

Laws and Ordinances

Tree Ordinances

Michael V. D'Errico

1. Introduction

Local shade tree and environmental committees can be mired in a seemingly endless stream of site plan reviews. As one of their main activities, these committees review site plans for environmental concerns and proper tree selection, planting, and care. While they may make a number of appropriate comments to their municipalities, committee members realize that their contribution could be minimal at best, and at times possibly ignored. Often these volunteers are powerless to voice their feelings, and even if they do, it is strictly advisory.

To many committee members, their trees represent the bucolic essence that originally attracted them to their community. They feel that rapid development of the forestlands would not only change their area's essential character but would ultimately have an adverse effect on property values and the quality of life enjoyed by their residents. They do not want to stop development, but they want to draw attention to the fact that the community could no longer tolerate the indiscriminate destruction of their woodlands.

The tool to accomplish this goal is the adoption of a local law—a tree preservation ordinance in the instance previously mentioned. This unique ordinance seeks to provide developers with a framework for preserving and restoring as many trees as possible on site, with particular emphasis on larger, older specimens (Mirelli, 1991). A tree preservation ordinance preserves a town's beauty for future generations, while providing an equitable means of recognizing the legitimate needs of development.

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2. Planning for an Ordinance

For these concerned community activists, the retention of their tree resource and the proper specifications and standards of restoration through tree planting is a critical need for which an ordinance is established. Each community operates under different policies with different needs and values. Many communities may already have legislation that regulates trees and their management. State statutes differ in the leeway they allow local governments. The ordinances adopted by a city or town reflect this individuality and the values of a community; the values its residents believe are worth protecting to maintain their quality of life and an environment that is both safe and pleasant (Fazio, 1993).

A tree ordinance encourages beautification, protection, preservation, regulation of development, and restoration through planting and management. It also enables citizens to prevent the spread of tree diseases and regulates sidewalk replacement and utility line clearance work. An ordinance may require the use of professionals, specify duties of municipal employees, and help control careless dealing with this important natural resource, such as the preservation of historically significant trees, protecting forested streamside buffers, and managing for a community's total tree canopy cover. There is no limit to the possibilities.

3. Legal Authority

Perhaps the most important purpose of an ordinance is to give the public entity a guiding principle based on law through both responsibility and authority (Grey, 1993). Ordinances often are initiated shortly after a program is established. These ordinances give the program the legal standing it will need as it emerges. The visibility of a local community tree program can be increased by the ordinance. It establishes the program independent of political variation, budget restrictions, or public opinion. The statement of purpose in the ordinance becomes a legal basis for the program.

While an ordinance can be used to "just" establish a tree commission, most ordinances are adopted as part of a legal package for a comprehensive community forestry program. Such a package often provides a framework for dealing of trees with care on publicly owned or controlled property. However constituted, the ordinance should include the following if the primary task is the establishment of a legal authority, commission, or board for tree care (Garcia, 1991).

- Statement of establishment.

- Number of members and, if applicable, the number of alternate members.

- Qualifications of members and a statement of service.

- Term of office and statement of volunteering without compensation.

- How to fill vacancies?

- Duties of officers and members.

- Scope of responsibilities.

- Measure of accountability, such as an annual report to mayor and council.

- Any rules to operate as a legal entity.

Through the establishment of a local tree ordinance, a community has acknowledged the contribution shade trees and community forest make to a city or town and the need to nurture, protect, and manage a dynamic community forest resource. The formation of a Shade Tree Commission or a Tree Board is a necessary step to properly manage this critical resource. A commission has the time to devote that local officials may not have to research grants that help fund tree planting or to start a tree inventory. This group of individuals has the sincere interest in trees and perhaps the professional experience to make knowledgeable decisions. With a Shade Tree Commission in place, “someone” will actively use the ordinance and update needed standards and practices in tree care and is more likely to take initiative on and promote tree-related issues. This is a key opportunity to involve the public in the management of its tree resources.

4. Drafting a Tree Ordinance

The first and most important step in drafting a tree ordinance is for the local group to begin the effort and research the topic (Bomenblit et al., 2002). Before a tree ordinance is written, two questions should be considered—What does your community have and what does your community need? In identifying what a community has as it relates to trees, the Shade Tree Commission can address this by outlining community tree practices and to take a look at the tree resource itself.

