



Ordinance No. 5494

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY OF MEMPHIS CODE OF ORDINANCES TO ADD ARTICLE VII WHICH SHALL GOVERN THE MANAGEMENT OF PUBLIC TREES AND CREATE AND ESTABLISH A MEMPHIS TREE BOARD

WHEREAS, The City of Memphis recognizes that trees on municipally owned or leased real property and within the public street rights-of-way are valuable contributors to the city's environment having a positive economic effect on the City of Memphis by enhancing commercial and residential property values and making the City of Memphis a more attractive place to visit and do business; and

WHEREAS, Well-managed community forest resources increase in value and provide benefits to all the citizens of the community with respect to air quality, glare reduction, noise abatement, water quality, stormwater management, temperature amelioration, community aesthetics and general quality of life; these benefits being crucial to the long-term health, benefit, welfare, and safety of the citizens of the City of Memphis; and

WHEREAS, Public trees, located within public street rights-of-way and on public properties, comprise a large percentage of the urban forest, are a major capital asset of the City of Memphis, just like streets, sidewalks, stormwater management structures, sewers, public buildings and recreation facilities, and are considered a vital part of the community's infrastructure requiring the same care and maintenance as other public property; and

WHEREAS, This Council and the administration desire that the city of Memphis be designated a Tree City USA and intends to seek such recognition and take all reasonable steps to promote planting and conservation of trees throughout the city; and

WHEREAS, The City Council believes it to be in the best interest of the citizens of Memphis that this ordinance be adopted to create a Memphis Tree Board and provide a framework for the management of public trees; to provide for their enduring viability and safety, and to perpetuate the many contributions trees make to the financial, social, aesthetic and environmental well-being of the city, its residents and visitors.;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 34 of the City of Memphis, Code of Ordinances is hereby amended to add the following Article VII which shall read as follows:

ARTICLE VII. PUBLIC TREES

Section 34-1. Definitions

Park Trees - are hereby defined as trees in City parks or City park-like areas to which the public has free access as a park.

Public Trees - are hereby defined as trees located on City property

Tree - is hereby defined as any self-supporting woody perennial plant, having one to several main stem (trunk) and many lateral branches, extensive root system, and at maturity normally attaining a trunk diameter greater than three (3) inches at any point and a canopy height greater than 15 feet. Each category of tree should be planted in the appropriate space and environment.

- a) **Large Tree** is a tree generally expected to reach a height in excess of fifty feet at maturity.
- b) **Medium Tree** is a tree generally expected to reach a height between twenty-five (25) and fifty (50) feet at maturity.
- c) **Small Tree** is a tree generally expected to reach a height between fifteen (15) and twenty-five (25) feet at maturity.

Section 34-2. Creation and Establishment of Memphis Tree Board

There is hereby created and established the Memphis Tree Board (hereafter "Board").

(a) Duties and Responsibilities

It shall be the responsibility of the Memphis Tree Board to serve as an advisory board and recommend policies and practices to the Director of Park Services and Neighborhoods that have positive contributions to the establishment, management, enhancement, maintenance, and conservation of public trees in the city of Memphis. The Board also serves to develop and promote public awareness programs that identify the community benefits from the establishment and maintenance of public urban trees, along with nurturing private/public collaborations to fund and further promote a public tree conservation program.

(b) Board Composition and Qualifications.

The Board shall consist of seven (7) members which shall include three (3) officers: chairperson, co-chairperson, and treasurer. Each member shall be a resident of the city of Memphis and shall be appointed by the Mayor, subject to the approval of the Memphis City Council. Three (3) of the members are required to be a certified professional arborist, horticulturalist, or forester.

The majority of the board members shall recommend the appointment of a chairperson to be approved by the Director of Parks and Neighborhoods. The chairperson shall select the co-chairperson and the treasurer.

(c) Term

The term of each member shall be for a period of three (3) years. Upon the expiration of a term, a member may be reappointed as his or her successor. The Chair shall serve successive three (3) year terms, unless removed by the Mayor. In the event of a vacancy during the term of any member, a successor shall be appointed by the Mayor, subject to the approval of the Council, to serve the remainder of such member's unexpired term.

(d) Removal

A member may be removed from the Board for continued absence from meetings or other just cause in accordance with the procedure for removal of Board or Commission members provided by the City of Memphis Charter.

