

CHAPTER 4 TREES AND VEGETATION¹

SECTION:

Article 1. Trees, Shrubs and Plants

7-4-101: Definitions

7-4-102: Jurisdiction and Control

7-4-103: Master Street Tree Plan

7-4-104: Maintenance of Street Trees

7-4-105: Determination of Tree Values

7-4-106: Planting Undertaken by City at Request Of Property Owner; Charges

7-4-107: Removal of Trees, Shrubs, and Plants Generally

7-4-108: Restricted Removal of Certain Trees

7-4-109: Treatment and Removal of Infected and Infested Trees

7-4-110: Removal and Trimming of Trees; Planting and Maintenance of Shrubs or Other Plants; Intersections

7-4-111: Removal for the Purpose of Construction

7-4-112: Removal of Unlawfully Planted Trees, Shrubs and Plants

7-4-113: Unlawful to Destroy, Deface, or Injure Tree

7-4-114: Interference with City Personnel

7-4-115: Protection of Trees

7-4-116: Placing Materials on Public Property

7-4-117: Cooperation between City Departments and Agencies

7-4-118: Tree Well Covers

7-4-119: Tree Supports

ARTICLE 1. TREES, SHRUBS AND PLANTS

7-4-101: DEFINITIONS:

For the purpose of this article, the words and phrases used herein shall have the following meaning unless the context shows a different meaning:

DEPARTMENT: The Park, Recreation and Community Services Department.

DEVELOPMENT: Any work upon any property in the city that requires a building permit, demolition permit, encroachment permit or other city approval or permit or which involves grading, excavation, landscaping or construction within the dripline area of a public tree.

DIRECTOR: The Park, Recreation and Community Services Director.

DRIPLINE: The area directly located between and under the outer circumference of the outer edges of the tree branches and the trunk.

MAINTAIN² OR MAINTENANCE: When used in reference to street trees, shall mean and include pruning, trimming, topping, root pruning, removal, spraying, mulching, fertilizing, cultivating, supporting, treating for disease or injury, or any other similar act which promotes the life, growth, health or beauty of street trees.

PLANTING EASEMENT: That portion of land made available as a public easement for the purpose of planting and maintaining trees and other vegetation.

PLANTING STRIP OR PARKWAY: That portion of the public right of way between the curb, or curb line, and the abutting property line used for the purpose of planting and maintaining street trees and other vegetation.

PROFESSIONALLY ACCEPTED STANDARDS: Those standards established by the International Society of Arboriculture, National Arborists Association or American National Standards Institute, and such other standards as may be subsequently amended, for the care, maintenance, preservation, protection, removal and planting of trees, including tree trunks, branches, roots. Tree protective measures shall not damage irrigation outlets or piping or affect tree roots. Such standards may include, but are not limited to:

a. Chain link or high visibility flexible fencing with a minimum height of four feet and supported by a rigid frame that is maintained throughout the duration of development activities.

b. For public trees, ground surfaces covered by existing public paving, such as streets and sidewalks, do not have to be secured within a Tree Protection Zone. Only those ground surfaces not covered by existing paving shall be protected.

PUBLIC PLACE OR PUBLIC AREA: Any area owned by or under the control of the City.

PUBLIC TREE: Any tree ~~planted~~ located in a ~~street~~ or public ~~area~~ ~~place~~.

SHRUB: Woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

STREET³: The entire width of every public way or right of way when any part thereof is open for the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic, including alleys.

TREE⁴: Any woody **perennial** plant, normally having one stem or trunk bearing the foliage or crown well above ground level **and which attains a minimum height** of sixteen feet (16') **or more** upon maturity. [Formerly numbered Section 28-1; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

TREE PROTECTION ZONE: A specifically defined area totally encompassing a public tree within which activities are strictly controlled. When depicted on plans, the outermost edge of the protected zone will appear as an irregular shaped circle that extends 10 feet beyond and follows the contour of the drip line of the public tree. In no case shall the protected zone be less than ten (10) feet from the trunk of the public tree or exclude the known root structure in the case of irregularly shaped trees or trees with known atypical root structures.

