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AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES ON PUBLIC PROPERTY; ESTABLISHING THE OFFICE OF **URBAN FORESTER**; PROVIDING FOR THE ISSUANCE OF WRITTEN APPROVALS FOR THE **MAINTENANCE**, AND REMOVAL OF TREES ON PUBLIC PROPERTY; PROVIDING FOR **THE REMOVAL OF VEGETATION ON PRIVATE PROPERTY WHICH OBSTRUCTS PUBLIC TRAVEL**; PROVIDING FOR THE PROTECTION OF PUBLIC TREES; PROVIDING FOR VALUE RECOVERY WHEN PUBLIC TREES ARE DAMAGED OR REMOVED; PROVIDING FOR TREES AS PART OF STREET IMPROVEMENTS; PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS; REPEALING SECTION 16-7-45; WAIVING SECTIONS 2-2-3, 2-2-5, AND 2-2-7 OF THE AUSTIN CITY **CODE OF 1992, AS AMENDED**; AND PROVIDING FOR AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

~~PART 1~~ The Code of the City of Austin is hereby amended by adding chapter 15-10 as follows:

**§ 15-10-1 SHORT TITLE.**

'This ordinance shall be known and cited as the Public Tree Care Ordinance.

**§15-10-2 PURPOSE AND INTENT.**

(A) The purpose of this chapter is to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees located on roadways, parks and public areas owned or controlled by the City of Austin. The application and enforcement of this ordinance shall be coordinated with existing ordinances.

(H) It is the intent that this chapter will promote:

(1) The planting, maintenance, restoration, and protection of trees on public property thereby enhancing the appearance of the City and protecting the urban forest as an important social, environmental, and economic resource for the benefit of the City's residents and visitors; and

(2) The assistance of property owners and public agencies with the protection and maintenance of trees in a manner consistent with adopted City policies, procedures, and regulations; and

(3) Minor maintenance, as provided by this ordinance, of trees in the right-of-way by adjacent property owners in accordance with nationally recognized standards.

**§1 S-IO-3 DEFINITIONS.**

*DAMAGE* shall include but not be limited to: the uprooting of a tree, severance of the root system, severance of the main trunk, the storage of materials or the compaction of soil around a tree, a substantial change in the natural grade above the root system or around the trunk or the pruning or removal of more than **25%** of living tissue; and the paving with impervious materials around a tree.

*PUBLIC PROPERTY* shall mean all grounds owned or controlled by the City of Austin where public access is not restricted. Utility and drainage easements on private property, and areas restricting public access shall not be included in the definition of public property as used in this chapter.

*SHRUB* or *BUSH* shall mean any woody plant having a multi-stem base and typically reaching a mature height of less than eight feet.

*TREE* shall mean any self-supporting woody perennial plant typically having a trunk diameter of at least three inches measured at four and one-half feet above grade or having a trunk diameter of at least two inches if planted by or for the City. This definition shall not include bushes or shrubs.

*PUBLIC TREE* shall mean any tree with at least two-thirds of its trunk diameter on public property.

*TREE VALUE* for applications under this ordinance shall mean the appraised value of a tree based on the latest edition of the "Guide for Plant Appraisal" by the Council of Tree and Landscape Appraisers.

*URBAN FORESTER* shall mean the qualified designated City employee assigned to carry out the provisions of this ordinance.

*UTILITY* shall mean public utilities, businesses or organizations in the business of supplying communication services, electrical energy, gas, heat, steam, water, or sewage disposal and treatment.

**§15-10-4 DUTIES AND AUTHORITY OF URBAN FORESTER.**

There shall be an Urban Forester position filled by a qualified forester. The Urban Forester is authorized to:

(A) Preserve and enhance the City's urban forest through the management of the City's Urban Forestry Program and the administration and implementation of the Comprehensive Urban Forest Plan as developed with the Urban Forestry Board. The Plan shall include review and recommendations from the Environmental Board and the Parks and Recreation Board

(B) Supervise the planting, maintenance and removal, as necessary, of trees on public property in coordination with affected City departments.

(C) Assist the Urban Forestry Board with the formation of, and any revisions to, the Comprehensive Urban Forest Plan and provide administrative staff services.

(D) Develop and periodically update **arboricultural** specifications and standards of practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees and shrubs on public property. **Arboricultural** specifications and standards of practice **shall** be based on the most current edition of the National Arborists Association's Standards for Tree Care or other nationally recognized standard and shall have been reviewed by the Urban Forestry Board in a public hearing prior to implementation. Copies of all rules, regulations, specifications, and standards shall **be** available to the public.

(E) Enforce the provisions of this ordinance.

(F) Affix conditions to the granting of approvals .

