

CHAPTER 5
SHADE TREES
SECTION

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20-501. Purpose and intent. (1) The purposes of this chapter are to promote the health, safety and public welfare in the City of Cleveland, and consistent with forestry policy and practice for urban areas promulgated by the Division of Forestry of the State of Tennessee:

(a) To encourage the planting of trees in the City of Cleveland;

(b) To encourage the maintenance and protection of existing trees; and

(c) To encourage the removal of undesirable or diseased trees.

(2) The standards herein are hereby established in order to lessen air pollution, to promote clean air quality by increasing dust filtration, to reduce noise, heat, and glare, to prevent soil erosion, to improve surface drainage and minimize flooding, to ensure that activities in one area do not adversely affect activities within adjacent areas, to emphasize the importance of trees as a visual screen, to beautify and enhance improved and undeveloped land, to maintain the ambience of the city, to ensure that tree planting and removal does not reduce property values, and to minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters. (1981 Code, § 22.5-21, as replaced by Ord. of Nov. 25, 1996)

20-502. Definitions. (1) "City" shall mean the City of Cleveland, Tennessee.

(2) "Crownsread" - the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.

(3) "Drip line" - all points directly underneath the end of the branches.

(4) "Line clearance" - removal of limbs and branches growing within a set distance of electrical distribution lines.

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(5) "Private tree" - a tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.

(6) "Proper pruning method" - selective removal and thinning of the upper portions of the tree using natural target techniques, taking into account the natural structure of the tree.

- (7) "Pruning" - selective removal and thinning of the upper portions of the tree taking into account the shape and natural structure of the tree.
- (8) "Public tree" - a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.
- (9) "Public utility" - that section of local government in charge of electrical distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.
- (10) "Shrub" - a woody plant with a multiple stem capable of growing to a height of up to fifteen (15) feet.
- (11) "Street tree" - a tree growing within a public right-of-way along a street, in a median or in a similar area in which the public right-of-way borders areas owned by private individuals.
- (12) "Topping" - arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.
- (13) "Tree" - a woody plant, at least one (1) inch in diameter, with a single trunk, or multiple trunk capable of growing to a height of fifteen (15) feet or more.
- (14) "Utility tree" - a tree that will contact any utility structure. (1981 Code, § 22.5-22, as amended by Ord. of March 1993, as replaced by Ord. of Nov. 25, 1996)

20-503. Administration; shade tree board. The shade tree board shall be responsible for carrying out the tree ordinance:

(1) Creation and establishment of a city shade tree board. There is hereby created and established the Cleveland Shade Tree Board which shall be composed of nine (9) members appointed by the mayor and approved by the city council. Five (5) members shall be appointed for two-year terms, and four (4) members shall be appointed for one-year terms. At the end of one year, four (4) members shall be appointed to two-year terms to replace those members whose terms have expired; and thereafter all members shall be appointed for two-year terms. All members of the shade tree board shall be citizens and residents of the city. One member shall be a member of the city planning commission; one shall be a city council member; one member shall be a private developer; one member shall be a representative of the public utility; one member shall be a representative of Main Street-Cleveland; and four (4) members shall be from the community at large.

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(2) Compensation. Members of the board shall serve without compensation.

(3) Duties and responsibilities. The duties of the tree board shall include, but not be limited to, the following:

- (a) Develop and administer a master tree plan for the city subject to review by the city transportation director;
- (b) Develop and review, as necessary, recommend policies to carry out the intent of this chapter;
- (c) Assist in coordinating tree-related activities;

- (d) Coordinate publicity concerning trees and tree programs;
- (e) Conduct an Arbor Day ceremony;
- (f) Provide tree information to the community;
- (g) Maintain a recommended tree list for the community;
- (h) Recognize groups and individuals completing tree projects;
- (i) Coordinate donations of trees or money to purchase trees;
- (j) Hear citizen concerns regarding tree problems during scheduled meetings; and
- (k) Perform other tree-related duties and opportunities that arise from time to time.

(4) Operation. 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.

(5) Review by city council. The city council shall have the right to review the conduct and acts of the shade tree board. Any person may appeal from any ruling of the shade tree board to the city council who may hear the matter and make a final decision. Such appeal shall be made within ten (10) days after the ruling of the shade tree board and shall be filed in the office of the city clerk. An appeal shall stay the ruling of the shade tree board until a decision is made by the city council. (1981 Code, § 22.5-23, modified, as replaced by Ord. of Nov. 25, 1996)

20-504. Protection of existing trees. (1)(a) 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 filing an application and obtaining a permit.

(b) The forester shall issue the permits as are required by this chapter.

(c) The forester shall issue the permit provided for in this chapter if, in the forester's judgement, 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 manner described.

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(d) Applications. (i) Applications for permits must be made forty-eight hours in advance of the time the work is to be started.

(ii) Content. The application shall contain, but shall not be limited to the following:

(A) The number of trees and shrubs to be planted, and the location, variety and method of planting;

(B) The scope of work, including description of pruning, spraying, trimming, fertilizing, etc.;

(C) Assurance. The written agreement of each person who applies for such 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.

(iii) Applications for permits may be made by telephone.

(iv) Tree locations will be staked at urban foresters discretion.

