

**ORDINANCE NO. 14217**

**AN ORDINANCE AMENDING CHATTANOOGA CITY CODE,  
PART II, CHAPTER 32, ARTICLE XIII, CHATTANOOGA TREE  
ORDINANCE.**

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,  
TENNESSEE:**

**SECTION 1.** That Chattanooga City Code, Part II, Chapter 32, Article XIII, be amended  
by deleting same in its entirety and substituting in lieu thereof the following:

**ARTICLE XIII. CHATTANOOGA TREE ORDINANCE**  
***DIVISION 1. GENERAL***

**Sec. 32-300. Title.**

This article shall be known and may be cited as the Chattanooga Tree Ordinance.

**Sec. 32-301. Purpose.**

The purpose of this ordinance is to encourage the planting, preservation, and proper care of trees and tree canopy within the City of Chattanooga because of the unique social, economic and environmental benefits they provide the community such as assisting the natural control of solar heat, improving water quality, soil conservation, stormwater control and flood resiliency, air pollution and noise abatement, providing a haven for community wildlife and in providing residents relief from the increasing complexities of the man-made urban environment. Urban trees are a fragile public resource and may be damaged or destroyed through malicious, careless, or even well-intentioned actions. This public resource may best be improved and protected by a program of comprehensive management and regulation of planting, maintenance, and removal, administered by an office within municipal government. This program shall be known as the "Urban Forestry Program," and shall be housed in the Department of Public Works.

**Sec. 32-302. Definitions.**

For the purpose of this Article the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

*Caliper* — trunk diameter measurement for nursery stock, made at six (6) inches above grade.

*City* — the City of Chattanooga, Tennessee.

*City Forester* — the City Forester or other qualified designated official of the City of Chattanooga, assigned to carry out the enforcement of this Article.

*City Property* — all real property which is owned or leased by the City or which is maintained by it, or any part of any public right-of-way.

*Critical Root Zone (CRZ)* — area around a tree defined by a radius extending from the trunk of the tree a distance twelve times the tree's DBH. This equates to one foot of CRZ radius for every inch of DBH.

*Dead, Diseased, or Hazardous (DDH)* — describes a tree that is dead, or diseased or injured to the extent that death is imminent within two years, as determined by the City Forester, or is in imminent danger of falling, or is so close to existing or proposed buildings so as to endanger them, or physically interferes with utility services in a manner that cannot be corrected by anything less than destruction or removal of the tree, or creates unsafe vehicular visual clearance, or is otherwise deemed a hazard by the City Forester or designee.

*Diameter at Breast Height (DBH)* — diameter measurement for existing trees, made at four and one-half (4.5) feet above the ground.

*Landscape tree* — A tree within a regularly maintained area, including turf, mulched beds, landscaped beds, or other maintained plantings.

*Limits of Disturbance (LOD)* — Boundary on all construction and development plan submissions including Civil and Landscape plans delineating the full extent of soil disturbance and associated construction activities, including areas of grading, storage, temporary construction parking, and equipment travel. The boundary shall be shown graphically as a thick dashed line and labeled.

*Notable tree* — Any tree meeting criteria for size and community significance as outlined in section 32-317(b), and which has been nominated to and accepted by the Tree Commission as such.

*Offset Payment* — fee assessed for Private Property Trees when fewer total caliper inches are provisioned than required. Payment is calculated using the Tree Replacement Fee

*On-Site Trees* — Trees required by the Landscape Ordinance to be planted on private property adjoining the City of Chattanooga public right-of-way.

*Park* — shall include all public parks having individual names.

*Planting Plan* — a scaled drawing depicting all plant materials, specifications, and any other information required by the City Forester for the evaluation of permit applications.

*Plant Material Standards* — generally accepted standards for plant material size and condition as defined in the current edition of the American Standard for Nursery Stock (ANSI Z60.1).

*Prohibited Tree* - Any tree listed on the Tennessee Invasive Plant Council's Invasive Plants of Tennessee list.

*Property Owner* — shall mean the person owning property as shown by the Hamilton County Assessor of Property and/or the Hamilton County Register of Deeds.

*Protected Tree* — A tree which may not be removed or disturbed without a permit. This category includes most Public Property Trees as specified in this Article, and Notable Trees on private property.

*Pruning Standards* — generally accepted standards for pruning as defined in the current edition of American National Standards Institute ANSI A-300 and the current ISA Companion booklet: Best Management Practices — Tree Pruning.

*Public Property Tree* — shall include any tree now or hereafter growing on any City street, park, or other City-owned property. This definition includes Street Trees, Landscape Trees, and trees in Wooded Areas growing on City property.

*Private Property Tree* — shall include any proposed or existing trees now or hereafter growing on private property used to meet any City of Chattanooga Landscape or Zoning ordinance or condition.

*Recompense Payment* — fee assessed for permitted removal of or significant disturbance to Public Property Trees, as specified in this Article. Payment is calculated using the Tree Replacement Fee

*Right-of-way* — land lying between property lines on either side of streets, avenues, or ways within the City.

*Right-of-way trees* — trees, shrubs, and all other woody vegetation growing with a City right of-way.

*Streetscape* — City of Chattanooga public right-of-way infrastructure, which may include trees, pedestrian lighting, sidewalks, crosswalks, ADA ramps, and/or curb and gutter. The Department of Public Works may require streetscapes to be improved by adjoining property owners as a condition of redevelopment.

*Street Trees* — trees growing between the sidewalk and curb, either in a tree well, verge, or planter, or in a tree well surrounded by a sidewalk on three sides.

*Structural Root Zone* — area within the Critical Root Zone defined by a radius extending from the trunk of the tree a distance three times the tree's DBH.

*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.

*Timber Harvesting Plan* — A plan submitted to the City that provides information on landowner, timber owner, timber operator, specific management practices and objectives, reforestation techniques, and other supporting information needed to demonstrate that a timber harvest operation will follow best management practices as set forth by the Tennessee Department of Agriculture, Division of Forestry.

