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ORDINANCE NO. 04-45

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**HUNTSVILLE TREE ORDINANCE  
CITY OF HUNTSVILLE NO. 04-45  
(unofficial copy)**

**BE IT ORDAINED** by the City Council of the City of Huntsville, Alabama, that Article II, Trees, of Chapter 27, Vegetation, of the Code of Ordinances, City of Huntsville, Alabama, as adopted and approved on the 24th day of April, 2003, be and the same is hereby amended as follows:

**Section 1.** Section 27-31 is hereby amended to read as follows:

**Section 27-31. Purpose.**

The purpose of this article is:

- (a) to establish recognized standards of tree planting and maintenance on public and easement-laden lands in the city;
- (b) to protect trees and shrubs on public and easement-laden lands from willful and/or negligent harm; and
- (c) to provide for active and continuing programs for public education about, and management of, trees.

**Section 2.** Section 27-32 is hereby amended to read as follows:

**Section 27-32. Policy.**

The policy of the city is to establish and maintain trees upon and within the rights-of-way of improved public streets and highways maintained by the city for ornamentation and to protect the public health, safety, and welfare. Interest in, and responsibility for, trees on the rights-of-way of improved public streets and highways maintained by the city is shared by the city and the owner of the adjoining land, in the absence of other specific provisions to the contrary. No tree planted by the city for ornamentation or public safety purposes within said rights-of-way shall be removed or intentionally damaged, injured, or destroyed, except by a duly authorized person, company, organization, or agent of the city who has first secured a permit from the city forester. Any tree presently located within such a right-of-way which is maintained by the owner of the adjacent property for ornamentation, shade, screening, or other purposes, may continue to be so maintained so long as that portion of the right-of-way is not improved for travel or utility purposes, and so long as maintenance of said tree is not inconsistent with the health, safety, and welfare. Such trees shall not be removed by the city without notice of the adjoining owner, except when such notice would impede the City's protection of the safe movement of vehicular and pedestrian traffic, or the safe operation and maintenance of the street or highway, or of public utilities or drainage facilities located within said rights-of-way. Removal for any other purpose shall be preceded by reasonable notice to the owner of the adjacent property, and based upon a finding by the city forester that such removal is in accordance with adopted standards.

**Section 3.** Section 27-33 is hereby amended to read as follows:

**Section 27-33. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adopted Tree Care Standards* are those standards of tree maintenance, trimming clearances, and methods of protection of trees during construction, as established in the American National Standards Institute (ANSI) Standard A300 (2001), National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance - Part 1 - Standard Pruning Practices, as may be amended; and the American National Standards Institute (ANSI) Standard Z133.1 (2000), Arboricultural Operations - Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush - Safety Requirements, as may be amended.

*Caliper* means tree trunk diameter, measured six inches above ground for trees with up to a four inch caliper, and 12 inches above ground for larger trees.

*City* means the City of Huntsville and its authorized agents and contractors.

*Critical Rooting Distance* means the radius around the base of a tree including both the root plate and the transport roots attached to them, in which soil disturbance is likely to affect the overall health of the tree, and root damage is likely to introduce disease-causing organisms into the tree. This radius, in feet, is approximately 2.5 times the tree's d.b.h. in inches. (See also, "root plate" and "d.b.h.")

*d.b.h.* means "diameter breast height." For a single trunk tree, the d.b.h. is derived by measuring the trunk circumference of a tree at a point that is four and one-half feet above ground on the uphill side of the tree and then dividing the circumference by 3.14. For a multi-stemmed tree, the d.b.h. is derived by obtaining the sum of the separate circumferences measured at a point four and one-half feet above ground, then dividing the sum of the circumferences by 3.14.

*Easement-laden land* means privately owned land on which an easement has been granted to the city or another entity to allow for public services such as utility distribution, water distribution and drainage, access to maintain the public services, etc. An easement is only a right of use. The grant of an easement does not transfer ownership rights.

*Electric power facilities* refer to power transmission and distribution lines, transformers, substations, and associated equipment.

*Hedgerow* means a row of closely-spaced shrubs or bushes used to delineate space, restrict access, provide screening, or achieve a similar function.

