

Developing Successful Tree Ordinances



Communities use tree ordinances as tools to protect trees, preserve green space, and promote healthy, managed urban forests. To protect trees and prevent their loss in the urban environment, communities need to understand tree ordinances and their limitations and proper implementation.

Tree ordinances establish official policies for how a community wants to maintain and protect its trees. They set standards for selection, planting, maintaining, and conserving community trees. Ordinances seek to establish a legal means of protecting the public interest.

Where Tree Ordinances Work Best

Properly applied ordinances prescribe community tree management to maximize the benefits of trees. Different kinds of ordinances can be used to conserve urban forests near streets, in parks, around public and commercial buildings, and in neighborhoods.

Examples of Tree-Protection Regulations

Street Tree Ordinance: Contains provisions regarding planting, maintenance, and removal of trees within the rights-of-way. A street tree ordinance may contain provisions for dealing with private trees when they impact public interest or pose a public hazard.

Tree-Protection Ordinance: Protects or conserves desirable trees, tree canopy, or trees with historic and cultural significance on public and private property. Some tree-protection ordinances require a permit before protected trees can be removed, encroached upon, or pruned.

Landscape Ordinance: Establishes required landscaping provisions, such as number, placement, and types of suitable plants or trees. May require trees or other landscaping in parking lots or buffer yards.

Buffer Ordinance: Protects amenities (views) of adjacent property owners in commercial and residential developments, and protects water quality in streams and other water bodies. Establishes specifications for acceptable noise, visual, and riparian buffers.

Tree-protection regulations typically do not stand alone, with the exception of street tree ordinances, but are often incorporated within other ordinances.

Fostering Community Support

Fostering community support is absolutely critical to ensure ordinance effectiveness. The community needs to be centrally involved in the ordinance process, from development and implementation to the evaluation of its effectiveness. Successful tree ordinances rely upon citizen support.

Before drafting an ordinance, develop a working relationship with interested civic groups. Examples include:

- a tree board or tree commission
- community clubs, such as garden, women's, and Rotary clubs
- the local chapter of Keep America Beautiful
- environmental groups, such as the Sierra Club
- heritage or preservation societies and associations
- neighborhood associations
- homeowner associations

Why protect and enhance your community forest?

A tree ordinance can help protect and enhance the benefits of your community forests by establishing a permanent and official tree-protection policy. Ordinances establish municipal authority over public trees; set standards for tree planting, maintenance, and management; outline enforcement, fees, and fines; and define nuisance conditions on private trees.

Environmental, social, and economic benefits flow from a healthy, well-managed community forest. Healthy community forests:

- reduce air and noise pollution;*
- save energy by shading and cooling;*
- provide habitat for fish and wildlife;*
- enhance aesthetics of a property; and*
- contribute to community image, pride, and quality of life.*

Balancing Community Interests and Values

A well-crafted tree ordinance can help keep water and air clean, provide wildlife with food and cover, improve the appearance and livability of neighborhoods, enhance property values, and spur economic growth. Achieving multiple goals requires balancing the often-competing interests of environmental protection and economic development. Balance can be achieved by working collaboratively with all stakeholders to create an ordinance that is acceptable and workable. A balanced ordinance is one that:

- is created through a process that involves all interested groups,
- is based on the best available data and information that is deemed relevant by all stakeholders,
- satisfies the interests and values of multiple stakeholders through creative management strategies, and
- spreads the benefits and costs of tree protection fairly among community members.

How Community Members Get Involved

Join a tree board or tree commission.	Attending meetings allows a dialogue regarding the status and needs of the tree ordinance.
Contact your planning board.	Ordinances are often reviewed by planning and zoning commissions and are then recommended to city or county commissioners. Discussions with the planning commission can facilitate ordinance implementation.
Establish dialogue with commercial developers.	Implementation of an ordinance requires the input and support of commercial developers (e.g., home builders, realtors, and general contractors). Early dialogue is most beneficial.
Contact city and county officials.	Ordinances are more effective if appropriate city and county officials are involved in the process. These may include city council members, mayors, city and county managers, county commissioners, and city or county arborists.

