

Step 3 - Adopt a Tree Ordinance/Landscape Ordinance

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Step 3 - Adopt a Tree Ordinance/Landscape Ordinance

Reference Number: MTAS-1354

The next step is to develop a tree ordinance. The purpose of most ordinances is to protect and maintain existing trees while providing for new ones. Ordinances providing for the overall care of the urban forest vary greatly. The ordinance should provide for and facilitate adequate management of your urban forest. To do so, your ordinance should do three things: 1) provide authority to conduct forestry programs; 2) define responsibility - who is responsible for certain parts of the urban forest - particularly important in cases of street side or other easement areas; and 3) set forth minimum standards for management to provide for public safety, health, convenience, and general welfare.

To ensure the above, city tree ordinances generally include the following elements:

- Purpose and intent;
- Definitions;
- Establishment of a tree board (may be a separate ordinance);
- Clarification of title to and responsibility for trees on city property;
- Designation of city forester or other official with responsibility and authority;
- Planting requirements for trees on municipal property or easements;
- Maintenance responsibilities and clarification of responsibilities of adjacent property owners in cases of street sides or other easements;
- Removal requirements and specifications;
- Condemnation of trees on private property;
- Requirements of private arborists and landscape contractors (licensing, bonding, insurance);
- Preservation or protection of heritage and historic trees and other vegetation;
- Prohibition of interference with forestry officials; and
- Violations, penalties and appeals.

A comprehensive tree ordinance addresses the following three key components: 1) tree protection; 2) landscape architecture standards; and 3) street tree requirements.

Establishing a Tree Board Ordinance

Reference Number: MTAS-1355

This document is designed to assist communities in preparing tree ordinances. It is intended to supplement, not replace, the expertise of the community's legal resources.

Note: Discussions and explanations are in ***bold, italic***. Ordinance sections are in regular type and should be double spaced to allow for insertions appropriate for the individual community.

The purpose of this tree ordinance is to provide a mechanism for the management of trees and woody vegetation in the City/Town of _____. Since adoption of an ordinance is one of the requirements for Tree City USA recognition, the City/Town of _____ hereby adopts this ordinance in order to establish guidelines for tree planting, cutting and care in the City/Town of _____.

Article I. Definitions

The following definitions may be considered for inclusion in a city tree ordinance.

1. Tree — a woody plant with a single trunk or multiple trunks capable of growing to a height of 15 feet or more.
2. Shrub — a woody plant with a multiple stem capable of growing to a height of up to 15 feet.
3. Small Tree — a tree that grows up to 25 feet in height.
4. Medium Tree — a tree that grows between 25 and 45 feet in height.
5. Large Tree — a tree that grows greater than 45 feet in height.

6. Public Tree — a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals and other areas to which the public has free access.
7. Private Tree — a tree growing in an area owned by a private individual, business or commercial establishment, company, industry, private institution or other area not owned by government entities.
8. Street Tree — a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.
9. Public Utility — that section of local government in charge of electrical, water, sewer, natural gas, telephone or cable television distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.
10. Private Utility — an entity similar to above that is a private for-profit corporation.
11. City Forester — a city employee responsible for the city's tree program. He or she also may be titled urban forester, city arborist, municipal forester or tree warden.
12. Pruning — selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.
13. Topping — arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
14. Crownsread — the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.
15. Line Clearance — removal of limbs and branches growing within a set distance of electrical distribution lines.
16. Tree Density Factor — a number derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted.
17. Other definitions may be required by a particular city's unique situation.

Article II. Tree Board

Section 1 — Creation of a Tree Board

There is hereby created a Tree Board for the City/Town of _____, which shall consist of five (5) members (more or less if the city chooses) who are citizens and residents of the city. Members shall be appointed by the mayor and approved by the governing body.

(Note: Depending on expertise available, this section may specify that one or more members of the board be representatives of institutions that deal with trees and have expertise in the area of forestry, such as colleges, government agencies, etc.)

