

CHAPTER 1. - FRANKLIN TREE COMMISSION

Sec. 2-101. - Purpose.

It is the purpose of this chapter to promote and protect the public health, safety, and general welfare of the public and encourage beautification, air-cooling, noise abatement, water quality, and enhance property values by providing for the regulation of the planting, maintenance, and removal of public trees within the City of Franklin.

(Ord. No. 2004-110, § 1, 1109-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-102. - Definitions.

For the purpose of this chapter the following terms, phrases or words used in the present tense include the future, words in the plural number include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) *Topping* means the severe, nonselective cutting or heading back of limbs to stubs which are two inches or more in diameter, within the tree's crown area to such a degree as to remove more than 25 percent of the tree crown, and disfigure the tree.

(Ord. No. 2004-110, § 1, 1109-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-103. - Creation and membership.

There is hereby created the Franklin Tree Commission (FTC), hereinafter referred to as the FTC. The FTC shall consist of seven members and shall be nominated by the mayor and confirmed by a majority vote of the board of mayor and aldermen. The qualifications and terms of membership shall be as follows:

- (1) One member shall be a member of the board of mayor and aldermen; the term of such member shall run concurrently with his or her term of office or until replacement by the board of mayor and aldermen.
- (2) One member shall be a member of the planning commission and selected by the board of mayor and aldermen; with the term of such member running concurrently with his term on the planning commission or until replacement by the board of mayor and aldermen.
- (3) Three members shall be appointed by the board of mayor and aldermen from the community at large; the terms of such members shall run for two years. Members of the FTC shall serve without compensation.
- (4) One member shall be a green industry professional from the community at large: the term of such member shall run for three years. Members of the FTC shall serve without compensation.
- (5) One member shall be a representative of the largest electrical utility serving the City of Franklin: the term of such member shall run for two years. Members of the FTC shall serve without compensation.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-2-2005; Ord. No. 2006-68, § 1, 10-10-2006; Ord. No. 2008-43, § 1, 11-11-2008)

Sec. 2-104. - Procedure.

Meetings of the board shall be held at the call of the chair and at other times as the FTC may determine. The meetings of the FTC shall be open to the public. The FTC shall adopt Roberts Rules of Order as its rules of procedure and shall keep records of the applications and the actions, which shall be public record.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-105. - Duties and responsibilities.

The duties of the FTC shall include, but not be limited to, the following:

- (1) Make recommendations to the board of mayor and aldermen in planning for the use of tree bank funds and charitable donations of trees or money. The FTC shall approve the use of all tree bank funds for up to an amount equaling \$10,000.00 or as according to the guidelines of the Municipal Code. Any amounts in the excess of \$10,000.00 shall require the approval of the board of mayor and aldermen.
- (2) Planning and holding an annual Arbor Day ceremony,
- (3) Make recommendations to the board of mayor and aldermen in the preparation of a tree plan for the community,
- (4) Maintenance of a recommended tree list for the community,
- (5) Make recommendations to the board of mayor and aldermen in the adoption of rules and regulations pertaining to the tree program,
- (6) Coordination of tree-related activities,
- (7) Provision of tree information to the community,
- (8) Recognition of groups and individuals completing tree projects,
- (9) Coordination of publicity concerning trees and tree programs,
- (10) To achieve and maintain status of Tree City USA.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006; Ord. No. 2008-43, § 1, 11-11-2008)

Sec. 2-106. - Tree bank.

The tree bank shall be a fund to receive monies from owners or developers who remain unable to successfully plant and maintain replacement and/or required trees on the site under development, with such monies to be used for planting public trees or maintenance of said trees during their first five years, as established in the zoning ordinance. This fund shall also be used for charitable contributions given to the city for planting trees. The applicant may contribute to the tree bank an amount of money equal to the costs of providing the required density of replacement trees, according to a fee schedule approved by the FTC, and in the event that the planning staff determines that a site is eligible and what percentage of the requirement may be contributed.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006; Ord. No. 2008-43, § 1, 11-11-2008)

Sec. 2-107. - Tree planting.

- (1)

The city shall undertake tree planting on all public areas in a systematic manner to assure diversity of age classes and species. The tree commission shall issue guidelines governing areas to be planted, density, appropriate species, and other aspects of the planting program.

- (2) Tree species planted shall be according to the City of Franklin Tree List or as approved by the staff person assigned to the commission (hereinafter the "assigned staff person").
- (3) The city encourages the planting of trees on private property.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-108. - Planting guidelines.

