

## **ORDINANCE O-19-05-02-40**

### **AN ORDINANCE ADOPTING BUILDING REGULATIONS FOR THE MANAGEMENT AND PROTECTION OF TREES PER TITLE 14, ZONING AND LAND USE CONTROL, CHAPTER 9, TREE MANAGEMENT AND PROTECTION**

This ordinance shall be known as the municipal tree ordinance for the city of Oak Hill, Tennessee.

WHEREAS, it is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of planting, maintenance, and removal of trees, shrubs, and other plants within the City of Oak Hill during all construction projects requiring a building permit, demolition permit or other land disturbance permit from the City of Oak Hill.

WHEREAS, it is necessary to provide the appropriate regulation by the establishment of tree management and protection requirements per Title 14, Zoning and Land Use Control, Chapter 9, Tree Management and Protection.

NOW, THEREFORE BE IT RESOLVED –

Whenever a building permit or any land disturbance activity is proposed which requires a permit from the city of Oak Hill, unless exempted in accordance with Section 2, the permit applicant and all other persons with a legal interest in the real property shall meet all tree management and protection standards pursuant to this ordinance.

Section 1.

14-901 TREE MANAGEMENT AND PROTECTION –

(A) Applicability.

The standards of this section shall apply jointly and severally to (i) each and every person owning a legal interest in the real property located in the city of Oak Hill while under construction and/or until construction is completed, (ii) each and every permit applicant, including but not limited to the contractor who has been issued a tree removal permit, (iii) each and every permit applicant, including but not limited to the contractor contractor who has been issued a building permit, (iv) any permit holder who has been

issued a permit from the city of Oak Hill for land disturbance activities at the site, and (v) all subcontractors working for a permit holder unless otherwise exempt pursuant to 14-902.

(1) Removal of existing vegetation shall not occur on a lot subject to the terms of this section until such time as a permit has been issued.

(2) No construction activities may commence until all protective measures have been properly installed so as to protect any and all existing or planted trees from being damaged during construction or land disturbance activities in accordance with the tree protective barrier requirements described herein.

(3) Barricades shall be installed a minimum of ten (10) feet from a protected tree or at the designated protected root zone as shown on the approved site plan. The CCO may allow minor modifications to this standard based upon specific site configuration issues.

(4) All construction activities may be stopped based upon the sole discretion of the Code Compliance Officer (CCO) and/or the City's designee until such time as appropriate tree protection barriers have been promulgated by the City of Oak Hill.

(5) No changes to the predevelopment conditions within the approved protected root zone are allowed during the construction process, but a barricade may be temporarily relocated to accommodate a construction issue if advance notice is provided to the CCO.

(6) Each person in violation of any provision herein shall be subject to a \$50.00 per day fine, for each and every day each tree protection barrier/s is not installed around one or more protected tree/s.

(7) Each person in violation of this part shall be subject to a \$50.00 per day fine for each and every violation of the tree protective barrier requirements herein which may have occurred prior to or during any land clearing activities, demolition activities, construction staging activities, or construction activities at the construction site.

14-902 EXEMPTIONS - The following development or construction activities and types of vegetation are exempt from the standards of this Section:

A. The removal of dead or naturally fallen trees or vegetation.

B. The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing necessary field survey work.

C. The actions of public and private utility companies within their utility easements.

D. Removal of trees listed in the current edition of Invasive Exotic Pest Plants, published by the Tennessee Exotic Pest Council.

14-903 AUTHORITY - The Code Compliance Officer (CCO) and/or his designee shall have such authority to supervise or inspect all work done pursuant to a permit issued in accordance with terms of this ordinance.

14-904 PERMITS – No person shall plant, cut or remove, above or below ground, any tree during construction activities which requires a building permit, or any other type of permit from the city of Oak Hill without first filing an application and procuring a tree removal permit from the city. The tree removal permit application shall include a stamped report from a certified arborist addressing all required components of this ordinance. Any and all persons receiving a permit or who have an interest in the real property are jointly and severally liable and shall abide by the specifications and standards of practice adopted per this ordinance. The CCO shall have the authority to require posting of a bond adequate to fully repay the city for any and all costs associated with the completion of the Arborist Report to the issuance of the “Certification of Occupancy”, which may be withheld if the Arborist Report has not been completed.

14-905 TECHNICAL STANDARDS -

A. The following technical standards establish the tree replacement standards on all projects requiring a permit:

EXISTING TREE SIZE	REQUIRED REPLACEMENT CALIPER MINIMUM	RATIO OF REPLACEMENT TREES TO REMOVED TREES
4” – 15” D.B.H.	3”	1:1
16”–30” D.B.H.	5”	1:1

## **Development Standards.**

### **(i.) Retention of existing trees.**

1. During development, construction or land disturbance activities, no clear-cutting of any lot is permissible. Clear-cutting is defined as removal of trees outside of the approved building area which includes the building envelop, the area approved for a driveway and any area authorized by the Board of Zoning Appeals or the Planning Commission. No trees may be removed outside of the above described areas.

