

**ORDINANCE NO. XXX**

**AN ORDINANCE OF THE TOWN OF WALDEN, TENNESSEE  
RELATING TO MAINTENANCE AND PLANTING OF TREES**

WHEREAS, the Town of Walden’s unique physical and aesthetic character is enhanced by the growth and maintenance of trees in public and private spaces; and

WHEREAS, the Board of mayor and Alderman finds that in order to promote the public health, safety and general welfare of the Town while at the same time recognizing individual rights to develop and maintain private property in a manner which will not be prejudicial to the public interest certain regulations relating to trees are appropriate:

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Alderman of the Town of Walden, Tennessee as follows:

Section 1: That a new Chapter 5 be added to Title 13 of the Walden Municipal Code as follows:

13-501. Definitions.

(1) For the purpose of this article, the following terms, phrases and words shall have the meanings given herein:

(a) *Town property* means all real property that is owned or leased by the Town.

(b) *Town right-of-way* means property offered for dedication and used or accepted as a public right-of-way.

(c) *Critical root zone* means an area equal to a 1-foot radius from the base of the tree’s trunk for each 1 inch of the tree’s diameter at 4.5 feet above the natural grade.

(d) *Diameter at breast height (DBH)* means a standard of measure of tree size, being the diameter of a tree measured at a height of 4.5 feet above the ground.

(e) *Heritage Tree* means a tree of biological, cultural, ecological or historical interest because of its age, size or condition or horticultural significance.

(f) *Landscape specialist* means a certified arborist or other knowledgeable Town staff member to enforce this ordinance.

(g) *Maintenance standards* means generally accepted standards for maintenance of trees as set forth by the American National Standards Institute and published by the International Society of Arboriculture in the following publications:

1. ANSI A300 (Part 1), 2001
2. ANSI A300 (Part 2), 1998
3. ANSI A300 (Part 1), 2000
4. ANSI Z133, 2000

(h) *Park* means all Town public parks.

(i) *Planting plan* means a scaled drawing depicting all materials, specifications, and any other reasonable information required by the landscape specialist to evaluate permit applications.

(j) *Property owner* means the owner of record or any person owning an interest in property including a lienholder.

(k) *Public trees* means trees growing on property owned by the Town.

(l) *Street trees* means trees and shrubs lying on property growing within any Town right-of-way on any public street.

(m) *Topping* means the severe cutting back of limbs or trunks within the canopy of a tree to remove the normal canopy and disfigure the tree.

(n) *Tree* means a woody plant with a single trunk or multiple trunks that grow to a height of 15 feet or more.

(o) *Urban forest* means all trees located within the Town.

13-502. Violation and penalty.

(1) Any violation of this chapter is unlawful and shall be subject to enforcement by a civil penalty of not more than \$50.00 for each violation. Each day such violation or failure to comply continues shall constitute a separate offense. This penalty provision is non-exclusive, and the Town may seek other relief as provided by law.

13-503. Purpose.

The goals and intent of the tree ordinance are to:

- (1) Establish and maintain maximum tree coverage.
- (2) Maintain trees in a healthy condition.
- (3) Establish and maintain the optimum age and species diversity.
- (4) Select, plant, and maintain street trees to minimize hazard and maintenance costs.
- (5) Promote the efficient and cost-effective management of the urban forest.
- (6) Foster community support for the local urban forest program and encourage good tree management on privately owned properties.

13-504. Tree Board.

There is hereby established a tree board, to be appointed by the Board of Mayor and Alderman. The tree board will consist of five members, who will serve without compensation. The tree board will choose its own officers, make its own procedural rules and regulations with guidance from the Town Board, when necessary, establish meeting dates, and conduct its meetings in accordance with the Tennessee Open Meetings Act. A majority of the total members will be a quorum. The Town tree board, with the advice and consultation of the landscape specialist (if one is appointed) shall:

- (1) Work directly with the landscape specialist to create and recommend to the Board of Mayor and Alderman a comprehensive tree management plan to guide planting, maintenance, and replacement of trees on Town property.
- (2) Study and make recommendations to the landscape specialist regarding the planting, maintenance, and protection of trees on public property, or, when requested by the landscape specialist, shall consider, investigate, make

**Commented [AY1]:** Recommended to not establish a tree board - ordinance is fairly simple and Town Board can oversee.

**Commented [AY2]:** Recommend to be the duty of the landscape specialist.

findings and recommendations and report upon any special matter or question within the scope of its work.

~~(3) Research potential tree programs that showcase the Town's urban tree canopy and Heritage Trees. Once accepted by Council, Heritage Trees will be designated with a small plaque and listed in the Town's Heritage Tree database.~~

**Commented [AY3]:** Recommend to remove such specific programmatic requirements.

(4) Work directly with the landscape specialist to recommend to the Board of Mayor and Alderman to join such programs.

