

AN ACT

relating to municipal regulation of the removal of trees on private property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 212, Local Government Code, is amended by adding Section 212.905 to read as follows:

Sec. 212.905. REGULATION OF TREE REMOVAL. (a) In this section:

(1) "Residential structure" means:

(A) a manufactured home as that term is defined by Section 1201.003, Occupations Code;

(B) a detached one-family or two-family dwelling, including the accessory structures of the dwelling;

(C) a multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling;

or

(D) any other multifamily structure.

(2) "Tree mitigation fee" means a fee or charge imposed by a municipality in connection with the removal of a tree from private property.

(b) A municipality may not require a person to pay a tree mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing

1 one-family or two-family dwelling that is the person's residence;
2 and

3 (2) is less than 10 inches in diameter at the point on
4 the trunk 4.5 feet above the ground.

5 (c) A municipality that imposes a tree mitigation fee for
6 tree removal on a person's property must allow that person to apply
7 for a credit for tree planting under this section to offset the
8 amount of the fee.

9 (d) An application for a credit under Subsection (c) must be
10 in the form and manner prescribed by the municipality. To qualify
11 for a credit under this section, a tree must be:

12 (1) planted on property:

13 (A) for which the tree mitigation fee was
14 assessed; or

15 (B) mutually agreed upon by the municipality and
16 the person; and

17 (2) at least two inches in diameter at the point on the
18 trunk 4.5 feet above ground.

19 (e) For purposes of Subsection (d)(1)(B), the municipality
20 and the person may consult with an academic organization, state
21 agency, or nonprofit organization to identify an area for which
22 tree planting will best address the science-based benefits of trees
23 and other reforestation needs of the municipality.

24 (f) The amount of a credit provided to a person under this
25 section must be applied in the same manner as the tree mitigation
26 fee assessed against the person and:

27 (1) equal to the amount of the tree mitigation fee

1 assessed against the person if the property is an existing
2 one-family or two-family dwelling that is the person's residence;

3 (2) at least 50 percent of the amount of the tree
4 mitigation fee assessed against the person if:

5 (A) the property is a residential structure or
6 pertains to the development, construction, or renovation of a
7 residential structure; and

8 (B) the person is developing, constructing, or
9 renovating the property not for use as the person's residence; or

10 (3) at least 40 percent of the amount of the tree
11 mitigation fee assessed against the person if:

12 (A) the property is not a residential structure;
13 or

14 (B) the person is constructing or intends to
15 construct a structure on the property that is not a residential
16 structure.

17 (g) As long as the municipality meets the requirement to
18 provide a person a credit under Subsection (c), this section does
19 not affect the ability of or require a municipality to determine:

20 (1) the type of trees that must be planted to receive a
21 credit under this section, except as provided by Subsection (d);

22 (2) the requirements for tree removal and
23 corresponding tree mitigation fees, if applicable;

24 (3) the requirements for tree-planting methods and
25 best management practices to ensure that the tree grows to the
26 anticipated height at maturity; or

27 (4) the amount of a tree mitigation fee.

1 (h) A municipality may not prohibit the removal of or impose
2 a tree mitigation fee for the removal of a tree that:

3 (1) is diseased or dead; or

4 (2) poses an imminent or immediate threat to persons
5 or property.

6 (i) This section does not apply to property within five
7 miles of a federal military base in active use as of December 1,
8 2017.

9 SECTION 2. The changes in law made by this Act apply only to
10 a tree mitigation fee assessed by a municipality on or after the
11 effective date of this Act.

12 SECTION 3. This Act takes effect December 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 7 was passed by the House on July 28, 2017, by the following vote: Yeas 130, Nays 9, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 7 on August 15, 2017, by the following vote: Yeas 119, Nays 23, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 7 was passed by the Senate, with amendments, on August 15, 2017, by the following vote: Yeas 17, Nays 14.

Secretary of the Senate

APPROVED: _____

Date

Governor