

ORDINANCE NO. 2010-7

AN ORDINANCE TO CREATE AND ESTABLISH
NEW SECTIONS IN TITLE 13-201 THROUGH 13-221
WHICH SHALL BE KNOWN AS THE MUNICIPAL
LANDSCAPE ORDINANCE FOR THE TOWN
OF SIGNAL MOUNTAIN, TENNESSEE.

Section 13-201. Establishment and Purpose. One of the greatest assets of the Town of Signal Mountain, Tennessee is its extensive resource of trees and landscaping. The citizens of the Town recognize that this resource provides enhanced quality of life and other benefits to the community that include natural beauty, noise abatement, cooling, improved drainage, and water quality. However, trees and shrubs planted on public property can be both assets and liabilities to the Town. Therefore, a Municipal Landscape Ordinance is hereby necessary to promote and protect the public health, safety, and general welfare of the Town's citizens by providing for the regulation of the planting, protection, maintenance and removal of public trees and shrubs within the Town of Signal Mountain.

Section 13-202. Definitions.

1. Drip-line: The ground area below the tree canopy where the tree's feeder roots are located.
2. Nonnative Invasive Species: Any species of plant, vine, tree, or shrub capable of propagating that is not native to a particular ecosystem, and whose introduction is or is likely to cause harm to native species. (See Nonnative Invasive Plants of Southern Forests: a field guide for identification and control, by James H. Miller, U.S. Department of Agriculture, Forest Service, Asheville, NC).
3. Park Trees: Trees in public parks, and all areas owned by the Town or to which the public has free access and uses as a park.
4. Trees: Woody vegetation that obtains two (2) inches of diameter (or more) at six (6) inches above the ground.

5. Shrubs: Woody perennial plants that differ from trees by low stature and the general production of several basal stems instead of a single bole, and from perennial herbs by persistent and woody stem(s).
6. Street Trees: Trees within the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular or pedestrian traffic.
7. Town Property: All real property that is owned or leased or maintained by the Town or any part of the public right-of-way.

Section 13-203. Signal Mountain Tree Board (2010-3, Title 2, Chap. 1601-3). The Tree Board was established November 2008 to protect the Town's resource of native trees through tree advocacy and education. The Board consists of seven (7) members, five (5) of which are residents of the Town and a Town Council representative. Members are appointed by a majority vote of the Town Council and serve for three (3) year terms. Appointees have some educational and/or professional experience concerning landscaping and/or trees, which may include such occupations as landscape architect, arborist, forester, master gardener, gardener, teacher, botanist or biologist. A certified arborist and other plant professionals may serve as consultants and ad hoc members.

The Tree Board serves in an advisory capacity to the Town Council and the Town Manager to recommend the adoption of programs, policies and regulations for the protection of trees. Other duties and responsibilities include providing general advice to the public and the Town about trees including best management practices; educational outreach through schools, community events, garden clubs, National Arbor Day Foundation celebrations; active tree planting; removal of nonnative invasive species; education about nonnative invasive species; and, an Honor Tree Program. Capital needs to support the Board's programs include fund-raising and/or soliciting gifts, and memorials.

Section 13-204. Authority and Power. The Tree Board shall develop guidelines for the care of all trees and shrubs located within street rights-of-way, parks and public places of the Town. No individual, group or organization shall plant trees on public property without the recommendation and approval of the Tree Board.

The Town Manager shall have the authority to review the conduct, acts and decisions of the Tree Board, and the Tree Board or any citizen shall have the right of an appeal of any decision to the Town Council, which shall hear the matter and make the final decision or grant a reasonable variance that generally complies with the intent of this ordinance.

Section 13-205. Duties and Responsibilities. It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and maintain guidelines for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas and rights-of-way. Such guidelines after acceptance and approval by the Town Council will become part of this chapter and shall be the official comprehensive town landscape policy for the Town of Signal Mountain, Tennessee.

The Tree Board shall also consider, investigate, make findings, report and recommend on any special matter of question coming within its scope upon request of the Town Council or the Town Manager.

Section 13-206. Tree Species. The Board shall develop and maintain a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet) and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species.

Section 13-207. Spacing. The spacing of street trees will be in accordance with the three species size-classes listed in "Section 6" of this ordinance, and no street trees may be planted closer together than the following: small trees, fifteen (15) feet; medium trees, twenty-five (25) feet; and large trees, thirty-five (35) feet; except in special plantings designed and approved by a landscape architect.

Section 13-208. Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curb-lines and sidewalks will be in accordance with the three species size-classes listed in "Section 13-206" of this ordinance, and no trees may be planted closer to any curb or sidewalk than three (3) feet for small trees, five (5) feet for medium trees or seven (7) feet for large trees.

Section 13-209. Distance from Street Corners and Fireplugs. No street tree shall be planted within thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curb-lines. No street tree or shrub shall be planted within ten (10) lateral feet of any fireplug. No street tree shall be planted within fifteen (15) feet of any driveway/intersection as measured parallel to the street.

Section 13-210. Utilities. The building official shall regulate tree planting around utilities in compliance with any utility regulations adopted by any utility provider or building and electrical codes adopted by the Town. No street trees other than those species accepted as small trees (under 20 feet) by the Tree Board may be planted under or within ten (10) feet of any utility pole or wire or over or within five (5) lateral feet of any of any underground water line, sewer line, transmission line or other utility. The building official shall contact the utility provider to cause the removal of inappropriate tree plantings where violations may result in an immediate public health and safety risk.

Section 13-211. Public Tree Care. The Town of Signal Mountain shall plant, prune, maintain and remove trees and shrubs within the boundaries and rights-of-way of all streets, alleys, avenues, lanes, parks and public grounds as may be necessary to ensure public safety and general welfare. The Town shall also remove and attempt to control nonnative invasive species within public rights-of-way that are injurious to public trees and shrubs.

