

# TREE ORDINANCE

## TULLAHOMA MUNICIPAL CODE TITLE 20 MISCELLANEOUS CHAPTER 5 TREES

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**20-501. Purpose and intent.** This Chapter establishes policies, regulations, and standards necessary to ensure that the City will continue to realize the benefits provided by its urban forest. The provisions of this Chapter are enacted to:

- a. Establish and maintain the maximum sustainable amount of tree canopy on City land;
- b. Maintain City trees in a healthy and non-hazardous condition through the use of recommended arboricultural practices;
- c. Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest.

**20-502. Definitions.**

- a. “Caliper inches (CI).” The quantity in inches of the diameter of supplemental and replacement trees measured at the height of six inches (6) above the ground for trees four inches (4) in trunk diameter and under, and twelve inches (12) above the ground for trees over four inches (4) in trunk diameter. (Caliper inches shall be used in measuring newly planted material.)
- b. “City.” The City of Tullahoma, Tennessee.
- c. “Coniferous tree.” Any tree bearing cones.

- d. "Density units (DU)." The number value resulting from the tree value factor times the actual measured inches (DBH) of trees times the total number of trees in each respective category of trees.
- e. "Deciduous tree." Any tree that sheds its leaves in fall or winter.
- f. "Development sites." Any public or private project which will alter the current physical characteristics and/or usage of land within the City.
- g. "Diameter at breast height (DBH)." The diameter in inches of a tree measured at four and one-half (4½) feet above the existing grade. DBH shall be used to measure existing trees to remain after clearing land of other trees.
- h. "Drip line." A vertical line extending from the outermost portion of the tree canopy to the ground.
- i. "Endangered species." Those trees that are under the protection of state and/or federal law.
- j. "Evergreen tree." Any broad-leaf and conifer tree that does not shed its leaves in fall or winter.
- k. "Heritage tree." A tree of significant age or stature that constitutes a unique asset to the community.
- l. "Minimum Standard." The basic standard for tree retention would be 25 percent or 25 trees per acre, whichever is greater. All trees 6 inches in diameter or larger would be inventoried, with the exception of those already in critical areas, critical area buffers, or in native growth protection easements.
- m. "Overstory trees." Trees that compose the top layer or canopy of vegetation.
- n. "Pruning." The removal of living or dead parts of a tree, especially branches, to reduce size, to maintain natural shape, health, and flowering, or to regulate growth.
- o. "Public tree." A tree located within public right-of-way or public lands owned by or under the jurisdiction of the City.
- p. "Replacement planting." The planting of trees on a site that before its development had more than the minimum standard of trees per acre, but less than the minimum after development.
- q. "Shrub." A woody plant that is never tree-like in habit and produces branches or shoots from or near the base.
- r. "Supplemental planting." The planting of trees on a site that before development had less than the minimum standard of trees per acre.
- s. "Topping." The arbitrary removal of parts of the tree above a certain height, with no regard for the natural structure or growth pattern of the tree.
- t. "Tree." A woody plant characteristically having one main stem at least 12 to 15 feet tall, and having a distinct head in most cases.
- u. "Tree protection zone." The area around a tree corresponding to the drip line or ten (10) feet in all directions from the trunk.
- v. "Tree value factor." The numerical value assigned to each tree category that represents the importance of that category of trees with respect to visual screening, growth characteristics, native species and aesthetics.
- w. "Understory trees." Those trees that grow beneath the overstory trees.