(5) Engage the community in education and outreach regarding the importance of tree health and benefits.

13-505. Landscape specialist – Duties.

The Town administrator will appoint a landscape specialist to the extent authorized by the Board of Mayor and Alderman. The landscape specialist shall:

- (1) Develop and comprehensive tree management plan to be presented to and formally adopted by the Town of Walden Board of Mayor and Alderman
- (2) Have authority to regulate planting, maintenance, and removal of trees on Town-owned property to promote safety and preserve aesthetics, in accordance with maintenance standards.
- (3) Enforce and administer this article and the comprehensive tree management plan.
- (4) Assist in educating the community and Town departments regarding trees.
- (5) Review and make recommendations on the landscaping and buffering plans of commercial developments.
- (6) Issue or deny permits for planting, maintenance, trimming or removal of trees and landscaping as authorized herein.

13-506. Landscape specialist – Interference.

No person shall hinder, prevent, delay, or interfere with the landscape specialist or his or her assistants while engaged in administration or enforcement of this article, if nothing herein shall be construed to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by any party. In lieu of the penalty established herein upon approval of the Board of Mayor and Alderman, the Town attorney is authorized to bring suit for injunctive relief in the event any person violates this section.

13-507. Trees on property owned by the Town.

(1) *Town authority on public grounds.* The Town has the right to plant, prune, maintain, and remove trees, plants, branches, and shrubs and supervise the same on all Town property, as it may deem necessary or desirable, to promote public safety or preserve or enhance the symmetry and beauty of such public grounds. The Town may delegate such authority as deemed necessary.

(2) *Private planting on Town property.* The planting of native trees on Town property by adjacent property owners ~~is may be permitted~~ if in compliance with the comprehensive tree management plan and written permission is obtained from the landscape specialist. These trees are then property of the Town.

(3) *Damage.* Unless specifically authorized by the landscape specialist, no person shall:

- (a) Damage, cut, carve, transplant, or remove any street tree.
- (b) Attach advertising posters or other material that may be harmful to any public tree.

(4) *Topping.* It shall be unlawful for any person to top any public tree on Town property. Trees severely damaged by storms or other causes, or trees under or around utility wires or other obstructions where other pruning practices are impractical are exempted from this provision.

(5) *Construction protection.*

(a) Public trees shall be protected in a manner as established in the tree management plan and in consultation with the landscape specialist. ~~as follows from damage by any excavation or construction of any building, structure, ditches, tunnels or street work with a substantial fence, frame or~~

~~box not less than four feet high. All equipment and building material, dirt or other debris shall be kept outside the barrier, provided that upon good cause shown the landscape specialist may alter or waive the requirements set forth in this subsection at their discretion.~~

~~(1) Trees 20 inches DBH and over shall be protected to the maximum dripline circumference.~~

~~(2) Trees 10 inches to 20 inches DBH shall be protected 30 feet in circumference.~~

~~(3) Trees under 10 inches DBH shall be protected 20 feet in circumference and have consultation with the landscape specialist.~~

(b) No person shall deposit, place, store or maintain upon any Town property any stone, brick sand, concrete or other materials which will impede the free passage of water, air and fertilizer to the roots of any public tree growing therein, without first notifying the landscape specialist and receiving approval.

(c) All work performed by public and private utilities or by their contractors, agents, or employees, which install or maintain overhead and underground utilities (including, but not limited to, cable television installations, telephone service, gas service, water and septic service) shall be performed in accordance with maintenance standards set out herein.

(6) *Minimum clearances.* Except where an electrical hazard is involved, it shall be the duty of any person owning or occupying real property upon which there are trees, to prune such trees in a manner that they do not obstruct or shade streetlights, obstruct the view of traffic signs or signals, obstruct the view of any street intersection, or otherwise endanger the public. Where an electrical hazard is involved in such pruning, it shall be the duty of the person owning or occupying said property to contact the appropriate utility supplier to request the pruning required herein. The minimum clearance of any overhanging tree shall be eight vertical feet over a sidewalk at fifteen vertical feet over any street.

(7) *Planting near fire hydrants, utilities.* No public tree shall be planted closer than ten linear feet to any fire hydrant. ~~No public tree shall be planted closer than two feet in a radius to any overhead electrical, telephone, or other utility wires as measured from the base of the trunk to the vertical plane created by the nearest wire, unless specifically approved by the landscape specialist as a low growth variety unless specifically approved in the tree~~

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Commented [AY4]: Not sure this is needed with the permitting process.

~~master plan as a low growth variety suitable for — such location. All public trees shall be planted in a manner consistent with the policies and requirements of all utility providers and in accordance with any duly recorded utility easements.~~

13-508. Trees on Town right-of-way.