4.1. Outline Community Tree Practices

Understanding the current status of the urban and community forest in your neighborhood and how it has been managed in the past is an important factor in establishing a tree ordinance. Relevant data would include items, such as municipal tree care practices (planting, removal, and maintenance strategies), planning regulations, guidelines (permits), activities by municipal departments that impact trees, any current tree survey, and prior ordinances.

Is there an existing ordinance or current municipal legislation that pertains to trees? If these do exist, it will help the group to determine what is needed to bring tree care regulation to the desired level. A question that could be asked—Does another community have an ordinance that can be adapted? Communities should not just copy word-for-word another town’s work but should use it only as a guide in developing an ordinance that meets their community’s needs.

Municipal records are the most reliable sources for this type of information—the point to identify all activities that affect trees in the community. Any change in the management of the tree should take into consideration other practices and identify all the players involved in the past.

4.2. Take a Look at the Tree Resources

An assessment of the local tree resource provides basic information necessary for making management decisions. These assessments are usually based on some type of

inventory method such as a survey. Information that may be helpful when planning your strategy includes the total number of trees classified by species, condition, age, size, and location. Assessing areas with potential future problem situations or already existing problems may help clarify what you are facing in terms of repair and prevention. These include problem situations, such as sidewalk damage, number of hazard tree situations, disease, and pest problems.

Inventories will help your community reach certain goals and improve response to public questions. Once the current condition of the urban and community forest is known, a community will be able to identify its needs and opportunities.

4.3. Identify Needs

With the background information on the status of the tree resource in place, the municipality can now assess the needs of that community.

Biological needs: Those needs that relate to the tree resource itself. These include: increasing species and age diversity to provide long-term stability, providing tree planting that will keep up with urban growth and offset their removal, increasing the canopy effect, spacing in tree-planting sites, and reduced sidewalk damage.

Management needs: The needs of those involved with the care and maintenance of the community forest such as developing adequate long-term planning to ensure the status of community trees, enhancing the use of the limited financial and personal resources, increasing training and educational opportunities for tree program employees and volunteers, and coordinating tree-related activities for town and municipal departments.

Community needs: How the public views and interacts with the community forests and the management of its program? These include increasing public awareness of the values and benefits associated with trees in a community, promoting acceptable private tree care, and seeking conservation of the urban forest.

These needs will vary with each community but are a good example of what concerns the majority.

5. Specific Goals

Specific goals can be created that will address the needs that have been identified in Section 4.3 and should be reasonable within the parameters of the resources available, as well as environmental constraints. If limited resources are an issue, one may need to prioritize the goals of the tree program to get the maximum benefit.

Many tree ordinances rely on voluntary compliance from the public so it is crucial that the community values are publicly supported. Involving the public in the creation of these goals is also a way to educate the public about community forestry issues (Sheay, 1992).

The goals that are created should in some way be quantifiable so that the community can monitor their progress.

Establish and maintain maximum tree cover: This will add to the health, safety, and energy conservation in the community by reducing local pollution, rainfall runoff, wind and noise pollution, and providing shade and habitat for wildlife. This

could also be viewed as a no-net-loss program that seeks to maintain the current tree cover by replacing trees one for one.

Conservation: As a tree increases in size so do the benefits that it provides the community. Therefore, it is in the best interest of the community to protect this resource. Also remember that tree conservation is important before and after site construction. The ordinance should include maintaining site trees after building is completed. The ordinance should also address stands of trees, not just individuals. You may want to consider natural influences of your community, such as fire threats, wildlife habitat, and flood control.

Maintain healthy trees through cultural practices: Healthy trees are a benefit to the community and public health. Proper and timely pruning can promote tree health and extend the life of a tree. Trees that are not maintained have a higher risk of breakage that can result in property damage and personal injury.

Encouragement of good tree management on private lands: Educational understanding, as well as good public advocacy will let the residents know the laws pertaining to their trees. It is important for the citizens to understand the role their trees play in the urban forests of their town. This can be achieved by forming a Shade Tree Commission made up of citizens from the municipality.

