



**ORDINANCE OF
THE CITY OF EVANSVILLE, INDIANA
CONCERNING TREES**

WHEREAS, THE PURPOSE OF THIS Ordinance is to regulate the protection, maintenance, removal and planting of trees and shrubbery; to encourage the protection of existing trees along publicly-owned streets and on public grounds within the city; and to establish procedures and practices for fulfilling these objectives; and

WHEREAS, it is hereby found and determined that such planting, protection, maintenance and removal are matters of city-wide concern over which the city should exercise the control set forth in this Ordinance, and thus by doing so will advance the quality of life for Evansville citizens.

**NOW, THEREFORE, BE IT ORDAINED
BY THE COMMON COUNCIL OF THE
CITY OF EVANSVILLE, INDIANA AS FOLLOWS:**

SECTION 2.90.010 Definitions.

The following definitions shall be applied to this Ordinance:

"caliper" shall mean the diameter measurement of a tree trunk taken six inches above the ground on trees with a diameter of four inches (4") or smaller and twelve inches (12") above the ground on larger planting stock.

"impervious cover" shall refer to buildings and paved areas.

"person" shall mean any person, firm partnership, association, corporation, company, or organization of any kind.

"pruning" shall be defined as the removal of plant parts.

"public tree" shall mean a tree located on a street, walkway, sidewalk, park or other property owned by the City of Evansville ("City") or other governmental agency; provided, however, such definition shall exclude both: a tree located on a street, walkway or sidewalk as described in subdivision plat, where such street, walkway or sidewalk has not been yet dedicated, constructed and accepted for repair and maintenance by the City, State of Indiana, or other governmental agency; and a tree located on property owned by the City, State of Indiana or other governmental agency strictly as a utility right-of-way easement.

"shall" is always mandatory and not merely suggestive.

"should" denotes and advisory recommendation.

"top", "topping", "head", or "heading" shall be defined as cutting a currently growing or one-year-old stock back to a bud, or cutting an older branch or stump to a stub or lateral branch not sufficiently large enough to assume the terminal role.

"tree" shall mean a perennial plant having a woody supporting main stem or trunk, ordinarily growing to definite heights and usually developing branches at some distance from the ground.

"tree care" shall mean the treating, spraying, removal, pruning and any other tree maintenance or cultural work intended for the enhancement or preservation of trees and the removal and prevention of any and all damage to any street trees caused by tree pests, blights, and diseases.

SECTION 2.90.020 Tree Advisory Board: Creation

There is hereby created and established a seven (7) member Tree Advisory Board for the City of Evansville, Indiana, whose members shall be appointed as follows:

A. Four (4) members appointed by the Mayor, including the City's Arborist, one (1) member from the City's Parks Board, one (1) representative from a local privately-owned electrical utility company, and one (1) member from Operation City Beautiful's Board of Directors;

B. Two (2) members appointed by the Common Council of the City with one (1) member from a neighborhood association who shall be an officer of the same; and

C. One (1) member appointed by the Vanderburgh County Solid Waste Management District.

SECTION 2.90.030 Tree Advisory Board: Appointment and Term of Office.

A. Of the initially appointed members, the representative of Operation City Beautiful, Inc., Arborist and Parks Board shall serve two (2) years, the representative of the Utility shall serve three (3) years, and the representative appointed by the Common Council and the Vanderburgh County Solid Waste Management District shall serve four (4) years. When their respective terms expire, their replacements shall serve four (4) year terms.

B. Members of the Tree Advisory Board shall serve without compensation.

SECTION 2.90.040 Tree Advisory Board: Duties.

The Evansville Tree Advisory Board may:

A. Study the problems and determine the needs of the City in connection with the development and execution of a tree-planting program.

B. Assist the properly constituted officials of the City and citizens of the municipality, in the dissemination of news and information regarding the care, preservation, pruning, removal, selection, planting, maintenance, and disposal of public trees.

C. Provide regular and special meetings at which the subject of

trees, insofar as it relates to the city, may be discussed by the members of the Tree Advisory Board.

D. Coordinate its efforts with related projects of such groups as the Board of Public Works Engineering Department and Parks Board.

E. Communicate with the State Highway Department as to any highway projects which would affect public trees.

F. Review, with the Mayor and Common Council, all plans for preserving existing public trees and planting new public trees.

G. Recommend to be removed any public tree or part thereof which is in an unsafe condition or is affected with any injurious fungus, insect or other pest, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements.