(2)(a) All trees on public rights-of-way near any excavation or construction work shall be guarded with a substantial fence, frame, or box not more than 30 inches high and eight feet square, or a barrier a distance in feet from the tree equal to the distance of the trunk in inches at 4.5 feet above the ground, whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.

(b) No person shall excavate any tunnels, trenches, or lay any drive within a radius of ten feet from any public tree without first obtaining a permit.

(c) The provisions of this section shall not apply to utility companies, their agents, employees or subcontractors, providing the forester has participated in a preconstruction meeting, except to the extent that the forester judges it necessary to so regulate excavations within a radius of five feet from a public tree for such operations.

(d) Grade changes and trenching within the crown spread (ends of branches) of public trees should be conducted in such a way as to minimize root system damage. Owners of private trees are encouraged to consult the tree board before proceeding with these activities.

(3) As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical to maintain the ambience of our city.

(4) The public utility shall keep the board informed of all tree trimming activities of street trees and will advise them of all trees that must be removed before removal except in the case of emergency or special circumstances. (1981 Code, § 22.5-24, modified, as replaced by Ord. of Nov. 25, 1996)

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20-505. Tree maintenance. (1) Tree topping of all public trees is prohibited, except as the first stage of tree removal, and topping of private trees is strongly discouraged.

(2) Obstruction of view - Pruning. (a) It is the duty of any person owning or occupying real property on any street where there are trees or shrubs 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.

(b) The normal minimum clearance of any overhanging portion of trees shall be ten feet over sidewalks and fourteen feet over all streets, unless in the judgement of the urban forester and city transportation director, additional clearance is necessary for traffic safety, a higher

minimum may be required.

(3) Tree maintenance may include pruning, fertilizing, watering, insect and diseases control or other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk of hazard trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the tree board following the recommendation of the urban forester. Tree care may be accomplished by trained city personnel or by contract with qualified commercial tree care companies, under the direction of the urban forester.

(4) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information in a timely manner to residents about all aspects of tree care including the latest techniques and procedures currently being practiced.

(5) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the recognized methods. Where practicable, the utility shall undertake a program of replacing removed trees with appropriate replacement tree species or cultivars recommended by the urban forester.

(6) The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut (3-cut method) to prevent excessive peeling of the bark, followed by cutting the remaining stub.

(7) The tree board will recommend to the urban forester areas that need to be pruned along streets and sidewalks. (1981 Code, § 22.5-21, as replaced by Ord. of Nov. 25, 1996)

20-506. Tree removal. Dead, diseased, and dying trees that pose a safety or health risk to residents, utility lines, service lines or to other trees shall be removed in a timely manner. This section will apply to public trees.
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The urban forester will make the risk determination. The appropriate governmental department will be contacted with the recommendation that a tree be removed. All tree removal will be through the urban forester who may contract with the public utility for removal. (1981 Code, § 22.5-22, as replaced by Ord. of Nov. 25, 1996)

20-507. Planting and replacement. The city shall replace all public or street trees that require removal including, but not limited to, trees requiring removal by reason of disease or storm damage. If it is undesirable at the location of removal, then a new location for replanting will be determined by the tree board. Each tree removed must be replaced on a one-to-one basis. Spacing of trees shall be determined by the forester according to local conditions, the species, cultivars, or varieties used, their mature height, spread and form. Generally, all large trees shall be planted forty feet on-center; medium-sized trees shall be planted approximately thirty-five feet on-center; and all small

trees shall be planted approximately twenty-five feet on-center. No tree shall be planted closer than thirty feet from street intersections and no closer than fifteen feet from driveways and alleys and no closer than ten feet to utility poles and fire hydrants under normal circumstances.

(1) Size. Unless otherwise specified by the tree board, all medium to large cultivars and varieties shall comply with the American Association of Nurserymen standards and be at least one and one-fourth (1¼) to one and one-half (1½) inches in diameter six (6) inches above ground level, and at least eight (8) to ten (10) feet in height when planted. The crown shall be in good balance with the trunk. All small deciduous tree species and their cultivars or varieties shall be at least five (5) to six (6) feet or more in height and have six (6) or more branches.

(2) Tree removal to ground level is considered part of the tree removal process (0 to 6 inches from the soil is considered ground level). (1981 Code, § 22.5-27, as replaced by Ord. of Nov. 25, 1996)

20-508. Landmark tree. The shade tree board will compose a list of any public trees which qualify as a "landmark tree". A tree may qualify as a landmark tree at the determination of the city shade tree board. The tree board shall use criteria such as rarity, old age, association with a historical event or person, abnormality, or scenic enhancement. Private trees may also qualify as a "landmark tree" the request of landowner. The tree board shall keep a list of all landmark trees, both public and private. (1981 Code, § 22.5-28, as replaced by Ord. of Nov. 25, 1996)

20-509. Interference with municipal forester. No person shall hinder, prevent, delay, or interfere with the municipal forester or any of his assistants while they are engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing herein shall be construed as an 20-16

attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city. (as added by Ord. of Nov. 25, 1996)

20-510. Penalties. Any person violating this chapter shall be punished as provided for in the Code of Ordinances of the City of Cleveland. Each subsequent day that any violation continues unabated shall constitute a separate offense. (1981 Code, § 22.5-29, as replaced by Ord. of Nov. 25, 1996)