2. During development, construction or land disturbance activities, the applicant shall be responsible for the erection of barriers necessary to protect any existing or installed trees and vegetation from damage during and after construction.

3. Barricades shall be installed a minimum of ten (10) feet from a protected tree or at the designated protected root zone as shown on the approved site plan. The CCO may allow minor modifications to this standard based upon specific site configuration issues.

4. No changes to the predevelopment conditions within the approved protected root zone are allowed during the construction process, but a barricade may be temporarily relocated to accommodate a construction issue if advance notice is provided to the CCO.

5. No excess soil, sediment, fill, vehicles, equipment, liquid waste, solid waste, special waste, solvents and/or demolition or construction debris shall be placed within six (6) feet of the protective barrier area surrounding a tree while construction activities, including preparation of the site, are ongoing.

6. No tree or root system surrounded by a protective barrier shall be damaged as a result of any site preparation or construction activities.

7. No attachments or wires other than those of a protective or of a non-damaging nature shall be attached to any trees.

8. The provisions of this Section shall not apply in the event the CCO determines a protected tree is creating an imminent safety hazard.

(ii.) **Removal and replacement of trees.** In the event one or more trees are removed or damaged due to land disturbance or construction activities subject to a permit issued by the City, the following shall apply:

1. Prior to and during land clearing, including grubbing, all trees to be removed shall be clearly marked with ribbons at 36 to 48 inches above grade. All trees to be removed shall be marked with an orange plastic ribbon tied around the trunk of each tree prior to the onsite inspection of the City's CCO. The City shall make available at City Hall the orange ribbon to the applicant upon receipt of an application for a permit. If the orange ribbon is not placed around each tree at the time of inspection by the City CCO, the inspection shall be rejected and a re-inspection fee of one hundred twenty-five dollars (\$125) shall be charged to the applicant.

2. The applicant or any person owning a legal interest in real property for which a permit has been issued shall be solely responsible for replacing any newly planted or transplanted trees on such property used to meet the minimum requirements as outlined in the Technical Standards which die or become so unhealthy so as to lose their aesthetic or functional purpose after the construction on such property has been completed.

3. All original or replanted trees as required herein shall survive for at least one (1) year from the date of final inspection. Any replanted tree that does not survive the full one year requirement, shall be replanted at the current real property owner's sole expense. All transplanted trees on the site shall be maintained using acceptable horticultural practices.

4. Any person(s) owning any legal interest in real property for which a tree removal permit has been issued shall replace each newly planted or transplanted tree on said property which have died or become so unhealthy that it is the opinion of the CCO that the tree(s) have lost their aesthetic or functional purpose since the time the construction activities on the property were completed per the requirements detailed in number 3 above.

5. All transplanted trees on the site shall be maintained using acceptable horticultural practices or best management practices.

A. The following trees have been identified as species that are suitable in this geographic region and are acceptable by the City of Oak Hill.

