

ORDINANCE NO. O-2009-32

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 10, "TYLER UNIFIED DEVELOPMENT CODE", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, TO AMEND REGULATIONS RELATING TO TREE LANDSCAPE REQUIREMENTS; ADDING RELATED DEFINITIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City may license and regulate persons, corporations, and associations engaged in any business, occupation, profession or trade; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, the powers granted to municipalities under Texas Local Government Code Chapter 211, Subchapter A., are for the purpose of promoting the public health, safety, morals, and general welfare, as well as preserving places and areas of historical, cultural or architectural importance and significance; and

WHEREAS, Texas Local Government Code Section 211.003(a)(5) authorizes the governing body of a municipality to regulate the location and use of buildings, or structures, and land for business, industrial, residential, or other purposes; and

WHEREAS, Texas Local Government Code Section 211.007(a) authorizes a zoning commission to recommend boundaries for the original zoning districts, and appropriate regulations for each district; and

WHEREAS, Texas Local Government Code Section 212.003(a) provides that the governing body of a municipality may by ordinance extend to the extraterritorial jurisdiction of the municipality the application of the municipal ordinance prescribing rules governing plats and subdivisions of land; and

WHEREAS, it is important to amend and update the tree landscape requirement sections of the Unified Development Code; and

WHEREAS, it is important to add the Approved Tree List to the Unified Development Code;

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

PART 1: That Tyler City Code Chapter 10, "Tyler Unified Development Code, Article, VI., "Development Standards", Division A., "Landscaping and Tree Preservation", is

hereby amended by amending Section 10-295 by amending and re-numbering current subsection d., adding a new subsection d. and chart, and adding the Approved Tree List to read as follows:

Sec. 10-295. Landscape Area Requirements

a. The landscaping requirements will be determined by the total square footage of the lot less any areas exempted by phased development or classification as floodway or undisturbed area.

b. The minimum width of required landscaping in the street yard is 10 ft. for properties abutting major arterial streets.

c. The minimum required area of landscaping is 15 percent of the total lot area, except for lots zoned for manufacturing. The minimum area of landscaping for lots zoned M-1 or M-2 is 2½ percent of the total lot area. Each existing tree, which is maintained in a living and growing condition, may be credited towards the required landscaped area according to the following schedule:

Existing Saved Tree Credit *(No changes to existing Chart)*

10" – 12" DBH	200 square feet of landscaped area
15" or greater DBH	250 square feet of landscaped area

Credits may not exceed 25% of the required landscaped area.

d. Required tree plantings.

Tree Requirement/Square Footage	Tree Type
One tree/750 square feet	Large Shade Trees
One tree/625 square feet	Large Shade Trees, Medium Trees, and Small Trees
One tree/500 square feet	Medium Trees and Small Trees

Note: Trees selected for planting must be on the approved tree list set forth in subsection f.

1. For required tree plantings:

(a) At least 1/3 of the trees planted must be large shade trees, or

(b) At least 1/3 of the trees planted must be medium trees; and

(c) No more than 1/3 of the required tree plantings may be small trees as shown on the approved tree list. A minimum of one tree is required for all developments. All required trees must have a minimum DBH of 2" at the time of planting. Trees with a multiple trunk growth characteristic shall have no more than five main trunks.

2. When planted with large shade trees solely, a minimum of one tree per 750

square feet, or fraction thereof, is required. Trees planted in order to satisfy this requirement must be classified as large shade trees in the approved tree list in subsection f.

3. When planted with a combination of large shade trees, medium trees and small trees, a minimum of one tree per 625 square feet, or fraction thereof, is required. Trees planted in order to satisfy this requirement must include a mixture of shade, medium, and small trees as identified in the approved tree list in subsection f.

4. When planted with a combination of medium trees and small trees, a minimum of one tree per 500 square feet, or fraction thereof, is required. Trees planted in order to satisfy this requirement must include a mixture of medium and small trees as identified in the approved tree list in subsection f. (Ord. No. 0-2009-32; 3/25/09)

e. Tree credits.

1. Each existing tree which is maintained in a living and growing condition may be credited towards the number of required trees according to the following schedule.

Existing Saved Trees Credit *(No Change to Existing Chart)*

6"-9" DBH 3 Trees
10"- 12" DBH 4 Trees
12" or greater DBH 5 Trees

2. Of the required landscape area, a minimum of one shrub per 200 square feet, or fraction thereof, is required. Shrubs planted to satisfy this requirement must be a minimum size of two gallons.

