

**ORDINANCE NO. 8-3-09  
AMENDING ORDINANCE NUMBERS 17-4-98 AND 13-3-90  
STREET TREE ORDINANCE  
OF THE CITY OF NOBLESVILLE**

**An ordinance regulating the planting, maintenance, and removal of trees, shrubs, and other plants, within the rights-of-way and properties of the City of Noblesville. Regulations and duties of the City of Noblesville, Indiana, Urban Forester, paid city representative and the Tree Board.**

Whereas, this ordinance is intended as, an exercise of certain powers and functions pertaining to the government and affairs of the City of Noblesville, Indiana.

Whereas, the selection, planting, maintenance and removal of trees, shrubs and hedges along public rights-of-way and on public grounds substantially affect such matters as pedestrian and vehicle safety, the location and maintenance of utility services, tree maintenance cost, the incidence of tree disease, the general appearance of the cityscape, and the general quality of life of the City; and,

Whereas, it is hereby found and determined that such selections, planting, maintenance, and removal are matters of City-wide concern over which the City would exercise the control set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Noblesville, Indiana, as follows:

**Section 1: Title.**

This ordinance shall be known and may be cited as the "CITY OF NOBLESVILLE'S TREE ORDINANCE" of the City of Noblesville, Indiana.

**Section 2: Purpose and Intent.**

- A. Purpose: It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulations of the planting, maintenance, and removal of trees, shrubs, and other plants within the City rights-of-way or City owned property.
- B. Intent: It is the intent of the Common Council of the City of Noblesville that the terms of this ordinance shall be construed so as to promote:
- 1) the planting, maintenance, restoration, and survival of desirable trees, shrubs, and other plants within the City rights-of-way; and,
  - 2) the protection of community residents from personal injury and property damage, and the protection of the City of Noblesville from property damage caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the City rights-of-way,
  - 3) the utilization of trees to improve the environmental quality of the City,
  - 4) the continuation of a City of Noblesville Tree Board,
  - 5) the aesthetics of tree lined streets for a more livable Noblesville,
  - 6) and to maintain the City of Noblesville as a Tree City USA.

**Section 3. Authority.**

- A. It is the intent of the City of Noblesville Common Council through the establishment and approval of the ordinance to grant the Board of Public Works and Safety authority to exercise the powers and functions to govern all affairs of this ordinance.

- B. Implementation of the Board of Public Works and Safety authority and function shall be carried out through the urban forester in cooperation with the Street Commissioner and Tree Board. All violations resulting in issuance of fines shall be submitted for review to the Board of Public Works and Safety for enforcement and to the City's Legal Department for collection of fines.

**Section 4. Non-Reverting Tree Fund/Budget Authority.**

- A. The Clerk-Treasurer shall receive and approve all claims for the disbursement of funds.
- 1) The Clerk-Treasurer shall establish a budget with designated lines and the budget shall be maintained within the budget of the Street Department. The forestry budget shall be governed under the same authority as set out by the Clerk-Treasurer and City policy including all federal and state laws.
  - 2) Upon submittal of the budget to the Noblesville Common Council and with their approval the Clerk-Treasurer's office will exercise all powers and functions in accordance with federal and state laws.
  - 3) All fines, permit fees, grants or other funds accrued through this ordinance shall be managed through the Clerk-Treasurer. Fines and permit fees will be deposited into the non-reverting tree account.
  - 4) All funds, be it grant monies or budgeted money from the Common Council, shall be disbursed by the Clerk Treasurer's office through the City's standard practices of due process. All funds listed in the non-reverting tree fund shall be submitted to the Common Council for their approval prior to disbursement and follow the same standard practices.
  - 5) The urban forester will request approval of funding for a line in the Street Department budget for tree planting from the Common Council.
  - 6) An annual budget report of the non-reverting tree fund expenditures, fines and grants will be submitted to the Board of Public Works and Safety, Common Council, Street Commissioner and Clerk-Treasurer by the urban forester. This report will also include all projected expenditures for the following year.

