



Chapter 14

Horticulture

(Tree Protection Ordinance)

- ❖ Cross reference— Animals, Ch. 5; buildings and building regulations, Ch. 6; garbage, trash and refuse, Ch. 13; parks and recreation, Ch. 20; streets and sidewalks, Ch. 23; waterways, Ch. 27; subdivision regulations, App. A.
 - ❖ State Law reference— Authority to acquire lands for forestry purposes, T.C.A. § 11-23-101.
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ARTICLE I. In General

Sections 14-1-25. Reserved.

ARTICLE II. Tree Protection

Section 14-26. Title of article.

This article may be known as the Tree Protection Ordinance of the City of Knoxville.
(Code 1962, § 22-1)

Section 14-27. Purpose and intent of article.

The purpose and intent of this article is to encourage the preservation and protection of trees within the city because of the unique benefits they provide the community in assisting the natural control of solar heat, soil conservation, flood control, air pollution and noise; in providing a haven for community wildlife; and in providing citizens with psychological relief from the increasing complexities of the manmade urban environment. It is not intended to be punitive nor to cause hardships on those individuals and concerns exercising reasonable care and diligence to protect trees.
(Code 1962, § 22-2)

Section 14-28. Definition.

For the purposes of this article, the word "tree" shall mean any woody plant which:

- (1) Has a trunk six (6) inches or more in diameter at one (1) foot above the ground; or
- (2) Is of a horticultural variety or is highly ornamental, such as a dogwood, redbud, crabapple, sourwood, flowering cherry or peach, southern magnolia, holly or any like or similar plant, and has a trunk diameter of three (3) inches or more at one (1) foot above the ground.

(Code 1962, § 22-3)

Cross reference— Definitions and rules of construction generally, § 1-2.

Section 14-29. Applicability of article.

- (a) This article shall apply to all real property within the city, including all commercial, industrial, business or multifamily and subdivision property, with the following exceptions:
 - (1) It shall not apply to any parcel of land used for a single-family dwelling or duplex.
 - (2) It shall not apply to the approaches (clear zones) to any airports located in the city limits, to the easements or rights-of-way of utility companies, or to federal, state or local governments.
 - (3) It shall not apply to containerized trees or nursery stock trees for resale in commercial nurseries or garden centers.
- (b) Trees being provided on the site in compliance with other regulations may be used for compliance with this article where minimum size and species standards are maintained.

(Code 1962, § 22-4)

Section 14-30. Waiver of requirements during emergencies.

In case of emergencies such as windstorms, ice storms or other disasters, the requirements of this article may be waived by the city horticulturist during emergency periods so as not to hamper private and public work to restore order in the city.
(Code 1962, § 22-9)

Section 14-31. Penalty for violation of article.

Any person violating any provisions of this article shall be punished as provided in section 1-9.
(Code 1962, § 22-10)

Section 14-32. Appeals.

Except as otherwise provided, appeals from decisions of the city horticulturist under this article shall be to the courts of record by petition setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be filed within sixty (60) days after the receipt of the city horticulturist's decision.

(Code 1962, § 22-11)

Section 14-33. Site plan.

- (a) Where no building permit or subdivision approval is required for activities regulated under this article, the developer shall submit a site plan to the city horticulturist. The plan shall generally locate groups of trees and the predominant species in those areas to be cleared of trees.
- (b) Where application for a building permit or preliminary subdivision plat is required by the city, a site plan locating trees to be retained or provided, and their species, shall be submitted with such application for review by the city horticulturist. Such plan shall be approved unless notice to the contrary is given within ten (10) working days of the application. In the event of disapproval, the reasons for such disapproval shall be reported in writing to the applicant.

(Code 1962, § 22-8)

Section 14-34. Destruction or removal of trees.

- (a) Clearing and grading work. Where a building permit or subdivision approval has not been issued, the destruction, within any five-year period, of more than twenty-five (25) percent of the trees on any one (1) parcel of nonexempt land, without the prior approval of the city horticulturist, shall be prohibited.
- (b) Land development and new construction. Where a building permit for new construction or subdivision approval is required, a minimum of six (6) trees per acre shall be retained on the site unless because of cut or fill work such trees cannot be saved.

(Code 1962, § 22-5(a), (b))

Section 14-35. Protection of trees of historical or botanical importance.

