

TOWN OF FAIRVIEW, TEXAS

ORDINANCE NO. 2019-29

AN ORDINANCE OF THE TOWN OF FAIRVIEW, TEXAS, AMENDING CHAPTER 8 (OFFENSES AND NUISANCES), SECTION 8.02.002 (SPECIFIC NUISANCES PROHIBITED) OF THE FAIRVIEW CODE OF ORDINANCES BY ADOPTING REGULATIONS REGARDING REQUIRED PRUNING OF TREES THAT CAUSE A HAZARD TO PUBLIC PLACES INCLUDING PUBLIC STREETS AND OTHER PUBLIC RIGHTS-OF-WAY AND EASEMENTS; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town of Fairview, Texas, has in the past adopted requirements for pruning trees so as to avoid causing a hazard to public places, including public streets and other public rights-of-way and easements; and

WHEREAS, the Town Council of the Town of Fairview, Texas (the "Town Council") has investigated and determined that the prohibitions set forth in this ordinance are necessary in the interest of public health and safety; and

WHEREAS, the Town Council has further investigated and determined that it would be advantageous and beneficial to the citizens of the Town of Fairview, Texas (the "Town") to adopt additional enforcement measures related to health, safety and welfare of the citizens and the public that relate to declaring certain nuisance conditions and providing for the abatement thereof;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS:

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 2. Amendment to Chapter 8 (Offenses and Nuisances) of the Fairview Code of Ordinances. Chapter 8 (Offenses and Nuisances), Article 8.02 (Nuisances Generally), Section 8.02.002 (Specific nuisances prohibited) of the Fairview Code of Ordinances is amended to read as follows, with deleted provisions shown in strikethrough text (~~example~~) and added provisions showing in underlined text (example):

8.02.002 Specific nuisances prohibited

(a) The following are specifically declared to constitute public nuisances and are prohibited within the municipal limits and within the extraterritorial jurisdiction:

[...]

(6) Failing to prune any tree in accordance with section 3.15.080(c).

(7) Failing to prune any tree so as to avoid causing a hazard to public property and places, including without limitation town/public streets, public rights-of-way and town/public easements; such failure shall be deemed to have occurred with respect to any tree that is not pruned or otherwise maintained with a minimum clearance of eight feet above any sidewalk, trail, or other public walkway, and 14 feet above any public street, road, or alley.

(b) Any condition of property in violation of subsection (a) shall be deemed to be a violation of article 6.04 and any violator shall be subject to the penalty provisions of section 6.04.002.

(c) Any condition of property in violation of subsection (a) shall be subject to removal, abatement, and any other action by the town in accordance with sections 6.04.006, 6.04.007, and 6.04.008, including without limitation assessment of the town's expenses and placement of a lien on real property in the event of a failure to pay such assessment.

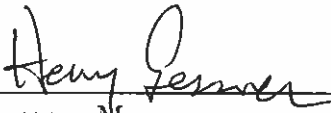
(1998 Code, sec. 94.02; Ordinance No. _____)”

SECTION 3. Penalty Provision. Any person, firm, entity or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Fairview from filing suit to enjoin the violation. Fairview retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 4. Savings/Severability/Repealing Clause. All ordinances and provisions of the Code of Ordinances, Town of Fairview, Texas in conflict with the provisions of this ordinance are repealed to the extent of that conflict. If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. The Town declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This Ordinance shall be effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL, OF THE TOWN OF FAIRVIEW, TEXAS on this ____ day of _____, 2019.



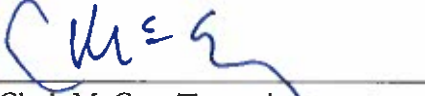
Henry Lessner, Mayor
Town of Fairview

ATTEST:

APPROVED AS TO FORM:



Tenitrus Bethel, Town Secretary



Clark McCoy, Town Attorney



