Ordinance No. 1343

URBAN FORESTRY ORDINANCE
FOR THE
CITY OF CULLMAN

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA, AS FOLLOWS:

I. Basic Provisions

A. Title: This ordinance shall be known as the Cullman Urban Forestry Ordinance.

B. Findings: The **Mayor and City Council** find that trees are recognized as a highly valued asset, providing a more healthful and beautiful environment in which to live. Healthy trees reduce air pollution and some forms of noise pollution, provide energy- saving shade and cooling, furnish habitat for wildlife, enhance aesthetics and property values, and are an important contributor to community image, pride and quality of life. Trees have also been proven to be economically beneficial to local commerce by helping customers to shop longer, come more often, and by attracting new industry, residents and visitors.

C. Purpose and Intent: This ordinance establishes policies, regulations and standards necessary to ensure that the city will continue to realize the benefits provided by its urban forest. The provisions of this ordinance are enacted as follows:

1) To provide for updating the City Tree Commission Ordinance and the appointment of a City Arborist prescribing their qualifications, duties, and powers;
2) To provide for recognized standards of tree planting and maintenance on public and semi-public lands in the City of Cullman;
3) To protect trees and shrubs on public and semi-public lands from willful and/or negligent harm;
4) To provide for active and continuing programs for public education concerning management of trees.

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E. Definitions: The words and phrases listed below shall have the meanings respectively ascribed to them by this section:

City Arborist- a person in an official capacity with the City. This position may either be a full time forester, a forestry technician employed by the city, or a qualified tree care professional contracted by the city to serve as the City Arborist on a part-time basis.

City tree/shrub- any tree/shrub occurring on property owned or maintained by the city.

Damage- any injury to roots, trunk, or crown of trees/shrubs. May also include improper tree care methods such as topping, tipping, round-over, flush cutting, cavity cleaning, etc.

Prune- includes the correct arboricultural method of removing tree limbs at proper lactations. Does not include such practices such as topping, tipping, round-over, or flush-cutting.

Semi-public land - land on which public right-of-way, utility easement, or other public interest has been granted.

Shrub- a woody plant, living more than one year, obtaining less than 12 feet in height

at maturity, and that is usually branched near the ground.

Street tree/shrub- a tree/shrub occurring along a city maintained street or alley in the public right-of-way. Usually exists between the sidewalk and curb.

Tree- a woody plant, living more than one year, obtaining 12 feet or more in height at maturity, and that is unbranched near the ground.

Tree Commission- a legally constituted body that serves as advisors to the Mayor and City Council on matters pertaining to management of the City's tree resources. This Board will have the composition and follow the procedures outlined in the City of Cullman Tree Commission ordinance.

The authority responsible for interpreting definitions shall be the City Tree Commission.

F. Jurisdiction: The City of Cullman shall have control of all trees, shrubs, and other planting now or hereafter in any street, park, public right-of-way or easement, or other public place owned by the city within the City limit, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs and other planting.

G. Disclaimer: Nothing contained in this section shall be deemed to impose any liability upon this city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, boulevard, alley or public place within the city.

H. Unlawful Interference: No person, firm or corporation other than the duly elected or appointed city officials, shall interfere with the Tree Commission or persons acting under the Commission's authority while engaged in planting, maintaining, or removing any tree, shrub or plant in any street, park, boulevard, alley, or public place owned by the city, or private property as authorized in this ordinance.

I. Appeals: Any action of the City Arborist may be appealed, and heard by the Tree Commission. To be effective, an appeal must by filed within fourteen (14) days after the decision. The appeal shall be in writing and shall be filed with the Tree Commission secretary for placement on the Tree Commission's next monthly agenda. The appeal shall clearly specify the reasons for which a hearing is requested. After a hearing, the Tree Commission shall render its decision, which shall be final unless appealed to the Mayor and City Council. To be effective, an appeal to the Mayor and City Council must be in writing, state the reasons for the appeal, and must be filed with the City Clerk within fourteen (14) days after notice of the decision of the Tree Commission is mailed to the applicant.

