

Minimum Standards for a Tree City USA and WI-DNR Grant Funded Ordinance

Ordinances must meet three minimum standards to fulfill the requirements for Tree City USA and/or are required for DNR grant-funded ordinances:

1. Must provide/list the person/group (e.g., Tree Board, Forester, Public Works Director) responsible for public tree care and enforcement authority of the ordinance.
2. Must address the guidance/protection of trees, i.e., what functions the municipality will complete or constitute to be completed, related to planting, maintenance and removal of trees located on street rights-of-ways, parks and/or other listed spaces, as well as prohibited acts related to these trees.
3. At a minimum, ordinance clauses must address public trees and not be temporary (i.e., they are in effect at all times, not only when responding to storm damage or during construction projects).

Commented [LPTD1]: Do you think we need some type of introduction? "The purpose of this document is to... First we list the two standards that must be met... Then we introduce a series of topics and questions you should consider when developing an ordinance..." We would need to work out what exactly the introduction would say. Not sure this is necessary, but the current layout may be a little confusing.

Commented [KAJD2R1]: I agree I think an intro would be helpful, especially if someone is came to this document on the grants page and may be unfamiliar with TCUSA or if they're sharing it with others in the community.

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Suggested Topics to Consider when Creating Ordinances

It is recommended that you consider the following topics and questions when developing ordinances. By addressing the topics below, your ordinances will meet or exceed the minimum standards listed above.

*Normal text below is for headings or language that may be used verbatim; text in *italics* is thoughts, examples or questions that you should address in order to create an ordinance that best fits your community.

1. Title – *List what the document is and the community it is meant to be used in.*
 - a. *e.g., This tree ordinance shall be known and cited as the Village/City/Town of Anytown tree ordinance for the Town of Anytown, Wisconsin.*
2. Purpose and Intent – *Set forth overall goals to be achieved through the ordinance, assisting in the establishment of a sound Community Forestry Program with a robust forest canopy.*
 - a. *i.e., To establish and maintain a safe, healthy, age and species-diverse tree population throughout all portions of the community, with the intent to increase wellness of the citizenry, reduce stormwater runoff and increase energy conservation while striving for a community canopy cover of x%.*
3. Definitions – *List and explain the meaning of words used in the ordinance to assist the reader in understanding what is expected of the community and its citizens in the establishment and care of its tree population. Below is a list of logical terms to define. If you take the time to define a word, ensure it is used in later sections and not only in the definitions section. Conversely, this is not an all-inclusive list. There may be other terms dependent on how wide-ranging this ordinance will be, and will/can vary by community:*
 - a. *Public Tree – All trees located in or upon parks, street rights-of-way, and other lands owned, controlled, or leased by the [entity]. This includes trees located within public areas where the adjacent property owner has management responsibilities. The entity responsible for planting, removal, trimming, and other maintenance activities of public trees should be clearly listed in the appropriate section.*

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- b. Private Tree – All trees not located in or upon lands owned, controlled, or leased by the [entity].
- c. Right-of-Way/Boulevard /Terrace/Median – These terms often demark locations for public trees/planting spaces. It is best to define what they mean to your community (e.g., Terrace is the area between the sidewalk and the curb. Right-of-way is typically an umbrella term for any public space along streets or roadways. Boulevard, terrace and median are types of rights-of-way.) Best practice is to keep them consistent across the community as this may be the basis for determining which trees the community will care for and which they will not. Note: care of some trees that are “on” public property may be assigned to the adjacent landowner depending on how the ordinance is structured. (e.g., This is often used in older communities where the Rights-of-Way vary significantly between streets and even parcels). Defining these helps determine which trees are to be managed by the community and reduces surprises.
- d. Tree – Define to differentiate from shrubs. Typically has a single stem and grows to a mature height greater than 15’.
- e. Shrub – Define to differentiate from trees. Typically is multi-stemmed at or near ground level and grows to a mature height under 15’. Can be a vision problem when situated incorrectly on private property. Typically not allowed on street rights-of-way.
- f. Evergreen Tree – A tree having branches and foliage year-round. In its natural/unpruned form, branches extend to ground level. Typically not allowed to grow on street rights-of-way.
- g. Nuisance Tree/Plants – Trees/plants, or part(s) thereof, deemed a structural or vision risk, or at risk of infecting/infesting adjacent trees with detrimental plant diseases or insect pests. Do not state specific insect or disease as these are ever-changing. One may want to state who is the person (title) that determines if a tree meets Nuisance Tree criteria.
- h. Invasive Plant Species – Nonindigenous species whose introduction causes, or is likely to cause, economic or environmental harm or harm to human health. According to Wisconsin DNR’s NR40 rule, with certain exceptions, the transport, possession, transfer and introduction of “prohibited” plant species is banned. Restricted plant species are also subject to a ban on transport, transfer and introduction, but possession is allowed.
- i. Major alteration – Removing a large number of live foliage/branches, typically greater than x% of canopy or altering the typical form of the species.
- j. Topping – The indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role, i.e., limbs 3” diameter or larger without regard to branch unions. Generally allowed for emergency response or temporary removal. Other names include “heading,” “tipping,” “hat-racking,” and “rounding over.”
- k. Prohibited Acts – Actions taken to Community trees by residents without first obtaining approval or permit from the community. Some of these actions may prove harmful and a permit will not be, nor should be given.
- l. Critical Root Zone – The distance from the tree trunk where the soil shall not be compromised (compacted or dug up) to ensure the tree has a reasonable chance to survive construction activities and thrive. This area usually corresponds to 1-1.5’ per 1” trunk diameter measured at DBH (or 4.5’ above existing grade).
- m. DBH – Diameter at Breast Height – Standard tree measurement of diameter taken at 4.5’ above grade that is typically measured with a specialized diameter tape. Not used for nursery stock (see caliper below). DBH is the industry standard for tree measurement.

