



How to Write a Municipal Tree Ordinance

TREE CITY USA®
BULLETIN

No. 9

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Tree City USA is a powerful force for the promotion of tree care and urban forestry. It is a program that has caught the imagination of citizens, elected officials, and urban tree professionals. More than 3,400 communities now fly the flag of accomplishment, a composite area that is home to some 137 million Americans.

At the heart of the Tree City USA program are four basic requirements:

The community must have (1) a tree board or department, (2) an annual community forestry program backed by the expenditure of at least \$2 per capita for trees and tree care, (3) an annual Arbor Day proclamation and observance, and (4) a tree care ordinance.

In this issue of Tree City USA Bulletin, sections of a model ordinance are presented, explained, and illustrated with actual examples. Not every section will be appropriate to all communities, and there are others in use that are not included in this general coverage of the topic.

The purpose of this issue is to encourage all citizens to support their town having an appropriate, current tree ordinance and to provide a starting point for thousands of communities to create or enhance an existing ordinance. Although an ordinance is only as good as the administrative program that backs it up — including support for education and, when necessary, enforcement — a municipal tree ordinance and involvement in the Tree City USA program are giant strides in the direction of healthier urban trees and a quality environment.

Why a Tree Ordinance?

Ordinances reflect the values of a community — the values its residents believe are worth protecting to maintain their quality of life and an environment that is both safe and pleasant. A community's trees, often called the urban forest, are very much the kind of community asset that deserves to be protected and managed for the common good.

A tree ordinance encourages beautification, air cooling and purification, noise abatement, property value enhancement, and the other attributes of trees within a city. It also enables citizens to prevent and control the spread of diseases, to preserve trees in the path of development, and to avoid unnecessary costs associated with sewer clogging, sidewalk replacement, and tree-related accidents. An ordinance may also give force and direction to professional tree care within the municipality's workforce and helps control unscrupulous or careless operators.

Ordinances vary in length and complexity, but the key to effectiveness is to write the ordinance simply, clearly, and tailored to the needs of your community. In the end, a tree ordinance is just another tool for proper tree care. Like any tool, it needs to be of high quality, matched properly to the job, and used with skill and care.



Friends of Trees organized a tree planting along a multiple-use corridor in Portland, Oregon. These trees will provide a forested buffer between the local neighborhood and the interstate, decreasing road noise and adding significant beautification to the area.

THE SEARCH FOR AN IDEAL ORDINANCE

For several decades, citizens who have wanted better tree protection in their communities have searched for model ordinances to guide the way. The ordinance sections and their descriptions found in this bulletin are based largely on just such a model ordinance developed by Philip J. Hoefer of the Colorado State Forest Service. They are condensed from *Municipal Tree Ordinance Manual*, a publication of the International Society of Arboriculture and currently out of print.

An important point made by Hoefer is that in addition to an ordinance, there should be an appended standards and specifications document. This presents detailed guidelines for arboricultural practices such as planting and pruning, tree care, removal, landscaping, contracting, and similar activities that are important in any community forestry program.

It is recommended that the standards and specifications section be a separate but companion part of a municipal ordinance. This is because including such a large amount of detail directly in the ordinance itself is cumbersome and difficult to change. For greater flexibility, it is better to keep the ordinance brief, but to authorize the designated forestry body (board, commission, or department) to publicize rules, regulations, standards, and specifications. These can be published separately and revised as necessary, but still be subject to final approval by the city council or other elected officials.

Importantly, each community has different circumstances that need to be addressed in an ordinance and its accompanying standards and specifications. Use the model ordinance sections in this bulletin and the ordinances of other communities as starting points for developing your own ordinance or to revise one that is not working well, but add or delete sections to match the unique needs and circumstances of your community. Be sure to search your own city codes for any references to trees that may already exist. Finally, use the services of an attorney to review or help write all drafts to ensure that your final product is legally sound as well as beneficial to the future of your community's trees.

To locate sample ordinance provisions, search online for "sample tree ordinances," or search for "ordinances" on the following sites:

- www.isa-arbor.com/home.aspx
- www.actrees.org

IN ADDITION TO AN ORDINANCE,
THERE SHOULD BE AN APPENDED
**STANDARDS AND
SPECIFICATIONS DOCUMENT.**

Suggested Sections for a Tree Ordinance

Although no two tree ordinances will be exactly alike, there are some basic elements that will help ensure that the document is workable and effective. These elements are called sections, and they are presented here with examples and principles that illustrate why each one is necessary.