*Lateral separation* means distance, measured horizontally at ground level, such as between an electrical conductor and the center of the trunk of a tree.

*Live crown ratio* means the fraction or percentage of the overall height of a tree bearing living, healthy branches.

*Mulch* means any organic material or rock placed over the soil surface of a planting area which serves the same function as leaf-litter in a natural forest environment.

*Owner* means the possessor of title, his agent or assignee, to the land on which particular trees stand. In the case of a tree on easement-laden land, ownership rights and responsibilities are defined in section 27-51, in the absence of other specific provisions by deed or other binding agreement.

*Person* means any individual acting on his own behalf, or on behalf of a company, agency, corporation, or other body.

*Planting* means establishing a tree, shrub, groundcover, vine, or other species of vegetation in a location where it is to remain for an extended period, usually the useful lifespan of the plant in the absence of unforeseen circumstances.

*Private land* means land belonging to a person or corporate entity, and not the city or other agency of government.

*Public land* means any land belonging to the city, including platted rights-of-way or streets and alleys. For the purposes of this definition, federal, state and county land is excluded from this category unless the city has specifically assumed responsibility for its maintenance.

*Root Plate* means the area around the base of a tree in which the roots taper rapidly from pedestal roots to small transport roots; these structural roots are constantly subjected to compression and tension during windy conditions, so damage to these roots and subsequent decay commonly leads to catastrophic failure, especially during windy weather. (See also "critical rooting distance.")

*Shrub*, see the definition of *trees and shrubs* below.

*Trees and Shrubs* mean all woody vegetation, whether naturally occurring or planted; rights, responsibilities, and standards applying to trees shall, from a legal standpoint, apply to shrubs as well.

*Tree Commission* means any member of the Huntsville Tree Commission as described in Division 8 of Article VIII of Chapter II of the Code of Ordinances of Huntsville, Alabama, or any individual, including the city forester, assigned or contracted by the Tree Commission, acting in pursuit of the objectives of this article within its scope and within the bounds of law.

*Utility, private* means a commercial service distributed by use of the public streets, alleys, and easements of the City by the use of facilities and fixtures located therein, but not regulated by the State of Alabama Public Service Commission.

*Utility, public* means a service distributed by wire, pipe, or airwaves to customers, and either regulated by the State of Alabama Public Service Commission (as in the case of telephone service) or not regulated by the Public Service Commission, but established as a municipal utility (as in the case of water, electric and gas service).

**Section 4.** Section 27-34 is hereby amended to read as follows:

**Section 27-34. Offenses.**

In relation to any tree or shrub located on public or easement-laden land, it shall be unlawful for any person not authorized to do so:

- (a) to break, injure, mutilate, burn, kill, remove, or destroy any tree or shrub without authority to do so as set forth in this article;
- (b) to knowingly permit any leak to exist in any gas pipe or main, within the root zone of such tree or shrub;
- (c) to permit any toxic chemical, either solid or liquid, to pass, drain, or be emptied on or about any such tree or shrub;
- (d) to knowingly permit any wire designed to carry electrical current to be attached to any tree or shrub, except in accordance with adopted standards;
- (e) to excavate any tunnel, ditch, or trench, or to lay any driveway, sidewalk, or pavement through or across the root zone of any such tree or shrub, except in accordance with adopted standards;
- (f) to attach any wire, rope, cable, poster, sign, nail, or other fastener to such tree or shrub, except in accordance with adopted standards;
- (g) to place, deposit, or store any stone, brick, sand, earth, or other material so as to impede the passage of water, air, and fertilizer to the roots of any such tree or shrub, except in accordance with adopted standards;
- (h) to move any building or other large object along any street in such a manner as to damage any tree or shrub that is maintained in accordance with adopted standards;
- (i) to undertake to build any structure, pavement, utility, or other construction without proper consideration of such trees and shrubs in accordance with adopted standards;
- (j) to unreasonably prevent, delay, or interfere with the City Tree Commission or any of its agents engaging in or about the planting, maintenance, or removal of any tree or shrub on public, easement-laden, or private lands as authorized in this article.