- 20-503. Administration.** The City tree program shall be administered by the City Forester under the direction of the Parks and Recreation Department director. Specific areas of responsibility are assigned as follows:
- a. Parks and Recreation Department
    - 1) Provide administration and enforcement of this Chapter through the Director of Parks and Recreation and the City Forester, the Tree Board and/or such other persons designated by the City administrator.
  - b. City Forester.
    - 1) Review all development site plans in accordance with the provisions of this Chapter as part of the review process of the development advisory committee.
    - 2) Provide inspection of development sites to ensure compliance with grading and tree protection recommendations.
  - c. Tullahoma Tree Board
    - 1) The Tullahoma Tree Board shall be composed of seven members, appointed by the mayor. The members shall serve for a two year term and may be reappointed.
    - 2) The chairperson of the Tree Board shall be elected from the members of the Tree Board by a majority vote of the membership for a one year term. This election shall be made during the third quarterly meeting. Regular business may be conducted with a quorum with actions approved by a majority vote of the members present.
    - 3) The mission of the Tullahoma Tree Board is to maintain, protect and enhance the urban forest of Tullahoma for both present and future generations through policy advocacy and community education.
    - 4) Specific activities of the Tree Board include:
      - (1) Meet quarterly, or as needed, upon the call of the Chairperson or the Chairperson's designee.
      - (2) Provide community guidance and recommendations concerning public trees and tree programs.
      - (3) Recognize groups, businesses and individuals that promote, protect, maintain, nurture, plant and use trees in accordance with established and accepted arboricultural standards.
      - (4) Coordinate the donation of trees or funds to purchase and plant memorial and honorary trees on public property. The price to be paid by the donor will be set by the Tree Board and may be changed from time to time.
      - (5) Evaluate and recommend to the Board of Mayor and Aldermen trees to be submitted as candidates to be included in the Tennessee Landmark and Historic Tree Register.
      - (6) Perform other tree-related activities as requested by the Board of Mayor and Aldermen consistent with the intent of this Chapter.
      - (7) Advise and notify the City Forester of trees that may require removal and to recommend replacement trees.
      - (8) Recommend actions to be taken by the City Forester, for potential violations of this Chapter.
      - (9) Recommend to the City enforcement proceedings in compliance with the objectives of this Chapter.

(10) Provide community education and sponsor events on the care and benefit of trees.

(11) Designate memorial and honorary trees and their locations.

d. Board of Mayor and Aldermen

1) Provide general policy direction to the Tree Board.

2) Provide funding, as appropriate, for tree program activities.

**20-504. Tree Policy.** Tree planting shall be a required activity on public areas applicable to this Chapter. For the purposes of this Chapter, public areas shall be defined as land owned by the City of Tullahoma. A planting program shall be developed by the Tree Board for all public areas and shall be conducted in a systematic manner to support diversity of age and species. The City Forester and Tree Board may provide advice and information to City residents for private trees. The following policies will be used:

a. Species selection. All trees planted on public property shall be of a species referenced on the City's recommended tree list or approved by the Tree Board.

b. Size and grade.

1) For the purpose of this Chapter, trees reaching up to twenty-five (25) feet in height at maturity are defined as small trees. Medium trees will mature at twenty-five to fifty (25 to 50) feet. Large trees will mature at heights greater than fifty (50) feet.

2) All planted trees shall be free of insects, diseases, or mechanical injuries and have straight trunk(s) and forms characteristic of the species.

c. Protection of utilities.

1) No public trees other than those with a mature height of less than twenty-five (25) feet in height shall be planted within ten (10) feet of any overhead utility line.

2) No public tree shall be planted over or within ten (10) lateral feet of any underground water, gas or sewer line, buried fiber optic line, broadband, power cable, television cable, telephone cable transmission line or other utility lines.

d. Location requirements.

1) No public tree shall be planted within recognized visibility standards or sight triangles and specifications for driveway and street intersections.

2) Public trees proposed to be planted within four (4) feet of sidewalks or curbs must be approved by the City Forester.

**20-505. Jurisdiction-Oversight of Activities and Practices.** The City may initiate maintenance activities needed to keep public trees healthy and to minimize the risk of injury to people or property. Tree maintenance may include removal, pruning, fertilization, watering, and insect and disease control.

a. No person or entity, shall plant, prune, remove, replace or otherwise disturb any public tree without obtaining approval from the City Forester. Utility boards or companies may prune trees as part of their line maintenance program within their easements or public right-of-way but shall coordinate such work with the City Forester.

b. The practice of tree topping is expressly prohibited for all public trees, and is discouraged as a tree care practice for private trees. A tree severely damaged by

storms or other causes, or trees under wires or other obstructions where other pruning methods are impractical shall be removed and replaced, with approval of the City Forester.

- c. All pruning should be done in accordance with the International Society of Arboriculture (ISA) standards as described in the ANSI A300 Tree Maintenance.
- d. Tree pruning shall be performed in a manner that protects the public. All trees growing along streets and sidewalks as it matures must be pruned free of limbs to a height of eight (8) feet for sidewalks and twelve (12) feet for streets, with no lateral growth permitted onto the sidewalk or street below this height. Tree limbs shall not obstruct the view of any street lamp, street sign, stop sign or traffic light. Likewise, tree limbs shall not obstruct any street intersection and shall be pruned such that the driver has a clear line of vision of traffic coming from all directions.

