

## CHAPTER 22. LAND USE

### ARTICLE VII. PLANTINGS, MAINTENANCE AND REMOVAL OF TREES

#### **Sec. 22-420. Title.**

This article will be known as the “City of Elberton Plantings, Maintenance and Removal of Trees Ordinance”.

(Ord. No. 2041, § 1, 3-1-99)

#### **Sec. 22-421. Definitions.**

The following definitions shall apply to the interpretation and enforcement of this article:

City: The “City of Elberton”, a Georgia Municipal Corporation.

City Manager: Designated tree and shrub officer for the City of Elberton.

Park trees: “Park Trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all area owned by the city or to which the public has free access as a park.

Shade trees: “Shade Trees” shall be defined as trees which provide or will eventually provide shaded areas within the city and will help increase the overall canopy to assist in shading and cooling city areas.

Street Trees: “Street Trees” are herein defined as trees, shrubs, bushes and other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

(Ord. No. 2041, § 1, 3-1-99)

#### **Sec. 22-422. Duties and Responsibilities.**

It shall be the responsibility of the City Manager to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official Comprehensive City Tree Plan for the City of Elberton.

The City Manager of Elberton shall have the authority to promulgate rules, regulations, standards, and specifications governing the planting, maintenance, and removal of city trees in Elberton. These may be written in a separate document as Arboricultural Standards and Specifications [sic].

The City Manager, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(Ord. No. 2041, § 1, 3-1-99)

**Sec. 22-423. Street Tree Species to be Planted.**

Instead of compiling a list of trees that may be planted as street trees on publicly owned properties in the City of Elberton, there will be two lists provided by this ordinance. The first list will include trees that may not be planted as street trees or a list of trees that are excluded from being planted as street trees by this ordinance. Any tree that is not on the “excluded” list may be planted.

The second list is a list of trees that are recommended for planting and are known to thrive in the Elberton climate under conditions to which street trees are often subjected.

This second list is intended only as a list of suggested trees, and residents are not limited to the trees included in it.

List No. 1. List of trees that may not be planted as street trees. The following trees are excluded as street trees:

Birch, Paper	Hemlock, Eastern	Poplar, Tulip
Chinaberry	Maple, Silver	Poplar, White
Cottonwood	Mulberry	Royal Paulownia Sycamore
Crabapple, Flowering	Pine, Eastern White	Eucalyptus
Oak, Laurel	Poplar, Lombardy	Tree of Heaven

List No. 2. Trees recommended for planting as street trees. This list includes shade trees that are recommended.

Large Trees—Defined as trees reaching a mature height of greater than 30 feet:

Ash, Green	Beech, American	Birch, River
Blackgum	Catalpa, Southern	Maple, Florida
Cedar, Red	Cryptomeria	Oak, Scarlet
Cypress, Leyland	Elm, Chinese	Oak, Swamp Chestnut
Ginkgo	Hickories	Oak, Willow
Magnolia, Southern	Magnolia, Sweetbay	Pine, Longleaf
Maple, Red	Oak, Sawtooth	Pine, Virginia
Oak, Shumard	Oak, Southern Red	Tallowtree, Chinese
Oak, Water	Oak, White	Cedar, Deodar
Pear, Bradford	Pine, Loblolly	Cypress, Bald
Pine, Slash	Pine Spruce	Elm, Winged
Pistache, Chinese	Redwood, Dawn	Japanese Zelkova

Small Trees – Defined as trees reaching a mature height of 30 feet or less:

Chaste Tree	Cherry, Kwanza	Cherry, Yoshino
Crepe Myrtle	Devilwood	Dogwood
Eastern Hophornbean	Fringetree(Grancy Greybeard)	Hawthorne
Holly, Nellie R. Stevens	Holly, Yaupon	Loquat
Magnolia, Japanese	Magnolia, Star	Maple, Japanese
Maple, Trident	Possumhaw	Red Buckeye
Red Bud	Sassafras	Serviceberry
Silverbell	Sourwood	Viburnums
Willow, Contorted	Windmill Palm	Witch Hazel

**Sec. 22-424. Spacing.**

The spacing of street trees will be in accordance with the two size classes listed. No trees may be planted closer together than the following: Small trees may be planted no closer than 30 feet apart. Large trees may be planted no closer than 50 feet apart.

There will be no exception to the above in special plantings designed or submitted by a landscape architect and approved by the City Manager.  
(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-425. Distance from Curb and Sidewalk.**

No trees may be planted closer to any curb or sidewalk than the following: Small trees, two feet; large trees, four feet.  
(Ord. No. 2041, §1, 3-1-99)

**Sec. 426. Distance from Street Corners and Fireplugs.**

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of the nearest intersecting curbs or curb lines. No street tree may be planted closer than ten feet of any fireplug.  
(Ord. No. 2041, §1, 2-3-99)

**Sec. 427. Utilities.**

No street trees other than those defined as small trees in section 22-424 may be planted under or within ten lateral feet of any overhead utility wire or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.  
(Ord. No. 2041, §, 3-1-99)

**Sec. 22-428. Public Tree Care.**

The City shall have the right to plant, prune, maintain and remove trees, plants, shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Manager may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insects or other pest. This section does not prohibit the planting of street trees by adjacent property owners on the public right-of-way providing that the selection of said trees is in accordance with sections 22-424 through 22-428.  
(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-429. Tree Topping.**

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 article at the determination of the City Manger. Pruning allowed pursuant to the time of any franchise agreement between the city and a public utility shall continue to be authorized in accord with the terms of such franchise agreement.  
(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-430. Pruning, Clearance.**

Every owner of any tree overhanging any right of way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-431. Dead, Diseased, or Hazardous Tree Removal on Private Property.**

The city shall have the right to cause the removal of any dead, diseased or hazardous trees on private property within the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Manager will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. 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 on the owners property tax notice. Nothing herein shall be construed to establish any legal obligation or liability on the part of the city for the removal or trimming of dead or diseased trees on either public or private property.

(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-432. Removal of Stumps.**

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-433. Interference.**

It shall be unlawful for any person to prevent, delay or interfere with the City of Elberton or its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

(Ord. No. 2041, §1, 3-1-99)

**Sec. 22-434. Tree Board**

- (a) **Creation and establishment; composition; appointment.** There is created and established a city **tree board**, which shall consist of five members who are residents of this city, who shall be appointed by the mayor and council.
- (b) **Terms of office; vacancies.** The five persons appointed by the mayor and council on the **tree board** shall serve three-year staggered terms. If a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

- (c) **Compensation.** Members of the **tree board** shall serve without compensation.
- (d) **Organization.** The **tree board** shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
- (e) **Duties.** It shall be the duty of the **tree board** to study, investigate, counsel and develop or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of **trees** and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the mayor and council and upon its acceptance and approval shall constitute the official comprehensive city **tree** plan for the city. The **board**, when requested by the mayor and council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.
- (f) **Review of acts; appeals.** The mayor and council shall have the right to review the conduct, acts and decisions of the city **tree board** and make changes as they deem appropriate. Any person may appeal from any ruling or order of the city **tree board** to the mayor and council, which may hear the matter and make a final decision.
- (g) **Interference by others.** It shall be unlawful for any person to prevent, delay or interfere with the city **tree board** or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street **trees**, park **trees**, or **trees** on private grounds, as authorized in this article.

*(Code 2006, Ord 2137)*

**Secs. 22-435–22-449. Reserved.**