- (a) No living tree within the city with a trunk diameter of twenty (20) inches or more at one (1) foot above the ground which is located within one hundred fifty (150) feet of any building built in or before the year 1860 shall be cut or otherwise substantially altered by pruning, trimming or otherwise cutting more than twenty (20) percent of the woody area of such tree without first obtaining a permit from the city horticulturist.
- (b) Permits as noted in subsection (a) of this section shall be issued only upon a satisfactory showing that the tree in question is not of such historical or botanical importance that the public interest would be served through the preservation of such tree.
- (c) If the city horticulturist fails to issue a permit as provided in this section within thirty (30) days of the application for the permit, such permit shall be considered to be denied. Any person denied such permit may appeal the denial directly to council by filing notice of such appeal with the city recorder within fifteen (15) days of the denial, and the appeal shall be placed upon council's agenda for consideration at the next regularly scheduled council meeting. The council shall consider the matter de novo and may uphold denial of the permit, order the permit to be issued, or order a permit under such terms and conditions as council deems appropriate considering the totality of the circumstances.

(Code 1962, § 22-5(c))

Section 14-36. Planting of trees.

Where trees cannot be retained pursuant to this article, or do not exist on the site, they shall be provided, within twelve (12) months of construction completion, at the rate of eight (8) trees per acre, with at least one-half of the required number being species capable of attaining a height of fifty (50)

feet or more at maturity. Such trees shall have a minimum trunk diameter of two (2) inches at six (6) inches above ground at planting, unless of an ornamental variety, which shall have a minimum trunk diameter of one and one-fourth (1¼) inches at six (6) inches above ground at planting.

(Code 1962, § 22-6)

Section 14-37. Maintenance and replacement of trees.

All trees retained or provided to meet the requirements of this article shall be properly maintained to ensure their survival for a period of at least eighteen (18) months from the date of complete construction, final plat approval or planting. Any tree which fails to survive eighteen (18) months shall be replaced within twelve (12) months of loss.

(Code 1962, § 22-7)

Sections. 14-38—14-50. Reserved.

ARTICLE III. TREES ON PUBLIC PROPERTY

Section 14-51. Short title.

This article may be cited as the "trees on public property" ordinance.

(Ord. No. O-447-91, § 1, 10-29-91)

Section 14-52. Purpose and intent.

The purpose and intent of this article is to increase public safety while encouraging the conservation, protection, and management of trees on public property within the city because of the unique benefits they provide the community in assisting the natural control of solar heat, soil conservation, flood control, air pollution and noise; in providing a haven for community birds and wildlife; in providing citizens with relief from aesthetic degradation of the manmade environment and in helping increase the economic appeal of a community. In furtherance of this purpose, this article also creates a city tree board and establishes an urban forester to achieve the objectives of this article.

(Ord. No. O-447-91, § 2, 10-29-91; Ord. No. O-88-2014, § 1, 5-13-14)

Section 14-53. Definitions.

The following words shall have the meanings assigned to them wherever such words appear in this article:

American National Standards Institute (ANSI). These are generally accepted industry standards, and for this article arboriculture standards for tree care are defined in the current edition of American National Standards Institute ANSI A300 series and ANSI Z133.

Arbor Day Foundation Standards. Standards for becoming a Tree City USA, Tree Campus USA, or Tree Line USA.

Caliper. This is a size measurement for newly planted and nursery stock trees. This measurement is made at six (6) inches above grade.

City. The City of Knoxville, Tennessee

City of Knoxville Species List. List of approved tree species that can be planted within the City of Knoxville, Tennessee.

City property. All real property which is owned or leased by the city or which is maintained by it, or any part of any improved public right-of-way.

Critical root zone. The soil area below ground and the space above ground defined by measuring one (1) foot radius away from the trunk of the tree for every inch diameter at breast height (DBH).

Diameter at breast height (DBH). This is a diameter measurement for existing or established trees. This standard of measure is made at four and one-half (4.5) feet above the ground.

Property owner. The person owning property or the owner as shown by the county property assessor's records.

Public service department. The designated unit of the city under whose jurisdiction a public tree falls.

Public tree. All trees now and hereafter that have been planted or maintained by the city, and/or grow on any city property.

Right-of-way. That property located within and adjoining the alleys, streets, roads, highways, and public easements within the city for which the city has the right to improve or maintain.

Topping. The severe and/or indiscriminate cutting back of limbs or trunks within the canopy of a tree so as to remove the normal canopy and disfigure the tree. The practice of not pruning back to lateral branches.

Tree. For purposes of this article only, trees shall be considered to be plants woody in structure with an anticipated mature height of at least fifteen (15) feet.

Tree mitigation. The process of replacing trees and tree benefits that have been or will be lost through tree removal or pruning based on the species, size, health, and location of the tree.

