

VILLAGE OF BRIARCLIFF
RESOLUTION NO. 2023-04-12-05

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE VILLAGE OF BRIARCLIFF, TEXAS IN RELATION TO SECTION 3.01.001(d), VILLAGE OF BRIARCLIFF CODE OF ORDINANCES TO ESTABLISH FEES AND PROCEDURES FOR BUILDING PERMITS, AND DOCUMENTS, MATERIALS, PLANS, AND SPECIFICATIONS RELATED THERETO; AN ORDINANCE AMENDING SECTION 3.01.001 OF THE VILLAGE OF BRIARCLIFF CODE OF ORDINANCES TO PROVIDE FOR ENFORCEMENT AND PENALTIES INCLUDING CRIMINAL VIOLATIONS FOR SAME; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Briarcliff, a Type A General-Law Municipality (“Village”), adopted Ordinance No. 03-31-04-01 on or about March 31, 2004 establishing procedures and fees for obtaining Building Permits as set forth therein; and,

WHEREAS, Ordinance No. 03-31-04-01 (“Ordinance”) allows for the Village to set fees for permit applications as well as documents, materials, plans, and specifications related thereto by resolution; and,

WHEREAS, Section 1.01.009 provides for general penalties for the violation of any of the Village’s codes, ordinances, rules, or police regulations and the Village desires to clarify that such provision applies to any violation of any code, ordinance, rule, resolution, or police regulation issued by the Board of Aldermen for any violation of same; and,

WHEREAS, at a duly called and conducted meeting on April 12, 2023, the Board of Aldermen (“Aldermen”) passed this resolution in compliance with the Texas Open Meetings Act, the Local Government Code, the Ordinance, the Village’s Code of Regulations, and other applicable law;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF BRIARCLIFF, TEXAS:

Section 1. Findings.

All of the above recitals and premises are hereby found to be true and correct legislative and factual findings of the Board of Aldermen of the Village of Briarcliff, are made part hereof for all purposes, and are hereby approved and incorporated into the body of this Resolution and Ordinance as if copied in their entirety.

Section 2. Application.

The Board of Aldermen of the Village of Briarcliff, in accordance with Section 3.01.001(d), establishes the current documents, materials, and fees for Building Permits as attached hereto or in other ordinance or resolution of the Village, including, but not limited to, the Lot Clearing Permit Application, Lot Clearing Permit, and the Builder Packet, to be used for each application under Chapter 3 of the Code of Ordinances of the Village of Briarcliff, Texas or other applicable law.

Section 3. Resolution.

- A. This Resolution may be amended by resolution of the Board of Aldermen from time-to-time and all requirements set for therein shall apply as amended.
- B. The following Resolution of the Village of Briarcliff is adopted as follows:

- 1. Applicability.

This Resolution applies to the clearing of vegetation, grading or change in the contour of land, removal of trees, or any activity that changes the topography or vegetation of any property in the Village classified under the Village's Zoning Ordinance as the Single Family Housing District, Multiple Family Housing District, Commercial Property District, or Cat Hollow Club Subdivision District for development, construction, or other purposes. Change of topography and the destruction and removal of grasses, plants, trees, shrubs, or other vegetation from the premises is allowable only after a permit for such activity has been obtained from the Village by the owner or his authorized representative, and provided that any such activity subsequent to the receipt of said permit is done in full conformance with the permit terms and any other applicable statute, law, ordinance, rule, or regulation.

EXCEPTIONS: Vegetation removal by homeowners possessing an active Certificate of Occupancy, including contiguous lots owned by the owner, and in the normal course of yard maintenance, is not affected by this resolution, except with respect to activities prohibited or mandated by other applicable statute, law, ordinance, law, rule, or regulation.

- 2. Application, Permit, and Fees Required.