No trees may be planted or otherwise placed on any public street, sidewalk, alley or other public place, or in any public right-of-way except in accordance with the standards of ANSI A300 (Part 6) Transplanting, current edition, this chapter or the guidelines established by the tree commission. With respect to new development approvals to which the standards of the zoning ordinance and design standards may also apply, in the event of a conflict with this chapter, the stricter standards shall apply. With respect to the planting of trees in or on the right-of-way of any public street, sidewalk, alley, or in or on any park or other public place, the following guidelines shall apply:

- (1) All trees in public areas capable of reaching a mature height greater than 40 feet shall be at least two inches in caliper. Understory trees, between 15 feet and 40 feet at maturity, shall be at least 1½ inches in caliper at planting.
- (2) Trees to be planted shall be free of insects and diseases, mechanical injuries, have reasonably straight trunks with a strong leader branch, and shall meet the standards of ANSI Z60.1, Nursery Stock, current edition. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.
- (3) Large trees capable of achieving more than 40 feet in height should be spaced at least 40 feet apart. Understory trees capable of achieving 15 to 40 feet of height should be spaced at 25-foot intervals. Exceptions may be granted when a landscape plan approved by the Franklin Planning Commission is followed, or when greater or lesser spacing is needed to achieve a desired effect as approved by the tree commission.
- (4) Only understory trees are permitted to be planted within ten feet of overhead utility lines. In street plantings, no tree may be planted closer than ten feet to a fire hydrant, or utility pole or street light, or within sight triangles as defined in the Franklin Zoning Ordinance.
- (5) Guying of trees, while not generally recommended, may be appropriate in some situations. If trees are guyed, all guy wires shall be maintained and regularly monitored to ensure that there are no detrimental effects to the tree. All tree stakes and guys shall be removed no later than one growing season after planting.
- (6) No person or organization, including governmental entities or private owners, shall plant a tree within (or beneath) any city right of way or utility easement, which will eventually become a public nuisance, such as planting a large tree under a utility easement boundary. Upon discovery of such planting, the city will have the authority to cause the tree to be moved or removed at the expense of the party who planted said tree.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-109. - Maintenance of trees planted in public areas.

The following guidelines shall apply as to maintenance of trees:

- (1) Tree maintenance may include pruning, fertilizing, watering, insect and disease control or other tree care activities and shall be in accordance with ANSI Z133.1 Safety Requirements, current edition and ANSI A300, all parts, current editions. The city, developers or property owner associations, as stated in section 2-210, shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk of hazard trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the tree commission, the assigned staff person, or the appropriate department head. Tree care may be accomplished by city personnel or by contract with commercial tree care companies.
- (2) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community.
- (3) The practice of tree topping is prohibited on all public trees. Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.
- (4) Trees growing along side streets and sidewalks shall be pruned to keep the public access free of limbs to a height of eight feet for sidewalks and 12 feet for streets.
- (5) Pruning shall be in accordance with the standards of ANSI A300 (Part 1) Pruning, current edition.
- (6) Fertilization shall be in accordance with the standards of ANSI A300 (Part 2) Fertilization, current edition. Fertilization of trees will be accomplished when the tree commission, assigned staff-person, or responsible department head determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test, or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.
- (7) Extensive root system damage to public trees is prohibited. Grade changes and trenching within the critical root zone is prohibited without permission of the tree commission or assigned staff-person.
- (8) Unless specifically authorized by the tree commission, the assigned staff person, or the appropriate department head, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivances to any tree; allow any volatile liquid or solid or impervious substance (concrete, asphalt) which is harmful to such trees and/or their root systems to come into contact with said trees; or set fire or permit any fire to burn nearby when such fire or heat thereof may injure any portion of the tree; or permit grade changes around or under trees, or permit storage of materials directly on the root zone of any public tree, as authorized in this chapter.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-110. - Applicability to public areas maintained in whole or in part by developers or property owners associations.

The provisions of sections 2-208 and 2-209 shall also apply to planting and maintenance of trees in any medians, rights of way or other public areas by developers or property owners associations. When the standards of this ordinance conflict with or are inconsistent with the requirements of the Franklin Zoning Ordinance, with respect to new development, then the stricter standards shall apply.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-111. - Tree removal.

- (1) Dead trees, and dying trees on public property that pose a safety or health risk to residents or to other trees will be removed. Upon inspection by the tree commission, assigned staff person, or appropriate department head, those trees on public property found to be dead, and those found to be dying that pose a safety or health risk to residents or other trees shall be removed in a timely manner.
- (2) The tree commission and/or assigned staff person will upon observing dead or dying trees on private property, notify the landowner of such tree and encourage the landowner to remove said tree.
- (3) The city shall have the right to cause the removal of any dead, damaged, or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects and disease which constitute a potential threat to other trees within the city. The assigned staff person or the appropriate department head will notify in writing the owners of such trees. Removal shall be done by said owners at their expense within 60 days after receipt of written notification. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the private owner.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-112. - Tree topping.

