

9-9-20

ORDINANCE NO. **31616**

An ordinance amending Chapter 51A, Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Section 51A-10.135; providing for the purchase of trees for private residential properties affected by a natural deforestation event; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the City of Dallas is committed to protecting the public health, safety, and welfare of its residents and leading the region in addressing climate change and environmental efforts; and

WHEREAS, climate change has the potential to lead to disruptions in the City of Dallas’s operations and poses risk to infrastructure, the built environment, and public health; and

WHEREAS, Dr. Brian Stone (Georgia Tech) found that Dallas’s significant urban heat island effect is amplified by climate change, and that Dallas is warming at a rate that is the third highest in the nation in a 2017 report for the Texas Trees Foundation; and

WHEREAS, actions taken to mitigate climate change can also have the effect of improving regional air quality and otherwise providing better quality of life for current and future generations of Dallas residents; and

WHEREAS, on June 27, 2018, the City of Dallas adopted Ordinance No. 30929, the Landscape and Urban Forest Conservation Ordinance to add additional protection for trees within the urban forest canopy in Dallas; and

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WHEREAS, the *Resilient Dallas* plan, adopted by the Dallas City Council on August 8, 2018 through Resolution No. 18-1026 identified efforts to reduce emissions and mitigate the impacts of climate change as part of the strategy to make Dallas neighborhoods and our community thrive; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (i), “Reforestation Fund,” of Section 51A-10.135, “Alternative Methods of Compliance With Tree Replacement Requirements,” of Division 51A-10.130, “Urban Forest Conservation” of Article X, “Landscape and Tree Conservation Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(i) Reforestation fund.

(1) General.

(A) Mitigation requirements may be met by making a payment into a special city account, to be known as the Reforestation Fund in accordance with this subsection.

~~(B[2]) [The director shall administer the reforestation fund to purchase trees to plant on public property, to create an urban forest master plan and to update it periodically, to fund a staff position for managing and directing the fund for planting and urban forest education, or to acquire conservation easements or wooded property. A minimum of 50 percent of all funds provided for each fiscal year must be available to planting trees on public property or to acquire conservation easements or wooded property.]~~

~~(3)]~~ The amount of the payment required is calculated by using the formula for appraising the value of a tree, as derived from the most recent edition of the *Guide for Plant Appraisal* published by the Council of Tree & Landscape Appraisers, unless another publication is designated by the building official. If more than one tree is being removed or seriously injured or not planted, the values of the trees are added when calculating the payment required.

~~(C[4])~~ All property purchased through this fund must be located within the city of Dallas.

(2) Administration.

(A) In general. Except as provided in this paragraph, the director shall administer the reforestation fund to purchase trees to plant on public property, to create an urban forest master plan and to update it periodically, to fund a staff position for managing and directing the fund for planting and urban forest education, or to acquire conservation easements or wooded property. A minimum of 50 percent of all funds provided for each fiscal year must be available for planting trees on public property or to acquire conservation easements or wooded property.

(B) Exception for natural deforestation events. In response to natural deforestation events, the director may administer the reforestation fund to purchase trees to plant on private property.

(i) Definition. In this paragraph NATURAL DEFORESTATION EVENT means a recorded weather event which causes localized catastrophic tree failure and irreparable structural tree damage resulting in a loss of the urban forest canopy.

(ii) Applicability. This paragraph only applies to lots with an existing single-family or duplex use in a residential district.

(iii) Qualification. Private properties affected by a natural deforestation event may qualify for reforestation if they are:

(aa) Located within a declared federal, state, or local disaster area; or

(bb) Declared eligible for reforestation by the city council.

(iv) Additional requirements. A minimum of one of the following must be provided in determining whether an area has been affected by a natural deforestation event.

(aa) A tree survey or forest stand delineation must be provided that meets minimum requirements established by the director.

(bb) Physical evidence must be presented by the owners of individual lots documenting individual tree loss.

(v) Reforestation.

(aa) Except as provided in Item (dd), parkway trees and trees located in alleys adjacent to residential lots may be replaced at the discretion of the director.

(bb) All reforestation tree planting projects on private property must be conducted between October and March.