H. Recommend to the proper authority the type and kind of public trees to be planted upon city-owned streets or parts of city-owned streets or in parks as is designated. Recommendations will be appropriate to the visibility requirements of existing on and off premise business signage. The types and kind of trees will be responsibly chosen to avoid materially obstructing the property by impairing the visibility of business signage.

I. Issue permits as required by this Ordinance (refer to Section 2.90.090 and 2.90.100).

J. Govern all aspects of the city's Arborist certification program.

K. Conduct educational and fund-raising campaigns as necessary and work with private and public agencies and organizations to establish programs for planting and care of public trees.

L. Establish a non-reverting tree capital improvement fund to be used by the Board to accept public and private sector resources for programs of the Board. In the event of the discontinuance to the Tree Advisory Board, the remainder of this fund shall revert to the general fund of the City. All fees and fines connected to the enforcement of this Ordinance shall be deposited into this fund.

M. Annually submit a budget to the Common Council for appropriation of the fund(s) aforementioned.

SECTION 2.90.050 Tree Advisory Board: Operation.

The Board shall choose its own officers, make its own operating rules and regulations (within the bounds established by this Ordinance), and keep minutes of its proceedings. A majority of the active appointed members at a duly called meeting shall be a quorum for the transaction or business.

SECTION 2.90.060 Director of the Board of Public Works Duties, and Authority.

For the purpose of carrying out the provisions of this Ordinance, the Director of the Board of Public Works, or a designee arborist in consultation with the Tree Advisory Board as provided below, shall have the jurisdiction, authority, control, supervision, and direction over all trees planted or growing in or upon the publicly-owned streets and on public grounds within the city, and the planting, removal, care, maintenance, and protection thereof.

SECTION 2.90.070 Planting, Trimming, Pruning, and Removal of trees on Public Property.

A. All routine public tree care undertaken by the employees or contractors of the City shall be initiated by the tree Advisory Board and undertaken or supervised by a licensed arborist.

B. The Tree Advisory Board or its designated agent, shall have the authority to review all requests for permits for any planting, removal, trimming and/or cutting of public trees. Authority also shall be given to attach reasonable conditions to these permits and to grant or deny permits.

C. No person shall remove, destroy, cut, severely prune (including the root system), or otherwise treat any public tree without first obtaining a written permit from the Tree Board, or its designated agent.

D. Public utilities may, however, without a permit trim public tree branches and roots as necessary for the installation and maintenance of utility services as long as such work is done in accordance with provisions set forth in this Ordinance. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Ordinance at the determination of the City Tree Board or the City Arborist. The cost of such actions is not the responsibility of the City.

E. A private property owner, including a lessee or party holding contract rights in property, may, however, after consulting with the Tree Advisory Board, remove a public tree which materially obstructs its property if said private property owner, at the private property owner's expense, replaces the public tree with two (2) or more newly-planted public trees having a four (4) inch or greater caliper trunk and which shall meet Nursery Standards for street trees if planted along roadways, and shall water and maintain the same for a period of four (4) years thereafter to assure the survival of said replacement public trees.

F. It shall be unlawful as for any person: 1) top or head any public tree, or 2) cut any public tree's limbs within the tree's canopy back to stubs larger than three (3) inches in diameter, unless approved by the Tree Advisory Board, or its designated agent. Pruning of trees on publicly-owned property shall be done in accordance with current industry pruning and safety standards, including the ANSI A300 - Tree, Shrub and other Woody Plant Maintenance - Standard Practices and ANSI Z133.1 - Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and cutting Brush - Safety Requirements.

G. Prior permission shall be obtained from the Tree Advisory Board or designee should an owner or occupant wish to perform routine trimming or treatment on a public tree overhanging on to said owner or occupant's property. Said owner or occupant may do so at his own risk and shall be held responsible for his actions.

SECTION 2.90.080 Injury to Trees.

A. It shall be unlawful for any person to intentionally damage, cut, carve, transport, or remove any public tree; attach any rope, wire, nails, advertising posters, yard sale signs, or other contrivance to any public tree; or allow to come in contact with them any gaseous liquid, or solid substance which is harmful to such public trees.

The exception shall be that the Police Department may attach temporary traffic and parking control signs, as necessary, but so as not to intrude the outer branch of trees.

B. The State Highway Department may without a permit act to trim or remove trees endangering traffic on state highways within the city limits.

