

# **City of Jackson**

**Butts County**

**Atlanta MSA**

**2003 Population Estimate 4,338; +7.9% change from 2000 Census.**

**Tree City USA for 14 years.**

**Tree Board with 3 members; no meeting frequency required by ordinance.**

## **ARTICLE II. TREE PROTECTION**

**First adopted 1996. No revisions.**

**Addresses public and private property.**

**Includes landscape regulations.**

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# New Ordinance

AN ORDINANCE OF THE CITY OF JACKSON, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF JACKSON, BE AMENDED BY REVISING ORDINANCE # 96-36 OF SAID CODE; PROVIDING FOR TREE PROTECTION, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF JACKSON.

That ordinance 96-36 of the Code of Ordinances of the City of Jackson be amended so that such ordinance shall read as follows:

## ARTICLE II. TREE PROTECTION

Sec. 70-21. **Intent and purpose.** Whereas trees provide buffers and screens against noise and air pollution; whereas human and animal life depend upon the capacity of trees to absorb carbon dioxide and supply oxygen in our atmosphere; whereas trees filter out pollutants from the air; whereas trees provide a haven for birds which in turn assist in the control of insects; whereas trees are physiologically, sociologically and aesthetically necessary counterpoints to the man-made urban setting; whereas trees tend to conserve and increase property values; whereas it is the policy of the City of Jackson to conserve, develop and utilize its natural resources; whereas it is the policy of the City of Jackson to protect its atmosphere, lands and waters from pollution, impairment, or destruction for the benefit, enjoyment and general welfare of its people; it is, therefore, the purpose of this article to regulate the removal of trees from the public property within the City of Jackson in order to preserve, protect and enhance a most valuable natural resource entrusted to the commonwealth and to protect the health, safety and welfare of its citizens. It is the purpose and intent of this article to establish standards limiting the removal of, and insuring the replacement of trees sufficient to safeguard the ecological and aesthetic environment necessary to a healthy and happy community.

(Ord. No. 96-36, Sec. I, 11-18-96)

Sec. 70-22. **Definitions.** For the purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the singular include the plural; the word "shall" is always mandatory and not directory; and the masculine includes the feminine.

- (a) *Administrative officer* means the City agent or employee specifically designated by the City Council as an officer responsible for implementation and maintenance of a tree preservation program.
- (b) *City and City of Jackson, Georgia* means that area within the corporate boundaries of the City of Jackson, Georgia.
- (c) *Mayor and city council* means the mayor and city council members of the City of Jackson.
- (d) *Park trees* means trees, and all other woody vegetation in city parks having individual names and all other areas owned by the city or to which the public has free access as a park provided by the city.

- (e) *Person* means a public or private individual, group, company, firm, corporation, partnership, association, society, joint stock company, or any other combination of human beings whether legal or natural.
- (f) *Street trees* means trees, and all other woody vegetation on land lying adjacent to right-of-way lines on either side of all city streets, state routes, avenues or ways within the City of Jackson, Georgia.
- (g) *Tree board* or *board* means citizens and residents of the City who shall be appointed by the Mayor and City Council to exercise appellate review for the purpose of implementation and maintenance of a tree preservation program.
- (h) *Tree worthy of preservation* means any tree which can reasonably be determined by the tree board to have lived no more than one half of its normal life, or which is unique by reason of size, age, or some other outstanding quality, such as uniqueness, rarity or status as landmark or species specimen.

(Ord. No. 96-36, Sec. II, 11-18-96) (Revised: )

**Sec. 70-23. Public tree care and planting** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way lines of all streets, to insure public

safety or to preserve or enhance the symmetry and beauty of such public grounds. The administrative officer or the Mayor and City Council may remove or cause or order to be removed any street or park tree 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 any 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 70-29 through 70-34 of this article. Only the city and those acting under its authority shall plant trees in the public right-of-way.

(Ord. 96-36, Sec. III, 11-18-96) (Revised:            )

**Sec. 70-24. Tree topping.**       It shall be unlawful as a normal practice for any person, firm or city 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 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 other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the administrative officer or the mayor and city council.

Cutting, killing or otherwise destroying trees by public service companies (other than the City of Jackson) and natural gas companies performing normal construction and maintenance pursuant to applicable state or federal safety or construction laws and regulations is acceptable, provided, however, that the administrative officer shall review the procedures employed by such companies at least annually to determine whether they meet the purpose of this ordinance, and shall recommend to the mayor and city council such additional ordinances as the administrative officer deems necessary to bring the procedures of such companies into compliance with the purpose of this ordinance.

