

ARTICLE 1300

TREE PRESERVATION AND PROTECTION

Sec. 1300.01 Purpose.

The purpose of this ordinance is to preserve and protect the natural beauty of Bentonville and protect the health and safety of its citizens through the regulation of the maintenance, planting and removal of trees within street rights-of-way or on other public grounds within the City of Bentonville.

(Ord. No. 98-90, § 1, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.02 Objectives.

Objectives of this ordinance include, but are not limited to, the following:

- (a) To save trees on public property from indiscriminate destruction or unnecessary removal.
- (b) To moderate the effects of sun, wind, and temperature changes.
- (c) To filter pollutants from the air and release oxygen.
- (d) To stabilize soil and prevent erosion.
- (e) To preserve desirable trees.

(f) To establish an education program providing information and guidelines for tree preservation and maintenance.

(Ord. No. 98-90, § 1, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.03 Administration and appeals.

(a) *Administration.* The Community Development Director or his/her designee(s) shall be charged with the general administration of this ordinance. The Tree and Landscape Advisory Committee will be available for consultation and recommendations to aid in administration of this ordinance.

(b) *Appeals.* Appeals from the decisions of the Community Development Director shall be in writing to the Planning Commission, unless otherwise herein. Notice of appeal should be addressed to the City Clerk and filed within 10 days of the decision of the Community Development Director.

(Ord. No. 98-90, § 3, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.04 Establishment of a tree and landscape advisory committee.

(a) *Membership.*

- (1) There shall be created a committee to be known and designated as the “Tree and Landscape Advisory Committee”, composed of citizens of the City of Bentonville.
- (2) Five (5) of said members shall be appointed by the City Council. The appointees shall consist of: two (2) persons professionally trained in fields such as forestry, botany, horticulture, and/or landscape architecture; and three (3) persons who are residents of the City of Bentonville. The Community Development Director or his/her assigned shall be a non-voting ex-officio member.

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(3) All appointed members shall serve without pay.

(b) *Terms.* The five (5) appointees shall serve a term of three (3) years, with terms of office to be alternated so that a maximum of three appointments expire in one year. Said members shall serve until their successors are duly appointed and approved by City Council. Vacancies shall be filled for the unexpired term in the same manner as original appointments are made.

(c) *Jurisdiction and powers.*

(1) *Creation.* The Tree and Landscape Advisory Committee shall be created upon the adoption of this ordinance.

(2) *Officers.* The Committee shall elect from its membership, a chairperson, who shall serve a one-year term and shall be eligible for re-election to a subsequent term or terms. Additional officers may be elected and subcommittees established at the discretion of the Committee.

(3) *Rules.* The Committee shall adopt and amend rules to govern the conduct of its business, consistent with the provisions of the Arkansas Freedom of Information Act, Arkansas Code Ann. § 25-19-101.

(4) *Meetings.* The Committee shall hold regular meetings and may call special meetings if necessary to carry out its duties.

(d) *Duties.* The Tree and Landscape Advisory Committee, with the assistance of the Community Development Director, shall:

(1) Advise and consult the Community Development Director on issues pertaining to the Tree Preservation Ordinance and its enforcement.

(2) Organize and administer an ongoing program of public education designed to increase public awareness of trees, their needs and proper care.

(3) Assist in the dissemination of news and information regarding the protection, maintenance, removal, and planting of trees in the City of Bentonville.

(4) Monitor the needs of the City of Bentonville with regard to its tree planting and preservation program.

(5) Pursue the establishment of a comprehensive Bentonville Street Tree Plan.

(Ord. No. 98-90, § 4, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.05 Tree planting, maintenance and removal.

(a) *City action.* The City shall have the right to plant, prune, maintain, and remove trees within all street rights-of-way, alleys, squares, and other public grounds, as may be necessary for the following purposes:

(1) To increase visibility of any traffic control device or sign.

(2) To preserve or enhance the symmetry and beauty of such public grounds.

(3) To ensure street lighting properly spreads along the street.

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(b) *Standards.* All tree planting, maintenance and removal on public grounds shall follow the standards, specifications and guidelines provided in the City of Bentonville Landscape Manual, which will be established and periodically reviewed by the Tree and Landscape Advisory Committee.

- (1) It shall be a violation of this ordinance to damage, destroy or mutilate any tree in a public right-of-way or on other public grounds, or attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill or any other thing to any such tree.
- (2) It shall be unlawful for any person to top or cut back to stubs the crown of any tree in street rights-of-way or on other public grounds.
- (3) Trees shall not be planted to conceal a fire hydrant from the street or impede the line of sight on any street.
- (4) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this ordinance.

(c) *Notification.* Trees may not be planted in or removed from street rights-of-way or on other public grounds without notification to the Community Development Director; and, providing the selection and location of said trees are in accordance with the guidelines of this ordinance.

(d) *Training.* City employees performing tree work on public grounds shall attend an educational workshop on basic tree science and the proper techniques of tree pruning. A certificate will be issued when an individual has successfully completed the workshop.

(Ord. No. 98-90, § 5-6, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.06 Penalty.

Unless contradictory to any penalty set forth herein above, any person violating any provision of this ordinance or who fails to comply with any notice issued pursuant to the provision of said ordinance, upon conviction or a plea of guilty, shall be subject to a fine not less than Twenty-Five Dollars (\$25.00) nor more than One Thousand Dollars (\$1000.00) for each separate offense.

(Ord. No. 98-90, § 5-6, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.07 Stop work order.

The Community Development Director may issue a stop work order directing the parties involved to cease and desist all work which does not comply with the Tree Preservation Ordinance. A hearing will be held within 48 hours of the issuance of the stop work order as provided in section 1300.3 of this article.

(Ord. No. 98-90, § 8, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)

Sec. 1300.08 Severability.

(a) Should any section, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so invalidated.

(b) If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining

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portions of this chapter or any part thereof. The City Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

(Ord. No. 98-90, § 5-6, 11-10-1998; Ord No. 2003-100, § 1, 06-10-2003)