or severely damaged in violation of this section. Note that each Protected Tree affected would represent one incident.
- 10. **Mitigation** – The method by which trees are replaced whether through replanting on the subject property, transplanting to another location or same property, or through payment of fee-in-lieu-of replanting approved by the City.
- 11. **Mitigation Plan** – The City approved plan of Mitigation for a property (*also referred to as Tree Protection/Mitigation Plan*).
- 12. **Owner** – The individual or business entity holding legal title to real property or a lessee, agent, employee, or other person acting on behalf of, or at the request of the titleholder with authorization to do so.

13. **Planning and Development Director or Planning Director** – The Planning and Development Director for the City of Corinth or his/her designee.
14. **Property** – Real property located within the corporate limits of the City of Corinth.
15. **Tree** – A self-supporting, woody, perennial plant which may have one or more stems or trunks.
16. **Tree, dead (or declining)** – A tree that is dead or in severe decline with substantial structural defects, no remedial options available, and no chance of recovery as determined and documented by a Certified Arborist or Registered Landscape Architect.
17. **Tree, Heritage** – Any Protected Tree species with 40 CI or greater as measured at DBH.
18. **Tree, Preservation Area** – Any area designated on a site plan, landscape plan, Planned Development Concept Plan or Plat identified as a location where existing Protected Trees are saved or planted.
19. **Tree, Protected** - Any tree species other than those specifically identified herein as an “Unprotected Tree” and having a trunk caliper of six inches (6") or more, measured four and one half (4 ½) feet above natural grade level (*also referred to as measured at DBH*).
20. **Tree, Removal** – Uprooting, severing the main trunk of the tree, or any act which causes, or may reasonably cause, the tree to die, including but not limited to:
 - a. Damage inflicted upon the root system by machinery, storage of materials, or soil compaction,
 - b. Substantially changing the natural grade above the root system or around the trunk,
 - c. Excessive pruning, or
 - d. Paving with concrete, asphalt, or other impervious materials in a manner which may reasonably be expected to kill the tree.
21. **Tree, Replacement** – A Shade Tree (Canopy Tree) as outlined in Table 15: Recommended Plant Material List (Subsection 2.09.01.E.).
22. **Tree, Shade** – Large trees that provide the overhead structure for shade (canopy tree) typically reaching a height ranging between 20' – 70'+ at maturity as further described and listed in Table 15: Recommended Plant Material List (Subsection 2.09.01.E.).
23. **Tree, Understory** - Smaller trees (ornamental trees) typically reaching a height of 15' – 30' at maturity. Such trees are typically used for screening and accent elements.
24. **Tree, Unprotected** (*exempt from Section 2.09.02*) - Note that the following trees are specifically exempt from the Mitigation provisions of Section 2.09.02 regardless of caliper inches at DBH based on species type; however, a Tree Removal Permit shall be required:

<u>Common Name</u>	<u>Botanical Name</u>
a. Bois d' Arc	Maclura pomifera
b. Chinaberry	Melia azedarach
c. Cottonwood	Populus deltoides
d. Hackberry, Texas Sugarberry	Celtis laevigata
e. Honey Locust	Gleditsia triacanthos
f. Mesquite	Prosopis glandulosa
g. Mimosa	Albizia julibrissin
h. Mulberry	Morus rubra

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|----|-------------------|------------------|
| i. | Silver Leaf Maple | Acer saccharinum |
| j. | White Poplar | Populus alba |
| k. | Willow | Willow sp. |

22. Tree Fund - A City administered fund established for collection of fee-in-lieu-of payments paid as Mitigation and may include other contributions made in support tree preservation efforts.

23. Tree Removal Permit – Written authorization by the City provided to an Owner of Property that allows the removal of a Protected Tree in accordance with the provisions of this Section.

24. UDC or Unified Development Code - the Unified Development Code of the City of Corinth Texas, as amended from time to time.

D. **Applicability** The terms and provisions of this Section shall apply to all property and development as follows:

1. All vacant and undeveloped Property.
2. All Property to be redeveloped.
3. All developed Property for which a Tree Protection/Mitigation Plan, Landscape Plan or Planned Development has been approved by the City and identifies Trees required to be planted or preserved in accordance with this Section.

E. **Exemptions.** Except as expressly provided herein, the terms and provisions of this Section 2.09.02 requiring a Tree Removal Permit and Tree Mitigation shall not apply to a Protected Tree under the following circumstances:

