

EXHIBIT A
TO ORDINANCE NO. _____

Sec. 95.40 PURPOSE AND INTENT.

~~The purpose of this subchapter is to protect existing trees, promote the planting of new trees, and establish a city policy regarding the planting, maintenance, and removal of specified trees within the city and its environs. The intent of this subchapter is that it apply to all trees located on public property in the city limits.~~

The purpose of this subchapter is to ensure proper establishment and care of trees, native plants, and other natural resources, and to enhance the quality of life, present and future health, safety, and welfare of all residents.

Sec. 95.41 DEFINITIONS.

For the purposes of this subchapter, the following terms shall have the special meanings ascribed to them below, which shall govern in case of any conflict with other definitions set forth in this code:

(A) *CERTIFIED ARBORIST.* A person who specializes in the care of trees and is credentialed as a Certified Arborist or Board Certified Master Arborist through the International Society of Arboriculture (ISA) or as a Registered Consulting Arborist through the American Society of Consulting Arborists.

(B) *DIRECTOR.* Parks and Recreation Director, Urban Forester, or qualified designee who oversees aspects of the City's urban forestry program.

(C) *PARKS AND RECREATION DIRECTOR.* Person who, under supervision of the City Manager, oversees operations of public parks and recreation spaces.

~~**(A)**~~ **(D)** *PRIVATE TREE.* Any trees, shrubs, bushes, and woody vegetation ~~on~~ originating from private property.

~~**(B)**~~ **(E)** *PUBLIC TREE.* Any trees, shrubs, bushes, and woody vegetation ~~on~~ originating from City parks or City-owned property.

(F) *RENATURALIZATION.* Restoring land to its natural state (before development, construction, or other human activity) or repurposing developed land to promote native biological diversity and animal habitat.

~~(G)~~ (G) TOP OR TOPPING. The indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Topping shall include “heading,” “tipping,” “hat racking” and “rounding over.”

(H) UNIFIED DEVELOPMENT CODE (UDC). Chapter 157 of the City of Pflugerville Code of Ordinances which regulates zoning and land development.

(I) URBAN FOREST. The sum of all woody and associated vegetation within Pflugerville City limits and its extraterritorial jurisdiction.

(J) URBAN FORESTER. A qualified person designated by the City to oversee the urban forestry program, public tree planting and care, and the provisions of this Article.

Sec. 95.42 ESTABLISHMENT OF A TREE CARE ADVISORY BOARD.

(A) Board Membership. The City Council hereby creates an advisory board known as the tree care advisory board, hereinafter referred to as the board, and appoints the members of the parks and recreation commission to serve as members of the board.

(B) Duties. The duties of the board ~~shall~~ may include:

(1) Coordinating and promoting Arbor Day activities;

~~(2) Developing and updating a five-year plan to plant and maintain trees on city property;~~

~~(3)~~ (2) Developing public awareness and education programs relating to trees;

(4) Reviewing parks and recreation department concerns relating to tree care;

~~(5) Submitting an annual report of its activities to the city council;~~

~~(6) Submitting the annual application to renew the Tree City USA designation;~~
and

(3) Developing and promoting public tree planting and distribution events; and

~~(7)~~ (4) Other duties that may be assigned by the City Council.

Sec. 95.43 CARE OF PUBLIC TREES.

(A) The ~~parks and recreation director and/or their designees~~ Director shall have the responsibility to ensure the plant, prune, maintain and remove planting, pruning, maintenance, and removal of trees and woody plants on all City streets, rights-of-way, and/or City parks unless they are governed by a maintenance agreement or pursuant to the following: ~~The parks and recreation director and/or their designee in appropriate cases, and upon consultation with a property owner and written permission, may remove or prune a tree on private property which threatens the safety of those who may use a public place.~~

(1) If work is deemed too hazardous, technical, or impractical for City maintenance staff a tree service company may be hired to perform the work.

(2) When hiring a tree service company, the company shall:

(a) Be familiar with and adhere to the standards expressed in the latest versions of the ANSI A300, ANSI Z133 and ISA BMPs; and