*Tree* — for purposes of this article only, trees shall be considered to be self-supporting plants of woody structure with an anticipated mature height of at least sixteen (16) feet.

*Tree Bank* — account maintained by the Public Works Land Development Office to collect all Tree Ordinance related fees and fines, to be used for tree planting, maintenance, and other urban forestry-related expenses.

*Tree Canopy* – the layer of leaves, branches, and stems of trees that cover the ground when viewed from above. Tree Canopy may be estimated from recent orthophotography and determined most accurately from the City of Chattanooga's most recent Tree Canopy Assessment.

*Tree Canopy Assessment* – GIS measurement of tree canopy within the City of Chattanooga developed from algorithmic classification of satellite imagery, orthophotography, lidar, or a combination of these data sources.

*Tree Canopy Line* – the outer edge of Tree Canopy as viewed from above using remotely sensed data, or on the ground looking up, and accurately represented on a Tree Survey.

*Tree Replacement Fee* — fee set by City Council as a specific cost per inch of trunk diameter, approximating the Urban Forestry Program's average costs for tree planting and establishment. See fee table in [31-322].

*Tree Protection Fencing* — Fencing constructed around the Critical Root Zone of a tree, or the edge of a tree well, during construction, intended to protect the tree from trunk wounds and soil compaction.

*Tree Protection Best Management Practices (BMPs) for Contractors and Builders Technical Guide (City of Chattanooga)* — a published reference for tree protection, care, and maintenance during construction.

*Tree Survey* — A scaled plan accurately locating trees and other requirements as specified in this Article, part of development plan submissions.

*Tree Well* — Sidewalk cutout for street tree planting, with hardscape on at least three sides. Synonymous with: Tree pit, cutout.

*Tree Work* — The act of planting, pruning, trimming, fertilizing, treating, removing, or any other action upon or affecting a tree.

*Urban Forestry Program* — a proactive program for managing trees within the City as a public resource, made up of City Forester, professional staff, supervisory staff, and skilled workers.

*Verge* — that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. Synonymous with: Treelawn, planting, strip, utility strip.

Wooded – describes land covered by a thick growth of trees at least sixteen (16) feet tall and an unmaintained natural ground layer.

### **Sec. 32-303. Establishment of a Tree Commission.**

- (a) There shall be created a commission to be known and designated as the "Chattanooga Tree Commission" composed of nine (9) persons, who shall be residents of the City of Chattanooga or of Hamilton County. Said members shall be appointed by the mayor with approval a majority of the City Council and shall have at least five (5) members who are professionally trained in related fields as an Arborist, Landscape Architect, Biologist, Realtor/Developer/Home Builder or General Contractor, and an Engineer/Architect/Surveyor. The City Forester, and other professionals designated by the City Forester shall serve as advisors to the Commission. All members of the Commission shall serve without pay. The members shall be appointed for a term of four (4) years and serve until their successors are duly appointed and approved by the City Council. Successors to those members appointed by the Mayor shall thereafter be appointed for terms of four (4) years. Vacancies caused by death, resignation, or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made.

- (b) *Organization.* Within a reasonable time after the appointment of said Commission and approval of the members thereof, upon call of the Mayor, the Commission shall meet and organize by election of a chair, a vice chair and a secretary. The Commission shall then provide adoption of rules and procedures and for holding of regular and special meetings as the Commission shall deem advisable and necessary in order to perform the duties set forth.
- (c) *Duties.*
- (1) The Commission shall study the problems and determine the needs of the City of Chattanooga in connection with its urban forestry program and report from time to time to the Governing Body of the City as to desirable legislation concerning the tree program and related activities for the City. The Commission shall also make annual recommendations to City Council regarding changes in tree-related fees and/or changes to this ordinance.
  - (2) The Commission shall evaluate and recommend to the Administrator of Public Works candidates for the office of City Forester.
  - (3) The Commission shall assist the properly constituted officials of the City, as well as the Governing Body and citizens of the City, in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the incorporated city limits, whether they be on private or public property.
  - (4) The Commission shall provide prior notice and maintain minutes of all regular and special meetings pursuant to Tennessee law at which the subject of trees, insofar as it relates to the City, may be discussed by the members of the Commission, officers and personnel of the City and its several divisions, and all others interested in the urban forestry program.
  - (5) The Commission shall hear and decide appeals from permitting decisions of the City Forester as set forth in Sec. 32-306. Any appeal from the actions of the Commission shall be filed in writing within thirty (30) days of the action of the Tree Commission with the Land Development Office of the City to be considered by the Board of Zoning Appeals.
  - (6) The Commission shall hear cases regarding alleged violations of this Article and shall make written findings of facts and recommendations for abatement and/or civil penalty for each alleged violation. The alleged violator may voluntarily follow the recommendations of the Commission or may seek to have their case considered by the Administrative Hearing Officer by filing a notice with the City Forester.

**Sec. 32-304. Establishment of the position of City Forester.**

- (a) *Appointment.* The City Forester shall be employed by the City of Chattanooga upon recommendation by the Administrator of Public Works. They 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. He or she shall have had at least six (6) years' experience in municipal urban forestry work or its equivalent. The office of the City Forester shall be an administrative unit of the Department of Public Works. Should the office of City Forester be vacant, the authority of that office shall be transferred to a designee determined by the Administrator of the Department of Public Works until such time as the City Forester position is filled.