If a tree ordinance already exists in your community:

- Determine community satisfaction and dissatisfaction with the current ordinance.
- Determine if the stated purpose and goals of the ordinance are consistent with community standards.
- Determine if the management strategy is working for the community. Is progress being made and are standards in the current ordinance being met?
- Compare development in your community to the provisions in your existing tree ordinance. Is the ordinance accomplishing its goal and stated purpose?
- Identify characteristics or issues specific to your community, such as unique species or areas of special interest.
- Modify the ordinance to address any new concerns.

If a tree ordinance does not exist in your community:

- Determine community interest and sentiment regarding a new ordinance.
- Survey your community and assess the quality of natural resource conservation.
- Develop a management strategy for natural resource conservation.
- Identify characteristics or issues specific to your community (unique species or areas of special interest) related to natural resource conservation.

- Determine if your community needs special authorization from the state government to create a tree-protection ordinance.

A Successful Framework

The framework of a successful tree ordinance incorporates several key components.

Goals and Purpose

A tree-protection ordinance should begin with a clearly stated goal and purpose, because these elements provide the basis for interpreting the ordinance and evaluating its effectiveness. To achieve tree protection, establish well-defined objectives and decide on enforcement mechanisms for your ordinance. Your goals might include:

- establishing and maintaining maximum tree cover,
- maintaining trees in a healthy condition through good cultural practices, and
- selecting, situating, and maintaining street trees appropriately to maximize public benefits and minimize hazards, nuisances, hardscape damage, and maintenance costs.

Location and Scope

The ordinance should specify the geographic locations and types of development that will be covered under its provisions. Some ordinances are limited to placement and protection of trees in street rights-of-way and parking lots. Other ordinances may seek to preserve trees in new residential developments. Some municipal ordinances may affect properties only within municipal boundaries, while others may pertain to development within the extraterritorial planning jurisdiction (ETJ).

Developing a tree ordinance takes time. It may take months or even years to accomplish. To be successful, you will need community support and a patient, thorough approach. A tree ordinance is one of the few ways that members of your community can have input regarding development standards. The ordinance should reflect the goals of the community.

Be prepared to add new members to your group throughout the process!

Working groups or ordinance boards depend upon public awareness. Use media and face-to-face contacts to ensure community buy-in, support, and involvement. Work to develop public interest and educate citizens on the value of community trees.

Management Strategy

Your community's unique environmental, social, and economic assets will require a tree-management strategy suited to your circumstances. Because a tree ordinance facilitates resource management, it must be part of a community's larger, comprehensive, natural resource-management strategy. You must survey your current situation. Remember that one size does not fit all—one ordinance will not satisfy every community. Review ordinances from other communities when planning your own. A review of ordinances from comparable communities can help establish precedence for specific items. However, it is important to have a management strategy suited to your community.

Basic Performance Standards

Most ordinances are based on a set of tree-protection standards that developers, landowners, business owners, and others must meet. Standards can include requirements for locating, planting, and maintaining street trees; methods for protecting trees during construction; and minimum tree coverage that must be maintained in a new development. A tree ordinance should identify acceptable conditions and practices. A successful tree ordinance sets achievable performance standards. Effective performance standards protect the whole urban forest as opposed to individual trees. Well-crafted ordinance standards are easily understandable and flexible.

Administrative Responsibilities

Determine and establish administrative responsibility before you begin writing an ordinance. Your community may allocate responsibilities to one individual (perhaps a tree program manager) or among multiple individuals and departments. Designate administrative responsibilities:

- Identify positions responsible for implementing ordinance provisions.
- Assign responsibilities to specific positions and people (e.g., an urban forester or city arborist).
- Confirm the authority necessary to carry out specified duties.

Centralized tree management under a tree manager, other municipal departments, or a citizen tree advisory board may share complementary responsibilities. Communication is essential to avoid overlapping responsibilities, which will depend on the requirements of your community's tree ordinance. Management of the community's urban forest will suffer if duties are poorly defined or in conflict with existing responsibilities.