**Section 5.** Section 27-35 is hereby amended to read as follows:

**Section 27-35. Enforcement.**

When it comes to the attention of a city department or Huntsville Utilities that trees or other vegetation is in violation of these standards, that agency will request the city forester to inspect the problem jointly with a representative of that department. If a violation

is believed to exist, the city forester will refer the matter to the property owner for redress, at his or her expense, within 14 calendar days. If the owner has not corrected the problem within that time, the city forester will refer all information to the appropriate enforcement authority.

**Section 6.** Section 27-36 is hereby amended to read as follows:

**Section 27-36. Penalties and appeals.**

(a) *Penalties.* Any person violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum sufficient to restore any damage resulting from the violation not to exceed \$500.00 per tree or shrub damaged, and may be required to make such restitution in goods and/or labor as may be determined by the proper court of law, or may be sentenced to any combination of these penalties.

(b) *Appeals.* Appeals of arbitration, decisions or other actions by the tree commission may be made first to the city council and further to the proper court of law.

**Section 7.** Section 27-51 is hereby amended to read as follows:

**Section 27-51. Trees on Public Land or Easement-laden land.**

(a) *Maintenance.* Maintenance of trees located on public or easement-laden lands shall be performed under the supervision of the city forester who shall be in consultation with the city department having jurisdiction over the property in question.

(b) *Abatement of Hazards.* When it comes to the attention of an officer or agent of the city that any tree maintained on a parcel of property which adjoins any public land or easement-laden land which is, or is likely to become, a threat to the public safety, the appropriate agent of the city, including the city forester, shall take one or more of the following actions:

(1) (a) If the tree in question is deemed to be on private property, the officer or agent of the city shall, if possible, give notice to the property owner upon whose land the hazardous condition exists and allow the property owner a fixed period of time to take the necessary action or actions needed to remedy the hazardous condition; or

(b) The officer or agent of the city may forthwith abate the hazardous condition by taking the appropriate and necessary action or actions in accordance with adopted standards.

(c) If the tree in question is deemed to be wholly located on private property, and the owner of the private property has failed to abate the hazardous condition, the cost of the city's abating the hazard shall be assessed against the property owner.

- (2) If the tree in question is deemed to be partially located on private property and partially located on public property, then the cost of abating the hazard shall be borne both by the city and the private property owner. The assessment of costs that shall be attributed to the city and to the property owner shall be assessed and prorated based on the proportion of the stump diameter of the tree located on private and public property.

When it comes to the attention of any owner of a parcel of land which adjoins any public land or easement-laden land that any tree maintained by him is, or is likely to become, a threat to the public safety, it is the duty of said owner to abate said hazard by appropriate action in accordance with the adopted standards.

(c) *Planting of trees on public land.* Any tree hereafter planted on, or in such location that as it matures it will affect the safe use of public land shall be selected, sited, planted, and maintained in accordance with the tree care standards set out in this article. Further, any tree classified by the city forester and the tree commission as unacceptable for planting on city property may be removed through the processes described in this article. A copy of the acceptable and unacceptable species of trees for planting shall be provided upon request by the city forester.

(d) *Removal and replacement of trees on public land.*

(1) Tree removal permits. Any public department or public utility removing a tree or shrub from public land shall do so in accordance with the standards adopted in this article. Any person or agency, private or public, needing to remove a tree six inches or more in d.b.h. from public land shall first obtain by telephone a removal permit from the city forester. Such permits may be granted for one tree or for groups of trees, and shall be issued at no cost under guidelines established by the tree commission.

(2) Replacement of trees removed by permit. Any person or agency removing trees, by permit, which are six inches or more in d.b.h. shall provide for the planting of new trees in approximately equal numbers and in appropriate locations mutually agreed upon by the city forester and the person obtaining the permit. Failure to obtain a permit when one would be required for removal of a tree shall not relieve responsibility for its replacement.

The city forester shall coordinate planting of trees as needed to replace those removed during construction by any city agency.

