

ORDINANCE NO. _____

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, PROTECTION AND REMOVAL OF TREES IN PARKS AND ON OTHER PUBLIC GROUNDS; AND FOR OTHER PURPOSES.

WHEREAS, the trees located in the City of Hot Springs are a valuable natural resource which needs to be managed.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Hot Springs, Arkansas:

SECTION 1. PURPOSE. It is the purpose of this ordinance to preserve and enhance the natural beauty of Hot Springs, to protect the health and safety of the residents of Hot Springs, and to protect the environment by providing for regulation of the planting, maintenance, and removal of public trees within the City of Hot Springs, in order to accomplish where possible, the following objectives:

- To create a desirable environment for Hot Springs residents.
- To moderate effects of sun, wind, and temperature changes.
- To buffer noise, air, and visual pollution.
- To filter pollutants from the air and release oxygen.
- To decrease storm water runoff.
- To stabilize soil and prevent erosion.
- To provide habitat for wildlife.
- To increase property values and protect investment.
- To preserve desirable trees.
- To help preserve river and stream banks.
- To screen incompatible land uses.
- To encourage public education about trees and their value to the community.
- To promote energy conservation.

SECTION 2. DEFINITIONS.

(a) *Administrative Authority.* The person(s) designated by the City Manager with the responsibility for administration and enforcement of this ordinance.

(b) *City of Hot Springs Landscape Handbook.* A document having detailed standards and specifications for tree protection, planting, maintenance and design as written and updated by the Administrative Authority.

(c) *Commercial Tree Pruner/Service.* A person who performs work on trees for profit.

(d) *Diameter Breast Height (DBH)*. The diameter of a tree measured at a point four and one-half feet above the ground. If a tree splits into multi-trunks, the trunk is measured at its narrowest point below the slit.

(e) *Hazardous Tree*. A tree or tree parts with high probability of falling or causing injury or property loss; also, a tree harboring insects or a disease that could be detrimental to surrounding trees.

(f) *Landmark Tree*. A landmark tree is any tree, located on public property, listed with the state or national registry or cited in the city's tree registry as being historically significant, by age, species, form, or location.

(g) *Person*. An individual, firm, corporation, partnership, business, group of individuals, city department or other entity which acts singly or collectively for a common purpose.

(h) *Public Grounds*. Areas owned and maintained by the City of Hot Springs (City) including streets, alleys, parks, medians, substations, treatment plants, plazas, squares, public buildings, and any other city-owned and maintained areas designated for public use.

(i) *Rare Tree*. A rare tree is a tree with a trunk diameter of 24" or more for large growing species and 8 inches or more for small growing species, over 200 years of age, or is representative of an uncommon or endangered species as designated in the City of Hot Springs Landscape Handbook.

(j) *Topping*. Also referred to as stubbing, dehorning, pollarding and heading; it is the severe removal of the tree canopy back to large stubs.

(k) *Tree*. Any self-supporting woody perennial plant, usually having a main trunk(s) and many branches, and, at maturity, normally attaining a trunk diameter greater than three inches at DBH and height of over ten feet.

(l) *Tree Registry*. A list of trees registered with the City of Hot Springs due to documented historic association, rare tree species or extraordinary value because of their age, size, or location.

SECTION 3. COMMERCIAL TREE PRUNER/SERVICE CERTIFICATE AND INSURANCE REQUIRED.

(a) A city issued tree pruner/service certificate shall be required for the owner and supervisory personnel of each business performing commercial tree work in parks and on other public grounds.

(b) Each applicant shall attend an educational training on basic tree science and the proper techniques of tree pruning; and/or shall demonstrate sufficient knowledge of basic tree science and the proper techniques of tree pruning by scoring 75% or higher on a test approved by the University of Arkansas's Cooperative Extension Service. Individuals with an International Society of Arboriculture (ISA) certification are exempt from this requirement.

(c) A certificate shall be issued by the Administrative Authority when an individual has successfully completed the training and scored adequately on the test.

(d) The certificate shall be available at each job site.

(e) All persons engaged in the business of public tree care and removal shall be under the supervision of a certified tree pruner/service.

(f) Noncompliance with the standards, specifications and guidelines outlined herein, as well as those set forth in the Landscape Handbook for the City of Hot Springs, shall result in the following actions being taken:

First violation - warning issued and repeat training.

Second violation - suspension of certificate for 30 days.

Third violation - revocation of certificate.

Should a violation result in the revocation of an individual's certificate, such individual shall have the right to reapply for a commercial tree pruner/service certificate after thirty (30)-days, subject to the limitations set forth in subsection B. Attendance at the educational workshop, as set forth above, is required prior to re-issuance of such certificate.

(g) Should an individual's certificate be revoked for a fourth violation within a one-year period, reapplication for a certificate may be denied to such individual.

(h) Appeals from denial of certification shall be in writing to the Administrative Authority with final appeal to the City Board of Directors.

SECTION 4. TREE PLANNING, PLANTING, MAINTENANCE AND REMOVAL -- PUBLIC GROUNDS.

(a) All tree planting, maintenance and removal on public grounds shall follow the standards, specifications and guidelines provided in the Landscape Handbook for the City of Hot Springs, which may be reviewed and updated periodically by the Administrative Authority. The latest edition of said Landscape Handbook shall be kept on file in the Office of the City Clerk and as Attachment A hereto.

(b) Trees may be planted on public grounds only after notification to the Administrative Authority and providing the selection, location, and maintenance of said trees is in accordance with the guidelines of the City of Hot Springs Landscape Handbook.

