

ORDINANCE NO.: 2021-10

AN ORDINANCE TO AMEND TITLE 13, CHAPTERS 2 AND 3 OF THE
TOWN OF SIGNAL MOUNTAIN MUNICIPAL CODE.

WHEREAS, the Town of Signal Mountain Tree Board has reviewed Title 13, Chapters 2 and 3, entitled *Lot Clearance* and *Municipal Landscape Ordinance*, respectively; and

WHEREAS, the Tree Board has recommended substantive revisions to the provisions within those chapters; and

WHEREAS, the Town Council has reviewed proposed revisions and concurs with the Tree Board's recommendations;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, THAT:

SECTION 1. Title 13, Chapters 2 and 3 of the Signal Mountain Municipal Code shall be deleted in their entirety and shall be replaced with the following language:

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER

1. PROPERTY MAINTENANCE CODE
2. LOT CLEARANCE.
3. MUNICIPAL LANDSCAPE ORDINANCE.

CHAPTER 2

LOT CLEARANCE

SECTION

13-201. Definitions.

13-202. Unlawful accumulations of weeds, debris and dead timber.

13-203. Enforcement.

13-204. Manner of disposal.

13-205. Clearance of lots upon failure of owner to act; procedure; assessment of costs.

13-201. Definitions. As used in this chapter, the following terms shall have the meanings ascribed to them:

(1) "Dead timber" shall mean dead tree branches, dead trees or dead shrubbery.

(2) "Inflammable debris" shall mean and include dead leaves, old lumber, paper, pasteboard, rubbish or any inflammable waste material.

(3) "Weeds" shall mean all rank vines, bushes, stalks or vegetable growth. (1985 Code, § 8-401)

13-202. Unlawful accumulations of weeds, debris and dead timber. Any owner, lessee or occupant, or any agent, servant, representative or employee of any owner, lessee or occupant, having control of any lot of ground of any part of any lot, who shall allow or maintain on the lot any inflammable debris or any growth of weeds to a height of over one (1) foot or who shall allow dead timber to remain on the lot, shall be deemed guilty of an offense. (1985 Code, § 8-402)

13-203. Enforcement. It shall be the duty of all Town police officers to watch for any violation of this chapter and to report at once all the facts to the Chief of Police. (1985 Code, § 8-403)

13-204. Manner of disposal. Weeds, when cut down, or debris or dead timber shall be removed from a lot and disposed of in such a manner as not to create a nuisance. (1985 Code, § 8-404)

13-205. Clearance of lots upon failure of owner to act; procedure assessment of costs. (1) Whenever, in violation of this chapter, weeds, inflammable debris or dead timber of any of them, are allowed on any lot of ground or any part of any lot of ground within the Town, the owner of the ground, or in case of joint tenancy or tenancy in common each owner thereof shall be liable not only for the penalty provided for in the general penalty provision of this code of ordinances, but also, on complaint of the Town superintendent or of any citizen to the Town Council of any violation of this chapter, there shall be a hearing before the Town Council at any regular, special or called meeting, upon at least five (5) days notice given by the Town, either to the owner or to his agent or by posting the notice on the premises. The notice shall give the time and place of the hearing. At the hearing, the Town Council, after considering the facts and hearing all objections or protests which may be made, may adopt or decline to adopt, a resolution declaring the weeds, inflammable debris or dead timber to constitute a nuisance and ordering the Town superintendent to abate and remove the nuisance and he is authorized, pursuant to the resolution, to enter upon private property for the purpose of abatement. The resolution shall describe the street or streets along which the work is to be done by the name under which it or the, are commonly known, and describe the property upon or in front of which the nuisance exists by the lot and block number of the lot according to a registered subdivision plat or the map of the Town or some other definite, legal description by which the property can be identified.

(2) Any property owner may remove the weeds, growth, inflammable debris or dead timber at his own expense prior to the arrival of the Town's employees and their undertaking of the work.

(3) If the weeds are not cut down or the inflammable debris or dead timber, as the case may be, are not removed within five (5) days from the passage of the resolution pursuant to subsection (1), the Town shall have the same cut and removed and he is required to keep an account of the cost of abating such nuisance on each separate lot or parcel of land where the work is done, and shall render an itemized report in writing to the Town Council showing the cost of removing the weeds, inflammable debris or dead timber on each separate lot. A copy of the itemized report shall be posted on or near the chamber door of the Town Council at the Town hall for at least three (3) days prior to its submission to the Town Council for confirmation, together with a notice of the time it will be submitted. The notice shall be given by the Town clerk. At the time fixed in the notice, any owner whose property is concerned may protest and be heard. The Town Council of commissioners shall hear and consider such protest and any evidence thereon, and may make such modification thereof as may be deemed necessary, after which, the report or the report as modified, may be confirmed. The amount of the costs as thus ascertained for the cutting and removal of weeds, inflammable debris or dead timber on and from the respective parcels of land, shall be and constitute a special assessment against and a lien

upon, each of the parcels. The assessment shall be entered upon the tax books and be collected by the tax collecting authorities of the Town at the same time, in the same manner and subject to the same interest, penalties and charges in case of delinquency, as ordinary Town taxes against the land. (1985 Code, § 8-405)