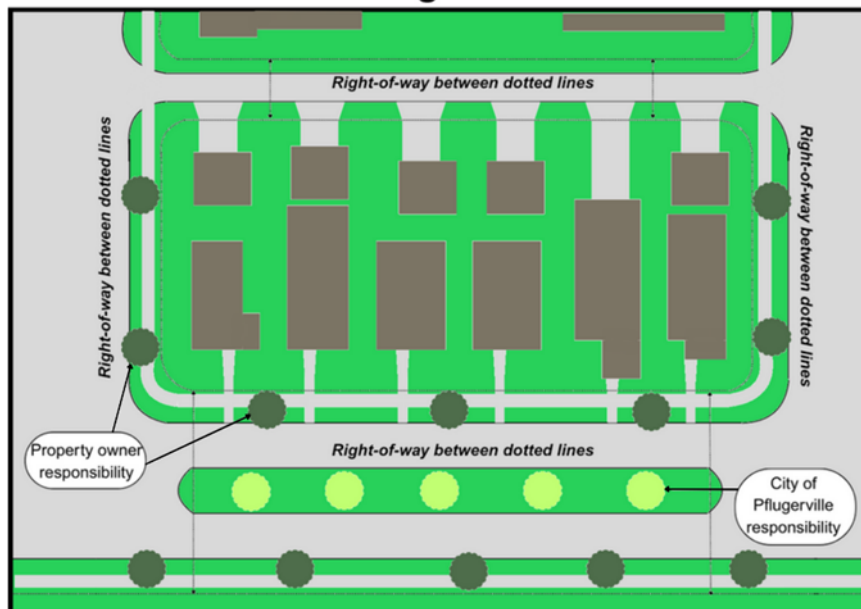
(b) Have a certified arborist on staff or contracted to verify worker training is consistent with the expressed standards.

(3) Preference will be given to tree service companies that are accredited through the Tree Care Industry Association.

(B) All City departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Article as it relates to streets, alleys, rights-of-way, drainage easements, and other public properties not under direct jurisdiction of the Director.

(C) Property owners are responsible for the reasonable and routine maintenance of their trees that may threaten the safety of people and property in public places and their trees on the right-of-way which is an extension of the property owner's ~~front~~ yard and/or setback (Figure 1). This shall include maintaining a clearance over the sidewalk of at least eight feet (8') and over roadways of at least fourteen feet (14').

Figure 1



- (D) ~~The parks and recreation director or their designee~~ Director may ~~recommend~~ dictate the removal of any tree or part of a tree that threatens the safety of any person, property or structure or by reason of its location. This shall include but is not limited to threats against electric lines, telephone lines, gas lines or any municipal water or sewer lines or any public improvement. Any tree which is affected by any injurious fungus, insect or other damaging biotic organism may also be removed.
- (E) ~~No person shall remove, destroy, prune, top or cause the removal, destruction, pruning or topping of a tree on city property or in any city park without first having obtained written permission for such removal, destruction, pruning, or topping from the parks and recreation director.~~
- (F) ~~It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope or sign to any city tree, plant or shrub without first having obtained written permission from the parks and recreation director.~~

Sec. 95.44 PROHIBITION AGAINST HARM.

- (A) No person shall remove, destroy, prune, top, or cause the removal, destruction, pruning, or topping of a tree on City property or within any City park without first having obtained written permission for such removal, destruction, pruning, or topping from the Director.
- (B) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, rope, or sign to any City tree, plant, or shrub without first having obtained written permission from the Director.
- (C) Any person, firm, corporation, or City department performing construction near any public tree(s) shall consult with the Director and shall employ appropriate measures to protect the tree(s) according to procedures contained in the Unified Development Code.
- (D) Each violation of this section as determined and notified by the Director shall constitute a separate violation, punishable by fines, in addition to the mitigation values found in the UDC placed on the tree(s) removed or damaged in violation of this section.

Sec. 95.4544 PUBLIC TREE FUND.

~~Public Tree Fund shall be established for the planting of new trees and the maintenance thereof on public property. All fine monies received for infractions of the Public Tree Care Ordinance shall be contributed to the Public Tree Fund. All tree mitigation monies received shall be contributed to the Public Tree Fund.~~

- (A) The City shall establish a Public Tree Fund (hereinafter “the fund”).
- (B) Spending from the fund shall adhere to all applicable budget policies required by the City’s Finance Department.
- (C) At the discretion of the Director, the City shall use the fund to/for:
 - (1) Plant new trees and the maintenance thereof on public property;
 - (2) Renaturalization of designated areas on public property;
 - (3) Tree and plant health care such as fertilization, soil modification, and pest and disease management on public property;
 - (4) Initiatives that promote the health and development of the City’s urban forest.
- (D) Contributions to the fund shall be received through:
 - (1) All fine monies received for violations of this Article and the Tree Preservation Standards of the UDC; and
 - (2) All tree mitigation monies received to satisfy the requirements expressed by the UDC.

Sec. 95.4645 PENALTY FOR VIOLATIONS.

Any person who shall violate any of the provisions of this subchapter or fail to comply therewith shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined not less than \$100.00 nor more than \$500.00. This offense is hereby declared to be a strict liability offense and the culpable mental state required by Chapter 6.02 of the Texas Penal Code is hereby specifically negated and clearly dispensed with. Each day that the violation occurs shall constitute a distinct and separate offense.