J. Penalty for Violation: Any person, partnership, firm, corporation, or other legal entity who violates any provision of this chapter is guilty of a misdemeanor punishable by a fine of not more than 500 dollars, or by imprisonment in the city jail for a period not exceeding six months, or both such fine and imprisonment. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance. Any violations of this chapter shall also constitute a public nuisance and may be enjoined and abated as provided by law.

K. Enforcement: The City Arborist is hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

L. Evaluation of Ordinance: The City Arborist shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this ordinance. An annual summary and analysis of the evaluation, and recommendations for action shall be prepared at the direction of the City Arborist and Tree Commission and presented to the Mayor and City Council. The Mayor and City Council shall consider the report and recommendations and take all actions deemed necessary to accomplish the goals of this ordinance or the adoption of other resolutions or ordinances.

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

N. Effective Date: This ordinance shall be in force and effect after its passage and publication as provided by law.

II. Provisions for Specific Goals

A. Creation of City Arborist: There is hereby created the position of City Arborist with the following qualifications, compensation, and duties:

1) Qualifications: The arborist shall be a forester, forestry technician or a suitable tree care professional with a minimum of 5 years experience in the care of trees, and furnish suitable references acceptable to the City Tree Commission.

2) Compensation: The Arborist shall receive a salary or hourly wage, according to his/her training and experience, adjusted for longevity and cost of living, according to the general policies of the City of Cullman.

3) Operational Responsibility: The City Arborist shall report to the Mayor and City Council according to priorities set by the Cullman Tree Commission on the basis of communications from other agencies of the City government and from the public.

a. The City Arborist shall attend all meetings of the Cullman Tree Commission as a non-voting ex-officio member. Upon request, the City Arborist shall also attend meetings of the City Council, the Planning Commission and its Committees, and other bodies as needed to participate in issues involving arboriculture or horticulture.

b. Provide arbitration in disputes concerning the management of trees in the City of Cullman.
c. The City Arborist shall set up mechanisms to assist architects, developers, builders, and others in utilizing and preventing damage to trees and other natural resources during construction.
d.The Arborist shall assist the Planning Commission in gathering and evaluating natural resource information, evaluating environmental impacts, and in other capacities as needed.
e. The City Arborist shall be directly accessible to all departments of City government, to the City's Utility Company, to the City School System, and to historical and other agencies as needed.
f. The City Arborist, and the Cullman Tree Commission shall develop an orderly process for identifying public tree needs, including (but not limited to) maintenance, removal, planting, replacement, and public education, and shall be empowered to purchase or contract for needed products and services within the City's normal fiscal limitation.

B. Development of Comprehensive Management Plan: Within three (3) years of the adoption of this Ordinance, the City Arborist with the advice and participation of the Tree Commission, shall adopt an Urban Forestry Management Plan. The City thereafter shall see that its best efforts are put forth to ensure that the activities of the City's Urban Forestry Program are guided by this plan. The plan shall incorporate the following elements:

1) A clear, concise and comprehensive Statement of Policies and Objectives for urban forestry management in the City, which statement is to be developed by the City Arborist with the advice and participation of the Tree Commission through a process of at least on public hearings;

2) A designation of proposed urban forestry treatments for major traffic routes and districts within the City consistent with the City's Master Plan, together with a program, schedule, and suggested budget for implementing such treatments;

3) An inventory of any area of trees deemed necessary by the City, which inventory shall include, as appropriate, species, age, condition, maintenance records, names of adjacent property owners, record of fees and fines, and any other information necessary or usable in the long-range planning or day-to-day planting and maintenance of the City's urban forest;

4) A Street-Tree Renewal Plan, based on an evaluation of species characteristics and performance as recorded in the inventory, providing for rotational reforestation of diseased, insect infected, or declining trees;

5) A set of Standards for the City, and public, for street-tree installation, landscape-tree installation, pruning and maintenance, acceptable tree species and any other standards, criteria or administrative procedures deemed necessary to carry out the purposes of this

Ordinance and the Urban Forestry Management Plan;

6) A process for continual update and improvement of the Urban Forest Management Plan elements.

C. Licensing of Private Tree Care Firms: Any person, firm, or corporation engaged in the business of pruning, trimming, or removing City trees shall carry public liability and property damage insurance in an amount to be determined by the Mayor and City Council, and policies or certificates thereof shall be files with the City Clerk.

