

Chapter 40 – Rights of Way, Street Trees, Vegetation Management

3:11. - Definitions.

The following definitions shall be applicable in the interpretation of this chapter:

1. **“ROW:”** The City right of way, which is the public street with its curbs and gutters, the Sidewalk Buffer Strip, the sidewalk and/or the “Road Edge” on property owned or controlled by the City.
2. **“Sidewalk Buffer Strip:”** The typical portion of any ROW (if not paved or intended for traffic) that extends between the back of the curb and the public sidewalk.
3. **“Road Edge:”** The portion of any ROW (if not paved or intended for traffic) that extends from the edge of the road surface to the private property line when no sidewalk or Sidewalk Buffer Strip has been developed.
4. **"City Administrator":** The City Administrator or designees.
5. **“AASHTO Standards:”** The most recent policy determinations of the American Association of State Highway Transportation Officials regarding site distance views and safety standards, which are reflected in the Public Services Department Standard Design Specifications for roads and rights of way.
6. **“Street Trees:”** Trees planted or growing on the Sidewalk Buffer Strip or on the Road Edge if no sidewalk.
7. **"Mowed Grass:”** The typical ground cover planted on Sidewalk Buffer Strips and/or Road Edges, usually composed of a bluegrass, a fescue or a ryegrass or their blends which is regularly mowed.
8. **"Cultivated herbaceous plants":** Vegetation such as prairie grasses and forbs, no-mow grasses, or other perennials intentionally installed and maintained on private property or the ROW.

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9. “Natural Habitat:” For occupied residential properties only, an area which is being actively protected, maintained, or cultivated for a use as a wildflower garden, wildlife habitat, native plant landscape, meadow, vegetable, ornamental or herb garden.

(Ord. No. 43-04, § 17, 1-3-05; Ord. No. 19-05, § 1, 5-16-05; Ord. No. 15-09, § 1, 10-5-15)

3:12. - Permit for Tree Planting, Maintenance or Removal on an ROW.

The City Administrator shall have sole authority over planting, maintenance, and removal of **Street Trees**, and shall have authority over any other City or private property on an ROW. No person shall, without written permission of the City Administrator or as he/she directs plant, remove, break, spray or take any action which may injure or destroy a **Street Tree**, the base of which is on the ROW.

(Ord. No. 43-04, § 17, 1-3-05; Ord. No. 19-05, § 2, 5-16-05)

3:13. – Corners, Curves Driveways and other Clearances.

1. Vegetation on the ROW and adjacent private property at intersections, on curves, and near crosswalks, bus stops, and driveway aprons shall be reasonably maintained to allow for adequate sight distances.
2. Those distances require a “triangle” of vision related to the ability of a driver in a typical motor vehicle to reasonably see other vehicles and pedestrians. The length of the triangle along a road varies with the volume and speed of traffic and with the horizontal and vertical geometry of each situation.
3. In general, vegetation that cannot be seen through (fully opaque) shall not be allowed to grow taller than 24” wherever there is a sight distance safety issue. Woody plants that are fully opaque above 24 inches or below 8 feet during any part of the year shall not be grown in a sight distance triangle. Those plants must allow some vision

through them, the amount depending upon the type of road and particular situation.

4. This regulation applies to plantings on adjacent private property, including at the corners of driveways and sidewalks.
5. Trees and other vegetation on the ROW and on adjacent private property shall be maintained so that no parts of any plant intrude into or within an 8 foot vertical space above a public sidewalk or into and below a 12 foot vertical space above a road surface.

(Ord. No. 19-05, § 3, 5-16-05; Ord. No. 15-09, § 2, 10-5-15)

3:14. – Sidewalk Buffer Strip and City ROW Maintenance

1. The property owner of land abutting a ROW is responsible for the maintenance of the Sidewalk Buffer Strip, the Sidewalk, and the Road Edge. This includes the watering of plantings including Street Trees so that soil is not bare, the mowing of grass, the deadheading of perennials, the removal of leaves from street gutter and catch basins, the Sidewalk Buffer Strip (if Mowed Grass) and the Sidewalk when any of these conditions are present, and the clearing of snow and ice from the sidewalk in Winter (Chapter 4:60 of the City Code).
2. Mowed Grass shall not be allowed to grow taller than 6 inches on a Sidewalk Buffer Strip.
3. Property owners and their contractors are not permitted to blow or deposit leaves, grass clippings or any other debris onto the street or gutter or leave them on a sidewalk.
4. Cultivated Herbaceous Plants may be grown up to 36" in height, if not fully opaque above 24," if they are not in a sight distance triangle safety area on the ROW or on adjacent private property.
5. Woody plants are permitted on a Sidewalk Buffer Strip or more often on a Road Edge, provided they are not a safety issue in regard to sight distances.

6. No plants which appear on the City's Invasive Species List shall be planted or allowed to produce seed or fruit on an ROW, including the Road Edge, if any.
7. The City shall not be liable for damage to any vegetation planted, or to any property or fixtures placed within the ROW that results from work performed by the City, by its contractors, or by utility companies on a ROW. The City will only restore disturbed areas to Mowed Grass, and replace Street Trees as necessary.
8. No retaining walls shall be placed upon the ROW without written permission of the City Administrator.
9. The City shall endeavor as much as possible, in non-emergency circumstances, to advise abutting property owners of anticipated work on their adjacent Sidewalk Buffer Strip, Sidewalk or Road Edge.
10. Automatic water valves for irrigation zones installed on the Sidewalk Buffer Strip must be located on the property owner's private property, at least 5 feet away from the ROW. The City will not repair irrigation lines and fixtures if damaged. It will not pay for water losses property owners may incur for improperly controlled irrigation systems.