(1) *Town authority on Town right-of-way.* The Town shall have the right to prune, maintain, and remove trees, plants, branches, and shrubs and supervise the same within Town rights-of-way as deemed necessary to promote public safety, or to prevent interference with the use of the right-of-way by the Town or the public.

(2) *Private planting on Town right-of way.* The planting of trees by property owners on Town right-of way is lawful provided that the selection and location of such trees do not interfere with public safety or with the use of the right-of way by the Town or the public and are an approved tree species listed the in the tree master plan.

13-509. *Trees on new commercial developments.*

The landscape specialist will review the landscaping plans of new commercial developments and shall require the planting of approved trees in conformity with the tree management plan, in any of the Town streets and commercial parking lots. The costs of planting and the first three years of maintenance, including irrigation, of all street trees in a new development, replacement of dead and dying new trees, shall be borne by the developer prior to the Town Administrator. If the developer sells the property, then the new owner will be deemed to have assumed responsibility for maintaining all landscaping.

13-510. *Parking lot shade requirements.*

~~At Trees shall be planted with a goal of having at least 50% of the paved area surface of parking areas shall be shaded by tree canopies within 15 years of acquisition of building permits of planting. Trees planted to develop such a canopy shall be in accordance with the tree management plan. Plans submitted to the landscape specialist shall show the estimated tree canopies after 15 years of growth, the specific name, size, and location of trees to be planted and the total area in square feet of the area shaded by tree canopies.~~

**Commented [AY5]:** Do we wish to include major renovations, new parking lots, etc.? Should probably define specifically when these regulations must be followed.

**Commented [AY6]:** This is too difficult to estimate and calculate - far too many factors influence tree growth.

Any part of a parking space can be no more than sixty feet (60) from a tree. One tree per thirty-five (35) linear feet shall be planted in a parking lot that borders street frontage.

**Commented [AY7]:** Will need to ensure consistency with Design Review Standards.

13-511. *Permit requirements for new commercial developments.*

**Commented [AY8]:** Additions or renovations? New impervious area? May wish to expand applicability

(1) *Generally.*

(a) An application for a permit must be made not less than 30 days in advance of the time the work is to be performed. A permit fee may be established by resolution of the Board of Mayor and Alderman.

(b) 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.

(c) Within five days of completion of the permitted work, the permittee shall notify the landscape specialist who shall make a final inspection.

(d) A permit application may be waived in the event of any emergency that could endanger public safety or cause damage or loss of property.

(2) *Planting permit.*

(a) *Application contents.* The application for a planting permit shall state:

- (1) The number of trees or shrubs to be planted.
- (2) The location, grade, species, cultivar or variety of each tree or shrub.
- (3) The method of planting.
- (4) Such other reasonable information as the landscape specialist shall find reasonably necessary for a fair determination of whether a permit should be issued.

A planting plan shall be required and submitted to the landscape specialist for approval for any commercial development, or 15 or more



trees or shrubs are to be planted. The planting plan must follow the ANSI standards.

(b) *Improper planting.* Any tree or shrub planted in a manner in conflict with the provisions of this section shall be subject to removal at the sole expense of the person performing the improper planting.

(c) *Permit denial.* Planting permits may be denied if the application for planting is not complete, or if it is found that the planting would conflict with any part of this article, or that planting would endanger public safety, or interfere with the use of the Town property by the Town.

**Commented [AY9]:** May need to provide an option to appeal denial .

(3) *Maintenance permit.*

(a) *Application contents.* An application for a maintenance permit shall state:

**Commented [AY10]:** Not clear when a maintenance permit is needed. Simply replacing one tree? Would this require 30-days notice? Could cause issues if certain species have limited windows of time that they can be planted.

- (1) The number of trees or shrubs to be removed.
- (2) The location, grade, species, cultivar or variety of each tree or shrub.
- (3) The method of removal.
- (4) Such other reasonable information as the Town landscape specialist shall find reasonably necessary to decide whether a removal permit should be issued.

(b) *Permit denial.* Removal permits may be denied or revoked if the application is not complete or if it is found that the removal requested would conflict with any part of this article.

13-512. *Trees on private property.*

**Commented [AY11]:** Most private tree issues must be settled between private parties, and the recourse would be through the courts not the municipal government.

(1) In accordance with Section 13-506, the landscape specialist shall have the right to order or cause the removal of any tree on private property that constitutes any hazard ~~to life or property of others~~ public utilities, public property, or public right-of-way.

(b) In the event the owner fails to comply with an order to remove the tree, and if public safety considerations require immediate removal, the Town may elect to remove said tree, and charge removal costs to the owner of the property in accordance with the law.

(c) Unless such tree poses an immediate hazard to public safety, the property owner and any party in interest may be ordered in writing by the landscape specialist to remove the tree.