

**CITY OF HASLET
ORDINANCE NO. 022-2016**

AN ORDINANCE OF THE CITY OF HASLET AMENDING ARTICLE 3.10 "TREE PRESERVATION" OF THE CODE OF ORDINANCES IN ITS ENTIRETY TO PROVIDE FOR ADMINISTRATION OF SUCH REQUIREMENTS BY THE CITY ENGINEER; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haslet, Texas is a Type A general-law municipality located in Tarrant and Denton Counties, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City previously adopted Article 3.10 "Tree Preservation" requirements to the Haslet Code of Ordinances in order to protect the public health, safety and welfare; and

WHEREAS, the City subsequently hired an in-house City Engineer, and the City Council desires to amend the provisions of Article 3.10 to provide for the City Engineer's administration of the tree preservation ordinance provisions.

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

SECTION 1.

Article 3.10 "Tree Preservation" of Chapter 3 "Building Regulations" of the Haslet Code of Ordinances is hereby amended in its entirety to read as follows:

"Article 3.10 Tree Preservation

Sec. 3.10.001 Purpose and Intent.

The purpose of this Article is:

- (1) To establish regulations addressing the protection of healthy and significant trees and to provide for the replacement and replanting of trees that are necessarily removed during construction, development or redevelopment.
- (2) To limit the removal of protected trees six inches (6") in diameter without a permit from the City, to promote the orderly development of the city of Haslet and to

protect the public health, safety and general welfare of the citizens of the City of Haslet. It is not the intent of these regulations to deny development rights protected by law.

(3)To address the removal of mature and protected trees and replacement and replanting of trees that are necessarily removed during construction, development or redevelopment in an expeditious manner and with due regard for the legal rights or property owners in Haslet.

Sec. 3.10.002 Definitions.

The following definitions shall apply in this Article:

City Engineer. The person or their designee that provides administrative review of Tree Preservation Site Plans and issue Tree Removal Permits.

Diameter of a tree. Measurement of the size/diameter of a tree as determined by measuring at four and one-half (4.5') above ground. For a multi-trunk tree, the diameter shall be the total diameter of the largest trunk plus half (1/2) the diameter of each additional trunk.

Developer or Applicant. Means any individual, corporation, partnership, association or other entity seeking a Tree Removal Permit under this Article.

Protected tree. A tree that the City has determined has significant positive characteristics worthy of preservation as listed in Section 3.10-04 that has a diameter of six inches (6") or greater.

Tree preservation site plan. A plan prepared by a qualified professional showing the location of all protected trees by size, species and health that are six inches (6") or greater on the site, location of all easements, location of all proposed buildings, a grading plan, if applicable; the protected trees desired to be removed, if any, the protected trees that shall remain on the site, and an accompanying document indicating valid reason for the proposed removal of any protected trees, and if applicable, a description on how existing healthy protected trees proposed to be retained will be protected from damage from construction.

Tree removal. The cutting, destroying, removing, moving, poisoning, banding, marking or effectively destroying through damaging, any protected tree situated on property in the City without first obtaining a Tree Removal Permit from the City Engineer.

Tree removal permit. A permit required to be issued by the City Engineer prior to the removal of any protected tree greater than six (6") inches in diameter.

Qualified professional. A person including a registered landscape architect, urban forester, botanist, arborist or professional land surveyor who has documented the completion of at least eight (8) hours of training in Texas tree identification.

Sec. 3.10.003 Permit Review and Approval.

(a) Except as otherwise provided herein, on and after the effective date of this Article, no person shall remove any protected tree equal to or greater than six inches (6”) in diameter without a Tree Removal Permit from the City.

(b) Land in which a valid building permit has been issued or executed prior to the effective date of this Article is not subject to these regulations.

(c) Permits for removal or replacement of trees covered in this Article shall be obtained by making application on a form provided by the City. The application shall be accompanied by a Tree Preservation Site Plan prepared by a qualified professional as defined herein.

(d) The City Engineer shall determine whether the Permit is subject to these regulations. Acceptance of a Tree Removal Permit for the limited purpose of such review shall not constitute acceptance of the permit. In the event the City Engineer determines that an application is subject to the regulations of this Article, the City Engineer shall be responsible for the review and approval or disapproval of all requests for Tree Removal Permits. The City Engineer shall review the permit application, perform an on-site analysis of the site and trees, and make a determination if any trees can be removed using the following criteria:

- (1) The protected tree is located in a public utility easement, public access easement or public street right-of-way as recorded on a plat and accepted by City Council, and removal would be in compliance with current city codes.
- (2) The protected tree is in an unsafe condition, or is injurious to the common good, or to sewer pipes, pavements or improvements, or is infested and dangerous to other trees.

