

ORDINANCE NO. 07-026

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES BY ADDING ARTICLE VII, TREE CARE; ESTABLISHING PRACTICES GOVERNING THE CARE AND MAINTENANCE OF TREES ON CITY PROPERTY; CREATING A TREE ADVISORY BOARD; DESIGNATING THE CITY PARKS AND RECREATION DIRECTOR WITH ADMINISTRATIVE RESPONSIBILITY FOR THE MAINTENANCE AND REMOVAL OF TREES ON CITY PROPERTY; AND PROVIDING FOR THE REMOVAL OF DISEASED OR HAZARDOUS TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATIONS AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Killeen recognizes that trees play a role in the City's quality of life by improving air quality, reducing energy costs, and improving the City's general appearance; and

WHEREAS, the City Council has further determined that it will be beneficial to designate the City Parks and Recreation Director with administrative responsibility for the care, planting and maintenance of trees on City Property and City Parks, and to establish a Tree Care Advisory Board to promote planting trees on "private property and in public places;"

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

Section I. That Chapter 8 of the Code of Ordinances of the City of Killeen is hereby amended to add Article VII "Tree Care," to read as follows:

ARTICLE VII. Tree Care

Sec. 8-530. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Public trees shall mean any trees, shrubs, bushes and all woody vegetation on city parks or city-owned property and right-of-ways.

Park trees shall mean any trees, shrubs, brushes and all woody vegetation in city Parks, and in all areas owned by the city and to which the public has access.

Sec. 8-531. Establishment of a tree care advisory board.

A. *Board membership.* The city council hereby creates an advisory board known as the "tree advisory board," hereinafter referred to as the "board." The board shall consist of seven members approved by the city council . Members of the tree board will serve without compensation.

A. *Board membership.* The city council hereby creates an advisory board known as the “tree advisory board,” hereinafter referred to as the “board.” The board shall consist of seven members approved by the city council. Members of the tree board will serve without compensation.

B. *Term of office.* Board members shall be appointed for three year staggered terms, except for the term of the initial board. To create staggered terms, the initial members shall be appointed as follows: three members shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years. Thereafter, all appointments shall be for three years.

C. *Meetings.* The board shall meet a minimum of four times each year. The director or the chair of the tree board may schedule additional meetings as needed.

D. *Officers.* The board shall annually select one of the members to serve as chair, and may appoint a second member to serve as vice-chair.

E. *Duties.* The duties of the tree board shall include:

1. Coordinating and promoting Arbor Day activities;
2. Developing and updating a five-year plan to plant trees on city property;
3. 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
7. Other duties that may be assigned by the city council

Sec. 5-832. Care of public trees.

A. The parks and recreation director and/or his designees shall have the responsibility to plant, prune, maintain and remove trees and woody plants on all city streets, rights-of-ways, and/or city parks. The parks director and/or his designee in appropriate cases, and upon consultation with a property owner, may remove or prune a tree on private property which threatens the safety of those who may use a city street or city park. (Also see chapter 28-241 for further information on obstructions within the right-of-way.)

B. The parks and recreation director and/or his designee may recommend the removal of any tree or part thereof that threatens the safety of any person or by which by reason of its location or nature threatens any electric line, telephone line, gas line or any municipal water or sewer line or any public improvement, or any tree which is affected by any injurious fungus, insect or other pest disease. (Also see chapter 25-201 for further information on impeding full-use of the right-of-way.)

C. No person shall remove, destroy, or cause the removal or destruction of a tree on city property or in any city park without first having obtained written permission for such removal or destruction from the parks and recreation director.

D. It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope sign or any other object to any city tree, plant or shrub without the written permission from the director.

Sec. 8-533. Penalty for violations.

Any violation of this ordinance shall be guilty of a Class C misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00), nor more than two thousand dollars (\$2,000.00). Each day the violation continues shall be considered a separate offense.

Section II. - That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

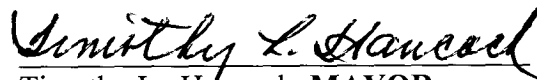
Section III. - That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason it shall not invalidate or impair the validity force or effect of any other section or sections or part of a section or paragraph of this ordinance.

Section IV. - That the Code of Ordinances of the City of Killeen, as amended, shall remain in full force and effect save and except as amended by this ordinance.

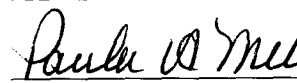
Section VIII. - That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at the regular meeting of the City Council of the City of Killeen, Texas this 13th day of March 2007, at which a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, 551.001. *et seq*

APPROVED

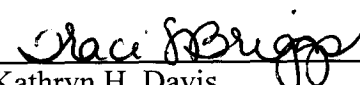

Timothy L. Hancock, **MAYOR**

ATTEST:


Paula A. Miller
CITY SECRETARY



APPROVED AS TO FORM


Kathryn H. Davis
CITY ATTORNEY

Regular 3-13-07
Item# OR-1
REVISED

CITY COUNCIL MEMORANDUM FOR ORDINANCE

AGENDA ITEM

Tree Care Ordinance

ORIGINATING DEPARTMENT

City Manager's Office

BACKGROUND INFORMATION

In December 2006 Council directed staff to develop a program to receive the Tree City USA Designation. Communities must meet the following four requirements to become a Tree City USA:

1. A Community Forestry Program with an annual budget of at least \$2 per Capita
2. Issuing a Proclamation or holding an Arbor Day observance
3. Creating a Tree Board and/or designating a Department to be responsible for trees on City Property
4. Adopting a Tree Care Ordinance

Communities meeting all four requirements must apply for the Tree City USA by December 31, 2007. Communities must meet the standards each year to maintain the Tree City USA status.

DISCUSSION AND CONCLUSION

The City currently meets requirements One and Two above. Today we bring back a draft Tree Care Ordinance intended to meet requirements Three and Four. The Texas Forest Service will review the Ordinance for compliance with Tree City USA criteria. The Ordinance

- a. Creates a Tree Advisory Board
- b. Designates the Parks and Recreation Director with administrative responsibility for the care, maintenance and removal of trees on City Property
- c. Provides for the removal of diseased or hazardous trees on private property under certain conditions
- d. Provides a penalty for violating the ordinance.

FISCAL IMPACT

Adopting the Tree Ordinance will not have a fiscal impact on the FY 06-07 Budget.

RECOMMENDATION

City Council adopt the Tree Care Ordinance.