

## ORDINANCE 18-08

### AN ORDINANCE OF THE TOWN OF DUNDEE, FLORIDA RESTATING AND AMENDING ORDINANCE 90-14 REGARDING THE DUNDEE TREE BOARD AND RELATED MATTERS; AND PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, CODIFICATION, AND THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on December 11, 1990, the Town Commission of the Town of Dundee adopted Ordinance 90-14; and

**WHEREAS**, the purpose and intent of Ordinance 90-14 was to attain recognition for the Town of Dundee by the Arbor Day Foundation as a Tree City U.S.A; and

**WHEREAS**, the Town Commission, in the absence of the town department of forestry, established a town committee to be known as the Dundee Tree Board as required as part of the Tree City USA application; and

**WHEREAS**, the Town Commission set forth standards for tree plantings and maintenance within the Town; and

**WHEREAS**, Town staff is desirous of now pursuing a current Tree City U.S.A. designation.

**NOW THEREFORE, BE IT ENACTED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:**

**SECTION 1.** The above referenced WHEREAS clauses are incorporated herein by reference and constitute the factual basis for the adoption of this Ordinance.

**SECTION 2.** Ordinance 90-14 of the Town of Dundee, Florida, is hereby restated with amendments as follows (deletions are shown in ~~striketrough~~ and restated provisions and additions are shown in underline format):

#### **Section 1. Town of Dundee Land Development Code**

The provisions of this Ordinance are subject to the Town of Dundee Land Development Code and, in particular, the provisions set forth in Section 2.03.00 regarding Landscaping and Buffering Standards.

#### **Section 2. Definitions**

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

Park Trees: Park trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the Town, or areas to which the public has free access as a park.

### **Section 3. Creation and Establishment of a Dundee Tree Board**

There is hereby re-established a Dundee Tree Board for the Town of Dundee which shall consist of five members, all of whom shall be residents of the Town. Each member of the Board shall be appointed by the Mayor with the approval of the Commission.

### **Section 4. Term of Office**

The term of each of the five persons comprising the Dundee Tree Board shall be three (3) years, except that the term of two (2) of the members appointed to the board now shall be for only one (1) year and the term of the two (2) members of the board appointed now shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, the successor shall be appointed for the unexpired portion of the term that became vacant.

### **Section 5. Compensations**

Members of the board shall serve without compensation.

### **Section 6. Duties and Responsibilities**

It shall be the responsibility of the Board to study, investigate, counsel, develop, 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 shall be presented annually to the Town Commission and upon their acceptance and assent shall constitute the official comprehensive tree plan for the Town of Dundee.

The Board, when requested by the Town Commission, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

### **Section 7. Operation**

The Board shall choose its own officers, which shall include a chairperson, a vice chairperson, and a secretary; make its own rules and regulations; and keep minutes of its proceedings. A majority of the members shall constitute a quorum for the transaction of official business of the Board.

### **Section 8. Tree Species to be planted**

Subject to §2.03.00 of the Town of Dundee Land Development Code, the Dundee Tree Board shall develop and maintain a list of desirable trees for

planting along streets in three size classes based on mature height: small (under 10 feet), medium (10 to 20 feet) and large (over 20 feet).

This list shall be reviewed annually and recommended for approval by resolution of the Dundee Tree Board. Lists of trees not suitable for planting will also be created by the Dundee Tree Board. Any list adopted by resolution of the Dundee Tree Board shall not be the exclusive list of desirable trees for planting within the Town and shall be considered complimentary to the list of trees and/or shrubs set forth in Tables 2.03(A)-(C) of the Town of Dundee Land Development Code.

### **Section 9. Spacing and Species**

Spacing and species of street trees shall be in accordance with applicable tree spacing and species provisions prescribed in the Town of Dundee Land Development Code. To the extent that the Town of Dundee Land Development Code does not specifically address the spacing and/or species of street trees, then the spacing of street trees will be in accordance with the three (3) species size classes listed in Section 8 of this Ordinance, and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 20 feet; and large trees, 30 feet, except in special plantings, designed or approved by a landscape architect or as otherwise authorized by the Town of Dundee Land Development Code or the Town's Development Director.

### **Section 10. Distance from Curb and Sidewalk**

Distance from curb and sidewalk of street trees shall be in accordance with applicable provisions prescribed in the Town of Dundee Land Development Code. To the extent that the Town of Dundee Land Development Code does not specifically address the distance from curb and sidewalk of street trees, then the distance street trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 8 of this Ordinance, and no street trees may be planted closer to any curb or sidewalk than the following: small trees, 1 feet; medium trees, 2 feet; and large trees, 3 feet.

### **Section 11. Distance from Street Corners and Fireplugs-Fire Hydrants**

Distance from street corners and fire hydrants of street trees shall be in accordance with applicable provisions prescribed in the Town of Dundee Land Development Code. To the extent that the Town of Dundee Land Development Code does not specifically address the distance from street corners and fire hydrants of street trees, then no street tree shall be planted within 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted within 10 feet of any fireplug fire hydrant.

