

CHAPTER 151

TREES

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151.01 PURPOSE AND INTENT. It is the purpose of this chapter to promote and protect the public health, safety and general welfare by providing for the regulation of planting, maintenance and removal of trees and shrubs within the public right-of-way. The intent of this chapter shall be construed so as to promote:

1. The planting, maintenance, restoration and survival of desirable trees and shrubs within the City; and
2. The protection of community residents from personal damage, and the protection of the City from property damage caused by improper planting, maintenance or removal of trees and shrubs located on public rights-of-way.

151.02 FORESTER; AUTHORITY SPECIFIED. The City Forester shall have the authority to superintend and regulate the spraying, treating, planting, maintenance, pruning and removal of trees and shrubs on streets and on other publicly owned property, and where indicated on private property, to insure health or safety or to preserve the symmetry of public places. It is the duty of the City Forester to encourage the planting, culture and preservation of shade trees in the City.

151.03 PERMIT PROCEDURES.

1. No person shall plant, spray, fertilize, preserve, prune, remove, cut aboveground or otherwise disturb any tree or shrub by digging, boring, removal, concrete constructions, etc. on any public right-of-way or municipal property without first requesting and obtaining a permit.
2. Requests for permits must be made at the office of the City Forester forty-eight (48) hours in advance of the time the work is to be started. Requests for permits may be made by telephone.

3. The Forester shall issue the permits provided for in this chapter if, in the Forester's judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the matter described.
4. The permit shall contain the following:
 - A. The planting permit shall contain the number of trees and shrubs to be planted, and the location, species and cultivar and method of planting;
 - B. The maintenance/removal permit shall contain the scope of work, including description of pruning, spraying, trimming, fertilizing, etc.;
 - C. Assurance. The permit will provide for the signature of the person listed on the permit that said person will comply with the requirements, regulations and standards of this chapter;
 - D. The time schedule for the proposed work; and
 - E. Such other information as the Forester deems necessary for the protection of the public.

151.04 PUBLIC UTILITY COMPANY REQUIREMENTS.

1. Public utility companies, their agents, employees and subcontractors shall comply with all requirements of this chapter except as otherwise provided. In lieu of the formal permits required by Section 151.03, public utility companies, their agents, employees or subcontractors shall notify the Forester of work regulated by this chapter at least forty-eight (48) hours prior to the commencement of the work undertaken for utility purposes.
2. Unless the Forester directs that the work be performed in a specific manner before the work begins, such work shall otherwise be performed in conformance with the general guidelines established by the Forester for utility companies without further approval required. Such general guidelines may include advance oral or written notice to, but not permission of, property owners adjacent to the public right-of-way of the work to be performed.
3. If the Forester finds that general guidelines or specific directions are not substantially complied with in more than one instance, the Forester may issue an order to the utility company requiring the utility company, its agents, employees and subcontractors to obtain the formal permits otherwise required by Section 151.03 for a period of up to one year.

4. In giving authority to the Forester to protect trees and shrubs, it is not the intent of this chapter to cause existing or replacement utility service lines to be relocated, or to prohibit removal of such lines, or to cause an unreasonable expense to be incurred to save a tree or shrub upon utility service installation, replacement or retirement.

151.05 APPEALS. Any person affected by a decision or action of the City Forester may appeal that decision or action to the City Manager. The subject matter of an appeal may be the issuance of permits under this chapter, the concurrence of the Forester in permits required under other ordinances, orders issued by the Forester, or other matters involving the interpretation and enforcement of this chapter.

151.06 PROTECTION DURING CONSTRUCTION OR EXCAVATION WORK. All trees on public rights-of-way near any excavation or construction work shall be guarded with a substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or a barrier a distance in feet from the tree equal to the diameter of the trunk in inches (DBH - diameter breast height), whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier. No person shall excavate any tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a permit. The provisions of this section do not apply to utility companies, their agents, employees or subcontractors except to the extent that the Forester judges it necessary to regulate excavations within a radius of five (5) feet from a public tree for such operations.

151.07 TREE PLANTING LOCATION AND SPACING. Spacing of trees shall be determined by the Forester according to local conditions, parking width, the species, cultivars, or varieties used, their mature height, spread and form. Generally, all large trees shall be planted forty (40) feet on-center, medium-sized trees shall be planted approximately thirty-five (35) feet on-center, and all small trees shall be planted approximately twenty-five (25) feet on-center as outlined in the *Forestry Policy, Specifications and Standards Manual*. No tree shall be planted closer than thirty (30) feet from street intersections and no closer than fifteen (15) feet from driveways and alleys. Any tree planted on the right-of-way pursuant to this section shall become the property of the City.

151.08 SPECIES AND CULTIVARS PERMITTED OR PROHIBITED. The Forester shall maintain an official register which specifies what varieties are permitted or prohibited under this chapter. The register shall be updated from time to time as conditions warrant. Varieties included in the register shall be selected to further the objectives of this chapter based on the appropriateness

of their size, shape, resistance to disease, availability, ease of maintenance, strength and other factors.

151.09 PROPERTY OWNER DUTY TO PRUNE. It is the duty of any person owning or occupying real property bordering on any street upon which property there may be trees, to prune those trees and shrubs in such a manner that they will not obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion of trees shall be eight (8) feet over sidewalks and fourteen (14) feet over the street.

151.10 INSPECTIONS. The Forester shall have the right to inspect all work performed pursuant to this chapter, and shall be notified no more than five (5) days after completion.

151.11 NOTICE OF VIOLATION. Notice of violation of any of the provisions of this chapter shall:

1. Be put in writing;
2. Include a sufficiently detailed description of the violation;
3. Include a statement of the reasons why it is being issued;
4. Allow a reasonable time for the performance of any act it requires, and may contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter, or may contain an order to cease and desist all work regulated by this chapter;
5. Be served personally, or if the person is not found, by certified mail with a return receipt requested; or if the certified letter with a receipt showing it has not been delivered, then by posting a copy of said notice at the address of the person responsible.

If the person responsible fails to undertake the remedial actions specified in the notice within the allowed time, the Forester may take steps to correct the results of the work, and the reasonable costs shall be charged to the person responsible.

151.12 PENALTY. Any person violating any of the provisions of this chapter or failing to comply with any notice issued shall, upon conviction, be subject to the penalties set forth in Section 1.14 of this Code of Ordinances. If, as a result of the violation of any provision of this chapter, the injury, mutilation, or death of a tree, shrub or other plant is caused, the cost of repair or replacement of such plant material shall be borne by the party in violation. The value will be determined from the guide promulgated by the International Society of Arboriculture.