(e) The City Engineer may accept a reforest plan that provides a one-diameter inch per one-diameter inch tree replacement when mature or protected trees are removed outside the requirements listed in (d)(1) and (2) above. The tree replacement plan will set a minimum of 3-inch diameter tree as a replacement tree, and such replacement trees shall be from a list of approved replacement trees maintained by the City. All preservation of trees will count toward the project’s landscape requirement without regard to location or limitation to substitution of trees for shrubs.

(f) In lieu of a reforest plan for the subject site, and upon approval of the City Engineer, the developer or applicant may make a payment into the tree restoration fund in the amount of \$50.00 per caliper inch for each protected tree removed outside of the building requirements listed in subsection (d)(1) and (2) above. The tree restoration fund shall be used by the city only for purchasing and planting of trees on public property.

(g) In order to encourage the preservation of existing trees, the area within the drip line of trees over size caliper inches that is protected by fencing during grading and construction and

included in the required landscape area shall receive double credit toward the required landscape area.

Sec. 3.10.004 Protected Trees.

The following are Protected Trees under this Article:

- Redbud
- Mexican plum
- Cherry laurel
- Eve's necklace
- Crab apple
- Bradford pear
- Golden raintree
- Caddo maple
- Red maple
- Bigtooth maple
- Bur oak
- Chinquapin oak
- Live oak
- Shumard red oak
- Texas red oak
- Post oak
- Blackjack oak
- Water oak
- Pecan
- Lacebark elm
- Cedar elm
- American elm
- Bald cypress
- Black walnut
- Green ash
- Texas ash
- Southern magnolia

Sec. 3.10.005 Appeals.

(a) If the City Engineer refuses to accept or issue a Tree Removal Permit, or the applicant disagrees with the decision of the City Engineer, the applicant may appeal the decision to the City Council. The appeal shall be in writing and shall be transmitted to the City Secretary within ten days after receipt of notification that the City Engineer will not accept the Tree Removal Permit.

(b) The appeal shall be considered by the City Council within 30 days after the appeal is received by the City Secretary, unless the applicant requests a later hearing. The City Council shall not release the applicant from the requirements of this ordinance, unless the applicant first presents credible evidence from which the City Council can reasonably conclude application of this Article to the applicant would be likely to deprive the applicant of rights protected by law.

(c) The City Council may take the following actions on an appeal:

- (1) Deny the appeal, in which case the Tree Removal Permit shall not be accepted or granted; or
- (2) Grant the appeal, and direct the City Engineer to accept and approve the Tree Application Permit.
- (3) Grant the appeal subject to such provisions, conditions, or limitations as deemed appropriate by the City Council.

Sec. 3.10.006 Applicability and exceptions

The reforest plan (or payment in lieu of a reforest plan) provisions of Section 3.10.003 of this Article do not apply to a protected tree:

- (1) Located on a developed single-family residential lot contained within a plat of record on which an owner occupied residential structure is located.
- (2) Which creates unsafe vision clearance or is determined to be in a hazardous or dangerous condition, such as due to storm damage, so as to endanger the public health, safety or welfare.
- (3) Within existing city streets, rights-of-way or easements, including but not limited to roadways, drainage, water, sanitary sewer, electric, pedestrian and park facilities, but does apply to protected trees within a proposed subdivision that has been or will be dedicated for streets, rights-of-way, or other public easements.
- (4) Which is not living, or is so diseased or damaged as to be in danger of falling.

A permit for removal of such protected tree is still required.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Haslet and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Haslet, Texas, are expressly saved as to any and all violations of any other ordinances or the Code of Ordinances regarding tree preservation which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary is directed to publish this ordinance or its caption, penalty clause and effective date, in one issue of the official city newspaper as required by Section 52.011 of the Texas Local Government Code.

SECTION 7.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 6TH DAY OF SEPTEMBER, 2016.



Bob Golden

MAYOR BOB GOLDEN

Dianna Buchanan

CITY SECRETARY DIANNA BUCHANAN