A Lot Clearing Permit shall be required to be issued by the Village before any Initial Work or other work is started on any property in the Village by any person or entity. A Lot Clearing Permit application with the following listed requirements must be submitted to, with proper fees, and approved by the Village of Briarcliff Administrator, Inspector, or designee before a Lot Clearing Permit may be issued and any Initial Work is started or completed. Such an application, at a minimum shall include the following:

- (a) A Topographical Survey on a Conceptual Plan that provides adequate details on the slope of the property, improvements to be made, vegetation or slope changes, and other items that may from time-to-time be required by the Village, and, provided the property has a slope of more than 4 feet thereon in any location, the owner or representative shall provide a Grading Plan Map signed and sealed by an engineer registered in the state of Texas. No person or entity shall be permitted

to alter the topographical or vegetative conditions of a lot or parcel of land in any way that would permit additional quantities of runoff, a change in the direction or velocity of runoff, the effect of water from any source, other than the natural flow before the alteration, or that otherwise will damage the property of another, either within or without the Village, from the property subject to the Lot Clearing Permit. The Grading Plan Map shall, at a minimum show:

- (i) any intended cutting into or change the natural grade of the land;
 - (ii) any intended fill affecting of the natural grade of the land;
 - (iii) a grading plan showing how runoff will be managed and directed over and across the property, including drainage facilities, drainage runoff to the nearest water quality feature, common right-of-way with roadside drainage, drainage easement, or natural drainage way.
- b) A Compaction Test shall also be required for any improvements to the property for any property classified in the Village as Multiple Family Housing District, Commercial Property District, or that shall otherwise be used for any purpose other than one single family residence on the property.
- c) A Conceptual Plan showing all Impervious Cover, other Impervious Cover landscape/building elements, and Septic Field.
- d) A detailed Tree Survey that includes:
- i) An inventory of all trees meeting the following parameters (circumference and/or diameter size):
 - (1) The tree trunk shall be measured in inches at a height of 4 feet above the ground; and,
 - (2) Applies to all existing trees as follows:
 - (a) a diameter of 6 inches or greater (as measured from side-to-side of trunk at 4 feet from the ground);
 - (b) A circumference of 24 inches or greater (as measured around the perimeter of the trunk at 4 feet from the ground).
 - ii) Identifies all trees within the inventory that are Targeted Trees For Removal for planned construction, no property may be completely cleared of trees or other vegetation without the specific written permission of the Village, and any Lot Clearing Permit application may be denied or modified by the Village in its sole discretion to preclude the destruction of valuable vegetation and to maintain the desirability and beauty of the Village.
 - iii) Identifies and flags any trees that show any symptoms of a diseased vegetation as set forth Article 8.06, Code of Ordinances.
 - iv) Ashe Juniper trees only are exempt from the provisions of this Resolution and the requirements set forth herein, but may be maintained by the property owner if desired.
- e) A Grading Plan Map, if required.
- f) An Agreement by the Builder and Owner:
- i) To limit construction to the period of 7:00a.m. to 6:00p.m., Monday through Saturday. No construction activities whatsoever (including vegetation removal and landscaping) are allowed on Sundays, the following holidays – New Year’s Day, Memorial Day, Independence

Day, Labor Day, Thanksgiving and Christmas, or outside the times set forth above.

- ii) To adhere to all rules specified in Article 8.06, including but not limited to permissible times of year for trimming or cutting oaks, the requirement to erect tree protection barriers around oak trees (including the critical root zone), and the timing requirements for the removal of cut vegetation/tree material.
- g) A statement by the owner and builder acknowledging they have read and understand all Building Regulations of the Village of Briarcliff Code of Ordinances, the Briarcliff Property Owners Association (BPOA), and other applicable law that pertain to new construction activities.
- h) Required fees to be set by the Village Administrator in consultation with the Mayor of the Village.
- i) All lot clearing or activities set forth herein or required herein shall be completed within sixty (60) days of the date of the issuance of the Lot Clearing Permit, and such Lot Clearing Permit shall automatically expire and be of no further validity after such time. No activity may take place on any property in the Village thereafter.
- j) All construction on the property shall commence within sixty (60) days from the date the clearing of a property is completed pursuant to a Lot Clearing Permit.
- k) All building projects must be completed no later than 18 months after the issuance of applicable permits.

3) Definitions.