**Section 5. Definitions.**

As used within this ordinance, the following terms shall have the meaning set forth in these sections:

- A. "Tree Planting and Tree Pruning and Removal Specifications and Standards of Practice for The City of Noblesville" (Exhibit A, "Arboricultural Specifications Manual") is a manual prepared by the urban forester pursuant to the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon City owned property.
- B. "The City's Tree Representatives" shall be the urban forester of the City of Noblesville, or a qualified contractor hired by the City of Noblesville Street Department. The Street Commissioner may designate these duties and responsibilities as the need arises. The Street Commissioner or his designated person will assume the responsibilities and duties of the urban forester should the position be vacant.
- C. "Tree Board Member" shall be a volunteer resident appointed by the Mayor of the City of Noblesville or the Noblesville Common Council. The position will be unpaid.
- D. "City-owned Property" is property within the City limits of the City of Noblesville and,
  - 1) owned by the City of fee simple absolute, or
  - 2) implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements,
  - 3) owned by the City and dedicated for the purpose of utility easements.

**Subject exclusions:**

- 1) Excluding the real estate owned or controlled by the Noblesville Parks department (except for an area on either side of any paved through streets or roadways within any park or recreational facility maintained by the street department, fifteen (15) feet in depth by parallel lines to the edge of the pavement.
  - 2) Excluding real estate contained within common areas or entry way median (located entirely within the right-of-way of a street) which are intended to serve an aesthetic purpose. Such areas are typically located at the entry to a subdivision and may include other forms of decorative plantings in addition to trees. This exclusion shall not prevent the City from taking such steps as may be necessary to avoid hazards to the public's safety and welfare.
- E. "Shall" is always mandatory and not merely suggestive.
- F. "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- G. "Property Owner" is the owner of record or contract purchaser of any parcel of land.
- H. "Shrubs, and Other Plants" are all vegetation, woody or otherwise, except lawn grass, trees and flowers less than 24 inches in height.
- I. "Topping" is defined as the cutting back of the leading shoot or shoots of major limbs which form the natural canopy of the tree so as to disfigure the tree's crown.
- J. "Tree Care" means the treating, spraying, removal, pruning and any other tree maintenance or horticultural work intended for the enhancement or preservation of trees and the removal and prevention of any and all damages to any street trees caused by tree pests, viruses, or diseases.
- K. "Street Tree" is a tree located on real estate controlled by the City as defined above.

**Section 6. Street tree planting, Location, Specifications, Stump Removal, and General Care:**

- A. 1) The urban forester shall provide lists of species, varieties, and cultivars desirable to be planted in public places in the City so as to insure public safety and welfare. No trees other than those included on the urban forester's list may be planted as street trees without special written permission of the urban forester. The species are classified by their size at maturity into three groups: small, medium, and large. Details of tree size classification and planting location sizes can be located in the Arboricultural Specifications Manual.
- 2) The urban forester shall provide lists of undesirable species, cultivars, and varieties not to be planted in public places in the City so as to insure public safety and welfare. These undesirable trees shall not be recommended for general planting and their use shall be restricted to special locations where they can be used to the advantage because of certain characteristics of adaptability, landscape effect or compatibility with existing curb, sidewalks and utility lines. If such special permission is not granted the cost of removal and replacement of the undesirable trees shall be charged to the individual or firm who planted the trees.
- 3) The urban forester in consultation with the City's Tree Board may add or delete species, cultivars, or varieties as experience demonstrates their superiority.
- 4) A resident has several options regarding tree planting in the right-of-way.  
Options: Residents can:
- a. fund 100% of the purchase and planting: This includes purchase of tree and expenses of hiring certified contractor to plant tree.
  - b. participate in a cost share program: Resident purchases tree and city crews plant tree at no additional cost.
  - c. request the City plant a tree when funds are made available with no cost to resident.

B. High Priority Tree Care

- 1) Except in emergency situations, the urban forester shall have the exclusive right to cause or to approve the removal of any dead, diseased or otherwise unsafe street tree.
- 2) The Board of Public Works and Safety or urban forester shall have all the powers with due process and the laws and Constitution of the State of Indiana, to promote the health, safety and welfare of the City by removing or causing to be removed through appropriate legal means any tree on private property within the City which constitutes a threat or menace to the public safety or the health of other trees, and to seek such legal redress, including penalties and costs, as may be appropriate.
- 3) The Street Commissioner or public utilities may act to trim or remove trees in emergency situations.
- 4) The State Highway Department may act to trim or remove trees endangering traffic on state highways within the City limits.
- 5) In an emergency, when a tree (or trees) have been severely damaged by storms or other causes or are obstructing utility wires, etc., the Street Commissioner or public utilities may, only as a last resort, use topping or other severe cutting back of the limbs of street trees but must report all such incidences to the urban forester.

