

**ORDINANCE NUMBER 2021-05**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, AMENDING THE TOWN CODE TO ESTABLISH TREE PLANTING AND MAINTENANCE STANDARDS, AND TO EMPOWER THE PUBLIC WORKS DIRECTOR TO MANAGE TREE PLANTING AND MAINTENANCE ON PUBLIC PROPERTY, BY ADOPTING BY REFERENCE THE “PARADISE VALLEY COMMUNITY TREE ORDINANCE;” PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND PROVIDING FOR SEVERABILITY.**

**WHEREAS**, the proper planting and care of trees on public property is known to enhance the quality of life, as well as the present and future health, safety, and welfare of all citizens; and

**WHEREAS**, trees on public property require the attention of a knowledgeable Town official, who should also be empowered to respond when trees on private property create a risk to health, safety, or other trees; and

**WHEREAS**, it is appropriate for the Town to adopt official standards for tree planting and care to govern all public or community trees within the Town.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Paradise Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That certain document known as the “Town of Paradise Valley Community Tree Ordinance,” of which one paper copy and one electronic copy are maintained, in compliance with A.R.S. § 44-7041, on file in the office of the Town Clerk as required by A.R.S. § 9-802, and available for public use and inspection during normal business hours, is hereby declared to be a public record, which is hereby referred to, adopted, and made a part hereof as if fully set forth herein, and said copies thereof are hereby ordered to remain on file with the Town Clerk.

Section 3. A violation of this ordinance shall be punishable as a misdemeanor, and shall also constitute a civil offense, pursuant to Sections 1-9-1 and 1-9-2 of the Town Code.

Section 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**PASSED AND ADOPTED** by the Town Council of the Town of Paradise Valley this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Jerry Bien-Willner, Mayor

ATTEST:

\_\_\_\_\_  
Duncan Miller, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Andrew McGuire, Town Attorney

## **Town of Paradise Valley Community Tree Ordinance**

Section 1. Chapter 8, Safety, Health, Sanitation and Nuisance is hereby amended to include a new Article 8-12, Community Trees, to read as follows:

### **Article 8-12 Community Trees**

8-12-1	Purpose
8-12-1	Definitions
8-12-3	Responsibility and Authority for Public Trees
8-12-4	Tree Planting and Care Standards
8-12-5	Prohibition Against Harming Public Trees
8-12-6	Adjacent Owner Responsibility
8-12-7	Certain Trees Declared a Nuisance
8-12-8	Violations and Penalty

#### **Section 8-12-1 Purpose**

The purposes of this Article are to enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, by delegating the authority and responsibility for managing trees on public property, establishing practices governing the planting and care of trees on public property, and making provision for the emergency removal of trees on private property under certain conditions.

#### **Section 8-12-2 Definitions**

The following definitions shall apply to this Article:

“Damage” means any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

“Director” means the Public Works Director and/or his/her designee.

“Nuisance Tree” means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety or welfare.

“Public Property” means all grounds and rights-of-way owned or maintained by the Town.

“Public Tree” means any tree or woody vegetation on Town-owned or Town-maintained property or rights-of-way.

“Top” or “Topping” means the non-standard practice of cutting back limbs to stubs within a tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

#### Section 8-12-3 Authority and Responsibility for Public Trees

- A. The Director shall have full authority and responsibility to cause the planting, pruning, maintaining and removing of trees and woody plants growing in or upon all municipal streets, rights-of-way, Town parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease. The Director shall develop and implement an appropriate procedure to document annual tree care activities by the Town.
- B. All Town departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Article as it relates to streets, alleys, rights-of-way, drainage, easements and any public properties not under direct jurisdiction of the Director.
- C. No person shall hinder, prevent, delay, or interfere with the Director or his/her agents while engaged in carrying out the execution or enforcement of this Article.

#### Section 8-12-4 Tree Planting and Care Standards

- A. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 “Standards for Tree Care Operations” and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- B. The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this list may be planted on public property without written approval from the Director.
- C. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards. Only trees listed as Ornamental trees on the official Town tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.
- D. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.
- E. Any person, firm, corporation, or Town department performing construction near any

public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent damage.

#### Section 8-12-5 Prohibition against harming public trees

- A. It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.
- B. It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any public tree.
- C. It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical, may be exempted from this provision at the determination of the Director.

#### Section 8-12-6 Adjacent Owner Responsibility

- A. The owner of land adjacent to any Town street or highway, when acting within the provisions of this Article and subject to the prior approval of the Director, may plant and maintain trees in the area between the property line and the curb, and to the pavement where no curb exists, in compliance with standards and restrictions established pursuant to Section 8-12-4 of the Town Code. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the area between the property line and the curb, and to the pavement where no curb exists.
- B. Pursuant to Section 8-1-13 of the Town Code no property owner shall allow a tree, or other plant growing on his or her property or in the area between the property line and the curb, and to the pavement where no curb exists, to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner, pursuant to the provisions of Sections 8-5-2 or 8-6-12 of the Town Code, at the discretion of the Town.

#### Section 8-12-7 Certain Trees Declared a Nuisance

- A. Any tree, or limb thereof, on public or private property, which is determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or to threaten public health, safety, or welfare is declared a nuisance and the Town may require its treatment or removal pursuant to the provisions of Section 8-5-2 of the Town Code.
- B. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Town may remove such trees at the owner’s expense if the

owner does not comply with treatment and/or removal, pursuant to the provisions of Section 8-5-2 of the Town Code.

Section 8-12-8 Violations and Penalty

A violation of any provision of this Article shall be punishable as a misdemeanor, and shall also constitute a civil offense, Pursuant to Sections 1-9-1 and 1-9-2 of the Town Code.