

ORDINANCE NO. 20-517

AN ORDINANCE OF THE CITY OF BUNKER HILL VILLAGE, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 4, BUILDING AND CONSTRUCTION, BY AMENDING THE TITLE OF CHAPTER 4 TO BE DEVELOPMENT, BUILDING AND CONSTRUCTION, BY AMENDING ARTICLE VI, TREE PRESERVATION, OF CHAPTER 4, DEVELOPMENT, BUILDING AND CONSTRUCTION, SECTION 4-182, DEFINITIONS, TO CLARIFY THE DEFINITION OF A TREE, SECTION 4-183, MINIMUM TREE REQUIREMENT, TO CLARIFY THE CALCULATION OF THE NUMBER OF TREES PER LOT, SECTION 4-184, TREE PERMIT REQUIREMENTS, SO THAT A TREE PERMIT WILL NOT ISSUE IF THE REMOVAL WOULD VIOLATE STATE OR FEDERAL LAW, SECTION 4-185, TREE PRESERVATION, REMOVAL AND REPLACEMENT, TO ESTABLISH AN OFFSITE TREE REPLACEMENT PROGRAM IN CERTAIN CIRCUMSTANCES AND TO REQUIRE TREES REMOVED TO BE CUT SUCH THAT THEY DO NOT EXTEND MORE THAN SIX INCHES (6") ABOVE THE SURROUNDING SOIL, AND SECTION 4-186, NEW CONSTRUCTION, RECONSTRUCTION, AND EXPANSION/ADDITIONS, TO REQUIRE A STATEMENT ON THE TREE SITE PLAN THAT THE APPLICANT IS NOT AWARE OF ANY IMPACT TO AN ENDANGERED SPECIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF THESE PROVISIONS, WITH EACH DAY CONSTITUTING A NEW VIOLATION; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, the City of Bunker Hill Village, Texas (the "City") is a residential community founded with a purpose of maintaining the atmosphere of a small, country, wooded community of families while preserving owners' rights to utilize and enjoy their property; and

WHEREAS, the City continues to seek to maintain the character of the community upon which it was founded; and

WHEREAS, trees act as a buffer to reduce noise pollution, provide shade, cool the air, and otherwise temper the effects of summer heat, restore oxygen to the atmosphere, reduce glare and break the monotony of urbanized development, and provide an ecological habitat for songbirds and other animals and plant species; and

WHEREAS, the urban forest of the City should be preserved and enhanced to the fullest extent possible for the protection and benefit of future generations, and to maintain and enhance property values of the properties located within the City; and

WHEREAS, the City Council hereby finds and determines that the amendments to the City's tree regulations contained herein are in the best interest of the public health, safety, and general welfare; now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUNKER HILL VILLAGE, TEXAS;

Section 1. The facts and matters contained in the preamble are hereby found to be true and correct and are adopted as if set forth herein.

Section 2. The Code of Ordinances of the City of Bunker Hill Village, Texas is amended by amending Section 4-182, Definitions, of Article VI, Tree Preservation, of Chapter 4, Development, Building, and Construction, to delete the language struckthrough below and to add the language underscored, Section 4-182 to read as follows:

“Section 4-182. Definitions

Tree shall mean a self-supporting woody plant with a single trunk, unbranched for several feet above the ground, supporting a definitely formed crown, with a minimum 3~~5~~ inch diameter DBH and having a height of at least 12 feet.

Multiple-Trunk Tree shall mean a tree with two or more trunks visibly connected above the ground with a height greater than 15 feet (measurement of multi-trunk trees will be as follows; the diameter of the largest trunk added to .50% of total diameter of remaining trunks with total no less than 8 inches DBH).

Qualified Tree shall mean tree which species is included on the City's approved planting tree list with a diameter between 15 and 20 inches DBH.

Protected Tree shall mean a tree which species is included on the City's approved planting tree list with a diameter over 20 inches DBH.

Healthy Tree shall mean a living, thriving tree, as defined above and confirmed with the City's Arborist or Forrester.

Replacement Tree shall mean a tree, which is a minimum of 3 inches in caliper (measured at 6 inches from the base of the tree) and at least 12 feet in height of a species included on the City's approved planting tree list

Tree Diameter shall mean the measurement used to determine the size of a tree; the tree diameter is measure in two ways as either DBH or caliper.

DBH shall mean the measurement used for planted trees, "Diameter at Breast Height", measured 4 feet, 6 inches from the ground level.

Caliper shall mean the measurement used for all trees to be planted: measured at 6 inches from the base of the tree.