(Ord. No. 96-36, Sec. IV, 11-18-96) (Revised: )

Sec. 70-25: Pruning, corner clearance. Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light of any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. 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 city shall have the right to prune any portion of a tree or shrub that overhangs onto public right-of-way when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign, or with pedestrian access on public walks or any public utility.

(Ord. No. 96-36, Sec. V, 11-18-96)

**Sec. 70-26. Dead or diseased tree removal on private property**

The mayor and city council or the administrative officer, shall have the power to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life or property, or harbor insects or disease which constitute a potential threat to other trees within the city. The mayor and city council or administrative officer shall notify in writing the owners or persons in possession of such trees. Removal shall be done by said owners or persons in possession at their own expense within sixty (60) days after the date of service of notice. In the event of failure of the owners or persons in possession to comply with such a notice, the city shall be authorized to remove such trees and charge the costs of removal to the property owners or persons in possession. Failure to comply with an order to correct hazardous tree situations may also result in a citation pursuant of Section 70-37, requiring the owners or persons in possession to appear before the municipal court. Nothing contained herein shall prevent the owners or persons in possession from negotiating with the city to allow the city access onto private property for the purposes of correction and/or removal, provided the owner or person in possession shall remain liable for the actual expenses of removal and disposal.

(Ord. 96-36, Sec. VI, 11-18-96) (Revised: ) VII

**Sec. 70-27. Arborists license 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 city

without first applying for and procuring a license. No license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. No license shall be issued to anyone to work on public trees in the right-of-way unless they are licensed contractors with minimal general liability insurance in the amounts of \$100,000.00 combined single limit.

(Ord. No. 96-36, Sec. VII, 11-18-96)

Sec. 70-28. **Approval of site plans.** Any commercial building permit application concerning property located within the City of Jackson must be submitted to the administrative officer. The application must be accompanied by a site plan, which should exhibit all existing trees on the public right-of-way. The plan should indicate whether public trees are to remain or be removed. The administrative officer shall be responsible for implementation and maintenance of the tree preservation all site plans and accompanying information and exhibits immediately upon receipt of same. Applicant shall make every effort to avoid damaging public trees and provide site plans designed accordingly. All commercial site plans shall include: a landscape easement, immediately adjacent to the right-of-way which is a minimum of eight feet in width, for the purpose of tree planting, and exhibit tree planting based on the following schedule:

Frontage less than 50 feet in length, one tree required.

Frontage more than 50 feet in length, one tree per 50 feet

plus one tree for any lineal footage over a multiple of 50 feet (example: 105 feet of frontage would require three trees).

Existing trees may count towards the above schedule. If replacement trees are required by the administrative officer or the tree board, they shall equal or exceed the number of existing trees removed.

Replacement trees shall be the minimum caliber nursery stock, as exhibited in the schedule below, balled and burlap or containerized. Owner/developer shall guarantee the survival and healthy condition of all replacement trees for two years from date of planting. The first three trees required of any site plan shall be shade trees from the large tree list below. Any other trees required above the quantity of three may be selected from the small or medium tree list. (Ord. No. 96-36, Section VIII, 11-18-96) (Revised: )

#### SECTION 70-29 New or replacement tree approval

SMALL TREES Min. 1 1/2 in. caliper	MEDIUM TREES Min. 2 in. caliper	LARGE TREES Min. 2 in. caliper
Yoshino Cherry	Ash, Green	Scarlet Oak
Kwanzan Cherry	American Hornbeam	Red Maple
Crepemyrtle	Chinese Parasol	Gingko (Male only)
Trident Maple	Golden Rain	Zelkova
Japanese Maple	Washington Hawthorne	Pin Oak
Saucer Magnolia	Chinese Elm	White Oak
Crabapple	Bradford Pear	Sugar Maple
Redbud	Honeylocust (thornless)	Chinese Elm
	River Birch	London Planetree
		Willow Oak
		Southern Red Oak
		Sawtooth Oak

NOTE: All trees shall conform to standards of the American Nurseryman's Association. (Ord. No. 96-36, Section IX, 11-18-96) (Revised:

**SECTION 70-30 Spacing and Minimum Size Planting Areas:**

The spacing of street trees will be in accordance with the three species size classes listed in Section 70-29 of this article, and no tree may be planted closer together than the following: small trees - 15 feet; medium trees - 20 feet; and large trees - 40 feet except in special plantings designed or approved by a landscape architect. (Ord. No. 96-36, Section X, 11-18-96)

The minimum planting area for small trees shall be 4' x 8', for medium trees 6' x 8', and large trees 8' x 8'.

