

Model Ordinance:

Small Community Model

ORDINANCE NO. _____

CREATION OF A TREE COMMISSION TO ADVISE ON THE PLANTING, MAINTENANCE AND REMOVAL OF TREES ON PUBLIC LAND IN THE CITY OF _____, IN THE STATE OF _____.

AN ORDINANCE TO MANAGE CITY TREE RESOURCES BY REGULATING THE PLANTING, MAINTENANCE AND REMOVAL OF TREES IN PUBLIC PLACES ALONG WITH THE ESTABLISHMENT OF A TREE COMMISSION. PRESCRIBING REGULATIONS RELATING TO THE PLANTING, MAINTENANCE AND REMOVAL OF TREES ON PUBLIC LAND: PROVIDING FOR THE ISSUING OF PERMITS FOR THE PLANTING, MAINTENANCE AND REMOVAL OF TREES ON PUBLIC LAND: PROVIDING FOR THE PRUNING AND REMOVAL OF TREES WHICH ARE DETERMINED TO BE A DANGER TO PUBLIC SAFETY. PRESCRIBING PENALTIES FOR VIOLATION OF THESE ARTICLES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF _____, IN THE STATE OF _____.

Section 1. Summary of Title.

This Ordinance shall be known and may be cited as the TREE ORDINANCE, for the city of _____, in the state of _____.

Section 2. Purpose, Intent, and Definitions.

For the purpose of this Ordinance the following terms, phrases, words and any derivations shall have the meaning given herein.

Community Tree Plan – shall mean a written document that guides the work of the Tree Commission.

City – is a city, town or political unit of the State of _____.

City Arborist – a citizen of the city/town and member of the Tree Commission who volunteers to carry out the enforcement of said Ordinance.

Large Trees – designated as those attaining a height of forty-five (45) feet or more with a mature spread of 40 feet or more.

Medium Trees – designated as those attaining a height of thirty (30) to forty-five (45) feet with a mature spread of 30 feet or more.

Park – shall include all public parks having individual names.

Person – any person, firm, partnership, corporation, company, association or organization of any kind.

Property Line – shall mean the outer edge of a street or highway right-of-way (R.O.W.).

Property Owner – shall mean the person owning such property as shown on city/town Plat Maps.

Public Places – shall include all grounds owned by the city/town.

Public Trees – shall include all ornamental and shade trees now or hereafter growing on any street or on any public land where otherwise indicated.

Small Trees – designated as those attaining a height of twenty (20) to thirty (30) feet with a mature spread of 20 feet or more.

Street or Highway – refers to the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

Treelawn (R.O.W. edge) – that part of a street or highway not covered by sidewalk or other paving, lying between the property line and the edge of the street. (Note: R.O.W. = Right of Way)

Urban Forest – shall mean the collection of shrubs, trees, vegetation and associated natural features that make up the city tree canopy and its growing zone.

Section 3. Tree Commission Established.

There shall be created a commission to be known and designated as the “Tree Commission.”

- A. The Tree Commission shall be composed of seven (7) citizens, with experience or knowledge of trees or gardening.
 1. Six (6) voting members shall be appointed by the Mayor with approval of the City Council. The Mayor shall be an ex-officio member.
 2. The six (6) members initially appointed by the Mayor shall be appointed as follows: two (2) for two (2) years; two (2) for three (3) years, and two (2) for four (4) years, and serve until their successors are duly appointed and approved by the Council.
 3. Successors to those members appointed by the Mayor shall, thereafter be appointed for terms of four (4) years. Vacancies caused by resignation, death or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made.
- B. All members of the Commission shall serve without pay.

Section 4. Authority Given to the Tree Commission.

The duties of the “Tree Commission” shall be as follows:

- A. To assist the properly constituted officials of the city as well as citizen and community groups, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether they be on private or public property.
- B. To study the urban forest including problems involving the city tree population, determine needs, compose and review annually a Tree Plan and seek ways to implement it.
- C. To provide regular and special meetings at which the subject of the urban forest may be discussed by the citizens of the town.
 - 1. Within a reasonable amount of time after the appointment of the Tree Commission, the Commission shall meet and organize by the election of a chairman, vice-chairman and standing committee chairs as needed. The Commission shall elect from their membership, a City Arborist who will act as secretary and conduct the normal affairs of the Tree Commission as described below.
 - 2. A majority of voting members shall constitute a quorum for the transaction of business.
- D. The Tree Commission shall provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth. A journal of proceedings and activities is to be recorded.
- E. The Tree Commission may engage in any other lawful activity in pursuit of the mission of this commission which may benefit the urban forest including such activities as:
 - 1. Apply for Tree City Status with the National Arbor Day Foundation.
 - 2. Conduct seminars and public education programs.
 - 3. Plan and coordinate an annual Arbor Week Observance.
 - 4. Develop a community forest preserve.
 - 5. Organize community tree planting projects.

Section 5. Qualifications of the City Arborist

City Arborist shall, where possible, be a person skilled or trained in forestry, horticulture or other closely related field.

Section 6. Duties of the City Arborist

The City Arborist shall have the following duties:

- A. The City Arborist shall make rules governing the planting, maintenance and removal of trees on the streets or other public sites in the city.

Section 7. Authority of the City Arborist.