TRUNK FORMULA: The Trunk Formula, based on the latest edition of the Guide for Plant Appraisal authored by The Council of Tree and Landscape Appraisers, published by the International Society of Arboriculture is as follows:

Tree Value = Base Value x Cross-sectional Area x Species Class x Condition Class x Location Class.

7-4-102: JURISDICTION AND CONTROL:

Except as otherwise provided in this article, the Department and the Director shall have exclusive jurisdiction and control over the planting, care and removal of trees, shrubs, and plants in the streets and on other property under the control of the City, and any work incidental thereto; and in exercising such control shall:

- A. Selection of Species: Determine the species of kinds of trees, shrubs, and plants that may be planted and the distance apart and exact location at which such trees shall be planted;
- B. Promotion of Street Tree Program: Encourage the planting, care and preservation of shade or ornamental trees in the streets, and elsewhere in the City;
- C. Inspection: Inspect all trees, shrubs, and plants in the public areas and streets or which, standing on any private property, overhang or project into the street, at such times and upon such occasions as may be deemed appropriate by the Department; **and have charge of enforcing and carrying out the regulations prescribed in this Chapter;** and
- D. Remedial Action: Take such remedial action as may be necessary under this article.
- E. Development Review: **Review all landscaping, construction or development plans as said plans may affect public trees and require changes to such plans to ensure consistency with the Master Street Tree Plan.**

[Formerly numbered Section 28-2; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-103: MASTER STREET TREE PLAN:

The Director shall have the authority to formulate a Master Street Tree Plan, which shall specify the species, spacing and locations of trees to be planted on each of the streets or other public areas of the City. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto. Trees shall be selected on the basis of their desirable characteristics of growth and beauty with reference to their root structure and adaptability to local climate, soil, and street conditions. The Director shall also have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable. [Formerly numbered Section 28-3; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-104: MAINTENANCE OF STREET TREES:

A. Except as otherwise provided in this section, and in other provisions of this code, and within the limit of funds provided in the City budget, the City will maintain street trees within a public area and/or public right-of-way.

B. The property owner and/or occupant whose property abuts any public area and/or right-of-way shall be responsible for the watering and fertilizing of street trees, and for the planting, care and maintenance of other vegetation located within the abutting public area and/or public right-of-way.

C. It shall be unlawful for any person to alter, or otherwise perform maintenance, on a tree within a public area and/or public right-of-way without a written permit. Applications for a tree maintenance permit shall be made in writing, in a form as provided by the City, and filed with the Department.

D. Permits shall be issued pursuant to written guidelines as established by the Director and the Director, or their designee, may impose any condition(s) of approval determined to be necessary. A permit for tree maintenance SHALL NOT constitute authorization for any type of tree related work other than what is specified on the City issued permit.

E. It shall be unlawful for any person, other than a person duly authorized by the City, to engage in root pruning of any tree in the public area and/or public right-of-way.

F. Any violation of this section, including any failure to follow a permit condition as set forth by the Director or their designee, shall constitute a misdemeanor pursuant to Section 1-1-105 of this code, and may also result in the revocation of a permit subject to any right of appeal pursuant to Section 2-1-1501. [Formerly numbered Section 28-4; renumbered by Ord. No. 3058, eff. 2/21/87; Amended by Ord. No. 3783, eff. 7/9/10; 2504.]

7-4-105: DETERMINATION OF TREE VALUES:

In the case of any **public** tree removed or destroyed, **defaced, or injured**, as provided for in Section 7-4-111 of this article, or as a result of a violation of Sections 7-4-113, 7-4-115, or 7-4-117 of this article, but not replaced, the City shall be reimbursed the value of the tree **removed**,

ATTACHMENT 4-4

destroyed, defaced, or injured, as determined by an arborist certified by the International Society of Arboriculture or another nationally recognized tree research, care, and preservation using the "Trunk Formula" method of valuation. ~~the most current valuation table established by the International Shade Tree Conference.~~ [Formerly numbered Section 28-5; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-106: PLANTING UNDERTAKEN BY CITY AT REQUEST OF PROPERTY OWNER; CHARGES:

No tree shall be planted by the City at the request of any owner, occupant or agent of real property unless such owner, occupant or agent shall have first paid the City for the cost of such work, and any additional costs as may be required by the provisions of Sections 7-4-105 and 7-4-111 of this article as fixed by the Director, or such costs are otherwise funded by a source other than the Park and Recreation Fund. [Formerly numbered Section 28-6; renumbered by Ord. No. 3058, eff. 2/21/87; 2543, 2504.]