**SECTION 70-31 Distance from the curb and sidewalk:**The distance street trees may be planted from the curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 70-29 of this article and no tree may be planted closer to any curb or sidewalk than the following: small trees - two feet; medium trees - three feet; and large trees - four feet. (Ord. No. 96-36, Section XI, 11-18-96)

**SECTION 70-32 Distance from street corners and fire hydrants:**

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten feet from any fire hydrant. (Ord. No. 96-36, Section XII, 11-18-96)

**SECTION 70-33 Utilities:**

No street trees other than those species listed as small trees in Section 70-29 of this article may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, or other utility. No trees may be planted within 30 feet of transmission lines. (Ord. No. 96-36, Section XIII, 11-18-96) In the interest of establishing shade/canopy (large type) trees, the administrative officer or the tree board shall have the discretion to allow large or small trees to be placed outside of the required tree planting zones, if utility lines and/or other site conditions do not allow for the establishment of proper tree planting areas. (Ord. No. 96-36, Section XIII, 11-18-96)

**SECTION 70-34 Tree protection during development:** During any building, renovating or razing operations, the builder shall erect and maintain suitable protective barriers around all trees specified to be maintained so as to prevent damage to said trees and shall not allow storage of equipment, materials, debris or fill to be placed in this area except as may be necessary for a reasonable time if no other storage or staging is available. All public trees unless specifically exempted by the administrative officer shall be protected from construction activity. (Ord. No. 96-36, Section XIV, 11-18-96) (Revised: )

**SECTION 70-35 Interference with city tree preservation/conservation:**

It shall be unlawful for any person to prevent, delay or interfere with the city, or any of its agents, while engaging in or about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on private or public grounds, as authorized in this ordinance. (Ord. No. 96-36, Section XV, 11-18-96)

**SECTION 70-36 Decisions of and review by the administrative officer and appeal to the tree board:**

The administrative officer shall carefully review all site plans and make decisions based upon this tree protection ordinance and any other ordinance of the City of Jackson or State or Federal law or regulation. Any party who disagrees with a decision made by the administrative officer shall have a right to review before the tree board. The following rules for hearings and decisions shall apply:

- (1) When deciding whether or not to approve a commercial site plan, the administrative officer shall consider only site plans which have been submitted to the planning and zoning office. If the administrative officer reaches any decision other than approval, he or she must notify the applicant in writing that the applicant's site plan for trees has been disapproved by the administrative officer and the specific reasons for the unfavorable decision. The applicant will be notified that he or she is entitled to a hearing before the administrative officer upon request.

(2) An applicant's request for a review hearing before the administrative officer must be in writing and must be delivered to the planning and zoning office within seven days of the date that the administrative officer mailed to the applicant a notice of an unfavorable decision. Upon the filing of such a request for hearing, the administrative officer shall conduct a hearing within seven days of the filing of the request. At the hearing, the administrative officer shall conduct the proceedings. The applicant will be entitled to appear and present relevant evidence. The administrative officer may also hear from any interested parties and consider any relevant facts, provided the applicant has an ample opportunity to examine same. The applicant shall be entitled to be represented by counsel. The administrative officer shall not have subpoena power. Minutes of the meeting, including a tape recording, shall be made by the administrative officer.

(3) At the hearing, the administrative officer may ask questions of the applicant and may attempt to resolve the issue(s) leading to the unfavorable by stipulation. After the hearing has been concluded the administrative officer will issue a decision in writing within 48 hours and deliver a copy to the applicant by regular mail. The decision will state specific reasons for any ruling other than approval of the tree site plan. The administrative

officer may issue an approval of a site plan as amended by stipulation of the applicant; he may approve the plan as originally filed; or he may disapprove and state its specific reasons.

- (4) An applicant may appeal any unfavorable ruling to the tree board, which shall conduct a de novo hearing. The applicant's rights will remain the same as in paragraph (2) above. An appeal to the tree board shall be in writing, and it shall include a copy of the administrative officer's decision and shall state specifically those portions of the administrative officer's decision with which the applicant disagrees. The appeal must be filed with the administrative officer within 30 days of the date of the administrative officer's decision. The tree board shall hear the appeal at the next regular tree board meeting after the appeal is filed. The decision of the tree board shall be issued in writing within 48 hours after the hearing and a copy shall be mailed to the applicant. Any decision that does not approve the site plan shall state specific reasons for the decision.

