

# TREES

## Definitions.

For use in this chapter, the following terms are defined:

**CONTRACTOR** — Any person, business or organization who receives compensation for the performance of work done.

**PARK** — All public parks having individual names and maintained by the City.

**PARKING** — That part of the right-of-way in the City not covered by sidewalk, between the lot line and the curb line. On unpaved streets, it is that portion between the lot line and portion usually traveled by vehicular traffic.

**PRIVATE TREE** — Any and all trees growing on private property.

**PROPERTY OWNER** — A person owning private property in the City, as shown by the County Auditor's Plat of the City.

**PUBLIC PROPERTY** — Any and all property located within the confines of the City and owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.

**PUBLIC TREE** — Any and all trees growing on public property including but not limited to street right-of-ways.

**RIGHT-OF-WAY** — A parcel of land intended to be occupied for streets, sidewalks, utilities and other public purposes.

**SHRUBS** — Woody vegetation usually growing with multiple stems and a height less than 10 feet.

**STREET TREES** — Any and all trees growing on the parking including but not limited to street right-of-ways.

**TOPPING** — Heading, stubbing, rounding, tipping, or "dehorning," which means the drastic removal of large branches, severely cutting back 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** — Woody vegetation usually growing with a single stem and a height over 10 feet.

## City Forester.

1. The City does not have a City Forester. The mayor is authorized to hire a person who is qualified by training or experience to render opinions of the condition of trees in the city when needed to do any of the following:
  - A. Direct, manage, supervise and control the planting, removal, maintenance and protection of all trees and shrubs on public areas;
  - B. Guard all trees and shrubs within the City to prevent the spread of disease or pests;
  - C. Eliminate dangerous tree and shrub conditions within the City that may affect the life, health or safety of persons or property.

## **Trees on Public Property.**

1. **Conditions Under Which Trees Allowed.** From and after July 1, 2023, no person, except City personnel, agents for City purposes, or authorized tree permit holders shall plant any tree or shrub upon any City owned property, including property dedicated or used for right-of-way purposes.
2. **Public Utilities.** A public utility may be issued a permit to treat, trim or remove any tree or shrub on any street or other public place. The work shall be limited to the actual necessities of the service of the company in the area specified on the permit. This work shall be done in accordance with the Arboricultural Specifications and Standards of Practice as established for the City. The City Forester may assign an inspector to supervise the provisions of the permit. The cost of the service shall be charged to the public utility. In the event severe weather has caused a tree to damage utility lines, the utility company, the City, or their agents may trim or remove trees necessary to repair the damaged utility lines without first obtaining a permit. A permit should be obtained before any additional trimming not required for repair of the utility line is done.
3. **Removal.** If in the opinion of the Mayor or City Council removal of a street tree becomes necessary, the adjacent property owner shall be notified. In the event the adjacent property owner requests the removal of a street tree or shrub the property owner shall request from the Mayor or City Council that the City remove the street tree or shrub.
4. **Traffic Control.** In the event the planting, maintenance or removal of any tree requires equipment or material to be located on or fall onto the street right-of-way, the permit holder shall provide for traffic control. All traffic control shall conform to the requirements and specifications of the current edition the Manual of Uniform Traffic Control Devices (MUTCD). In all cases the disruption of smooth traffic flow shall be kept to a minimum. Additional warning devices or precautionary measures may be necessary to control pedestrian traffic.
5. **Protection.** No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters or other contrivance to any street tree; allow any gaseous, liquid, chemical or solid substance harmful to such trees to come in contact with them, or set fire or permit fire to burn when such fire or the heat will injure any portion of any tree.
6. **Permit.** No person except the City or person hired by the City shall spray, fertilize, preserve, prune, remove, cut above or below ground or otherwise disturb any tree on City property without first filing an application and obtaining a permit from the City.
7. **Permits.** The City Council may issue a permit for the planting of a tree by a private party in the public right-of-way when: (1) The proper permit fee has been paid in full to the City; (2) The proposed site has been reviewed and approved by the City; and (3) Species and planting technique have been reviewed and found to meet City standards.
8. **Establishment of Fees.** The City Council shall adopt by resolution a permit fee for the issuance of a tree permit. Said fees may be amended by resolution at the discretion of the City Council.
9. The City Council shall adopt an Approval Street Trees List by 7-1-2023.

## **Trees on Private Property.**

1. Maintenance. The property owner is responsible for the maintenance and care of any tree located on private property. Certain regulations apply to trees whose branches, limbs, roots or other parts extend into or over the street right-of-way. The property owner is responsible for ensuring private trees are trimmed to sufficient height to allow free passage of pedestrians and vehicular travel and so they will not obstruct or shade street lights, traffic lights, signs or any traffic control devices or the view of any street intersection. If it becomes necessary to trim trees or shrubs on private property to comply with this chapter, the City shall obtain the opinion of a person as set forth under the provisions regarding a City Forester above before declaring the tree or shrub a nuisance, unless the City determines the tree to be an immediate danger. Whenever the City is notified or becomes aware of a dead or diseased tree or broken or dead branch or limb in any private tree which is in imminent danger of falling and thereby injuring any individual or causing property damage to adjacent property, the City shall declare the tree, branch or limb a hazard and order the property owner to remove the hazard in an expedient manner. If the property owner fails to remove the hazard, the City may cause the hazard to be removed. For purposes of removing the hazard, City crews or City agents shall be allowed on private property. Attempts should be made to notify the property owner before entering onto private property.

## **Enforcement.**

1. Appeals. Any person who receives an order from the Mayor and objects to all or part of the order shall, within 10 days of the receipt of the order, notify the City Clerk in writing of the nature of the objection and request a hearing on the order before the City Council. The hearing shall be held within 30 days with notice to the appellant of the time and date of the hearing.
2. Interference. No person shall hinder, prevent, delay or otherwise interfere with the City or any assistants in the execution or enforcement of this chapter.
3. Violation. If, as a result of a violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub or other plant located on City-owned property is caused, the cost of repair or replacement of the tree, shrub or other plant shall be borne by the party in violation.