(G) Supervise and inspect any work done under any approval issued pursuant to this chapter.

(H) Carry out such other duties specified in this chapter or in this Code.

#### **§15-10-5 ADMINISTRATIVE APPROVALS.**

(A)(1) Unless otherwise directed or permitted by an applicable City of Austin permit or license, no person shall maintain, remove, or damage any tree on public property without procuring the written administrative approval of the Urban Forester as specified in this chapter. It shall be the responsibility of the person actually performing the work or the employer of such person to secure administrative approval. Approvals under this chapter shall be granted free of charge. Fees can only be added after formal amendment to this ordinance.

(2) Applications for approvals shall contain such information as the Urban Forester shall require and shall be made at the office of the Urban Forester not less than five (5) working days in advance of the time the work is to be done. Applications not acted on within fifteen (15) working days shall be deemed approved.

(3) The Urban Forester shall grant an approval upon a determination that the proposed work and the proposed method and workmanship are in accordance with this ordinance and adopted arboricultural standards. Any approval granted shall contain a date of expiration; the work shall be completed during the time allowed and in the manner described therein. Any approval shall be deemed ~~withdrawn~~ if the terms of approval are not complied with.

(B) Annual approvals, effective January 1 of each year, may be granted to any person who engages in the pruning or maintenance of trees on public property. Issuance of an annual approval shall be expressly conditioned on compliance with City-adopted arboricultural specifications and standards of practice. Approval may be denied if the applicant has a demonstrated history of violating the provisions of this chapter. An annual approval shall not authorize the removal of trees. Notice of completion of work done under an annual approval shall be provided quarterly to the Urban Forester.

(C) The Urban Forester shall be authorized to remove any tree or vegetation found to have been planted in violation of this chapter or regulations adopted hereunder.

(D) As a condition of the granting of approval for the removal of a living tree, the Urban Forester may require the planting of replacement trees or provision therefor. Upon receiving satisfactory proof of inability to pay by an owner-applicant, the Urban Forester shall waive this requirement. In the event a person granted approval to remove a tree agrees to plant a replacement tree and such a replacement tree is not timely planted, the Urban Forester may plant such tree and assess and collect the costs from such person. Funds collected shall be deposited in the City of Austin Planting for the Future Trust In Agency Fund to be used for citywide public tree planting.

(E) The Urban Forester shall be authorized to withdraw approvals for noncompliance with the provisions of this chapter or regulations adopted hereunder. Written notice and an opportunity to be heard shall be provided to persons granted approvals before the withdrawal of approval.

(F) No administrative approval shall be required in the following instances:

(1) For any City department or contractor employed by a City department engaged in tree pruning, or maintenance provided that the work is completed according to the arboricultural specifications and standards developed by the Urban Forester and reviewed by the Urban Forestry Board under § 15-10-4(D).

(2) To remove any tree or limb under emergency conditions. An emergency shall be deemed to exist during such time as a hazardous or dangerous condition exists because a tree or limb has fallen or is in imminent danger of falling. A person may remove fallen limbs or trees blocking pedestrian or vehicular travel.

(3) For a public utility to remove trees or limbs which have fallen or are in imminent danger of falling if removal is necessary to restore service or to prevent damage to utility lines or facilities.

(4) Work authorized by a site plan, subdivision development or other development permit issued by the City; work so authorized shall be exempt only from the requirements of this chapter, except for § 15-10-6 and § 15-10-9.

(5) To perform minor maintenance on trees on public property. The Urban Forester shall define minor maintenance and develop and promulgate rules allowing for minor maintenance under this section.

(G) The Urban Forester shall be authorized to enter into cooperative tree-planting agreements with nonprofit groups or organizations in lieu of any license, permit or other City requirements\_

**§15-10-6 OBSTRUCTIONS.**

(A) Upon notice or complaint, the Urban Forester shall be authorized to issue a written notice to property owners or occupants requiring the removal or clearance of private trees, shrubs or vegetative matter that create an obstruction as prohibited in Section 16-7-41. If an owner or occupant fails to remove or clear such vegetation within 10 days of receipt of the notice, the Urban Forester shall be authorized to remove or clear such vegetation.

(B) No person shall plant or cause to be planted on public property any tree that reaches a maximum height of 20 feet within ten (10) lateral feet of an overhead utility line or any tree within five (5) lateral feet of an underground utility line.

(C) The City shall at all times have the right to abate tree or other vegetative obstructions to or on public ways; the Urban Forester shall be authorized to remove such obstructions at any time.

**§15-10-7 PROTECTION OF TREES.**

(A) Except as provided in Section 15-10-5(F) or unless authorized by a written permit issued by the City:

(1) No person shall damage, top, cut, carve, transplant, or remove any tree on public property; allow any gas, liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn which may injure any portion of any such tree.

(2) No person shall place or store upon public property any impervious cover or materials which may impede the free passage of water, air, or nutrients to the roots of any tree growing thereon.

(B) Unless otherwise directed or permitted by other applicable ordinances or rules, a person conducting excavation or construction on public property shall see that each tree in the area of work is guarded with a good substantial fence, not less than four (4) feet high and not closer than two (2) feet from or to the perimeter of the tree trunk. All building materials, dirt, and other debris shall be kept outside the barrier.

(5) To perform minor maintenance on trees on public property. The Urban Forester shall define minor maintenance and develop and promulgate rules allowing for minor maintenance under this section.

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**§15-10-8 LOSS OF PUBLIC TREES — VALUE RECOVERED.**

(A) A person damaging a tree on public property shall be liable to the City for any loss of value. In the event damage is so pervasive as to result in the treatment or removal of the tree, the person damaging such tree shall also be liable for costs **of** treatment or removal. A person may appeal the Urban Forester's determination of the value to the Urban Forestry Board under the procedures established in Section 15-10-10. The assessment of a fine shall not prevent the recovery authorized by this section.

(B) Amounts recovered under this section shall be deposited in the Planting for the Future **Trust In Agency** Fund to be used for citywide public tree planting.

**§ 15-10-9 CAPITAL IMPROVEMENTS.**

The Urban Forester shall participate in the planning or designing of major capital improvements to the road system to ensure the inclusion of trees as part of the road design. One percent (1%) of the actual construction costs of new roadway or roadway capacity expansion projects shall be devoted to the planting of trees. Provision shall also be made, in addition to the one percent, to fund the establishment of trees for two years after planting. New roadway projects or projects that increase roadway capacity shall mean any project that increases the total of the City's roadway system lane miles. Funding for trees from general obligation road project bond proceeds is hereby authorized only from appropriate bond propositions presented to and approved by the voters from and after the effective date of this ordinance, and use of bond funds shall be subject to bond authorizations.

**§ 15-10-10 APPEALS.**

(A) An applicant or person having received administrative approval under this chapter shall have the right to appeal the conditions, denial, or revocation of an approval to the Urban Forestry Board upon the filing of a written appeal to the Urban Forestry Board within ten (10) days of the granting, denial, or revocation of the approval. The Urban Forestry Board shall hold a hearing within thirty (30) days of receipt of the appeal, or as soon as practical. The appellant shall be notified of the date of the hearing and shall be allowed to present evidence and testimony. The Urban Forestry Board by a majority vote shall uphold, reverse, or modify the decision of the Urban Forester.

(B) A person determined to be liable to the City under Section 15-10-5 or 15-10-8 shall have the right to appeal the determination of value to the Urban Forestry Board upon the filing of a written appeal to the Urban Forestry Board within ten (10) days of notice of liability. The Board shall conduct a hearing in the same manner specified in Subsection (A) above.

(C) Decisions of the Urban Forestry Board shall be appealable to the Planning Commission in the same manner specified in Subsection (A) above. The Planning Commission shall uphold, reverse or modify the decision of the Urban Forestry Board. All work shall be suspended during the pendency of any appeal.

§ 15-10-1 INTERFERENCE WITH URBAN FORESTER

No person shall hinder or obstruct the Urban Forester or any of his or her assistants while engaged in the performance of official duties.

§ 15-10-99 VIOLATION AND PENALTY.

(A) It shall be the policy of the City to first seek voluntary compliance with the provisions of this chapter by giving notice and an opportunity to comply in appropriate circumstances\_

(B) It shall be an offense to engage in or do an act prohibited by this chapter or to omit to perform an act required by this chapter.

(C) A violation of the provisions of this ordinance shall be punishable by fine. Upon conviction, persons shall be assessed a fine not to exceed one hundred (\$100) dollars. Each day a violation of this chapter continues constitutes a distinct and separate offense.

~~PART 2~~ 16-7-45 of the Code of the City of Austin, 1992, is repealed.

~~PART 3~~ requirements of Sections 2-2-3, 2-2-5 and 2-2-7, Code of the City of Austin, 1992, that ordinances be read on three (3) separate days and concerning the presentation and adoption of ordinances shall be hereby waived by the affirmative vote of at least five (5) members of the City Council.

~~PART 4~~ ordinance shall become effective upon the expiration of ten (10) days following the date of its final passage.

PASSED AND APPROVED:

March 28, 1996

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Bruce Todd  
Mayor

APPROVED:   
Andrew Martin  
City Attorney

ATTEST:   
James E. Aldridge  
City Clerk