7-4-107: REMOVAL OF TREES, SHRUBS, AND PLANTS GENERALLY⁵:

The Department may remove trees, shrubs, and plants situated in the streets whenever:

- A. The City owns the tree, shrub, or plant; or
- B. The City owns the underlying fee; or
- C. Regardless of ownership:
 - 1. Removal is necessitated by infection or infestation as provided in Section 7-4-109 of this article; or
 - 2. The tree, shrub, or plant is actually or potentially defective, dangerous, or an obstruction to public travel, or is otherwise in violation of Section 7-4-110 of this article; or
 - 3. Removal is necessary because of potential or actual damage to a sidewalk, parkway, curb, gutter, pavement, sewer line, underground utility, or other municipal improvement lying within the boundaries of the street; or
 - 4. Removal is necessary to conform to the Master Street Tree Plan. [Formerly numbered Section 28-7; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-108: RESTRICTED REMOVAL OF CERTAIN TREES:

The Director shall have the authority and responsibility to develop and maintain a restricted list of **public** trees in the City⁶. This list shall include landmark trees, trees of outstanding size and beauty, dedicated trees, etc. These trees shall be identified, mapped and recorded. Subsequent to this they shall be given all types of special treatment mutually approved by the Department and the Public Works Department to retain and protect them. [Formerly numbered Section 28-8; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-109: TREATMENT AND REMOVAL OF INFECTED AND INFESTED TREES:

A. Streets: If any tree, shrub, or plant in any street is infected or infested with any insect or disease detrimental to the growth, health or life of parkway trees, the Department may remove or control such infection or infestation, but if the infection or infestation is such that it cannot be removed or controlled, then such tree, shrub or plant may be removed and destroyed, if in the judgment of the Director, or their designated representative, such disposition is deemed to be in the public interest.

B. Private Property: It shall be the responsibility of any person having trees, shrubs, plants, grass or other vegetation growing on their property abutting public places to treat or remove any tree or plant so diseased or insect infected as to constitute a hazard to trees or plants in public places. The Director shall have the authority to require property owners to take such action as is necessary to control insects, scales, parasites, fungus, and other injurious pests or diseases that would cause serious injury to street trees and other plant material within the City. The Director shall notify the property owner in writing, describing the conditions and stating the control necessary for correction, and establishing a reasonable time within which the required steps shall be taken.

If the property owner questions the necessity for such action, the Director shall refer the matter to a qualified plant pathologist whose decision shall be final. In the event that effective steps are not taken within the time specified, it shall be lawful for the City in the public interest to enter on the property in question to spray, trim, prune, treat or remove all or any part of the tree or shrub determined to be infested, and the costs thereof shall be assessed to the owner. [Formerly numbered Section 28-9; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-110: REMOVAL AND TRIMMING OF TREES; PLANTING AND MAINTENANCE OF SHRUBS AND OTHER PLANTS; INTERSECTIONS:

A. Dangerous And Obstructing Trees: If any tree standing in any street, or standing on any private property and overhanging or projecting into the street appears to be dead, liable to fall, dangerous or an obstruction to public travel, the Department shall cause such tree, or such part thereof as appears to be dead, liable to fall, dangerous or an obstruction to travel, to be cut down and if in any street, to be removed therefrom, and the costs of such work performed on trees on private property shall be assessed to the owner.

B. Shrubs, Ground Cover, And Other Plants: It shall be unlawful to plant or maintain shrubbery, ground cover, or other plants within the City's parkways, whose growth is in excess of eight inches (8") in height above the top of the nearest curb.

