

AN ORDINANCE REPEALING SECTIONS 1, 2, AND 3 OF ORDINANCE NO. 1999-019-ADM CODIFIED AT CHAPTER 38, ARTICLE VII, DIVISION 1, SECTIONS 275 THROUGH 277 OF THE CODE OF ORDINANCES OF THE CITY OF TRUSSVILLE, ALABAMA, AND REPLACING THE SAME WITH AN ORDINANCE REGULATING THE CUTTING AND REMOVAL OF TREES IN THE CITY LIMITS OF TRUSSVILLE, ALABAMA; PROVIDING FOR A PERMIT FOR REMOVAL OF TREES; AND PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, the trees within the corporate limits of the City of Trussville, Alabama (“City”) constitute an aesthetic and economic asset that is irreplaceable and constitute part of the essence of the City’s character; and

WHEREAS, the presence of trees within the City also promotes soil conservation, reduces air pollution and noise, prevents erosion, provides habitat and food for wildlife and birds, and provides visual screening; and

WHEREAS, the removal of said trees impairs benefits to existing property owners in surrounding areas, impairs economic stability, and decreases the value of improved and unimproved real property, promotes increased surface drainage and flash floods, ultimately causing increased costs; and

WHEREAS, the City finds that it is in the public interest and welfare to require the replacement of trees removed during the process of development for the environmental benefit and enjoyment of all; and

WHEREAS, section 11-45-1 of the Code of Alabama (1975) empowers the City to adopt ordinances for the health, prosperity, and improve the order, comfort, and convenience of its citizens.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Trussville, Alabama, while in regular session, that sections 1, 2, and 3 of Ordinance 199-019-ADM, that is presently codified at Chapter 38, Article VII, Division 1, sections 275 through 277 of the Code of Ordinances of the City of Trussville, Alabama, be and is hereby repealed in those sections entirety.

BE IT FURTHER ORDAINED by the City Council of the City of Trussville, Alabama, that the following ordinance shall be replace the sections repealed above, and states:

I. Purpose and Intent.

A. This Ordinance, to be appropriately codified, shall be known as the Municipal Tree Ordinance of the City of Trussville, Alabama.

B. The above-stated preamble is hereby adopted and restated as if fully set out herein.

C. Trees are recognized as a valid asset providing a more healthful and beautiful environment in which to live, providing oxygen, shade, aesthetics, and a priceless psychological counterpoint to the urban setting. Trees are economically beneficial in attracting new industry and residents by enhancing the value and marketability of property and promoting the stability of desirable neighborhoods.

II. Definitions.

For the purpose of this Ordinance, the following terms, words and their derivations shall have the following meanings given herein:

For the purposes of this Ordinance, certain words or terms shall be defined as follows. Words not defined in this section shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application. Words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is

permissive. The phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” and “occupied for.”

- (1) *City official*: Person or persons designated by the Mayor to carry out the provisions of this article.
- (2) *City*: The City of Trussville, Alabama.
- (3) *DBH*: Diameter at chest height is a standard method of expressing the diameter of the tree or bole of a standing tree.
- (4) *Protective measures*: Any steps taken to safeguard the appearance, health, condition, or continued viability of a protected tree. Typical examples are: physical structures limiting access to a protected tree, pruning to allow access to a site, supplemental watering or fertilization, washing of canopy to remove dust or other residues, berms or grading to prevent erosion or silting in a protected root zone, signage indicating protected status of trees or other methods as deemed necessary at time of permitting.
- (5) *Protected tree*: Any tree located on public property within the City.
- (6) *Public property*: Any right-of-way, park, or other ground owned by the City except for any industrial park or other property owned by the City intended to be used for commercial development purposes.
- (7) *Replacement tree(s)*: Trees required to be planted as compensation for the removal of viable, non-hazard trees.
- (8) *Tree*: A woody plant which at maturity is fifteen (15) feet or more in height, at least three (3) inches in diameter, unbranched for at least several feet above the ground and having a more or less definite crown.
- (9) *Tree commission*: The Commission formed pursuant to Ordinance 1996-007-ADM and codified in Chapter 2, Article IV, Division 5 of the Code of Ordinances of the City.
- (10) *Tree maintenance*: Measures performed to promote the desirable growth and health of a tree such as, but not limited to, pruning, watering, fertilizing, mulching, weeding, pest management, and physical protection.
- (11) *Tree Mitigation Cost Scale*: See Exhibit A which is attached to this Ordinance and set out as if fully incorporated herein.