## **Section 12. Utilities**

Street trees shall not be placed so as to interfere with overhead utility wire(s) in accordance with requirements of applicable law including, but not to be limited to, the Town of Dundee Land Development Code. However, in the absence of any applicable law, no street trees other than those species listed as small trees in Section 8 of this ordinance may be planted under or within 10 feet of any overhead utility wire.

## **Section 13. Public Tree Care**

The Town 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 grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Dundee Tree Board 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 sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with an injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with Sections 8 through 12 of this ordinance.

## **Section 14. Tree Topping**

It shall be unlawful as a normal practice for any person, firm, or Town Department to top any street tree, park tree, or any other tree located 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 obstructions where other pruning practices are impractical may be exempted from this ordinance as determined by the Dundee Tree Board.

## **Section 15. Pruning, Corner Clearance**

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not severely 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 thirteen feet (13') above street surfaces or eight feet (8') above the sidewalk surface. 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 Town 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 or sight triangle at intersections. Tree limbs that grow near high voltage

electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and Dundee Tree Board prior to any trimming by the utility company.

#### **Section 16. Dead or Diseased Tree Removal on Private Property**

Subject to applicable law, the Town shall have the right to cause the removal of any 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 which constitute a potential threat to other trees within the Town. The Dundee Tree Board shall furnish written notice to the owners of such trees advising them that such trees must be removed by the 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 Town shall have the authority to cite such violator to appear before the Dundee Code Enforcement Board Special Magistrate for Code Enforcement to show cause why such person should not be held in violation of this Ordinance.

#### **Section 17. 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.

#### **Section 18. Interference with Dundee Tree Board**

It shall be unlawful for any person to prevent, delay or interfere with the Dundee Tree Board, or any of its agents, while engaging in authorized activities pursuant to this Ordinance.

#### **Section 19. Arborists License-Registration and Bond**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Town without first completing and submitting a registration form (to be provided by the Town) to the Town of Dundee. No registration shall be required of any public service company including electric utilities and their agents and contractors or Town employees doing such work in the pursuit of their public service endeavors. Each registrant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000.00 for bodily injury and \$300,000.00 for property damage indemnifying the Town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

### **Section 20. Review by the Town Commission**

The Town Commission shall have the right to review the conduct, acts, and decisions of the Dundee Tree Board. Any person may appeal from any ruling or order of the Dundee Tree Board to the Town Commission who may hear the matter and make a final decision so long as such an appeal in writing is filed with the Town Clerk within 30 calendar days from the date of the rendering of any ruling or order of the Dundee Tree Board.

### **Section 21. Penalty**

Any person violating any provision of this Ordinance shall be, upon conviction or plea of guilty, subject to the penalties provided in Section 1-14 of the Dundee Code of Ordinances, as well as the jurisdiction of the Dundee Code Enforcement Board Special Magistrate for Code Enforcement.

### **Section 22. Funding Allocation and Population Measure**

In order to achieve recognition as a Tree City USA by the Arbor Day Foundation, the Town of Dundee is required to allocate \$2 per capita into a fund for public tree care. These funds must be used for the items listed in Exhibit A attached hereto and incorporated herein by reference.

The annual per capita population figure to determine the amount to be budgeted annually shall be the population estimate reported by the Florida Bureau of Economic and Business Research.

Accordingly the Town Manager is hereby directed to prepare an estimate of the amount to be appropriated and placed into such a fund each fiscal year in conjunction with the preparation of the Town's annual fiscal year budget to be presented to the Town Commission.

## **SECTION 3. Codification and Administrative Correction of Scriveners Errors**

It is the intent of the Town Commission that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Town; and that sections of this Ordinance may be re-numbered or re-lettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

## **SECTION 4. Severability**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the

remaining portions of this Ordinance. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 5. Repeal**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**SECTION 6. Effective Date**

This ordinance shall become effective immediately upon adoption after second and final reading/public hearing.

**INTRODUCED AND PASSED** on first reading at the regular meeting of the Town of Dundee Town Commission held this 13th day of November, 2018.

**PASSED AND ADOPTED** on second reading/public hearing at the regular meeting of the Town of Dundee Town Commission held this 11th day of December, 2018.

**FINAL VOTE OF THE COMMISSION:** YEAS \_\_\_\_\_  
NAYS \_\_\_\_\_

TOWN SEAL

CLERKS ATTESTMENT:

MAYORS SIGNATURE

\_\_\_\_\_  
Brian Lueth, Town Clerk

\_\_\_\_\_  
Samuel Pennant, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

**EXHIBIT A**  
**to Ordinance 18-08**

Arbor Day Foundation Approved Expenses for the Mandated Public Tree Care Fund

- Contract Work For Tree Care
- Tree Purchases
- Watering
- Fertilizing
- Insect Control
- Staking
- Mulching
- Dead Tree Removal
- Stump Removal
- Pruning By Town Employees
- Leaf And Brush Pick-Up
- Biomass Recycling
- Survey Or Inventory Expenses
- Computer Inventory Software
- Equipment Purchases
- Equipment Rental
- Equipment Maintenance
- Arbor Day Program
- Prizes For Arbor Day Contests
- Tree Care Conferences And Workshops Attended By Town Workers
- Memberships In And Donations To Tree Organizations
- Public Education Materials—Brochures, Newsletters, Etc.
- Administrative Time
- Insurance