C. Intersections: All shrubs, ground covers, or other plants at or near intersecting streets, located on public or private property and nearer than forty feet (40') to the point where the adjacent curb lines, extended, intersect, shall be so trimmed that the height of growth shall not exceed eight inches (8") above the top of the nearest curb, and all branches of trees at or near intersecting streets, whether in the street or in private property and nearer than forty feet (40') to the point where the adjacent curb lines, extended, intersect, shall be trimmed so as not to hang or extend lower than fourteen feet (14') from above the top of the nearest curb. Any shrub or other plant which exceeds such height, or any branch of a tree which is lower than such level, shall be deemed to be dangerous to public travel, and the Director shall notify the property

owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the City to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner. [Formerly numbered Section 28-10; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-111: REMOVAL FOR THE PURPOSE OF CONSTRUCTION:

A. ~~Street Public Trees: A public tree removal permit is required to remove any public tree.~~ Any ~~street public~~ tree requested by any person or property owner to be removed for the purpose of any type of construction shall be ~~replaced by the permittee~~ with a tree of ~~the nearest~~ a size ~~available, of a~~ species and in the location to be determined by the Director, ~~consistent with the Master Street Tree Plan.~~ The ~~person or property owner~~ ~~permittee~~ shall pay the total cost of the valuation of the public trees being removed and of the replacement tree to the City ~~of removal~~ prior to any such action being undertaken. If such tree, or trees, are not replaced, ~~by the permittee,~~ the City shall be reimbursed the value of the ~~tree(s) being removed and the replacement tree(s)~~ as established in Section 7-4-105 of this article, in addition to the cost to the City of removal. ~~The provisions of this section requiring payment of the cost of removal and replacement or reimbursement to the City shall not apply to property located in an R-1 single-family residential zone~~

~~B.—Private Trees: Any tree removed for the purpose of any type of construction in accordance with Subsection 10-1-1113S of this code shall be replaced with a tree of equal size, of the same species or an appropriate alternative, and in a location to be approved by the Park, Recreation and Community Services Director and the Community Development Director. Alternately, the City shall be reimbursed the value of the trees, pursuant to this section and Section 7-4-105 of this article; or, the project's landscaping shall be improved above what is required by Subsection 10-1-1113E of this code, and in an amount equal to the value of the removed trees, or if the excess landscaping does not equal the value of the removed trees, then a fee for the shortfall shall be paid to the City; or, the tree(s) shall be moved elsewhere to the satisfaction of the Park, Recreation and Community Services Director; or a combination of moving or replacing the trees pursuant to Section 7-4-105 and this section shall be followed. The fees obtained from private development will be placed in the Urban Reforestation Fund which will be devoted to the replacement of City trees. [Formerly numbered Section 28-11; amended by Ord. No. 3247, eff. 6/1/91; 3058, 2504.]~~

7-4-112: REMOVAL OF UNLAWFULLY PLANTED TREES, SHRUBS, AND PLANTS:

Any tree, shrub, or plant planted within any parkway or planting easement without the authorization or approval of the Director may be removed. The Director shall notify the abutting property owner in writing, listing the unlawfully planted trees, shrubs, or plants, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not accomplished within the time specified, it shall be lawful for the City to remove these trees, shrubs, or plants, and the costs thereof shall be assessed to the owner. [Formerly numbered Section 28-12; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-113: UNLAWFUL TO DESTROY, DEFACE, OR INJURE TREE⁷:

ATTACHMENT 4-7

It shall be unlawful for any person to destroy, injure, or deface, by any means, any **public tree in the street**, or take **any action foreseeably leading to the death of a public tree or permanent damage to its health**, including, but not limited to, the following:

- A. Pouring any toxic material on any tree or on the ground near any tree.
- B. Attaching any **light, mirror**, sign, poster, notice, or other object on any tree, or fastening any guy wire, cable, rope, nails, screws, or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work, parades, etc.
- C. Causing or encouraging any fire or burning near or around any tree.
- D. **Unauthorized digging, trenching, cutting, excavating, or otherwise injuring the roots within the dripline area of a public tree.**
- E. **Unauthorized pruning/trimming, cutting, topping, or shaping the branches of a public tree.**
- F. **Overwatering or underwatering** [Formerly numbered Section 28-13; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-114: INTERFERENCE WITH CITY PERSONNEL:

No person shall prevent, delay, or interfere with the Director, or any of their representatives, in the execution or enforcement of the provisions of this article. [Formerly numbered Section 28-14; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-115: PROTECTION OF TREES:

