ORDINANCE NO. 5731

AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 34, "PLANNING" OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS RELATING TO TREE PRESERVATION; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Article I of Chapter 34, "Planning" of the Code of Ordinances of the City of Garland, Texas is hereby amended and shall read as follows:

"ARTICLE I. TREE PRESERVATION

Sec. 34.01. Purpose and Intent.

The purpose of this article is to protect existing, healthy trees on developed, undeveloped, developing, and redeveloping lands and to provide for the replacement of trees that are necessarily removed during the development and redevelopment of lands. This article is intended to encourage the incorporation of existing significant trees and tree stands into the overall site plan and to prevent clear-cutting and the unnecessary removal of trees in association with site development. Preservation and replacement of trees is beneficial to the public health and welfare because trees reduce storm water runoff and erosion, regenerate oxygen and purify the air of carbon dioxide, dust and pollutants, moderate local heat and winds and conserve limited energy resources, delineate urban spaces and buffer conflicting land uses, provide habitats for wildlife and increase biodiversity, and enhance community appearance and property values.

Sec. 34.02. Definitions.

As used in this article:

Caliper, existing tree means a distance equal to the straight line through the center of the trunk of a tree, measured four and a half (4 $\frac{1}{2}$) feet above ground level. For a multiple trunk tree, the measurement shall include the sum of the caliper inches of the largest trunk plus one-half ($\frac{1}{2}$) of the caliper inches of each of the other trunks.

Caliper, replacement tree means the minimum size of a replacement tree, which is three (3) inch caliper. Trees up to and including four (4) inch caliper size shall be measured at six (6) inches above ground level. The replacement tree caliper for trees exceeding four (4) inch caliper size (when measured at six (6) inches above ground level) shall be measured at twelve (12) inches above ground level. For a multiple trunk tree, the measurement shall include the sum of the caliper inches of the largest trunk plus one-half ($\frac{1}{2}$) of the caliper inches of each of the other trunks.

Critical root zone means the area of soil around and beneath a tree that supports that tree's root system, any disturbance of which directly affects the tree's chance of survival. The area is measured as a circle with a diameter equal to one foot for each 1-inch caliper of the tree trunk, or that tree's crown drip line, whichever is the greater distance from the tree trunk.

Development means any manmade change to improved or unimproved real estate including, but not limited to, buildings and other structures, paving, drainage or utilities, agricultural activities, and earthwork including filling, cutting and grading.

Drip line means a circular area beneath the canopy of a tree the radius of which is equal to the distance from the trunk to a vertical line extending from the outermost portion of the canopy to the ground.

Initial development application means an application for any permit that will result in the initial stages of the development of a site including, but not limited to, an application for a grading permit, the submission of a detail plan or a site plan, an application or an erosion control permit, or the submission of a public improvement construction plan.

Protected tree means any healthy, growing self-supporting woody perennial plant that has a trunk size of six (6) inch caliper or greater when measured at a point four and a half (4 $\frac{1}{2}$) feet above ground level that is of a species which normally attains a height of at least ten (10) feet at maturity.

Protective fencing means a temporary vertical barrier made of construction fencing, chain link fencing, or similar materials having a minimum height of five (5) feet.

Replacement tree means a tree used for the purpose of mitigating the destruction or removal of a protected tree and having a minimum size of three (3) inch caliper measured six (6) inches above ground level.

Tree survey means a graphical and tabular representation of all existing protected trees on a site that identifies the total caliper, inches of protected trees and the size location and species of each protected tree.

Tree management plan means a site plan and landscape plan with graphical and tabular representation of all protected trees on a site that contains the information required by Section 34.04 (C).

Tree removal permit means a tree management plan that has been stamped or otherwise issued as "approved" by the Director of Planning.

Sec. 34.03. Applicability and Exceptions.