CHAPTER 3

MUNICIPAL LANDSCAPE ORDINANCE

SECTION

- 13-301. Establishment and purpose.
- 13-302. Definitions.
- 13-303. Signal Mountain Tree Board.
- 13-304. Authority and power.
- 13-305. Duties and responsibilities.
- 13-306. Tree species.
- 13-307. Spacing.
- 13-308. Distance from curb and sidewalk.
- 13-309. Distance from street corners and fireplugs.
- 13-310. Utilities.
- 13-311. Public tree care.
- 13-312. Pruning standards.
- 13-313. Tree topping.
- 13-314. Pruning and corner clearance.
- 13-315. "Rescinded."
- 13-316. Protection of trees.
- 13-317. Landmark trees.
- 13-318. Interference with Town Tree Board.
- 13-319. Violations.
- 13-320. Penalties.
- 13-321. Appeal.

13-301. Establishment and purpose. One of the greatest assets of the Town of Signal Mountain, Tennessee is its extensive resource of trees, overall canopy, natural environment and landscaping. The citizens of the Town recognize that this resource provides enhanced quality of life and other benefits to the community that include natural beauty, noise abatement, cooling, improved drainage, and water quality. However, trees and shrubs planted on public property can be both assets and liabilities to the Town. Therefore, a municipal landscape ordinance is hereby necessary to promote and protect the public health, safety, and general welfare of the Town's citizens by providing for the regulation of the planting, protection, maintenance and removal of public trees and shrubs within the Town of Signal Mountain. (as added by Ord. #2010-7, June 2010)

13-302. Definitions.

(1) "Canopy." The layer of tree leaves, branches, and stems that provide tree coverage of the ground when viewed from above.

(2) "Drip-line." The ground area defined by the outermost circumference of a tree canopy.

(3) "Native species." Locally adapted and naturally occurring trees, shrubs, and other vegetation that are not native invasive.

(4) "Nonnative invasive species." Any species of plant, vine, tree, or shrub capable of propagating that is not native to a particular ecosystem, and whose introduction is or is likely to cause harm to native species. (See Nonnative Invasive Plants of Southern Forests: A Field Guide for Identification and Control, by James H. Miller, U.S. Department of Agriculture, Forest Service, Asheville, NC.)

(5) "Park trees." Trees in public parks, and all areas owned by the Town or to which the public has free access and uses as a park.

(6) "Shrubs." Woody perennial plants that differ from trees by low stature and the general production of several basal stems instead of a single bole, and from perennial herbs by persistent and woody stem(s).

(7) "Street trees." Trees within the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular or pedestrian traffic.

(8) "Town property." All real property that is owned or leased or maintained by the Town or any part of the public right-of-way.

(9) "Trees." Woody vegetation that at maturity obtains two inches (2") of diameter (or more) at six inches (6") above the ground. (as added by Ord. #2010-7, June 2010)

Any capitalized terms used but not defined in this chapter shall have the meanings ascribed to such terms by the Arbor Day Foundation.

13-303. Signal Mountain Tree Board. The Tree Board was established November 2008 to protect the Town's resource of native trees through tree advocacy and education. The Board consists of seven (7) members, five (5) of which are residents of the Town and a non-voting Town Council representative. Members are appointed by a majority vote of the Town Council and serve for three (3) year terms. Appointees have some educational and/or professional experience concerning landscaping and/or trees, which may include such occupations as landscape architect, arborist, forester, master gardener, gardener, teacher, botanist or biologist. A certified arborist and other plant professionals may serve as consultants and ad hoc members.

The Tree Board shall serve in an advisory capacity to the Town Council, the Planning Commission and the Town Manager to recommend the adoption of programs, policies and regulations for the protection of trees. (as added by Ord. #2010-7, June 2010)

13-304. Authority and Power. The Tree Board shall develop guidelines for the care of all trees and shrubs located within street rights-of-way, parks and public places of the Town. No individual, group or organization shall plant trees on public property without the recommendation and approval of the Tree Board.

The Town Manager shall have the authority to review the conduct, acts and decisions of the Tree Board, and the Tree Board or any citizen shall have the right of an appeal of any decision to the Town Council, which shall hear the matter and make the final decision or grant a reasonable variance that generally complies with the intent of this ordinance. (as added by Ord. #2010-7, June 2010)

13-305. Duties and responsibilities. It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and maintain guidelines for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas and rights-of-way. Such guidelines after acceptance and approval by the Town Council shall become part of this chapter and shall be the official comprehensive Town landscape policy for the Town of Signal Mountain, Tennessee.