3. Up to 75 percent of the required shrubs must be planted in the required interior parking lot landscaping islands or be included in the required bufferyards pursuant to Article VI, Division B.

4. Each existing tree or newly planted tree which is maintained in a living and growing condition may be credited towards the required number of shrubs according to the following schedule:

Existing Saved Trees Credit *(No Change to Existing Chart)*

3" – 6" DBH 4 shrubs
7" – 9" DBH 6 shrubs
10" – 12" DBH 8 shrubs
15" or greater DBH 10 shrubs

Credit in areas zoned R-MF, AR, PMF, PMXD-1, PMXD-2, and may not exceed 50% of the required trees or shrubs.

Credit for saving an existing tree cannot count toward more than one landscape element for which such credit is granted in this chapter, i.e., double counting of tree credits is not allowed.

5. All mandated bufferyards count towards the requirements. Beyond that, no more than 10 percent of the required landscape area or required number of trees to be planted may be located at the rear of the property. The planning director has the authority to grant an exception to this requirement in situations where tree preservation areas are located at the rear of the property regardless of whether the trees saved are credited toward the tree planting requirement or the trees are saved are supplementing the required number of trees to be planted. (Ord. No. 0-2009-32; 3/25/09)

f. Approved Tree List.

Common Name	Scientific Name	Native	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Ash, green	<i>Fraxinus pennsylvanica</i>				x		y		x			x	x	high
Ash, white	<i>Fraxinus americana</i>				x		p,y		x				x	moderate
Basswood, American	<i>Tilia americana</i>				x		y	x			x		x	moderate
Beech, American	<i>Fagus grandifolia</i>						c,y			x		x	x	moderate
Birch, river	<i>Betula nigra</i>									x		x	x	moderate
Box elder	<i>Acer negundo</i>						o,y		x			x	x	high
Catalpa, northern	<i>Catalpa speciosa</i>							x	x				x	high
Catalpa, southern	<i>Catalpa bignonioides</i>							x	x				x	high
Cedar, Japanese *	<i>Cryptomeria japonica</i> *				x	x	c			x				high
Cherry, black	<i>Prunus serotina</i>						o,r,y	x	x	x			x	moderate
Cottonwood, eastern	<i>Populus deltoides</i>									x		x	x	moderate
Cypress, bald	<i>Taxodium distichum</i>				x		c,y		x	x		x	x	high
Cypress, pond	<i>Taxodium ascendens</i>				x		c			x		x	x	high
Elm, American	<i>Ulmus americana</i>				x		y			x		x	x	high
Elm, slippery	<i>Ulmus rubra</i>				x		y					x	x	high
Ginkgo (male only) *	<i>Ginkgo biloba (male only)</i> *				x		y				x			high
Hackberry	<i>Celtis occidentalis</i>						y			x		x	x	high
Hickory, bitternut	<i>Carya cordiformis</i>						y						x	high
Hickory, black	<i>Carya texana</i>						y						x	high
Hickory, mockernut	<i>Carya tomentosa</i>						y						x	high
Hickory, pignut	<i>Carya glabra</i>						y						x	high
Hickory, shagbark	<i>Carya ovata</i>						y			x			x	moderate
Hickory, water	<i>Carya aquatica</i>						y					x	x	high
Kentucky coffee-tree	<i>Gymnocladus dioica</i>				x		y		x	x				high

* indicates NOT native to U.S.
 # white oak group
 ## red oak group
 c = copper; o = orange; r = red; p = purple y = yellow

