

# Trees and the Law



from the **TREE CITY USA®  
BULLETIN**

*There are so many legal cases today involving trees that some attorneys actually specialize in this area of the law. When trees are the issue in a dispute, it is important to rely on an experienced attorney for advice. However, much expense, time, and anxiety could be avoided by understanding a few basics about trees and the law and then using this knowledge to practice better community forestry.*



Trees planted on boundary lines are often a nice way to delineate the separation of properties. But when problems arise or opinions differ on the future of the tree, it is important to understand who actually controls the tree.

## THE EFFECTS OF ORDINANCES

Ordinances can go a long way in preventing situations from which negligence is likely to arise.

### 1. PLANTING REQUIREMENTS

Prohibiting the planting of species with brittle wood or heavy fruits in rights-of-way; prohibiting the planting of tall-maturing species beneath power lines; and specifying the required width of tree lawns for small, medium, or large trees so there is room for healthy root growth allows for the right trees to be planted in the right places.

### 2. PERMITS

Requiring permits to plant on rights-of-way provides a means of communicating with residents about tree planting specifications.

### 3. TOPPING

Prohibiting topping will make trees safer.

### 4. NUISANCE TREES

A good ordinance will authorize the city forester to have diseased trees removed from private property if they are contagious.

Likewise for hazardous trees within reach of public rights-of-way. This is necessary for the safety and welfare of the community at large.

### 5. ENFORCEMENT

Ordinances “with teeth” have more value to the public than those without legal means of enforcement.

### IN THIS ISSUE READ ABOUT:

- The three kinds of laws
- Negligence and liability related to tree ownership
- What to know about a higher duty of care in cities
- Arborists' responsibilities
- The effects of ordinances
- Views, roots, boundary trees, and more