- A. The City Arborist shall report to the Tree Commission on a regular basis and shall be in attendance at all regular and special meetings of the Tree Commission, Tree Commission Sub-committees or other community meetings as designated by the Chairman.
 - 1. The City Arborist shall record all activities of the Commission or subcommittees of the Commission.
- B. The City Arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned properties to insure safety or preserve the integrity of such public sites by granting permits.

1. The City Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of Ordinance.

Section 8. Community Tree Plan.

- A. Community Tree Plan. The Tree Commission shall have the authority to formulate a Community Tree Plan with the advice of consultants, agencies and approval of the Mayor.
 1. The Community Tree Plan shall include but not be limited to the goals and missions of the Tree Commission, an inventory of resources, needed work, associated cost and time schedules for work and relevant information such as activities of the Tree Commission, standard tree maintenance and planting specifications and permit application procedures.

Section 9. Required Permits.

The following tree permits are required.

- A. Planting, Maintenance and Removal
 1. No person shall plant, spray, fertilize, remove, prune or otherwise disturb any tree on any street or public owned property without first procuring a permit from the City Arborist.
- B. Planting Permit
 1. Application Data. When making application for a planting permit on publicly owned property, the Applicant shall illustrate the number and types of trees or other plants to be planted.
 2. Proper Planting. When any tree shall be planted on public land it shall be planted, staked, fertilized, watered, mulched and otherwise cared for according to proper planting specifications issued by the City Arborist.
- C. Maintenance Permit
 1. Application Data. When making application for a maintenance permit the Applicant shall state the number and kinds of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray materials to be applied; and other such information as the City Arborist shall deem reasonably necessary to determine issuance of permit.
- D. Removal and Replacement Permit
 1. When making application for a tree removal permit the Applicant shall describe the number and kinds of trees to be removed, their size, location, health/age condition and the proposed method of removal and other such information as the City Arborist shall deem reasonably necessary to determine issuance of permit.

Section 10. Trees on Private Property.

- A. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which there may be trees, to prune such trees in such manner that they will not obstruct; utilities (such as power lines or street lights), the passage of pedestrians on sidewalks, vision of traffic signs or views of any street or drivable intersection.
- B. It shall be the duty of any person owning or occupying real property, bordering on any street, park or other public land, on which there may be

- trees that are diseased or insect infested, to remove, spray or treat said trees in such a manner that they will not infect, damage or endanger any nearby public vegetation or citizens in use of area.
- C. The City Arborist may order the pruning, treatment or removal of trees on private land that cause obstructions, present insect or disease problems or are an otherwise present danger to public health or safety.

Section 11. Abuse of Public Trees.

No person shall intentionally damage, cut, transplant, carve or remove any tree; attach any wire, rope, advertisements, nails, posters or other apparatus to any tree; allow any gaseous liquid or solid substance which is deemed harmful to trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree.

Section 12. Interference with City/Town Arborist.

No person or persons shall delay, hinder, prevent or interfere with the City Arborist while engaged in carrying out the execution or enforcement of this Ordinance.

Section 13. Protection of Municipal Trees.

All public trees shall be protected during construction.

- A. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work, shall be guarded with an appropriately substantial fence, frame or box. The "Tree Guard" shall not be less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree trunk equal to the diameter of the trunk at breast height (D.B.H.) in inches, whichever being the greater. All building materials, dirt or other debris shall be kept outside the Tree Guard.
- B. No person shall change natural drainage or attempt to excavate any ditches, tunnels, trenches or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the City Arborist.

Section 14. Placing Materials on Public Property.

No person or persons shall place, deposit, store or maintain upon any public place, any stone, sand, concrete, brick or other material which may impede the passage of water, air or fertilizer to the roots of any tree growing therein. Sunlight to any public tree shall no be permanently blocked by placement of materials without written authorization of the City Arborist.

Section 15. Enforcement, Penalty, and Appeals.

Any person, firm or corporation in violation of compliance with any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than one hundred (\$100.00) dollars, nor more than two thousand (\$2,000.00) dollars or may be imprisoned for a term not exceeding sixty (60) days, or both.

Section 16. Administrative Guidelines.

- A. Permits may be applied as set forth below.

1. Application for permits must be made to the City Arborist no less than forty-eight (48) hours in advance of the time the work is scheduled to be done.
 2. Standards of Issuance. The City Arborist shall issue the permit provided for herein if, in fair judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit shall be rendered null and void if its terms are violated.
 3. Notice of completion shall be given within seven (7) days to the City Arborist for inspection.
- B. Approved Tree List. The following list constitutes the Official Tree Species for the City/Town of _____. This list has been extracted from the official Tree Plan. No other species outside those included in this list may be planted as street, park or ornamental trees on public property without written consent of the Tree Commission. (This list should be adjusted to community needs.)

(INCLUDE LIST OF AREA-SPECIFIC APPROVED SMALL, MEDIUM, AND LARGE TREES HERE)

Section 17. Conflicts.

In the event any section, clause or provisions of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

Section 18. Severability.

Should any section, subsection, sentence, clause, provision or part of this Ordinance be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

Section 19. Effective Date.

This Ordinance is hereby declared to be of immediate necessity for the preservation of public peace, health and safety and shall be in full force and effective from and after its passage and publication as provided by law.

Passed this _____ day of _____, 20____.

Signed this _____ day of _____, 20____.

_____, Mayor

Attest: _____
City/Town Clerk