Tree Ratio shall mean the expected minimum number of trees or tree trunks on a lot.

Tree Site Plan shall mean a plan indicating: 1) existing and proposed improvements/structure; 2) location of new tree plantings; 3) indicate all trees and/or multiple trees that are to be removed.

Tree Survey shall mean a plan indicating the following: 1) location of all existing trees and multiple trunk trees on a lot; 2) the diameter of each tree; 3) tree type; 4) the tree site plan should note all protected tree(s) and qualified tree(s)."

Section 3. The Code of Ordinances of the City of Bunker Hill Village, Texas is further amended by amending Section 4-183, Minimum Tree Requirement, of Article VI, Tree Preservation, of Chapter 4, Development, Building, and Construction, to delete the language struckthrough below and to add the language underscored, Section 4-183 to read as follows:

“Section 4-183. Minimum Tree Requirement

The minimum number of trees on each lot shall be one (1) tree for each one thousand (1,000) sq. ft. of lot area roundup to the nearest 1,000 square feet. Trees located on the public right of way that are adjacent to a lot or parcel shall **not** be considered as part of the required number. For new construction, a minimum of 25% of the minimum number of trees shall be in the front yard of the property.”

Section 4. The Code of Ordinances of the City of Bunker Hill Village, Texas is further amended by amending Section 4-184, Tree Permit Requirements, of Article VI, Tree Preservation, of Chapter 4, Development, Building, and Construction, to add the language underscored below and delete the language struckthrough, Section 4-184 to read as follows:

“Section 4-184. Tree Permit Requirements

A tree permit is required for the removal of any and all trees greater than 5 inches in diameter, for any reason.

Exceptions for when a tree permit is not required.

- a) Any utility installation or maintenance by a public utility or their authorized contractor on utility easements or public right-of-way;
- b) Removal of all or part of a tree(s) that has disrupted public utility service, roadway, or is imminent danger of causing harm to people or property;
- c) Removal of any tree under 5” in diameter; ~~or~~
- d) Any tree, which has fallen; or
- e) If the City becomes aware that the removal of any tree is in violation of any State or Federal law or regulation, a permit for the removal of that tree will not be issued.

Removal of trees due to infestation, dead, or storm damaged trees is not an exception and does require a tree permit.

A tree permit for new construction, reconstruction, and expansion/additions is issued as part of the construction permit.”

Section 5. The Code of Ordinances of the City of Bunker Hill Village, Texas is further amended by amending Section 4-185, Tree Preservation, Removal, and Replacement, of Article VI, Tree Preservation, of Chapter 4, Development, Building, and Construction, to delete the language struckthrough below and to add the language underscored, Section 4-185 to read as follows:

“Section 4-185. Tree Preservation, Removal and Replacement.

In order to preserve existing healthy, mature trees, the following table is provided to meet the minimum required tree count per lot.

Tree Classification and Size	Tree Count	Equivalent Tree Count
Qualified Tree 10-15 inch diameter	1 Trees	2
Protected Tree > 15 inch diameter	1 Trees	3

Should qualified and protected trees be preserved as indicated above, the following tables are provided for determining the minimum required tree and trunk count.

District A – Requirements

The following Table is provided to determine the tree ratio for District A

A minimum number of trees/trunks	Tree Count	Minimum Trunk Count
Per 20,000 <u>Up to and including</u> 30,000 sq. ft.	1 per 1,000 SF	12
> 30,001 sq. ft.	1 per 1,000 SF	17

District B – Requirements

The following Table is provided to determine the tree ratio for District B

A minimum number of trees/trunks	Tree Count	Minimum Trunk Count
Up to 12,999 sq ft	1 per 1,000 SF	5
13,000 – 14,999 sq. ft	1 per 1,000 SF	8
15, 000 - 19,999 sq ft	1 per 1,000 SF	10
Over 20,000 sq. ft	Same Criteria as District A	

The following apply for removal and replacement of specified trees for both Districts

Tree(s) Proposed for Removal On the Approved Tree Planting List	Required Replacement	Replacement Number & Size Replacement Tree Must be on the Approved Tree Planting List
Any Tree (Healthy or Diseased) 5 - 10 inch diameter DBH	Must be replaced if the lot tree count does not meet minimum requirement; Does not need to be replaced if tree count is met	1 Tree per every 1 removed Must be 3" or greater caliper
Over 5 Healthy Qualified Trees (10-15 inch diameter)	Must be replaced regardless of meeting minimum tree requirement; <u>Can count toward minimum tree requirement or participate in the Offsite Tree Replacement Program</u>	1 Tree per every 5 removed Must be 5" caliper and least 15' feet tall
Healthy Protected Tree > 15 inch diameter	Must be replaced regardless of meeting minimum tree requirement; <u>Can count toward minimum tree requirement or participate in the Offsite Tree Replacement Program</u>	2 Trees per every 1 removed Must be 5" caliper and least 15' feet tall