1. For an **existing single-family dwelling or two-family dwelling property** (*after both initial development and being occupied as a residence*), that is contained within a platted lot of record, and the property is not being developed, redeveloped, platted, replatted, or subdivided, a Tree Removal Permit shall not be required for the removal of a Protected Tree. However, if a Tree proposed for removal was required by the Landscape Regulations of the UDC at the time of permitting and/or as required by the provisions of an approved Planned Development district ordinance for the Property, and/or an approved Tree Protection/Mitigation Plan or Landscape Plan, the owner shall replace the tree with a three (3) caliper inch or greater tree of the species outlined on **Table 15 - Recommended Plant Material List (Section 2.09.01)**.
2. Neither a Tree Removal Permit nor Tree Mitigation is required for the removal of a diseased or dead Protected **Tree** where the tree is dead, diseased, damaged beyond point of recovery, in danger of falling, or endangers the public, health, safety or welfare as determined by a Certified Arborist, Registered Landscape Architect, or other qualified professional. Note that this exemption shall not apply in instances where the death or damage to the Protected Tree was caused by actions or inaction of the Owner. However, if a Tree proposed for removal was required by the Landscape Regulations of the UDC Ordinance as part of a site plan, Landscape Plan, Tree Protection/Mitigation Plan and/or provisions of an approved Planned Development district Ordinance for the Property, the Owner shall replace the tree with a three (3) caliper inch or greater Protected Tree of the species outlined on **Table 15 - Recommended Plant Material List (Subsection 2.09.01)**.
3. No Tree Removal Permit shall be required for the removal of a Protected Tree to remedy utility service interruption during an emergency situation. However, if a Tree proposed for removal was required by the Landscape Regulations of the UDC Ordinance as part of a site plan, Landscape Plan, Tree Protection/Mitigation Plan, and/or provisions of an approved Planned Development district

Ordinance for the Property, the Owner shall replace the Tree with a three (3) caliper inch or greater Tree of the species outlined on **Table 15 - Recommended Plant Material List (Subsection 2.09.01)**.

4. **Nurseries** – All retail, commercial, and/or wholesale nurseries in terms of those trees planted and growing on the premises for sale or intended for sale in the ordinary course of business only are exempt from Tree Mitigation and Tree Removal Permit requirements.
5. Utility Companies franchised by the City to use or to locate infrastructure within easements or rights-of-way which have been accepted by the City or that are otherwise authorized to provide utility services within the City are exempt from Tree Mitigation and may remove Protected Trees that endanger public safety and welfare by interfering with utility service. However, a Tree Removal Permit is required.

F. Tree Removal Permit

1. Tree Removal Permit Required.

A Tree Removal Permit shall be required for the removal of a Protected Tree(s) within the City as outlined in this Section, except as expressly exempted by Subsection **2.09.02.E.**, above. Additionally, no Tree that was required to be planted or preserved as part of an approved site plan, Landscape Plan, Tree Protection/Mitigation Plan, Planned Development district Ordinance or other provision of the UDC may be removed until authorized by the City in accordance with an approved Tree Removal Permit.

2. **Tree Removal Permit Application.** An application for a Tree Removal Permit shall be filed and a Tree Removal Permit shall be required in conjunction with the following activities:
 - a. A request to remove a Protected Tree(s) or Unprotected Tree(s) six (6) caliper inches or greater;
 - b. An application to fill or grade a property, lot, tract, or parcel;
 - c. A plat or site plan application;
 - d. A request to remove any Tree identified on an approved Landscape Plan for a site plan or plat and/or required by the UDC Landscape Regulation provisions, or a Tree Protection/Mitigation Plan (*identified as a mitigation replacement tree*), or the landscape regulations of a Planned Development District ordinance for the Property (*regardless of tree CI*). In such instances, required landscape or mitigation trees 6 CI or over shall be replaced at a 1:1 ratio, and trees less than 6 CI shall be replaced with a three (3) caliper inch tree to satisfy the Landscape Plan, the mitigation replanting requirements of a Tree Protection/Mitigation Plan, UDC requirements and/or PD approval. This request does not pertain to a request to remove a “Protected Trees identified for preservation”;
 - e. A request to remove any Tree located within a “deeded open space lot,” “X Lot” or an area identified on an approved site plan (and associated Landscape Plan) or Tree Protection/Mitigation Plan for the Property as being a “Protected Tree Preservation Area” or identified as a Protected Tree to be preserved. Note that such tree(s) shall be mitigated at the “sliding scale” replacement rate set forth in **Subsection 2.09.02.G.**, based on the CI of the Protected Tree to be removed. Additionally, any Tree Preservation Credits granted for the Protected Tree saved will need to be accounted for in the Permit Application. A request to remove a tree in the above instance may require a PD amendment.
3. **Contents of an Application for Tree Removal Permit.** An application for Tree Removal Permit shall consist of the following components, as may be adjusted by the Director of Planning:

- a. **A Tree Survey and Tree Protection/Mitigation Plan** If there are no Protected Trees on site, then a statement indicating such shall be attested to by a Registered Landscape Architect or Certified Arborist;
- b. Tree Removal Permit Form completed by the Owner;
- c. Application Worksheet;
- d. A summary narrative explaining the reasoning for the proposed Tree removal; and
- e. Application fee per the Fee Schedule shall be paid by the Owner.