C. Regular Tree Care

- 1) The urban forester shall have the right to prune or cause to be pruned any privately owned trees overhanging any street or public right-of-way or sidewalk. Refer to the Arboricultural Specifications Manual for height specifications over sidewalks and streets.
  - a) which constitutes a menace to the safety of the public or;
  - b) which obstructs the light from any street lamp at the intersection or;
  - c) which obstructs the motorist's view of any street intersection or any traffic control device or sign or;
  - d) which obstructs or endangers passing vehicles and pedestrians.
- 2) Within the City limits of Noblesville, the Street Department budget and the non-reverting tree fund budget, except as provided by C4 through C7 below, shall assume the expense of tree care as defined in this section.
- 3) All contracted routine street tree care undertaken by the City shall be initiated and inspected by the urban forester. Contractors shall be certified arborist, bonded and insured.
- 4) The owner-occupant shall be responsible for the routine care of street trees in the right-of-way between their property and the street, such as watering, raking, and preparing leaves, twigs, and other debris for removal by the City. No permit is required for such activity.
- 5) An owner-occupant may hire a certified arborist to perform routine street tree care. The arborist must secure a permit prior to performing work from the urban forester . (See Section 9)

- 6) Public utilities may trim street tree roots and branches as necessary for the maintenance of a utility service and as is prescribed by state law and limited in C7 below. The cost of such tree care is not the responsibility of the City (See Section 9).
- 7) It shall be unlawful as a normal practice for any person to (1) top, (2) prune horizontally a branch of more than 3" inches in diameter, or (3) cut limbs within the tree's canopy back to stubs greater than three (3) three inches in diameter, on any street tree, unless approved by the urban forester .
- 8) In the process of tree removal, all stumps of street trees shall be ground eight (8) inches below ground level and seeded as required by the Arboricultural Specifications Manual.
- 9) Should an owner-occupant wish to perform routine trimming on a street tree themselves in the right-of-way between their property and the street beyond that which is described in C4 but not to the extent of C7 they may do so with the proper permitting from the urban forester or paid city representative. Failure to do so can result in fines.

#### Tree Preservation

- D. 1) In order to protect existing trees intended for preservation during the development's construction the following plans of action must be adhered to. All developers and construction firms must place substantial barriers around the tree at or beyond the drip line of enclosed trees. No machinery, tools, chemicals, or temporary deposits may be permitted within the barriers nor may any notice or other objects be attached to protected trees. No burning may take place within five hundred feet (500') of preserved trees. The barriers are to remain in place until after the completion of all heavy construction on the site. Tree protection procedures and specifications in the Arboricultural Specifications Manual must be adhered to.
  - 2) Significant changes in grading or water flow which would adversely affect preserved trees must be avoided or mitigated through protective measures.
  - 3) The urban forester may substitute alternative means in lieu of the required barriers where appropriate to specialized circumstances.
  - 4) These restrictions shall not be interpreted as applying to the public utilities or utilities subcontractors doing routine utility work. However, public utilities and their subcontractors must take reasonable care to protect trunks, branches, and roots of existing trees and shrubs.
  - 5) It shall be unlawful for any person to fasten or attach in any way to any defined street tree any rope, wire, sign, poster, handbill, or other object.
  - 6) It shall be unlawful for any person in any other way to injure, deface or permit any animal to injure or deface any street tree.
- E. Planting/Stock Requirements
    - 1) The planting of any street tree must be in accordance with the requirements in the tree planting and transplanting specifications section of the Arboricultural Specifications Manual. The urban forester shall have the power and authority to vary such limitations as may be necessary and proper, taking into account the lot width in question, location of fire hydrants, driveways, curbs or the like. Spacing must be in

accordance with the requirements in the Arboricultural Specifications Manual except in special plantings designed or approved by the urban forester, or except as consistent spacing with already existing trees dictate. It is not the intention of this section to prevent the planting of street trees.