**Large
Shade Trees (50+ ft)
Common Name**

Scientific Name

Common Name	Scientific Name	Native	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Magnolia, southern	<i>Magnolia grandiflora</i>	x	60/30			e		x	x		x	x	x	moderate
Magnolia, sweetbay	<i>Magnolia virginiana</i>			x	x	semi		x	x		x	x	x	moderate
Maple, red	<i>Acer rubrum</i>			x			o,r,y	x	x			x	x	moderate
Maple, silver	<i>Acer saccharinum</i>						y	x	x			x	x	high
Mulberry, red	<i>Morus rubra</i>								x			x	x	moderate
Oak, black	<i>Quercus velutina</i> ##			x			c,r						x	moderate
Oak, blackjack	<i>Quercus marilandica</i> ##			x			r						x	high
Oak, bur	<i>Quercus macrocarpa</i> *	x	80/80			d	c,y		x	x			x	high
Oak, cherry bark	<i>Quercus falcata</i> var. <i>pagodaefolia</i> ##			x			c						x	moderate
Oak, chinquapin	<i>Quercus Muhlenbergii</i> *	x	80/50	x	x		o,r,y						x	high
Oak, laurel	<i>Quercus laurifolia</i> ##			x			y						x	moderate
Oak, live	<i>Quercus virginiana</i> ##	x	50/50	x	x	e				x			x	high
Oak, nuttall	<i>Quercus nuttallii</i> ##			x			r					x	x	moderate
Oak, overcup	<i>Quercus lyrata</i> *			x	x		c		x				x	moderate
Oak, post	<i>Quercus stellata</i> #			x			y			x			x	high
Oak, sawtooth *	<i>Quercus acutissima</i> ##						y		x				x	high
Oak, Shumard red	<i>Quercus shumardii</i> ##	x	80/80	x	x	d	o,r						x	high
Oak, southern red	<i>Quercus falcata</i> ##			x			c						x	moderate
Oak, swamp chestnut	<i>Quercus michauxii</i> #			x			r		x	x		x	x	moderate
Oak, water	<i>Quercus nigra</i> ##			x			y					x	x	high

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Large Shade Trees (50+ ft)

Common Name

Scientific Name

Common Name	Scientific Name	Native	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Oak, white	<i>Quercus alba</i> #				x		r			x			x	moderate
Oak, willow	<i>Quercus phellos</i> ##				x		y					x	x	high
Pecan	<i>Carya illinoensis</i>						y			x			x	high
Pine, loblolly	<i>Pinus taeda</i>				x	x			x	x		x	x	moderate
Pine, longleaf	<i>Pinus palustris</i>					x			x	x			x	high
Pine, shortleaf	<i>Pinus echinata</i>				x	x			x	x			x	high
Sugarberry	<i>Celtis laevigata</i>						y			x		x	x	high
Sweetgum	<i>Liquidambar styraciflua</i>						o,p,r,y		x	x		x	x	moderate
Sweetgum, fruitless	<i>Liquidambar styraciflua</i>				x		o,p,r,y					x		moderate
Sycamore, American	<i>Platanus occidentalis</i>				x		y		x	x		x	x	high
Tulip poplar (yellow poplar)	<i>Liriodendron tulipifera</i>				x		y	x					x	moderate
Tupelo, black (blackgum)	<i>Nyssa sylvatica</i>				x		p,r,y					x	x	high
Tupelo, water	<i>Nyssa aquatica</i>				x		y					x	x	moderate
Walnut, black	<i>Juglans nigra</i>								x			x	x	moderate

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(Ord. No. 0-2009-32; 3/25/09)

Medium Trees (26-49 ft)

Common Name	Scientific Name	Native	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark	Fragrant	Streambank	Wildlife	Drought Tolerance
Bois d' arc (Osage orange) (female)	<i>Maclura pomifera</i> (female)						y		x	x		x	x	high
Bois d' arc (Osage orange) (male)	<i>Maclura pomifera</i> (male)			x			y			x		x		high
Bumelia, woollybucket (gum bumelia)	<i>Bumelia lanuginosa</i>			x							x		x	high
Cedar, atlas *	<i>Cedrus atlantica</i> *					x			x					high
Cedar, deodar *	<i>Cedrus deodara</i> *					x			x					high
Cedar, eastern red (female)	<i>Juniperus virginiana</i> (female)	x	35/20	x		e			x	x			x	high
Cedar, eastern red (male)	<i>Juniperus virginiana</i> (male)	x	35/20	x		e				x	x		x	high
Cedar, Lebanese *	<i>Cedrus libani</i> *					x			x					high
Cherry, common choke	<i>Prunus virginiana</i>						y		x	x	x	x	x	high
Cherry, laurel	<i>Prunus caroliniana</i>			x		x					x		x	high
Cypress, Leyland *	<i>Cupressocyparis leylandii</i> *			x		x				x				high
Elm, cedar	<i>Ulmus crassifolia</i>			x			y					x		high
Elm, lacebark *	<i>Ulmus parvifolia</i> *		50/40	x		d	p,r,y			x				high
Elm, water	<i>Platanus aquatica</i>			x			y			x		x	x	moderate
Elm, winged	<i>Ulmus alata</i>			x			y					x		high
Holly, American (female)	<i>Ilex opaca</i> (female)			x		x			x	x	x	x	x	high
Holly, American (male)	<i>Ilex opaca</i> (male)			x		x				x	x	x	x	high
Hornbeam, American (ironwood)	<i>Carpinus caroliniana</i>			x			o,r,y			x			x	moderate
Hornbeam, eastern hop	<i>Ostrya virginiana</i>			x			y		x	x			x	high
Magnolia, southern 'Little Gem'	<i>Magnolia grandiflora</i> 'Little Gem'			x		x			x	x			x	moderate