The Town Manager at his/her discretion or upon recommendation by the Tree Board or Director of Public Works shall remove or cause or order to be removed any tree or part thereof within public rights-of-way subject to the approval of the utility provider that is in an unsafe condition or that by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines and other public improvements or is affected with any injurious fungus, insect or other pest.

All work by the Town or contractors hired by the Town for tree pruning, maintenance and removal will follow the related ANSI A-300 standards and that all trees planted on public property will follow the American Standard for Nursery Stock, ANSI 60.1.

No ground-disturbing activities by private contractors or sub-contractors shall occur within the drip-line of any tree on Town property without first receiving written permission from the building official. Permission must be obtained at the Town Hall not less than 48 hours in advance of the work to be done except in emergency situations. A fee of \$10.00 shall be charged. The permission provided shall be in compliance with the provisions of this ordinance and shall contain a definite date of expiration. Permission shall be void if its terms are violated.

Section 13-212. Pruning Standards. All tree pruning on public property shall conform to the American National Standards Institute (ANSI) A300 standards for tree care operations.

Section 13-213. Tree Topping. It shall be unlawful for any person, firm or town 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 or an undesirable short length of branches within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. An ISA Certified Arborist may be retained to perform crown reductions as necessary to benefit the tree health or for reasons of public safety.

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 exempt from this ordinance based upon regulations adopted by any utility within its rights-of-way at the determination of the Town Manager and/or recommendation of the Tree Board or department head.

Section 13-214. Pruning and Corner Clearance. Owners of trees or shrubs that overhang streets or rights-of-way within the Town shall maintain any tree, hedge or shrub that prevents a clear view of traffic when approaching an intersection to three (3) feet in height for a distance of twenty-five (25) feet back from the lot line at such an intersection and remove any tree limb or branches that are less than ten (10) feet in height that are within twenty-five (25) feet of the lot line intersection. Owners of trees and shrubs shall maintain an area clear of tree limbs and shrubbery to ten (10) feet above the street surface and eight (8) feet above the sidewalk surface. Owners shall also remove all dead, diseased or dangerous trees or broken or decayed limbs that constitute a menace to public safety within

thirty (30) days following notice from the Town Manager. (2009 Code, Chap. 1, 16-102-4.)

The Town shall prune any tree or shrub on private property that interferes with the proper spread of light along a street from a streetlight or interferes with visibility of any traffic control device or sign or sight triangle at intersections that is prohibited by Section 16-104.

Section 13-215. Dead or Diseased Tree Removal on Private Property.

The Town shall have the right to cause the removal of dead or diseased trees on private property within the Town, when such trees constitute a hazard to life and property or harbor insects or disease that constitute an immediate threat to other trees within the Town. The Town Manager shall notify owners of such trees in writing to remove them at their own expense within thirty (30) days after the receipt of notice. In the event of failure by owners to comply with such provisions, the Town shall remove such trees and charge the cost of removal to the owners subject to the right of the property owner to appeal such action under Section 13-221.

Section 13-216. Protection of Trees. In order to maintain the tree canopy, reasonable efforts shall be made to replace trees that are removed from public property and to protect quality trees that are endangered on public property.

The drip-line of desirable tree species in good health shall be protected on Town property and rights-of-way as much as possible from damage during construction, sidewalk repair, and utilities work above and below ground and other similar activities.

The Tree Board shall encourage all citizens through education and advocacy to plant suitable tree and shrub species in the Town as a means to protect both public and private property.

Section 13-217. Landmark Trees. Owners of public or private trees in the Town may request that the Tree Board designate a tree of significant age or size or history that constitutes a unique asset to the community as a Signal Mountain Landmark Tree.

Section 13-218. Interference with Town Tree Board. It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its

agents while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any shrubs, street trees, park trees or trees on public grounds as authorized in this ordinance.

Section 13-219. Violations. No person shall cause the injury, mutilation or death of a tree, shrub or other plant (not including non-native invasive species) located on Town property or within Town rights-of-way by any act of vandalism or negligence or traffic accident without paying the cost of repair or replacement or the appraised dollar value of such tree, shrub or other plant. The value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

Unless specifically authorized by the Town Manager or his/her agent, no person shall intentionally damage, cut, carve, transplant or remove any tree located on Town property or within Town rights-of-way; attach any rope, wire, nails, advertising posters or other contrivances to any tree located on Town property or rights-of-way; allow any volatile liquid or solid or impervious substance (concrete, asphalt, brick, stone, etc.) that is harmful to trees and root systems to come into contact with any tree located on Town property or within Town rights-of-way; or set fire or permit any fire to burn nearby when such fire or heat thereof may injure any portion of any tree located on Town property or within Town rights-of-way; or permit grade changes around or under any tree located on Town property or Town rights-of-way; or permit storage of materials directly on the root zone of any tree located on Town property or within Town rights-of-way.

Section 13-220. Penalties. Any person acting at the will of the Town within the Town limits who violates any provision of this chapter shall be responsible for ameliorating the situation at the direction of the Town Manager after appropriate investigation, which may include a recommendation by the Tree Board and/or the Director of Public Works.

Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to any provision of this ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$50 for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense.

Section 13-221. Appeal. Any person aggrieved by any action or decision by the Tree Board, the Town Manager or his/her agents pursuant to this ordinance shall have the right to an appeal to the Town Council provided a written request is filed within thirty (30) days of the action upon which the appeal is based. The Town Council may hear the matter and make the final decision or grant a reasonable variance that generally complies with the intent of this ordinance.

This Ordinance shall become effective immediately from and after its passage as provided by law.

Passed First Reading 5-10, 2010.

Passed Second Reading 6-14, 2010.



MAYOR



RECORDER