

ARTICLE II. TREES

Sec. 27-15. Injuring or damaging.

(a) No person shall in any public area of the city break, injure, mutilate, kill, or destroy any tree or shrub; permit any animal under his control to do so; permit any fire to injure any portion of any tree or shrub; or permit any toxic chemicals or materials to seep, drain, be emptied on, or otherwise enter into any tree or shrub.

(b) It shall be unlawful for any person to cut, damage, carve, transplant or remove any tree, or injure the bark of any tree located in a park, except for authorized city personnel in the performance of their duties.

(c) During building operations, commercial promotions, or public promotions, the builder or sponsor shall erect suitable protective barriers around public trees and shrubs that may be injured.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-16. Fastening materials.

No person shall fasten any sign, rope, wire or other materials to or around or through any trees or shrubs in any public area, except in emergencies such as storms or accidents.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-17. Planting in public alleys and utility easements.

It shall be unlawful to plant any tree or other woody plant material within any platted alley right-of-way or dedicated utility or walkway easement area within the city.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-18. Public utilities.

Public utility work affecting trees or shrubs, including cutting, trimming, pruning and the use of approved growth inhibitors, shall be limited to the actual necessities or protection of the services of the company, and such work shall be done in a professional manner and in accordance with proper arboricultural standards. Trees growing on private land, but encroaching public right-of-way or utility easements, may be trimmed for the protection of the services of the company.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-19. Planting permit.

No person shall plant a tree in a terrace area unless he has completed a planting permit application and paid the \$25.00 application fee at the parks and recreation office and has been issued a permit by the city parks and recreation director or his or her designee. Trees shall be subject to conditions of the permit.

Whenever a tree is planted in conflict with the provisions of the permit, it shall be lawful for the City Horticulturist to remove or cause removal of the tree. The cost of the removal of such tree may be charged to the property owner responsible for the planting.

(Ord. No. 14429, § 1, 6-14-1993, Ord. No. 14774, § 1, 10-24-2005)

Sec. 27-20. Certain species prohibited.

(a) It shall be unlawful to plant any of the following plant species on or adjacent to any street, terrace, avenue or highway in the city:

- (1) All evergreen trees and shrub species except those with a mature height of 12 inches or less.
- (2) All deciduous shrubs.
- (3) All Poplars (*Populus* spp.), including but not restricted to Cottonwood, White Poplar, Lombardy Poplar, and hybrids thereof.
- (4) Sycamore (*Platanus* spp.) and all cultivars.
- (5) Silver Maple (*Acer saccharinum*) and all cultivars.

- (6) Honey Locust (*Gleditsia triacanthos*) and all cultivars.
- (7) Catalpa (*Catalpa speciosa*).
- (8) Pin Oak (*Quercus palustris*).
- (9) Box Elder (*Acer negundo*).
- (10) Birch (*Betula* spp.).
- (11) Russian Olive (*Elaeagnus angustifolia*).
- (12) Female Ginkgo (*Ginkgo biloba*).
- (13) Willow (*Salix* spp.).
- (14) Oriental Elms (*Ulmus pumila* and *U. parvifolia*).
- (15) Red Mulberry, White Mulberry (*Morus rubra* and *Morus alba*).
- (16) Crab Apples, with exception of Spring Snow or male sterile varieties.
- (17) Hackberry (*Celtis occidentalis*)
- (18) Black Maple (*Acer Nigrum*)
- (19) Male Ginkgo (*Ginkgo biloba*)
- (20) Purple Leaf Plum (*Prunus cerasifera*)
- (21) Bradford Pear (*Pyrus calleryana* 'Bradford')

(b) The city council may issue a special decorative planting permit for planting evergreen and deciduous shrubs with a mature height greater than 12 inches within the terrace area for decorative purposes. Each request will be reviewed upon its own merits, and the proposed plantings at mature height shall not interfere with pedestrian and vehicular safety or the free use of the street or sidewalk.

(c) It shall also be unlawful to plant any tree species that bears fruit, except for male sterile varieties, on a city terrace or on private property in a location where the tree will overhang a sidewalk.

