

## CHAPTER 17. TREES

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### 8-17-1. Purpose.

To enhance the quality of life and the present and future health, safety, and welfare of all Tooele City residents, businesses, and visitors, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

(Ord. 2021-38, 11-17-2021)

### 8-17-2. Definitions.

As used in this Chapter, the following words and phrases shall have the meanings indicated:

**Damage** - any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or, any trauma caused by accident or collision.

**Nuisance** - any tree, or limb thereof, that: has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or, threatens the public health, safety, and welfare.

**Park strip** - the area along a public street between the curb and the sidewalk; or, if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

**Public property** - all grounds and rights-of-way (ROWs) owned or maintained by the City.

**Public tree** - any tree or woody vegetation on city-owned or city-maintained property or rights-of-way, including the park strip.

**Top or Topping** - the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(Ord. 2021-38, 11-17-2021)

### 8-17-3. Authority and power.

(1) Delegation of authority and responsibility. Under the supervision of the Mayor, the Director of the Department of Parks and Recreation, and/or their authorized designee, hereinafter referred to as the "Director", shall have full authority and responsibility to plant, prune, maintain, and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas utility facilities, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

(2) Coordination among city departments. All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Chapter as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Director.

(3) Interference. No person shall hinder, prevent, delay, or interfere with the Director or agents while engaged in carrying out the execution or enforcement of this Chapter.

(Ord. 2021-38, 11-17-2021)

### 8-17-4. Tree advisory board.

There is hereby created a Tree Advisory Board, hereinafter referred to as the "Board."

(1) Duties. The Board shall act in an advisory capacity to the Director and shall:

(a) Coordinate and promote Arbor Day activities;

(b) Review, update, and recommend a five-year plan to plant and maintain trees on city property;

(c) Support public awareness and education programs relating to trees;

(d) Review city department concerns relating to tree care;

(e) Submit an annual report of

its activities to the Director, who shall submit the report to the Mayor;

(f) Assist with the annual application to renew the Tree City USA designation;

(g) Recommend a list of tree species for planting on city property, with a particular list of tree species for planting in the park strips, and a list of prohibited species; and,

(h) Other duties that may be assigned by the Director.

(2) Membership. The Board shall consist of seven members approved by Mayor with the consent of the City Council. Members of the Board are volunteers and will serve without compensation.

(3) Term of office. Board members shall be appointed for three-year staggered terms. If a vacancy occurs during the term of any member, a successor shall be appointed.

(4) Officers. The Board shall annually select one of its members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.

(5) Meetings. The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed. The Board is not a public body for purposes of the Utah Open Meetings Act.

(6) Council liaison. The City Council may select one of its own members to attend and participate in Board meetings as a Board liaison to the Council, but who is not a member of the Board.

(Ord. 2021-38, 11-17-2021)

#### **8-17-5. Tree planting and care standards.**

(1) Standards. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(2) Requirements of franchise utility companies. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards and shall avoid tree damage and topping.

(3) Preferred species list. The Director shall maintain an official list of desirable tree species for planting on public property, including particularly park strips, in two size classes:

(a) Ornamental (20 feet or less in height at maturity); and,

(b) Shade (greater than 20 feet at maturity).

(November 22, 2021)

Trees from this approved list may be planted without special permission. Other species may be planted with written approval from the Director upon a written demonstration of species appropriateness given root depth and shape, canopy height and width, mature trunk diameter, and other factors.

(4) Planting distances. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant.

(5) Planting trees under overhead electric and communication utility lines. Only trees listed as Ornamental trees on the official city tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

(Ord. 2021-38, 11-17-2021)

#### **8-17-6. Prohibition against harming public trees.**

(1) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

(2) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.

(3) It shall be unlawful for any person, firm, or corporation to "top" any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical, may be exempted from this provision at the determination of the Director.

(4) Any person, firm, corporation, or city department performing construction near any public tree shall consult with the Director and shall employ appropriate measures to protect the tree, according to procedures contained in the Best Management Practices (BMPs) for "Managing Trees During Construction" published by the International Society of Arboriculture.

(5) Each violation of this section as determined and notified by the Director shall constitute a separate civil violation, punishable by civil penalties under Section 10, in addition to mitigation values placed on the trees removed or damaged in violation of this Section.

(Ord. 2021-38, 11-17-2021)

#### **8-17-7. Adjacent owner responsibility.**

(1) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent park strip area, selected from the city's approved species list.

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(2) No owner of land adjacent to any city street or highway shall allow a park strip tree, or other plant growing on his or her property, to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

(3) Trees located in the ROW park strips are owned by Tooele City. Property owners shall be responsible to maintain and prune all trees in the park strips adjacent to the property, and may not remove a park strip tree without the written permission of the Director.

(4) No owner of land shall allow a tree or planting on the owner's land to obstruct or interfere with pedestrians on the public sidewalk or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work to clear the obstruction and charge the cost to the property owner.

(Ord. 2021-38, 11-17-2021)

**8-17-8. Certain trees declared a nuisance.**

(1) Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect, to be dead or dying, to obstruct the view of traffic signs or the free passage of pedestrians or vehicles, or that threatens public health, safety, and welfare, is declared a nuisance and the City may require its treatment or removal, including through the nuisance abatement process contained in Chapter 4 of this Title.

(2) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period.

(Ord. 2021-38, 11-17-2021)

**8-17-9. Violations and penalty.**

Any person or business entity violating any provision of this Ordinance shall be deemed guilty of a civil offense and shall be subject to a civil penalty of \$100 for a first offense and \$250 for a second or subsequent offense.

(Ord. 2021-38, 11-17-2021)

**8-17-10. Appeals.**

(November 22, 2021)

(1) Appeals of decisions made by the Director pursuant to this Chapter, or of penalties imposed after violations of this Chapter, shall be heard by the Mayor.

(2) Appeals shall be submitted to the Mayor's office in writing, setting forth the basis of the appeal, and shall be submitted within 15 days of the date of notice of the Director's decision or of the violation.

(Ord. 2021-38, 11-17-2021)

**8-17-11. Funding Appropriations.**

The Mayor shall include in the annual fiscal year budget a line item sufficient for carrying out the purposes and program contained in this Chapter, and sufficient for satisfying the requirements of being a Tree City USA community. The budget shall be subject to City Council approval.

(Ord. 2021-38, 11-17-2021)

**8-17-12. Savings and repeal.**

All ordinances or parts of ordinances in conflict with this Chapter are hereby repealed to the extent of the conflict.

(Ord. 2021-38, 11-17-2021)

**8-17-13. Severability.**

Should any word, sentence, clause, paragraph, or provision of this Chapter be held to be invalid or unconstitutional, the remaining provisions of this Chapter shall remain in full force and effect.

(Ord. 2021-38, 11-17-2021)