Centralizing tree management under one group or person: Tree-related issues might arise in a number of municipal departments. In many communities street trees are the responsibility of the public works department, while trees located in parks are the responsibility of the parks and recreation department. In order to effectively manage the trees, it is wise to coordinate between the different departments, centralizing direction and technical responsibility, and designating oversight to a tree commission or board.

Promote urban forest care in an efficient and cost-effective manner: A small amount of resources may be all that is allotted to manage the town's trees. Programs could be enhanced by the addition of resources, such as fees and fines, found within some ordinances.

With all of this information in hand, a tree commission can frame out an effective formula for success in enacting an ordinance. This proven approach is one model that may not only lead to the passage of a tree ordinance but also a stronger one at that. The key points are as follows (Anonymous, 1977):

1. Take the initiative. The tree group should take the lead on tree-related issues and promote themselves as such.
2. Follow your convictions; you may be surprised at how many other share them.
3. State your desires simply. Work with your legal staff only after your group has clearly developed goals, objectives, and plans.
4. Solicit the assistance of all community interests and compile information. Their support could prove instrumental in focusing the attention of the local policy makers. Find a policy maker to "carry your torch."
5. Retain the role of the group as coordinator. Be prepared to be both patient and persistent.
6. Address the needs of all parties, revising your draft ordinance to take into account the proper concerns of others. Be prepared to compromise on issues.
7. Formally introduce the proposed ordinance to the administration, expect comments and questions, and have a strategy ready to address concerns.

6. Three Functions of a Successful Ordinance

Ordinances can provide with the overall care of the community tree resource. It is important that the ordinance provides for and addresses adequate management. To do so, the ordinance must do the following three things (Hunt *et al.*, 1982):

1. Provide authority to conduct the tree care program.
2. Define responsibility.
3. Set forth standards for management to ensure public safety and health while caring for the resource.

7. Ordinance Sections

In drafting a tree ordinance, one will find that some sections or provisions are necessary, while others are optional. These optional sections or specific ordinance provisions are built by the group to help in meeting management goals and assure that the document is tailor-made for that specific community. Together, the basic and specific provisions of the ordinance provide a legal key to facilitate effective management of the community tree resource (NJ Forest Service, 2004).

The basic ordinance provisions are a set of elements that are found within most ordinances, tree, and nontree. These elements, while generic in nature, form the foundation on which the ordinance is built.

For example, the key elements of the base element are as follows (Johnson *et al.*, 1988):

1. Title: The ordinance should have a concise title that reflects its purpose.
2. Purpose: A policy statement to set forth the purpose of the ordinance—the “why.”
3. Definitions: Defines the terms used in the ordinance.
4. Exception: Defines any exemptions to the ordinance.
5. Compliance: Specifies the authority of the provisions of this ordinance.
6. Establishment or identification of tree entity: Notes either the creation of the tree entity and defines its composition and charges or identifies who in the municipality will be responsible for the ordinance.
7. Enforcement: Who has the enforcement duties of the ordinance and what enforcement measures can be used if necessary?
8. Permits and fees: A fee schedule to adequately cover the administration costs of this ordinance.
9. Appeals: A method for an individual or group to appeal a decision pursuant to the provisions of the ordinance.
10. Violations/penalty: A provision to identify the monetary or imprisonment penalties for any violation of the provisions of the ordinance.

The specific ordinance provisions identify unique sections of the ordinance designed to address the critical issues and needs of the community. It is recommended that the community start by writing in simple language those specific issues that

need addressing. From here the simple issues statement is added to the ordinance as one of its elements and the language expanded to reflect the policy of the group.

Some examples of specific provisions are as follows (Borough of Paramus, 1992):

- *Tree topping*: It shall be unlawful for any person and agency to top any trees, either park trees or public property.
- *Use of certified tree expert*: The municipality will use a New Jersey certified tree expert on all contracted tree-planting and tree-pruning projects within the official boundaries of the municipalities.
- *Street tree planting*: An official list adopted by the Shade Tree Commission will constitute acceptable street trees for named municipalities. No species other than those included on the list may be planted without permission from Shade Tree Commission.