(b) *Duties and Authority.*

- (1) General. The City Forester shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites. The City Forester shall promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets, parks and other public places in the City, and shall direct, regulate, and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the City. He or she shall cause the provisions of this Article to be enforced. The City Forester shall coordinate with the Public Works Department officials in matters concerning trees which may be a hazard to traffic safety. The City Forester shall also coordinate with the Public Works Department officials in matters related to streetscape of public right-of-way.
- (2) Permit Authority. The Land Development Office shall administer the Tree Permit. The City Forester, or their designee, shall have the authority to approve or deny permits for planting, maintenance, and/or removal of Public Property 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) Urban Forestry Planning. The urban forester shall have the authority to formulate and amend urban forestry design and management planning documents as needed, conduct and maintain a tree inventory, and create other relevant documents for the urban forestry program with the advice and assistance of the Chattanooga Tree Commission.
- (4) The City Forester and designated staff shall be appointed as special police officers of the City only after written request by the City Forester, successful completion of a background investigation, and approval by resolution of the City Council. After being sworn by a judge of the Chattanooga City Court ("City Court"), the holders of such special police commissions shall have, possess and exercise every power granted by such commissions, but such special police officers shall not be treated or classified as regular police officers of the City.

**Sec. 32-305. Interference with City Forester.**

No person shall hinder, prevent, delay, or interfere with the City Forester or any of their assistants while engaged in carrying out the execution or enforcement of this Article; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.

**Sec. 32-306. Right to appeal decision of City Forester.**

Any aggrieved party shall have a right to appeal any permitting decision of the City Forester and/or their designee to the Tree Commission. If a party wishes to contest a permitting decision they shall, within ten (10) business days from the date of receipt of such decision, request in writing a hearing before the Tree Commission for a review and/or hearing on said decision. Any permitting decision of the Tree Commission shall be final, subject to an appeal filed in writing within thirty (30) days of the action of the Tree Commission with the secretary of the Board of Zoning Appeals of the City. The Board of Zoning Appeals shall make a final decision on all requests for review of any action taken by the City Forester, designated staff, and the Tree Commission except as otherwise provided by Tennessee law.

**Sec. 32-307. Legality of article and parts thereof.**

Should any section, clause, or provisions 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 parts thereof, other than the part so declared to be invalid.

**Sec. 32-308, 32-309. Reserved.**

***DIVISION 2. PUBLIC PROPERTY TREE MAINTENANCE,  
PROTECTION, AND PLANTING***

**Sec. 32-310. Public Property Tree care.**

- (a) City authority on City-owned streets and properties: The City shall have the right to plant, prune, maintain and remove trees, plants, branches and shrubs within the property lines of all City streets, alleys, avenues, lanes, boulevards, or other City-owned properties, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) Private planting on City owned streets: This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 32-311 and 32-312 of this Article.
- (c) Damage: Unless specifically authorized by the City Forester, no person, firm, or city department shall intentionally damage, cut, carve, transplant, or remove any Public Property Tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous, liquid, or solid substance which is harmful to trees to come in contact with any Public Property Tree or the tree's Critical Root Zone.
- (d) Topping: It shall be unlawful for any person, firm or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this provision by agreement of the City Forester.
- (e) Tree maintenance practices: Any pruning, and other tree maintenance practices performed on a Public Property Tree shall conform to the current edition of American National Standards Institute ANSI A-300 and the current ISA Companion booklet: Best Management Practices — Tree Pruning.
- (f) Stumps: All stumps of removed City owned trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- (g) Construction protection:
  - (1) Tree protection shall be installed by the Tree Ordinance Permit holder for all Public Street and Landscape trees, and for any other groups of Public Property Trees designated by the City Forester or designee near any excavation or construction of any building, structure, street work, or land disturbance. Tree protection shall also be installed the Land Disturbing Permit holder for all Private Property Trees used to meet any ordinance or zoning condition near any excavation or construction of any building, structure, street work, or land disturbance.
  - (2) Standard tree protection shall consist of fencing installed at the Critical Root Zone radius, or for Street Trees, at the edge of tree wells if sidewalks are to be undisturbed. Fencing specifications are detailed in the Arboricultural Specifications manual, and may

be modified by the City Forester, based on site conditions. No vehicular traffic, equipment or material storage, or other encroachment within tree protection fencing is permitted during construction without approval from the City Forester or designee.

- (3) Where construction activities necessitate encroachment within a tree's Critical Root Zone, the details of such activities must be reviewed and approved as part of the Tree Ordinance Permit by the City Forester or designee. Excepting required streetscape improvements, disturbance of greater than 25% of the Critical Root Zone or any excavation within the Structural Root Zone will be treated as tree removal, for the purpose of replanting and recompense, even though the City Forester or designee may elect to retain the trees. Additionally, removal of more than 25% of a tree's live crown or trunk wounds totaling more than 25% of the trunk circumference will be treated as tree removal, for the purpose of replanting and recompense, even though the City Forester or designee may elect to retain the trees.
- (h) Street tree planting requirements: during land development, where site conditions meet all applicable Zoning, Land Disturbing, and Transportation standards, the City Forester shall require street tree planting as part of streetscape improvements, specifying tree species, caliper, and planting standards.

#### **Sec. 32-311. Obstructions—Minimum clearances.**

- (a) Any person or persons owning or occupying real property where there may be trees, bordering on any street, shall prune such trees in such a manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, obstruct the view of any street or alley intersection, or otherwise endanger the public.
- (b) The minimum clearance of any overhanging portion thereof shall 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.
- (c) No street trees shall be planted closer than ten (10) feet to any fire equipment to include fire hydrants, post indicator valves, and gongs. No street trees shall be planted closer than ten (10) feet to any overhead electrical or telephone wires unless specifically approved by the City Forester or designee as a low growth variety suitable for such location.
- (d) 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.

#### **Sec. 32-312. Permits required.**

##### **(a) General.**

- (1) Except as provided herein, no person, firm, or city department shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or conduct ground-disturbing activities within the Critical Root Zone of, or otherwise disturb any tree on any street or city owned property without first filing an application and procuring a Tree Ordinance Permit from the Land Development Office. The person receiving the permit shall abide by the Standards of Practice adopted by the City Forester and by other reasonable conditions imposed by the City Forester.
- (2) Applications for permits will be available online through the Public Works Land Development Office. The permit must be approved by the City Forester or designee before any approved tree modification or disturbance takes place.