4. Tree Surveys and Tree Protection/Mitigation Plan Requirements.

- a. The **Tree Survey and Tree Protection/Mitigation Plan** shall be prepared by a Registered Landscape Architect or Certified Arborist and shall be current within one year of the date of the filing of a Tree Removal Permit Application. The above information may be combined on one plan sheet.
- b. The **Tree Survey** shall at minimum identify the Unprotected Trees (6 CI and greater) and **Protected Trees** as follows:
 - i. Tree Identification Number (graphic location);
 - ii. Tree Type (Common and Botanical name of tree);
 - iii. Tree Size (Trunk Diameter (Caliper Inches as measured at DBH) used to measure the trunk diameter of an existing tree located in a natural setting, with the point of measurement being four and one half (4 ½) feet above the natural grade);
 - iv. Condition of Tree (health conditions of the tree rating) shall be based on accepted industry standards as determined by a Certified Arborist and/or Registered Landscape Architect. Protected Trees determined to be dead shall be identified and documented on the Tree Survey, though are not subject to mitigation rates or credits;
 - v. Canopy Radius (*provided in table and as a graphical representation of the canopy on the plan sheet to consider crown clearance and critical root zone in association to where proposed structures or curbing, etc., can be practically placed within the dripline of a tree shall be considered during site plan, preliminary plat (if preliminary landscape plan provided) and/or at time of Civil Plan review*);
 - vi. Status (to be Removed or Preserved);
 - vii. Replacement Rate Multiplier;
 - viii. Mitigation Required (Caliper Inches);
 - ix. Credit Multiplier (Caliper Inches, if applicable);
 - x. Adjusted Mitigation (Caliper Inches, if applicable);
- c. The **Tree Protection/Mitigation Plan** shall provide detailed information beyond the requirements of the Tree Survey by graphically identifying Protected Trees to be preserved and those to be removed for the entire Property. Additionally, an accounting of the following items shall be presented in table format on the Tree Protection/Mitigation Plan, provided on a separate 8 ½" x 11" worksheet and shall also be provided in an Excel Spreadsheet linked to the Tree Survey and Tree Protection/Mitigation Plan assumptions. The format and components of this table may be adjusted as determined by the Director of Planning.
 - i. Total Protected Trees CI on Property;
 - ii. Total Protected Trees CI to be preserved on Property (including percentage of total CI);
 - iii. Total Protected Trees CI to be removed on Property;

- iv. Total Protected Trees CI to be removed on Property with Replacement Rate Multiplier (*based on Protected Tree Size Category*)
 - v. Sliding Scale Credits (if applicable and broken out by CI Category)
 - vi. Subtotal CI Mitigation Required;
 - vii. ____% off “Subtotal CI Mitigation Required” – Standard Deduction Credit (see Table 16-B if applicable); and
 - viii. Total Mitigation Required.
- d. The **Tree Protection/Mitigation Plan** shall also include the calculation of Replacement Tree caliper inches required for Mitigation of Protected Trees to be removed based on the “replacement ratio” options and credits as provided for in **Subsection 2.09.02G. and Table 16-A and Table 16-B.**, and
- e. A **Landscape Plan** shall be required in conjunction with a **Tree Survey** and **Tree Protection/Mitigation Plan** to show the proposed location for **Replacement Trees** relative to the location of other UDC, or Planned Development District required tree plantings, and Protected Trees to be preserved on site. The Landscape Plan shall clearly distinguish the location of “Replacement Trees” from other landscape plantings as may be required per the UDC, e.g., Subsection 2.09.01, Landscape Regulations, and/or applicable provisions of an approved Planned Development District Ordinance for the Property. Replacement Trees shall measure at least three (3) caliper inches in accordance with the American Standards for Nursery Stock (ANSI Z60.1-2004) at time of planting.
- f. The **Tree Survey** and **Tree Protection/Mitigation Plan** (with an associated Landscape Plan) shall be submitted jointly.
5. **Violation.** It is considered an Incident and an offense to directly or indirectly, cause, permit or allow the cutting down, destruction, removal, or damaging of a Protected Tree (*defined herein*), prior to approval of a Tree Removal Permit which includes a Tree Survey and Tree Protection/Mitigation Plan (*with an associated Landscape Plan showing the proposed replacement of Protected Trees*) and meeting all requirements of this Ordinance.
- a. If an Owner removes, or causes, or allows the removal of a Protected Tree prior to receipt of an approved Tree Removal Permit, such Owner shall mitigate at the increased rate of 5:1 for caliper inches determined to have been removed. The determination of caliper inches removed shall be based upon the most recent aerial photography showing the extent of the existing tree “canopy tree cover” prior to tree removal. In such instances, the entirety of tree canopy coverage removed shall be assumed to be that of Protected Trees with an estimate of the CI for Protected Trees on site to produce the canopy coverage as established by a Certified Arborist or Registered Landscape Architect.
 - b. The property Owner in violation shall be responsible for replacement mitigation. A violation of these provisions shall not relieve the Owner from the tree replacement requirements established herein.
6. **Tree Removal Permit Review and Approval Process.** The Director of Planning may administratively review and approve a Tree Removal Permit Application subject to mitigation requirements outlined in Subsection **2.09.02.G.**, herein. Any Tree Removal Permit Application for Property that is “undeveloped land proposed for new development or redevelopment” that does not propose to preserve at least 10% of Healthy Protected Tree CI on site shall require City Council

review and approval. In processing the Tree Removal Permit Application, the following shall be considered:

