

Chapter 912 TREES AND SHRUBS; COLUMBUS TREE SUBCOMMISSION

912.00 Purpose and Intent.

This chapter establishes policies and standards necessary to protect, maintain, and grow Columbus' public trees, a critical part of the city's infrastructure. This chapter regulates trees on public property but recognizes that trees on private property are part of Columbus' collective urban forest.

The intent of this chapter is to protect, preserve, and grow Columbus' public tree canopy and support its management by:

(A) Recognizing trees and the urban forest as a valuable and necessary city asset which is treated as an equal utility and service to the public.

(B) Establishing and enforcing standards to properly plant, maintain, and protect public trees and maximize the benefits the urban forest provides to Columbus, including:

- filtering pollution from the air.
- sequestering carbon dioxide.
- absorbing and filtering pollution from stormwater run-off.
- producing oxygen.
- reducing flooding.
- stabilizing soils and reducing erosion.
- cooling the environment and helping reduce urban heat island impacts.
- reducing energy consumption by shielding structures from harsh winds and sun.
- providing a buffer and screen against noise, light, and pollution.
- improving property values.
- improving commercial district buyer traffic.
- lowering crime rates.
- improving community interaction.
- providing habitat for birds and other wildlife.
- protecting and enhancing quality of life.

(C) Recognizing that some trees may have a condition or risk rating that may endanger or be a nuisance to the public or property within the city of Columbus or may put at risk the health of other trees and vegetation.

912.01 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein:

(A) "Caliper" means the diameter of a tree that is measured at six inches (15 cm) above ground level for trees up to four-inch caliper and 12 inches above ground level for larger sizes. This measurement is commonly used in the nursery industry to measure tree planting stock.

(B) "Certified Arborist" means an individual trained in the art and science of planting, caring for, and maintaining trees that has been certified by the International Society of Arboriculture.

(C) "Critical Root Zone (CRZ)" means the area of soil extending from the tree trunk in which roots required for future tree health and survival are located. This area is defined as a circle with a minimum radius of 1.5 feet for every 1 inch in Diameter at Standard Height (DSH).

- (D) "Damage" means the impact or loss to any tree including, but not limited to, removal, root cutting, root removal, girdling, soil compaction, soil contamination, topping, pruning more than 20% of the tree's canopy, bark removal, poisoning and/or actions contributing to the decline or death of a tree.
 - (E) "Department" means the recreation and parks department of the city of Columbus.
 - (F) "Diameter at standard height (DSH)" means the diameter of a tree measured at 4.5 feet above the existing grade.
 - (G) "Director" means the director of the recreation and parks department of the city, or any representative the director so designates.
 - (H) "Girdling" means the deliberate act of removing a continuous ring of bark and underlying tissues from the circumference of a tree trunk, resulting in the interruption of the flow of water, nutrients, and carbohydrates between the roots and the canopy.
 - (I) "Nuisance Tree(s)" means tree(s) that may negatively impact other trees, people, or structures. This would include, but is not limited to, trees that are diseased, infested, structurally unsound, known invasive species, or trees on the prohibited species list maintained by the department.
 - (J) "Occupant" means the person or persons who are from time to time in possession of any house or other structure located on private property, or who are exercising dominion or control over any house or other structure located on private property.
 - (K) "Other plants" means all other vegetation not trees or shrubs.
 - (L) "Park" means all city parks, parklands, or waterways, as well as all other areas out granted or under lease, license, written or concession agreement.
 - (M) "Person" means any individual, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious, government or charitable organization, or any owner, or other legal entity.
 - (N) "Plant material" means all trees, shrubs, and other plants.
 - (O) "Private property" means all real estate within the city of Columbus except real estate that is owned, leased, controlled, or occupied by the United States government, state of Ohio, County governments, city of Columbus, or any department or agency thereof.
 - (P) "Property owner" shall be presumed to be any one or more of the following:
 - (1) The property owner or owners in fee simple of a parcel of real estate including the life tenant or tenants, if any; or
 - (2) The record owner or owners as reflected by the current records in the Franklin or applicable County auditor's office; or
 - (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
 - (Q) "Public place" means all other ground owned or controlled by the city that is not part of a "public street" or "park".
 - (R) "Public street" means the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular traffic. For the purposes of this chapter, public street includes the right-of-way.
 - (S) "Public tree" means any tree growing on land owned by the city including lands defined as "public place", "public street", or "park."
 - (T) "Right of way" means a general term denoting land, property, or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. Right of way includes
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- the roadway, shoulders or berm, ditch and slopes extending to the right-of-way limits under the control of the federal, state, or local authority.
- (U) "Topping (top)" means an unacceptable method of pruning that alters the tree's natural shape by the cutting back of whole tops or large limbs, leaving stubs or natural branches that are too small to assume the role of terminal growth.
 - (V) "Trees" when used by itself, means any woody plant which generally includes those having a single main stem which grows to a mature height of over ten (10) feet. Trees include both deciduous and evergreen species.
 - (W) "Trees and shrubs" when used together means all woody vegetation including but not limited to all ground covers.
 - (X) "Tree Protection Zone (TPZ)" means the portion of the Critical Root Zone that must be protected during construction, as set forth in rules and regulations promulgated by the Director.
 - (Y) "Waterways" means all city-controlled water including, but not limited to, reservoir lands, rivers, lakes, creeks, streams, ponds, fountains, and water-filled quarries.
 - (Z) "Young tree care" means any maintenance undertaken during the first five years after the tree is planted, including but not limited to watering, mulching, fertilizing, and pruning.

