

**TOWN OF FLOWER MOUND, TEXAS**

**ORDINANCE NO. 48-09**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 54 OF THE CODE OF ORDINANCES BY ADDING ARTICLE V, "PUBLIC TREE CARE"; ADOPTING DEFINITIONS; ESTABLISHING PRACTICES GOVERNING THE CARE AND MAINTENANCE OF TREES ON TOWN PROPERTY; DESIGNATING THE TOWN PARKS AND RECREATION DIRECTOR WITH ADMINISTRATIVE RESPONSIBILITY FOR THE MAINTENANCE AND REMOVAL OF TREES ON TOWN PROPERTY; PROVIDING FOR THE REMOVAL OF DISEASED OR HAZARDOUS TREES UNDER CERTAIN CONDITIONS; PROVIDING FOR A PENALTY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Flower Mound recognizes that trees play a role in the Town's quality of life by improving air quality reducing energy costs and improving the Town's general appearance; and

**WHEREAS**, the Town Council has further determined that it will be beneficial to designate the Town Parks and Recreation Director or an authorized designee with administrative responsibility for the care planting and maintenance of trees on Town Property and Town Parks.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:**

**SECTION 1**

All of the above premises are hereby found to be true and correct legislative and factual determinations of the Town of Flower Mound and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2**

From and after the effective date of this Ordinance, Chapter 54, "Parks and Recreation," of the Code of Ordinances of the Town of Flower Mound is hereby amended by adding Article V, "Public Tree Care," Sections 54-179 to 54-182, to read as follows:

**ARTICLE V. Public Tree Care****Sec. 54-179. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

*Public trees* shall mean any trees, shrubs, bushes, and all woody vegetation in Town parks or Town-owned property and rights-of-way.

**Sec. 54-180. Care of Public Trees.**

(a) The parks and recreation director and/or his designee shall have the responsibility to plant, prune, maintain, and remove Public Trees.

(b) No person shall remove, destroy, or cause the removal or destruction of a tree on Town property or in any Town park without first having obtained written permission for such removal or destruction from the parks and recreation director and/or his designee.

(c) All planting, pruning, maintenance, or removals of Public Trees shall be done in accordance with approved industry practices and in accordance with specifications set forth by the parks and recreation director and/or his designee.

**Sec. 54-181. Trees - Generally.**

(a) It is hereby declared a nuisance for any person to knowingly maintain a tree which adversely affects the health of public trees or that may adversely affect the safety of the public.

(b) The parks and recreation director and/or his designee may recommend the removal of any tree which is affected by any injurious fungus insect or other pest disease.

(c) The parks and recreation director and/or his designee may, in appropriate cases and upon consultation with a property owner, require a property owner to remove or prune a tree on private property which threatens the safety of those who may use a town street or town park.

(d) The Town may take all necessary action to enforce this section, including but not limited to the rights and remedies set forth in Chapter 54 of V.T.C.A., Local Government Code.

**Sec. 54-182. Penalty for Violations.**

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000.00, unless otherwise provided by state law. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

**SECTION 3**

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 4**

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

**SECTION 5**


All rights and remedies of the Town are expressly saved as to any and all violations of the provisions of this Ordinance or any other ordinances that 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**

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 4 TO 0, ON THIS THE 7<sup>th</sup> DAY OF DECEMBER, 2009.**

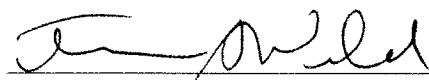
**APPROVED:**

  
\_\_\_\_\_  
**Jody A. Smith, MAYOR**

**ATTEST:**

  
\_\_\_\_\_  
**Paula J. Paschal, TOWN SECRETARY**

**APPROVED AS TO FORM AND LEGALITY:**

  
\_\_\_\_\_  
**Terrence S. Welch, TOWN ATTORNEY**