Section 2 — Term of Office

Members shall serve three (3) year terms, except the first board, which will have two (2) members appointed for one year and three (3) members appointed for two years. Members may serve successive terms. Vacancies are filled by appointment by the Mayor until the end of the term.

Section 3 — Operation

The board shall choose its own officers, make its own administrative rules and regulations, and keep a record of its proceedings. Copies of the minutes shall be available to the governing body after each Tree Board meeting. Meetings shall be held quarterly, or more often if called by the chairman of the board. A majority of the members shall constitute a quorum for transaction of business.

Section 4 — Duties and Responsibilities

The duties of the Tree Board shall include, but not be limited to the following:

- Prepare a tree plan for the community
- Coordinate tree-related activities
- Conduct an Arbor Day ceremony
- Provide tree information to the community
- Maintain a recommended tree list for the community
- Recognize groups and individuals completing tree projects
- Coordinate publicity concerning trees and tree programs
- Coordinate donations of trees or money to purchase trees
- Adopt rules and regulations pertaining to the tree program
- Perform other tree-related duties and opportunities that arise from time to time

The Tree Board may consult with arborists, foresters and others with specific expertise in the subject area when performing their duties and responsibilities. Any compensation or contracts for services performed by such experts or professionals shall be approved by the governing body.

Section 5 — Compensation

Members of the board shall serve without compensation.

(Note: Most cities do not pay their tree board members.)

Article III A. Tree Planting Option 1

The following sections provide only a general statement about tree planting. This option should be used if the city Tree Board will adopt rules and regulations governing planting.

Section 1 — Tree planting shall be undertaken by the City/Town on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be determined by the Tree Board and contained in rules and regulations adopted by the board.

Section 2 — Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The Tree Board will provide information about species, planting techniques, and placement guidelines when requested by residents.

Article III B. Tree Planting Option 2

The following sections provide a detailed outline of planting requirements as an alternative to rules and regulations adopted by the Tree Board.

Section 1 — Size

All trees in public areas capable of reaching a mature height of more than 30 feet shall be at least 1-1/4" diameter (at 6" height) and 8 to 10 feet tall at time of planting. Small maturing trees, between 15 feet and 30 feet at maturity, shall be 5 feet to 6 feet tall at planting.

Section 2 — Grade

Trees to be planted shall be free of insects, diseases, and mechanical injuries and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

Section 3 — Spacing

Large trees capable of achieving more than 45 feet in height should be spaced at least 40 feet apart. Medium trees capable of achieving 30 to 45 feet in height should be spaced 30 feet apart. Small trees capable of achieving 15 to 30 feet in height should be spaced at 20-foot intervals. Exceptions may be granted by the Tree Board when a valid landscape plan is followed or when larger or smaller spacings are needed to achieve a desired effect.

Section 4 — Planting near existing objects

Only small trees are permitted to be planted within 10 feet of utility lines. In street plantings, no tree may be planted closer than 10 feet from a fire hydrant, utility pole or street light, 15 feet from a driveway or street intersection, or 30 feet from a street or street intersections. When planting between sidewalks and curbs, 6 feet between curb and sidewalk is the minimum distance required for small trees, 8 feet for medium trees, and 10 feet for large trees.

Section 5 — Planting Techniques

Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 12 inches larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer, which may be added if the Tree Board deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing affected by the auger. Trees may be guyed in windy areas or in other areas where support is determined necessary by the Tree Board. All guy wires shall be removed within 18 months.

Article IV A. Tree Care Option 1

Ordinances generally have one or more sections dealing with tree care and maintenance. As in Article III, there is the option of including a broad statement about tree care, to be supplemented later by rules and regulations adopted by the tree board. The following sections are general and should be supplemented by the board's rules and regulations.

Section 1 — Tree maintenance rules and regulations may address pruning, fertilizing, watering, insect and disease control or other tree care activities. The city/town shall take responsibility for maintenance

activities needed to keep the public trees reasonably healthy and minimize the risk of hazard trees could cause to residents and visitors of the city/town. Determination of maintenance needs will be made by the Tree Board. Tree care may be accomplished by city/town personnel or by contract with commercial tree care companies.

Section 2 — Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The Tree Board will provide information in a timely manner to residents about all aspects of tree care, including the latest techniques and procedures currently being practiced.

Section 3 — The practice of tree topping is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

Article IV B. Tree Care and Protection Option 2

A number of other options also may be included in a tree care section. For instance, certain specifications about pruning, fertilizing, or specific insect or disease problems may be included as an alternative to the prior section, which leaves such determinations to the tree board.

Section 1 — Trees growing along side streets and sidewalks must be pruned free of limbs to a height of 8 feet for sidewalks and 12 feet for streets.

Section 2 — The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be precut to prevent excessive peeling of the bark, followed by cutting the remaining stub.

Section 3 — Fertilization of trees will be accomplished when the Tree Board determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.

Section 4 — Because of the special significance of the dogwood tree (this also could apply to oak, elm, crabapple or any species of tree) to the city/town, the Tree Board will inspect trees for dogwood borer (or other insect or disease problems) and effect treatment, where infestation has occurred, at the appropriate time of year. The Tree Board also shall give notice to owners of private infested trees and encourage said private owners to effect treatment of affected trees growing on their property.

Section 5 — Extensive root system damage to public trees is prohibited. Grade changes and trenching within the crown spread (ends of branches) is prohibited without permission of the Tree Board. Private owners of trees are encouraged to consult the Tree Board before proceeding with these activities.

Article V. Tree Removal

Section 1 — Dead trees and dying trees on public property that pose a safety or health risk to residents or to other trees will be removed. Upon inspection by the Tree Board, trees on public property found to be dead and those found to be dying that pose a safety or health risk to residents or other trees shall be removed in a timely manner.

Section 2 — Upon finding dead or dying trees on private property, the Tree Board shall notify the landowner of such condition in writing, by mail, and encourage the landowner to remove said tree.

Section 3. — Stump removal to below ground level is considered part of the tree removal process.

Article VI. Special Considerations

Section 1 — Tree topping of all public trees is prohibited, and topping of private trees is strongly discouraged. The Tree Board shall promote the use of proper pruning procedures.

Section 2 — Tree pruning in the vicinity of public power lines shall be undertaken by the public utility (or private utility, if applicable) to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where possible, the utility shall undertake a program of replacing large trees with small maturing ornamental trees of the kind recommended by the Tree Board.

Article VII. Protection from Construction, Development and Land Use Changes

The city/town maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, as it pertains to commercial and residential development, the city/town may adopt regulations requiring developers and builders to create tree impact plans prior to removing any tree from project sites. Regulations adopted by the city/town may further require minimum tree densities for different classes or types of developments, and developers/builders may be required to plant trees to meet such density requirements. The Tree Board will assist the city/town in drafting the regulations to

be adopted or will provide recommendations for regulations that should be adopted. Regulations adopted by the city/town may be incorporated into subdivision regulations to be enforced by the Planning Commission or may be incorporated into the city/town zoning ordinance to be enforced by the board or official having authority over zoning issues.

Requiring City Forester Ordinance

Reference Number: MTAS-1356

This document is designed to assist communities in preparing tree ordinances. It is intended to supplement, not replace, the expertise of the community's legal resources.

Note: *Discussions and explanations are in bold, italic.. Ordinance sections should be double spaced to allow for insertions appropriate for the individual community.*

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5. Large Tree — a tree that grows greater than 45 feet in height.
6. Public Tree — a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.
7. Private Tree — a tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.
8. Street Tree — a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.
9. Public Utility — that section of local government in charge of electrical, water, sewer, natural gas, telephone or cable television distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.
10. Private Utility — an entity similar to above that is a private for-profit corporation.
11. City Forester — a city employee responsible for the city's tree program. He or she may also be titled urban forester, city arborist, municipal forester, or tree warden.
12. Pruning — selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.
13. Topping — arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
14. Crownsread — the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side
15. Line Clearance — removal of limbs and branches growing within a set distance of electrical distribution lines.
16. Tree Density Factor — a number derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted.
17. Other definitions may be required by a particular city's unique situation.

Article II. City Forester

Section 1 — Appointment

The City Forester shall be appointed by the governing body after completing a competitive review process. The governing body shall determine whether the City Forester shall be a contractor, performing duties for the city/town in accordance with terms specified in a contract, or shall be a municipal employee subject to all the rules, regulations and terms of employment pertaining to municipal employees. The City Forester shall, through education and experience, be skilled and trained in the art and science of municipal arboriculture.

Section 2 — Compensation

If the governing body determines that the City Forester shall be a municipal employee, he or she shall receive a salary commensurate with training and experience, plus any other benefits that municipal employees at that position level may receive. If the governing body determines that the City Forester shall be a contractor, the compensation and any benefits that may be made available to the City Forester shall be specified in the contract.

Section 3 — Duties

The duties of the City Forester shall include but not be limited to the following:

- a. Plant, maintain and remove trees under his jurisdiction
- b. Coordinate all tree activities with other agencies, organizations and groups in the city
- c. Provide information and public relations to citizens and groups in the city regarding trees
- d. Maintain a recommended tree species list
- e. Gather information and publish reports as needed about the city tree resource
- f. Respond to complaints about tree problems
- g. Prepare long-range and annual plans for city trees
- h. Perform other tree-related duties

The City Forester shall further provide recommendations to the governing body regarding rules and regulations to be adopted governing the planting, care and maintenance and removal of trees in the city/town.

Article III A. Tree Planting Option 1

Ordinances generally contain guidelines governing tree planting. One ordinance option is to broadly state planting requirements and leave details to rules and regulations to be adopted by the city/town at a later date. In all options, it is recommended that lists of tree species NOT be incorporated into the ordinance. Lists should be formulated by the city Forester where flexibility for updating is greatest.

Section 1 — Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be determined by the governing body, in consultation with the City Forester.

Section 2 — Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The City Forester will provide information about species, planting techniques, and placement guidelines when requested by residents.

Article III B. Tree planting Option 2

The following sections provide a detailed outline of planting requirements. If they are not included in the ordinance, they should be adopted as rules and regulations at a later date.

Section 1 — Size

All trees in public areas capable of reaching a mature height of more than 30 feet shall be at least 1-1/4" diameter (at 6" height) and 8 to 10 feet tall at time of planting. Small maturing trees, between 15 feet and 30 feet at maturity, shall be 5 feet to 6 feet tall at planting.

Section 2 — Grade

Trees to be planted shall be free of insects, diseases and mechanical injuries and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

Section 3 — Spacing

Large trees capable of achieving more than 45 feet in height should be spaced at least 40 feet apart. Medium trees capable of achieving 30 to 45 feet in height should be spaced 30 feet apart. Small trees capable of achieving 15 to 30 feet in height should be spaced at 20 feet intervals. Exceptions may be granted by the City Forester when a valid landscape plan is followed, or when larger or smaller spacings are needed to achieve a desired effect.

Section 4 — Planting near existing objects

Only small trees are permitted to be planted within 10 feet of utility lines. In street plantings, no tree may be planted closer than 10 feet from a fire hydrant, utility pole or street light, 15 feet from a driveway or street intersection, or 30 feet from a street or street intersections. When planting between sidewalks and curbs, 6 feet between curb and sidewalk is the minimum distance required for small trees, 8 feet for medium trees, and 10 feet for large trees.

Section 5 — Planting Techniques

Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 12 inches larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be the same material that was removed from the hole with no additives except low nitrogen fertilizer, which may be added if the City Forester deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing affected by the auger. Trees may be guyed in windy areas or in other areas where support is determined necessary by the City Forester. All guy wires shall be removed within 18 months.

Article IV A. Tree Care Option 1

Ordinances generally have one or more sections dealing with tree care and maintenance. As in Article iii, there is the option of including a broad statement about tree care or outlining detailed sections about maintenance. The following section is broad and should be supplemented later by rules and regulations to be adopted by the governing body.

Section 1 — Tree maintenance may include pruning, fertilizing, watering, insect and disease control or other tree care activities. The city/town shall take responsibility for maintenance activities needed to keep the public trees reasonably healthy and to minimize the risk hazard trees could cause to residents and visitors of the city/town. Determination of maintenance needs will be made by the City Forester. Tree care may be accomplished by city personnel, by the City Forester or by contract with commercial tree care companies.

Section 2 — Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The City Forester will provide information in a timely manner to residents about all aspects of tree care, including the latest techniques and procedures currently being practiced.

Section 3 — The practice of tree topping is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

Article IV B. Tree Care and Protection Option 2

A number of other options also may be included in a tree care section. For instance, certain specifications about pruning, fertilizing, or specific insect or disease problems may be included.

The following provisions apply to trees growing on public property and on public right-of-ways and easements.

Section 1 — Trees growing along side streets and sidewalks must be pruned free of limbs to a height of 8 feet for sidewalks and 12 feet for streets.

Section 2 — The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut to prevent excessive peeling of the bark, followed by cutting the remaining stub.

Section 3 — Fertilization of trees will be accomplished when the City Forester determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test, or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.

Section 4 — Because of the special significance of the dogwood tree (this also could apply to oak, elm, crabapple or any species of tree) to the city/town, the City Forester will inspect trees for dogwood borer (or other insect or disease problems) and effect treatment, where infestation has occurred, at the appropriate time of year. The City Forester shall also give notice to owners of private infested trees and encourage said private property owners to effect treatment of affected trees growing on their property.

Section 5 — Extensive root system damage to public trees is prohibited. Grade changes and trenching within the crown spread (ends of branches) is prohibited without permission of the City Forester. Owners of private trees are encouraged to consult the City Forester before proceeding with these activities.

Article V. Tree Removal

Section 1 — Dead trees and dying trees on public property that pose a safety or health risk to residents or to other trees will be removed. Upon inspection by the City Forester, trees on public property found to be dead and those found to be dying that pose a safety or health risk to residents or other trees shall be removed in a timely manner.

Section 2 — Upon finding dead or dying trees on private property, the City Forester shall notify the landowner of such condition in writing, by mail, and encourage the landowner to remove said tree.

Section 3 — Stump removal to below ground level is considered part of the tree removal process.

Article VI. Special Considerations

Section 1 — Tree topping of all public trees is prohibited, and topping of private trees is strongly discouraged. The City Forester shall promote the use of proper pruning procedures.

Section 2 — Tree pruning in the vicinity of power lines shall be undertaken by the public utility (or private utility, if applicable) to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where possible, the utility shall undertake a program of replacing large trees with small maturing ornamental trees of the kind recommended by the City Forester.

Article VII. Protection from Construction, Developments and Land Use Changes

The city/town maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, as it pertains to commercial and residential development, the city/town may adopt regulations requiring developers and builders to create tree impact plans prior to removing any tree from project sites. The regulations adopted by the city/town may further require minimum tree densities for different classes or types of developments, and developers/builders may be required to plant trees to meet such density requirements. The City Forester will assist the city/town in drafting the regulations to be adopted, or by providing recommendations for regulations which should be adopted. Regulations adopted by the city/town may be incorporated into subdivision regulations to be enforced by the Planning Commission or may be incorporated into the city/town zoning ordinance to be enforced by the board or official having authority over zoning issues.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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