**LARGE TREES**

**CANOPY TREES-** (A tree that normally achieves an over-all height at maturity of thirty (30') or more).

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Botanical Name	Common Name	Botanical Name	Common Name
<i>Acer rubrum</i>	Red Maple	<i>Platanum occidentalis</i>	Sycamore
<i>Acer saccharinum</i>	Silver Maple	<i>Prunus serotina</i>	Black Cherry
<i>Acer saccharum</i>	Sugar Maple	<i>Quercus alba</i>	White Oak
<i>Aesculus spp.</i>	Buckeye	<i>Q. coccinea</i>	Scarlet Oak
<i>Betula nigra</i>	River Birch	<i>Q. falcata</i>	Southern Red Oak
<i>Carya illinoensis</i>	Pecan	<i>Q. lyrata</i>	Overcup Oak
<i>Carya spp.</i>	Hickories	<i>Q. macrocarpa</i>	Bur Oak
<i>Catalpa speciosa</i>	Northern Catalpa	<i>Q. michauxii</i>	Swamp Chestnut Oak
<i>Celtis occidentalis</i>	Hackberry	<i>Q. muehlenbergii</i>	Chinkapin Oak
<i>Diospyros virginiana</i>	Persimmon	<i>Q. nigra</i>	Water Oak
<i>Fagus grandifolia</i>	American Beech	<i>Q. nuttalli</i>	Nuttall Oak
<i>Fraxinus Americana</i>	White Ash	<i>Q. pagoda</i>	Cherrybark Oak
<i>Fraxinus pennsylvanica</i>	Green Ash	<i>Q. phellos</i>	Willow Oak
<i>Gymnocladus dioica</i>	Kentucky Coffeetree	<i>Q. prinus</i>	Chestnut Oak
<i>Halesia Carolina</i>	Silverbell	<i>Q. rubra</i>	Northern Red Oak
<i>Juglans nigra</i>	Black Walnut	<i>Q. shumardii</i>	Shumard Oak
<i>Juniperus virginiana</i>	Eastern Red-Cedar	<i>Q. stellata</i>	Post Oak
<i>Liquidambar styraciflua</i>	Sweetgum	<i>Q. velutina</i>	Black Oak
<i>Liriodendron tulipifera</i>	Yellow-poplar	<i>Robinia pseudoacacia</i>	Black Locust
<i>Magnolia acuminata</i>	Cucumbertree	<i>Sassafras albidum</i>	Sassafras
<i>Nyssa sylvatica</i>	Blackgum	<i>Taxodium distichum</i>	Baldcypress
<i>Pinus echinata</i>	Shortleaf Pine	<i>Tilia Americana</i>	American Linden
<i>Pinus strobus</i>	Eastern White Pine	<i>Tsuga canadensis</i>	Eastern Hemlock
<i>Pinus taeda</i>	Loblolly Pine		

## SMALL TREES

UNDERSTORY TREES- (Trees that normally achieve an overall height at maturity of fifteen to thirty feet (15'-30'), and can grow under canopy trees).

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Botanical Name	Common Name	Botanical Name	Common Name
<i>Acer pensylvanicum</i>	Striped Maple	<i>Cornus florida</i>	Dogwood
<i>Acer spicatum</i>	Mountain Maple	<i>Cotinus obovatus</i>	Smoketree
<i>Aesculus pavia</i>	Red Buckeye	<i>Crateagus spp.</i>	Hawthorn
<i>Alnus serrulate</i>	Alder	<i>Hamamelis virginiana</i>	Witch Hazel
<i>Amelanchier arborea</i>	Serviceberry	<i>Ilex opaca</i>	American Holly
<i>Amorpha fruticose</i>	False Indigo	<i>Magnolia virginiana</i>	Sweetbay
<i>Aralia spinosa</i>	Devil's Walking Stick	<i>Ostrya virginiana</i>	Hophornbeam
<i>Asimina trilobal</i>	Pawpaw	<i>Oxydendron arboretum</i>	Sourwood
<i>Bumelia lycioides</i>	Buckthorn Bumelia	<i>Rhamnus caroliniana</i>	Carolina Buckthorn
<i>Carpinus caroliniana</i>	Hornbeam	<i>Rhus copallina</i>	Shining Sumac
<i>Castanea pumila</i>	Allegheny Chinkapin	<i>Rhus glabra</i>	Smooth Sumac
<i>Cercis canadensis</i>	Redbud	<i>Rhus typhina</i>	Staghorn Sumac
<i>Chionanthus virginicus</i>	Fringetree	<i>Styras spp.</i>	Snowbell
<i>Cladrastis lutea</i>	Yellowwood	<i>Symplocus tinctorial</i>	Sweetleaf

14-906 ARBORIST REPORT – All permit applications for any land disturbance project in the City of Oak Hill shall include a report prepared by a certified Arborist outlining how the applicant will comply with all components of this ordinance including, but not limited to, the following: Tree Protection Plan, Tree Removal Plan, Tree Transplant Plan and a Tree Replacement Plan, Tree Types, sizes and quantities.

If no trees are affected, then no arborist report is required. In the event no trees will be affected, the plan submittals shall contain a written note certifying the plans as submitted shall not affect any trees.

14-907 RADNOR LAKE NATURAL AREA IMPACT ZONE – The following “Invasive Plants” are prohibited from being included in the Radnor Lake Natural Area Impact Zone Arborist Report for Tree Transplant and Tree Replacement Plan:

1. Tree of Heaven (*Ailanthus altissima*)
2. Winter Creeper (*Euonymus fortune*)
3. Bush Honeysuckle (*Lonicera maackii*)
4. Privet (*Ligustrum vulgare*)
5. Mimosa (*Albizia julibrissin*)

14-908 PENALTIES – Any person or firm, or corporation violating or failing to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to be fined a sum of fifty dollars (\$50) per day for each and every violation the person, firm, or corporation is in violation or fails to comply with any of the provisions of this ordinance.

Section 2. If any section, clause, provision, or portion of this ordinance is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion, of this ordinance which is not itself invalid or unconstitutional.

Section 3. This ordinance shall take effect upon final passage, the public welfare requiring it.