

ORDINANCE 06-45

AN ORDINANCE OF THE CITY OF RICHMOND CREATING A TREE ADVISORY BOARD AND THE MANAGEMENT AND CARE OF URBAN TREES.

WHEREAS, it is the purpose of this ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs, and other plants within the City of Richmond, and

WHEREAS, The City of Richmond will have the power to promulgate and enforce rules, regulations, specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees and other plants in the public-right-of-way of any street, alley, sidewalk, or other public place in the city, and

WHEREAS, the creation of a Tree Advisory Board and Tree Management Ordinance is Recommended for the public protection of the urban forest, and

WHEREAS, it is in the public interest to protect the urban forest,

NOW, THEREFORE BE IT ORDERED by the City of Richmond Board of Commissioners:

A. Tree Advisory Board.

There is hereby created a Richmond Community Tree Advisory Board.

(1) Membership:

The Richmond Tree Advisory Board shall consist of seven (7) members appointed by the Mayor and approved by the Board of Commissioners: Each member shall serve a four (4) year term. However the first appointments will be Staggered with four (4) members serving a three year term and three (3) members serving a four-year term. Vacancies on the Tree Advisory Board shall be filled by the Mayor with the approval of the Board of Commissioners. The Board shall meet quarterly, with additional meetings deemed necessary and to be determined by the Board. The Board shall elect from among its members a chairperson, Vice Chairperson and Secretary to serve for terms of one (1) year each. Members must be a resident of Richmond/Madison County. Members shall serve without compensation

(2) Duties and Responsibilities:

The Richmond Community Tree Advisory Board is hereby granted the duties and responsibilities to conduct and promote Arbor Day celebrations and other educational functions relating to Urban Forestry. The Board shall also, when

requested by the Board of Commissioners, consider investigate, make findings, reports and recommendations upon any matter or question coming within the scope of its work. The Board shall encourage the proper stewardship of the Urban Forest and tree care in the city. The Board shall have other duties as granted by the Board of Commissioners.

- (3) The Tree Advisory Board shall develop a list of recommended tree species and also a list of those tree species not recommended. They shall also develop educational material to inform the public on the proper care of trees and recommended practices

PUBLIC TREE PLANTING:

- (1) Any person(s) or organization or group may plant a tree within the Public right-of-way immediately adjacent to their property provided the following conditions are met:

- (A) The tree to be planted is not an undesirable tree species:

Undesirable traits for public planting include (1) disease or insect problems; (2) dirty, dropping branches; (3) objectionable fruit or bark; (4) weak-wooded apt to lose large branches in wind or with age; (5) short lived; (6) unpredictable or irregular habits (7) root problems (shallow or destructive roots); and (8) unsafe, thorny or poisonous trees.

TREE TOPPING:

It shall be unlawful as a normal practice for any person, firm or city department to top any public tree. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches (3") 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 other obstructions where other pruning practices are impractical may be exempted from this Subchapter at the determination of the Public Works Department. Alternative methods for pruning or removal will be considered where applicable. If replacement of large disfigured trees with small trees is possible, the practice is highly encouraged.

TREE MAINTENANCE:

It shall be unlawful for the owner or occupant of any building or lot to permit any tree, including public trees, to grow in a manner which interferes with normal sidewalk traffic located on such lot or on public right-of-way adjoining such lot or street traffic, or to grow so as to pose a threat to safety or public rights-of-way due to obstruction of view, obstruction of passage or any other manner. The codes enforcement office shall notify property owners of any problem areas or concerns in order for correction of the problem.

The owner of the property upon which public trees are planted shall be responsible for all care and maintenance of said trees, which is required in order to insure that the provisions of the preceding paragraph are carried out.

Nothing in the foregoing paragraphs shall prohibit the City or its authorized agent(s) from making such alterations in public trees as necessary to protect its reasonable interests.

TREE REMOVAL:

No person shall remove, cut above the ground or disturb any public tree in the right-of-way without approval of the City of Richmond. The City shall be notified in writing of the intent to make any changes to trees in the public right-of-way. The Tree Board shall determine if the action is warranted. The person shall then abide by the standards set forth in this Chapter.

- a. The entire tree, including the stump is removed.
- b. The area is refilled to ground level with soil, so as to prevent the creation of a hole.
- c. The area is re-seeded or planted in other appropriate manner.
- d. There is no damage done to any property belonging to the City or third party.
- e. The entire removal may be done without danger or inconvenience to the public.
- f. Tree replacement is encouraged where possible and appropriate.

It shall specifically be the responsibility of the landowner to comply with the foregoing. Citations shall be issued to the landowner for any violation or damages resulting from improper tree removal.

TREE CARE AND REMOVAL COMPANIES:

The City does not endorse or certify the expertise of tree care and removal companies. These companies must possess and maintain current contractor and occupational licenses. The companies must have all insurance in place.