912.02 - Applicability.

The provisions of this chapter shall apply to all trees owned or under the control of the city except as otherwise specifically provided. The provisions of this chapter do not apply to city-owned property eligible for coverage under a Land Stewardship Agreement entered into between the Department of Public Utilities and a private property owner pursuant to chapter 1117 of the Columbus City Codes.

912.03 Administration and Enforcement.

- (A) The Director shall have authority, custody, and control for the care, planting, and removal of trees and shrubs planted or to be planted in or on public streets, parks, and public places.
- (B) The Director may issue permits and promulgate rules and regulations, including the establishment of fees, for public tree care, planting, removal, protection, and mitigation, and the issuance of notices of violation, as necessary to administer the provisions of this chapter.
- (C) The Director shall have authority to plant, prune, spray, remove, and otherwise maintain such trees and shrubs in the public streets, public places, and parks.
- (D) The Director may declare any vertebrate or invertebrate animal, plant pathogen, or plant that threatens to cause significant damage to Columbus' trees and urban forest a tree pest and prescribe control measures to eradicate, control, or manage the tree pest, including necessary timelines for action.
- (E) The provisions of this chapter shall be administered and enforced by the Director. It shall be the duty of the Director to inspect or examine any street, park, or public place and order the remedy of any conditions found in violation of this chapter.
- (F) Policies, rules, and regulations may be established, amended, and revised by the Director to control tree planting, pruning, cabling, spraying, root cutting, and other work on or near public trees by contractors, abutting property owners, and/or others. The Director may promulgate rules and regulations, as they deem appropriate from time to time, to carry out the express purposes and intent of this chapter. The Director shall promulgate rules and regulations by filing the same with the city clerk for publication in the City Bulletin pursuant to section 121.05 of the Columbus City Codes.

(G) Departmental use of city resources to plant and maintain trees on private property, in reasonable furtherance of city goals to prioritize, preserve, and grow tree canopy in Columbus, constitutes a proper public purpose and is hereby authorized subject to the provisions of chapter 329 of the Columbus City Codes.

(H) The Director shall have the authority to establish criteria and processes for the selection of a hearing officer and for consideration of requests for variance from this code or rules and regulations promulgated hereunder.