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Commented [WOJD7R6]: I think it looks fine, but I left this question here in case others had edits.

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- n. Circumference – A variation on the DBH concept. The distance around the trunk of a tree at 4.5' above existing grade measured with a standard tape.
 - o. Caliper – Used when purchasing nursery stock. Caliper is the diameter of the trunk, measured at 6" above the soil line, on trees that measure 4" caliper or smaller. Over 4" caliper trees are measured 1' from the soil line.
4. Establishing Authority for Tree Management Decisions. Establishment of Tree Board. Designation of Community Forester and their roles, responsibilities and authority in relation to the Tree Ordinance.
- a. Tree Board
 - i. Will there be a Tree Board? Is there a current committee that logically can/should take on that role?
 - ii. Is the tree board advisory? What authority do they have?
 - iii. What role does the Tree Board play? e.g., Addressing input/concerns from citizens communicated to the Community Forester? Organizing and holding the community's Arbor Day celebration or conducting public awareness activities, e.g., creating/providing informational items/producing articles for community newsletter? Assisting the Community Forester with creating the annual budget? Providing routine updates to the Community Council/Board on behalf of the Forestry Program?
 - iv. If a Tree Board is established, what should the makeup be, and how many community staff/volunteers/council persons will serve on the board? How many members are required for a quorum?
 - v. How long should the terms be? Should they be staggered?
 - vi. Who determines the members?
 - vii. Are the members compensated, and if so, how much? How is compensation determined, e.g., rate per meeting/per hour, etc.?
 - viii. How often should the Tree Board meet?
 - b. Community Forester
 - i. Will there be a stand-alone Forestry position? Or will an existing position or contracted consultant fulfill that role?
 - ii. How will the Forester's position be selected?
 - iii. What are the educational or experiential criteria for the position?
 - iv. Who will supervise or have authority over the Forester?
 - v. What responsibilities will the Forester have? E.g., review all trees under community's jurisdiction for safety and health every x years, create and maintain an inventory of trees under the community's jurisdiction, enforce all or specific portions of the community tree ordinance, complete an annual forestry budget to be approved by community board/council, provide periodic updates to the community board/council, be responsible for having all forestry-related operations completed (e.g., tree planting, pruning, removal, treatment, community awareness of forestry program, etc.), be responsible for training/supervising community staff who perform operations to any trees under community jurisdiction, etc.
5. Tree Care Responsibilities of Publicly Owned Trees and Areas – Determine what the tree care responsibilities will be and who oversees these aspects of the ordinance, e.g., pruning, removal, planting, treatment or contracting these tasks. Typically, one person or department will be responsible for all the above situations and should be listed here.
- a. Pruning