The specific provisions are only a few of those that could be incorporated in an ordinance. By carefully considering the needs of the community, those responsible can incorporate into the ordinance specific information suitable for their community.

8. Linking to Specifications and Standards

Planting and maintenance specifications are two examples of detailed arboricultural practices that should be linked to one's ordinance but not necessarily included. It is generally agreed that the standards and specifications section be a separate but companion part of the ordinance. This way, these can be easily changed as new research may direct. Keeping the ordinance brief and workable, while the specifications can be updated separately, thus avoiding the cumbersome process of amending the ordinance.

A good example is the established and accepted pruning standards by the New Jersey Board of Certified Tree Experts. This document spells out the highest standards by which pruning practices are measured. An ordinance can cite this publication but does not have to include the document word for word. If the Board of Certified Tree Experts revises these standards, the ordinance will not need to be changed, thus eliminating unnecessary work.

Ordinances vary in length and complexity, but the key to effectiveness is to write the ordinance simply, clearly, and tailored to the needs of the community. At the end, a tree ordinance is just another tool for proper tree care. Like any tool, it needs to be of high quality, matched properly to the job, and used with skill and care. As previously mentioned, an ordinance can be singular in nature, such as establishment of a tree care program, or encompassing by including provisions to address tree preservation, protection during and after construction, and diseased tree removal. Two examples that follow may be used as a guide in establishing an ordinance in one's community.

**BOARD OF SHADE TREE
AND PARK COMMISSIONERS
BOROUGH OF PARAMUS
Ordinance No. ST-1**

AN ORDINANCE REGULATING THE PLANTING, CONTROL, PROTECTION AND IMPROVEMENT OF TREES AND SHRUBBERY UPON THE PUBLIC STREETS PARKS AND PUBLIC PLACES IN THE BOROUGH OF PARAMUS, COUNTY OF BERGEN AND STATE OF NEW JERSEY,

BE IT ORDAINED by the Board of Shade Tree and Park Commissioners of the Borough of Paramus, New Jersey as follows:

SECTION 1. DEFINITIONS.

As used in this ordinance, the term hereinafter set forth shall be defined and deemed to have the following meanings:

COMMISSION: The Board of Shade Tree and Park Commissioners of the Borough of Paramus including any of its duly appointed members and any of its duly authorized agents or employees.

PERMITS: Written permission of the Commission (whenever pursuant in any way to any provision of this Ordinance, the Commission shall have occasion to pass upon an application for a permit, it shall, in determining whether or not to issue such permit, take into consideration the nature, species, size, age, and condition of any tree involved: the location thereof in the street or park, the planting, care protection, maintenance or removal procedures involved; the public safety and welfare; and the improvement and advancement of the shade tree plan or program of the Commission.

PERSON: Any individual, firm, partnership, or corporation, or any combination thereof. Where, in the proper context, it is so required, this term may be construed to designate the plural as well as the singular.

STREET: Any road, avenue, street, or highway, dedicated to the public use for street purpose, regardless of whether or not it has been formally accepted by the Borough of Paramus. A street shall be deemed to include all portions lying between the dedicated or established right-of-way lines and/or planting easement thereof, said lines being identical with the front property line of lands abutting the street.

TREE: Any tree, shrub or plant, or any root, branch, flower, or other part thereof that is located on or upon any street or park. Any term or provision of this ordinance that contemplates, directs, regulates, or prohibits the doing of any act may, in applicable case and where the context so requires, be construed to include the causing, allowing, permitting, or suffering of such act to be done by others under the direction, control or supervision of the person charged therewith. Every such act shall be deemed to be within scope of this ordinance, regardless of whether it is a deliberate, intentional or purposeful act, or a careless, negligent, or unintentional act.

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SECTION 2. PERMITS.

No person shall, without a permit, do any of the following acts:

- Cut, prune, break, injure, remove, disturb, or interfere in any way with any tree;
- Spray with any chemical any tree or near a tree to cause injury or death to said tree;
- Fasten any rope, wire, sign, or other device to a tree or to any guard about such tree;
- Remove or injure any guard or device placed to protect any tree;
- Close or obstruct any open space provided about the base of a tree to permit the access of air, water, and fertilizer, to the roots of such tree.