Treelawn. An area of maintained property not covered by sidewalk or other paving, located between a public sidewalk and edge of pavement within the right-of-way that can grow vegetation.

Urban forester. The City of Knoxville Urban Forester or other designated official of the city, assigned to carry out the enforcement of this article.

Urban forestry division. A proactive program for managing trees within the public service department as a public resource.

(Ord. No. O-447-91, § 3, 10-29-91; Ord. No. O-88-2014, § 2, 5-13-14)

Section 14-54. Severability.

Should any part or provision of this article be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the article as a whole or any part thereof other than the part held to be invalid.

(Ord. No. O-88-2014, § 3, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 3, adopted May 13, 2014, amended the Code by repealing former § 14-54, and adding a new § 14-54. Former § 14-54 pertained to creation and duties of the tree board, and derived from Ord. No. O-447-91, adopted October 29, 1991; and Ord. No. O-423-03, adopted November 25, 2003. Similar provisions can be found in § 14-55.

Section 14-55. Creation and duties of the tree board.

- (a) There is hereby created and established a city tree board to be known and designated as the "Knoxville Tree Board." The city tree board shall consist of eleven (11) members, seven (7) of which must be citizens and residents of the city. The four (4) remaining members may reside outside the city, but within the county. All members are to be nominated by the mayor and approved by city council. At least five (5) of the members shall be professionals, including a landscape architect, a horticulturist or forester, and an educator. One (1) member shall be a representative of Knoxville Utilities Board. The members should include broad representation from community groups, neighborhood associations, environmental groups, builders, developers, and other civic organizations. The urban forester, a representative from the city engineering department, and a representative from the metropolitan planning commission shall attend meetings of the board and shall render information and advice to the board members; however, they shall have no vote in the processes thereof. Persons appointed to the board shall serve a term of four (4) years or until their successors are duly nominated and approved, with three (3) terms expiring each year. Vacancies caused by death, resignation, or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made. The members shall serve without pay.
- (b) The duties of the city tree board shall be as follows:

- (1) To study the problems and determine the needs of the city in connection with its urban forestry program in order to maintain Tree City USA status through the Arbor Day Foundation and to report from time to time to the governing body of the city as to desirable legislation concerning the urban forestry program and related activities for the city. The city tree board shall recommend for approval by the city council such rules and regulations as the board shall deem advisable and necessary in order to perform its duties as set forth herein.
- (2) To assist the properly constituted officials, as well as city council and the citizens of the city, in the dissemination of news and information regarding the selection, planting, establishment, protection, and maintenance of trees within the corporate limits of the city and to make recommendations from time to time to the city council relative to desirable legislation concerning the tree program and tree related activities on city property.
- (3) To provide regular and special meetings at which the subject of trees, insofar as it relates to the city, may be discussed by members of the tree board and, when requested by the tree board, officers and personnel of the city, and all other persons interested in the tree program. The board shall also adopt procedures as it may deem necessary for holding and conducting its regular and special meetings.

(Ord. No. O-88-2014, § 4, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 4, adopted May 13, 2014, amended the Code by repealing former § 14-55, and adding a new § 14-55. Former § 14-55 pertained to the appropriate species list, and derived from Ord. No. O-447-91, adopted October 29, 1991. Similar provisions can be found in § 14-57.

Section 14-56. Establishment of the position of urban forester.

- (a) An urban forester shall be employed by the governing body of the city after a competitive examination and interview given by the public service department. He or she shall be a person skilled and trained in the arts and sciences of municipal arboriculture, and shall hold a college degree in urban forestry, arboriculture, ornamental or landscape horticulture, or other closely related field and is charged with overseeing the urban forestry division. He or she shall have had at least five (5) years' experience in municipal urban forestry work or its equivalent. He or she shall be a certified arborist through the International Society of Arboriculture prior to employment. The office of the urban forester shall be an administrative unit of the public service department. Should the office of urban forester be vacant, the authority of that office shall be transferred to the director of public service or other designated official until such time as the urban forester position is filled.
- (b) The urban forester shall receive a salary to commensurate with his or her training and experience as full compensation for all services rendered and in lieu of all fees.
- (c) The duties of the urban forester shall be as follows:
 - (1) The urban forester shall have the authority and jurisdiction of regulating the planting, maintenance, protection, and removal of public trees to insure safety and preserve and enhance the aesthetics of city property. The urban forester shall promulgate the rules and regulations of the urban forestry program and this chapter and work with the tree board on education of proper arboriculture practices for both public and private trees. He or she shall cause the provisions of this chapter to be enforced. All city departments shall coordinate with the urban forester on projects concerning the planting, maintenance, protection and removal of public trees.
 - (2) The urban forester shall have the authority to approve or deny permits for planting, maintenance, and/or removal of public trees. It shall also be his or her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this article.
 - (3) The urban forester shall have the authority to formulate and amend the urban forestry management plan(s) as needed, perform and maintain a tree inventory, and create other

relevant documents for the urban forestry program with the advice and assistance of the tree board.