- 2) Except as provided in E3, E4 and E5 and Item F below, the planting of all street trees shall be done according to the city tree plan, at the expense of the City, with the proper permit.
- 3) The owner or occupant of property abutting public rights-of-way may plant street trees at his or her own expense in accordance with the Arboricultural Specifications Manual, provided he or she secures a permit approval from the urban forester.
- 4) An owner or occupant who gains a permit to remove a healthy tree shall be required by the City to replace that tree.
- 5) Public utilities are not exempt from the responsibility for the replacement of street trees which must be removed in order to maintain utility lines. A tree shall be replanted at the expense of the utility if removal of an existing tree is necessary.
- 6) Any person planting a street tree is required to receive approval of all permits as listed in this ordinance prior to the commencement of work.

F. New Development/Construction Projects

- 1) All new subdivisions shall be in compliance with the City of Noblesville Unified Development Code, this ordinance and the Arboriculture Specifications Manual for all plantings in the City's right-of-way.
- 2) All new subdivisions shall have a minimum of one year performance bond for the installation on all new plantings and a minimum of a three year maintenance bond from the developer upon the release of the performance bond.
- 3) The urban forester shall review and approve all plans and details for tree plantings subject to this ordinance; as well as pre and post inspections of all street tree plantings. The developer is required to provide the urban forester with an electronic inventory of street trees, listing their exact location and species.
- 4) Street trees to be located within dedicated and accepted rights-of-way located on provisional plats submitted to the City after the passage of this ordinance will be planted at the expense of the developer in compliance with the articles of this ordinance and the Arboricultural Specifications Manual except if specified otherwise by the City. Any resident or property owner who wishes to supply materials and cost for planting in front of their residence, prior to the developer's schedule, may do so upon receiving approval from the City. No reimbursement shall be made to the resident for such requests.
- 5) Trees are to be planted only at the preferred or acceptable planting times in central Indiana. See Purdue University HO-100-W (Attachment B).
- 6) The urban forester shall impose all fines relating to infractions by the responsible contractor as a result of failure to comply with the City's Unified Development Code relating to tree plantings or any part of this ordinance or Arboricultural Specifications Manual. The urban forester will develop a system of fines to be approved by the Board of Public Works and Safety.

- 7) Recommendation for release of bonds will not be forwarded to the Board of Public Works and Safety until the urban forester has completed the final inspection. Failure to comply with this ordinance shall result in the delay in releasing bonds associated with street trees or the use of bond funds to correct infractions.

**Section 7. Tree Board:**

A. Creation and Establishment

There is hereby created and established a City Tree Board for the City of Noblesville, Indiana, which shall consist of seven (7) members.

- B. The board will consist of seven (7) members. Five (5) members will be appointed by the Mayor and must be residents of the City of Noblesville, one (1) member shall be the urban forester and one (1) member shall be appointed by the Common Council and must be a resident of the City of Noblesville.

C. Appointment, Vacancy, Compensation, and Terms of Office

- 1) The Mayor or Common Council may appoint a person to replace their appointees in the event that a vacancy should occur during the term of any member. His or her successor shall be appointed for the unexpired portion of the term.
- 2) A member of the Tree Board may be removed by the Tree Board, with approval of the Mayor, if that member fails to attend one half or more of the meetings in a year.
- 3) The Tree Board members shall serve without pay.
- 4) Tree Board members shall serve a term of three (3) years and will be allowed to serve a maximum of two consecutive terms.
- 5) The Tree Board shall choose its own officers, and keep minutes of its proceedings. A majority of the members (4) shall be a quorum for the transaction of business.

D. Duties-Responsibilities

- 1) All meetings are to be scheduled through the urban forester and/or tree board president, are public and shall be advertised, through the Clerk-Treasurer, in accordance to the open door law.
- 2) All meeting minutes are to be recorded in digital form, by the Tree Board secretary, and copies provided to the Clerk Treasurer for public record and the Tree Board.
- 3) Coordinate efforts with related projects of such groups as the Park Board, Plan Commission, Common Council and City departments.
- 4) Consider, investigate, make findings, report, recommend upon, and keep adequate records of its actions upon any matter or questions coming within the scope of its work as defined by this ordinance.
- 5) Conduct educational and fund-raising campaigns as necessary and work with private and public agencies and organizations to establish programs for the planting and care of street trees.
- 6) The Tree Board may be requested to advise or consult with the urban forester on any matter pertaining to the Noblesville Tree Ordinance and its enforcement by the Board of Public Works and Safety. The topics under which the advice and consultation may be given may include, but are not limited to, any of the following:

- a) policies concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the City;
  - b) establishment of educational and informational programs;
  - c) formulating policies and procedures of urban forestry relating to the most current standards;
  - d) assist with the submittal of information to the Board of Public Works addressing violations or addendums of this ordinance;
  - e) maintaining a quorum of board members for the purpose of promoting a proactive forestry program;
  - f) assist with City development projects pertaining to urban forestry.
- 7) Assist the urban forester in all efforts to secure funds for the promotion, planting, and maintenance of trees governed under this ordinance.

**Section 8. Urban Forester; Establishment, Duties**

- A. Establishment: The title of City Urban Forester is hereby established to a position within the Street Department.
- 1) The urban forester shall function under all rules, regulations and requirements of the City of Noblesville and the Noblesville Street Department.
- B. Duties: The urban forester shall implement the following activities as listed, but not limited to.
- 1) Meet at least once each calendar quarter with the Tree Board, or more often if necessary.
  - 2) Develop an inventory of the City's street trees specifying type and condition of the trees.
  - 3) Establish a pattern of orderly, periodic inspection of the condition of the trees covered under this ordinance and fully document that inspection for maintenance purposes.
  - 4) Develop a master plan with the assistance of the Tree Board for the care, removal, preservation, pruning, planting, and disposition of street trees, along existing City streets and trees along rivers and streams outside the City's park system. This plan, any substantive changes in it, and any later plans and substantive changes in them must be approved by the Board of Public Works and Safety.
  - 5) Annually submit a request to the Mayor for a budget for inspection and tree care and maintenance. The budget should set aside funds for emergency need. Other items required for the urban forester job responsibilities are listed but not limited to:
    - a. Develop an annual written plan for tree care. This plan shall be presented annually to the Tree Board and Board of Public Works and Safety and shall constitute the official City Tree Plan for the City of Noblesville for that year. In addition, owners of property that will be affected by the proposed plan shall be notified in a manner, reasonably designed to insure actual notice to them, of the proposed action affecting their property.



- b. Consider, investigate, make findings, report, recommend upon, and keep adequate records of its actions upon any matter or questions coming within the scope of its work as defined by this ordinance.
  - c. Coordinate efforts with related projects of such groups as the Park Board, Plan Commission, Common Council and City departments.
  - d. Communicate with the State Highway Department as to any highway projects which would affect the planting area along state highways within the City limits.
  - e. Promulgate rules and regulations for the proper administration of this chapter which shall include methods of good arboriculture.
  - f. Review, with the Planning Department, through the Technical Advisory Committee, all plans for preserving existing trees and planting new trees in subdivisions or along new roadways.
  - g. Review, with the City Street Commissioner and/or Board of Public Works and Safety or their representative, all public utility street cut permits which might endanger existing street trees.
  - h. Cause or order to be removed any street tree or part thereof which is an unsafe condition or is infected with any injurious fungus, insect, or other pest, or which by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements.
  - i. Issue licenses as required by this ordinance. (Section 9 of this ordinance)
  - j. Govern all aspects of the City's Arborist Certification Program (Section 10 of this ordinance).
- 6) The urban forester in conjunction with the Tree Board shall develop, and each subsequent year, update the City Tree Plan. The plan shall outline urban forestry program activities for a minimum of the next five years. This plan shall describe the urban forestry activities to be undertaken by the City, the reasons for those activities, the possible funding sources, the means of accomplishing the activities, the alternatives available to the City to fund or accomplish the activity, the projected date of completion, and the consequences if the activity is not completed. Activities may include, but are not limited to, street tree inventory, planting, tree removal, beautification projects, and educational projects.
  - 7) The urban forester shall cause the City Tree Plan and the Arboricultural Specifications Manual, and all revisions and amendments to them, to be published and promulgated and shall make available to any interested person copies of the tree ordinance, information about the requirements of the Arboricultural Specifications Manual, and the City tree plan. Notice that such information or revisions are available for public inspection may be published in a newspaper for circulation within Hamilton County.
  - 8) The urban forester shall administer the city tree plan, the tree ordinance, and all related provisions.
  - 9) The urban forester shall perform whatever acts are necessary, including the planting and maintenance of trees and the removal of undesirable trees, shrubs, and

other plants located on City owned property, to ensure that all trees, shrubs, and other plants located on City owned property conform with the City tree plan, the Arboricultural Specifications Manual and this ordinance. Pursuant to this duty, the urban forester, in accordance with normal City procedures regarding contracts, may participate in the review, construction and approval process regarding City contractual agreements prior to submitting to the Board of Public Works and Safety for approval.