Enforcement and Penalties

Communities ensure compliance with their tree ordinance through enforcement and penalties. Consistent enforcement is the most successful method of ensuring compliance. Key elements of enforcement include:

- review of site-development plans,
- review of tree-protection plans, and
- on-site inspections.

Plans submitted by developers must be verified in the field to assure compliance with the tree ordinance. The ordinance should identify:

- the position responsible for enforcement (often an urban forester, a city arborist, or an inspector in the inspections department);
- any items that constitute a violation and the penalties associated with violations; and
- mechanisms for handling an offense, including appeals.

Components of a Tree Ordinance

There are many types of ordinance formats to choose from, depending on your community's needs. Select a format that accomplishes your vision as simply as possible. Your ordinance may contain the following sections:

Title – Briefly describes the ordinance.

Authority – Establishes the community's authority to adopt the ordinance. To create tree-protection regulations, local governments may require legal authorization from the state government through enabling legislation. Legislation is unnecessary if the ordinance is developed and enforced in accordance with an existing planning and zoning authority, or if the town or city authorized the

ordinance within its charter. Street-tree ordinances are usually enacted without enabling legislation.

Justification and Vision – Explains the community’s reasoning behind adopting the ordinance. This section includes a community’s vision, its tree and natural resource aspirations, and a statement of the community’s willingness to develop a structure to preserve, conserve, and move toward that vision.

Purpose and Intent – Defines reasons the ordinance exists. A strong purpose-and-intent section determines future enforceability. This section sets forth the goals to be achieved through the ordinance.

Definitions – Lists and describes key terms used in the ordinance. Many communities find it is necessary to define such terms as “tree,” “drip line,” “critical root zone,” “specimen tree,” and many others. For complex terms and concepts, illustrations are often helpful.

Administrative Responsibilities – Defines responsibility for enforcement, review of tree-protection plans, and interpretation of definitions. This section details the qualifications of the city or community arborist and assigns the duty of developing arboricultural standards relative to tree care, protection, and construction impacts. It also gives administrative guidelines for ordinance compliance.

Tree Board Establishment – Gives private citizens the authority to review and propose revisions to the tree ordinance; provides community education related to tree conservation; plans Arbor Day activities; and provides public forums for citizens concerned about community trees.

Applicability – Sets forth the authority of the local government over certain classes of trees and vegetation as defined in the ordinance. Communities may claim jurisdiction over trees on public and/or private property, requiring local government agencies and private citizens to follow the ordinance.

Provisions for Trees and Vegetation on Public and/or Private Land – Establishes performance standards for tree planting and maintenance, and for activities that impact trees on public and/or private land. Permitting procedures; restrictions on development activities; standards for tree protection during construction; and tree removal, replanting, and mitigation would be included in this section. Requirements to file tree plans for assessment, protection, landscape, replanting, or other plans are also contained here.

Penalties and Appeals – An ordinance is only useful if its provisions can be enforced. This section establishes penalties for violations, variance procedures, administrative and economic penalties, and mechanisms for administrative appeals.

Repeal Conflicting Provisions – Sometimes called “conflicts and severability,” this section repeals conflicts with previous tree ordinances or other regulations such as zoning ordinances. It keeps the ordinance intact if any section of the ordinance is “severed” because of a constitutional or court ruling.

Performance Evaluation – Provides for periodic performance evaluation of the ordinance. The provision should include a mechanism for revision of the ordinance if the goals are not achieved.

Effective Date – States when the tree ordinance becomes effective.

Writing a Tree Ordinance

Before writing a draft ordinance, establish a working group of stakeholders who represent the diversity of the community and who will work together to draft the ordinance. Stakeholders should begin the process by defining their interest in and goals for shaping the ordinance. Based on these interests and goals, the group will craft a collective vision for the community of what the ordinance should achieve.

Once the vision is crafted, develop specific objectives to help the community achieve this vision. To assure

objectives are achieved, stakeholders should brainstorm a multitude of methods, practices, standards, and procedures, negotiating among the parties to find management strategies that are workable and balanced. Then, convert these management strategies to performance standards and develop a draft ordinance.