- (5) The following rules of procedure shall apply in those cases where the mayor and city council or administrative officer, exercises the power to cause the removal of any dead or diseased trees on private property, pursuant to the authority of Section 70-26:

(a) When it is determined that a tree or trees constitute a hazard to life or property or harbor insects or disease which constitute a potential threat to other trees within the city, the mayor and city council or administrative officer shall issue a written notice to the owners and persons in possession of the property stating the location of the tree or trees and the reason that removal is required. Such notice shall be in writing and shall notify the owners and persons in possession that they are to perform all removal and dispose of all debris within sixty (60) days of the receipt of such notice. The notice will also state that any interested party has the right to demand a hearing before the tree board within seven (7) days after service of the notice. A notice shall be considered served upon the owners or persons in possession when actually received by such interested party either by personal delivery or certified mail, return receipt requested, addressed and properly posted to the last known mailing address of the owner or person in possession. If such interested person cannot be found after diligent search or attempted delivery of the notice by certified mail is returned undelivered for any reason,

notice shall be considered delivered when advertised in the official organ in Butts County for two (2) consecutive weeks and a copy of the notice is conspicuously posted upon the premises which is the subject matter of the notice. The date of delivery of such cases shall be the later of the date of posting or the date of the publication of the last of the two (2) advertisements.

(b) If any owner or person in possession of the premises notifies the mayor and city council or administrative officer in writing of an objection to the planned action, a hearing will be scheduled before any action is taken upon the property in question. The hearing shall be conducted before the tree board, and the decision of the tree board can be appealed to the city council. Notice of the hearing, conduct of the hearing and notice of the decision will generally follow the same procedures as in cases of disapproval of site plans.

(c) A decision of the tree board shall be appealable to the city council by the filing of a written notice of appeal in the office of the city clerk

within seven (7) days of the date of the written decision of the tree board. The initial sixty (60) day period in which to comply with the order of the mayor and city council or administrative officer shall be tolled during the hearing and appeal process. (Ord. No. 96-36, Section XVI, 11-18-96) (Revised: )

SECTION 70-37 **Penalty:** Any violation of the tree protection ordinance shall be punishable by the issuance of a written citation either by the administrative officer or the city police department. Failure to comply with an order issued by the administrative officer, the tree board, or the mayor and city council, pursuant to this ordinance shall be a violation of this ordinance subject to issuance of citation. Any citation issued under this ordinance shall be tried before the Municipal Court of the City of Jackson. Any person convicted of a violation shall be subject to a fine not to exceed \$500.00 for each violation; each tree maintained or destroyed in violation of this ordinance shall be considered a separate violation, and each day that a violation continues shall be considered a separate violation. (Ord. No. 96-36, Section XVII, 11-18-96) (Revised: )

SECTION 70-38 **Appointment of members:**

- (a) **Qualifications:** All members of the tree board must be residents of the city of Jackson.

- (b) *Officers:* The membership of the board shall elect by majority vote a chairman, a vice-chairman, and a secretary. The chairman shall preside, the vice-chairman shall preside in the absence of the chairman, and the secretary shall be responsible for keeping records of the actions of the board and preparing and delivering decisions.
- (c) *Meetings and voting:* All voting on decisions shall be by roll call vote and the results of the voting shall be kept by the secretary in the minutes. All votes shall be by majority vote, and the member acting as chairman shall be allowed to vote. There must be a majority quorum present and voting in order to conduct any business. Members shall adhere to the same rules as to disqualifications and conflicts of interest as the city council. The chairman shall set meeting times and places, so long as the meeting place is within the city. The board shall establish the time of its meetings by the giving of at least forty-eight (48) hours notice to members and all interested parties and it shall comply with the state's open meetings law.
- (d) *Appointments:* Members shall be appointed by the mayor and the city council. They shall serve at the pleasure of the mayor and council. The initial members shall be appointed for staggered terms, but upon expiration of the initial term, each member shall thereafter be appointed for a term

of three years. The board shall be comprised of three (3) members. They shall serve without compensation, but may apply to the city council for reimbursement for any actual expenses incurred in their service, with the approval of the chairman of the tree board. (Ord. No. 96-36, Section XVIII, 11-18-96) (Revised: )

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CHARLES J. BROWN, MAYOR

ATTEST:

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JEANENE FITZGERALD, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
RICHARD MILAM, CITY ATTORNEY