SECTION 3. PLANTING.

No person shall plant any tree or shrub in any park or street without a permit.

SECTION 4. OBSTRUCTIONS.

- (a) No person shall, without a permit, place or maintain in any street or park, any stone, cement, or other sidewalk or any stone, cement, or other substance, which impede the free access of air and water to the roots of any tree.
- (b) Where any tree is to be surrounded by pavement of stone, cement, asphalt, or any other substance tending to impede the free access of air and water to the roots of the tree, no portion of such pavement shall be nearer to any portion of the base of the trunk than four (4) feet.

SECTION 5. INJURY.

- (a) No person shall place salt, brine, oil, or any other substance injurious to plant growth in any street or park in such a manner as to injure any tree.
- (b) No person shall build any fire or station any tar kettle, road roller, fuel oil dispensing truck, or other engine in any street or any other place in such a manner that the heat, vapors, fuel, or fumes therefrom may injure any trees.
- (c) Every person, having or maintaining any underground utility lines in any street or park shall maintain such lines in such a manner as will safeguard the trees against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to trees.

SECTION 6. PROTECTION.

- (a) In the erection, alteration, or repair of any structure or building, the owner, contractor, or other person in charge thereof shall place such guards around all nearby trees as will effectually prevent injury to such trees.
- (b) No person shall do any excavating within four (4) feet without a permit.
- (c) No person shall use or operate any power shovel, bulldozer or any other implement or tool in such a manner as to damage or destroy any tree.

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SECTION 7. WIRES AND UTILITY TRIMMING.

- (a) No person shall string any wires in or through a public park or property without a permit.
- (b) Every person having or maintaining any electric, telephone, telegraph, cable TV, or other wires running in or through a street or park, shall securely fasten and maintain such wires in such a manner as will safeguard all trees against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to all trees.
- (c) No person shall, without a permit, attach or fasten any wire, insulator, or other device for holding any wire to any tree.
- (d) Whenever the commission shall deem it necessary to prune or remove any tree, any person having a wire running in or through any street or park, shall temporarily remove such wire within 24 h after the service upon the owner of said wire, or his agent, of a written notice to do so.
- (e) Any public utility or its agents may upon receiving (written) permission from the Commission at least 72 h prior to the start of work, prune, or remove trees for line clearance of utility wire in nonemergency situations pursuant to a line clearance program.
- (f) Any public utility or its agent may undertake emergency tree work to restore electrical service or spot work to prevent interruption of electrical, telephone, telegraph, cable TV, or other wire services. In such an event the utility will notify the commission of said within three (3) business days of its beginning.

SECTION 8. PARKS.

- (a) No person shall enter upon any portion of the lawn or ground within a public park or other public place when notified by a sign placed in such a park or public place, or by a guardian of such park or public place, or by a police officer, not to enter upon such lawn or ground.
- (b) No person shall leave or deposit any paper or other waste material in any public park except in such receptacle as maybe provided therein for that purpose.
- (c) No person shall, except at such time and under such regulations as may be designated by the commission, play any game in public park.
- (d) No person shall, without permit, place any booth, stand, or other structure, or station wagon, car, or other vehicle in any public park, except in the area prescribed.
- (e) No person shall offer any article for sale, display any advertising device or distribute any commercial circulars or political activity and/or signs in a public park.

SECTION 9. HINDRANCE.

No person shall prevent, delay, or in any manner interfere with Commission or its authorized agents in the performance of their lawful duties.

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SECTION 10. PENALTIES.

Any person who violates any of the provisions of this Ordinance or who fails to comply with the terms and provisions of any permit issued pursuant hereto shall upon conviction in municipal court thereof, pay a fine of not less than Two Hundred (\$200) dollars or to exceed Fifteen Hundred (\$1500) dollars at the discretion of the court. Each day that a violation shall continue shall constitute a separate offense.

SECTION 11. RESTITUTION.