**Section 8.** Section 27-52 is hereby amended to read as follows:

**Section 27-52. Trees on private land.**

(a) Trees located on private land are the property and responsibility of the owner of such land. Yet such trees also have public usefulness, and value in energy conservation; in moderating extremes of

temperature and humidity; in reducing noise, glare, and air pollution; in reducing soil erosion; and in improving the city's aesthetic character. To encourage conservation of this resource, the tree commission is empowered to take the following measures:

- (1) provide information and technical referral service to landowners, developers, builders, and other interested parties, including persons and private and public agencies, in protecting trees during planting and construction;
- (2) cooperate with interested public and private parties in conservation efforts such as Arbor Week observance, plant digs, community tree-planting, etc.;
- (3) participate in cooperative community projects as authorized and directed elsewhere in this article.

(b) *Trees on, or affecting, the use of easement-laden lands.* Trees on easement-laden lands are the property and responsibility of the owner of the land on which the easement lies. The city accepts no responsibility for the management of such trees beyond what is necessary to accomplish its lawful activities on such land, or consequent to such activities within applicable statutes of limitations. All removal or maintenance work involving such trees shall be conducted in accordance with the tree care standards adopted herein.

**Section 9.** Section 27-53 is hereby amended to read as follows:

**Section 27-53. Tree Care Standards.**

(a) *Tree planting.*

(1) *Planting procedures.* The planting specifications approved by the city forester and the tree commission shall be used for all planting projects executed or coordinated by the city. These procedures are to be adapted for individual planting sites by the city forester. The procedures include proper watering, mulching, staking, guying, etc. Additional information, including a copy of the planting specifications, shall be available from the city forester upon request.

(2) *Minimum size of trees to be planted on city property.*

<b>Mature tree size</b>	<b>Minimum size at planting</b>
(A copy of the classification chart is available through the city forester.)	
Large & medium	1 1/2 caliper (2" - 2.5" preferred)
Small	5-6' height (6-8' preferred)

(3) *Planting distance from above ground electrical utility lines, as measured horizontally from a line on the ground directly under the nearest charged conductor, generally:*

<b>Mature tree size</b> (A copy of the classification chart is available through the city forester.)	<b>Minimum lateral separation</b>
Large	20'
Medium	15'
Small	no lateral separation required
In instances where the minimum lateral separation requirement would prevent the planting of a tree, the city department having jurisdiction over the property in question shall work with Huntsville Utilities in order to reach a solution which will allow for the planting of a tree. Should the parties involved be unable to reach an agreement, the matter will be settled by a majority vote of the Tree Commission only after each of the involved parties have had an opportunity to present argument.	

(4) *Planting distance from sewer lines, sanitary & storm, generally:*

<b>Tree species</b>	<b>Minimum lateral separation</b>
Most trees, other than exceptions listed below	5'
Hackberry, pines, and all hedgerows	10'
Species deemed unacceptable by the city forester and the tree commission. Further information is available upon request from the city forester.	May not be planted
In instances where the minimum lateral separation requirement would prevent the planting of a tree, the city department having jurisdiction over the property in question shall work with Water Pollution Control and/or Public Works in order to reach a solution which will allow for the planting of a tree. Should the parties involved be unable to reach an agreement, the matter will be settled by a majority vote of the Tree Commission only after each of the involved parties have had an opportunity to present argument.	

(5) *Parking lot landscaping plantings.* All parking lot landscaping must conform to Appendix A, Zoning, of the Code of Ordinances of the City of Huntsville, Alabama, as amended or supplemented.

(b) *Greenspace planting agreement.*

The city wishes to encourage and promote the planting of shade trees along streets within the city; however right-of-way space is limited and not always adequate for large-growing shade trees. Space on private property adjoining the right-of-way is often adequate for the planting of shade trees by the city, and the use of such space would insure that many streets and neighborhoods that would otherwise be excluded from the city tree planting program would be included. The planting of shade trees by the city on private property adjoining the right-of-way would produce significant public benefits by providing a healthy and attractive tree canopy along city streets, and also serve to encourage property owners to plant suitable shade trees in a similar manner on their property.

