

CHAPTER 151

TREES, SHRUBS AND OTHER PLANTS

151.01 Purpose	151.14 Permits for Planting or Removal Required
151.02 Definitions	151.15 Restrictive Covenants
151.03 Creation and Establishment of City Tree Board	151.16 Public Tree Care
151.04 Term of Office	151.17 Pruning and Corner Clearance
151.05 Compensation	151.18 Removal of Stumps
151.06 Duties and Responsibilities	151.19 Visibility at Intersections
151.07 Operation	151.20 Flowers on the Right-of-way
151.08 Street Trees	151.21 Abuse or Mutilation of Public Trees
151.09 Prohibited Trees	151.22 Penalty
151.10 Spacing	151.23 Interference with City Tree Board or Code Enforcement Officer and Their Agents
151.11 Distance from Curb and Sidewalk	151.24 Funds Received for Damage or Loss of Trees
151.12 Distance from Street Corners, Alleys and Fireplugs	151.25 Appeals
151.13 Utilities	

151.01 PURPOSE. It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs and other plants within the City.

151.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Corner lot” means a lot at all intersecting streets and on curves of a continuous street.
2. “Large tree” means any tree with a mature height of more than thirty (30) feet.
3. “Park planting” means and includes any tree, shrub and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.
4. “Parking” means the area between the curb or curb line and sidewalk or sidewalk line.
5. “Shrub” means any multiple-stemmed woody plant.
6. “Small tree” means any tree with a mature height of fifteen (15) to thirty (30) feet.
7. “Street tree” means and includes any tree on land lying between property lines on either side of all streets, avenues or ways within the City.
8. “Tree” means a single-stemmed woody plant with a mature height of a minimum of fifteen (15) feet.

151.03 CREATION AND ESTABLISHMENT OF CITY TREE BOARD. There is created and established a City Tree Board for the City, which shall consist of seven (7) members, five (5) of whom shall be residents of the City, appointed by the Mayor with Council approval. The remaining two (2) members shall be the Public Works Superintendent, acting as Board Secretary, and the Assistant Public Works Superintendent, both of whom shall serve ex officio.

151.04 TERM OF OFFICE. The term of the five (5) persons to be appointed by the Council shall be three (3) years, and the terms of office of such members are staggered so that in one year, one member is appointed and in each of the next two years two members are appointed. In the event that a vacancy shall occur during the term of any member, the successor shall be appointed for the unexpired portion of the term.

151.05 COMPENSATION. Members of the Board shall serve without compensation.

151.06 DUTIES AND RESPONSIBILITIES. The Board shall act as an advisory committee to the Council. The Board shall have the responsibility to study, investigate, counsel, develop and update a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented to the Council and upon acceptance and approval shall constitute the official comprehensive City Tree Plan for the City. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

151.07 OPERATION.

1. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
2. For purposes of enforcement of any regulations established in this chapter, the Code Enforcement Officer is hereby designated as the person responsible for enforcing all regulations established herein.

151.08 STREET TREES. Street trees not allowed for planting along City streets are as follows:

- | | |
|-------------------------|--------------------------------------|
| Silver Maple | Fruit-bearing trees |
| Conifer – Evergreens | Box Elder |
| Nut-bearing trees | Pin Oak |
| Russian Olive | Catalpa |
| Salix (Willows) | Elms - except American Elm hybrids - |
| Poplars and Cottonwoods | resistant to Dutch Elm disease |

A current list of street trees recommended for planting along City streets shall be kept on file at the office of the Code Enforcement Officer.

151.09 PROHIBITED TREES. The following nuisance types of trees shall not be planted upon public or private property and are subject to removal at the property owner’s expense, as determined by the Code Enforcement Officer:

- | | |
|---------------------------|----------------|
| Cotton-bearing Poplar and | Box Elder |
| Cottonwood | Tree of Heaven |

151.10 SPACING. Small trees shall not be planted closer than twenty (20) feet from one another or closer than thirty (30) feet from a large tree. Large trees shall not be planted closer than thirty (30) feet from one another.

151.11 DISTANCE FROM CURB AND SIDEWALK. No trees shall be planted on parkings that are less than eight (8) feet wide. Trees shall be planted no closer than four (4)

[The next page is 835]

feet to the curb or curb line and no closer than three (3) feet to the sidewalk or sidewalk line. Whenever possible, trees shall be centered between the curb or curb line and the sidewalk or sidewalk line.

151.12 DISTANCE FROM STREET CORNERS, ALLEYS AND FIREPLUGS. No street trees shall be planted closer than ten (10) feet to the intersecting lot lines of a corner lot. No street trees shall be planted within five (5) feet of any alley or drive. No street trees shall be planted closer than ten (10) feet of any fireplug or utility pole.