1) Any person, firm, or corporation engaged in the business of pruning, trimming, or removing City trees shall possess a valid tree care license.

2) Any person, firm, or corporation engaged in the business of pruning, trimming, or removing trees in the City of Cullman shall abide by existing ordinances in regard to removal of limbs, brush, and debris.

3) The person, or at least on person on the staff of a business must be designated as a Qualified Arborist by the city. To be designated as a Qualified Arborist, a tree service employee shall demonstrate a knowledge of proper arboricultural techniques by providing documentation of professional certification, education, and/or experience acceptable to the City Arborist.

The City Arborist is authorized to recommend suspension or to revoke the tree care license of any person or business that performs work which does not comply with tree care standards as specified in this chapter, or violates any existing ordinance. License suspensions and revocations may be appealed to the Tree Commission within 10 days notification. The decision of the Tree Commission may be appealed to the Mayor and City Council.

D. Tree Planting on Public Property by City Departments: All planting of trees on public property shall conform to the latest arboricultural standards as adopted by the City Arborist. All planting locations and tree selection criteria shall also be approved by the City Arborist before planting.

E. Maintenance of Public Trees: Trees on public lands shall be maintained by the City Department having jurisdiction over such lands, either by City crews or by crews under contract to the City, in accordance with adopted standards.

F. Public Trees That are Potentially Hazardous: Where the growth and limbs of public trees constitute a potential hazard to private property, the City, upon notice or discovery, shall correct the condition.

G. Removal of Stumps: All stumps of trees removed from public and semi-public land 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.

H. Pruning for Clearance: Every owner of any tree overhanging any street right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp, or obstruct the view of any street intersection, and so that there shall be a clear space of eight (8) feet (2.4 meters) above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with the visibility of any traffic control device or sign.

I. Resolution of Conflicts between Trees and Structures: Where sidewalk or curb damage due to tree roots occurs, every effort shall be made to correct the problem without removing or damaging the tree. The City Arborist shall be responsible for developing or approving corrective measures in consultation with the Public Works Director.

J. Harming Public Trees Forbidden: It shall be a violation of the provisions of this ordinance for any person to abuse, destroy, or mutilate any tree, plant, or shrub in a public parking strip or any other public place, or to attach ro place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill, or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with their roots, trunks, or leaves.

K. Protection of Existing Public Trees: Existing public trees shall be preserved to the extent that it is possible and feasible. If removed they will be replaced where practical.

L. Permit Required for Planting, Pruning, Treating, or Removing of Public Trees by Someone Other than the City: Any person or company planting, maintaining, or removing trees on public property other than the city or authorized agent of the city, shall first obtain permission from the Tree Commission. Applications, available at the Public Works Department, shall be filed thirty (30) days prior to the next meeting of the Tree Commission, which is the first Tuesday of each month. It will then be the responsibility of the Tree Commission to notify the person filing the application as to its decision. Applicants should not proceed until after they have received approval in writing from the Tree Commission.

M. Situations which are declared to be public nuisances: Any tree, shrub or ground cover growing or standing on private property in such a manner that any portion thereof interferes with power and utility lines, any public street, sidewalk, alley, or restrict the flow of traffic or visibility of such street power and utility lines, traffic sign, sidewalk, alley or intersection thereof to any person or persons lawfully using such streets, sidewalks, power and utility lines, alleys, or intersections shall constitute a public nuisance.

N. Abatement of Hazards and Public Nuisances: The City may remove or trim such tree, may permit any public utility to do so, or may require the property owner to remove or trim such tree

on private property or on a public parking strip abutting upon the property of the owner. The failure of the property owner, or his duly authorized agent, to remove such tree after fifteen (15) days notice by the City shall be deemed a violation of the provisions of this chapter, and the City may then remove or trim such tree and assess the cost thereof against the property.

SECTION 5. That this ordinance shall take effect upon its passage and publication as required by law.

ADOPTED this the 14th day of September, 19 98.

Allen Knight
President of the City Council

Attest:

Lucille N Galin
City Clerk

Transmitted to the Mayor this the 14th day of September, 19 98.

Lucille N Galin
City Clerk

APPROVED this 14th day of September, 19 98.

Jon Suder
Mayor