Medium Trees (26-49 ft)

Common Name	Scientific Name	Native	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark	Fragrant	Streambank	Wildlife	Drought Tolerance
Maple, Florida	<i>Acer barbatum</i>				x		o,y			x				high
Oak, bluejack	<i>Quercus incana</i> #				x		r			x			x	high
Persimmon, common (female)	<i>Diospiros virginiana</i> (female)						r,y		x	x			x	high
Persimmon, common (male)	<i>Diospiros virginiana</i> (male)				x		r,y			x				high

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white oak group, ## red oak group

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Medium Trees (26-49 ft) Cont. Common Name

Name	Scientific Name	Evergreen	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark	Fragrant	Streambank	Wildlife	Drought Tolerance
Pistache, Chinese (male only) *	<i>Pistacia chinensis</i> (male only) *		50/30	x	x	d	o, r, y			x				high
Sassafras	<i>Sassafras albidum</i>			x	x		o, p, r, y	x	x	x	x	x	x	high
Silverbell, Carolina	<i>Halesia carolina</i>			x				x	x	x				moderate
Soapberry, western	<i>Sapindus saponaria</i>			x	x				x					high
Sweetleaf, common	<i>Symplocos tinctoria</i>			x	x	semi		x		x		x	x	high
Tickle-tongue (prickly ash)	<i>Zanthoxylum clavaherculis</i>									x		x	x	high
Yellowwood	<i>Cladrastis kentukea</i>			x	x		c, y	x	x	x	x			moderate

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white oak group, ## red oak group

(Ord. No. 0-2009-32; 3/25/09)

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Small Trees (10-25 ft)

Common Name	Scientific Name	Native	Height/Width	Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark	Fragrant	Streambank	Wildlife	Drought Tolerance
Alder, hazel	<i>Alnus serrulata</i>		25/20		x	d	o,y		x			x	x	moderate
Buckeye, red	<i>Aesculus pavia</i>				x			x	x				x	moderate
Carolina buckthorn	<i>Rhamnus caroliniana</i>				x		o,r		x				x	high
Chinquapin, Alleghany	<i>Castanea pumila</i>						y	x	x				x	moderate
Crabapple *	<i>Malus spp. *</i>						y	x	x				x	moderate
Grape myrtle *	<i>Lagerstroemia spp. *</i>		25/20		x	d	o,r,y	x		x				high
Devil's walkingstick	<i>Aralia spinosa</i>						c,r	x				x	x	moderate
Dogwood, flowering	<i>Cornus florida</i>				x		p,r	x	x				x	moderate
Dogwood, rough-leaf	<i>Cornus drummondii</i>	x	20/20		x	d	p	x	x				x	high
Dogwood, stiff	<i>Cornus foemina</i>				x		p,r	x	x	x		x	x	moderate
Elder, American	<i>Sambucus canadensis</i>						y	x	x				x	moderate
Fringetree, American	<i>Chionanthus virginicus</i>				x		y	x	x				x	moderate
Hawthorn, mayhaw	<i>Crataegus opaca</i>							x	x	x			x	moderate
Hawthorn, parsley	<i>Crataegus marshalii</i>							x	x	x			x	high
Holly, dahoon	<i>Ilex cassine</i>				x	x			x			x	x	moderate
Holly, deciduous (possumhaw) (female)	<i>Ilex decidua (female)</i>	x	20/20		x	d	y		x				x	moderate
Holly, yaupon (female)	<i>Ilex vomitoria (female)</i>	x	20/20		x	e			x			x	x	high
Magnolia, pyramid	<i>Magnolia pyramidata</i>							x	x	x		x	x	low
Magnolia, saucer *	<i>Magnolia x soulangiana</i>													moderate
Maple, chalk	<i>Acer leucoderme</i>				x		y	x		x				moderate
Maple, Japanese *	<i>Acer palmatum *</i>				x		o,r,y			x		x		high
Pawpaw	<i>Asimina triloba</i>				x		o,p,r,y			x				moderate