- a. Applicant submits a complete Application and applicable fees.
- b. Contents of the Application are in accordance with **Section 2.09.02.F.3.**, above.
- c. A Protected Tree shall not be removed or transplanted until the following steps have been completed:
 - i. The Mitigation requirements of Section 2.09.02.G., have been established and approved for the subject lot, site, tract, or parcel based on an approved Tree Survey and Protection Plan (*including a landscape plan showing the location of replacement trees when applicable*).
 - ii. A Pre-Clearing Conference (*may be a component of Preconstruction Meeting*) shall be held with appropriate City Staff prior to the authorization for any clearing, grading, and/or construction activities to begin on the Property, including without limitation, on a lot, site, tract, or parcel. The pre-clearing discussion shall include a review of procedures for protection of and for conducting operations on the Property in a manner that provides for the preservation of Protected Trees. This Conference shall be held as part of the Tree Removal Permit process.
 - iii. City Construction Inspector has signed off that all Protected Trees to be preserved on the Property have been clearly marked and that protective fencing (orange plastic fencing, minimum of four (4) feet in height, around the Drip Line or Critical Root Zone) has been properly installed per Subsection **2.09.02.H**, herein. All protective measures shall be maintained throughout the entire period that construction occurs on the Property.
 - iv. Tree Removal Permit has been issued based on compliance with the statements above.

7. Tree Removal Permit Application. The Director of Planning may determine, at their discretion, to defer a Tree Removal Permit application to City Council for review and approval and/or consideration of Alternative Compliance options.

8. Appeals/Alternative Compliance. The Mitigation requirements established in the Tree Removal Permit documentation as administratively approved, may be appealed to the City Council under the process established for Alternative Compliance – Tree Preservation whereby the Applicant may complete an alternative proposal application that states the basis for any requested departures from the criteria established in these provisions. The Applicant shall have the burden of demonstrating hardship that justifies the request for an alternative solution (*alternative compliance*) that is more beneficial to the public good.

G. Mitigation Requirements for Protected Trees Removed

1. **Calculation of Replacement CI.** If it is necessary to remove a Protected Tree, the Applicant shall be required to mitigate the Protected Tree based on the “development type” outlined in **Table 16-A-Replacement Rates for Protected Trees**. Where the removal of a Protected Tree is unavoidable, the planting of a replacement tree is desired over fee mitigation to promote revegetation and reestablishment of habitat.
2. **Measurement of Existing Protected Trees.** All existing tree measurements are in caliper inches as measured at found and one-half (4 ½) feet DBH above the natural ground level.
- 3.

Table 16-A: REPLACEMENT RATES FOR PROTECTED TREES
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Development Type:		Permit Approval:	Removal:	Replacement Rate Ratio:	
1.	Existing single-family dwellings or two-family dwellings (<i>after initial development and after occupied as a residence</i>), that is contained within a platted lot of record, and the property is not being developed, redeveloped, platted, replatted, or subdivided.	N/A	Mitigation shall <u>only</u> be required if a tree proposed for removal was required by the Landscape Regulations of the UDC Ordinance at the time of permitting or at the time proposed for removal of such Tree and/or required by the provisions of an approved Tree Protection/Mitigation Plan and/or Planned Development district ordinance for the Property, The Owner shall replace the tree with a three (3) caliper inch or greater tree of the species outlined on Table 15 - Recommended Plant Material List (Section 2.09.01)	N/A, except as noted under “removal” as required to maintain compliance with UDC landscaping or approved Planned Development provisions.	
2.	Undeveloped Single-Family residential platted lots of record existing as of the adoption date of these provisions.	Administrative Staff approval at time of Building Permit Application	A Tree Removal Permit is required. However, mitigation is only required for removal of Protected Trees when located in an area <u>outside</u> of the building footprint (plus five (5) feet), outside of utility easements and outside of driveways.	CI replacement at rate of 1:1 for CI removed.	
3.	Undeveloped land proposed for new development or redevelopment activities	Administrative Staff approval* prior to Release for and grading or construction on the site. Note that the initial review of the permit shall be conducted as part of Site Plan or Plat submission or shall include a preliminary estimate for any Planned Development Rezoning Application to	A Tree Removal Permit is required for removal of Protected Trees and mitigation is required at applicable replacement rates based on the size categories. <i>*Credits may be offered to off-set required CI</i>	Replacement Rate Multiplier (Sliding Scale Size Categories)	
				Size of Protected Tree CI:	CI Replacement rate per CI Removed:
				6” – 20”	1:1
				20.1” – 30”	1.5:1

		demonstrate preservation and unique provisions that may need to be codified in PD Ordinance text associated with Protected Trees being a part of proposed deed common open space park land dedication, etc.	<i>replacement based on CI preservation percentages outlined Table 16-B (see below).</i> Note that mitigation resulting from the removal of a Heritage Tree shall only be eligible to receive a credit off-set of 50% of the required mitigation.	30.1” – 40”	2.5:1
				40.1” +	4:1
<i>*Approval may be deferred to City Council at the discretion of the Director of Planning</i>					

4. **Credits for Protected Tree Preservation Efforts.** The following Credit Sliding Scale is intended to encourage the preservation of Protected Trees and wildlife habitat through the thoughtful incorporation of such into the overall design of a site. Credits are offered based the percentage of total Healthy Protected Tree CI preserved on the Property AND preserved in deeded open space lots to remain in perpetuity and cared for by the HOA and/or POA as applicable. Such credits may also be applied to mixed use, multi-family, and non-residential developments where Healthy Protected Tree(s) are preserved and incorporated into the overall site design in a manner that is “context sensitive” and furthers sustainability of natural areas and habitat within park greens, plazas, linear connections, or other such common site amenities that serve to support a gathering space(s) within a development. Note that a 50% credit is the maximum that may be applied to off-set required mitigation resulting from a Heritage Tree removed.