(cc) The owner of a reforestation property is responsible for providing any necessary proof of the loss of a large or medium established tree to a natural deforestation event on the owner's property. Photo documentation, Google Street View, and aerial imagery may qualify as confirmation.

(dd) Property owners are not required to participate in a neighborhood reforestation project to replace damaged or destroyed trees. The city will not replace a parkway tree if the adjacent property owner chooses not to receive a tree for a location the property owner must maintain.

(ee) Replacement trees provided through a reforestation tree planting project must be planted on the same property that sustained the tree loss.

(ff) The caliper size of replacement trees provided through a reforestation tree planting project must be between one and three inches.

(gg) Boundary tree replacements must be placed on a single property. Two adjoining properties may each qualify for a tree.

(hh) All replacement trees provided through a reforestation tree planting project must be planted in accordance with the requirements of this chapter.

(ii) An approved planting plan may be required by the director.

(vi) Prohibition on reforestation funds being used to install or maintain trees on private property.

(aa) Reforestation fund expenditures are limited to the purchase and provision of trees. Reforestation funds may not be expended on installation or maintenance.

(bb) Reforestation fund replacement trees may not be used as required landscaping on lots permitted for new construction."

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 3. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed SEP 09 2020



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL SEP 09 2020

ORDINANCE NUMBER 31616

DATE PUBLISHED SEP 12 2020

ATTESTED BY:



Agenda Information Sheet

File #: 20-1617

Item #: 11.

STRATEGIC PRIORITY: Mobility Solutions, Infrastructure, and Sustainability
AGENDA DATE: September 9, 2020
COUNCIL DISTRICT(S): All
DEPARTMENT: Department of Sustainable Development and Construction
EXECUTIVE: Majed Al-Ghafry

SUBJECT

An ordinance amending Chapter 51A, "Dallas Development Code" Section 51A-10.135(i) of the Dallas City Code to provide a means to use the Reforestation Fund to plant trees on private property in certain situations - Financing: No cost consideration to the City

BACKGROUND

On May 26, 2020, the Government Performance and Financial Management Committee was briefed on the proposed amendments and recommended forwarding it to City Council for consideration.

The tree preservation/conservation requirements of Article X were first adopted by City Council in 1994 and most recently amended in June of 2018.

General Information

Article X establishes tree mitigation requirements for trees removed to accommodate development and provides the option of contributing to a reforestation fund to meet mitigation requirements.

The reforestation fund may be used for forest management, the acquisition of trees to be planted on public property and the acquisition of wooded property, but, currently, there is no provision to allow the use of funds to plant trees on private property.

As a result of tornadoes in October 2019, the City's tree canopy suffered severe damage in the path of the storm. Property owners, the City of Dallas, and partner organizations wish to restore trees lost or severely damaged during the storm.

Proposal

The proposed amendments allow the director to administer the Reforestation Fund to purchase trees to plant on private property in response to natural deforestation events, a recorded weather event which causes localized catastrophic tree failure and irreparable structural tree damage resulting in a loss of the urban forest canopy. The property must be an existing single-family or duplex use in a residential district and located within a declared federal, state, or local disaster area; or declared eligible for reforestation by the City Council.

A minimum of one of the following must be provided in determining whether an area has been affected by a natural deforestation event:

- A tree survey or forest stand delineation that meets minimum requirements established by the director
- Physical evidence by the owners of individual lots documenting individual tree loss

All reforestation tree planting projects on private property must be conducted from October through March. Reforestation fund expenditures are limited to the purchase and provision of trees, not to be spent on installation or maintenance.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 26, 2020, the Government Performance and Financial Management Committee was briefed on the proposed amendments and recommended forwarding to City Council for consideration.

In 1994, City Council first adopted the tree preservation/conservation requirements of Article X.

On June 27, 2018, City Council held a public hearing regarding consideration of amendments to Chapter 51A of the Dallas Development Code, Article X the Landscape and Tree Preservation regulations and authorized an ordinance granting the amendments by Resolution No. 18-0977; Ordinance No. 30929.

FISCAL INFORMATION

No cost consideration to the City.