912.04 Prohibited Activities

No person, without privilege to do so, shall recklessly do any of the following in a public street, park, or public place:

- (A) Break, deface, injure, mutilate, top, kill or destroy any tree or shrub.
- (B) Destroy or alter any vegetation on park property in violation of Chapter 919 - Park Rules and Regulations
- (C) Hinder, prevent, or interfere with the agents, contractors, or employees of the recreation and parks department while the agents, contractors, or employees are engaged in planting, maintaining, or removing any tree or shrub.
- (D) Place or maintain upon the ground any stone, brick, sand, concrete, plant (except turf grass), or other material which may injure or impede the passage of water, air and fertilizer to the roots of any trees or shrubs.
- (E) Attach any rope, wire, nails, advertising poster, or other contrivance to any tree.
- (F) Permit any fire to burn where such fire or heat therefrom, or heat from any source, will injure any portion of any tree.
- (G) Store or place construction materials, vehicles, or equipment within the tree protection zone (TPZ) of a tree.
- (H) Compact soil with vehicles or equipment within the TPZ of a tree.
- (I) Change the soil grade within the TPZ of a tree.
- (J) Violate the conditions of any permit issued pursuant to Section 912.05.

912.05 Tree Permits and Restricted Activities.

(A) No person shall plant, set out, or engage in the maintenance of any tree or shrub by removal, stump grinding, application of herbicide or other chemicals, fertilizing, bracing, cabling, pruning, surgery work, cutting above or below the ground, or cutting of roots in a public street, park, or public space without first obtaining a permit issued by the department.

(B) No person shall excavate any ditch, tunnel or trench, or lay any drive within a minimum radius of ten (10) feet or within the TPZ, whichever is greater, of any tree or shrub growing on any public street, park, or public place without first obtaining a permit issued by the department.

(C) Tree removal approved by the Director shall be conducted in accordance with tree protection and mitigation requirements set forth in this chapter including the following:

(1) The approval shall only be issued when the Director determines that the work applied for is necessary and that the proposed method of work is consistent with industry arboricultural standards and best management practices, and City of Columbus policies, rules, and regulations.

(2) Any and all work to maintain, plant, or remove a public tree, including all activities described in section 912.06 shall be approved for execution by certified arborists or by people working under the supervision of a certified arborist.

(D) Strict liability is intended for violations of divisions (A) and (B) of this section.

912.06. Tree Mitigation and Protection.

The intent of this section is to preserve existing trees and replenish lost tree canopy providing for tree mitigation and protection. This section applies to the removal or injury of any public tree on public streets, parks, and public places.

(A) Prior to commencement of any work, including but not limited to, initial design and all subsequent design revisions, clearing, grubbing, grading, excavation, and construction on any public street, park, or public place where a public tree is located within the proposed work limits, a public tree plan shall be submitted by the project owner for departmental approval. The plan shall follow guidelines, standards, and best management practices developed by the department.

(B) If the Director determines that it is not practical to avoid tree removal, then the Director shall require that the public tree plan include the replacement of trees as follows:

(1) at a rate of 1:1, one (1) caliper inch of replacement for every one (1)-DSH inch of removal; and

(2) on the site where trees have been removed. If the site cannot accommodate all required replacement trees, they may be planted in locations as approved by the Director. Payment into the Tree Fund, at a rate established by the Director, shall be required if there are not suitable planting locations as determined by the Director; and

(3) as soon as practical; and

(4) according to the promulgated rules, regulations, standards, and best management practices developed by the department.

(C) Any damage to trees, shrubs, and plant material resulting from the escape of gas or water shall be repaired and the cost of the work, including the cost of removal and the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage in accordance with this Section.

(D) The Director shall establish a per tree inch replacement rate for payment into the Tree Fund. The rate will be revised periodically and will be based on factors including the cost for the department to plant a tree. The Director reserves the right to alternatively require payment into the Tree Fund based on a tree appraisal method.

(E) It is the duty of the Director to require and see that the provisions of this section are strictly, promptly, and fully enforced.