151.13 UTILITIES. No street trees other than those approved as small trees by the Tree Board may be planted under or within ten (10) lateral feet of any overhead utility wire.

151.14 PERMITS FOR PLANTING OR REMOVAL REQUIRED. No street tree shall be planted unless a permit is obtained from the Code Enforcement Officer. All plantings must be specified and noted on the permit as well as the location of said plantings. Any plantings done prior to issuance of a permit are subject to removal by order of the Code Enforcement Officer if in violation of any regulation contained in this chapter and will require the immediate acquisition of a permit. No living tree shall be destroyed or removed from the parking unless a permit is obtained.

151.15 RESTRICTIVE COVENANTS. The provisions of this chapter are required to be included in the restrictive covenants of all new subdivisions of the City.

151.16 PUBLIC TREE CARE. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, 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 City may remove or order to be removed any 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 public improvements, or is affected with any disease, 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 such trees is in accordance with this chapter.

151.17 PRUNING AND CORNER CLEARANCE. Every owner or occupant of real property bordering upon any street, alley or public place shall keep the branches of any tree overhanging any street or right-of-way within the City pruned so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of fifteen (15) feet above the surface of any street or alley and a clear space of ten (10) feet above the surface of any right-of-way grounds or sidewalk. The owner shall remove broken or decayed limbs which constitute a menace to the safety of the public. The City 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 street light or interferes with visibility or any traffic control device or sign.

151.18 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

151.19 VISIBILITY AT INTERSECTIONS. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially

impede vision between a height of two and one-half (2Y2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of intersection of the right-of-way lines. If a violation is discovered by the Code Enforcement Officer, he or she is to give a 20-day written notice to the property owner or occupant to remedy the violation. The notice shall specify the exact extent of the violation and provide that the property owner or occupant may appeal to the City Tree Board if said owner or occupant disagrees with the Code Enforcement Officer's notice. If the City Tree Board finds that it agrees with the Code Enforcement Officer, it shall order the Code Enforcement Officer to proceed with remedying any violations at the expense of the property owner or occupant.

151.20 FLOWERS ON THE RIGHT-OF-WAY. Shrubs and flowers may be grown on public right-of-way if maintained under 2Y2 feet above ground level and if they present no safety hazard. No vegetables may be planted on public right-of-ways.

151.21 ABUSE OR MUTILATION OF PUBLIC TREES.

1. It is unlawful as a normal practice for any person, firm or City department to top any street, park or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Council. Unless specifically authorized by the City Tree Board, no person shall intentionally damage, cut, carve, transplant or remove any tree on public property; attach any rope, wire, nail, advertising poster or other contrivance to any tree on public property; allow any gaseous liquid or solid substance that is harmful to such trees to come in contact with them or with their roots; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree on public property.

2. The City Tree Board shall assess to the person who causes damage to or loss of City trees the damage value based on estimate figures using International Society of Arboriculture Standards.

151.22 PENALTY. Any person violating any provisions of this chapter shall be in violation of this Code of Ordinances. Said person shall comply in all respects with any previous orders or notices issued by the Code Enforcement Officer within five (5) days of conviction or plea.

151.23 INTERFERENCE WITH CITY TREE BOARD OR CODE ENFORCEMENT OFFICER AND THEIR AGENTS. It is unlawful for any person to prevent, delay or interfere with the City Tree Board, Code Enforcement Officer or any of their agents, while engaging in or participating in any planting, cultivation, mulching, pruning, spraying, removing or inspecting any street trees, park trees or other trees, shrubs or other plantings on public property as specified in this chapter.

151.24 FUNDS RECEIVED FOR DAMAGE OR LOSS OF TREES. Any funds received or collected by the City for damage or loss of street or park trees shall be placed in a City Tree Fund and designated for the purchase of replacement street and park trees.

151.25 APPEALS. A decision of the Code Enforcement Officer may be appealed to the City Tree Board. All appeals must be made in writing, addressed to the Chairperson of the Tree Board. The Tree Board is then required to hold a hearing on the appeal within thirty-five (35) days of the receipt of said appeal. Written notice of the hearing date and time is to be mailed to the appellant and the Tree Board ten (10) days prior to said hearing date. The Tree Board shall then make a written finding within forty-five (45) days of the hearing date, with a copy to the appellant and Council. The Tree Board recommendation shall be presented to the Council for a final decision. The Council may abide by the Tree Board's recommendation or make its own decision. However, in no case will the Council conduct further hearings on such matters. The decision of the Council will be final.