All trees Those responsible for any development activities or excavation or construction of any building, structure, or street work, shall protect the Tree Protection Zone of any public tree. ~~on any street or other publicly owned property near any excavation or construction of any building, structure, or street work.~~ All public trees shall be protected using professionally accepted standards ~~by those responsible for such work so as to prevent any injury to said any public trees.~~ prior to the commencement of any development activity until the end of said activities. No person shall **perform any development**, or excavate any ditches, tunnels, trenches, or install pavement ~~within a radius of ten feet (10')~~ within the Tree Protection Zone ~~from the dripline~~ any ~~public tree~~ without prior **written approval from the Director**. [Formerly numbered Section 28-15; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-116: PLACING MATERIALS ON PUBLIC PROPERTY:

No person shall install, deposit, place, store, or maintain upon any public place of the City, any stone, brick, sand, concrete, or other materials which may impede the free, unobstructed growth or passage of water, air, and fertilizer to the roots of any tree therein, without first obtaining required written permits from the **Director City**. [Formerly numbered Section 28-16; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

ATTACHMENT 4-8

7-4-117: COOPERATION BETWEEN CITY DEPARTMENTS AND AGENCIES:

There shall be close cooperation between the Department and other City departments and agencies in the enforcement of the provisions of this article which shall include, but not be limited to, the following:

A. All ~~plans for development~~, building, ~~grading, excavation~~, or other permits covering work which would in any way result in injury to or removal of public trees shall be ~~first submitted~~ ~~routed~~ to the Department for ~~approval~~ ~~a review to ensure consistency with this section~~. During such review the Department shall:

1. Identify if any public trees shall be protected, or removed and replaced; and
2. Verify that the Tree Protection Zone is identified on the plans and that the appropriate professionally accepted standards are clearly specified on the plans; and

B. The Public Works Department shall notify the Department of any applications for new paving, curb, gutter, sidewalk or driveway installation, or other improvement which might require the removal of or cause injury to any ~~street public~~ tree, or interfere with the fulfillment of the Master Street Tree Plan.

C. Any public utility installing or maintaining any overhead wires or underground lines, conduits or pipes shall first obtain the approval of its plans and procedures from the Director, or their representative, before performing any such installation or maintenance if, in the opinion of the Director, such work would grossly deform or cause injury to street trees. During the performance of such work, if, in the opinion of the Director, or their representative, it would cause excessive or unnecessary injury to any street tree, they shall have the authority to stop said work and arrange with the public utility another method of performing said work mutually satisfactory to all departments of the City; except that the provisions of this section shall not apply to emergency public utility maintenance work or work done in compliance with mandated safety and health regulations.

7-4-118: TREE WELL COVERS:

Whenever any parkway or planting strip is paved, openings at intervals and sizes designated by the Director, or their representative, shall be left unpaved, but covered in a manner acceptable to the Director ~~to facilitate the fulfillment of the Master Street Tree Plan~~. [Formerly numbered Section 28-18; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

7-4-119: TREE SUPPORTS:

Stakes or guards may be placed alongside or around any tree in the streets, provided that such supports are placed as near as practical to the tree for which intended, and do not restrict access to or from the street or create any hazard to the public. No person shall erect such supports without the approval of the Director. [Formerly numbered Section 28-19; renumbered by Ord. No. 3058, eff. 2/21/87; 2504.]

1Code reference: As to weed abatement, see Title 4, Chapter 2, Article 2, Division 2 of this code (Ord. No. 2194).

2 State law reference: As to Tree Planting Act of 1931, definition of maintain, see Sts. & H.C. § 22012.

3 State law reference: As to Tree Planting Act of 1931, definition of street, see Str. & H.C. § 22010 (Supp.).

4 State law reference: As to Tree Planting Act of 1931, definition of tree, see Str. & H.C. § 22009.

5 State law reference: As to removal from highways, see Pen.C. § 384a. As to condemnation of hazardous Pub.Util.C. § 21652. As to clearing of vegetation for fire prevention, see Pub.Res.C. §§ 4290-4299.

6 State law reference: As to State Tree, see Gov.C. § 422.

7 State law reference: As to destruction of trees and shrubs or removal of obligation without a permit, see Pen.C. §§ 384a, 622. As to exemplary damages for injuries to trees, see C.C. § 3346.