912.07 Approved and Prohibited Tree Species.

The department shall establish and maintain the following:

(A) A list of tree species that are approved for planting along public streets, in parks, and public places. Other species may be permitted with written approval of the Director.

(B) A list of prohibited tree species that shall not be planted along public streets, in parks, and public places unless written approval is granted by the Director.

912.08 Private Nuisance Trees.

It shall be unlawful for any property owner to permit to stand on the owner's property any tree, shrub, or plant material that has been deemed a public nuisance without promptly abating the nuisance. A tree, shrub, or plant material may be deemed a public nuisance when the Director finds any one of the following conditions to exist:

(A) any portion interferes or has the potential to interfere with any public street, park, or public place.

(B) any portion restricts the flow of pedestrian or vehicular traffic or visibility of any public street, park, or public place.

(C) any portion obstructs the view of any streetlight, traffic control device, traffic control signal, or public street intersection.

(D) it is sufficiently damaged, diseased, disfigured, or constitutes a risk to the public or to other trees, shrubs, and plant material on public property.

912.09 Notice of Violations – Private Nuisance Trees.

(A) Notice of violation. If it is determined by the Director that a nuisance condition as described in Section 912.08 exists, then the Director may give notice of a violation to the owner or occupant of the private property. Such notice shall:

(1) Be in writing.

(2) Include a reference to the Section of Code that has been violated.

(3) Inform the owner that the nuisance must be abated, the method of abatement/corrective action, and deadline to complete abatement activity allowing reasonable time for the performance of any act it requires.

(4) Provide notice that the City will perform abatement activities if not conducted by the owner to the satisfaction of the City or by the deadline.

(5) Include a method to appeal.

(6) Be served by any one of the following methods:

(a) Personal service; or

(b) Certified mail; or

(c) Residential service; or

(d) Publication; or

(e) Regular mail service to an address that is reasonably believed to be either a place of residence or a location at which the owner regularly receives mail; or

(f) Posting the notice of violation on or in the property, except that if a structure is vacant, then the notice shall be posted on the structure and one of the above methods of service shall also be used.

(B) Failure to abate after notice. If upon reinspection of the property, the violation has not been corrected (abated), then the Director shall enter upon such private property where the violation exists and take such action that is reasonable and necessary to correct the nuisance.

(C) Charges for abatement correction. The owner or occupant of property upon which labor has been performed for violations of section 912.08 shall pay to the department the actual costs incurred by the department in abating the violation. Prior to submitting the charges to the applicable County Auditor for assessment, notice shall be sent to the Owner of the amount due and opportunity to pay.

(D) Assessment. The department may place an assessment upon the offending property from and after the date of performance of the corrective actions. The assessment shall be perfected in the following manner:

- (1) By the adoption of the recreation and parks commission in a regular or special meeting of an Assessment Resolution which shall give the name of the owner, occupant, or tenant, description of the offending property, and the amount of charges to be assessed; and
- (2) The certification of such Assessment Resolution to the auditor of Franklin or applicable County, Ohio, who by special assessment shall cause the amount to be placed on the tax duplicate for the offending private property subject to collection as an additional or supplemental real property tax; and
- (3) Contemporaneously with certification of the Assessment Resolution to the county auditor, the Director shall send by ordinary mail a written statement of the amount due to each owner, occupant, or tenant of the offending property.

912.10 Tree Fund.

The Director may receive contributions which shall be turned over to the city auditor who shall deposit same with the city treasurer in the “Tree Fund.”

The Department shall have the authority to sell wood or wood products from the maintenance or removal of public trees pursuant to this Chapter. Any funds that are recovered through the sale of wood or wood products from the maintenance or removal of public trees, or funds that are generated through the reimbursement of damages for the injury or destruction of plant material located on public streets, parks, or public places, or funds that are collected for mitigation, shall be deposited into the Tree Fund.

Expenditures from the Tree Fund can be used only for activities associated with the planting of trees and tree care. Expenditures shall be made only upon an approved voucher by the Director and in accordance with Chapter 329 of the Columbus City Codes.