- (A) It shall be unlawful for any person to remove or destroy any protected tree without first obtaining a tree removal permit.
- (B) This article does not apply to a protected tree located on a developed single-family residential lot or two-family lot contained within a plat .of record on which is located a residential structure that has been released for occupancy.
- (C) This article does not apply to any tree that has been or may be removed due to the installation, operation or maintenance of new or existing City-sponsored public works facilities or to trees located within existing City streets, rights-of-way or easements. City-sponsored public works facilities include, but are not limited to, roadway, drainage, water, sanitary sewer, electric, transportation, pedestrian, and park facilities but does not include that within a proposed subdivision that has been or will be dedicated for streets, rights-of-way, or other public easements.
- (D) This article does not apply to a bona-fide, commercial or wholesale tree nursery to the extent a tree is held for sale or distribution in the ordinary course of business of the nursery.

Sec. 34.04. Submittal Requirements.

- (A) A tree survey shall be submitted along with the initial development application for the site of any intended development. The tree survey shall have been completed no more than two (2) years prior to the date of submission. An appropriate sampling method, when approved by the Director of Planning, may be used on a site where trees are numerous and especially where such trees are to be left undisturbed by development.
- (B) Tree surveys and tree management plans shall be prepared by a certified arborist or registered landscape architect. The Director of Planning may waive this requirement for development sites that are less than five (5) acres in area and that have a limited number of protected trees or a limited diversity of tree species.

- (C) Prior to the removal of any protected tree, a tree management plan must be submitted to and approved by the Director of Planning. The tree management plan, after approval, shall be included with the other construction drawings submitted to .the City for the development. A tree management plan shall include a site plan of the intended development and the following information:
 - (1) The location, caliper inch, and species of existing protected trees on the site.
 - (2) The location and an itemized list of trees per size and species proposed for removal indicating the total aggregate value in caliper inches.
 - (3) The location and an itemized list of the trees per size and species to be preserved indicating the total aggregate value in caliper inches.
 - (4) The existing and proposed grades at the base of the trees to be preserved.
 - (5) The protective measures and barriers to be used during construction to preserve those protected trees that are to remain.
 - (6) A mitigation plan that shows the proposed location, size, and species of required replacement trees.
 - (7) Phantom lines that depict streets, rights-of-way, easements, and other improvements in order to clearly indicate how the proposed development relates to the existing trees.

Sec.34.05. Tree Preservation and Mitigation.

(A) Protected trees that are healthy and growing on a site must be preserved or replaced at the following minimum rates based on the species of trees identified.

One hundred (100) percent of the caliper inches lost shall be replaced for the following tree species:

Carya illinoensis Pecan

Ilex vomitoriaYaupon HollyLiquidambar styracifluaSweetgum

Magnolia grandiflora Southern Magnolia

Quercus macrocarpa Bur Oak

Quercus muhlenbergiiChinkapin OakQuercus shumardiiShumard OakQuercus texanaTexas Red Oak

Quercus virginiana Live Oak

Taxodium distichum Bald Cypress

Eighty (80%) percent of the caliper inches lost shall be replaced for the following tree species:

Bumelia lanuginose Chittamwood

Diospyros virginiana Common Persimmon

Fraxinus pennsylvanica Green Ash

lanceolata

Juglans nigra Black Walnut

Juniperus virginiana Eastern Red Cedar

Lagerstroemia indicaCrape MyrtlePrunus mexicanaMexican PlumSophora affinisEve's NecklaceUlmus americanaAmerican ElmUlmus crassifoliaCedar Elm

Sixty (60%) percent of the caliper inches lost shall be replaced for the following tree species:

Cercis Canadensis Redbud

Gleditsia triacanthos Honeylocust

Maclura pomifera Bois d'arc

Photinis serrulata Chinese Photinia
Photinia Prosopis glandulosa Honey Mesquite
Sapondus drummondi Western Soapberry

Forty (40%) percent of the caliper inches lost shall be replaced for the following tree species:

Catalpa spp. Catalpa Celtis laevigata Sugarberry

Celtis occidentalis Common Hackberry

Eriobotrya japonica Loquat

Ligustrum licidum Japanese Ligustrum

Melia azederachChinaberryMorus rubrumRed Mulberry

Populus spp. Poplars, Cottonwood

Prunus spp. Plums

Robinia pseudoacacia Black Locust
Sabium sebiferum Chinese Tallow

Salix spp. Willows

Protected trees of species not listed shall be protected at a minimum rate of twenty (20%) percent of the total caliper inches.