III. Tree Maintenance and Protection.

- (1) City departments shall seek the counsel and recommendations of the Tree Commission or an individual appointed to represent the commission prior to the removal and/or alteration of any tree on public property or right-of-way unless the tree(s) poses an immediate danger to the public.
- (2) The Commission acting through the designated City Official may cause to be removed any tree or part thereof which is in an unsafe condition or is infested with any disease, injurious fungus, insect, or other pest to the point that the tree is a hazard to persons or adjoining property.
- (3) Trees severely damaged by storms or other natural causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, are exempted from this Ordinance.
- (4) It shall be unlawful for any person, business, or other entity, without first obtaining a permit and paying the appropriate Tree Mitigation Cost as set out in Exhibit A, to remove, cause to be removed, relocate, alter, damage, or destroy any tree on public property, including public rights-of-way.
- (5) No person shall engage in the pruning or topping of trees on any public property except in conformance with the most current practices of the International Society of Arboriculture, the National Arborist Association Standards, or the National Electric Safety Code. Nothing contained in this Ordinance shall apply to any utility approved and regulated by the Alabama Public Service Commission.
- (6) No new curb cuts which shall endanger protected trees shall be allowed without review and recommendation of the Tree Commission regarding the curb cuts to the appropriate City

Official. The City Official may then review the Tree Commission's recommendation prior to issuing any permit for the curb cut.

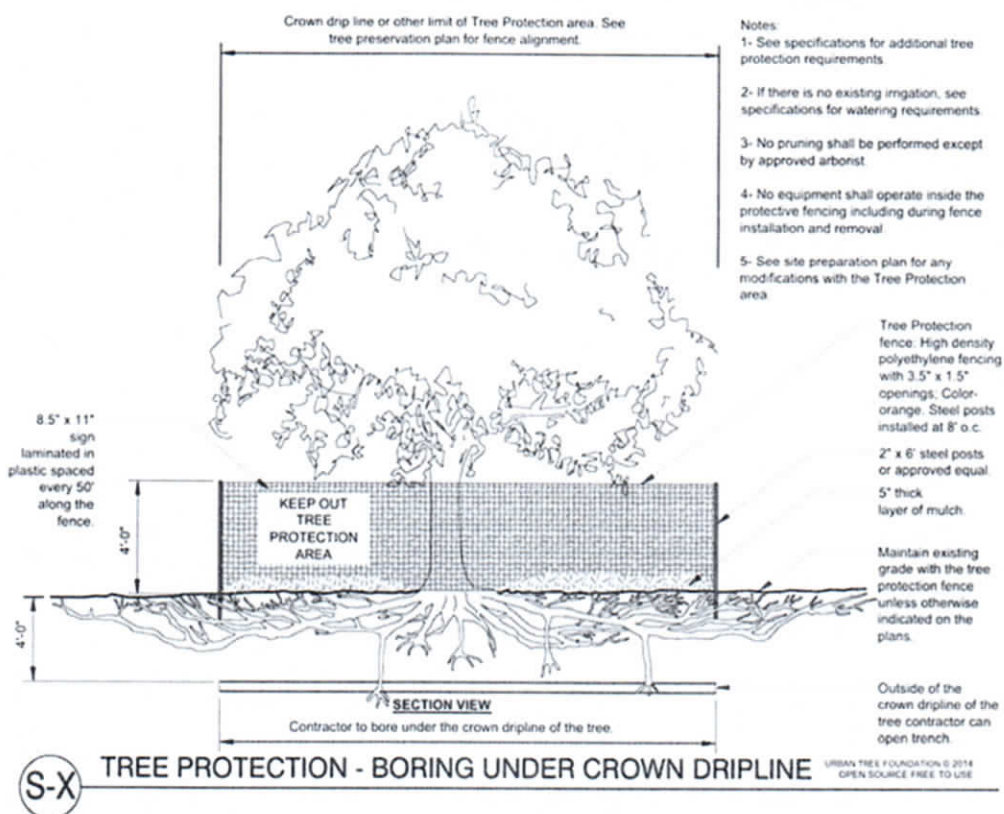
- (7) To protect the longevity of protected trees, the appropriate city departments shall review all applications for construction permits, including clearing and grading permits. Protective measures may be prescribed by the city to safeguard the health, appearance, condition, and viability of protected trees. The cost and responsibility for implementing and maintaining all prescribed protective measures shall be born solely by the applicant. Any deviation from the measures prescribed by the city to protect said trees shall constitute a violation of this article.