Such Protected Tree preservation shall become a part of the approved Site Plan/Landscape Plan subject to zoning enforcement, shall remain in effect for perpetuity and shall be required to be maintained as part of a POA or HOA bylaws unless amended as allowed by applicable law.

The credit options are outlined below in **Table 16-B - Credits for Protected Tree Preservation Efforts**

Table 16-B: CREDITS FOR HEALTHY PROTECTED TREE PRESERVATION EFFORTS

- Saved Healthy Protected Tree Base Credit (Fixed rate up to 10%):** Offered at a rate of **1:1 (1 CI credit for every 1 CI preserved)** when up to **10%** of the total Healthy Protected Tree CI are preserved on site. Healthy Protected Trees rated good or excellent are eligible for credit as provided in this Section. Protected Trees preserved and noted in fair condition may be categorized as a “Healthy Protected Tree” provided that a statement of sustained viability is included in the Tree Survey as determined by a Certified Arborist and/or Registered Landscape Architect and may receive a 1:1 credit.
- Saved Healthy Protected Tree Base Credit (Fixed rate 10.1% to 15%):** Offered at a rate of **1.5:1 (1.5 CI credit for every 1 CI preserved)** when a minimum of **10.1% to 15%** of the total Healthy Protected Tree CI are preserved on site. Healthy Protected Trees are eligible for credit. Protected Trees preserved and noted in fair condition may be categorized as a “Healthy Protected Tree” provided that a statement of sustained viability is included in the Tree Survey as determined by a Certified Arborist

and/or Registered Landscape Architect and may receive a receive a 1.5:1 credit.		
<p>3. Saved Healthy Protected Tree Base Credit (Sliding Scale): When 15.1% or more total Healthy Protected Tree CI is <u>preserved</u> on Property, a <u>sliding scale credit</u> may be applied to <u>reward context sensitive design</u> that effectively incorporates Protected Tree and habitat preservation. Healthy Protected Trees rated with a condition of <u>good or excellent</u> are eligible for sliding scale credit. Protected Trees preserved and noted in fair condition may be categorized as a “Healthy Protected Tree” provided that a statement of sustained viability is included in the Tree Survey as determined by a Certified Arborist and/or Registered Landscape Architect and may receive sliding scale credit.</p> <p>*Bonus Credit: Where groves and habitat pockets and/or corridors of healthy Protected Trees are preserved, an additional 0.5:1 credit may be considered at the discretion of the Director of Planning (and added to each Protected Tree CI Category) where innovative and environmentally sensitive design is demonstrated though the preservation of stands of trees, Heritage Trees (40 CI+), and environmentally sensitive habitat that is incorporated into the overall project design and when such tree preserve areas have been included within otherwise buildable areas of the site. The bonus credit may be applied for Protected Trees saved within otherwise buildable areas (e.g., outside of floodplain).</p>	Sliding Scale Credit Categories	
	Protected Tree CI Categories:	Credit to off-set CI Replacement Required:
	6” – 12”	2:1
	12.1” – 20”	3:1
	20.1” – 30”	3.5:1
	30.1” – 40”	4:1
	40.1” +	5:1
4. Credit for Healthy Protected Tree “species/types” less than 6 CI: When 20.1% or more total Protected Trees CI on site are saved on the Property within designated common open space lots, a credit of 1:1 may be offered for trees that are preserved within a tree stand and/or tree grove even though such Protected Trees measure less than the 6 CI Protected Tree threshold.		
5. Landscaping Requirements Credits: Where 20.1% or more of total Healthy Protected Tree CI are preserved on a Property, and where Canopy Shade Trees as designed in Table 15 of Section 2.09.01 as required to be planted within Landscape Edge Buffers, Residential Adjacency buffers, or as part of a landscape plan for detention/retention basins (that have been approved to satisfy “park and/or trail” land and located within deeded common open space), landscape credits for Shade Trees planted (at least 3” CI) may be offered to off-set mitigation requirements.		

