

**ORDINANCE NO. O-2015-25**

**AN ORDINANCE AMENDING CHAPTER 14, ARTICLE V OF THE CITY OF SHAVANO PARK, TEXAS, CODE OF ORDINANCES, PROVIDING ADDITIONAL RESPSONBILITIES TO THE CITIZENS TREE COMMITTEE; PROVIDING CARE OF PUBLIC TREES; TO ESTABLISH PRACTICES GOVERNING THE PLANTING, CARE AND REMOVAL OF TREES ON PUBLIC PROPERTY; TO MAKE PROVISION FOR THE REMOVAL OF DISEASED TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of Shavano Park, Texas, recognizes that trees generally protect and enhance the quality of life and general welfare of the town; and

**WHEREAS**, the Citizens of the City of Shavano Park, Texas, 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 the City of Shavano Park, Texas, has further determined that the protection and care of trees located on city 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 SHAVANO PARK, TEXAS:**

**I  
CODE AMENDMENT**

**THAT** Chapter 14, Article V of the City of Shavano Park Code of Ordinances is hereby renamed as follows:

**CITIZENS TREE COMMITTEE AND PUBLIC TREE CARE**

## II CODE AMENDMENT

Chapter 14, Article V of the City of Shavano Park Code of Ordinances is hereby amended to read as follows:

**Sec. 14-118. – Purpose.**

To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein creates a Citizens Tree Committee, establishes practices governing the planting and care of trees, and makes provision for the emergency removal of trees on private property under certain conditions.

**Sec. 14-119. – Definitions.**

As used in this Article, the following words and phrases shall have the meanings indicated:

*Damage* – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part 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.

*Nuisance* – any tree, tree limb, shrub, or woody plant 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.

*Parkway* – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

*Public property* – all grounds and rights-of-way (ROWs) owned or maintained by the City.

*Public tree* – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way. *Top or Topping* – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**Sec. 14-121. – Tree Committee Creation; membership; terms.**

- (a) *Creation.* That a Shavano Park Citizens Tree Committee is hereby authorized to be established with membership being appointed as provided for herein. The committee is an ad hoc committee which may be abolished or suspended, and whose purposes and activities may be amended, at any time through by a majority vote of City Council.
- (b) *Membership.* Membership of the committee shall be as follows:
  - a. One City Council member appointed by City Council.
  - b. One City staff member appointed by the City Manager;
  - c. A minimum of seven (7) residents of the City of Shavano Park appointed by the City Council to represent the community at large; as described in Chapter 2, Article IV, Sec. 2-87.
  - d. One (1) International Society of Arboriculture Certified Arborist or forester appointed by the City Council, preferably a resident, to serve as subject matter expert for the committee;
- (c) *Chairperson.* Shall be selected as described in Chapter 2, Article IV, Sec. 2-87.
- (d) *Terms.* Members shall serve for two-year staggered terms with the initial membership splitting 1 and 2 year terms evenly distributed as determined by City Council.
- (e) *Vacancies.* Shall be filled as described in Chapter 2, Article IV, Sec. 2-87.

**Sec. 14-122. - Responsibilities.**

- (a) To provide non-binding advice and input regarding possible oak wilt, tree trimming and generally accepted urban forestry practices;
- (b) That citizen members are tasked with walking and/or driving in their area, looking for signs of oak wilt and/or poor tree trimming practices and reporting observations to staff.
- (c) The committee shall meet a minimum of 4 times a year at City Hall in compliance with the Texas Open Meetings Act. All meetings will be posted and held at City Hall and open to the public. The chair may schedule additional meetings or cancel scheduled meetings as deemed.
- (d) The first meeting of each year shall be a training meeting.
- (e) The committee shall give a report to Council twice a year.
- (f) Coordinate and promote Arbor Day activities.
- (g) Assisted with the annual application to renew the Tree City USA designation.

**Sec. 14-123. – Public Tree Care Authority.**

- (a) *Delegation of authority and responsibility.* The City Manager and/or their designee, shall have the authority to oversee the planting, pruning, maintenance and removal of trees and woody plants growing in or upon all city streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees or tree limbs that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- (b) *Coordination among city departments.* All city departments will coordinate as necessary with the City Manager and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the City Manager.
- (c) *Interference.* No person shall hinder, prevent, delay, or interfere with the City Manager or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

**Sec. 14-124. – Public Tree planting and care standards.**

- (a) *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.
- (b) *Requirements of franchise utility companies, Home Owners' Associations and Business Owners' Associations.* Franchise utility companies, Home Owners' Associations and Business Owners' Associations shall provide advance notice to the City of their intended non-emergency tree pruning schedule and location of impacted area. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- (c) *Tree species list.* Desirable tree species for planting on public property shall conform to Section 14-152, Table 5 "Protected Trees." Only trees from this list may be planted without written approval from the City Manager, or their designee.
- (d) *Planting distances.* The City Manager, or their designee, shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.
- (e) *Planting trees under electric utility lines.* Only trees listed 20 feet or less in height at maturity may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

- (f) *Protection of public trees during construction.* Any person, firm, corporation, or city department performing construction in the area of any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent any damage.

**Sec. 14-125. - Adjacent owner responsibility.**

No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the City Manager, or their designee, 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.

**Sec. 14-126. - Prohibition against harming public trees.**

- (a) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the City Manager, or their designee.
- (b) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree.
- (c) It shall be unlawful for any person, firm or corporation to "top" any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the City Manager, or their designee.

**Sec. 14-127. - Certain trees declared a nuisance.**

Any tree, or limb thereof, on private property determined by the City Manager, or their designee, to have contracted a communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the City Manager, or their designee, within the written notification period.

**Sec. 14-128. - 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.

**Sec. 14-129. - Appeals.**

All appeals to a violation shall be heard by City Council.

**Secs. 14-130—14-146. - Reserved.**

**II  
CUMULATIVE CLAUSE**

That this ordinance shall be cumulative of all provisions of the City of Shavano Park, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**III  
SEVERABILITY**

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

**IV  
PROPER NOTICE AND MEETING**


It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

**V  
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by State and Local law.

**PASSED AND APPROVED** on the first reading by the City Council of the City of Shavano Park this the 16th day of November, 2015.

**PASSED AND APPROVED** on the second reading by the City Council of the City of Shavano Park this the 21st day of December, 2015.

  
**ROBERT WERNER, MAYOR**

Attest:

  
**ZINA TEDFORD, City Secretary**

Approved as to Form:

  
**CHARLES E. ZECH, City Attorney**