

ORDINANCE NO. 833-2023

AN ORDINANCE AMENDING CHAPTER 7, OFFENSES AND NUISANCES, OF THE CODE OF ORDINANCES OF THE CITY OF HILSHIRE VILLAGE, TEXAS, PROVIDING FOR PUBLIC TREE CARE AND REGULATING TREE PRESERVATION; AMENDING SECTION 7.701; ADDING DEFINITIONS TO SECTION 7.702; ADDING SECTION 7.714, PUBLIC TREES; PROVIDING A PENALTY IN AN AMOUNT UP TO \$500.00 PER DAY FOR VIOLATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Hilshire Village, Texas, recognizes that trees generally protect and enhance the quality of life and general welfare of the City; and

WHEREAS, the citizens of Hilshire Village have long valued trees as a natural and often irreplaceable community resource and recognize them as assets for their beauty and service; and

WHEREAS, the City Council of Hilshire Village, Texas, has further determined that the protection and care of trees located on the City’s property is essential to the present and future health, safety, and welfare of all citizens, and accordingly, have determined that the adoption and implementation of this “Public Tree Care” ordinance is meritorious and necessary.

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

Section 1: Section 7.701 of the Code of Ordinances of the City of Hilshire Village, Texas is hereby amended to read:

Sec 7.701. – Purpose

1. The purpose of this article is to preserve the tree canopy and continue the wooded character that has been the hallmark of the city since its founding while protecting owners' rights to utilize and enjoy their property by:

- a. Establishing minimum tree requirements
- b. Requiring careful site planning and the protection of trees;
- c. Controlling unnecessary tree removal;
- d. Requiring tree replacement;
- e. Prohibiting indiscriminate cutting or clearing of trees;
- f. Establishing planting and care guidelines for trees on public property;
- g. Delegating the authority and responsibility for managing public trees;
- h. Establishing a Tree Advisory Board; and
- i. Establishing procedures for emergency removal of trees on public property.

2. Section 2: Section 7.702 of the Code of Ordinances of the City of Hilshire Village, Texas, is amended by adding the following definitions in the appropriate alphabetical order:

Sec. 7.702. – Definitions.

Damage shall mean any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

Director shall mean City Administrator or, in absence of a City Administrator, the City Secretary, or their designee.

Nuisance shall mean any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

Public property shall mean all grounds of the city and street rights-of-way (ROWs) owned or dedicated to the City.

Public tree shall mean any tree on public property.

Section 3: The Code of Ordinances of the City of Hilshire Village, Texas, is amended by the addition of a new Section 7.714 that shall read as follows:

Sec. 7.714. – Public trees

- a. **Delegation of authority and responsibility.** The Director shall have the authority and responsibility to plant, prune, maintain, and remove any public tree. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is a nuisance.
- b. **Interference.** No person shall hinder, prevent, delay, or interfere with the Director or the Director’s agents while engaged in carrying out the execution or enforcement of this Section.
- c. **Tree advisory board.** The City Council hereby creates a “Tree Advisory Board,” hereinafter referred to as the “Board.”
 - 1) *Membership.* The Board shall consist of five (5) members appointed by the Mayor. Members of the Board shall serve without compensation.
 - 2) *Term of office.* Board members shall be appointed for two (2) year term. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by the Mayor to fill the remainder of the unexpired term.
 - 3) *Officers.* The Board shall annually select one member of the Board to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
 - 4) *Meetings.* The Board shall meet a minimum of two (2) times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.
 - 5) *Duties.* The Board shall act in an advisory capacity to the Director and shall:
 - (a) Coordinate and promote Arbor Day activities;
 - (b) Review and update a five-year plan to plant and maintain trees on public property;
 - (c) Support public awareness and education programs relating to trees;
 - (d) Review city concerns relating to tree care;
 - (e) Submit an annual report of its activities to the City Council;
 - (f) Assist with the annual application to renew the Tree City USA designation; and
 - (g) Perform other duties that may be assigned by City Council.

d. Tree planting and care standards.

- (1) *Standards.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (2) *Approved tree list.* The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted on public property without written approval from the Director.
- (3) *Planting distances.* No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property.
- (4) *Planting trees under electric utility lines.* Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire. Additional species may be approved by the Director.
- (5) *Protection of public trees during construction.* Any person performing construction in the area of any public tree shall employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent any damage.

e. Adjacent owner responsibility.

- (1) No property owner shall allow a tree or other plant growing on his or her property or within the adjacent public property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If the obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.
- (2) No property owner shall allow a tree or other plant to grow on his or her property or within the adjacent public property so as to block the drainage of water (See also Sec. 6.103 Enumerated conditions).

Section 4. Violations and penalty. Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

Section 5. Savings/repeal. That all ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Severability. Should any word, sentence, clause, paragraph or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

Section 7. Effective date. That this Ordinance shall become effective after its passage and publication according to law.

PASSED, APPROVED and ADOPTED by the City Council of Hilshire Village, Texas, on this day of the 17th Day of October, 2023.

Mayor Robert F. Buesinger

ATTEST:

APPROVED AS TO FORM:

City Secretary Cassie Stephens

City Attorney Scott Bounds