The city auditor shall keep a separate account of all receipts of the Tree Fund. No part of the Tree Fund shall be commingled with any other funds and no unexpended portion of the fund shall at any time lapse into or become part of the general fund of the city. No part of the Tree Fund shall be subject to appropriation by the city council for purposes other than those set forth in this section.

912.11 Protection of wires during pruning or removal.

Whenever the Director determines it necessary to prune or remove any trees or shrubs in a public street, park, or public place, and it is necessary to move or cut off the electricity from any wire designed to carry electric current in order to do so; the Director shall serve notice on the owner of such wire of the need to protect such wire and such owner shall comply with such order within twenty-four (24) hours after the service of such notice.

912.12 Columbus tree subcommission.

(A). Composition. There is created an advisory subcommission to the recreation and parks commission to be known and designated as the Columbus tree subcommission, composed of nine (9) members. Seven (7) of said members shall be appointed by the mayor with the approval of Columbus city council. The eighth member shall be the Director and the ninth member shall be the city forester of the recreation and parks department, both of whom shall serve as ex-officio members.

(B) Terms and Compensation. Members shall be appointed by the mayor to serve without compensation, for a term of five (5) years and until their successors are appointed and qualified. When a vacancy occurs before the expiration of the appointed term, the mayor shall appoint a member to serve for the unexpired term.

(C) The organization of the Columbus tree subcommission shall be as follows:

- (1) The subcommission shall elect from its membership at its first meeting of each calendar year a chairperson and vice chairperson. An employee of the recreation and park department shall serve as secretary. All necessary secretarial supplies shall be supplied by the department.
- (2) The subcommission shall meet bi-monthly at such time and place as it decides. The subcommission

shall meet at special meetings as called by the chairperson, provided twenty-four hours written notice is given to each member.

(D) The Columbus tree subcommission may adopt by-laws, rules, and regulations that are not inconsistent with the provisions of the Columbus City Codes. A copy of the by-laws and rules shall be filed with the City Clerk.

(E) The duties of the Columbus tree subcommission shall be as follows:

(1) To study the problems and determine the needs of the city of Columbus in connection with its tree planting program.

(2) To recommend to the recreation and parks commission the type and kinds of trees to be planted in parks, public places, and along city streets.

(3) To review and recommend to the recreation and Parks Commission urban forestry-related city code and policies.

912.13 Appeals

(A) Right of appeal to a hearing officer.

(1) A notice of violation issued pursuant to section 912.09 may be appealed to a hearing officer by the filing of a notice of appeal with the department within fifteen (15) days of service of the notice of violation.

(2) The denial of a variance request may be appealed to a hearing officer by the filing of a notice of appeal with the department within fifteen (15) days of service of the notice of denial.

(3) Upon the filing of a timely notice of appeal, the hearing officer shall conduct a hearing on the appeal within forty-five (45) days unless a continuance is requested by either party and granted by the hearing officer. At such hearing, the burden shall be on the Director to prove by a preponderance of substantial, reliable, and probative evidence to support the denial of the variance or that the tree, shrub, or plant material identified in the notice of violation is a public nuisance. The hearing officer shall render its decision in writing, including findings of fact and conclusions of law, within five (5) days of the date of the hearing. The decision of the hearing officer may reverse, modify, or affirm the order and action of the Director.

(4) Decisions of the hearing officer issued pursuant to this section may be appealed to the environmental division of the Franklin County Municipal Court pursuant to Ohio Revised Code Chapter 2506.

(B) Nothing in this section shall be construed to prohibit the Director from pursuing the enforcement of any provision of this chapter or the Ohio Revised Code through any other remedy available by law, including but not limited to causing to be filed in the environmental division of the Franklin County Municipal Court a civil complaint for injunctive relief or a criminal misdemeanor complaint.

912.99 Penalty.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the third degree. Any such violation shall constitute a separate offense on each day the violation exists.