- i. What are the standards or specifications for pruning? Do the specifications vary dependent on age/establishment of tree? Is topping prohibited? Do specifications vary dependent on location, i.e., adjacent to streetlights, street signs, boulevard vs. park (clearance dimensions to adhere to)?
- ii. Who is responsible for the pruning? E.g., a single Department, the adjacent property owner, or does that vary depending on if it's a street or park tree?
- iii. Will the community allow residents to prune limbs of adjacent community-owned trees? If so, is there a protocol or permitting system? Who is responsible for the implementation/enforcement of this?
- iv. If residents prune community-owned trees without permission/permit, what recourse does the community have? May be addressed in "Prohibited Acts" section, below.
- v. Are private property owners responsible for corrective actions to their private trees should they be deemed a nuisance or if/when they are adversely affecting public use or safety, e.g., obstruction of streets, intersections, streetlights, signs, sidewalks, driveways, etc.? Who determines if tree is adversely affecting these areas?
- vi. What form of communication shall take place to put the property owner on notice? What is the timeline for follow-through and assurance the task has been completed to the community's satisfaction?
- vii. If situation is not remedied, what actions may the community take? May the property owner be charged by the community for community staff or a contractor completing this work? (Can be addressed in "Penalties and Enforcement" section below.)
- viii. Are there specific timeframes when pruning of certain trees shall not take place to either community and/or private trees, to lessen the chance of insect/disease infestations/infection such as oak wilt? How will this be communicated and addressed if not adhered to?
- ix. Shall utilities who periodically perform pruning within their easement notify the adjacent property owners and community, i.e., Forester, before work is done? How much notice must be given prior to pruning occurring?

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How to ask who is responsible without 'promoting' adjacent property owners as a possibility?

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b. Planting

- i. Shall the community have a tree planting program for rights-of-way and/or parks? Is there a mechanism to determine that all community areas are planted to a minimum canopy coverage goal, with a diverse species of trees, i.e., an assessment of species and number of trees? Is there protocol to diversify the community forest canopy? If so, what is it?
- ii. Is there a tree replacement policy related to trees removed from rights-of-way and parks? Should there be protocol to assure trees are being replaced appropriately (is there enough room, is there an upcoming renovation to that area, etc.) or even should be replaced at all?
- iii. In what areas can/should trees be planted on community property, i.e., list specific locations (street rights-of-way, parks) as well as stating areas where no planting should occur due to insufficient rooting space, vision concerns, conflicts with buildings, etc.?
- iv. Is there a minimum width for a right-of-way to qualify for tree planting? Does this vary by tree type or species, i.e., shade tree vs. ornamental?

Commented [WOJD14]: Does this need to be added to the removal section too?

Commented [WOJD15]: "Inventory" and "species and number of trees" is redundant. Remove one or the other?

Commented [WOJD16]: Not sure these are the main questions I'd ask here. Other ideas?

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- v. Consider minimum soil volume standards for trees being planted in various situations, e.g., street rights-of-way or tree pits?
 - vi. How far from various land features may trees be planted, i.e., fire hydrants, driveways, street signs, lights, intersections, other adjacent trees and utilities?
 - vii. Are there certain tree species that should be prohibited from being planted on community property, i.e., evergreen trees on street rights-of-way, specific tree species due to weak branching structure or susceptibility to known insect/disease situations? These species are typically listed in a policy or guidance document as opposed to the ordinance because it is easier to amend.
 - viii. Do you want to encourage species diversity? If so, consider including language such as "Strive for a species diversity of no more 20% in one family, no more than 10% in one genus and no more than 5% of any single species, including cultivars and varieties."
 - ix. Will residents be allowed to plant trees on community property? If so, is a permitting system needed to assure locations and species are appropriate for the site? How will unlawfully planted trees (citizen-planted trees rights-of-way and parks) be addressed?
 - x. Does the community have a Tree Funding Program (e.g., Memorial Tree Program), or desire to create one that citizens may participate in? If so, it should state the donation amount needed per tree or where that amount can be found, and if citizens are able to choose trees (from a list) and area(s) the tree(s) may be planted.
- c. Removal
- i. What criteria will be considered to determine whether a tree shall be removed, and who shall make that determination?
 - ii. What does the removal operation constitute, i.e., getting all portions of the tree to the ground, proper disposal of all above-ground portions, grinding of the stump and replacement of the stump area with soil/grass seed?
 - iii. Who is responsible for the removal? E.g., a single Department, the adjacent property owner, or does that vary depending on if it's a street or park tree?
 - iv. Will the ordinance address private property trees, i.e., private property trees that could impact public property and those using it, e.g., cars and bikes on the street or sidewalk? Will it also include private property trees that could impact other private properties, e.g., backyard trees? (May be addressed in the "Nuisance" section below.) If private tree removal determinations will not be part of the ordinance, that should be stated.
 - v. If residents remove community-owned trees without permission/permit, what re-course does the community have? May be addressed in "Prohibited Acts" section below.
 - vi. Are private property owners responsible for removal of their private trees should they be deemed a nuisance? Who determines if a tree is adversely affecting these areas?
 - vii. What form of communication shall take place to put the property owner on notice? What is the timeline for follow-through and assurance the task has been completed to the community's satisfaction?
 - viii. If the situation is not remedied, what actions may the community take? May the property owner be charged by the community for community staff or a

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contractor completing this work? (Can be addressed in "Penalties and Enforcement" section below.)