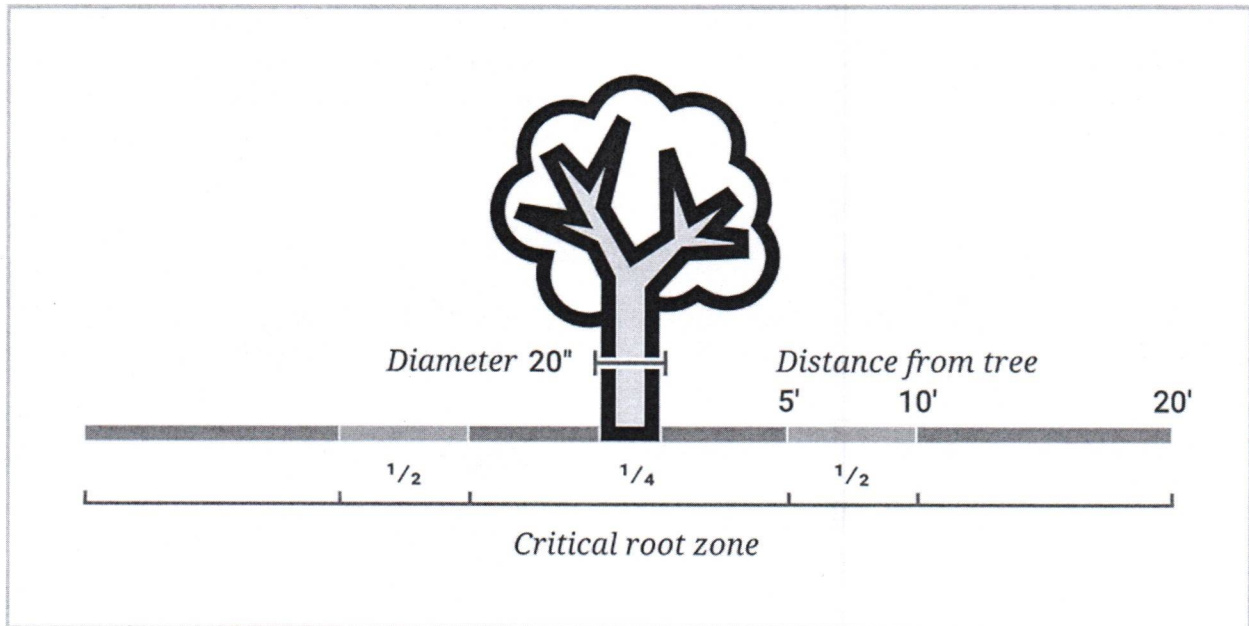
Compaction Test: Usually called a Proctor Compaction test, compaction testing is a laboratory method to determine the optimal moisture content at which a soil type will become less dense and achieve its dry density. Compaction testing of unearthed soils for structural construction are usually required to be 95% of the density weight of the laboratory test. Non-compaction testing of earth fill, intense grading, and backfill is one of the main causes of basement wall and slab cracks, pool leaks, pipe leakage, foundation erosion, and utility trench settling.

Conceptual Plan: A provisional plan view of all impervious cover (buildings, pavements, etc.), and Septic Field.

Critical Root Zone: A tree's critical root zone depends on its size. Even if your completed project won't be very close to a tree, bringing in construction equipment may affect its health. For example, a large cement truck driving on your property can damage a tree's root system since it is just 4 inches underground.

How do I calculate the critical root zone? The diameter of the tree's trunk in inches equals the size of its critical root zone in feet. For example, a tree with a diameter of 20 inches has a critical root zone of 20 feet.

To understand where you can and can't build around trees, imagine that there are three development impact zones around the base of the tree. A tree with a 20-inch diameter is shown in the example below.



The Critical Root Zone: In this example, the critical root zone extends 20 feet from the base of the tree. You can dig into the ground in the outer half of the critical root zone (in this example: between 10 to 20 feet from the base of the tree or the green zone).

1/2 Critical Root Zone: The 1/2 critical root zone (in this example: the yellow zone) lies between 5 and 10 feet from the base of the tree. *You can only dig 4 inches into the soil in this zone.*

1/4 Critical Root Zone: The 1/4 critical root zone (in this example: the red zone) extends 5 feet (1/4 of 20 feet) out from the base of the tree on the ground level. *You will damage the tree's roots if you dig in this zone.*

If a tree is 6 inches diameter, its Critical Root Zone is 6 feet. (The 1/2 CRZ is 3 feet, and the quarter CRZ is 1.5 feet). For purposes of this resolution, impervious cover can be built beyond 1/2 CRZ, but equipment cannot go within the 1/4 CRZ.)