Existing trees may be used to fulfill the tree planting requirements specified in other City ordinances provided that such trees are in a healthy and growing condition. When existing trees are used to fulfill screening and landscape requirements, existing tree locations shall be accepted, and the formal spacing requirements may be waived.

(B) Required large tree plantings may count towards the mitigation of lost caliper inches. The minimum tree caliper inch specified in the landscape requirements supersedes the minimum replacement tree size, specified in this section. In instances of unique natural, features such as unique soil characteristics, topography, geological characteristics, water features, peculiarly-shaped sites, or where the location of existing structures and other previously built features on the site inhibit the reasonable application of this article, the Director of Planning may approve an alternative tree management plan upon determining that the alternate plan meets the intent of these standards and is equivalent to or exceeds a plan that strictly complies with this article. If the Director of Planning determines that alternative compliance is not applicable, a request for approval of an alternate plan may be filed with the City Council as set forth in Section 34.08.

- (C) If, due to the size, shape or topography of the intended site of development a tree mitigation plan for the site of development is unworkable, the Director of Planning may approve a tree management plan that provides for the mitigation of protected trees through either the planting of replacement trees at an off-site location in private open spaces, or the payment to a City reforestation and tree management fund of an amount equal to one hundred percent (100%) of the replacement cost.
- (D) The Director of Planning may authorize a reduction of not more than five percent (5%) in the number of required parking spaces for a site in order to preserve the sizes and species of significant trees that are located within a proposed parking area.

Sec. 34.06. Protection of Preserved Trees.

- (A) Trees that are proposed for removal shall be flagged or otherwise identified in order to differentiate those trees from protected trees prior to commencement of development activity.
- (B) The critical root zone of all protected trees or other trees to be preserved shall be surrounded to create an area of non-encroachment by appropriate protective fencing around the drip line of the tree during site preparation and construction. The area within the protective fencing shall not be used for parking vehicles or equipment, or for materials storage.

Sec. 34.07. Civil Penalties.

A person who:

- (1) removes any tree in violation of this article, or
- (2) injures a tree by failing to comply with the tree protection measures required by this article and such injury causes or may reasonably be expected to cause the tree to die; is liable to the City for a civil penalty in the amount of \$200 per caliper inch of tree removed or injured. Civil penalties paid to the City under this section shall be deposited into a reforestation and tree management fund to be used by the City to provide and support landscape plantings on other properties.

Sec. 34.08. Variances.

The City Council shall hear and decide appeals that allege error in any order, requirement, decision or determination made by the Director of Planning."

Section 2

That Chapter 34, "Planning", of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 3

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 4

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the 6th day of May, 2003.

	CITY OF GARLAND, TEXAS		
	Bob Day		
	Mayor		
ATTEST:			
Rannett Larsen			
City Secretary			

Tree Management Worksheet Using Revised Tree Preservation Ordinance

Species Rating 100%	Total Caliper Inches	Inches Allowed to Remove	Inches Proposed for Removal	Mitigation
Pecan				
Yaupon Holly				
Sweetgum				
Southern Maple				
Bur Oak				
Chinkapin Oak				
Shumard Oak				
Texas Red Oak				
Live Oak				
Bald Cypress				
Total of 100% Category				
80%				
Chittamwood				
Common Persimmon				
Green Ash				
Black Walnut				
Eastern Red Cedar				
Crape Myrtle				
Mexican Plum				
Eve's Necklace				
American Elm				
Cedar Elm				
Total of 80% Category				

Tree Management Worksheet Using Revised Tree Preservation Ordinance Page 2

Species Rating 100%	Total Caliper Inches	Inches Allowed to Remove	Inches Proposed for Removal	Mitigation
60%				
Redbud				
Honeylocust				
Bois d'arc				
Chinese Photinia				
Honey Mesquite				
Western Soapberry				
Total of 60% Category				
40%				
Catalpa				
Sugarberry				
Common Hackberry				
Loquat				
Japanese Ligustrum				
Chinaberry				
Red Mulberry				
Poplars, Cottonwood				
Plums				
Black Locust				
Chinese Tallow				
Willows				
Total of 40% Category				
20%				
All other Species				