- (3) Applications for permits shall be accompanied by a Tree Survey of existing Public Trees as specified in this Article, unless specifically waived by the City Forester or designee. The Tree Survey shall be submitted either as its own sheet within a civil plan set for an associated Land Disturbing Permit or as its own document, combined with a Planting Plan, if applicable, for a standalone Tree Ordinance Permit.
- (4) The Land Development Office shall issue the permit provided for herein if, the City Forester or designee certifies that the proposed work and the proposed method and workmanship thereof are in compliance with the provisions of this Article. Any permit granted shall contain a definite date of expiration and the 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.
- (5) Notice shall be given by the permit holder to the City Forester or designee for their inspection, within five (5) days of anticipated work completion. Such notice shall include whatever form of identification as may be specified by the City Forester.
- (6) A permit requirement may be waived by the City Forester or designee for routine tree maintenance by other City divisions and departments, if such divisions demonstrate, on an annual basis to the City Forester that tree maintenance, removal and replanting practices fall within the bounds of this Ordinance. This waiver does not extend to construction-related tree disturbance.
- (7) A permit requirement for removal of Public Property trees may be waived by the City Forester or designee if the applicant demonstrates that proposed impact is to a Wooded area only, where no single stem proposed to be removed is over 24" DBH, and total canopy loss is under 5000 square feet.
- (8) Annual permits may be approved for public and private utility companies which shall install overhead and underground utilities (including fiber optic installations and water and sewer installations by or at the direction of the city); provided that pruning, trenching, and tree protection standards have been annually approved by the City Forester and the Chattanooga Tree Commission; provided, however, that removal of any tree shall have been specifically approved in advance by the City Forester or designee, including adherence to the replanting requirements herein. Such annual permits may be revoked upon written notice to the permit holder from the City Forester in the event the permit holder fails to comply with the provisions of this Article or with the conditions of the permit.
- (9) The Tree Ordinance Permit application shall record the total number and total trunk diameter of trees proposed to be removed, and the number and total caliper of trees proposed to be planted, as applicable. Based on these totals, the permit application shall calculate the Recompense fee due, if applicable.
- (10) The Tree Ordinance Permit fee, given in Sec. 31-322, is tiered according to type and scale of work. These are:
  - Tier 1: For residents, business owners, or community groups seeking approval for non construction Public Property Tree disturbance or maintenance; for utilities seeking an annual permit; for planting-only permits of any size by any party.
  - Tier 2: For Public Property Tree removal or disturbance as part of construction permitted under Simple Land Disturbing, or under Building Permits only; for clearing of Wooded areas only within City rights-of-way for projects of any size.

Tier 3: For Public Property Tree removal or disturbance as part of construction permitted under a Complex Land Disturbing Permit; for clearing of Wooded areas on City-owned parcels; for any other Tree Work on City property not otherwise specified in this Article.

Such fee shall be imposed as follows:

Tree Ordinance Permit - Tier 1: \$100

Tree Ordinance Permit - Tier 2: \$250

Tree Ordinance Permit - Tier 3: \$500

Tree Replacement Fee: \$200/inch DBH

(b) Planting.

- (1) Application Data. The application required herein shall state the number, size, and type of trees to be planted. Additionally, a Planting Plan, as specified in this Article, shall be required for any planting operation unless specifically waived by the City Forester. The Planting Plan may be combined with landscape sheets as part of a civil plan set for an associated Land Disturbing Permit or combined with the Tree Survey and attached to a standalone Tree Ordinance Permit.
- (2) Improper Planting. Any tree planted in a manner in conflict with the provisions of this section shall be subject to removal as provided in Division 4 of this Article.
- (c) Maintenance. The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise maintained; the kind of treatment to be administered; the composition of the spray material to be applied; credentials of the applicant or contractor; and such other information as the City Forester shall find reasonably necessary to a fair determination of whether a permit should be issued.
- (d) Removal, replanting and recompense for permitted tree removal.

- (1) *Public Street and Public Landscape Trees:* Permitted removal of a City-owned tree in either of these categories that is not deemed to be Dead, Diseased, or Hazardous by the City Forester or designee will be required to be replaced on the same City street or City owned property, with trees equal in total caliper to the sum of tree DBH proposed to be removed.

Tree species, size, and layout of replacement trees shall be approved by the City Forester or designee. Should on-site planting not be possible, adjacent public properties, then the nearest suitable public properties will be considered as replanting sites. Should none of these options be possible, the value of deficient DBH shall be made up by a Recompense Payment to the Tree Bank, calculated using the Tree Replacement Fee.

For trees removed under an annual Tree Ordinance Permit for City-approved public utility work, replanting and recompense shall be required on a tree-for-tree basis rather than inch-for-inch, using the standard of three inches of DBH per tree for the purposes of Recompense.

- (2) *Wooded areas within City rights-of-way:* Without any other associated Public Street or Landscape Tree disturbance, tree removal for property access on Wooded rights-of-way shall require a Tier 2 Tree Ordinance Permit, with accompanying Tree Survey. Replanting is not required in such areas but a Recompense Payment at 50% of the Tree Replacement Fee will be required for removal of all trees 24" DBH and larger.