- (1) Tree topping of all public trees is prohibited. The tree commission shall promote the use of proper pruning procedures.
- (2) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Pruning shall be in accordance with the standards of ANSI Z133.1 Safety Requirements, current edition and ANSI A300 (Part 1) Pruning, current edition. Where possible, the utility shall undertake a program of replacing large trees with small maturing ornamental trees of the kind recommended by the tree commission or canopy trees in an area away from utilities.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006)

Sec. 2-113. - Enforcement.

The city building and building and neighborhood services department shall have the power to promulgate and enforce the provisions of this chapter. This shall include the right to issue notices of violations, and notices to stop work when continuation of work is likely to cause harm to city trees as specified elsewhere in this chapter. The assigned staff person has the right to clarify the provisions of this chapter.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006; Memo of 12-3-2013)

Sec. 2-114. - Penalties, claims, and appeals.

- (1) *Violations.*

Any city agency, or other governmental agency acting at the will of the city within the city limits who violates any provision of this chapter shall be responsible for ameliorating the situation as directed by, and to the satisfaction of the tree commission, assigned staff person, or the appropriate department head.

Any private citizen who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine as specified in appendix A, comprehensive fees and penalties.

If, as the result of the violation of any provision of this chapter by a private citizen, the injury, mutilation, or death of a city public tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement, or the appraised dollar value of such tree, shrub, or other plant, shall be borne by the private citizen in violation.

The value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees' Specimen Shrubs and Evergreens" as published by the International Society of Arboriculture.

- (2) *Assessment of claim.* In the event that a public nuisance or hazard on private property is not abated by the date specified in the notice to the party responsible, the assigned staff person is authorized to cause the abatement of said public nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the hazard or nuisance was located shall be subject to prosecution for commission of a misdemeanor.
- (3) *Appeals.* Any private citizen aggrieved by an action or decision pursuant to this chapter shall have the right to an appeal to the city tree commission provide written request is filed with the planning and sustainability department within ten working days of the action upon which the appeal is based. The tree commission shall have the authority to grant variances where the particular characteristics of the plant material and/or topography and/or construction reasonably warrant a variance without materially altering the intent of this chapter.

(Ord. No. 2004-110, § 1, 11-9-2004; Ord. No. 2005-62, § 1, 11-8-2005; Ord. No. 2006-68, § 1, 10-10-2006; Ord. No. 2009-04, § 1, 2-10-2009; Memo of 12-3-2013)

City of Franklin, TN**Tree Bank Reserve Funds****Date****Receipts**

McKays Mill	10/29/2007	120,675.00
Chestnut Bend	10/29/2007	1,200.00
Reid Hill Commons	12/18/2007	6,900.00
Grace Point Church	7/25/2008	77,850.00
Sports Land Group	9/9/2008	30,000.00
Miscellaneous	3/23/2009	4,575.00
Crossforth, LLC	9/29/2010	3,000.00
Hillstone Construction	12/22/2010	2,100.00
Mallory Valley Utility District	12/5/2011	8,000.00
Pinnacle Carothers McEwen	7/9/2014	99,000.00
Total Receipts @ 09/30/14		353,300.00

Disbursements

Shadow Nursery	5/21/2008	1,962.50
Tomlin	1/31/2009	6,039.21
Happy Tree	1/31/2009	16,320.00
Happy Tree	1/31/2009	8,000.00
John Deere Landscapes	10/5/2009	900.00
John Deere Landscapes	10/7/2009	900.00
Stewarts Nursery	12/16/2009	2,320.00
Arborcare Tree Specialist	12/11/2009	43,345.00
GroWild	3/4/2010	1,146.50
Timbercrest Nursery & Landscaping	5/1/2010	1,190.00
Shadow Nursery, Inc.(Don Shadow lecture)	6/29/2010	500.00
Randy Youngblood Nursery	11/24/2010	570.00
Happy Tree	1/4/2011	19,956.00
Scenic Hills Nursery	2/24/2011	5,160.00
Carol Reese	7/11/2011	512.50
New Leaf	8/31/2011	300.00
The Office of Joel Tomlin	3/19/2012	11,734.00
The Office of Joel Tomlin	5/31/2013	7,014.00
Susan Bradfield	9/10/2013	360.00
Total Disbursements @ 09/30/14		128,229.71

Balance @ 09/30/14**225,070.29**