For these reasons, the city forester is hereby authorized to contract with property owners within the city using the following contract:

"GREENSPACE PLANTING AGREEMENT

"This Greenspace planting agreement is made by the undersigned property owner(s) and the Huntsville City Forestry Division, under the authority of Section 2-1455 of the Code of Ordinances of the City of Huntsville. The purpose of this agreement is to encourage the planting of desirable trees in locations that will benefit all citizens of the City of Huntsville, to disseminate useful and accurate information on the selection, planting, and care of urban trees, and to stimulate public interest and pride in the ownership of trees.

"THE UNDERSIGNED PARTIES HEREBY AGREE AS FOLLOWS:

"1. The Huntsville City Forestry Division agrees:

- "a. to provide one or more trees of mutually acceptable species, under the terms described below;
- "b. to select mutually acceptable locations(s), as described below, in which the tree(s) will be planted to maximize public and private benefits, and minimize the likelihood of future tree-related problems;
- "c. to provide information on the planting and maintenance of trees;
- "d. to provide initial horticultural pruning approximately one year after planting.

"2. The undersigned property owner agrees:

- "a. to plant the tree(s), unless other arrangements are made, in the location(s) and manner agreed upon as described below;
- "b. to use reasonable care in maintaining the tree(s), including periodic watering and mulching, and reasonable efforts to prevent or minimize damage to the tree(s), particularly with mowing equipment;
- "c. to notify the Urban Forestry Division of tree problems affecting the use of adjacent rights-of-way.

"3. This agreement in no way limits or restricts the authority of the City of Huntsville to prune branches or otherwise abate conditions constituting a danger or hazard to the public, and in no way limits or restricts the authority of Huntsville Utilities to prune or trim trees under provisions set out in Article II, Trees, of Chapter 27, Vegetation, of the Code of Ordinances of the City of Huntsville, Alabama.

"4. The tree(s) planted under this agreement shall be the property and responsibility of the property owner, except to the extent modified by this agreement.

"5. This is a personal agreement between the parties and does not run with the land. This agreement shall be effective for 10 years from the date signed, unless sooner termination by conveyance of the land, by agreement of the parties, or otherwise.

"6. Specific arrangements:

a.	species	common name	type	size	quantity
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

b. planting location(s): \_\_\_\_\_  
\_\_\_\_\_

c. cost sharing and other arrangements: \_\_\_\_\_  
\_\_\_\_\_

"7. Sketch planting site here, or attach a separate sheet.

"8. The undersigned property owner expresses a genuine desire to have the tree(s) described above at the site(s) agreed upon, and certifies that this agreement is entered into with full authority and that no other person or entity need be included as property owner with reference to the above described planting location.

"BY: _____	_____
City Forester	Date
_____	_____
Property Owner	Property Owner"

**Section 10.** Section 27-54 is hereby amended to read as follows:

**Section 27-54. Pruning Standards.**

(a) The pruning of trees on city property, or pruning conducted by city employees shall be in accordance with:

- (1) the American National Standards Institute (ANSI) Standard A300 (2001), as may be amended; and
- (2) the American National Standards Institute (ANSI) Standard Z133 (2000), as may be amended.

**Section 11.** Section 27-55 is hereby amended to read as follows:

**Section 27-55. Required Electric Power Line Clearances.**

(a) When pruning is required to maintain the necessary clearance between any existing tree and an electric power line, the pruning shall be

conducted in accordance with ANSI Standard A300. Branches or leaders to be cut back shall either be pruned to the next lateral having a diameter at least 1/3 of that being cut, or else be pruned just outside the branch-collar at the base of the branch.

(b) Except as provided in subsection (c) below, the following maximum clearances shall be periodically established between electrical conductors at various voltages and adjoining vegetation:

- (1) Telephone, TV cable, and other insulated communication lines require no minimum clearance;
- (2) Secondary electric lines which carry voltage between 21-750 volts, insulated, shall require a clearance of 2' for areas of existing construction, and a clearance of 4' for areas of new construction;
- (3) Distribution and transmission lines which carry voltage between 750-35,000 volts, uninsulated, shall require a clearance of 10';
- (4) Distribution and transmission lines which carry voltage in excess of 35,000 volts, uninsulated, shall require a clearance of 15'.