- (3) *Wooded areas on City-owned parcels:* Tree removal shall require a Tier 3 Tree Ordinance Permit, with accompanying Tree Survey. Replanting is not required for tree removal in such areas but a Recompense payment at 50% of the Tree Replacement Fee will be required for removal of all trees 24" DBH and larger. Recompense payments may be waived by the City Forester or designee if tree removal is approved as part of land management practices.
- (e) Tree planting warranty. All trees planted to meet street frontage requirements under a Land Disturbing Permit or to replace Public Property Trees removed under a Tree Ordinance Permit shall be required to be warranted for a period of one year after the date of acceptance of such trees. Trees which upon inspection have died or are in such poor condition that recovery is impossible due to water stress, pests, disease, injury caused by turf maintenance, herbicide injury, or other cause will be required to be replaced. For trees judged to have died or are beyond recovery, the holder of the relevant Tree Ordinance Permit shall be responsible for replacement of such trees to specifications identical to the trees being replaced, or to specifications otherwise approved by the City Forester or designee, or to make a Recompense Payment to the Tree Bank for an amount calculated from net lost tree caliper. A one-year tree planting warranty shall be required for such trees planted in replacement.
- (f) Performance Bond. When there exists supply, seasonal, or other barriers to planting trees required under a Land Disturbing Permit before issuance of a Certificate of Occupancy, a builder or developer may post a Performance Bond, to be recovered at a date after required trees are planted and approved. If such trees include Public Property Trees or Private Property Trees planted to meet conditions of this Article, the applicant posting the bond shall be the same as the Tree Ordinance Permit holder. The Performance Bond shall be administered as follows:
1. The applicant shall complete all required provisions related to tree installation prior to issuance of a Certificate of Occupancy. The reviewing City Department may provide a temporary Certificate of Occupancy, in lieu of completed work, if the applicant posts a bond in the amount of 125% of the estimated cost of the tree installation based on a schedule of fees provided by the reviewing department stipulated as sufficient to secure the satisfactory plant materials, related equipment, installation, and maintenance of such material for three (3) years. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in this article.
  2. A performance bond shall mean two documents: a Performance Agreement and an accompanying security document.
    - a. The Performance Agreement shall stipulate the work to be performed by general categories and the estimated value or cost of each category. The Performance Agreement shall also stipulate a completion date for all of the work to be performed. The Performance Agreement shall only be entered into by the owner(s) of the property.
    - b. The security document may be in a form as follows and shall express the value in a total amount equaling the sum of all work categories:
      - i. A Surety Bond issued by an insurance company licensed in the State of Tennessee and shall be non-expiring

- ii. An Irrevocable Letter of Credit issued by or confirmed by a financial institution located in Hamilton County, Tennessee, or an adjoining county. Any such letter of credit shall contain an auto-renewal clause.
  - iii. Cashier or Certified Check issued by a financial institution located in Hamilton County, Tennessee and shall be non-expiring.
- c. The Surety Bond and Letter of Credit options shall not be available to an applicant whose past performance has resulted in breached or expired bonds.
- d. An entity whose past performance has resulted in non-payment of a bond may be excluded from providing a surety bond for an applicant for a period of one year from the date of breach.
- 3. All required plant materials, related equipment, installation, and maintenance shall be the responsibility of the applicant at the applicant's expense or cost sharing. Any provisions for reimbursement by the county, or any utility district, shall be by separate agreement with the applicable City Department or other governmental entity.
- 4. Governmental agencies to which these bonds and contract provisions apply may file, in lieu of said contract or bond, a letter from an agent authorized to act in their behalf agreeing to comply with the provisions of this article
- 5. In those cases in which a performance bond has been posted and required plant material and related equipment has not been installed within the terms of such performance bond agreement, the reviewing City Department may declare the bond to be in default and require that all the plant material and related equipment be installed regardless of the extent of the building development at the time the bond is declared to be in default. The funds of the bond shall be used to install all required plant materials and related equipment.
- 6. If the reviewing City Department finds that any of the required plant materials and related equipment have not been installed in accordance with this article, the applicant shall be responsible for completing the plantings to the required standards. Whenever the cost of improvements is covered by a performance bond, the applicant and the bonding company or financial institution shall be liable severally and jointly for completing said plantings according to specifications.
- 7. The reviewing City Department shall not release a performance bond until all required plant material and related equipment have been installed correctly. There shall be no release of a bond if there are any outstanding administrative penalties or violations related to the bonded site. The performance bond shall only be released by the reviewing department upon successful completion of the installation as indicated by a site inspection.
- 8. The reviewing City Department, upon proof of extenuating circumstances by the applicant and acknowledged and agreed to by the reviewing City Department, may extend the completion date set forth in such bond and may require an increase in the bonded amount to cover increases in costs.

9. Should the bond lapse or expire for any reason prior to installation of plant material and related equipment, the temporary Use and Occupancy Certificate shall be revoked, and the reviewing City Department shall, through the Office of the City Attorney, take any or all appropriate legal action necessary to assure installation of plant material and related equipment. The bond may be declared in default and the security shall be held by the City. Only after completion of all improvements or posting of a new bond, shall a temporary Use and Occupancy certificate be issued.
10. Funds derived from liquidation of securities, as a result of performance agreement default, shall be used by the applicable City Department to complete the required work. Project administration fees may be charged by the departments or against liquidated funds to offset actual personnel or equipment costs utilized in the accomplishment of required work. Any surplus funds shall be returned to the security provider after all charges and expenses are paid and required work is accepted.