- | | |
|----|---|
| 6. | Public Right-of-Way Credits: When 20.1% or more of total Healthy Protected Tree CI are preserved, the same percentage of Protected Trees preserved may be credited against the CI removed within the public right-of-way when Protected Tree Preservation Areas have been included within otherwise buildable areas of the site. |
| 7. | Credit equal to the replacement rate (Table 16-A) for any Protected Tree required to be removed due to City required street connection as shown on the adopted Master Thoroughfare plan, as may be amended. Such credit may be offered at the discretion of Planning Director if (1) 20.1 % or more CI are of the total Protected Trees on site are preserved and (2) when the overall project design incorporates the principles of conservation or context sensitive design. |
| 8. | Building Footprint: When 20.1% or more of total Healthy Protected Tree CI are preserved on site and effectively incorporated into overall site design (<i>by creating a feature such as common open space or green space and demonstrating conservation and context sensitive design</i>), the CI of Protected Trees located within the building footprint of a non-residential building may be excluded from the mitigation requirements at the discretion of City Council. This exclusion shall require Alternative Compliance Approval in consideration of furthering economic development and promoting the principles outlined in the Comprehensive Plan. Note that Heritage Trees shall not be eligible for mitigation exclusion. |
| 9. | Standard Deduction Credit: The purpose of the Standard Deduction Credit is to reward preservation efforts where a certain base percentage of Healthy Protected Tree CI are preserved on site and effectively incorporated into overall site design by creating a feature such as common open space or green space and demonstrating conservation and context sensitive design. The deduction credit shall be calculated as follows: When the saved base of Protected Trees CI is greater than 10% then the remaining mitigation may be reduced by an additional 10% e.g., if the base percentage (%) saved = 25% then the mitigation may be reduced by $(25\% + 10\%) = 35\%$ of any remaining mitigation requirements after applicable credits above are applied. |

5. Replacement of Protected Trees.

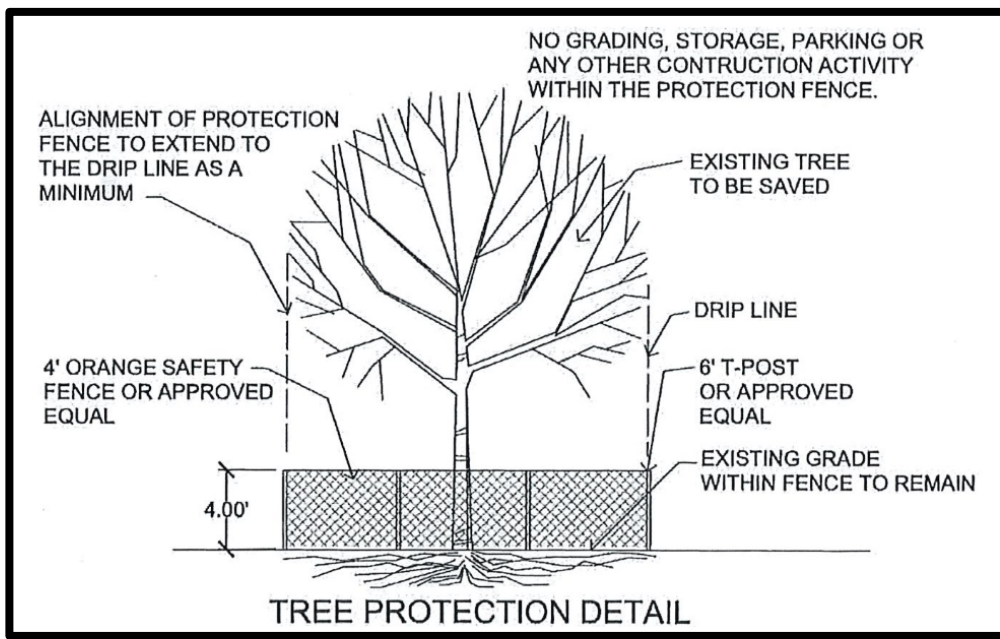
- a. Protected Trees shall be mitigated by planting Replacement Trees on the same Property from which those Trees have been removed in a CI amount equal to the total CI replacement rates established by applying the criteria outlined in Tables 16-A and 16-B (if applicable).
- b. All Replacement Tree measurements are in CI in accordance with the American Standards for Nursery Stock and each Replacement Tree shall be a minimum of three (3) CI unless otherwise provided herein.
- c. All Replacement Trees shall be selected from the list found in Table 15 - Recommended Plant Material List for Shade Trees or Shade Trees as may be listed in the Texas Smartscape Plant Database if the option is not provided for in Table 15 (see <http://www.txsmartscape.com/plant-search/list.php>), unless otherwise permitted by the Planning Director based on “similar” plant material.
- d. If any Replacement Tree cannot be located on the same property from which Protected Trees have been removed, the Owner may plant the required CI of Replacement Tree(s) on City owned property and within rights-of-way (*as approved by the City in writing and if determined practical by City in its sole discretion*).
- e. Where is not practical to replant all or a portion of required mitigation CI due to site constraints, the Applicant may pay a fee-in-lieu of replanting in accordance with the published Fee Schedule (*updated annually*), as amended. Note that the replanting of trees is the preference of the City and payment of a fee-in-lieu will only be considered when the City determines that no practical alternatives are available.

- f. **Timing of replanting and fees.** Any approved “fees-in-lieu-of” shall be paid at the time of issuance of Tree Removal Permit (*prior to release for construction*) and prior to the filing of a Final Plat for all single-family Residential Subdivisions. If mass grading occurs on a site that is proposed for phased development/construction, the required replanting for the phase shall be installed prior to final inspection and any issuance of Acceptance of Public Improvements or Certificate of Occupancy. Trees required to be replanted in later phases shall be subject to an escrow account to guarantee future replanting.
- g. The approval of a Tree Removal Permit (*including the Tree Protection/Mitigation Plan and associated Landscape Plan*) shall constitute a “tree mitigation agreement” between the City and the Owner confirming the Owner’s obligation to mitigate the CI of Protected Trees removed from the site. Each replacement tree shall survive in a full healthy state for a period of three (3) years from final inspection by the City. The Owner shall replace any replacement tree that becomes unhealthy or dies during such three (3) year period. This obligation shall be noted in the Tree Removal Permit as an agreement between the Owner and the City. Failure to comply with the mitigation requirements of the approved Tree Removal Permit and this section shall be an offense punishable as a misdemeanor in accordance with the penalty provisions of this Section as the nonexclusive remedy of City.

H. Tree Protection Measures at Time of Construction - All Protected Trees shall be protected by the Owner as follows:

1. **Tag and/or mark trees.** Prior to grading, brush removal, or construction, the Owner shall clearly tag or mark all trees to be preserved in accordance with the approved Tree Removal Permit and Tree Protection/Mitigation Plan (and associated approved Landscape Plan)
2. **Erect Orange Plastic Fencing and Bark Protection.** Before development or redevelopment, the owner shall install an orange plastic mesh fence or equivalent material at least four (4) feet in height around the Drip Line or Critical Root Zone of each Protected Tree or group of Protected Trees to prevent the placement of debris, equipment, or fill within the Drip Line or Critical Root Zone. The fence shall be installed prior to the release of any permit. If the fence is found to be removed, damaged, or altered at any time during construction prior to final inspection or landscape installation, a stop work order may be issued. In addition, for trees that need extra care, bark protection shall also be installed prior to construction start.

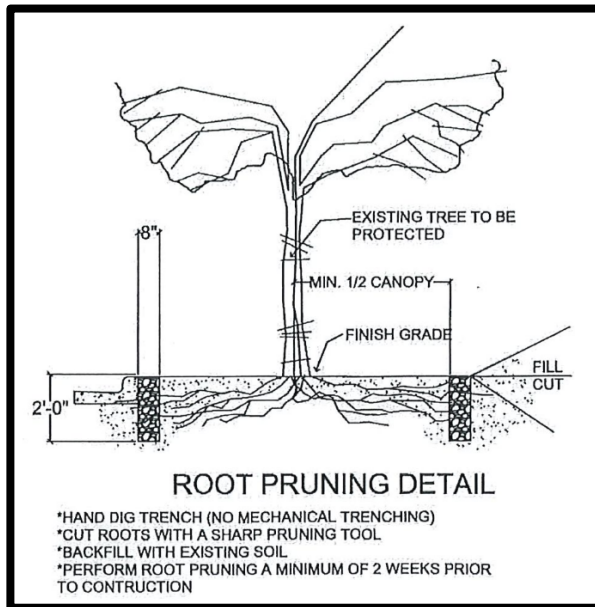
Figure H.1 - TREE PROTECTION DETAIL



3. **Construction Entrance.** Before grading, brush removal, construction, development, or redevelopment, the Owner shall establish a construction entrance that avoids Protected Trees.
4. **Equipment or Materials Disposal.** Cleaning equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., is prohibited under the canopy or Drip Line of any Protected Tree.
5. **Attachment to Protected Trees.** Attachments and wires are prohibited from being attached to any Protected Tree except for cables, tree rods, and similar hardware installed to support the structural integrity of a Protected Tree.
6. **Canopy or Drip Line Protection.** The following activities are prohibited within the canopy, Drip Line, or critical root zone of a Protected Tree:
 - a. No fill or excavation shall occur within the canopy, Drip Line, or Critical Root Zone of a Protected Tree unless specific measures have been approved in the Tree Protection/Mitigation Plan and/or the associated Landscape Plan as prepared by a Registered Landscape Architect and/or Certified Arborist.
 - b. Any plan proposing the use of tree wells or retaining walls within the Drip Line of a tree to be preserved shall be designed by a Registered Landscape Architect. Major changes of grade (6 inches or greater) will require additional measures to maintain proper oxygen and water exchange with the roots.
 - c. An approved retaining wall or tree well should not be closer than half the distance between the trunk and the Drip Line and the existing grade maintained around a tree or grouping of trees.
 - d. At no time should a retaining wall, pavement, or porous pavement be placed closer than five (5) feet or one (1) foot for every two (2") inches in caliper, whichever is greater, to the trunk of any Protected Tree.
 - e. In instances where tree wells or retaining walls are approved, root pruning may be necessary when the critical root zone is to be disturbed. If root pruning is necessary, it shall be completed a minimum of two (2) weeks prior to any construction activity within the Drip Line and in accordance with the provisions outlined in **Figure H.2 - Root Pruning Detail**

- f. If a patio, sidewalk, drive, parking lot, or other paved surface must be placed within the Drip Line of an existing Protected Tree, material such as a porous paver or other approved construction method that will allow the passage of water and oxygen shall be required.