The Tree Board shall have the authority to participate in discussions during the development of guidelines for landscaping and care of trees and shrubs in private developments. The Tree Board shall also consider, investigate, make findings, report and recommend on any special matter of question coming within its scope upon request of the Town Council or the Town Manager. (as added by Ord. #2010-7, June 2010)

Other duties and responsibilities include providing general advice to the public and the Town about trees including best management practices established by the Tennessee Division of Forestry; educational outreach through schools, community events, garden clubs, National Arbor Day Foundation celebrations; active tree planting; educate about and promote native species; education about nonnative invasive species; and, an honor tree program. In addition to funds that may be allocated in the Town's budget as approved by the Town Council, capital needs to support the Board's programs include fund-raising and/or soliciting gifts, and memorials.

The Tree Board shall have all lawful authority to act in furtherance of its duties and responsibilities.

13-306. Tree species. The Board shall develop and maintain a list of desirable native trees and shrubs for planting along streets and Town property in three (3) size classes based on the maximum mature height according to the Arbor Day Foundation: small (under thirty feet (30')), medium (thirty to seventy feet (30' — 70')) and large (over seventy feet (70')). Efforts shall be made to ensure a sufficient diversity of tree species. (as added by Ord. #2010-7, June 2010)

13-307. Spacing. The spacing of street trees will be in accordance with the three (3) species size classes listed in § 13-306 of this ordinance, and no street trees may be planted closer together than the following: small trees, ten feet (10'); medium trees, thirty-five feet (35'); and large trees, forty-five feet (45'); except in special plantings designed and approved by a landscape architect. (as added by Ord. #2010-7, June 2010). In mixed-size plantings, the shorter distance of the smallest tree will apply.

13-308. 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 (3) species size classes listed in § 13-306 of this ordinance, and no trees may be planted closer to any curb or sidewalk than three feet (3') for small trees, five feet (5') for medium trees or seven feet (7') for large trees. (as added by Ord. #2010-7, June 2010)

13-309. Distance from street corners and fireplugs. No street tree shall be planted within thirty-five feet (35') of any street corner, measured from the point of nearest intersecting curbs or curb-lines. No street tree or shrub shall be planted within three (3) lateral feet of any fireplug. No street tree or shrub shall be planted within fifteen feet (15') of any driveway/intersection as measured parallel to the street. (as added by Ord. #2010-7, June 2010) This section shall not apply to any trees and shrubs existing as of June 1, 2020.

13-310. Utilities. The building official shall regulate tree planting around utilities in compliance with any utility regulations adopted by any utility provider or building and electrical codes adopted by the Town. No street trees other than those species accepted as small trees (under thirty feet (30')) by the Tree Board may be planted under or within ten feet (10') of any utility pole or wire or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. The building official shall contact the utility provider to cause the removal of inappropriate tree plantings where violations may result in an immediate public health and safety risk. (as added by Ord. #2010-7, June 2010)

13-311. Public tree care. The Town of Signal Mountain shall plant, prune, maintain and remove trees and shrubs within the boundaries and rights-of-way of all streets, alleys, avenues, lanes, parks and public grounds as may be necessary to ensure public safety and general welfare and to achieve the goals and follow the guidelines in the Town's current Land Use Plan. The Town shall also remove and attempt to control nonnative invasive species within public rights-of-way that are injurious to public trees and shrubs.

The Town Manager shall, only after consultation with and a recommendation by a member of the Tree Board, remove or cause or order to be removed any tree or part thereof on public land. Notwithstanding the foregoing, the Town Manager at his/her discretion shall, only after consultation with a

member of the Tree Board and the Director of Public Works and subject to the approval of the applicable utility provider, remove or cause or order to be removed any tree or part thereof within a public right-of-way that is in an unsafe condition or that by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines and other public improvements.

All work by the Town or contractors hired by the Town for tree pruning, maintenance and removal will follow the related American National Standards Institute (ANSI) A300 standards and that all trees planted on public property will follow ANSI 60.1.

No ground-disturbing activities by private contractors or sub-contractors shall occur within the drip-line of any tree on Town property without first receiving written permission from the building official. Permission must be obtained at the Town hall not less than forty-eight (48) hours in advance of the work to be done except in emergency situations. A fee of ten dollars (\$10.00) shall be charged. The permission provided shall be in compliance with the provisions of this ordinance and shall contain a definite date of expiration. Permission shall be void if its terms are violated. (as added by Ord. #2010-7, June 2010)

Change 12, June 28, 2010

13-312. Pruning standards. All tree pruning on public property shall conform to the ANSI A300 standards for tree care operations. (as added by Ord. #2010-7, June 2010)

13-313. Tree topping. (a) Reference is hereby made to the Town's Land Trust Conservation easement (the "Conservation Easement") and all policies in the Conservation Easement regarding tree topping and viewshed clearance (the "Conservation Policies"). The Conservation Policies shall control over any conflicting tree topping and viewshed clearance provisions Section 13-313(b).