**20-506. Hazardous Trees**

- a. Public Trees
  - 1) Dead or mortally damaged public trees that may pose a safety or health risk to the public or to other trees shall be removed in a systematic manner. The City Forester shall make a risk determination on public trees and prioritize pruning or removal.
  - 2) No public trees may be removed or modified in any manner before first submitting a written request to and obtaining written permission from the City Forester. The City Forester may refer the request to the Tree Board. Approvals may include specific requirements for removal and replacement.
  - 3) All stumps of public trees shall be removed below the surface of the ground (grade) by grinding or other methods and refilled with soil mounded four (4) inches above grade.
  - 4) The removal of hazardous trees that pose an immediate danger to the public may be approved at the discretion of the responding emergency services personnel. Said removal should be reported to the city forester as soon as practicable.
- b. Private Trees
  - 1) The City has the right to cause the removal and pruning of any dead, diseased, or structurally damaged trees on private property when such trees constitute a hazard to life and property within public property.
  - 2) The City Forester shall evaluate the tree as to the degree that safety has been compromised. The evaluation and accompanying recommendations will be acted upon in one of the following ways:
    - a) The City Forester will notify the owner via certified mail of such tree(s), except in cases of immediate urgency. Otherwise, removal or pruning as directed shall be done by said owners at their own expense within thirty (30) days of the date of notification. If the property owner cannot be contacted or refuses to remove the hazard, the City may initiate action to remove said hazard and charge the property owner for the costs incurred for its removal. If the property owner does not pay this charge within thirty (30) days, the City will place a lien on the property and add same to the City property taxes to be collected accordingly.

- b) An evaluation of potentially dangerous means that a hazard will exist in the near future. The property owner will be notified via certified mail of existing problems and options for abating the hazard.

**20-507. Tree planting and replacement.** All trees planted by the City shall meet the standard established for planting stock by the American Association of Nurserymen's American Standard for Nursery Stock. Planting or replanting of trees at a public project construction site shall be included in the cost of construction.

- a. Unless the City Forester or Tree Board determine otherwise, trees that are removed because of construction requirements will be replaced in an appropriate number, using "Minimum Standard" as a guideline, to create an equivalent tree canopy at maturity and of a size and at location(s) as prescribed by the City Forester. The City Forester will provide the property owner with a list of tree species that may be used.
- b. Any tree that dies will be replaced by the person or agency that originally planted the tree unless mortality was caused by unintentional acts of human interference or by environmental events such as a late spring freeze or ice storm.
- c. Whenever a person, entity, or City agency obtains written permission to remove a tree from any City-owned land for the purpose of construction or for any other reason, such person, entity, or City agency shall subsequently replace the tree within one (1) year of removal, in a location to be determined by the Tree Board at the expense of the person, entity, or City agency that obtained such permission.
- d. Whenever it is necessary to remove a tree from a public right-of-way in conjunction with the paving of a sidewalk or widening of a street, the City shall replace such tree. If conditions prevent planting in the right-of-way, this requirement may be satisfied by planting on the adjoining property if the property owner grants a landscape easement to the City, or by planting a replacement tree on other public property within the corporate limits.
- e. All trees planted on public property will be appropriately maintained.
- f. When planting balled and burlapped trees:
  - 1) Twine and other ties must be removed.
  - 2) The planting hole should be the depth of the root ball and two (2) times as wide as the root ball. The hole shall be excavated precisely to this depth. Refilling a hole that was too deeply dug is unacceptable since the root ball will settle and result in the top of the root ball being below grade – a primary cause of death for transplanted trees.
  - 3) After lowering the tree into the hole, burlap shall be pushed down below grade and not removed. If left above grade, burlap will act as a wick and cause desiccation of the root ball. Burlap supports the root ball, will disintegrate over time, will support the root ball in the initial phase, and will allow root growth through the burlap. If wire support baskets contain the root ball, said wire will be bent to below grade.
  - 4) No fertilizer should be used at the time of planting; soil amendments shall not be used; mulch shall be used to cover the circumference of the planting hole with a depth of two (2) to four (4) inches, leaving a clear space of two inches around the trunk of the tree.

- 5) Trees shall be watered as required during the first year after planting, never allowing the soil in the root ball area to become dry.
- g. Replacement trees shall meet the standards of size, species and cultivar, and placement specified by the City Forester. Trees shall be inspected before planting by the City Forester, to ensure tree health and quality, and to confirm identity of the received plant to be the required species and cultivar. Whenever any person is required to replace a tree pursuant to this Chapter, all the aforementioned conditions will apply.