Section 34-3. Public Tree Care

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs on public property, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of the site.

Section 34-4. Tree Pruning Requirements

No person shall top any public tree. Any tree requiring pruning to ameliorate any public safety issues, to ensure the safe distribution of public energy, to remove obstruction of street lights from any lamps, or other public obstruction shall be pruned according to ANSI standards. Topping a tree shall be used only when pruning by ANSI standards fail to address the foregoing issues.

Section 34-5. Removal of Stumps

The City will utilize its best efforts and embrace the operational preference to remove tree stumps below the surface of the ground.

Section 34-6. Tree Contractor's Insurance and Bond Requirements

The City shall require individuals and companies conducting any pruning, treating or removing of Park or Public trees as defined in this ordinance to satisfy the following requirements:

- A. To protect the public, the City shall require any Company or contractor which removes or maintains trees as a business on public lands to:

1. Furnish an acceptable surety bond covering the work in which they are engaged and provide proof of liability insurance satisfactory to City, upon the terms and conditions set forth in this section.
 - a. The bond shall be in a sum of 100% of the cost of the work to be performed and be executed by the applicant as principal and by a solvent corporation authorized to do business within the state of Tennessee as surety;
 - b. The bond shall be for a minimum term of one year and shall extend to cover the period of the contract with the City;
 - c. The bond shall not be canceled or terminated until at least 30 days after a notice of cancellation of the bond is received by the City Risk Manager.
 - d. The principal will at all times do all pruning, trimming and removing of trees strictly in accordance with this article;
 - e. All work will be done in a good and workmanlike manner;
 - f. The City shall be fully indemnified and held whole and harmless from any cost, expense, damages to real property or personal injury done to any person or property in the prosecution of such work that may arise out of or be occasioned in the performance of such work; and
 - g. The Company or Contractor will cause all streets, alleys and sidewalks that have been impaired in any manner to be repaired and put in the same condition as they were before the work was done.
2. Provide to the City Risk Manager an insurance policy or certificate of insurance with coverage for personal injury and property damage, including coverage for damage to trees, in amounts of not less than \$50,000.00 property damage, \$100,000 for bodily injury or death and aggregate limits of five hundred thousand dollars (\$500,000.00) for each incident or occurrence. The City shall be named as an additional insured on any such policies and certificates of insurance and the company shall agree to indemnify the City as part of any contract with the City against any loss, liability or damage resulting from performance of the contract.
3. Have at least one (1) certified arborist employed by each company operating within the city.
4. In addition, workmen's compensation insurance satisfying the statutes of the State of Tennessee shall be on file with the City Risk Manager.
5. Should any policy be canceled, the city shall be notified of such within ten (10) days after such cancellation is effective, and a provision to that effect, which shall

also place upon the company writing such policy the duty to give such notice, shall be incorporated in each such policy.

Section 34-7. Penalty

Any person violating any provision of this ordinance shall be subject to a fine not to exceed \$50. The appeal of any fine imposed hereunder shall be handled in accordance with Section 1-8 of the Memphis City Code of Ordinances.

Section 34-8. Indemnification

Nothing contained in this ordinance shall be deemed to impose any liability upon the 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 public property or rights-of-way or public place within the city.

Section 34-9. Conflicts

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

Section 34-10. Severability

If any subsection, sentence, clause, provision of part of this Ordinance shall be held invalid for any reason, by a court of the competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

Section 34-11. Effective Date

This Ordinance is hereby declared to be of immediate necessity for the preservation of public peace, health, and safety, and shall be in full force and effective from and after its passage and publication as provided by law.

Edmund Ford , Chairman
Memphis City Council

ATTEST:

Comptroller

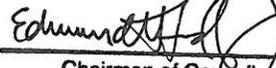
THE FOREGOING ORDINANCE

5494 PASSED

1st Reading 2-05-2013

2nd Reading 2-19-2013

3rd Reading 3-05-2013

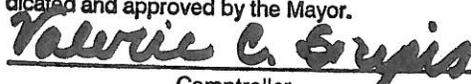
Approved: 
Chairman of Council

Date Signed: 3/19/2013

Approved: 
Mayor, City of Memphis

Date Signed: 3/24/13

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.


Comptroller