IV. Destruction and Removal of Trees During Construction And Related Activities.

(A) During construction, reasonable steps necessary to prevent the destruction or damaging of protected trees (other than those specified to be removed) shall be taken, including, but not limited to, the following:

- 1) Area Of Construction Activity: No construction activity, movement and/or placement of equipment or material or spoils storage shall be permitted within the tree preservation area. No excess soil, additional fill, liquids, or construction debris shall be placed within the root zone of any tree that is required to be preserved.
- 2) Trees to be preserved shall be protected during construction by tree protection devices around the drip line of each tree to prevent compaction of soil and other damage to the tree by equipment or materials. No excess topsoil, construction materials, debris or chemicals are allowed within the protected drip line of any tree which is to be preserved. In addition, no parking of vehicles, on site offices or machinery is allowed inside the protected drip line. All areas for refueling, maintenance, outside eating, resting and burning shall be located a sufficient distance from any protected tree to prevent damage to such protected tree.
- 3) All required protective fencing or other physical barrier must be in place around the tree preservation area and/or protected trees and approved by the Commission prior to beginning construction. The fencing or other physical barrier must remain in place during the entire construction period. All fencing must be secured to metal posts driven into the ground spaced no further than ten feet (10') apart.
- 4) Attachments To Trees Prohibited: No attachments, fences or wires, other than those approved for bracing, guying or wrapping, shall be attached to trees during the construction period.
- 5) Grade Changes:
 - a. Whenever a change of ground grading is planned, the trees to be preserved shall be protected by a wall so as to preserve the existing grade for the roots.
 - b. Wherever a change of grading is planned, the topsoil shall be preserved for the new landscaping to be installed. Unless otherwise authorized by the tree removal permit, no soil is to be removed from within the root zone of any tree that is to remain.
- 6) Trenches: When trenching alongside existing trees is unavoidable, the trench must be one-foot (1') for every one inch (1") DBH away from the base of the existing tree to be protected.
- 7) Pruning: Construction pruning and root pruning of trees directly impacted by construction may be required for preservation of existing trees. These measures must be indicated on the tree preservation plan or the submitted application for permit. (See Figure 1 directly below.)

Figure 1



V. Permit Required for Alteration, Relocation, or Removal of Trees on Public Property.

(A) Prior to the alteration, relocation, or removal of any protected trees on public property, a party seeking the removal of a tree on public property shall make an application to the Tree Commission, by and through the City Official who shall ensure the application is complete and transmitted to the Tree Commission for its consideration. There shall be no fee for submitting an application as provided in this section.

(B) In considering the application for alteration, relocation, or removal of a protected tree on public property, the Tree Commission shall use the following criteria in considering whether the application shall be approved or denied:

- (1) The condition of the tree(s) identified in the application and that of the trees in the immediate proximity with respect to health, structural integrity, potential hazard, location to existing and proposed structures, paving, and utilities.
- (2) The absolute necessity of the removal, relocation, or alteration for the reasonable use of the property.
- (3) The impact upon the area tree canopy of the proposed removal, relocation, or alteration.
- (4) The applicant's consent to abide by all specified protection and replacement measures.
- (5) Any other factor the Commission deems relevant.

VI. Replacement of Trees and Planting of New Trees On or Near Public Property.

- (1) Should the Tree Commission grant permission for the removal of any protected tree(s), the applicant shall bear the responsibility and full cost for the removal, cleanup, stump removal, and mitigation of said tree(s).
- (2) The Tree Commission shall specify the species, planting time and planting location of all replacement trees, along with any additional conditions or protective measures to be implemented by the applicant.

- (3) Under no circumstances shall new trees be planted within ten (10) feet of utilities, curbs, gutters, and sidewalks on city rights-of-way unless otherwise approved by the City.
- (4) Should any replacement tree die or substantially decline, in the opinion of the Tree Commission, within a period of two (2) years from the date of planting, the responsibility for replacement of said tree shall be solely that of the original applicant. The applicant shall keep accurate records so as to establish the date of planting of the tree.

VII. Creation of TMF; Purpose and Authorized Expenditure.

(A) The Clerk of the City of Trussville is hereby authorized to create deposit account which shall be called the “Tree Mitigation Fund” into which deposits shall be made for all monies paid under this Ordinance.

(B) The Clerk is directed to hold these funds in an interest bearing account.

(C) Funds from this shall be used exclusively to plant trees in green spaces, public spaces, and other areas throughout the City.

(D) The Clerk and the Director of Finance for the City of Trussville are directed to create internal policies and protocols to ensure compliance with the Tree Mitigation Fund under this Ordinance.

VIII. Penalty for Violation.

(A) Any entity or person violating any provision of this article shall, upon conviction, be punished under the provisions of section 1-5 of the Code of Ordinances. Each day a violation continues shall be deemed a distinct and separate violation of this Ordinance. Any entity that violates this Ordinance may be subject to a suspension or revocation of its business license.

(B) Upon conviction in the municipal court of a violation under this Ordinance, the entity or person shall be made to remit an amount in restitution to the Tree Mitigation Fund the appropriate amount Tree Mitigation Costs as set out in Exhibit A.