(g) Tree Survey

- 1) All Tree Permits shall be accompanied by a Tree Survey, to establish the baseline conditions of trees on public property. This document shall be submitted as its own sheet within a civil plan set for associated Land Disturbing Permit, or as its own document attached to a standalone Tree Ordinance Permit. The submitted plan must meet the purpose and intent of this article.
- 2) Tree Survey shall meet the following requirements:
  - A. When submitted as part of an associated civil plan set for a Complex Land Disturbing Permit, prepared by a Tennessee Registered Land Surveyor, with all required items to be survey located.
  - B. Show existing site conditions.
  - C. Show the Limit of Disturbance (LOD) for the proposed construction.
  - D. Show all Street Trees
  - E. Show all Public Property Landscape trees
  - F. Show the Tree Canopy Line across the entire site, including public and private property
  - G. Show every Public Property tree within a Wooded area having a DBH of twenty four (24) inches or greater
  - H. Show the Critical Root Zone of every tree meeting the location requirements.
  - I. Show the required Tree Protection Fencing.
  - J. Show an "X" on trees to be removed.
  - K. Number every tree meeting the location requirements adjacent to its symbol on the plan.
  - L. Provide a table on the plan showing the following for each tree meeting location requirements:
    - i. Number
    - ii. Tree species
    - iii. Size (DBH)
    - iv. Percentage of impact to CRZ by LOD
    - v. "To Be Removed", if applicable
    - vi. Total trunk diameter of Street and Landscape Trees to be removed
    - vii. Total trunk diameter of Wooded Area Trees (24" and greater DBH) to be removed

(h) Planting Plan

- 1) All Tree Permits involving tree planting shall be accompanied by a Planting Plan. The Planting Plan may be combined with landscape sheets as part of a civil plan set for an associated Land Disturbing Permit or as its own document attached to a standalone Tree Ordinance Permit.
- 2) Planting Plan shall meet the following requirements:
  - A. Show all Public trees located on the Tree Survey which are to be preserved through construction
  - B. Show all Public trees proposed to be planted, labelled or symbolized by species C. Provide a table specific to Public Trees only, showing the following for trees proposed to be planted:
    - i. Label or symbol
    - ii. Tree species
    - iii. Cultivar, if applicable
    - iv. Size (caliper)
    - v. Type of nursery stock
    - vi Total caliper of all Public Street or Landscape Trees to be planted

(i) Tree Bank

- A. *Purpose.* The Tree Bank is established to recover the loss of public goods produced by urban trees removed during development, and to direct that recovered value toward public property tree planting and maintenance.
- B. *Application.* Participation in the Tree Bank by property owners or developers is initiated by a selection on the Tree Ordinance Permit application, and reviewed by the City Forester or designee.
- C. *Recompense Fee.* Approved participants will pay a one-time Recompense Fee to the Tree Bank equal to the difference in total trunk caliper of Public Property Trees removed and the total caliper of Public Property Trees planted, multiplied by the Tree Replacement Fee. Adjusted fees for removal of Public Property Trees in Wooded areas, as described in this Article, may also be added.
- D. *Additional Tree Bank funding.* Tree Ordinance Permit fees and any damage claims collected resulting from City Forester appraisals of unpermitted tree removal or vandalism will also be deposited in the Tree Bank.
- E. *Tree Bank administration.* Funds paid into the tree mitigation bank will be used for the purposes of maintaining and expanding urban tree canopy at the direction of the City Forester.
- F. *Tree Bank reporting* - The City Forester will provide an annual report to the Chattanooga Tree Commission regarding the operation of the Tree Bank.

(j) Exemption for Sewer Utility Work.

(1) Notwithstanding any other provision in this Article, the following activities shall be exempt from the permit requirements, tree protection requirements, replanting requirements, and recompense payments otherwise required by this Article:

(i) Emergency repair of existing underground sewer utilities and service connections;

(ii) Routine maintenance and scheduled repair of existing underground sewer utilities and service connections;

(iii) Clearing of utility easements necessary to access, maintain, or repair existing underground sewer infrastructure.

(2) This exemption applies to work performed by:

(i) The City of Chattanooga Wastewater Department;

(ii) Contractors working on behalf of the City of Chattanooga Wastewater Department;

(3) While exempt from permits and fees, reasonable efforts shall be made to minimize impacts to trees when conducting exempt activities. The Wastewater Department shall coordinate with the Urban Forestry Program on appropriate training for staff on tree protection best practices when conducting exempt activities.

(4) The Wastewater Department shall provide an annual report to the City Forester summarizing the number and general location of emergency repairs that impacted public trees during the previous year.

### **Sec. 32-313. Enforcement of Public Property Tree Protection**

- a) Any person found to be in violation of this article through the action of removing or damaging a tree on city property (Sec. 32-310c) without a permit shall be responsible for the reimbursement to the city for the value of the appraised loss, as described in the latest published edition of the Guide for Plant Appraisal by The Council Of Tree & Landscape Appraisers, or other nationally accepted plant appraisal standard, and as interpreted by the City Forester. Nothing in this ordinance shall be construed to remove the State statutory liability and award of damages for negligent or intentional tree cutting as set forth in Tenn. Code Ann. § 43-28-312.
- b) For unpermitted tree removal or unpermitted damage necessitating tree removal; any person found to be in violation of this article shall additionally be responsible for the actual costs incurred by the City for removing remaining debris and replacing any removed tree. The replacement tree and location for planting shall be approved by the City Forester. Nothing in this ordinance shall be construed to remove the State statutory liability and award of damages for negligent or intentional tree cutting as set forth in Tenn. Code Ann. § 43-28-312.
- c) Reimbursement shall be assessed through the city's Risk Management division and deposited in the Tree Bank, as directed in Division 4 of this Article.

- d) Reimbursement fees shall be capped at \$50,000 per tree and \$100,000 per site. Collection of any reimbursement fees shall be enforced by a court of competent jurisdiction. Any violation of this section through the action of removing or damaging a tree on city property without a permit shall be prosecuted through the Office of the City Attorney.

### ***DIVISION 3. PRIVATE PROPERTY TREE PROTECTION AND RESPONSIBILITIES***

#### **Sec. 32-314. Utility responsibility on private property.**

Public and private utilities which install overhead and underground utilities (including fiber optic installations and water and sewer installations by or at the direction of the city Department of Public Works), shall be required to accomplish all work on property subject to this Article in accordance with the company's written pruning and trenching specifications, or as mutually agreeable to the property owner and the utility. Written specifications shall have been first approved by the City Forester and reviewed by the Tree Commission.