ABATEMENT:

Issuance of Notice of Violation or Citation

- a. Enforcement proceedings for this Chapter shall be initiated by the issuance of a notice of violation or a citation by a code official in the Codes Enforcement Office.
- b. If a code official believes based, on his personal observation or investigation, that a person has violated a City ordinance, he is authorized to issue a

citation to the violator. In lieu of a citation, the code official may give the violator a notice of violation that a violation has occurred and allow the violator a specified period of time to remedy the violation without fine. The time allowed by the code official shall depend on the nature of the violation and the time necessary to remedy the violation. If the violator fails or refuses to remedy the violation within the time specified, the code official is authorized to issue a citation. Informal settlement of matters under this Chapter is encouraged.

c. The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current tax assessment roll. Such notice of violation or citation shall be deemed to be properly served if given by certified mail, return receipt requested, by personal delivery or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy shall also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation.

d. Notices of violation or citations involving streets, sidewalks and public ways shall be sent to the property owner or other person having control or management of the premises or property adjacent to or fronting the street, sidewalk or public way.

e. The citation issued by the code official shall contain the following information:

1. A description of the real estate sufficient for identification;
2. The name and address of the person to whom the citation is issued;
3. The date and time the violation was observed and the date and time of issuance of the citation;
4. The facts constituting the violation;
5. The section of the ordinance or other code violated;
6. The name of the code official;
7. The procedure for the person to follow in order to pay the civil fine or to contest the citation;
8. The civil fine that may be imposed per day for the violation if the person does not contest the citation;
9. The maximum civil fine that may be imposed per day for the violation if the person elects to contest the citation; and,

10. A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed as having waived the right to a hearing before the Code Enforcement Board, and the determination that a violation was committed shall be final.

f. Nothing in this Subchapter shall prohibit the City from correcting the violation through self help or taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible. The City may file liens on the property to recover the City's costs of labor and material, civil fines and other expenses.

g. After issuing a citation, the code official shall deliver a copy of the citation to the person designated by the Board. Upon receipt of a citation, the violator shall respond to the citation within seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the code official is authorized to issue another citation and to make arrangements to remedy the violation.

CITY MAY CORRECT VIOLATION:

If the violator does not request a hearing before the Code Enforcement Board and the property is not brought into compliance, or if the Code Enforcement Board orders the property be brought into compliance and the violator refuses, failure to so comply shall constitute permission to an official, employee or other authorized agent of the City to enter upon the property to remedy the situation and to abate the violation.

LIEN, FINES, CHARGES AND FEES:

a. The City shall possess a lien on property owned by the person found by a final, non-appealable order of the Board, or by a final judgment of the court to have committed a violation of a City ordinance for all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of the ordinance if the fine is not paid.

b. The lien shall be recorded in the office of the County Clerk and shall be notice to all persons from the time of its recording and shall bear interest at twelve (12%) percent per annum thereafter until paid.

c. The lien shall take precedence over all other subsequent liens except state, county, school boards and city taxes, and may be enforced by judicial proceedings.

d. In addition to the remedy prescribed above, the person found to have committed the violation shall be personally responsible for the amount of all fines assessed for the violation and for all charges and fees incurred by the City in connection with the enforcement of this Chapter. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

PENALTIES

As a result of the violation of any provision of this Chapter, whether by fault in accident or vandalism, which results in the injury, mutilation or death of a public tree, the party in violation or fault shall be responsible for the cost of repair or replacement of such tree.

In addition to being responsible for the replacement value, violations of this Chapter shall be subject to the following schedule of civil fines:

a. If a citation for a violation of this Chapter is not contested by the person charged with the violation, the maximum penalties below shall apply; however, the Board may waive any or all of a penalty for an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with this Chapter. The penalties listed below are for each day a violation continues, beginning on the first day after the ending date of the correction period given in the citation. A second offense is an offense that occurs within five (5) years of the determination by the Code Enforcement Board of a prior offense. All others are those that occur within five (5) years of the determination by the Code Enforcement Board of two (2) or more prior offenses.

Violation	1 st Offense	2 nd Offense	All Others
Public Tree Violation	\$100.00	\$200.00	\$400.00

b. If the citation is contested and a hearing before the Board is required, the following maximum penalties may be imposed at the discretion of the Board:

Violation	1 st Offense	2 nd Offense	All Others
Public Tree Violation	\$150.00	\$250.00	\$450.00

ENFORCEMENT:

This Chapter shall be enforced by any designated code official or code enforcement officer.

This Ordinance shall be in full force and effect upon second reading, adoption and publication accordingly to law.

Date of First Reading: November 28, 2006

Motion By: Commissioner Jones

Seconded By: Commissioner Barnes

Vote: **Yes** **No**

Commissioner Barnes	x	
Commissioner Blythe	Absent	
Commissioner Brewer	Absent	
Commissioner Jones	x	
Mayor Lawson	x	

Date of Second Reading: December 12, 2006

Motion By: Commissioner Brewer

Seconded By: Mayor Lawson

Vote: **Yes** **No**

Commissioner Barnes	x	
Commissioner Blythe	x	
Commissioner Brewer	x	
Commissioner Jones	x	
Mayor Lawson	x	

Mayor

Attest:

City Clerk