

## Chapter 12.44 PUBLIC TREES AND PLANTS

### 12.44.010 Definitions.

As used in Chapters 12.44 and 12.45, the words below shall have the following definitions, unless the context specifically indicates otherwise:

"*Commission*" means the tree advisory commission for the city.

"*Department*" means the Parks & Recreation Services department of the city.

"*Director*" means the director of Parks & Recreation Services for the city.

"*Drip line area*" means the area measured from the trunk of the tree outward to a point at the perimeter of the outermost branch structure of the tree.

"*Hazardous tree, shrub or plant*" means any tree, shrub or plant, or portion thereof that poses a hazard to person or property. A tree, shrub, or plant may be deemed a hazard if it or any part of it: (1) appears dead, dangerous, or likely to fall; (2) obstructs a street or sidewalk; (3) harbors a serious disease or infestation threatening the health of other trees, shrubs or plants; (4) interferes with vehicular or pedestrian traffic; or (5) poses any other significant hazard as set forth in regulations promulgated by the director pursuant to this chapter.

"*Injure*" or "*injury*" means any act which damages a tree including, but not limited to, cutting, carving, transplanting, injurious attachment of any rope, wire, nails, advertising posters, or other contrivance to any tree; allowing any gaseous, liquid, or solid substance that is harmful to trees to come into contact with them; setting fire or permitting any fire to burn when such fire or the heat there from will injure any part of any tree; knocking over any tree; or damage inflicted upon the root system of a tree by the application of toxic substances, the operation of heavy equipment, the change of natural grade above or below the root system or around the trunk of a tree.

"*Landscape material*" means any tree, shrub, ground cover or other plant.

"*Maintenance*" means pruning, trimming, mulching, clipping, watering, staking, spraying, weeding, fertilizing, bracing, treating disease or injury, and any other acts which promote the life, growth, health, or beauty of the city's trees or landscape material placed in the city right-of-way.

"*Planting*" means putting or setting into the ground or into a container to grow.

"*Removal*" means any intentional or negligent injury, which causes a tree or landscape material to die.

"*Replacement value*" means the actual cost to the department of replacing a tree or landscape material removed or destroyed or if irreplaceable, its value as determined pursuant to

the "basic value" or "square inch formula" adopted by the council of tree and landscape appraisers, as amended from time to time.

"*Right-of-way*" means the area upon which a street or sidewalk passes as defined in Section 10.40.010 of the municipal code.

"*Significant tree*" means a tree possessing special qualities and so designated pursuant to Section 12.45.020 of this chapter.

"*Street tree*" means any tree within the public right-of-way.

"*Tree*" means any large perennial plant having a woody trunk(s), branches, and leaves.

"*Tree advisory commission*" or "*tree commission*" means a commission of private citizens appointed by the city council as set forth in Section 2.80.020 of the municipal code.

"*Urban forest*" means all trees on lands within the borders of the city subject to the jurisdiction of the Parks & Recreation Services department.

(Ord. 92-004 § 3; Ord. O1999 42)

#### **12.44.020 Jurisdiction.**

The department shall have jurisdiction over the planning, planting, maintenance, and removal of all street trees; over any landscape material in any street median and center strip, and over trees and other landscape material in other public spaces under the jurisdiction of the department.

(Ord. 92-004 § 3)

#### **12.44.030 Planting and removal of street trees—Permit required—Appeals—Removals by city.**

A. Permits. It shall be unlawful for any person to plant, injure, or to remove a street tree without a valid permit for such work issued by the director. Any person who desires a permit shall apply to the department on the designated form. All tree removal and tree planting shall conform to specifications established by the department.

1. All work performed on street trees, pursuant to a permit issued by the director under this section, shall be done within a sixty-day period from the issuance of said permit or within such longer period as the director shall specify;

2. The director shall condition any permit granted pursuant to this chapter for the removal of a street tree on the permittee removing, and where the director determines it to be appropriate, replacing the tree. In such case, the full cost of removal and replacement shall be borne by the owner, and such service shall not be provided by the city;
3. The director may condition any permit granted pursuant to this section on any such conditions as the director determines to be necessary;
4. The director may require from any person receiving a permit, security in an amount sufficient to secure the performance of all conditions, which may be placed upon the issuance of such permit, and as a deposit for possible damages to street, curb or sidewalk during the performance of such work;
5. The director is authorized to establish a list of trees appropriate for planting along city streets. Only those trees designated by the director shall be planted.

B. Appeals. Any affected party may appeal a permit decision of the director to the tree commission within ten calendar days of issuance or notification of denial. After considering the action of the director and hearing the appeal, the commission shall approve, modify, or overrule said action. Appeals of a tree commission decision may be made to the city council within ten calendar days of the commission's action.

C. Removals by City. The director may remove or cause to be removed any hazardous tree, hedge, shrub, or plant from any city property or within a public right-of-way or where necessary for any engineering reason.