(b) It shall be unlawful for any person, firm or Town department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs or an undesirable short length of branches within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance based upon regulations adopted by any utility within its rights-of-way at the determination of the Town Manager and/or recommendation of the Tree Board or department head. (as added by Ord. #2010-7, June 2010) Notwithstanding the foregoing, the Town Manager shall, only after consultation with and a recommendation by a member of the Tree Board, reduce the canopy of any tree on Town property.

13-314. Pruning and corner clearance. Owners of trees or shrubs that overhang streets or rights-of-way within the Town shall maintain any tree or shrub that prevents a clear view of traffic when approaching an intersection. Owners of trees shall maintain an area clear of tree limbs to ten feet (10') above the street surface and eight feet (8') above the sidewalk surface.

The Town shall prune any tree or shrub on private property that interferes with the proper spread of light along a street from a streetlight or interferes with visibility of any traffic control device or sign or sight triangle at intersections that is prohibited by § 16-104. (as added by Ord. #2010-7, June 2010)

13-315. Rescinded.

13-316. Protection of trees. In order to maintain the tree canopy, reasonable efforts shall be made to replace trees that are removed from public property and to protect trees on public property. Replacement trees should be a minimum caliper of 1-1/2" diameter at breast height (i.e., dbh).

The drip-line of desirable tree species in good health shall be protected on Town property and rights-of-way as much as possible from damage during construction, sidewalk repair, and utilities work above and below ground and other similar activities using best management practices established by the International Society of Arboriculture (ISA) and the Town's Land Use Plan.

The Tree Board shall encourage all citizens through education and advocacy to plant suitable native species in the Town as a means to protect both public and private property. (as added by Ord. #2010-7, June 2010)

13-317. Landmark trees. Owners of public or private trees in the Town may request that the Tree Board designate a tree of significant age, size, legacy, heritage or history that constitutes a unique asset to the community as a Signal Mountain Landmark Tree. (as added by Ord. #2010-7, June 2010)

13-318. Interference with Town Tree Board. It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any shrubs, street trees, park trees or trees on public grounds as authorized in this ordinance. (as added by Ord. #2010-7, June 2010)

13-319. Violations. No person shall cause the injury, mutilation or death of a tree, shrub or other plant (not including nonnative invasive species) located on Town property or within Town rights-of-way by any act of vandalism or negligence or traffic accident without paying the cost of repair or replacement or the appraised dollar value of such tree, shrub or other plant. The value of trees and shrubs shall be determined by an ISA certified arborist.

Unless specifically authorized by the Town Manager or his/her agent, no person shall intentionally damage, cut, carve, transplant or remove any tree

located on Town property or within Town rights-of-way; attach any rope, wire, nails, advertising posters or other contrivances to any tree located on Town property or rights-of-way; allow any volatile liquid or solid or impervious substance (concrete, asphalt, brick, stone, etc.) that is harmful to trees and root systems to come into contact with any tree located on Town property or within Town rights-of-way; or set fire or permit any fire to burn nearby when such fire or heat thereof may injure any portion of any tree located on Town property or within Town rights-of-way; or permit grade changes around or under any tree located on Town property or Town rights-of-way; or permit storage of material directly within the drip-line of any tree located on Town property or within Town rights-of-way. (as added by Ord. #2010-7, June 2010)

13-320. Penalties. Any person acting at the will of the Town within the Town limits who violates any provision of this chapter shall be responsible for ameliorating the situation at the direction of the Town Manager after appropriate investigation, which may include a recommendation by the Tree Board and the Director of Public Works.

Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to any provision of this ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed fifty dollars (\$50.00) 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. (as added by Ord. #2010-7, June 2010)

13-321. Appeal. Any person aggrieved by any action or decision by the Tree Board, the Town Manager or his/her agents pursuant to this ordinance shall have the right to an appeal to the Town Council provided a written request is filed within thirty (30) days of the action upon which the appeal is based. The Town Council may hear the matter and make the final decision or grant a reasonable variance that generally complies with the intent of this ordinance. (as added by Ord. #2010-7, June 2010)

13-322. Grandfathering. The following sections of this Chapter shall not apply to any tree or shrub existing as of August 23, 2021: 13-306; 13-307; 13-308; 13-309; and 13-310.

SECTION 2. That this Ordinance shall become effective immediately from and after its passage as provided by law.

Passed First Reading: August 9, 2021

Passed Second Reading: August 18, 2021



Charles Poss, Mayor



Recorder