- 10) The urban forester, with assistance from the Tree Board, shall establish a program of public information and education that will encourage the planting, maintenance, or removal of trees, shrubs, and other plants on private property in furtherance of the goals of the City tree plan. Funding for an urban forester position and budget shall originate from the street department budget. Other sources such as fines, grants, and permit fees may also be used when applicable.
- 11) The urban forester shall make all efforts to participate in any organization offering further education as well as promoting, expanding, and accrediting urban forestry.

C. Interference

It shall be unlawful for any person to prevent, delay or interfere with the urban forester or any paid city representative, or agent hired by the City, while engaging in inspecting, surveying, planting, cultivating, mulching, pruning, spraying, or removing any street tree or tree on public grounds as authorized in this ordinance.

**Section 9. License: Requirement and Exceptions**

- A. The urban forester or paid city representative shall issue such licenses as are required by this ordinance and shall obtain, as a condition prior to the issuance of such license, the written agreement of each person who applies for such license that he or she will comply with the requirements of this ordinance and the Arboricultural Specifications Manual. The urban forester shall have the right to inspect all work performed pursuant to such license. If the urban forester or paid city representative finds the work performed is not in compliance with the requirements of this ordinance, and the Arboricultural Specifications Manual, the urban forester shall provide written notice of his/her findings to the license applicant. The notice shall contain a copy of this ordinance, and
  - 1) the license shall be null and void, and
  - 2) the urban forester may issue a written order that the license applicant cease and desist all work for which the permit was issued, and
  - 3) the license applicant shall be subject to penalty under the terms of this ordinance, and
  - 4) the City urban forester may take steps to correct the results of the non-complying work and the reasonable costs of such steps shall be charged to the license applicant.
  - 5) the urban forester shall be granted under this ordinance the authority to administer citations for infractions of this ordinance. All citations will be copied to the Noblesville Board of Public Works and Safety.
- B. No person shall plant, treat, prune, remove, or spray a street tree or hire a certified arborist to care for a street tree unless the urban forester or paid city representative has first granted the proper license. Said license may be issued to a certified arborist.

- C. Every license issued by the City of Noblesville Street Department shall specifically describe the work to be done and be valid until December 31<sup>st</sup> of the current year.
- D. An annual license may be issued to any public utility for trimming trees in public rights-of-way. The license shall include trimming schedules and procedures and be reviewed annually with the City. The utility subcontractor shall meet the requirement of the Arboricultural Specifications Manual and this ordinance.
- E. No person shall cut, remove, cover or constrict a street trees root system as to cause permanent damage or death to a tree.
- F. No person shall disturb soils for the purpose of planting, removal, or grinding a stump without securing proper license/permit from state and local authorities.
- G. The current contact number for underground utility locates which are required for license applications is 1-800-382-5544 (Indiana Underground Plant Protection Services)

**Section 10. Arborist Certification, Revocation, and Performance Bond**

- A. It shall be unlawful for any person to work for hire on the tree care of street trees within the City without a valid arborist's certification and required license. Each applicant must provide evidence of possession of proper insurance, arborist's certification, and meet the requirements as stated in the Arboricultural Specifications Manual.
- B. Cancellation or other termination of any insurance policy issued for or in compliance with the provision hereof shall automatically terminate any license, unless another policy complying with the provisions hereof shall be provided and in full force and effect at the time such cancellation or termination becomes effective.
- C. The minimum required liability insurance coverage is \$1,000,000.00 for each occurrence (see Arboricultural Specifications Manual). A bond in the amount of \$10,000.00 is to be submitted prior to application of license.
- D. The annual license fee shall be \$50.00 paid in advance to the City of Noblesville. All licenses will expire on 12/31 of each year.
- E. The urban forester may revoke the license when it has evidence of the contractor's failure to apply principles of good arboriculture, and may hear appeals of any person whose application for a license has been denied.

