

## **Chapter 40 TREES AND OTHER VEGETATION**

### **3:11. Definitions.**

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

- (1) "City right-of-way": The lawn extension and sidewalk adjacent to a property within the street right-of-way as well as the street, curb to curb.
- (2) "Lawn extension": The portion of any street right-of-way that is not paved or intended for traffic.
- (3) "City Administrator": The City Administrator or her/his designees.
- (4) "Cultivated herbaceous plants": Cultivated herbaceous plants are those such as native prairie grasses and forbs, and ornamental perennials including grasses—which are intentionally installed and cared for.

(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. Permits for tree planting care or removal.**

The City Administrator shall have the sole authority over the planting, maintenance and removal of trees in the street right-of-way and other city property. No person without written permission of the City Administrator shall plant, remove, break, spray or take any action which will injure or destroy any tree or shrub, the base of which is located in the street right-of-way or other city land.

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

### **3:13. Private grounds.**

No tree or other vegetation which by virtue of disease, damage or insect infestation presents a hazard to persons or vegetation on public property shall be maintained on private property.

### **3:14. Trimming and corner clearance.**

- (1) Trees and other vegetation on private property shall be maintained so that no part thereof intrudes upon street or sidewalk in the space 8 feet above the surface of the right-of-way.
- (2) Vegetation adjacent to intersections shall be maintained to allow for adequate sight distance based on the criteria in the AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets, 5th Edition (2005), or as subsequently amended.

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

### **3:15. Lawn extension and city right-of-way.**

The owner of every parcel of land is responsible for grading, planting, mowing and raking the lawn extension in the city right-of-way so that it is covered at least with grass with a height not in excess of 12 inches or with other cultivated herbaceous plants with a foliage height not in excess of 36 inches above the adjacent sidewalk or ground surface except at intersections and along curves, where vegetation must also not present a view hazard based on the criteria in the AASHTO (American Association of State Highway Transportation Officials) Policy on Geometric Design of Highways and Streets, 5th Edition (2005), or as subsequently amended. Flower tops of plants may extend as high as 42 inches, provided viewlines are not obstructed.

Vegetation planted at mid-block crosswalks, bus stops or on pedestrian islands must not exceed a maximum height of 24 inches when blooming. The vegetation must be maintained to ensure an unaccompanied minor, a person in a wheelchair and a person walking a bike can be adequately visible to a driver, based on the AASHTO policy (ref. above).

The city shall not be liable for damage to any vegetation planted, or to any property or fixtures placed, in or upon the city right-of-way that results from work performed by the city in the lawn extension or right-of-way.

(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.**

On private property, outside of a cultivated bed or planned natural landscape, no vegetation shall be permitted at a height greater than 12 inches. Trees, bushes and other woody plants on private property shall be maintained so that no part thereof is obstructing or blocking the sidewalk or the street, and must be trimmed in order to allow 8 feet of clearance for streets and sidewalks. Cultivated herbaceous plants on private property shall not intrude into the right of way in such a manner as to create a hazard for pedestrians and others using the sidewalk.

(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. Enforcement.**

If private property or city right-of-way is not maintained as required by this chapter, the city administrator may have the work done to bring the property lawn extension or city right-of-way into compliance. The notice provided for enforcement of sections 3:14, 3:15 and 3:16 shall be sent to the address of the owner as shown on the assessor's records at least 3 days prior to commencing the work. In the case of an immediate hazard to public safety no prior notice shall be necessary. The actual costs of the work needed to bring the property, lawn extension or city right-of-way into compliance, plus an administration fee of \$50.00 shall be billed to the owner. If this amount 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, § 6, 5-16-05; Ord. No. 15-09, § 5, 10-5-15)

### **3:18. Financial hardship.**

Under proof of financial hardship, the Administrator may authorize charges under section 3:17 to be paid in installments or to be reduced and will be 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)