#### **Sec. 32-315. - Dead or diseased tree removal on private property.**

- (a) The city shall have the right to order or cause the removal of any trees that are dead or diseased on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Forester shall determine which tree or trees are to be removed. ....
- (b) Unless such trees pose immediate hazard to public safety, the owner of such trees will be ordered, in writing, to remove said trees, stating the reason for removal and the location of said tree or trees to be removed. Removal shall be done by said owners at the owner's expense within fourteen (14) days after the date of the order to remove. In the event the owner fails to comply with such order to remove, or if public safety considerations require immediate removal, the city shall then proceed to remove said tree or trees, and to charge removal costs to the owner of the property as provided by law in the case of special assessments. ....

#### **Sec. 32-316. Removal, protection, and provisioning of trees**

- (a) *Applicability of article.* This article shall apply to all real property within the city, including all commercial, industrial, business or multifamily and subdivision property, with the following exemptions:
1. It shall not apply to any parcel of land currently being used for a single-unit dwelling or two-unit dwelling. If the use of the parcel changes to any other classification, the other requirements of this article apply.
  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.
  4. It shall not apply to removal of trees from Certified Tree Farms or from Lots Zoned A-1, with an approved Timber Removal Permit, pursuant to T.C.A §6-54-126 and Sec. 31-325.1- 31-325.9., which carries a three (3) year moratorium on development.
  5. It shall not apply to removal of Dead, Declining, or Hazardous trees and vegetation as



defined in this Ordinance.

6. It shall not apply to emergencies. In case of emergencies, such as hurricane, tornado, windstorm, flood, ice storm or other disasters, the requirements of these regulations may be waived by the City Forester or other designated official, upon a finding that such waiver is necessary so that public or private work to restore order in the City of Chattanooga will not be impeded.
- (b) *Clearing or grading work.* Where a Land Disturbing Permit or Timber Removal Permit has not been issued, the destruction of more than five thousand (5,000) square feet of Tree Canopy, as defined in this Article, on any one (1) parcel of nonexempt land, shall be prohibited.
- (c) *Land development and new construction:* Where a Complex Land Disturbing Permit is required, a minimum total tree DBH per acre, as given in Table 32-316, shall be retained on the site unless, because of cut or fill work, such trees cannot be saved. Trees retained shall be protected during construction with Tree Protection Fencing such that less than 25% of CRZ is disturbed. If trees cannot be salvaged, trees shall be provisioned as per section 32-316(d) or offset with a payment to the Tree Bank as per section 32-312(i).

**Table 32-316**

<b>Zoning Type</b>	<b>Total DBH per acre to be retained, planted, or offset</b>
Residential Zones, including R-MH	36"
Mixed Use and Commercial Zones	36"
Industrial Zones	36"
Form-Based Code Zones	No additional requirements
Other Special Purpose Zones not listed	No additional requirements

- (d) *Provisioning of trees.* Where trees cannot be retained pursuant to this article, or do not exist on the site, they shall be provided on the site, before construction completion, at the rate provided in Table 32-316, and they shall be watered by an automatic irrigation system or other approved watering protocol. Trees planted to meet Landscape Requirements under Article XIII of Chapter 38 may be counted towards the required total DBH, provided such trees meet the criteria of Large Trees as defined in that Article. Compliance with this requirement may be achieved by one of the following methods.
  1. Planting trees prior to Certificate of Occupancy issuance.
  2. Planting trees following issuance of a temporary Certificate of Occupancy, under a Performance Bond.
  3. If a developer or property owner demonstrates that site conditions prevent planting of additional trees to meet Tree Ordinance requirements, they may pay an Offset Fee to the Tree Bank for an amount calculated from the deficient tree caliper.

- (e) *Maintenance and replacement of trees.* All trees retained or provided to meet the requirements of this article shall be properly preserved, planted, and maintained to ensure their survival to meet the purpose and intent of this article. Any tree which fails to survive or dies through maturation shall be replaced by the owner within twelve (12) months of loss, subject to inspection by the City Forester or their designee
- (f) *Enforcement:* If land clearing takes place without a permit or exemption as outlined in 32-312, the owner shall be assessed a Recompense Fee calculated from the amount of tree canopy removed, as estimated by the City Forester or designee, using the most recent Tree Canopy Assessment. From this estimated area, rounded to the nearest tenth of an acre, a prorated Recompense Fee will be calculated as the equivalent of planting 75 two (2) inch caliper trees per acre. This fee shall be assessed to the property owner, and upon collection, deposited in the Tree Bank.

**Sec. 32-317. Protection of trees of historical or botanical importance.**

- (a) *Protected designations.* No living tree within the city designated on the State of Tennessee Champion Tree list, designated as a Landmark or Historic Tree by the State of Tennessee or designated organization, or designated as a Notable Tree by the Chattanooga Tree Commission shall be removed or otherwise substantially altered by pruning, trimming, or otherwise cutting more than twenty-five (25) percent of the woody area or disturbing more than twenty-five (25) percent of the Critical Root Zone of such tree without first obtaining a Tree Ordinance Permit.
- (b) *Notable Tree nomination.* Residents may nominate trees meeting the following criteria to the Chattanooga Tree Commission using forms supplied online:
  - i) Owner consent: Property owner shall either submit the application themselves or complete a form attesting to their support of the tree being listed as a Notable Tree. For Public Property Trees, the City Forester's consent is necessary, if the tree is nominated by a resident.
  - ii) Structural integrity: The tree shall be structurally sound and not topped.
  - iii) Lack of invasive status: The species shall not be listed as either as an Established or Emerging Threat by the Tennessee Invasive Plant Council.
  - iv) Community value: The tree provides significant neighborhood, landscape, ecological, or historical value to citizens of Chattanooga, as documented by the applicant.
- (c) *Criteria for removal of protected trees.* Permits as noted in subsection (a) of this section shall be issued only upon a satisfactory showing that the tree in question is either Dead, Diseased, or Hazardous.
- (d) *Permitting process.* If the urban forester 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 the Chattanooga Tree Commission through the process described in Sec. 32-308.
- (e) *Enforcement.* If trees designated as Champion, Historic, and Landmark Trees by State agencies or as a Notable Tree by the Chattanooga Tree Commission are removed or substantially altered by pruning, trimming, or otherwise cutting more than twenty-five (25) percent of the woody area or disturbing more than twenty-five (25) percent of the Critical Root Zone of such tree without first obtaining a Tree Ordinance permit, the party that caused the action will be assessed a fee equal to the appraised value of the tree in the case of removal, or the appraised loss of value of the tree in the case of damage. Appraisal values shall be