**Section 11. Review by Board of Public Works and Safety**

- A. The Board of Public Works and Safety, upon the request of any person who disagrees with the decision of the City, shall hear all issues of disputes which arise between the City and any such person whenever those issues involve matters of the interpretation and enforcement of the Arboricultural Specifications Manual, the City tree plan, or the interpretation or enforcement of this ordinance, including disputes regarding the issuance of licenses, or the concurrence or non-concurrence of the City in licenses required under other ordinance or laws, or the abatement of nuisances. The decision of a majority of the appointed members of the Board of Public Works and Safety with regard to such dispute shall be binding upon all parties involved. Nothing in this section shall be construed to limit the jurisdiction of any court of law with respect to such disputes.

## **Section 12. Penalty and Fees**

- A. It is unlawful for any person or entity to remove, trim or damage any tree, shrub, or other plant located on City owned property without obtaining a license to do so. Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to the provisions of this ordinance, upon taking unlawful action, shall be subject to a fine not to exceed five hundred dollars (\$500.00) per day 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. The Board of Public Works and Safety shall determine the amount of fines based on the findings submitted to them by the urban forester. Fees for the cost of repair or replacement of such tree, shrub, or other plant located on city owned property shall be borne by the party in violation. The replacement value of tree and shrubs shall be determined in accordance with the latest revision of the Guide for Plant Appraisal, as published by the International Society of Arboriculture.
- B. All funds secured by this ordinance shall be appropriated into the non-reverting tree fund. Funds are to be utilized for the purpose of fulfilling the obligations of this ordinance
- C. **Loss of City Privileges**  
Any person hired to perform street tree work within the City of Noblesville who demonstrates the inability to follow any provision of this ordinance and its requirements may lose their license to conduct business in the City of Noblesville.

## **Section 13. Severability**

- A. If any provision of this ordinance or application thereof to any person or circumstance is held invalid by any court, other provisions or applications of the ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end of the provision of this ordinance are declared to be severable.

## **Section 14. Grants**

- A. The urban forester shall prepare all information for submittal to the city grant writer. Approval by the Tree Board, Street Commissioner and Board of Public Works and Safety shall be required before final submittal of any grant application is made to the Common Council for final review of financing.
- B. The urban forester shall act as the liaison between the grantor and the City grant writer for the purpose of coordinating the grant process.
- C. All purchases and expenditures will be processed through the established budget process and submitted to the Clerk-Treasurer's office through the street department using all policies and procedures implemented by the Clerk-Treasurer and federal and state laws.
- D. The urban forester shall maintain all records involving grant funds for educational programs, maintenance, plantings, disasters or any other program not mentioned.
- E. All funds acquired through grant applications or other sources shall be kept in a non-reverting tree fund as stated in this ordinance, section 4, and disbursed as stated in section 14 C of this ordinance.
- F. The Noblesville Common Council, when funds are available, shall make an effort to fund the minimum required to match any grant obligations for its approval. In the event no grants are offered during a budget year and grant funds are diminished or unavailable for the next year's budget the Common Council would budget funds in the amount of a minimum twenty-five cents (.25) per resident of the City of Noblesville to insure the success of the urban forestry program. These funds are to be placed in a line, dedicated to

street tree planting, in the street department budget. These funds shall be compiled using the most current census. The above is dependent on the availability of funding in the Common Council budget.

**Section 15. Effective Date**

- A. This ordinance shall be in full force and effect from and after \_\_\_\_\_, and following publication in accordance with the law. All ordinance or parts of ordinance in conflict herewith are repealed.

Adopted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the Common Council of the City of Noblesville, Hamilton County, Indiana.

Common Council, City of Noblesville

AYE		NAY
_____	Brian Ayer	_____
_____	Mark Boice	_____
_____	Roy Johnson	_____
_____	Gregory P. O'Connor	_____
_____	Mary Sue Rowland	_____
_____	Dale Snelling	_____
_____	Stephen C. Wood	_____

APPROVED and signed by the Mayor of the City of Noblesville, Hamilton County, Indiana, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
John Ditslear, Mayor  
Noblesville, Indiana

ATTEST

\_\_\_\_\_  
Janet Jaros, Clerk-Treasurer  
Noblesville, Indiana