C. In extreme emergencies when a public tree(s) has been severely damaged by storms or other causes or is obstructing utility wires, etc., the Board of Public Works or public utilities may without permit resort to topping or severe cutting back of limbs of public trees, but should report all such actions to the Tree Advisory Board.

SECTION 2.90.090 Permits.

A. No person shall remove a public tree unless the Tree Advisory Board or its designated agent shall have first granted a proper permit.

B. No permits shall be necessary in the emergency situations as detailed in Section 8.

C. Every permit issued by the Tree Advisory Board or its designated agent shall specifically describe the work to be done and be valid for a period of sixty (60) days from the issue date unless extended by a Board decision per address.

SECTION 2.90.100 Tree Pruner's License.

A. It shall be unlawful for any person to prune or cut trees for hire within the city without first procuring a license from the Tree Advisory Board or its designated agent. However, a license shall not be required of city employees doing such work in pursuit of their public service endeavors, nor construction contractors, developers or homebuilders clearing land for a new residential or commercial development.

B. Before any license shall be issued, each applicant shall demonstrate to the Tree Advisory Board or its Arborist that he or she has attended a four (4) hour educational program administered or approved by Tree Advisory Board or its Arborist. A certificate from the Tree Advisory Board or its Arborist confirming his or her completion and alert participation in such an educational program must be received by the applicant as a condition for licensure. Such educational program(s) offered by the Arborist or Tree Advisory Board shall be free of charge and shall be offered on at least January 29, 2001, February 26, 2001, March 26, 2001 and April 30, 2001, and thereafter not less than quarterly. In addition, every three (3) years thereafter, each licensed tree pruner must complete at least (4) hours of continuing education administered or approved by the Tree Advisory Board or its Arborist. Such continuing education shall be also offered by the Tree Advisory Board or its Arborist free of charge at least quarterly and certified by the Tree Advisory Board or its Arborist similarly to the initial licensure educational program described above.

C. Each applicant shall provide a current certificate of insurance which includes Indiana statutory amounts of Worker's Compensation Insurance, and one hundred thousand dollars (\$100,000) minimum limits of comprehensive general liability insurance, issued by underwriter(s) acceptable to the Tree Advisory Board.

D. Either cancellation or other termination of any insurance policy issued for or in compliance with the provision hereof, or failure to meet the continuing education requirement set forth above, shall automatically terminate any tree pruner's license.

E. Work done by employees of the holders of the license will be deemed in compliance with this Section.

SECTION 2.90.110 License Revocation.

The Tree Advisory Board may revoke a license when it has evidence of the tree pruner's failure to apply current industry pruning and safety standards, including but not limited to, the ANSI A300 - Tree, Shrub and other Woody Plant Maintenance - Standard Practices and ANSI Z133.1 - Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush - Safety Requirements, and may hear appeals of any person whose application for a license has been denied.

SECTION 2.90.120 Minimum Requirements.

The provisions of this Ordinance are for the promotion of the public health, safety, beautification, and general welfare of the City, and are considered to be minimum requirements. Wherever the requirements of any other lawfully adopted rules, regulations, ordinances and deed restrictions or covenants filed of record are not in conflict with the intent and purpose of this Ordinance, but impose more restrictive or higher standards, the more restrictive or higher standards shall govern.

SECTION 2.90.130 Tree Advisory Board and Enforcement.

Any person who violates the provisions of Section 2.90.42 or fails to comply with any of its requirements, shall be fined a sum of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) per violation. Nothing herein contained shall prevent the Tree Advisory Board or its designated agent from taking such other lawful action as is necessary to prevent or remedy any violation. This Section may be enforced pursuant to the code enforcement provisions of Section 1.10.17.

SECTION 2.90.140 Severability.

If any section, clause, sentence or part of this Ordinance shall for any reason be adjudged by any Court of competent jurisdiction to be unconstitutional or invalid for any reason, such invalidity and the reason therefore shall not affect, impair or invalidate the remainder of this Ordinance, or any section or sections thereof, but shall be confined in its operation to the section, clause, sentence or part thereof so adjudged to be unconstitutional or invalid for any such reason, and the remainder of this Ordinance will be enforced to the fullest extent permissible.

SECTION 2.90.150 Effective Date.

This Ordinance shall be in full force and effect from and after the date of passage by the Common Council of the City of Evansville and signing by the Mayor, except Sections 2.90.100 and 2.90.110, which shall not be in full force and effect until May 2001.

Ordinance G-2000-18 as amended, passed 12-18-00. For more information, please call 475-1426.