(d) Any plant species prohibited by this section, but in place on the effective date of Ordinance No. 14429, need not be removed by virtue of its mere existence unless interference with other sections of this chapter so requires.

(e) The following tree species are recommended for planting in public right-of-way areas in the city:

TERRACE AREA EIGHT FEET OR MORE IN WIDTH

Species	Spread (in feet)
Basswood/ Linden (<i>Tilia</i> spp.)	35 to 50
Kentucky Coffeetree (<i>Gymnocladus dioicus</i>)	40 to 50
White Oak (<i>Quercus alba</i>)	50 to 60
Bur Oak (<i>Quercus macrocarpa</i>)	50 to 60
Swamp White Oak (<i>Quercus bicolor</i>)	50
Northern Red Oak (<i>Quercus rubra</i>)	50
Sugar Maple (<i>Acer saccharum</i>)	40 to 50
White Ash (<i>Fraxinus americana</i>) and cultivars	50
Green Ash (<i>fraxinus pennsylvanica lanceolata</i>)	35 to 55

TERRACE AREA LESS THAN EIGHT FEET IN WIDTH OR WHERE UTILITIES ARE LOCATED

Species	Spread (in feet)
Amur Maple-tree (<i>Acer ginnala</i>)	15 to 20
Japanese Tree Lilac (<i>Syringa amurensis japonica</i>)	10
Tatarian Maple (<i>Acer tataricum</i>)	15
American Hophornbeam (<i>Ostrya virginiana</i>)	25

(Ord. No. 14429, § 1, 6-14-1993, Ord. No. 14774, § 2, 10-24-2005)

Sec. 27-21. Spacing and placement in terrace areas.

(a) All trees planted on or adjacent to any street, highway, terrace or avenue in the city shall be planted in a location that is midway between the outer line of the sidewalk and the curb where the curb line is established or midway between the proposed sidewalk and designed curb locations as established

by the director of public works/city engineer where no sidewalk or curb is established. No tree shall be planted nearer than three feet to the curb or outer sidewalk line. On terraces 14 feet wide or greater, trees shall be planted seven feet from the outside edge of the sidewalk.

(b) Trees planted on or adjacent to a highway shall be planted ten feet back from the back of the curb line. Other special considerations do exist and a special permit must be secured from the state department of transportation; contact the local state department of transportation engineer. Tree spacing for trees included in the listing of recommended tree for terrace areas less than eight feet in width as specified under section 27-20 shall be planted no closer than 20 feet from one another nor closer than 30 feet to a large tree. Large trees such as those listed in the recommended tree species for terrace areas of eight feet or more in width shall be planted no closer than 40 feet from one another. Trees shall be planted no closer to a utility pole than a distance equal to the mature spread of the tree species being planted.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-22. Planting distance from street intersections and from driveways.

No tree shall be planted closer than 30 feet to a street intersection. No tree shall be planted closer than ten feet to a driveway or alley in residential terrace areas of the city. Spacing of trees from commercial driveways shall be judged on an individual basis.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-23. Location of underground utilities.

Before any digging is done in terrace areas, all underground utilities shall be located by the proper utility service companies, in particular mechanical diggers. Call 1-800-292-8989, 48 hours before planting to verify all underground utilities located in the terrace area by the proper utility companies.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-24. Unauthorized trimming prohibited; permit required.

It shall be unlawful to trim or cut in any manner, other than that otherwise allowed in this article, any tree on any terrace, street, avenue, and highway or in any public place in the city without the person receiving a permit from the parks and recreation office. Property owners, agents, or occupants may trim limbs or branches not exceeding six inches in diameter from trees on terrace areas adjacent to their property without a written permit. Such cutting or trimming shall conform to the arboricultural specifications and standards of practice adopted by the city horticulturist.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-25. Trimming and removal of terrace trees.