(c) To lengthen the time between clearance pruning cycles for electric transmission and distribution lines, and to facilitate proper pruning to laterals as described in ANSI Standard A300, as referenced in subsection (a), above, clearances around transmission and distribution lines as set out in subsections (b)(3) and (b)(4), above, may be increased to 15' and 20', respectively, at the discretion of Huntsville Utilities, for the following species only:

Hackberry & Sugarberry (*Celtis occidentalis* and *Celtis laevigata*)  
Boxelder (*Acer negundo*)  
Silver maple (*Acer saccharinum*)  
Tree of heaven (*Ailanthus altissima*)  
Cottonwood (*Populus deltoides*)  
Princesstree (*Paulownia tomentosa*)  
Siberian elm (*Ulmus pumila*)  
Black cherry (*Prunus serotina*)  
Loblolly pine (*Pinus taeda*)

(d) **[As amended by City of Huntsville Ordinance 05-576, adopted 7-14-2005.]** *Removal and replacement of street trees near electric power facilities.* When in the judgment of Huntsville Utilities, a tree interferes with the safe and reliable operation of the electric power system along a street right-of-way, and cannot be pruned in accordance with ANSI Standard A300 so as to provide the required clearance as listed in subsection (b) and (c), above, Huntsville Utilities may offer to remove the tree and request replacement planting by the city, with a species and in a location mutually acceptable to the city, to Huntsville Utilities, and to the property owner. Such trees may be planted on public land, or

private property, within the limitations and intent of section 27-53(b).

**Section 12.** Section 27-56 is hereby amended to read as follows:

**Section 27-56. Required Right-of-way Clearances.**

(a) The pruning clearances applicable to sidewalks, streets, allies, or any other rights-of-way, traffic control signals or signs, and all street lighting shall be in accordance with the standards adopted in section 25-462 of the Code of Ordinances of the City of Huntsville, Alabama.

**Section 13.** Section 27-57 is hereby amended to read as follows:

**Section 27-57. Protection of trees on public land during construction.**

(a) Plans for any construction done by or for the city, on either public land or easement-laden land, shall include a tree management plan, developed by or in cooperation with the city forester, for existing trees on the construction site. This plan shall:

- (1) Identify and provide protection instructions for trees whose species, condition and location justify their preservation on the construction site. Protection instructions shall include, at a minimum, measures to:
  - a. prevent mechanical damage to the trunks and branches of trees to be preserved;
  - b. prevent construction activities of all types in trees' root-plate area;
  - c. evaluate planned construction (grade cuts and fills; paving; materials storage; traffic and parking; fires; attachment of signs, fences, utility boxes; improper handling and dumping of toxic materials; washing and maintenance of equipment; etc.) in the critical rooting distance of trees to be saved, and provide measures to minimize damage to the trees in such areas;
  - d. provide landscaping recommendations for interfaces between construction areas and tree-save zones;
  - e. provide elements of an education program for work crew members and their supervisors.
- (2) Provide for the removal of trees that cannot or should not be preserved during construction.

(b) The project manager shall consult the city forester for individual tree problems when necessary.

(c) For the disposal or removal of tree-maintenance residues, see Article III, Storage and Collection, of Chapter 22, Solid Waste, of the Code of Ordinances of the City of Huntsville.

**Section 14.** Section 27-58 is hereby amended to read as follows:

**Section 27-58. Education of tree care workers.**

(a) The city forester will acquire or develop training materials oriented toward field tree-service crews and their supervisors, on the following topics and others as needed:

- (1) company and public policies, ordinances, etc.;
- (2) tree anatomy and growth;
- (3) tree reactions to injury and decay;
- (4) tree maintenance standards (ANSI Standard A-300);
- (5) safety and aerial rescue (ANSI Standard Z-133);  
and
- (6) utility pruning techniques.

(b) The city forester shall provide appropriate assistance, as requested by city departments, utility companies, commercial tree-service companies, etc., in the training of crews, supervisors, and other personnel, and may contract with instructors available from outside sources, if needed, with costs shared by agencies requesting the training.

**Section 15.** This ordinance shall become effective upon its adoption and publication.

**ADOPTED** on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama