

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS, AMENDING THE CITY CODE OF ORDINANCES CHAPTER 95; SECTIONS 95.41, 95.42 AND 95.43 BY DESIGNATING MEMBERS OF THE PARKS AND RECREATION COMMISSION AS THE MEMBERSHIP OF THE TREE CARE ADVISORY BOARD AND DESIGNATION OF THE PARKS AND RECREATION DIRECTOR AS THE CITY STAFF PERSON OVERSEEING THE CARE OF PUBLIC TREES; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 229-86-5-27, passed and approved on May 27, 1986; as amended by Ordinance No. 311-89-12-12, passed and approved December 12, 1989, Council established the Parks and Recreation Commission; and

WHEREAS, pursuant to Ordinance No. 893-07-06-26, passed and approved June 26, 2007; as amended by Ordinance No. 959-08-08-26, passed and approved on August 26, 2008, Council established the Tree Care Advisory Board; and

WHEREAS, council finds the appointment of members of the Parks and Recreation Commission to serve as the Tree Care Advisory Board will neither create a conflict of interest nor dual offices; and

WHEREAS, council deems it in the best interest of the health, safety and welfare of the City to have the members of the Parks and Recreation Commission serve as the Tree Care Advisory Board; and

WHEREAS, council desires to revise other provisions of Chapter 95 to comply with current staffing of city personnel in the care of public trees.

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

I.

AMENDMENT TO MUNICIPAL CODE OF ORDINANCES CHAPTER 95, SECTION 95.41.

The City of Pflugerville’s Code of Municipal Ordinances, Chapter 95 (entitled “*Parks and Recreation*”) Section 95.41 (entitled “Definitions”) is hereby amended by deleting the language that is stricken (~~stricken~~) as follows:

For the purposes of this subchapter, the following terms shall have the special meanings ascribed to them below, which shall govern in case of any conflict with other definitions set forth in this code:

~~(A) — BOARD. The term “Board” as used in this subchapter refers to the Tree Care Advisory Board.~~

(A) PUBLIC TREE shall mean any trees, shrubs, bushes, and woody vegetation on city parks or city-owned property.

(B) PRIVATE TREE shall mean any trees, shrubs, bushes, and woody vegetation on private property.

(C) TOP OR TOPPING shall mean the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Topping shall include “heading,” “tipping,” “hat racking” and “rounding over.”

II.

AMENDMENT TO MUNICIPAL CODE OF ORDINANCES CHAPTER 95, SECTION 95.42.

The City of Pflugerville’s Code of Municipal Ordinances, Chapter 95 (entitled “Parks and Recreation”) Section 95.42 (entitled “Establishment of a Tree Care Advisory Board”) is hereby amended by adding the language that is underlined (underlined) and deleting the language that is stricken (~~stricken~~) as follows:

~~(A) Board Membership. The City Council hereby creates an advisory board known as the Tree Care Advisory Board, hereinafter referred to as the Board, and appoints the members of the Parks and Recreation Commission to serve as members of the Board. The Board shall consist of five members appointed by the City Council. All members of the Board shall be residents of the city.~~

~~(B) — One seat on the Board may be reserved for a person that has experience and training in all issues regarding trees. Such experience may include a bachelor’s degree from an accredited college or university in urban forestry or agriculture with training in arboriculture or equivalent experience. Members of the Board shall serve without compensation. The City Forester shall serve as an ex officio member of the Board and advise the Board as necessary.~~

~~(C) — Two seats on the board may be reserved for Parks and Recreation Commission members.~~

~~(D) — One seat on the board may be reserved for a member of Keep Pflugerville Beautiful.~~

~~(E) — Meetings. The Board shall meet a minimum of four times annually. The Parks and Recreation Director, City Forester, or chair of the tree board may schedule additional meetings as needed.~~

~~(F) — 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.~~

~~(G)~~ B Duties. The duties of the Board shall include:

- (1) Coordinating and promoting Arbor Day activities;
- (2) Developing and updating a five-year plan to plant and maintain 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.

III.

AMENDMENT TO MUNICIPAL CODE OF ORDINANCES CHAPTER 95, SECTION 95.43.

The City of Pflugerville’s Code of Municipal Ordinances, Chapter 95 (entitled “Parks and Recreation”) Section 95.43 (entitled “Care of Public Trees”) is hereby amended by adding the language that is underlined (underlined) and deleting the language that is stricken (~~stricken~~) as follows:

(A) ~~The City Forester~~ Parks and Recreation Director and/or their 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 City Forester~~ Parks and Recreation Director and/or their designee in appropriate cases, and upon consultation with a property owner and written permission, may remove or prune a tree on private property which threatens the safety of those who may use a public place.

(B) Property owners are responsible for the reasonable and routine maintenance of trees on the right-of-way which is an extension of the property owner’s front yard and/or setback. This shall include maintaining a clearance over the sidewalk of eight feet (8').

(C) ~~The City Forester~~ Parks and Recreation Director or their designee may recommend the removal of any tree or part of a tree that threatens the safety of any

person, property or structure or by reason of its location. This shall include but is not limited to threats against electric lines, telephone lines, gas lines or any municipal water or sewer lines or any public improvement. Any tree which is affected by any injurious fungus, insect or other damaging biotic organism may also be removed.

(D) No person shall remove, destroy, prune, top or cause the removal, destruction, pruning or topping of a tree on City property or in any City park without first having obtained written permission for such removal, destruction, pruning, or topping from the ~~City Forester~~ Parks and Recreation Director.

(E) It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope or sign to any city tree, plant or shrub without first having obtained written permission from the ~~City Forester~~ Parks and Recreation Director.

IV. CUMULATIVE AND CONFLICTS.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Pflugerville, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

V. SEVERABILITY.

It is hereby declared to be the intention of the City Council 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 shall 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 and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

VI. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND ADOPTED by the City Council of the City of Pflugerville this ____ day of _____, 2012.

APPROVED this ____ day of _____ 2012.

Jeff Coleman, Mayor
City of Pflugerville

ATTEST:

Karen Thompson, City Secretary

APPROVE AS TO FORM:

George Hyde, City Attorney