(Ord. No. 43-04, § 17, 1-3-05; Ord. No. 19-05, § 4, 5-16-05; Ord. No. 15-09, § 3, 10-5-15)

3:16. - Vegetation on private property.

1. Trees, hedges, bushes and other plantings on private property shall be maintained so that they do not present a bona fide danger or nuisance to persons or vehicles on any part of their adjacent ROW or to a neighbor's adjoining property, nor shall they violate safety provisions of this Chapter.
2. In determining whether an area is in violation of Section 3:16.1, the City shall consider the following factors:
 - a. Evidence of neglect or abandonment.
 - b. Presence of trash, debris, litter, or garbage.

- c. The impact on neighboring properties specifically as it pertains to encroachment of vegetation on neighboring properties or into a sidewalk or roadway.
 - d. The unmanaged presence of invasive or poisonous plants or noxious weeds.
 - e. There is bona fide sight distance safety issue.
3. Mowed grass may not be permitted to grow more than 12" tall.
4. Property owners are encouraged to remove invasive species and noxious weeds.

(Ord. No. 43-04, § 17, 1-3-05; Ord. No. 19-05, § 5, 5-16-05; Ord. No. 15-09, § 4, 10-5-15)

3:17. – Natural Habitats

1. The City Administrator shall maintain a list of properties where owners are managing their landscape and/or Road Edge or Sidewalk Buffer Strip as Natural Habitat and are maintaining a non-lawn landscape in whole or in part on public or private property.
2. Provision shall be provided for property owners to register their Natural Habitat with the City. As the City Administrator becomes aware of such properties in their course of business, those properties shall be registered on the list, if not already.
3. Natural Habitats must not create a fire hazard, or any substantial or unreasonable interference with the use and enjoyment of a neighboring property. They must otherwise comply with sight distance safety standards.
4. A prescribed burn permit must be obtained from the City Administrator to conduct fire management on a property. Those activities may only be performed by a company that has trained, equipped, and insured personnel to do such work.
5. Invasive species are not considered acceptable elements of a Natural Habitat.

6. Property owners are encouraged to reduce areas of lawn not actively used for sports, to reduce the use of pesticides on lawns, and to restore elements of local native ecosystems to the extent possible.

(New, Un-numbered in Code) Education and Enforcement.

1. If private property or a ROW is not maintained as required by this Chapter, the City Administrator will both issue a door hanger and send a letter to the property owner of record informing them of an issue.
2. The notice and letter will:
 - a. Give a description and photograph of the issue.
 - b. Include an active link to the City's website where this Chapter can be found.
 - c. Specify the remedy to be made.
 - d. Indicate a date by which the remedy should be made.
 - e. Give full contact information for the City Administrator's specific designee working on the issue.
 - f. Indicate a willingness of the City Administrator's designee to talk on the phone or meet in person about this issue.
 - g. Indicate how the matter may be appealed.
3. The City Administrator's designee will check the Natural Habitat List to see if the property owner is registered. He or she will be qualified to make well informed assessments about the requirements of this Chapter and of Natural Habitats.
4. The City Administrator will meet as soon as possible with a property owner to discuss the matter, if requested. He or she may alter the deadline for compliance at that meeting.

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5. If the property owner does not respond or make the correction within the stipulated times, the City Administrator will send a formal Notice of Violation via registered US Mail to the property owner demanding that the correction be made with 15 days of the mailing of the Notice.
6. If there is an urgent and bona fide safety issue threatening the safety of people on an ROW or on a neighboring property, the City Administrator shall make immediate, all due effort to contact the property owner by telephone, requesting prompt remedy of the problem.
7. If the property owner does not respond and cannot be contacted to respond to a bona fide safety issue or does not finally respond to a non-urgent Notice of Violation in the time allowed, the City will take action to remedy the situation in manner and at a time it chooses.
8. The cost to the City in bringing a violation into compliance shall be charged to the property owner.
9. The actual costs will be charged plus a \$50.00 administration fee, if the City must take action to correct a violation. If this amount is not paid within 45 days, it shall become a special assessment against the property, as provided in Section 1:92 of City Code.

(Ord. No. 19-05, § 6, 5-16-05; Ord. No. 15-09, § 5, 10-5-15)

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3:18. - Financial hardship.

Under proof of financial hardship, the City Administrator may authorize charges under [section 3:17](#) to be paid in installments or to be reduced. This action is subject to Council approval.

3:19. - Penalties.

The owner (as shown on the assessor's records) of private property subject to this chapter is responsible for compliance. Each violation of this chapter shall be a civil infraction punishable by a civil fine of up to \$1,000.00, plus costs and all other remedies available by statute. Violation of this chapter shall be punishable by a civil fine of not less than \$100.00 for the first offense, not less than \$250.00 for the second offense, and not less than \$500.00 for each additional or subsequent offense within a 2-year period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed \$1,000.00. Each day of violation shall be a separate violation. If the penalty is not paid within 45 days, it shall be a special assessment against the property as provided in [Section 1:292 of this Code](#).

(Ord. No. 19-05, § 7, 5-16-05)