**20-508. Protection of Trees.**

- a. Unless specifically authorized in writing by the City Forester or the Tree Board, no person, entity, or City agency shall intentionally damage, cut, carve, transplant, prune, nor remove any tree on City property; nor attach rope, wire, nails, advertising posters or other contrivance to any tree; nor allow any gas, liquid or solid substance which is harmful to any tree to come into contact with it; nor set fire or permit any fire to burn when such fire or heat thereof will injure any portion of a public tree.
- b. No person, entity, or City agency shall deposit, place, store or maintain upon any public place of the City any stone, brick, sand, impermeable concrete or any other material which may impede the free passage of water, fertilizer and air to the roots of trees within the drip line area.
- c. The City Forester shall be contacted before excavating tunnels, ditches, or trenches or the laying of pavement within the tree protection zone.
- d. All construction and utility activities shall be conducted using techniques which minimize damage to and enhance survivability of all public trees.

**20-509. Official tree designation.** The Tree Board may recommend to the Board of Mayor and Aldermen the designation of an official tree for the City of Tullahoma.

**20-510. Historical, memorial, honorary and other special trees.** A tree can constitute a unique asset to the community and may be given special protection and care. Upon the recommendation of the Tree Board the Board of Mayor and Aldermen may designate a unique specimen as a Tullahoma Heritage Tree. The Tullahoma Tree Board may designate memorial and honorary trees. A tree so designated will be given special protection, maintenance and/or recognition as the situation warrants.

**20-511. Community development.** Development within the City shall include the preservation of existing trees whenever possible.

- a. Adequate protection should be given to trees scheduled to be preserved on a construction site. Appropriate measures, including the erection of protective barriers at the outer edge of the tree protection zone are to be installed around public and private trees identified to be preserved.
- b. Trees scheduled for planting should be high quality specimens whose physical site requirements are compatible with the intended development project. These trees shall be maintained with mulch and watering for two (2) years after planting, and any trees that die during that time shall be replaced.
- c. In residential subdivisions, the developer is encouraged to protect all trees that can be preserved and to plant trees according to the Minimum Standard. Replacement trees should be evenly distributed throughout the subdivision.

**20-512. Violations and Enforcement.** The City Forester has the authority to enforce this Chapter and may issue citations to the entities allegedly violating this Chapter. These citations shall be made to the City court. Any entity or person or agency found violating this Chapter may be deemed guilty of a misdemeanor, according to the laws of the State of Tennessee, and may be fined accordingly, and/or Civil penalties may be levied and enforced by the City judge. These penalties include but are not limited to the assessment of any cost incurred by the City in enforcing the provisions hereunder, or in remediating any actions causing pecuniary loss to the City and its trees. The City shall also have the authority to take appropriate civil action against any violator of the provisions hereof, and/or may attach any costs incurred by the City in remediating any damages caused by said violator to the property taxes of the violator, assessed against the property upon or adjacent to which said violation occurred, and same shall be collected as other property taxes and assessments. Each day that any violation of this Chapter continues unabated shall constitute a separate offense and shall be dealt with accordingly.

**20-513. Appeals**

- a. Any person dissatisfied with any decision rendered relative to the enforcement of this Chapter by the City Court shall have the right to appeal that decision from the City Court to the Circuit Court only in the manner prescribed by law.
- b. Any person dissatisfied with a decision issued relative to the application or interpretation of this Chapter by the City Forester shall have the right to appeal that decision in the following progression:
  - 1) Tree Board
  - 2) City Administrator
  - 3) Board of Mayor and Aldermen
- c. The Chairperson of the Tree Board may call a special meeting, upon proper notice to all members and the appealing party, to consider any appeals of such non-penal matters. All rulings by the Tree Board shall be recorded and transmitted in writing to the appealing party and to the City Administrator. If an appeal is made to the City Administrator he shall consider the written record and render a decision in writing and furnish it to the appealing party and the Tree Board. If an appeal of a decision by the City Administrator is made to the Board of Mayor and Aldermen, the appealing party and Chairman of the Tree Board must be given an opportunity, upon reasonable notice, to present to the Board of Mayor and Aldermen any facts, evidence or justification to aid said Board in making a final decision. All appeals must be made within ten (10) working days of the rendering of any decision.

**20-514. Citations.** All citations for violations issued pursuant to this Chapter shall be by Certified Mail, Return Receipt Requested, or by direct service upon the addressee.

**20-515. Consultants.** The Tree Board, with the prior approval of the City Administrator, may engage the services of professional arborists or other experts to aid it in the performance of its duties.

**20-516. Miscellaneous.** All Municipal Code chapters that contain references to trees are hereby incorporated by reference into this chapter.

**20-517. Severability.** Should any part or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Chapter as a whole or any part thereof other than the part held to be invalid.