(a) The city shall be responsible for removing dead or diseased trees from all public areas within the city. The abutting property owner, agent, or occupant shall be responsible for trimming and maintaining the trees on the terrace abutting their property. Trees shall be so trimmed that the overhanging branches shall be at least 15 feet above the surface of the street and at least ten feet above the surface of the sidewalk so as not to interfere with the street lighting or the free and safe use of the street and sidewalk by the public, taking into consideration tree maturity and size. Branches or limbs over six inches in diameter or trees on terrace areas shall only be removed by the city, a public service company, or a person or firm licensed under section 27-28 upon a permit issued by the parks and recreation director. No permit shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors.

(b) The city may serve notice as per section 27-27 to the abutting property owner, agent or occupant to trim or otherwise maintain the trees on the abutting terrace or remove trees, other than dead or diseased trees, that are not in compliance with the provisions of this article. If the abutting property owner, agent, or occupant does not perform the required action required within a reasonable time, the city may perform the required action and assess the costs against the abutting property as per section 27-27.

(c) The city shall have the authority to trim or remove any tree, shrub, or other plant material planted on any city terrace for noncompliance of this article. This work shall be done at city expense if notice is not given to the abutting property owner.
(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-26. Removal and trimming on private property.

(a) The property owner, agent, or occupant of any lot or parcel of land shall keep the trees on his property so trimmed that the overhanging branches shall be at least 15 feet above the surface of the street and at least eight feet above the surface of the sidewalk so as not to interfere with the street lighting or the free and safe use of the street and sidewalk by the public and shall be kept free of dead limbs and branches, taking into consideration the tree maturity and size.

(b) Trees, branches, or limbs over 12 inches in diameter on private property shall only be removed by a person or firm licensed under section 27-28 unless the tree canopy is inside the property. A licensed, bonded tree firm or person should do felling of all trees on private property.

(c) The city shall have the right to trim or prune any tree or shrub on private property without notice when it overhangs public property and interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign. The city may serve notice on the abutting property owner as per section 27-27 to remedy the situation and assess the cost to the property.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-27. Notice and assessment of costs to property owners.

(a) If the property owner does not perform an action required under this article within a reasonable time after notice, the city may perform the required action and assess the costs against the property for collection in the same manner as a property tax. Notice may be by certified mail or other service to the address of the property owner as well as the occupant of the premises as shown by the records of the county auditor and shall state the time within which action is required.

(b) In an emergency, the city may perform any action which may be required under this article without prior notice if it is deemed an imminent hazard to the safety and well-being of the public and assess the costs as provided in this section after notice to the property owner and hearing. All action taken by the city without notice to the property owner is done at city expense and shall not be assessed to the property owner.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-28. Tree trimming license required.

(a) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street, park, or private trees within the city without first applying for and procuring a license from the city clerk. The license fee shall be \$25.00 annually in advance. However, a license shall not be required of any public service utility company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000.00 for personal injury and \$100,000.00 for property damage, indemnifying the city or any person injured or damage resulting from the pursuit of such endeavors as described in this section and of worker's compensation coverage for all employees in the form of a certificate of such coverage which shall be filed with the city clerk.

(b) The license shall be further conditioned upon the permittee complying with all the pertinent sections of this Code and other city ordinances relating to or in any way connected with the work to be done or contemplated to be done under such license including the payment of all fines against the licensee, his or her servants, agents, employees or subcontractors in connection with work done or contemplated under such permit.

(Ord. No. 14429, § 1, 6-14-1993; Ord. No. 14609, § 18, 12-30-1998)

Sec. 27-29. Barricades and other protective devices required when trimming or removing.

When necessary for the protection of the public, guards, barricades or other protective devices or warnings shall be maintained on any sidewalk, street or other public places where trees are being trimmed or removed. Barricades and other protective devices shall meet the standards set forth by the public works department. Traffic on any street shall not be barricaded without first obtaining permission therefore from the public works department and notifying the fire department, police department, and the ambulance service of the closing and again when the street is reopened.

(Ord. No. 14429, § 1, 6-14-1993)

Sec. 27-30. Penalties.

Violation of any section of this article shall be deemed to be a municipal infraction.

(Ord. No. 14429, § 1, 6-14-1993)