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U.S. # white oak group

red oak group

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**Small Trees (10-25 ft)
Cont.**

Common Name	Scientific Name	Native	Height/Width Average Spread	Street/Parking Areas	Evergreen/Deciduo us	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark	Fragrant	Streambank	Wildlife	Drought Tolerance
Plum, Chickasaw	<i>Prunus angustifolia</i>						x	x		x		x	high
Plum, flatwoods	<i>Prunus umbellata</i>					y	x	x				x	moderate
Plum, Mexican	<i>Prunus mexicana</i>	x	25/25		d	o	x	x	x			x	moderate
Redbud, eastern	<i>Cercis canadensis</i>	x	20/15	x	d	y	x	x					high
Serviceberry, shadeblow	<i>Amelanchier arborea</i>			x		o,r,y	x	x				x	moderate
Silverbell, two-winged	<i>Halesia diptera</i>			x			x	x			x	x	moderate
Snowbell, American	<i>Syrax americanum</i>			x			x			x		x	moderate
Snowbell, bigleaf	<i>Syrax grandifolius</i>			x			x			x		x	moderate
Sparkleberry	<i>Vaccinium arboreum</i>			x		r	x	x	x	x		x	high
Stewartia, Virginia	<i>Stewartia malacodendron</i>						x	x	x				moderate
Sumac, shining	<i>Rhus copallina</i>			x		o,r	x	x				x	high
Sumac, smooth	<i>Rhus glabra</i>			x		o,r	x	x				x	high
Sumac, staghorn	<i>Rhus typhina</i>			x		o,r,y	x	x	x			x	moderate
Viburnum, arrow-wood	<i>Viburnum dentatum</i>			x		o,p,r,y	x	x				x	moderate
Viburnum, blackhaw	<i>Viburnum prunifolium</i>			x		p	x	x				x	moderate
Viburnum, possumhaw	<i>Viburnum nudum</i>			x		p,r	x	x			x	x	moderate
Viburnum, rusty blackhaw	<i>Viburnum rufidulum</i>	x	20/20	x	d	p,r	x	x	x			x	high
Wax-myrtle, southern	<i>Myrica cerifera</i>			x	x			x		x	x	x	moderate
Witch hazel, common	<i>Hamamelis virginiana</i>			x		y	x			x			moderate
Witch hazel, vernal	<i>Hamamelis vernalis</i>			x		y	x			x		x	moderate

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red oak group

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Ord. No. 0-2009-32; 3/25/09)

PART 2: That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article XIII., "Definitions", Division A., "Definitions", is hereby amended by adding the following new definitions in the appropriate alphabetical order to read as follows:

Large Shade Tree

A dicot or conifer tree, usually with one vertical stem or main trunk which naturally develops a more or less distinct and elevated crown and attains a height of more than 50 feet at maturity, as shown in the Approved Tree List in section 10-295.f. (Ord. No. 0-2009-32; 3/25/09)

Medium Tree

A dicot or conifer tree, usually with one vertical stem or main trunk which naturally develops a more or less distinct and elevated crown and attains a height of more than 25 feet, but less than 50 feet, at maturity, as shown in the Approved Tree List in section 10-295.f. (Ord. No. 0-2009-32; 3/25/09)

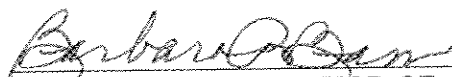
Small Tree

A self-supporting wood perennial plant which normally attains an overall height less than 25 feet at maturity, as shown in the Approved Tree list in section 10-295.f. (Ord. No. 0-2009-32, 3/25/09)

PART 3: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

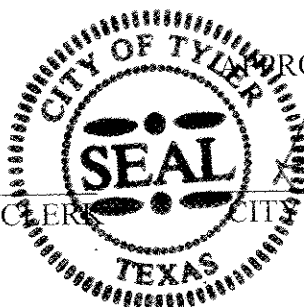
PART 4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 27, 2009.

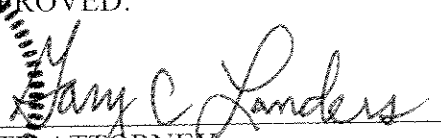
PASSED AND APPROVED this 25th day of March, A. D., 2009.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



APPROVED:

AMY C. LANDERS, CITY ATTORNEY