(C) The City Official is authorized to take any action available to him at law or in equity to ensure compliance with this ordinance, which may include but is not limited to initiating a civil suit in the circuit court of the respective county in which the property sits, suspension or revocation of any business license, if an entity.

IX. Severability.

If any part of this ordinance is declared unconstitutional or void by a court of competent jurisdiction, the remainder of the ordinance shall remain in full force and effect.

X. Conflict of Law.

Nothing contained herein shall be construed to alter or amend requirements under county, state, or federal law.

XI. Enactment.

This ordinance shall become enacted upon its passage by the City Council, approval by the Mayor, and publication or as otherwise required by law.

CITY OF TRUSSVILLE TREE MITIGATION
COST SCALE

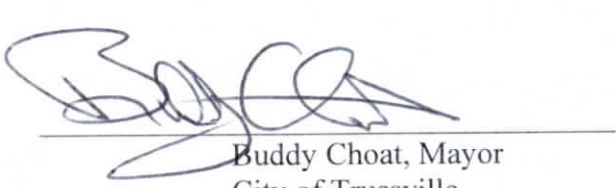
TREE SIZE (DBH)	COST TO MITIGATE CANOPY TREES	COST TO MITIGATE UNDERSTORY TREES*
5 -15	\$500.00	\$500.00
16	\$500.00	\$500.00
17	\$500.00	\$500.00
18	\$500.00	\$500.00
19	\$500.00	\$500.00
20	\$1,000.00	\$500.00
21	\$1,000.00	\$500.00
22	\$1,000.00	\$500.00
23	\$1,000.00	\$500.00
24	\$1,500.00	\$500.00
25	\$1,500.00	\$500.00
26	\$2,000.00	\$500.00
27	\$2,000.00	\$500.00
28	\$2,500.00	\$500.00
29	\$2,500.00	\$500.00
30	\$3,000.00	\$750.00
31	\$3,000.00	\$750.00
32	\$3,500.00	\$1,000.00
33	\$3,500.00	\$1,000.00
34	\$4,000.00	\$1,250.00
35	\$4,000.00	\$1,250.00
36	\$4,500.00	\$1,500.00
37	\$4,500.00	\$1,500.00
38	\$5,000.00	\$1,750.00
39	\$5,000.00	\$1,750.00
40	\$5,500.00	\$2,000.00
41	\$5,500.00	\$2,000.00
42	\$6,000.00	\$2,250.00
43	\$6,000.00	\$2,250.00
44	\$6,500.00	\$2,500.00
45	\$6,500.00	\$2,500.00
46	\$7,000.00	\$2,750.00
47	\$7,000.00	\$2,750.00
48	\$7,500.00	\$3,000.00
49	\$7,500.00	\$3,000.00
50	\$8,000.00	\$3,250.00
51	\$8,000.00	\$3,250.00
52	\$8,500.00	\$3,500.00
53	\$8,500.00	\$3,500.00
54	\$9,000.00	\$3,750.00
55	\$9,000.00	\$3,750.00
56	\$9,500.00	\$4,000.00
57	\$9,500.00	\$4,000.00
58	\$10,000.00	\$4,250.00
59	\$10,000.00	\$4,250.00
60	\$10,500.00	\$4,500.00
61	\$10,500.00	\$4,500.00
62	\$11,000.00	\$4,750.00

63	\$11,000.00	\$4,750.00
64	\$11,500.00	\$5,000.00
65	\$11,500.00	\$5,000.00
66	\$12,000.00	\$5,000.00
67	\$12,000.00	\$5,000.00
68	\$12,000.00	\$5,000.00
69	\$12,000.00	\$5,000.00
70	\$12,000.00	\$5,000.00

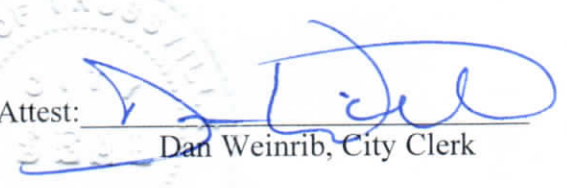
* An evergreen or deciduous tree whose mature height can be expected to range between 15 feet and 35 feet and which has an expected crown spread range between 15 and 25 feet.

ADOPTED AND APPROVED THIS THE 19TH DAY OF MAY, 2022


Perry H. Cook, Council President


Buddy Choat, Mayor
City of Trussville

Attest:


Dan Weinrib, City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Dan Weinrib, City Clerk of the City of Trussville, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Trussville, Alabama, on the 19th day of May, 2022.

The above and foregoing ordinance was published on the 20th day of May, 2022 by posting copies thereof in three public places within the City of Trussville, one of which was at Trussville City Hall.

Witness my hand and seal of office this 20th day of May, 2022.


Dan Weinrib, City Clerk