I. PURPOSE

PRINCIPLE: An opening statement that clearly sets forth the purpose of the ordinance will help avoid ambiguity in interpretation. This initial section is usually capitalized and in bold print.

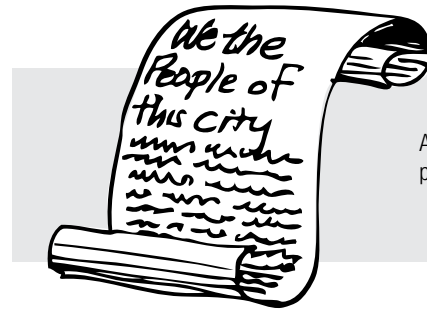
EXAMPLE: It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the city of _____.

II. AUTHORITY AND POWER

PRINCIPLE: Someone within city government must have the clearly designated authority to administer the provisions of the ordinance. This section defines, designates, or creates a department, board, commission, or person responsible for the planting, care, and protection of the city's trees.

EXAMPLE: There is hereby created and established a City Tree Board for the City of _____, which shall consist of five members, citizens, and residents of this city, who shall be appointed by the mayor with the approval of the city council. Members of the board shall serve without compensation.

HOME RULE AUTHORITY: In order to avoid conflicts with state laws governing trees, a statement transferring regulations to the city may be necessary. State, county, and city laws will explain this process. If needed, the statement should be added as a section.

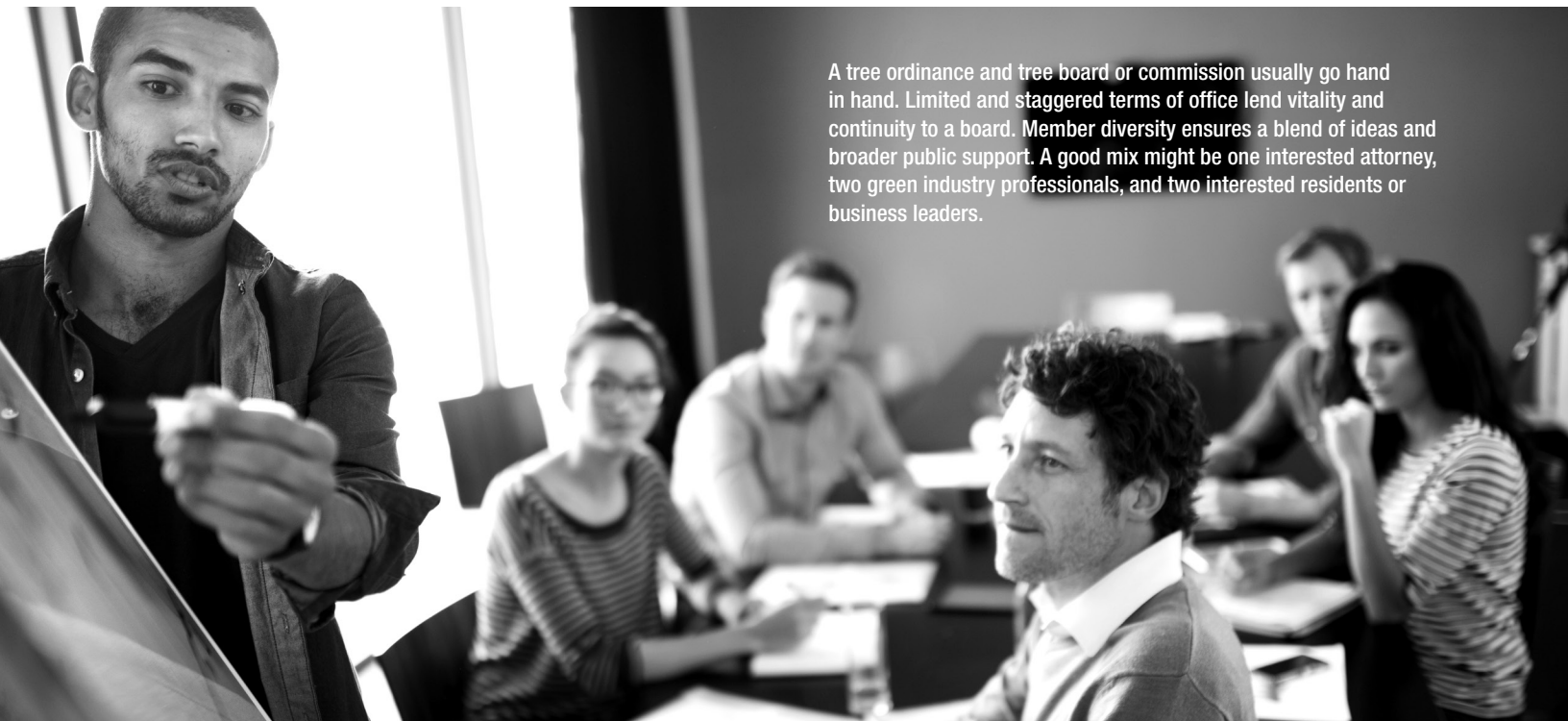


A clearly stated purpose prevents misinterpretation.

III. TERM OF OFFICE

PRINCIPLE: Reasonable and clearly stated terms of office for volunteer boards or commissions will help infuse the program with new ideas on a periodic basis and will help avoid the problems created by obstructionists with life or long-term tenure. This section defines length of service, a method for filling vacancies, and the number of consecutive terms (if any) that can be served. Staggering terms can help ensure continuity and stability.

EXAMPLE: The term of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.



A tree ordinance and tree board or commission usually go hand in hand. Limited and staggered terms of office lend vitality and continuity to a board. Member diversity ensures a blend of ideas and broader public support. A good mix might be one interested attorney, two green industry professionals, and two interested residents or business leaders.

IV. APPLICABILITY

PRINCIPLE: This section is needed to clarify which property is covered by the ordinance. This usually includes trees on rights-of-way, public parks, cemeteries, and other public grounds. Private property is also sometimes included.

EXAMPLE: This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks, and public places of the city and over trees, plants, and shrubs located on private property that constitute a hazard or threat as described herein.



An ordinance must specify which property it covers, such as rights-of-way, public parks, and cemeteries.

V. DEFINITIONS

PRINCIPLE: To prevent misunderstanding, words that may be unfamiliar to lay citizens should be defined. If a standards and specifications appendix accompanies the ordinance, many arboricultural terms can be placed there instead of in this section.

EXAMPLES OF WORDS OR TERMS TO DEFINE: arborist, contractor, city forester or city arborist, tree, public tree, private tree, tree lawn, parkway, right-of-way, easement, etc.

VI. LICENSING

PRINCIPLE: One way to protect trees and citizens from irresponsible companies or individuals who pose as arborists is to require practitioners to have a license. Conditions for obtaining the license may even require that the person be a certified arborist. (See Bulletin No. 6.) This section provides licensing authority and includes details such as fees, frequency of renewal, testing procedures, types of licenses, suspensions and appeals, surety bonds, showing identification on equipment, etc.

EXAMPLE: It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs, or vines within the City without first producing evidence of certification/license before the City. (An explanation of requirements and fees is then presented.)

VII. INSURANCE

PRINCIPLE: Arborists work under dangerous circumstances and around high-value property. Since it is often difficult for homeowners to ascertain whether property and tree workers are adequately covered, or to insist on such coverage, a provision in the tree ordinance can easily correct the situation.

EXAMPLE: Before any license shall be issued, each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000 for bodily injury or death and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

A license requirement protects both trees and property owners.



Important details of planting and tree care can be best placed in a separate standards document, but can also be listed in the ordinance or in an appendix. Specification examples include suitable species, spacing, distance from curb and sidewalk, and acceptable pruning practices.



VIII. LANDSCAPING

PRINCIPLE: This section can ensure that trees will be a part of new developments. But planted vegetation can be an asset or a liability — depending on what is planted and how it is done. This part of the ordinance can define a process for having new landscape plans reviewed and approved by the city forester or tree board, with the issuance of building permits only after such a review.

EXAMPLE: In new subdivisions or when the development of commercial property occurs, the city forester shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided.

IX. TREE PLANTING, MAINTENANCE, AND REMOVAL

PRINCIPLE: Good tree care and management is possible only if people have specific information about practices that result in safe, healthy trees that contribute to a quality environment rather than to creating problems. The purpose of this section is to provide that information in the form of requirements. In many ways, it is the heart of a good ordinance. Actually, the material in this section is best included in a separate standards and specifications chapter, but placing it directly in the ordinance is an option. Either way, all specifications should be reviewed at least every five years and should include such specifics as desirable and undesirable tree species, spacing, pruning techniques, high-risk trees, sight obstruction, and vandalism.

A good way to clearly specify pruning and other tree work standards is to use the terms and definitions as contained in ANSI A300 standards. For nursery stock, use ANSI Z60.1, available online at the site of AmericanHort.

EXAMPLES:

TREE SPECIES — The Town Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes: small, medium, and large.

SPACING — The spacing of street trees will be in accordance with the three species size classes listed in this ordinance. No trees may be planted closer together than the following, except in special plantings designed or approved by a landscape architect: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet.

UTILITIES — No street trees other than those species listed herein as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

DISTANCE FROM CURB AND SIDEWALK — The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section ___ of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

TOPPING — It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined by the International Society of Arboriculture as an inappropriate technique to reduce tree size that cuts through a stem more than two years old at an indiscriminate location. (Such a point is usually between branches, leaving a stub.)

X. ADJACENT LANDOWNER RESPONSIBILITY

PRINCIPLE: Quite naturally, homeowners often want to plant trees or do work on trees that abut their property but are on a public right-of-way. This section describes a process by which the homeowner can do the work, but only in accordance with the sound principles of urban forestry management and arboriculture.

EXAMPLE: No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the city forester. The person receiving the permit shall abide by the standards set forth in this ordinance.



An ordinance may provide authority to investigate privately owned trees that may pose a threat to the public and require removal or mitigation, such as pruning.

XI. TREE PROTECTION

PRINCIPLE: Protecting existing trees is a major challenge. Therefore, more and more progressive communities are using this section not only to prevent insect and disease epidemics, but also to protect trees on both public and private property from damage during construction. Increasingly, another use of this section is to identify and protect trees of historic value or unusual qualities (called heritage trees). Requiring permits for all tree removal is one way to achieve these goals. Penalties may be established requiring violators to pay a fine in the amount of the tree's appraised value. Ideally, such funds will be designated solely for planting more trees.

EXAMPLE 1: Upon the discovery of any destructive or communicable disease or other pestilence that endangers the growth or health of trees or threatens to spread disease or insect infestations, the city forester may at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove, or otherwise control such condition within reasonable time to be specified in such notice.

EXAMPLE 2: The following guidelines and standards shall apply to trees proposed in a developer's tree protection plan to be retained. (Rules are then specified such as not grading or locating utilities within the tree's drip line, placing protective barriers around trees, preventing siltation, etc. Or, developers may be required to preserve a percent of forested tracts, plant trees in open space, or pay into a county tree-planting fund so that there is no net loss of tree cover.)

EXAMPLE 3: The city forester shall have as one of his/her duties the location, selection, and identification of any trees that qualify as heritage trees. A tree may qualify as a heritage tree if it meets one or more of the following criteria: (Criteria may include species rarity, old age, association with a historical event or person, abnormality, scenic enhancement, etc.)

XII. PRIVATE TREES

PRINCIPLE: Since trees on private property often affect the safety and welfare of other trees and people other than the owner, a provision is needed to allow community action in such cases. This section provides authority to inspect private trees, designate them as public nuisances, and demand their removal or mitigation, such as pruning, when necessary.

EXAMPLE: The city forester or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant, or plant part that is suspected to be a public nuisance and to order its removal if necessary. (Note: An appropriate legal definition of a public nuisance is needed here, such as any tree with an infectious disease or insect problem that poses a significant threat to the community's tree population; dead or dying trees; a tree or limb(s) that obstruct street lights, traffic signs, the free passage of pedestrians or vehicles; a tree that poses a threat to safety, etc. Also needed is a description of the legal process for notifying property owners and causing abatement of the nuisance, including removal and billing for costs by the city if action is not taken by the owner.)

XIII. PERMITS

PRINCIPLE: Permits provide a way to make certain that anyone who plants, works on, or removes public trees (and sometimes private trees) is knowledgeable and capable of doing the job right. Permits are also a means to ensure compliance with standards and specifications, allow for follow-up inspections, and generally serve as a tool for enabling a community to control the future of its urban forest.

EXAMPLE: No person except the city arborist, his/her agent, or a contractor hired by the city arborist may perform any of the following acts without first obtaining from the city arborist a permit for which no fee shall be charged: (treatments and actions are listed, each one specifying whether it applies to trees on public land or to any tree, public or private).

XIV. ENFORCEMENT

PRINCIPLE: For an ordinance to be more than a piece of paper, authority must be given to the city forester or other official to enforce the provisions. This includes the right to issue notices of violation, notices to perform work, and the ability to stop work.

EXAMPLE: The city forester shall have the authority to publicize and enforce rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges, and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the city. (Details about the process of rule-making, review, and approval by the governing body and enforcement need to be included.)

XV. PENALTIES, CLAIMS, AND APPEALS

PRINCIPLE: Enforceable, meaningful ordinances must contain provisions for penalties and violations. Most cities have standard statements that will work in a tree ordinance, or one may be written specifically related to trees. There needs to be a process for the city to do needed work if a landowner fails to comply with an order, and there should also be an appeal process.

EXAMPLES:

VIOLATIONS — Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provision of the ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$500 for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement, or the appraised dollar value of such tree, shrub, or other plant, shall be borne by the party in violation. The value of trees and shrubs shall be determined in accordance with the latest revision of *A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens*, as published by the International Society of Arboriculture.



Each community's ordinance must be written to serve that community's unique needs and circumstances.

ASSESSMENT OF CLAIM — In the event that a nuisance is not abated by the date specified in the notice, the city arborist is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

APPEALS — (Include your municipality's standard appeals process.)

XVI. OTHER

Because circumstances vary so widely between municipalities, there may be other sections necessary to fashion an ordinance to the needs of your community. These range from sections that local government may require in all its ordinances (such as a severability clause that states that if any section of the ordinance is found to be invalid or unconstitutional, it does not affect the validity of remaining sections) to how the urban forestry program is to be financed. The ordinance must fit your town's needs.

Don't Overlook Evaluating and Revising

The basic steps toward protecting and managing the trees in any community are (1) determining what you have (an inventory), (2) deciding what you want, i.e., what is right for your community (safety, a certain percent crown cover, diversity, etc.), and (3) establishing goals and an implementation strategy (a plan). Tree ordinances are part of the latter. They are one of the ways of attaining the desires of residents to have the kind of community forest they deserve for a quality lifestyle.

No tree ordinance is static. As communities grow and change, it is essential to review your ordinance and make certain it keeps pace with the changing needs and challenges. Review what works and what doesn't work. For example, if homeowners in new suburbs are encouraged to plant street trees but this is being ignored by non-resident owners of duplexes or apartments, what might be changed in the ordinance to solve the problem?

Monitoring is often the overlooked step in urban forestry. It is made easier when a tree board or department sets management goals annually and reviews the city's vision statement regularly. It also helps to stay current on what is being done in other cities with similar growth patterns and challenges. The bottom line is that ordinances are not one-time documents. They are a tool, and they need to be updated or replaced like any other tool in order to serve best.



Tree ordinances are important for large cities, small towns, and developing suburban areas.

FOR MORE INFORMATION ...

For more information and references, please visit arborday.org/bulletins. Explore the Foundation's website for other helpful pages on trees, sale items, the Tree City USA program, public education, the management of community forests, and much more.

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THE TREE CITY USA PROGRAM IS SPONSORED BY THE Arbor Day Foundation in cooperation with the U.S. Forest Service and National Association of State Foresters. To achieve the national recognition of being named as a Tree City USA, a town or city must meet four standards:

- Standard 1: A tree board or department
- Standard 2: A tree care ordinance
- Standard 3: A community forestry program with an annual budget of at least \$2 per capita
- Standard 4: An Arbor Day observance and proclamation

Each recognized community receives a Tree City USA flag, plaque, and community entrance signs. Towns and cities of every size can qualify. Tree City USA application forms are available from your state forester, the Arbor Day Foundation at arborday.org/treecity, or your state forestry agency.

PHOTO COURTESY OF: Friends of Trees (page 2).

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