

ORDINANCE NO. 2016-03-24B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS, AMENDING CHAPTER 73: HEALTH AND SANITATION BY THE ADDITION OF TREES AND OBJECTS IN THE VISIBILITY TRIANGLE OR RIGHT-OF-WAY; IMPOSING REGULATIONS ON PROPERTY OWNERS TO MAINTAIN TREES AND OTHER VEGETATION ON PRIVATE PROPERTY AND WITHIN STREET RIGHT OF WAYS; CONTAINING A SEVERABILITY CLAUSE, PROVIDING FOR A PENALTY OF UP TO \$500.00 AS TO BE DEFINED IN APPENDIX B "SCHEDULE OF FINES" OF THE OVERTON CODE OF ORDINANCES FOR VIOLATION OF THIS ORDINANCE AND PROVIDING FOR PUBLICATION AND FOR AN EFFECTIVE DATE

SECTION 1: Findings. Before the city may provide landscaping services, including tree-trimming, tree disposal, remediation, cleanup and recycling services on private property to protect the public health, safety, or welfare, the City Council must make certain findings pursuant to Chapter 756 Subchapter G of the Health and Safety Code, a copy of which is included herein as reference in ATTACHMENT A to this Ordinance.

Therefore, the City Council makes the following findings:

- a. That trees and other vegetation on private property and within street rights-of-way, if not properly trimmed, may obstruct the view of traffic-control devices and the view of approaching traffic and pedestrians' use of sidewalks;
- b. That the obstructions constitute a safety concern;
- c. That the City's ordinance requires that trees and other vegetation be kept trimmed to address these safety concerns; and
- d. That property owners are required to correct the obstruction within 30 days of the date the City notifies the owner of the obstruction.

SECTION 2: Definitions. In this section:

Visibility triangle is an imaginary triangle located on property located at the corner of intersecting streets. The first two sides of a visibility triangle are drawn by measuring a distance of 25 feet from the street corner intersection of the curb line parallel to the curb line. The third side is established by drawing a diagonal line intersecting the two curb points. If there is no curb, the measurements are made along the edge of the street pavement.

SECTION 3: Objects in the visibility triangle or right-of-way.

It is unlawful for a person to knowingly place or maintain in a visibility triangle or right-of-way any object permanently affixed to the ground and having a height greater than three feet above the pavement surface of the nearest abutting street.

SECTION 4: Trees and branches in the visibility triangle or right-of-way.

It is unlawful for a person to knowingly place or maintain a tree or allow branches of a tree to extend into a visibility triangle or right-of-way unless the branches are pruned so that:

- a. They do not substantially obstruct a motorist's view of traffic control devices;
- b. There is a clear space from the public street surface to 14 feet above the street surface on a residential street, (a residential street means any street not shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan);
- c. There is a clear space from the public street surface to 14 feet above the street surface on a non-residential street, (a non-residential street means any street shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan); and
- d. There is a clear space from the public sidewalk surface to eight feet above the sidewalk surface.

SECTION 5: Trees and objects near fire hydrants.

It is unlawful for a person to knowingly plant or maintain any tree or maintain any object permanently affixed to the ground within three feet of a fire hydrant.

SECTION 6: That any person who shall violate any of the provisions of this ordinance shall be fined up to \$500.00 as defined in Appendix B "Schedule of Fines" of the Overton Code of Ordinances.

SECTION 7: That should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the City of Overton, Texas as a whole or any part thereof, other than the part so declared to be valid.

SECTION 8: The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty clauses of this Ordinance as an alternative method of publication provided by law.

SECTION 9: That this Ordinance shall take effect and be in force beginning **March 1, 2016.**

PRESENTED APPROVED ON THIS THE 24TH DAY OF MARCH, 2016, AT A REGULAR COUNCIL MEETING OF THE CITY OF OVERTON BY A VOTE OF, 4 AYES, 0 NAYS, 0 ABSTENTIONS; COUNCILMAN BEETS ABSENT.



CITY OF OVERTON

C. R. Evans, Jr.
C. R. Evans, Jr., Mayor

ATTEST:

APPROVED AS TO CONTENT AND FORM:

Rachel Gafford
Rachel Gafford, City Secretary

Blake Thompson
Blake Thompson, City Attorney

ATTACHMENT A

SUBCHAPTER G. MUNICIPAL LANDSCAPING SERVICES

Sec. 756.101. AUTHORIZATION. To protect the public health, safety, or welfare, a municipality may provide landscaping services, including tree-trimming, tree disposal, remediation, cleanup, and recycling services, to any person who resides or business that operates inside or outside the corporate limits of the municipality only if the governing body of the municipality makes written findings as required by Section 756.102.

Added by Acts 2003, 78th Leg., ch. 340, Sec. 2, eff. Sept. 1, 2003.

Sec. 756.102. FINDINGS REQUIRED. The written findings must:

- (1) identify the problem requiring the need for providing municipal landscaping services;
- (2) identify the public health, safety, or welfare concern;
- (3) describe any reasonable actions previously taken to alleviate the problem; and
- (4) specify a period of definite duration necessary to address the problem.

Added by Acts 2003, 78th Leg., ch. 340, Sec. 2, eff. Sept. 1, 2003.

Sec. 756.103. EXCEPTION. The limitations and requirements of this subchapter do not apply to a municipality in times of emergency, catastrophe, or other calamity.

Added by Acts 2003, 78th Leg., ch. 340, Sec. 2, eff. Sept. 1, 2003.