- (4) The urban forester shall be a municipal enforcement officer, as set forth in chapter 2 of the Knoxville City Code.

(Ord. No. O-88-2014, § 5, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 5, adopted May 13, 2014, amended the Code by repealing former § 14-56, and adding a new § 14-56. Former § 14-56 pertained to the spacing and location of trees on municipal property, and derived from Ord. No. O-447-91, adopted October 29, 1991. Similar provisions can be found in § 14-59.

Section 14-57. Appropriate species list.

The urban forester shall formulate a species list of trees acceptable for planting on all city property. That list shall consist of small trees under thirty (30) feet tall, medium trees thirty (30) to fifty (50) feet tall, and large trees over fifty (50) feet in height. No species other than those included in this list may be planted on city property without application to and written permission received from the urban forester. That species list shall be made available for reference and be called the "City of Knoxville Species List."

(Ord. No. O-88-2014, § 6, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 6, adopted May 13, 2014, amended the Code by repealing former § 14-57, and adding a new § 14-57. Former § 14-57 pertained to municipal tree care, and derived from Ord. No. O-447-91, adopted October 29, 1991. Similar provisions can be found in § 14-61.

Section 14-58. Jurisdiction.

The city shall have the right to plant, care for, maintain, remove, and replace all public trees, shrubs and other plantings as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public property or within the right-of-way.

(Ord. No. O-88-2014, § 7, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 7, adopted May 13, 2014, amended the Code by repealing former § 14-58, and adding a new § 14-58. Former § 14-58 pertained to emergencies, and derived from Ord. No. O-447-91, adopted October 29, 1991. Similar provisions can be found in § 14-63.

Section 14-59. Obstruction, spacing, and location of trees.

- (a) It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune or plant trees in such manner that they will not obstruct or shade street lights, will not obstruct the passage of pedestrians on sidewalks, will not obstruct vision of traffic signs, will not obstruct the view of any street or alley intersection, will not obstruct a public sidewalk, will not interfere with utility equipment and/or facilities or their safety clearances, or otherwise endanger the public. Property owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The minimum clearance of any overhanging portion thereof should be eight (8) feet over sidewalks, and twelve (12) feet over all streets and vehicular use areas except truck thoroughfares which shall have a minimum clearance of fourteen (14) feet.
- (b) No trees shall be planted closer than ten (10) feet to any fire equipment including water meters, fire hydrants, and post indicator valves. No tree shall be planted within thirty (30) feet of a street intersection. Public tree planting that will affect utility operations or maintenance of their safety clearances shall be approved by the affected utility owner. A treelawn should be at least four (4) feet in width to plant a medium tree, and at least five (5) feet in width to plant a large tree.

- (c) The urban forester shall determine where such restrictions may be relaxed or modified based on site-specific, physical, and biological factors.

(Ord. No. O-88-2014, § 8, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 8, adopted May 13, 2014, amended the Code by repealing former § 14-59, and adding a new § 14-59. Former § 14-59 pertained to exemptions, and derived from Ord. No. O-447-91, adopted October 29, 1991.

Section 14-60. Topping and removal of trees.

It shall be unlawful for any person, or city employee or contractor to remove any tree on city property without written approval by the urban forester. Topping of trees located on city property or within the right-of-way is prohibited. Trees severely damaged by storms or other causes, or certain trees causing obstructions where other pruning practices are impractical are exempted from this provision.

(Ord. No. O-88-2014, § 9, 5-13-14)

- ❖ Editor's note— Ord. No. O-88-2014, § 9, adopted May 13, 2014, amended the Code by repealing former § 14-60, and adding a new § 14-60. Former § 14-60 pertained to penalties, and derived from Ord. No. O-447-91, adopted October 29, 1991. Similar provisions may be found in § 14-64.

Section 14-61. Municipal tree care.

