

1-1 By: Phelan, et al. (Senate Sponsor - Kolkhorst) H.B. No. 7
 1-2 (In the Senate - Received from the House July 31, 2017;
 1-3 August 1, 2017, read first time and referred to Committee on
 1-4 Business & Commerce; August 8, 2017, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 5,
 1-6 Nays 4; August 8, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16		X		
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 7 By: Campbell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to municipal regulation of the removal of trees or
 1-22 vegetation on private property.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 212.003(a), Local Government Code, is
 1-25 amended to read as follows:

1-26 (a) The governing body of a municipality by ordinance may
 1-27 extend to the extraterritorial jurisdiction of the municipality the
 1-28 application of municipal ordinances adopted under Section 212.002
 1-29 and other municipal ordinances relating to access to public roads
 1-30 or the pumping, extraction, and use of groundwater by persons other
 1-31 than retail public utilities, as defined by Section 13.002, Water
 1-32 Code, for the purpose of preventing the use of or contact with
 1-33 groundwater that presents an actual or potential threat to human
 1-34 health. However, unless otherwise authorized by state law, in its
 1-35 extraterritorial jurisdiction a municipality shall not regulate:

1-36 (1) the use of any building or property for business,
 1-37 industrial, residential, or other purposes;

1-38 (2) the bulk, height, or number of buildings
 1-39 constructed on a particular tract of land;

1-40 (3) the size of a building that can be constructed on a
 1-41 particular tract of land, including without limitation any
 1-42 restriction on the ratio of building floor space to the land square
 1-43 footage;

1-44 (4) the number of residential units that can be built
 1-45 per acre of land; ~~or~~

1-46 (5) the size, type, or method of construction of a
 1-47 water or wastewater facility that can be constructed to serve a
 1-48 developed tract of land if:

1-49 (A) the facility meets the minimum standards
 1-50 established for water or wastewater facilities by state and federal
 1-51 regulatory entities; and

1-52 (B) the developed tract of land is:

1-53 (i) located in a county with a population of
 1-54 2.8 million or more; and

1-55 (ii) served by:

1-56 (a) on-site septic systems
 1-57 constructed before September 1, 2001, that fail to provide adequate
 1-58 services; or

1-59 (b) on-site water wells constructed
 1-60 before September 1, 2001, that fail to provide an adequate supply of

2-1 safe drinking water; or
 2-2 (6) the ability of an owner of property that has been
 2-3 platted to remove a tree or vegetation on the owner's property,
 2-4 except as necessary to mitigate tree-borne diseases as recommended
 2-5 by the Texas A&M Forest Service, including by:
 2-6 (A) requiring the owner to file an affidavit or
 2-7 notice before removing the tree or vegetation; or
 2-8 (B) imposing a tree mitigation fee.
 2-9 SECTION 2. Subchapter Z, Chapter 212, Local Government
 2-10 Code, is amended by adding Section 212.905 to read as follows:
 2-11 Sec. 212.905. REGULATION OF TREE REMOVAL. (a) In this
 2-12 section:
 2-13 (1) "Residential structure" means:
 2-14 (A) a manufactured home as that term is defined
 2-15 by Section 1201.003, Occupations Code;
 2-16 (B) a detached one-family or two-family
 2-17 dwelling, including the accessory structures of the dwelling;
 2-18 (C) a multiple single-family dwelling that is not
 2-19 more than three stories in height with a separate means of entry for
 2-20 each dwelling, including the accessory structures of the dwelling;
 2-21 or
 2-22 (D) any other multifamily structure.
 2-23 (2) "Tree mitigation fee" means a fee or charge
 2-24 imposed by a municipality in connection with the removal of a tree
 2-25 from private property.
 2-26 (b) A municipality that imposes a tree mitigation fee for
 2-27 tree removal on a person's property must allow that person to apply
 2-28 for a credit for tree planting under this section to offset the
 2-29 amount of the fee.
 2-30 (c) An application for a credit under Subsection (b) must be
 2-31 in the form and manner prescribed by the municipality. To qualify
 2-32 for a credit under this section, a tree must be:
 2-33 (1) planted on property:
 2-34 (A) for which the tree mitigation fee was
 2-35 assessed; or
 2-36 (B) mutually agreed upon by the municipality and
 2-37 the person; and
 2-38 (2) at least two inches in diameter at the point on the
 2-39 trunk 4.5 feet above ground.
 2-40 (d) For purposes of Subsection (c)(1)(B), the municipality
 2-41 and the person may consult with an academic organization, state
 2-42 agency, or nonprofit organization to identify an area for which
 2-43 tree planting will best address the science-based benefits of trees
 2-44 and other reforestation needs of the municipality.
 2-45 (e) The amount of a credit provided to a person under this
 2-46 section must be applied in the same manner as the tree mitigation
 2-47 fee assessed against the person and:
 2-48 (1) equal to the amount of the tree mitigation fee
 2-49 assessed against the person if the property is an existing
 2-50 one-family or two-family dwelling that is the person's residence;
 2-51 (2) at least 50 percent of the amount of the tree
 2-52 mitigation fee assessed against the person if:
 2-53 (A) the property is a residential structure that
 2-54 is not occupied by the person; and
 2-55 (B) the person is constructing or renovating the
 2-56 residential structure for sale as a residential structure and not
 2-57 for use as the person's residence; or
 2-58 (3) at least 40 percent of the amount of the tree
 2-59 mitigation fee assessed against the person if:
 2-60 (A) the property is not a residential structure;
 2-61 or
 2-62 (B) the person is constructing or intends to
 2-63 construct a structure on the property that is not a residential
 2-64 structure.
 2-65 (f) As long as the municipality meets the requirement to
 2-66 provide a person a credit under Subsection (b), this section does
 2-67 not affect the ability of or require a municipality to determine:
 2-68 (1) the type of trees that must be planted to receive a
 2-69 credit under this section, except as provided by Subsection (c);

3-1 (2) the requirements for tree removal and
3-2 corresponding tree mitigation fees, if applicable;

3-3 (3) the requirements for tree-planting methods and
3-4 best management practices to ensure that the tree grows to the
3-5 anticipated height at maturity; or

3-6 (4) the amount of a tree mitigation fee, except that a
3-7 tree mitigation fee may not exceed \$400.

3-8 (g) A municipality may not impose a tree mitigation fee for
3-9 the removal of a tree that:

3-10 (1) is diseased or dead; or

3-11 (2) poses an imminent or immediate threat to persons
3-12 or property.

3-13 (h) A municipality may not prohibit the removal of a tree
3-14 that:

3-15 (1) is less than 24 inches in diameter at the point on
3-16 the trunk 4.5 feet above the ground;

3-17 (2) is diseased or dead; or

3-18 (3) poses an imminent or immediate threat to persons
3-19 or property.

3-20 (i) This section does not apply to property within five
3-21 miles of a federal military base in active use as of December 1,
3-22 2017.

3-23 SECTION 3. The changes in law made by this Act apply only to
3-24 a tree mitigation fee assessed by a municipality on or after the
3-25 effective date of this Act.

3-26 SECTION 4. This Act takes effect December 1, 2017.

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