

## DRAFT: LONG BEACH TREE ORDINANCE

### LONG BEACH LAND CONSERVATION COMMITTEE

It is the purpose of this ordinance to:

- A. Promote and enhance the beauty of the town of Long Beach, IN through tree preservation and landscaping;
- B. Safeguard the ecological environment of the town of Long Beach by deterring the unnecessary clearing and disturbing of land and existing natural vegetation;
- C. Promote planting and maintenance of native trees and shrubbery on public and private land;
- D. Protect trees from disease spread from tree to tree by planting a variety of trees in an area in order to maintain the health of public trees and private trees;
- E. Recognize that trees are a significant part of the town of Long Beach's general infrastructure and ability to attract businesses, homeowners, and visitors and as such need regular maintenance and protection;
- F. Protect community residents from damage caused or threatened by the improper planting, maintenance, or removal of trees, shrubs or other plants located within the community;
- G. Discourage the planting of exotics and invasive species.

#### Section I. Definitions

*City-Owned property and Public Property:* Property within the town limits of Long Beach, Indiana owned by the town in fee simple absolute, or impliedly or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public access or easements.

*City Trees:* Trees not located on private property, including but not limited to Park trees, Street trees, and other trees located on city-owned and public property.

*Certified Forester:* An independent contractor or city employee retained to address, survey, monitor and manage the health of city trees and the harm done by exotic invasive species (plants, insects and exotic trees),

possessing a Degree in Forestry or Horticulture or Landscape Architecture, or shall be a Certified Arborist.

*Designated Municipal Authority:* In the event that there is no Forester retained, the President of the Town Council may appoint a city employee as the designated authority on a temporary basis, with powers and responsibilities limited by the individual's qualifications and abilities as determined by the Town Tree Board. The designated municipal authority shall carry identification to show such designation.

*Tree:* A woody, perennial plant, ordinarily with one main stem or trunk, which develops many branches, and which ordinarily grows to a height of ten feet or more with a diameter in excess of six inches at a height of five feet.

*Nuisance Tree:* A diseased or weakened tree with an accelerated potential to cause physical human harm or to cause property damage.

*Tree Lawn:* Tree Lawn is herein defined as the public property located in the area between the sidewalk and pedestrian walkway and the edge of the paved area of the street or curb; or, if there are no curbs or the curbs are adjacent to the sidewalks, the area from the edge of the road pavement to the edge of the right of way as measured from the center of the road; and suitable for tree planting and sustainable tree growth.

*Trees, Shrubs and Other Plants:* All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.

*Tree Topping:* Tree topping is herein 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 as to remove the normal tree canopy and disfigure the tree.

## Section 2. Creation and Establishment of a Town Tree Board

There is hereby created a Town Tree Board for the Town of Long Beach, Indiana. Responsibilities of the Town Tree Board shall be entrusted to the Long Beach Land Conservation Committee, with no fewer than three (3) members appointed by the Long Beach Town Council.

### Section 3. Term of Office

The term of members of the Long Beach Tree Board shall be annual.

### Section 4. Duties and Responsibilities

It shall be the responsibility of the Town Tree Board to study, investigate, counsel, develop, and update this Ordinance for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, alleys, along streets, in the tree lawn, at stops leading to the beach and in other public or Town-owned areas.

The Town Tree Board, when requested by the Town Council, shall consider, investigate, make findings, report, and recommend upon any special matter or question coming within the scope of this Ordinance.

The Town Tree Board shall further establish educational and informational programs, pamphlets and online communications for dissemination to the public to assist in the proper care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs within the Town of Long Beach, Indiana.

The Town Tree Board shall further cooperate with every other Town Department, Board, or Agency, and every City Department, Board, Agency, or employee shall cooperate with the Town Tree Board.

The Town Tree Board shall have the authority to consult with a certified forester as necessary. Any expense in excess of \$500 must get prior approval from Council.

### Section 5. Tree Species to be Planted

The Tree Board shall develop and maintain a list of native trees for planting on public property in three size classes based on mature height: small, under twenty (20) feet; medium, twenty (20) to forty (40) feet; and large, over forty (40) feet. The Tree Board will also create a list of exotic or nonnative trees unsuitable for planting.

### Section 6. Spacing

Based on the size classes listed in Section 6 of this Ordinance, no public trees may be planted closer together than the following: small trees,

twenty (20) feet; medium trees, thirty (30) feet; and large trees, forty (40) feet; without the approval of the Tree Board.

#### Section 7. Utilities

No town trees other than those species listed as small trees according to this Ordinance may be planted under or within ten (10) horizontal feet of any overhead utility wire or with five (5) lateral feet of any fire hydrant. A utility tree trimming company and the Town Tree Board must review a utility tree trimming policy before any trimming by the utility company.

#### Section 8. Town Tree Care

The Town shall have the right to plant, prune, maintain, or remove trees, plants and shrubs within the right-of-way lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Town Tree Board may recommend to remove, or cause or order to be removed, any town tree or part 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 6 through 8 of this ordinance.

