

## SAMPLE MUNICIPAL TREE ORDINANCE—ANNOTATED

*[with 'RECOMMENDED' and 'OPTIONAL' clauses]*

Be it ordained by the City Council of the City of:

(City) \_\_\_\_\_

(State) \_\_\_\_\_

*[RECOMMENDED—Section 1 offers the rationale for creating the ordinance and summarizes the major provisions contained in the ordinance. Municipal governments should review their charter under state law and add (or subtract) clauses that begin this section.]*

### Section 1. Purpose.

To enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

*[RECOMMENDED—Section 2 provides definitions for words or phrases used in the ordinance to clarify how a particular section or sentence shall be interpreted.]*

### Section 2. Definitions.

As used in this Article, the following words and phrases shall have the meanings indicated:

**Damage** – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**Nuisance** – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

**Parkway** – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

**Public property** – all grounds and rights-of-way (ROWS) owned or maintained by the City.

**Public tree** – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

**Top or Topping** – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

*[RECOMMENDED—Section 3, clause (a) is essential for enacting a municipal forestry program. To enroll in the **Tree City USA** program, a public tree care ordinance **MUST** contain a "delegation of authority" by city leadership—either to a named Director, department, or tree advisory board (see Section 4). The most effective ordinances delegate responsibility for operational management of public trees to a department Director and establish a volunteer tree advisory board to provide input and community representation.]*

### Section 3. Authority and power.

- (a) **Delegation of authority and responsibility.** The Director of the (**insert Managing Department**) and/or their designee, hereinafter referred to as the "Director", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- (b) **Coordination among city departments.** All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Director.
- (c) **Interference.** No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

*[RECOMMENDED—Volunteers in the community provide a link between the city tree manager and the residents who receive the benefits of those tree management services. Section 4 creates a tree advisory board to support and advise the Director in the execution of the municipal tree management program. Clauses below for board governance should conform to existing city rules for volunteer advisory boards.]*

### Section 4. Tree advisory board.

The City Council hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

- (a) **Duties.** The Board shall act in an advisory capacity to the Director and shall:
  - (1) Coordinate and promote Arbor Day activities;
  - (2) Review and update a five-year plan to plant and maintain trees on city property;
  - (3) Support public awareness and education programs relating to trees;
  - (4) Review city department concerns relating to tree care;
  - (5) Submit an annual report of its activities to the city council;
  - (6) Assist with the annual application to renew the Tree City USA designation;
  - (7) Recommend a list of tree species for planting on city property, and a list of prohibited species; and
  - (8) Other duties that may be assigned by City Council.
- (b) **Membership.** The Board shall consist of seven members approved by City Council. Members of the Board will serve without compensation.
- (c) **Term of office.** Board members shall be appointed for three-year staggered terms<sup>1</sup>. If a vacancy shall occur during the term of any member, a successor shall be appointed by City Council.
- (d) **Officers.** The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.

---

<sup>1</sup> At the first appointment of Tree Advisory Board members, Council will appoint all members at once. A staggered board can be arranged by giving the initial members different term lengths. For a seven-member board, two members can be given one-year terms, two members can be given two-year terms, and the remaining three members given three-year terms. After the initial members' terms expire, all future members would be given three-year terms.

- (e) **Meetings.** The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

*[OPTIONAL—Section 5 identifies industry standards and best practices for tree care in the United States. By including them in the ordinance, the city may enforce proper tree care standards with the force of law. Specific “planting distances” in clause (d) should be developed by the Director (and/or the Tree Advisory Board) in consultation with other city departments.]*

#### **Section 5. Tree planting and care standards.**

- (a) **Standards.** All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) [A-300 "Standards for Tree Care Operations"](#) and shall follow all tree care [Best Management Practices \(BMPs\)](#) published by the International Society of Arboriculture.
- (b) **Requirements of franchise utility companies.** The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- (c) **Preferred species list.** The Director shall maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with written approval from the Director.
- (d) **Planting distances.** The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant.
- (e) **Planting trees under electric utility lines.** Only trees listed as Ornamental trees on the official city tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

*[RECOMMENDED—Besides the “delegation of authority” declared in Section 3, Section 6 is critical for declaring the specific set of protections given to public trees, under penalty of law.]*

#### **Section 6. Prohibition against harming public trees.**

- (a) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.
- (b) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.
- (c) It shall be unlawful for any person, firm, or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.
- (d) Any person, firm, corporation, or city department performing construction near any public tree(s) shall consult with the Director and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for [“Managing Trees During Construction”](#) published by the International Society of Arboriculture.
- (e) Each violation of this section as determined and notified by the Director shall constitute a separate violation, punishable by fines and penalties under Section 10, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

*[OPTIONAL—Section 7 describes the responsibility of adjacent landowners and may not be applicable in every situation. Some city governments will retain all rights for planting and maintaining trees in the public right-of-way, and for addressing hazards.]*

### **Section 7. Adjacent owner responsibility.**

- (a) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area.
- (b) No property owner shall allow a tree, or other plant growing on his or her property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

*[OPTIONAL—Section 8 provides the circumstances under which the Director may declare a "nuisance" and act or require action to mitigate the risk to residents.]*

### **Section 8. Certain trees declared a nuisance.**

- (a) Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal.
- (b) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period.

*[OPTIONAL—Section 9 describes how a violation shall be enforced, but there may be other enforcement mechanisms that a municipal authority may use.]*

### **Section 9. Violations and penalty.**

Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

*[OPTIONAL—Section 10 provides a mechanism for an individual or firm that has been penalized under this ordinance to take their case to a higher authority. This situation and clause should conform to the specific requirements of state and local law.]*

### **Section 10. Appeals.**

Appeals to decisions by the Director or the Tree Advisory Board, or to penalties imposed after violations of this ordinance, shall be heard by City Council.

*[OPTIONAL—Section 11 may be standard procedure in your municipality. It solves potential conflicts between this public tree care ordinance and existing ordinances.]*

### **Section 11. Savings and repeal.**

All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

*[OPTIONAL—Section 12 may be required under municipal or state law. If, on some future date, any clause, section, or provision of the ordinance is ruled to be unconstitutional at the state or federal level, all other clauses, sections, or provisions will remain in effect.]*

**Section 12. Severability.**

Should any word, sentence, clause, paragraph, or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.