(c) Trees shall not be removed from public grounds unless approval is received from the Administrative Authority.

(d) It shall be a violation of this ordinance to damage, destroy or mutilate any tree 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.

(e) It shall be unlawful for any person to top or cut back to stubs the crown of any tree on public grounds.

(f) The City shall have the right to prune, maintain and remove any tree on public grounds which interferes with any traffic control device or sign.

(g) Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this ordinance.

(h) 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.

(i) The responsibility for writing and implementing the annual community Forestry Work Plan for the City of Hot Springs shall be such department(s) as shall be designated by the City Manager.

SECTION 5. RIGHT OF INSPECTION.

The Administrative Authority shall have the right to inspect all sites within the City involving tree preservation on public grounds, landmark and rare trees, trees that constitute a hazard or a threat, and trees involving variance requests, or as otherwise required under the City of Hot Springs Code of Ordinances.

SECTION 6. HAZARDOUS TREES.

(a) Every owner of any tree overhanging a street or sidewalk within the City is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians. Provided further, that all property owners within the City are hereby required to cause the removal of any dead or diseased trees on their property whenever such trees constitute a hazard to life and property, or harbors insects or disease which constitute a potential threat to other trees.

(b) If the owner or owners of any lot or other real property within the City, after the giving of seven (7) days' notice in writing by the City Manager or his/her designated representative, shall refuse or neglect to perform the duties in connection with his or their property as specified in (a) hereof, the City Manager or his/her designated representative is hereby authorized to enter upon the property and have said tree and/or branches cut and removed; and the cost thereof shall be charged against said premises and shall constitute a lien thereon.

(c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and, before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to the unknown address or whereabouts of nonresidents; and, thereupon, service of the publication as now provided for by law against a nonresident defendant may be had, and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last-known place of residence if same can be found.

(d) The lien herein provided for may be enforced and collected in either one (1) of the following manners:

- (1) The lien may be enforced at any time within eighteen (18) months after work has been done by an action in the chancery court; or
- (2) The amount of the lien herein provided may be determined at a hearing before the Board of Directors held after thirty (30) days' written notice by certified mail to the owner or owners of the property if the name and whereabouts of the owner or owners are known; and if the name of the owner or owners cannot be determined, then after publication of the notice of such hearing in a newspaper having a bone fide circulation in Garland County for one (1) insertion per week for four (4) consecutive weeks and the amount so determined at said hearing, plus ten (10) percent penalty for collection, shall be certified by the Board of Directors to the Garland County Tax Collector and by him/her placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three (3) percent thereof, when so collected, shall be paid to the City.

(e) Notwithstanding any provision herein to the contrary, in cases of extreme emergency where notice is not practical, the City and its authorized agents may enter upon any real property and take such action or actions as may be immediately necessary for the preservation of the public health, safety and welfare prior to the issuance of notice as provided for herein. Provided, further, that the procedural requirements of this section shall be adhered to following such emergency action.

SECTION 7. LANDMARK AND RARE TREES; TREE REGISTRY.

(a) There shall be established a Tree Registry, which shall be a list of trees, or groups of trees, located on public grounds and registered with the City of Hot Springs due to documented historic association, rare tree species or of extraordinary value because of the age, size, or location. Such Tree Registry shall be maintained by the City Manager or his/her duly appointed representative.

(b) Rare and landmark trees on public property (including those within 100 feet of a site) shall be shown on all preliminary plats, large scale developments, or site plans. The City Manager or his/her duly authorized representative may visit the site to determine the accuracy of identification.

(c) Prior to removal or pruning of any registered landmark and/or rare tree, approval shall be received from the Administrative Authority.

SECTION 8. ADMINISTRATION AND APPEALS.

(a) The general administration of this ordinance shall be accomplished by such Administrative Authority as shall be designated by the City Manager. The Administrative Authority shall consist of such individuals and departments as deemed necessary by the City Manager to accomplish the intent of this ordinance. In this regard, the Administrative Authority shall have the authority to request assistance and consultation from such other city officials and departments as shall be necessary to aid in the administration and enforcement of this ordinance.

(b) Appeals from decisions of the Administrative Authority shall be in writing and shall be filed in the Office of the City Clerk within seven (7) business days of the decision of the Administrative Authority. Appeals shall be heard by such administrative body as may now or hereinafter be designated as the appeal body for building codes.

SECTION 9. PENALTY.

The fine or penalty for violating any provision of this ordinance shall, upon conviction in the municipal court, not exceed five hundred dollars (\$500.00) for any one specified offense or violation, or double that sum for each repetition of such offense or violation.

SECTION 10. CONFLICT IN REGULATIONS.

Where a conflict arises between this ordinance and another ordinance, the more stringent requirement shall apply.

SECTION 11. STOP WORK ORDER.

The Administrative Authority may issue a stop work order directing the parties involved to cease and desist all work which does not comply with this ordinance. A hearing will be held within 72 hours of the issuance of the stop work order. The hearing shall be before such administrative body as may now or hereinafter be designated as the appeal body for building codes.

SECTION 12. SEVERABILITY.

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.

SECTION 13. CODIFICATION.

This ordinance shall be codified in the Code of Ordinances, and the sections may be renumbered or relettered to accomplish this intention.

PASSED: _____

APPROVED: _____
BOB MATHIS, MAYOR

ATTEST: _____
LANCE HUDNELL, CITY CLERK