- ix. Are there specific timeframes when removal of certain trees shall not take place of either community and/or private trees, to lessen the chance of insect/disease infestations/infection such as oak wilt? How will this be communicated and addressed if not adhered to?
- x. Shall utilities who periodically perform removals within their easement notify the adjacent property owners and community, i.e., Forester, before the work is done? How much notice must be given prior to removal occurring?

Commented [WOJD26]: Just oak wilt for removals? If so, then remove the insect language.

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Commented [WOJD28]: Does this need to be added to the removal section too?

d. Treatment

- i. What circumstances (e.g., oak wilt or emerald ash borer) deem treatment (e.g., injection, spray or root graft barrier) of trees necessary? Trees that have more value (energy savings via shade, stormwater/erosion mitigation, property or historic value, animal habitat) may be kept alive rather than being removed. Are trees being treated as a strategy to spread removal costs over multiple years?
- ii. Community will need to determine if treatment process will be completed by their staff (do they have or need to obtain the necessary certifications and equipment) or through contractual services.
- iii. Must determine if notification to adjacent property owners is needed, how soon in advance and the process.

e. Nuisance Abatement

- i. It must be determined if the tree meets the terms of the definition of a nuisance (listed above).
- ii. How will public nuisances be abated? Pruning, removal, treatment, other methods?
- iii. The community shall determine if they will have sole responsibility to mitigate nuisance tree situations on its own property, or if that responsibility is forwarded to adjacent property owners (e.g., adjacent to a street right-of-way).
- iv. It must be determined if the community will have authority over trees located on private property that may adversely affect public property (e.g., cars and bikes on the street and sidewalk) or be a safety concern.
- v. Community must determine if it will have the authority of causing treatment, removal or pruning of said private trees that may only adversely affect adjacent private property. If the Community determines it shall have authority to cause private property owners to mitigate these nuisances, they shall direct actions in the least costly and most efficient manner. **If community will not address basic neighbor-to-neighbor disputes/situations, it may be best to state that in the ordinance.**
- vi. How will the Community inform the property owner to mitigate the nuisance and ensure follow-through occurs? Written notice personally served or sent by registered mail? Notices should include description of kind of tree or plant part(s) declared a public nuisance, its location on the property, the reason for declaring it a nuisance, actions the property owner must undertake to abate the nuisance, timeline to complete abatement, actions taken if abatement is not completed in designated time, cost of abatement, appeals process (written notice, city council meeting, timeline), exceptions.

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6. Prohibited Acts to Public Trees

- a. *What actions may not be taken on any public tree by residents? List them, e.g., pruning, topping, removal, treatment, adhering signs/decorations (that will create wounds), carving, adding injurious substance on the CRZ (toxic chemicals, hot coals), removal of stakes or watering devices, or other actions that may harm trees, as determined by the forester. What is the community's recourse if this is done?*

7. Penalties and Enforcement

- a. *If a private property owner receives an order to take action (i.e., remove, prune or treat) on their tree and fails to follow through within the allocated timeframe (usually stated within the ordinance), what is the community's recourse? Does the community have the authority to complete the called-for action by their own staff, or through contractual services, and charge the property owner?*
- b. *If the community must complete the corrective actions themselves or by contract of a Nuisance situation on private property, will/may the community assess an administrative fee in addition to the cost to complete the corrective actions? This would be done as an incentive for the property owner to complete the task. The administrative fee would compensate the community for time spent organizing the completion of the mitigation operations.*
- c. *If a citizen performs a prohibitive act to a community-owned tree, will said citizen be held accountable for the cost of damage or value of the tree? How will the compensatory amount be determined, and who will do it?*

8. Appeals

- a. *This addresses situations where the property owner objects to the determination by the Community Forester or staff person that the property owner has carried out a prohibited act and has been charged a fee or been notified to complete a "Nuisance Abatement" task. The property owner shall be given an opportunity to respond to a pre-determined authority. This may be the council/board or municipal court. A timeline for this process should be provided as well.*