In addition to the penalties authorized by Section 10 of this ordinance, the Commission may require a person who removes or otherwise destroys a tree in violation of a municipal ordinance to pay a replacement assessment to the municipality. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or Certified Tree Expert retained by the Commission for that purpose. In lieu of an appraisal, the Commission may adopt a formula and schedule based upon the number of square inches contained in a cross section of the trunk of the tree multiplied by a predetermined value per square inch, not to exceed \$27.00 per square inch. The square inch cross section shall be calculated from the diameter at breast height and, if there is a multiple stem tree, then each trunk shall be measured and an average shall be determined for the tree. For the purposes of this Ordinance, "diameter at breast height" shall mean the diameter of the tree taken at a point 4 1/2 feet above ground level. The commission shall modify the value of the tree based upon its species variety, location, and its condition at the time of removal or destruction.

SECTION 12. INCONSISTENCIES.

All Ordinances, rules and regulation parts of any ordinances, rules and regulations that are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.

SECTION 13. EFFECT.

This ordinance shall take effect immediately upon publication thereof after final passage and approval as required by law.

ORIGINALLY PASSED: February 28, 1952.

AMENDED: August 11, 1982; March 11, 1992.

**Sample Tree Ordinance for
Small to Mid-Size Communities**

An ordinance relating to protection of trees on public property that serves the public interest by providing oxygen, stabilization of the soil, prevention of erosion, shelter for wildlife, conservation of energy by providing shade, filtering air, and adding to the beauty of the City of Red Oak, New Jersey; and providing when this ordinance shall take effect.

Whereas, trees provide a setting with a variety of color unsurpassed in shade and hue; and Whereas, trees are an invaluable psychological counterpart to the man-made urban setting; and

Whereas, trees absorb a high percentage of carbon dioxide and return oxygen, a vital ingredient to life; and

Whereas trees are a valuable asset that can affect an area economically; and

Whereas, the City Commission of the City of Red Oak has determined that the protection of trees on public property within the city of Red Oak, New Jersey is not only desirable but essential to the present and future health, safety, and welfare of all citizens; and

Whereas, the City of Red Oak, New Jersey that trees on public property are valuable contributors to the City's environment;

Now, therefore, be it ordained by the City Commission of the City of Red Oak, New Jersey.

SECTION 1. DEFINITIONS.

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

Park trees: "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names and all areas owned by the city, or to which the public has free access as park.

SECTION 2. CREATION AND ESTABLISHMENT OF CITY TREE BOARD.

There is hereby created and established a City Tree Board for the City of Red Oak, New Jersey which shall consist of five members who are citizens and residents of this city, and who shall be appointed by the City Commission of the City of Red Oak, New Jersey.

SECTION 3. TERM OF OFFICE.

The term of the five persons appointed to the City Tree Board shall be three years except that the term of two members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, their successor shall be appointed for the unexpired portion of that term.

SECTION 4. COMPENSATION.

Members of the Board shall serve without compensation.

SECTION 5. DUTIES AND RESPONSIBILITIES.

(a) It shall be the responsibility of the Board to study, investigate, counsel, develop, and update annually, and administer a plan for the care, preservation, pruning, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in all other public areas. Such a plan will be presented annually to the City Commission and, upon their acceptance and approval, shall constitute official comprehensive tree plan for the City of Red Oak, New Jersey.

(b) The Board, when requested by the City Commission of the City of Red Oak, shall consider, investigate, make findings of fact, and make recommendations upon any special matter or question coming within the scope of its duties.

SECTION 6. OPERATION.

The Board shall choose its own officers, make its own rules and regulations, and keep a journal of its actions. A majority of the members shall be a quorum for the transaction of business.

SECTION 7. STREET TREES TO BE PLANTED.

The following list constitutes the official Street Tree species for Red Oak, New Jersey. No species other than those included in this list may be planted as Street Trees without written permission of the City Tree Board.

Some examples of street trees and their height are given below. The list contains the most popular trees.