(Ord. 92-004 § 3)

#### **12.44.040 Protection of trees and landscape material.**

A. Injury to or Destruction of Trees Prohibited. It is unlawful for any person to injure, destroy or remove any street tree or any tree on city property unless the director authorizes removal of the tree or removal is authorized by a permit issued pursuant to Section 12.44.030 of this chapter. No person without the approval of the director shall place or maintain any stone, cement, plastic, or other substance within twenty inches of the trunk of any street tree or tree on city property which impedes the free access of water or air to the roots.

B. Injury to or Destruction of Landscape Materials Prohibited. It is unlawful for any person to injure, remove, or destroy any landscape material in any street median, center strip, or other publicly landscaped portion of a public right-of-way or landscape easement under the city's jurisdiction, except as authorized by the department.

C. Construction Work—Protection of Trees Required. It is unlawful for any person to engage in any construction work without first taking steps to protect street trees from injury or from damage to trunk, branches, or roots, or damage caused by soil compaction or contamination. All street trees or trees on city-owned property that are near any excavation or

construction shall be adequately protected in accordance with guidelines established by the department including, but not limited to, protection of the trunk, bark, leaves, scaffold branches, and soil. Removal of a street tree is authorized only by permit obtained pursuant to Section 12.44.030.

(Ord. 92-004 § 3; Ord. O1999 42)

**12.44.050 Maintenance of street trees—Responsibilities of property owners—Pruning permit required—City maintenance.**

A. Property owners shall be responsible for the routine maintenance of all street trees fronting their properties, whether or not planted by the department, including watering and weed control as needed, removal of tree-well trash, and reporting to the department in a timely manner any damage to or condition of the tree which may be hazardous to the health of the tree or the public. Pruning may be done by property owners, providing it is done to city specifications and with a valid permit.

B. It shall be the duty of the property owner to notify the director of any hazardous street trees adjacent to his/her property.

C. It is unlawful for any person to prune a street tree without a valid permit for such work issued by the department. Pruning shall include root pruning within the street right-of-way. Any person who desires a permit shall apply to the department on the designated form. All pruning shall conform to standards established by the department.

D. The department is authorized to prune all street trees or trees on city property. Pruning will be accomplished using the best practices of professional arboriculture. The department is authorized only to prune to remove hazards unless the tree(s) is/are within a specific area of the city scheduled for annual program pruning as authorized by the director, in which case trees may be pruned for health, natural shape and balance as well as for hazard removal.

E. The topping of any street tree or tree on city-owned property is prohibited as a normal practice. Topping is defined as the cutting of the branches and/or trunk of a tree in a manner, which will substantially reduce the overall size of the tree area or destroy the existing symmetrical appearance or natural shape of the tree. Trees severely damaged by storms or other causes or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted at the discretion of the director.

F. The city is not authorized to prune any tree or limb within ten feet of any electrical or phone line. Local utility companies shall be responsible for clearing hazards from their lines. A permit for pruning by utility companies for line clearance shall be required as per subsection C of this section.

G. Tree maintenance practices by the department may also include but need not be limited to: routine adjustment, replacement and removal of tree stakes, ties, tree guards, and tree grates; replacement of missing or damaged trees; pest and disease management procedures; and root pruning.

H. Property owners shall be responsible for the complete maintenance of landscape material, other than street trees, planted in the right-of-way adjoining their property. Property owners shall also be responsible for weed abatement in the right-of-way areas adjoining their property.

I. Landscape material, other than street trees, planted in the right-of-way shall not exceed two (2) feet in height and shall not be allowed to grow onto or obstruct sidewalks and streets.

(Ord. 92-004 § 3; Ord. O1999 42)

#### **12.44.060 Interference with planting, maintenance and removal prohibited.**

No person shall interfere with the director of parks and recreation or persons acting under his/her authority while engaged in any tree maintenance activity, including pruning, mulching, watering, staking, spraying or the planting or removal of any tree or landscape material in any right-of-way, park or city-owned property.

(Ord. 92-004 § 3)

#### **12.44.070 Violation—Penalties.**

A. Violation of any of the provisions of this chapter shall be chargeable as a misdemeanor.

B. In addition to the penalty set forth in subsection A of this section, violation of any section of this chapter shall be the basis for injunctive relief.

(Ord. 92-004 § 3)

#### **12.44.080 Enforcement.**

The director is charged with the responsibility for the enforcement of Chapters 12.44 and 12.45 and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the city attorney is authorized to institute appropriate proceedings to that end.

(Ord. 92-004 § 3)

**12.44.090 Effect on liabilities.**

Nothing in this chapter shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep trees or other landscape material upon said private property, or under his/her control, together with sidewalks and parkways in front of such private property in a safe condition.

Nothing in this chapter shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep trees or other landscape material upon said private property, or under his/her control, together with sidewalks and parkways in front of such private property in a safe condition.

(Ord. 92-004 § 3)