These requirements apply to all situations including planning for new construction and exterior remodeling/expansion/additions, as well as proposed tree removal by existing property owners requesting a tree removal permit without an active construction permit are required to meet minimum tree count requirements. Replacement trees above the minimum requirements do not apply. Each property owner shall verify that their property is currently in compliance with this ordinance.

Any homeowner in continuous ownership of their home since before February 20, 1996 can remove a tree, remodel or expand without meeting the provisions of this section. However, all new construction and reconstruction must meet these requirements.

Any tree removed must not allow any portion of the tree to extend above six (6) inches of the surrounding soil. Any previously removed tree is required to meet this requirement.

Offsite Tree Replacement Program – If replacement trees are required for a lot as detailed in this ordinance and the minimum required number of trees for the lot both in terms of minimum trunk count and equivalent tree count is met, replacement trees may be purchased from the City to be planted in alternative locations around the city. The cost for each tree purchased is listed in the

currently adopted fee schedule for the city. For each tree required, one offsite tree is required to be purchased. A combination of onsite and offsite replacement trees is allowed to meet the required tree count. Location of planting for any offsite tree purchased will be determined by the City.”

Section 6. The Code of Ordinances of the City of Bunker Hill Village, Texas is further amended by amending Section 4-186, New Construction, Reconstruction and Expansion/Additions, of Article VI, Tree Preservation, of Chapter 4, Development, Building, and Construction, to add the language underscored below and delete the language struckthrough, Section 4-186 to read as follows:

“Section 4-186. New Construction, Reconstruction and Expansion/Additions.

(1) Pre-Development Planning.

A pre-development meeting is required for all new construction and remodeling/expansion/additions as noted in Article 1, Section 4-4. New construction and remodeling/expansion/additions add to the building footprint of the site and will be required to meet the minimum tree requirements as defined per the Zoning District.

(2) Tree Survey.

A tree survey is required for new construction and remodeling/expansion/additions.

The tree survey needs to indicate the following:

- a) Existing trees and multiple trunk trees by location, species, and size;
- b) Condition of all existing and multiple trunk trees; and
- c) Calculation showing the minimum tree requirement and how the tree requirement will be met in coordination with the improvements.

(3) Tree Site Plan.

A tree site plan which depicts all proposed improvements and all trees preserved or planned to meet the minimum tree requirement is required for new construction and remodeling/expansion/additions. This site plan shall contain a statement that the applicant is not aware that the removal of any of the trees

shown on the tree site plan to be removed would impact any endangered species as defined by the Endangered Species Act, as amended.

Upon approval of the tree site plan and construction plans, a construction permit will be issued and includes the permitting of all trees to be removed or planted.

Any plantings within a CenterPoint Energy Utility Easement must meet CenterPoint Energy's "Right Tree-Right Place" Program.

(4) One-year Inspection

The City will complete a one-year inspection within 11-15 months after a final certificate of occupancy permit has been issued. A one-year review of the minimum tree requirement will be conducted to ensure the required healthy tree count for new construction or remodeling. The inspection will include the following:

- (a) City will evaluate and count all trees to meet minimum tree requirement per Zoning District;
- (b) The City will inspect trees on adjacent/neighboring property that were within 10 feet of the construction and requested tree protection;
- (c) All stakes that were necessary for installation shall be removed; and
- (d) Should the lot no longer meet the minimum tree requirement as shown on the approved site plan; the owner will have 14 days to ensure the minimum tree requirement is met and to avoid any fees and penalties."

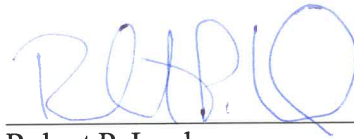
Section 9. Repeal. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 10. Penalty. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 11. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of

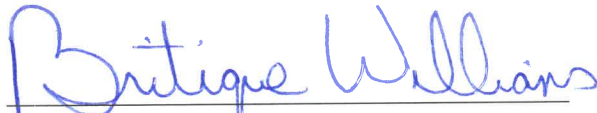
competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Bunker Hill Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this the 21st day of January, 2020.



Robert P. Lord
Mayor

ATTEST:



Britique Williams
City Secretary