

**AN ORDINANCE  
TO ADD A NEW ARTICLE TO CHAPTER 18 (PARKS AND RECREATION)  
OF THE CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,  
TO BE NUMBERED ARTICLE II AND NAMED “TREE CONSERVATION”,  
REGULATING THE PRESERVATION AND REMOVAL OF HERITAGE,  
SPECIMEN, MEMORIAL AND STREET TREES.**

**BE IT ORDAINED** by the Council of the City of Charlottesville, Virginia, that Chapter 18 (Parks and Recreation) of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained to incorporate Sec. 18-1 under a new heading of Article I (Parks), and add a new Article II (Tree Conservation) to Chapter 18, all to read as follows:

**CHAPTER 18. PARKS AND RECREATION**

**ARTICLE I. PARKS**

**Sec. 18-1. Time, place or manner of park use.**

...

**Secs. 18-2 – 18.4. Reserved.**

**ARTICLE II. TREE CONSERVATION**

**Sec. 18-5. Authority.**

This ordinance is enacted pursuant to Code of Virginia Sec. 10.1-1127.1, as amended.

**Sec. 18-6. Purpose and Intent.**

There is hereby established a tree conservation ordinance to secure protection for a portion of the City’s urban forest and the ecosystem services that this forest provides by regulating the designation, preservation and removal of heritage, memorial, specimen and street trees located within the City.

**Sec. 18-7. Administration and Enforcement.**

The Director of the Department of Parks and Recreation, or his or her designee, shall be the Administrator of this ordinance.

Any person or entity that knowingly violates any provision of this article shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Civil penalties shall be imposed by the issuance of a civil summons returnable in the General District Court by the Administrator or his or her designee.

**Sec. 18-8. Definitions.**

For the purpose of this ordinance, the following definitions shall apply:

*Heritage tree* means any tree that has been individually designated by City Council to have notable historic or cultural interest.

*Memorial tree* means any tree that has been individually designated by City Council to be a special commemorating memorial.

*Specimen tree* means any tree that has been individually designated by City Council to be notable by virtue of its outstanding size and quality for its particular species.

*Street tree* means any tree that has been individually designated by City Council and which grows in the street right-of-way or on private property as authorized by the owner and placed or planted there by the local government.

**Sec. 18-9. Designation.**

(a) Application

- (i) **By Written Request.** Any person may submit a written request to the Administrator seeking designation by ordinance of a tree located on private property as a heritage, memorial, specimen or street tree. The request must describe the tree in question, its location, and the factors which support its designation as a heritage, memorial, specimen or street tree. Any submission for designation of a tree by a person who is not the property owner must include written consent of the property owner for the submission. The Administrator, upon receipt of such a request, shall forward a copy to the Tree Commission for review and recommendation to the City Arborist.
- (ii) **By Tree Commission.** The Tree Commission may submit a written recommendation to the Administrator seeking designation by ordinance of a tree located on public property or on private property if the owner of such property consents, as a heritage, memorial, specimen or street tree. The recommendation must describe the tree in question, its location and the factors which support its designation as a heritage, memorial, specimen or street tree. The Administrator, upon receipt of such a request, shall forward a copy to the City Arborist.

(b) Report and Hearing

- (i) The City Arborist shall provide a written report and recommendation on any proposed designation to City Council, which shall include the written recommendation of the Tree Commission and consider the planned land use by the owner of the property on which the tree is located.

- (ii) City Council shall hold quarterly public hearings to consider all then-pending applications for designation, however any application initially submitted to the Administrator less than forty-five (45) days prior to a regularly scheduled public hearing shall not be heard until the next such quarterly hearing. The Clerk of Council shall send notice of the scheduled hearing to any owner of property upon which a tree being considered for designation is located by certified mail at least fourteen (14) days prior to the hearing.
  - (iii) City Council, after consideration of the report and recommendation of the City Arborist and any additional information that it deems relevant, and after conducting a public hearing, may designate by ordinance the subject tree as a heritage, memorial, specimen or street tree.
- (c) Designation of a tree under this ordinance does not impose any additional obligation upon the City to inspect, maintain or take any other action with regard to such tree.

**Sec. 18-10. Conservation.**

(a) A property owner shall undertake reasonable efforts to preserve and protect any trees designated pursuant to this ordinance. No heritage, memorial, specimen or street tree may be removed or intentionally damaged in a way that could destroy the tree unless authorized by City Council. City Council may authorize the removal or other action upon making a determination that: (i) there is an overriding need for public improvements which necessitate removal of the tree; or (ii) not removing the tree will cause severe hardship to the property owner. A request to remove or take other action upon any designated tree shall be submitted and acted upon in the same manner as a request for designation in section 18-9

(b) The City Manager may permit the removal of a heritage, memorial, specimen or street tree if the City Arborist determines that the tree is dead, has become irreversibly diseased or irreversibly damaged by natural causes, or that the tree endangers the health, safety and/or welfare of the public that cannot be mitigated in accordance with accepted industry standards of tree risk assessment and management.

(c) Any City department or contractor engaged by the City shall, prior to conducting any land disturbing activity, ascertain whether the drip line of any tree designated pursuant to this ordinance lies within fifty feet of the land disturbing activity. Upon making such a determination, the City department shall alert the City Arborist.

If the City Arborist determines that the proposed land disturbing activity may damage or destroy the tree, then the City department responsible for the proposed work, if unable to alter plans to avoid such results, shall submit a request to proceed with the proposed activity to the Tree Commission, which shall make a recommendation to the City Council. City Council may direct the City department to take additional precautionary measures to protect the tree, or approve the removal of the tree, or direct that the activity not be conducted.

**Sec. 18-11. Exceptions.**

The provisions of this ordinance shall not apply to:

- (1) Work conducted on federal or state property;
- (2) Emergency work to protect life, limb or property;
- (3) Routine installation, maintenance and repair of cable and wires used to provide cable television, electric, gas or telephone service;
- (4) Activities with minor effects on trees, including but not limited to, home gardening and landscaping of individual homes; and
- (5) Commercial, silvicultural or horticultural activities, including but not limited to planting, managing, or harvesting forest or tree crops.

**Sec. 18-12. Takings.**

In the event that the application of this ordinance regulating the removal of heritage, memorial, specimen or street trees results in any taking of private property for a public purpose or use, the City shall compensate by fee or other consideration the property owner for such taking, to the extent that such claim is recognized and compensable under state or federal law, and in accordance with the provisions of Chapter 2 of Title 25.1 of the Code of Virginia.

**Sec. 18-13—18-20. Reserved.**