- (a) It shall be unlawful, without authorization from the urban forester or the director of the public service department, to plant, spray, fertilize, prune, top, or remove any tree on city property. Attachment of any foreign materials such as ropes, wire, nails, posters or any other contrivance to any public tree is prohibited. Requirements for species, spacing, location, and maintenance should be made available to the public at the application filing place which may include an online application process. Maintenance of trees threatening public health, safety, or welfare, structures or underground or overhead utilities may be exempted from this provision through a general permit issued by the urban forester.
- (b) Any pruning, planting, or other tree maintenance practices on a public tree shall conform to the current edition of American National Standards Institute ANSI A300 and ANSI Z133.
- (c) Mulch or soil shall not be placed within the critical root zone of a tree on city property or within the right-of-way in a manner that is harmful to a tree. Mulch and soil shall not touch the trunk of the tree. Mulch shall not be greater than three (3) inches in depth.
- (d) The critical root zone of a public tree shall not be disturbed without obtaining a written permit from the urban forester. The written permit shall state what best management practices must be in place before work within, near, or adjacent to the critical root zone commences, and what best management practices must be in place throughout the duration of the project. Disruption of roots includes the grading, removal, or grubbing of soil; any excavating or trenching of soil; the use of equipment and vehicles within the critical root zone; and any depositing of material such as stone, brick, sand, or concrete within the critical root zone. Upon good cause shown, the urban forester may alter or waive the foregoing requirements at his/her discretion. Construction, operations and maintenance in compliance with Arbor Day Foundation or ANSI standards, unless no practical alternative exists, may be approved under an annual general permit issued by the urban forester.
- (e) A person, firm, or contractor receiving a permit must abide by any standards and practices adopted by the urban forester and by other reasonable conditions imposed in the permit by the urban forester. Permits are on file at the city public service department.
- (f) Applications for permits are on file at the city public service department. The permit must be approved and signed by the urban forester not less than seventy-two (72) hours in advance of the time the work is to be done and the urban forester shall have forty-eight (48) hours to review all applications. Any permit filed will have a definite date of expiration and work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

- (g) Unless stated otherwise in the permit, notice of completion shall be given within five (5) days to the urban forester for his or her inspection. The urban forester will inspect work based on conditions imposed in the permit and this article. Inadequate or improper work completed with a permit is subject to the section 14-64, if not remediated within fourteen (14) days of notification from the urban forester.

(Ord. No. O-88-2014, § 10, 5-13-14)

Section 14-62. Tree mitigation.

- (a) As determined by the urban forester, healthy public trees removed or with more than twenty-five (25) percent of the critical root zone or tree canopy disrupted or injured during construction, development, or road expansion shall require tree mitigation. The person or firm responsible for such work shall be required to mitigate for loss of tree benefits by replacing removed, disrupted or injured trees with 2-inch caliper replacement trees. The total caliper inches of replacement trees should equal or be greater than the DBH of the tree removed, disrupted, or injured. Upon good cause shown, the urban forester may alter or waive the foregoing requirements at his/her discretion. This requirement shall not apply to construction, operations, and maintenance in compliance with Arbor Day Foundation or ANSI standards where an annual general permit has been issued by the urban forester.
- (b) All replacement trees must meet the latest version of American Standard for Nursery Stock ANSI Z60 and be planted according to the latest version of American National Standard ANSI A300 planting and transplanting best management practices. Urban forester shall be given five (5) days notice when planting is complete, and may inspect planted trees and refuse any stock or plantings that do not meet requirements. All planting shall be completed between November and March of each year. Inadequate or improper planting is subject to the "penalty" section of this article if not remediated within fourteen (14) days of notification from the urban forester.
- (c) The urban forester shall determine type of trees and locations for mitigation planting.

(Ord. No. O-88-2014, § 11, 5-13-14)

Section 14-63. Emergencies.

In case of emergency such as windstorm, ice storm, natural disaster or such other events that jeopardize public safety, the requirements of this article may be waived by the urban forester pursuant to rules and regulations issued hereunder so as not to hamper private and public work to abate the emergency conditions within the city.

(Ord. No. O-88-2014, § 12, 5-13-14)

Section 14-64. Penalty.

- (a) Any violation of this article shall be punished as set forth in section 1-9 of the Knoxville City Code. Each subsequent day that any violation continues unabated shall constitute a separate offense. In addition, any person found to be in violation of this article shall be responsible for any incurred maintenance and actual cost by the city for mitigating any violations.
- (b) In addition to other violations, any person found to be in violation of this article through the action of damaging, removing, or topping a tree either willfully or accidentally, or significantly disturbing the critical root zone of a tree on public property beyond repair shall be responsible for the reimbursement to the city for the value of the tree described in the latest edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers.

(Ord. No. O-88-2014, § 13, 5-13-14)