9. Authority to Enter Private Property

- a. *Shall the Community Forester or designated staff person have the authority to enter any private outdoor/landscape property to confirm a possible tree nuisance situation? If so, is there a logical timeframe, e.g., during daylight hours any day of the week for the sole purpose of examining trees/shrubs to carry out provisions of this ordinance, as well as, have the authority after dark if it is determined a life-threatening situation may be occurring? Or shall the Community Forester or staff person first knock on the resident's door, and upon receiving no response, leave a door hanger explaining the reason to examine said tree, with Community Foresters/staff persons phone number/email address to correspond, and if after x timeframe has expired upon leaving the door hanger, the Community Forester or staff person may then enter the property?*

10. Severability

- a. *Should any part or provision of this ordinance be declared invalid in the court of law, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part determined to be invalid. This is used to prevent the entire ordinance from being deemed invalid if a particular portion has been determined by the courts to be invalid.*

11. State Statutes related to urban forestry: Sections 27.09 and 86.03.

Potential Additional Ordinance Language/Items a Community May Consider if Listed Activities Occur and There is Staff to Enforce

1. Preservation/heritage trees – Protects or conserves desirable trees, tree canopy, or trees with historic significance on public and/or private property. Some tree preservation ordinances require a permit before designated trees can be removed, encroached upon, or pruned. A process or specification should be identified for what is designated a heritage/specimen tree. Some tree preservation regulations may be housed in development ordinances under landscaping, buffer or pre-site development requirements (e.g., site inventory of existing trees, tree preservation/limited tree removal plan). Often contain enforcement, fines and alternate resolutions for trees impacted (e.g., require equal trees or canopy area to be replaced).
2. Public woodlots/natural area management
 - a. *Is a certain percentage of woodland required to be retained in development projects? Can retained woodlots be counted towards stormwater or landscaping requirements?*
 - b. *Are woodlots allowed exceptions from other ordinances that may interfere with management? E.g., weed ordinances that prohibit unmaintained vegetation exceeding a certain height that would go against natural forest vegetation or tree removal ordinances that may fine for trees removed during a timber harvest.*
3. Standards to save and protect trees in areas where new subdivisions, business parks, redevelopments and other developments may occur. May state minimum acreages, number, sizes and/or species of trees this would pertain to.
4. Standards for new subdivisions, redevelopments and other developments to plant trees, locations of plantings, who is responsible for costs and installation, size and species of trees used for installations, minimum rooting space and soil volumes/quality for planting locations, when planting shall occur, etc.
5. Standards to use if/when trees are deemed to be planted within concrete/cut-out sidewalk business/shopping areas, numbers of trees per formula, type of substrate, amount of rooting space and system used, who is responsible for initial installation and long-term maintenance.
6. Storm water mitigation related to extent of impervious amount of surface areas proposed in a new development, who is responsible for determining the size of rooting area per trees to be planted, who is responsible for installation and long-term maintenance.
7. Specifying cooperation efforts/assistance between/with other departments – This can be helpful for emergency situations, as well as to increase productivity and can allow for cross-training to occur.
8. Licensing of Arborists to work in community – This is typically asking for a minimum amount of insurance but could also require company to have/use ISA certified arborists. This could also be used to prohibit bad pruning practices, e.g., topping. This is to protect citizens and can be used for if/when community contracts for arboricultural work.
9. Permitting process – If Community wants to entertain citizen requests to plant, prune or remove trees on adjacent public property, develop a system for citizens to know up front the expectations and costs they will incur.
10. Work permitting adjacent to Community trees – Stipulate a process for any work that may adversely affect community trees (typically utilities, but there may be others) through compaction or digging up areas within the Critical Root Zone (CRZ) of a tree. Addressing how close machinery can be to this area and a review process, fencing, mulching or boring practices

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that may be stipulated. This should also address equipment access paths that encroach on the tree's CRZ, even if the project is not near the tree. Addressing enforcement and fines related to permit non-compliance.

11. Providing for communication with residents regarding the Community Forestry Program by specifying that at least twice a year the Forester shall communicate to residents the status, new initiatives, updates related to the Forestry Program as well as insights that will help residents to increase and maintain their own tree canopy.

Consider including detailed information (e.g., standards, specifications and tree lists) that may change or be useful for staff and contractors in an appendix, policy or manual. This will make it possible to adapt with industry standards without going through the political process to change your ordinance. UF small team 9/13/23