

## **CHAPTER 97: TREES AND OTHER VEGETATION**

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## § 97.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BOULEVARD.*** That area between private property lines and the street, and in case of vacated streets, between private property lines.

***CITY FORESTER.*** Person selected by the Tree Board and approved by the City Council, who has responsibility for woody plant management.

***HAZARDOUS TREE.*** Any woody plant that endangers the health and safety of the public or that of the woody plants or other private or public property.

***OVERHEAD UTILITY WIRE.*** Those overhead wires delivering cable television service, telephone service and electrical service. Electrical service wires are three phase or main feeder lines. Cable television and telephone are single wires.

***PARK TREES.*** Trees, shrubs, bushes 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.

***PUBLIC PROPERTY.*** All that property owned by or under the control or supervision of the city, including, but not limited to boulevard(s).

***PUBLIC TREE.*** Any street trees, park trees or other woody plant on city property.

***STREET TREES.*** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues and boulevards within the city.

### ***TREE SIZES.***

- (1) A ***SMALL TREE*** shall be defined as any plant material that will grow to a height of 30 feet.
- (2) A ***MEDIUM TREE*** shall be defined as any plant material that will grow to a height of 50 feet.
- (3) A ***LARGE TREE*** shall be defined as any plant material that will grow to a height of over 50 feet. (1981 Code, § 360.01)

## § 97.02 STREET TREE SPECIES TO BE PLANTED.

An approved list of recommended trees for planting on public property shall be maintained at City Hall. (1981 Code, § 360.03)

### **§ 97.03 SPACING AND LOCATION OF STREET TREES.**

(A) *Spacing.* The spacing of street trees shall be in accordance with tree species size classes provided in this chapter, and no trees may be planted closer together than as follows: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by the City Tree Board or designee.

(B) *Location.* The distance trees may be planted from curbs or curb lines and sidewalks shall be in accordance with the tree species size classes listed in division (A) of this section, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. An area without sidewalks must be treated as if a five-foot sidewalk will be placed on the inside and abutting the right-of-way border.

(C) *Corners, fire plugs and driveways.* No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 15 feet to any fireplug, nor five feet from any driveway.

(D) *Utilities.* No street trees other than those defined as small trees may be planted under any three-phase (main feeder) overhead utility wire; over or within three lateral feet of any underground water line, sewer line, transmission line or other utility. Exempt from this restriction are overhead utility wires delivering cable television and telephone service. (1981 Code, § 360.05)

### **§ 97.04 PUBLIC TREE CARE.**

(A) *Care of street trees in the downtown area.* 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, squares and public grounds as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of such public grounds. No other planting may be done without consent of the Tree Board or its approved agent. The downtown area consists of Franklin Street from Chestnut Street to Marion Street; Washington Street from Chestnut Street to the water's edge of Lake Pepin; Lakeshore Drive from Chestnut Street to Marion Street; Lyon Avenue or Highway 63 from Highway 61 to Franklin Street; Center Street from High Street to Franklin Street; Marion Street from Highway 61 to Franklin Street.

(B) *Trees on private property.* The City Tree Board shall have the authority to order the trimming, treatment and removal of trees, shrubs or plants upon private property when such action is necessary to public safety or to prevent the spread of disease or insects to trees, shrubs or plants located on public property.

(C) *Authority to enter.* The City Forester or their official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance for purpose of inspection. (1981 Code, § 360.07)

**§ 97.05 PRUNING OF TREES AND SHRUBBERY ABUTTING PUBLIC RIGHTS-OF-WAY.**

(A) *Removal or pruning.* Trees overhanging any street or right-of-way within the city shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection or so as to provide a clear space of 13 feet above the surface of any street or alley or eight feet above the surface of a sidewalk so as to provide for not less than an unobstructed sidewalk width of five feet. All dead or diseased trees, branches or shrubs which are or may become a hazard to the use of public rights-of-way shall be removed by the owner of the abutting property. Any trees obstructing traffic control signs or devices from the view of pedestrians or motorists shall be pruned by the Streets and Parks Commission or their designee to insure proper safety for motorists and pedestrians.

(B) *Compliance by abutting property owner.* All trees, branches, grass or woody vegetation required to be cleared or removed pursuant to the terms of this chapter shall be cleared or removed from all sidewalks, streets and alleys located on city right-of-ways by the owner of the abutting land.

(C) *Assessment.* If the abutting owner fails to comply with the terms of this chapter and after notice given by the city has not so complied within ten days of the date of the notice, the city, without further notice to the abutting property owner, may clear or remove the trees, branches, grass and woody vegetation as required to comply with the terms of this chapter, and all costs incurred by the city shall be levied as a special assessment against the lot or parcel or land affected and be collected in the same manner as the collection of real estate taxes. (1981 Code, § 360.09)

**§ 97.06 TREE TOPPING.**

It shall be an unlawful practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Topping is defined (per American National Standards Institute for Tree Care Operations #A300-1995) as the cutting of an older branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role 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 (diseases) or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this chapter per the city's Tree Inspector. (1981 Code, § 360.11) Penalty, see § 98.99

**§ 97.07 INTERFERENCE WITH CITY TREE BOARD.**

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private ground without clarifying with landowners or other lawful authority. (1981 Code, § 360.13) Penalty, see § 98.99

**§ 97.08 ARBORIST LICENSE.**

(A) It shall be unlawful for any person who engages in the business of cutting, trimming, pruning, removing, spraying or otherwise treating trees or shrubs from doing so on public property without first applying for and procuring a license from the city, the requirements for which shall, at a minimum, include the following and such additional requirements and liability insurance as the city determines necessary and appropriate.

(B) Requirements to procure a license to engage in cutting, trimming, pruning, removing, spraying or otherwise treating trees shall include:

- (1) Current certification in the International Society of Arboriculture, or a two-year or four-year degree in arboriculture or other related field; or
- (2) Attendance at and completion of an annual arborist training program approved by the Lake City Tree Board (example of may be a course offered by the University of Minnesota, Minnesota Extension Service, the Department of Natural Resources or other related organization), subject matter being that related to planting, cutting, pruning, trimming, removing, spraying or otherwise treating trees.

(C) The license fee shall be paid annually in advance and set out in Chapter 110 of the city code. No license shall be required of any public utility company, provided work is done under the direction of an individual having successfully completed the aforementioned licensing requirements. (1981 Code, § 360.15)

**§ 97.09 RIGHT OF REVIEW BY CITY COUNCIL.**

Any person aggrieved by any ruling or order of the City Tree Board may appeal to the City Council, which shall hear the matter and make a final decision. The City Council shall have the right to review the conduct and decisions of the City Tree Board. The City Council may modify, affirm or reverse any determination of the City Tree Board. (1981 Code, § 360.17)

**§ 97.99 PENALTY.**

Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and may be punished by a fine of not more than \$500 or imprisonment for not more than 90 days or both. In addition thereto, the costs of prosecution may be imposed upon the defendant, and the court shall order restitution to the city for damage to the tree or public property. (1981 Code, § 360.19)