Grading Plan Map: A scaled drawing showing contours, horizontal distances, and grade elevations for the modification of existing landform to accommodate structures, parking and circulation, and to ensure positive drainage. Such plan includes consideration for utilities such as water, gas, power, communication services, sewage for disposal of wastewater, and storm water. The grading plan requires a careful change of contours so that they support the integration of building within the site.

Impervious Cover: Impervious cover is any type of human-made surface that does not absorb rainfall. Impervious cover in your site plan includes roads/driveways; parking areas; buildings; concrete; any/all impermeable construction covering the natural land surface.

Initial Work: Any disturbance or alteration of a lot or parcel of land that changes the topographical natural conditions of the lot including but not limited to the disturbance of soil or rock, such as with the use of heavy equipment, vegetation removal, tree removal, stump removal, or clearing of ground cover.

Lot Clearing Permit: A permit that allows the removal of vegetation/trees or change in topography of a property formally granted by the Village of Briarcliff upon receipt and review of the Lot Clearing Permit as submitted by the owner or agent, as required herein.

Septic Field: The drain field of an on-site-sewage facility (“OSSF”), including any tanks, pumps, grinders, pipes, conduits, clean outs, or other components of the OSSF.

Targeted Trees for Removal: A list of all the trees, excepting ash juniper, that the builder seeks to remove from the land.

Topographical Survey: Also known as a land survey or topographical land survey, a topographical survey measures and identifies the exact location and details of natural and manmade features within an area of land. A topographical survey should include boundary locations, easements, existing building locations with ridge and eave heights, changes in surfaces, drains and invert levels, inspection chambers (water, gas, electricity), overhead lines, spot heights of the land, tree locations with spread and trunk diameter, and water features.

Tree Inventory: A list of all trees on the land that are 6” or greater (in diameter) or 24” (in circumference) as measured at 4 feet above ground.

Section 4. Violations and Penalties

Chapter 3 of the Village’s Code of Ordinances is hereby amended to add an Article 3.06, Violations and Penalties to read as follows:

“ARTICLE 3.06 VIOLATIONS, OFFENSES, AND PENALTIES

Section 3.06.001 Violations, Offenses, and Penalties

(a) It is a violation and offense punishable as set forth herein to violate any provision of Chapter 3, including any violation of any provision of Chapter 3 of the Village’s Code of Ordinances, specifically including any ordinance, law, code, resolution, rule, or police regulation passed or approved thereunder, in addition to any other penalty set forth in the Village’s Code of Ordinances or except where otherwise provided for in a specific ordinance. A violation hereunder shall be a Class C Misdemeanor punishable by a maximum fine that shall not exceed \$500.00 for each day of the violation, and shall be prosecuted in the Village’s Municipal Court.

(b) Each day any violation of any code, ordinance, rule, or police regulation shall continue shall constitute a separate offense.

(c) In addition to the penalties otherwise provided, any condition caused or permitted to exist in violation of any provision of Chapter 3 shall be deemed a nuisance and may be abated by the Village as provided by law, including injunctive relief in a court of appropriate jurisdiction.

(d) The offenses, remedies, and penalties set forth herein shall be cumulative and not exclusive of any other rights or remedies the Village may have.

(e) Unless specifically provided for in a specific ordinance or by applicable law, an offense under this Chapter shall not require a culpable mental state. It is the intent of this Section to impose strict liability for a violation of this Section or any other code, ordinance, rule, or police regulation affected hereby, and a specific culpable mental state is not required.”

Section 5. Severability

If any article, section, or provision of this Resolution is found invalid, unconstitutional, illegal, or inoperative by a court of competent jurisdiction, then the other articles, sections, or provisions herein shall remain in full force and effect.

Section 6. Conflict

Whenever any provision of this Resolution is in conflict with those contained in another ordinance or resolution of the Village, the more stringent provision shall control.

Section 7. Effective Date


This Resolution shall take effect upon its passage on the date noted below.

Section 8. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and the public notice of the time, location, and purpose of said meeting was given as required by applicable law.

RESOLVED, PASSED, ADOPTED, AND APPROVED this 12th day of April 12, 2023.

VILLAGE OF BRIARCLIFF

By: 
Allen Hostetler, Mayor



ATTEST:


Tina Linder, Village Clerk