Large Trees (Height of 40 feet and Over)

Beech, European (*Fagus sylvatica*)
 Beech, Fernleaf (*Fagus sylvatica fastigiata*)
 Coffeetree, Kentucky (*Gymnocladus dioicus*)
 Elm, Delaware American (*Ulmus americana* "Delaware")
 Ginkgo, Magyar Upright (*Ginkgo biloba* 'Magyar')
 Ginkgo, Princeton Sentry (*Ginkgo biloba* "Princeton Sentry")
 Hackberry (*Celtis occidentalis*)
 Honeylocust (*Gleditsia triacanthos*)
 Linden, Greenspire Littleleaf (*Tilia cordata* "Greenspire")
 Katsura Tree (*Cercidiphyllum japonicum*)
 Locust, Sunburst (*Gleditsia triac. inermis* "Sunburst")
 Maple, Norway (*Acer platanoides*)
 Maple, Red (*Acer rubrum*)
 Maple, Sugar (*Acer saccharum*)
 Oak, Northern Red (*Quercus rubra*)
 Oak, Pin (*Quercus palustris*)
 Oak, Sawtooth (*Quercus acutissima*)
 Oak, White (*Quercus alba*)
 Oak, Willow (*Quercus phellos*)
 Sweetgum (*Liquidambar styraciflua*)
 Zelkova (*Zelkova serrata*)

Medium Trees (30 to 40 feet)

Birch, River (*Betula nigra*)
 Chokecherry, Amur (*Prunus maackii*)
 Cherry, Kwanzan (*Prunus serrulata* "Kwanzan")
 Holly, American (*Ilex opaca*)
 Hophornbeam, American (*Ostrya virginiana*)
 Pear, Capitol Callery (*Pyrus calleryana* "Capitol")
 Yellowwood (*Cladrastis kentukea*)

Small Trees (20 to 30 feet)

Dogwood, Kousa (*Cornus kousa*)
 Dogwood, White Flowering (*Cornus florida*)
 Japanese Tree Lilac (*Syringa amurensis japonica*)
 Maple, Hedge (*Acer campestre*)
 Plum, Newport Purpleleaf (*Prunus cerasifera* "Newport")
 Redbud, American (*Cercis canadensis*)
 Silverbell, Carolina (*Halesia carolina*)

SECTION 8. SPACING.

The spacing of street trees will be in accordance with the three species classes listed in Section 7 of this ordinance, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; large trees, 50 feet, except in special plantings designed or approved by the Tree Board.

SECTION 9. DISTANCE FROM CURB OR SIDEWALK.

The distance trees may be planted from curb or curb lines and sidewalk will be in accordance with the three species size classes listed in Section 8 of this ordinance. And no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet away.

SECTION 10. DISTANCE FROM STREET CORNER AND FIREPLUGS.

No street trees shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet to any fireplug.

SECTION 11. PUBLIC TREE CARE.

The City shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City Tree Board may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this ordinance.

SECTION 12. TREE TOPPING.

It shall be unlawful as a normal practice for any person, firm, or city department to *top* any street tree, park tree, or other on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the determination of the City Tree Board.

SECTION 13. PRUNING: CORNER CLEARANCE.

Every owner of any tree overhanging any street right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be clear space of eight feet (8') above the surface of the sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign.

SECTION 14. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The City shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The owners shall pay for this at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

SECTION 15. INTERFERENCE WITH CITY TREE BOARD.

It shall be unlawful for any person to prevent, delay, or interfere with the City Tree Board, or any of its agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street tree, park trees, or trees on private grounds, as authorized in this ordinance.

SECTION 16. ARBORISTS LICENSE AND BOND.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be \$25 annually in advance, provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$25,000 for bodily injury or \$10,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

SECTION 17. REVIEW BY CITY COMMISSION.

The City Commission shall have the right to review the conduct, acts, and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Commission who may hear the matter and make the final decision.

SECTION 18. EXCEPTION.

- (a) In the event that any tree shall be determined to be in hazardous or dangerous condition as determined by the City Tree Board so as to endanger health or safety and require immediate removal without delay, verbal authorization for removal may be given by the City.
- (b) During the period of emergencies, such as hurricane, windstorm, flood, freeze, or other disasters, the City may waive the requirements of this ordinance. Said waiver must be for a time certain and may not be for an indefinite period.

SECTION 19. PENALTY.

Any person violating any provision of this ordinance shall be upon conviction or plea of guilty, subject to a fine not to exceed \$500.00.

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