Figure H.2 - ROOT PRUNING DETAIL



7. **Tree Maintenance and Pruning Practices During Construction.** All Root Pruning and tree maintenance techniques shall be in conformance with accepted industry standards and shall be performed by or at the direction of a Certified Arborist. No Person may use, allow, or cause to be used any improper or malicious maintenance or pruning techniques which would lead to the death of a tree.
8. **Enforcement and Violations During Construction.** Enforcement of the provisions of this Subsection shall be in accordance with City Approved changes made in the field during the construction process and as shown on the approved Tree Protection/Mitigation Plan (and associated Landscape Plan).
9. **Plan Adjustments During Construction.** Plan adjustments during construction will constitute a “field change” and must be approved by the Director of Planning as an amendment to the Tree Removal Permit Tree Protection/Mitigation Plan. Any additional Protected Trees removed shall be subject to the mitigation rate multiplier in Table 16-A. Replacement tree(s) proposed to be added to off-set the mitigation requirements shall be noted on a “revised” Landscape Plan to be included with the approved construction plan set. Any remaining CI mitigation shall be paid at the rate as identified in the current City Fee Schedule along with a refund of any preservation credits received for the Protected Tree to be removed by the field change. Payment in full shall be made prior to issuance of a Revised Tree Removal Permit.
10. **Stop Work Order.** The city may issue a “stop-work order” at any time if preservation requirements of this Section are not being met.
11. **Final Inspection.**
 - a. A final inspection is required. The Owner shall notify the appropriate City Staff for a final inspection before receiving a Certificate of Occupancy and/or acceptance of Public Improvements as may be applicable to the project.

- b. Protected Trees that were identified as being preserved on the Tree Survey and Tree Protection/Mitigation Plan and found to have been damaged beyond salvaging due to lack of compliance with established protection measures shall be mitigated based on the applicable CI Replacement Rate based on Protected Tree Size Category (*see Table 16-A*)
- c. All replacement trees installed per the approved Landscape Plan or Tree Protection/Mitigation Plan and found to be dead shall be replaced in-kind.

12. **Disposal of Trees Removed.** Any trees removed shall be chipped and used for mulch on site or hauled off-site within 72 hours of cutting.

I. **Protected Tree and Replacement Tree Maintenance after Development.** If Protected Trees are preserved on site and/or replacement trees are planted to address mitigation and such trees die within a period of three (3) years after completion of construction activities and/or final inspection, whichever occurs later, the owner of the property shall mitigate for the dead trees within six months after death or after written notice by City whichever occurs later. Mitigation shall be provided by Owner at a 1:1 ratio for replacements Trees and at the applicable sliding scale for Protected Trees. Note that should the death of the Protected Tree or replacement tree be caused by actions or inactions of the Owner, the replacement rate multiplier as presented in Table 16-A shall apply and any tree preservation credits granted for Protected Trees saved on site shall be paid in full to the City based on credits documented in the Tree Removal Permit Application approval.

J. **Administration of Tree Fund.** The City shall administer the Tree Fund.

- 1. Tree funds shall be used for the following purposes:
 - a. To purchase trees for planting on and to plant and irrigate trees on public property, including without limitation, public rights-of-way; to preserve in perpetuity wooded portions of public property that remain in a natural state, to perform and maintain a city-wide tree inventory and to educate citizens and developers on the benefits and value of trees.
 - b. Fees due to the Tree Fund shall be paid by the property Owner at the time of and as a condition precedent to the issuance of the Tree Removal Permit by City (*prior to release of the subject for construction*) on all development (*including but not limited to Commercial, Industrial, Multi-Family Residential, or Residential and Mixed Use Development*), and prior to filing of a Final Plat for all single-family Residential Subdivisions.
 - c. No acceptance of public improvements shall be authorized until all replacement trees have been planted and/or the applicable fee-in-lieu-of replacement has been made to the City for deposit into the Tree Fund.”

SECTION 3

CUMULATIVE REPEALER

This Ordinance shall be cumulative of the Unified Development Code and all other Ordinances of the City of Corinth and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance or where expressly repealed hereby. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

SECTION 4

SEVERABILITY

If any section, subsection, clause, phrase, or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unconstitutional, the remaining sections, subsections, clauses, phrases, and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 5 **SAVINGS/CONFLICT**

In the event of a conflict between the provisions of this Ordinance and any other regulation or rule prescribed by charter, another ordinance, resolution or other authorization of the City, the provisions of this ordinance shall control. Notwithstanding the foregoing, all rights and remedies of the City are expressly saved as to any and all complaints, actions, claims, or lawsuits, which have been initiated or have arisen under or pursuant to such conflicting Ordinance, or portion thereof, on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the conflicting Ordinance shall remain in full force and effect.

SECTION 6 **PENALTY**

Any person, firm or corporation who violates any provision of this Ordinance or the Code of Ordinances, as amended hereby, shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense, provided, however, that in all cases involving an intentional, knowing, reckless or criminally negligent violation of any provision of this ordinance or Code of Ordinances, as amended hereby, governing public health shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense.

SECTION 7 **PUBLICATION/EFFECTIVE DATE**

This Ordinance shall take effect upon its publication as required by law. The City Secretary is directed to publish the caption and penalty of this Ordinance as required by the City Charter and state law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CORINTH,
TEXAS on this the 19th day of May. 2022.**

APPROVED:

Bill Heidemann, Mayor

ATTEST:

Lana Wylie, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Patricia A. Adams, City Attorney