determined by the as described in the latest published edition of the Guide for Plant Appraisal by The Council Of Tree & Landscape Appraisers or other nationally accepted plant appraisal standard, and as interpreted by the City Forester. Appraisal fees shall be deposited in the Tree Bank.

- (f) Retraction of Notable Tree status by owner. An owner of property containing a Notable Tree may remove said tree from the list by notifying the City Forester in writing that they want it to be removed. The tree will then come off the list within thirty (30) days of the City Forester being notified by the owner.
- (g) Double credits for Notable Trees. Any Notable Tree retained on property that is developed shall receive 2:1 (double) credits toward the required caliper inches in Table 32-316.

**Sec. 32-318. Tree maintenance and registry.**

- (1) *Registry* – All individuals or companies intending to do tree work for hire on any tree over twelve (12) inches DBH within the city, shall register online with the Urban Forestry Program. All registered companies shall be listed publicly.
- (2) *Professional License and Business Practice* [32-316]. Any commercially licensed business conducting tree work (as described in Sec. 32-302) including but not be limited to Tree Care Companies, Lawn Service Companies, Landscape Companies, Painting, Building and Renovation Companies or any person or firm receiving payment of any type to conduct tree work, must obtain a City of Chattanooga business license and provide proof of liability insurance in the maximum amount of the applicable limits of liability for governmental entities under the Tennessee Governmental Tort Liability Act at the time such work is performed.
- (3) *Public and private property tree protections* – Each said individual or company must sign an acknowledgement that they understand this article in regard to the prohibition of disturbance to or removal of any tree on public property without a permit, and prohibition of removal of more than five thousand (5,000) square feet of Tree Canopy without a permit.
- (4) *Wood waste disposal practices* – Each said individual or company must sign an acknowledgement that they understand all other codes that pertain to tree work and the proper disposal of wood waste. It is the responsibility of the tree company to remove the wood waste from the property and properly dispose of the material. Disposal of wood material by placing it at the street/city right-of-way for collection will be considered illegal dumping. See Sections 18-86 (c) and 18-106.
- (5) *Enforcement* – Individuals or companies in violation of this registry, Public Property Tree protection requirements, or improperly disposing of wood waste are subject to a stop work order (SWO) and prohibited from doing any work in the city until registration is completed and/or result in fines to the company (not the property owner) as outlined in sections [Reference above Protection of Trees of Historical Importance, Destruction or Removal of Trees, 32-313, and something from Chapter 18 about illegal brush dumping]

#### ***DIVISION 4. ENFORCEMENT***

##### **Sec. 32-319. Violations declared nuisances.**

Any tree determined to be a public nuisance by the City Forester to be dangerous to the public safety and shall be abated as set forth in this Article. Said determination of a public nuisance may be considered by an Administrative Hearing Officer subject to an appeal.

##### **Sec. 32-320. Notice requiring abatement of violations; abatement by City; lien for costs.**

Upon determination of a public nuisance, the City Forester shall cause to be served upon the property owner a written notice to abate which shall (i) describe the conditions constituting a nuisance under this Article and (ii) state that the nuisance may be abated by the City at the expense of the property owner at the expiration of thirty (30) days from the date of such notice if the condition is not corrected by the property owner. If, at the expiration of thirty (30) days from the date of said notice to abate, the condition constituting a nuisance has not been corrected, then such condition may be corrected for the nuisance abated by the City at the expense of the property owner under the directions of the City Forester. The City shall have a lien on the property upon which such nuisance is located to secure the amount expended for the abatement of such nuisance.

##### **Sec. 32-321. Violation; Civil penalty.**

The City Forester and designated staff shall have authority to investigate suspected violations of the Article. Except for violations of Section 32-310(c), which are addressed in 32-313(a), any violation of this Article shall be presented to the Tree Commission, who may make findings of facts and recommendations for abatement and/or civil penalty for each alleged violation. The alleged violator may choose to accept and obey the recommendation of the Tree Commission or, within ten (10) days of receiving the written findings of facts and recommendations for abatement and/or civil penalty, may file a notice with the City Forester for a de novo hearing before an Administrative Hearing Officer at a duly noticed hearing not less than ten (10) days following the filing of the appeal. Such hearings shall be governed by Article VI of Chapter 21 of this Code, including all appeal rights.

This section shall not be construed to prevent the City from abating a nuisance or other dangerous condition which the City Forester determines requires immediate abatement.

##### **Sec. 32-322. Reviews**

The City Council shall review this ordinance six months after the initial effective date. Thereafter, the Tree Commission shall conduct annual reviews in perpetuity and make any necessary recommendations to City Council.


##### **Secs. 32-323—32-340. Reserved.**

SECTION 2. BE IT FURTHER ORDAINED, That Section 21-232 shall be amended by adding the following language to the end of that section:

(12) the Tree Code found in Chapter 32, Article XIII of this Code.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect ninety (90) days from and after its passage.

Passed on second and final reading: April 8, 2025

  
\_\_\_\_\_  
CHAIRPERSON  
APPROVED: ☒ DISAPPROVED: ☐

  
\_\_\_\_\_  
MAYOR

PAN/AST/DL/Alternate Version