

**City of Martinsville, VA
City Code / Zoning Ordinance
Abstracted January 2008**

<http://www.ci.martinsville.va.us/Council/Agenda/01252005/2004-20.htm>

Original Document:

**CITY OF MARTINSVILLE, VIRGINIA
CITY CODE – APPENDIX B
Ordinance No. 2004 - 20**

AN ORDINANCE TO AMEND APPENDIX B OF THE ZONING ORDINANCE TO ADD SECTION XXVI, TREE ORDINANCE OF THE CITY OF MARTINSVILLE, VIRGINIA.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARTINSVILLE, VIRGINIA, in regular session assembled December 14, 2004, that the City of Martinsville Zoning Ordinance be amended to read as follows:

Sections XXVI, Tree Ordinance, text as given herein

All ordinances or parts of ordinances in conflict with the provision of this ordinance be and the same are hereby repealed.

Attest:

Johnathan B. Phillips, Clerk of Council

Date Adopted

Date Effective

TREE ORDINANCE

Governing Public Property

City of Martinsville, Virginia

I. PURPOSE

It is the purpose of the Ordinance: to conserve and protect public land, water, air, vegetation and other natural resources of the City of Martinsville, 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 on public property within the City of Martinsville; and to preserve and protect such trees and other vegetation, during all phases of any land-disturbing activity.

II. AUTHORITY

There is hereby created and established a City Tree Board for the City of Martinsville, which shall consist of five members and shall be appointed by the City Council. Members shall serve without compensation.

III. DUTIES AND RESPONSIBILITIES

The Board, in collaboration with the City Manager and Superintendent of Schools or their designees, shall consider, investigate, make findings, reports, and recommendations regarding any special matter coming within the scope of its work.

It shall be the routine responsibility of the Board to study, investigate, and develop recommendations for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other publicly owned areas.

IV. TERM OF OFFICE

The term of the five persons appointed by City Council shall be three years, except that the term of one member appointed to the first board shall be for one year and the term of two members of the first board shall be for two years. In the event a vacancy should occur during the term of any member, his/her successor shall be appointed for the un-expired portion of the term. All persons appointed to the Board shall be governed by the policy for appointments to boards and commissions adopted by City Council.

V. OPERATION

The Tree Board shall choose its own officers, make its own rules and regulations and keep minutes of its meetings. A majority of the members shall constitute a quorum for the transaction of business.

VI. APPLICABILITY

This Ordinance shall apply to trees, plants and shrubs located within street rights-of-way, parks and public places of the City. Trees, plants and shrubs located on private property that constitute a public nuisance shall be governed by the City's Property Maintenance Code.

VII. DEFINITIONS

The following words are hereby defined for use in the administration and enforcement of this Ordinance:

CALIPER. American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of trunk shall be taken six inches above the ground for and up to including four-inch size, and 12 inches above the ground for larger sizes.

CANOPY COVER. The crown branch area of a single tree or several combined trees.

CRITICAL ROOT ZONE (CRZ). The area of undisturbed natural soil around a tree measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. CRZ is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

DBH. Diameter-at-breast-height (DBH) is tree trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

DRIPLINE. A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

LAND DISTURBANCE PERMIT. An official authorization issued by the City Engineer that allows defoliation or alteration of a site, or the commencement of any construction activities.

MULTI-STEM TREE. A tree having more than one trunk emerging from the root system.

PUBLIC PROPERTY. All streets, public rights-of-way, parks, and real property owned either by the City or the City School Board.

PUBLIC NUISANCE. Any tree, plant, or shrub which has an infectious disease or insect problem; is dead or dying; is obstructing streetlights, traffic signs, or the free passage of pedestrians or vehicles; poses a threat to the public health, safety, or welfare by imminent collapse onto public property.

SHRUB. A woody plant that usually remains low in height and produces roots or stems from the base, and is usually not tree-like or single-stemmed.

STREET TREE. A tree planted within the developed street right-of-way between the curb line of the street and the property line of the site.

TREE. Any self-supporting woody plant growing upon the earth that usually provides one main trunk and produces more or less a distinct and elevated head with many branches.

VINE. A woody plant whose stem climbs by tendrils or twining or creeps along the ground.

VIII. LICENSING

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or to otherwise treat trees, shrubs or vines on public property within the City without first producing evidence of a City of Martinsville business license.

IX. INSURANCE

All contractors in the business of planting, cutting, trimming, pruning, removing, spraying, and otherwise treating trees, shrubs or vines on public property within the City shall show proof of

liability insurance. This certificate of insurance shall be in the amount as required by the responsible City department. This coverage shall be for bodily injury or death and property damage, indemnifying the City or any person injured or damages resulting from the pursuit of such endeavors, as herein described.

X. PUBLIC TREE CARE

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

The City 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 is injurious to public property, public buildings, sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with this ordinance.

XI. TREE PLANTING, MAINTENANCE, AND REMOVAL

Tree Species – The City Tree Board develops and maintains a list of desirable trees for planting along streets in three sizes: small, medium and large.

Spacing – The spacing of street trees will be in accordance with the three species size classes listed in this Ordinance, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

Utilities – No street trees other than those species listed herein as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, gas line, transmission line or other utility.

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 this Ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees 2 feet, medium trees 3 feet, and large trees 4 feet.

Topping – It shall be discouraged 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 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 pruning practices are impractical shall be exempted from this Ordinance as determined by the Chief of Electrical Operations, Manager of Business and Technical Services or the Director of Financial and General Services.

XII. ADJACENT LANDOWNER RESPONSIBILITY

No person shall plant, remove, cut above the ground, or disturb any tree on or within any city street right-of-way, park, or other public place without first filing an application and procuring a permit from the Zoning Administrator. The person receiving the permit shall abide by the standards set forth in this Ordinance.

XIII. PRIVATE TREES

The Property Maintenance Code allows the Zoning Administrator, or his/her designee, the authority to enter private land whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary.

XIV. PERMITS

No person other than the Zoning Administrator, his/her designee, or a contractor hired by the City, may perform any of the acts described in this Ordinance without first obtaining permits as required in this Ordinance, for which no fee shall be charged.

XV. ENFORCEMENT

The Zoning Administrator, or his/her designee, shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants, subject to this Ordinance.

XVI. PENALTIES, CLAIMS AND APPEALS

Public employees, performing assigned duties, shall be exempt from penalties and claims that proceed from violation of any section of this Ordinance. Any person, firm, or corporation whether a principal, agent, employed or otherwise, knowingly and willfully violating or causing or permitting the violation of this ordinance, shall be guilty of an unclassified misdemeanor, punishable by a fine as set forth by the Court, not to exceed \$2,500. Failure to remove or abate such violation within the specified time period set by the Court upon conviction, shall constitute a separate unclassified misdemeanor offense punishable by a fine as set forth by the Court, not to exceed \$2,500. Any such failure during any succeeding thirty-day period shall constitute a separate unclassified misdemeanor offense for each thirty-day period punishable by a fine as set forth by the Court, not to exceed \$2,500.

Any financial and/or material cost of damage to trees, shrubs, plants or landscaping that results from violation of any provision of this Ordinance shall be the responsibility of the party in violation. 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.

XVII. REVIEW

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board, and to reverse or amend them by majority vote.