When the draft ordinance is complete, solicit public comments and forward copies to the community council, commission, and/or administrators. Be prepared for questions. Allow time to hear as many public comments as needed. Record public comments and review them with stakeholders and public officials.

Ordinance Standards and Flexibility

Basic performance standards should be flexible. The goal is to develop basic standards that avoid vagueness or excessive technical details. A vaguely written standard that uses phrases such as “minimal disturbance” or “reasonably feasible” without further defining their meaning may not be enforceable or survive a legal challenge. If technical detail is needed, it may be better to write a basic performance standard that refers to a technical manual, such as ANSI A300 Standards for Tree Care Operations; Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices (from the Tree Care Industry Association; <http://www.tcia.org/>), than to write an excessively detailed standard within the ordinance. Referring to a technical manual that is changed and updated on a regular basis will help prevent the ordinance from becoming outdated.

Flexibility can be achieved by allowing the city arborist or urban forester to make decisions on a case-by-case basis. These decisions could be based on site-specific physical and biological factors. Including and ensuring a fair appeal process will help ensure the ordinance is flexible. The appeal process provides a check against the authority of the program administration, helping to ensure that decisions are based on all pertinent information.

Evaluating and Revising the Ordinance

Evaluating the effectiveness of an ordinance after it has been adopted helps to ensure that the community is achieving the desired outcome. Formal reviews rely on statistical sampling methods and data collection and analysis. Formal reviews usually result in reports. Informal

reviews can rely on staff or expert observations, or upon citizen feedback, and result in annual presentations of ordinance effectiveness. Include a provision in the ordinance that allows for periodic evaluations, ensuring that the ordinance is effective and up-to-date. Regular evaluations can identify needed revisions before a crisis develops.

Resources and Assistance

The following sources of assistance and resources may be useful when planning to develop or improve a tree ordinance for your community:

Contacts

Mississippi Forestry Commission
Urban and Community Forestry Program
<http://www.mfc.ms.gov/urban-community-forestry>

Mississippi State University Extension
Urban and Community Forestry Extension
<http://extension.msstate.edu>
(662) 325-8851

Publications

- Abbey, B. 1998. U.S. Landscape Ordinances: An Annotated Reference Handbook. New York, NY: John Wiley and Sons, Inc.
- Duerksen, C. J., and Richman, S. 1993. Tree Conservation Ordinances: Land-Use Regulations Go Green. Planning Advisory Service Report Number 446. Chicago, IL: American Planning Association.
- Fazio, J. R. 1995. Writing a Municipal Tree Ordinance. Tree City USA Bulletin Number 9. Nebraska City, NE: National Arbor Foundation.
- Fazio, J. R. 1997. Tree Protection Ordinances. Tree City USA Bulletin Number 31. Nebraska City, NE: National Arbor Foundation.
- Grado, S. C., Strong, S. S., Measells, M. K. 2008. Mississippi Urban and Community Forestry Management Manual, 2nd Ed. Forest and Wildlife Research Center, Publication FO 375, Mississippi State University. 218 pp.
- Swiecki, T. J., and Bernhardt, E. A. 2001. Guidelines for Developing and Evaluating Tree Ordinances. Available at <http://www.isa-arbor.com/publications/ordinance.aspx>.

Sample Ordinances

To review ordinances from communities in Mississippi:

<http://www.municode.com/>

Sample ordinances exist for Gulfport, Ocean Springs, Starkville, Oxford, and others.

Technical Standards

For the latest accepted standards related to planting stock and tree care, obtain copies of the following publications:

American Standards for Nursery Stock, American Nursery and Landscape Association. Available at: <http://americanhort.org>

ANSI A300 Standards for Tree Care Operations; Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices. Tree Care Industry Association. Available at: https://www.tcia.org/TCIA/BUSINESS/ANSI_A300_Standards_/TCIA/BUSINESS/A300_Standards/A300_Standards.aspx?hkey=202ff566-4364-4686-b7c1-2a365af59669.

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