#### Section 9. Pruning, Corner Clearance

Any tree overhanging any street or right-of-way within the Town shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection sign, and so that there shall be a clear space of thirteen (13) feet above street surface. All dead, diseased, or dangerous Town trees, or broken or decayed limbs on or over Town property, which constitute a menace to the safety of the public, shall be removed. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, obstructs the free passage of pedestrian or vehicular traffic, or interferes with visibility of any traffic control device or sign, or sight triangle at intersections. Such pruning shall be limited to the offending branches, but shall not be limited to the

property line when such limited pruning will endanger the health of the entire tree, and shall begin only after following the notification procedures in this Section. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements.

#### Section 10. Removal of Stumps and Other Debris

All stumps of Town trees shall be removed when conditions allow, or else ground to twelve (12) inches below the surface of the soil. The resulting hole shall be filled to surface level and replanted to remain consistent with adjacent conditions. If this cannot be done immediately or is not practical, the area shall be protected according to current Town practice for excavations. Debris shall be removed by the Town in a timely manner.

All contractors shall be responsible for the removal and the disposal of all debris from any tree pruning or removal they perform. Stumps and debris shall be removed within one (1) week of completion of work.

#### Section 11. Interference With Town Tree Board

It shall be unlawful for any person to prevent, delay, or interfere with the Town Tree Board while engaging in and about the inspecting, planting, cultivating, mulching, pruning, spraying, or removing of any town trees, or as specifically authorized in this ordinance, of any trees on private grounds after being given proper notice in Section 10 A, B, C.

#### Section 12. Arborists Registration

Any arborist, or person or firm engaging in the business or occupation of pruning, treating or removing town trees and/or private trees must register at the Town Clerk's office and be listed on the Town's list of contractors.

#### Section 13. Appeal of Tree Board Decision

Any person may appeal from any ruling or order by the Tree Board to the Long Beach Town Council, who shall hear the matter and make a final determination of the issue. Any appeal shall be initiated by filing a written request with the Long Beach Town Council requesting a review hearing of the Tree Board's actions and decisions.

#### Section 14. Public Nuisances

- A. The following are hereby declared public nuisances under this Ordinance:
1. Any dead or dying tree, shrub, or other plant located on town property so designated by the Town Tree Board
  2. Any otherwise healthy tree, shrub, or other plant, whether located on Town property or private property, which harbors insects or diseases which reasonably may be expected to injure or harm any other tree, shrub, or other plant as designated by the Town Tree Board
  3. Any tree, shrub, or other plant, whether located on Town property or private property, which by reason of location or condition, constitutes an imminent danger to health, safety, or welfare of the general public as designated by the Town Tree Board. The Town of Long Beach and the Town Tree Board will not be held liable in the event they are not notified or otherwise unaware of an existing threat.
- B. Right to Inspect
1. Any public nuisance under this Ordinance which is located on or over Town property shall be pruned, removed, or otherwise treated in whatever fashion is reasonably required to cause the abatement of the nuisance within a reasonable time after its discovery by the Town of Long Beach, IN or its agents, officers, or employees, all at the direction of the Town Tree Board.
  2. The Town is empowered to request and/or cause the immediate abatement of any public nuisance on the public right-of-way provided that the nuisance is determined by the Town Tree Board to be an immediate threat to any person or property. The Town may utilize its officers, agents and employees to effect an immediate abatement of any imminent threat to person or property.
  3. Public nuisances as defined in Section 15.A.2, whether on Town property or private property, shall be referred to the Indiana Department of Natural Resources by the Town Tree Board to provide proper evaluation, treatment and handling as defined by Indiana State Code, and to protect the trees in surrounding areas from the spread of insects, fungus or disease.

#### Section 15. Permits Required

A permit must be obtained from the Town Tree Board by any tree removal contractor prior to removal of any tree(s) located on town property.

All persons receiving a permit(s) under this ordinance shall abide by the Arboriculture Specifications and Standards of Practice adopted by the Urban Forest Management Plan, including the American National Standards Institute (ANSI) A300 and Occupational Safety for Tree Working Industry Z133.1. Permits shall not be required by the Town Tree Board, or any town employee(s) working under the supervision of or under the direction of the Town Tree Board or a certified forester working on the behalf of the Town Tree Board.

#### Section 16. Abuse or Mutilation of Town Trees

Unless specifically authorized by the Town Tree Board, no person shall intentionally damage, cut, carve, transplant, or remove any municipal tree; attach any rope, wire, nails, advertising poster, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire to or permit any fire to burn when such fire or the heat therefrom will injure any portion of any tree including the root zone. Failure to procure the necessary permit(s) will result in the offender being assessed the proper fees and costs required for reparations. Violation of this ordinance shall subject the person(s) to the Long Beach Municipal Code.

Unintentional damage, including but not limited to construction damage, damage by vehicular accidents, damage by fire, or accidental spills of any gaseous liquid, or solid substance which is harmful to trees, the person(s) responsible for the damage shall indemnify the Town of Long Beach, Indiana for replacement or reparation costs as directed by the ordinance.

#### Section 17. Protection of Trees

All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a good, substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter, at breast height, of the trunk in inches, whichever is greater. All building material, dirt, or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Town Tree Board.

#### Section 18. Placing Materials on Public Property

No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, container, storage contrivance, or other materials which may impede the free passage of air, water, and fertilizer to the roots of any tree, shrub or plants growing therein, except by written permit from the Town Tree Board.