

Title 6 Environmental Control and Conservation

Chapter 6-3 Trees and Vegetation

ARTICLE 1. GENERAL PROVISIONS.

§ 6-3-1 DEFINITIONS.

In this chapter:

- (1) BOARD means the Urban Forestry Board.
- (2) CURBLINE means the boundary of a street or alley used for vehicular traffic.
- (3) DAMAGE means injury to a tree including: uprooting; severance of the root system or main trunk; storage of material or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; pruning or removal of more than 25 percent of the living tissue; or surrounding with impervious paving materials.
- (4) OWNER means the record owner of real property or the occupant or a person with the right to exercise control over the property.
- (5) PLAN means the Comprehensive Urban Forest Plan.
- (6) PUBLIC PROPERTY means real property owned or controlled by the city with unrestricted public access, excluding a utility or drainage easement on private property.
- (7) PUBLIC TREE means a tree with at least two-thirds of its trunk diameter on public property.
- (8) TREE means a self-supporting woody perennial plant, excluding a bush or shrub, with a trunk diameter measured at four and one-half feet above grade of:
 - (a) not less than three inches; or
 - (b) not less than two inches if planted by or on behalf of the city.
- (9) TREE VALUE means the appraised value of a tree based on the latest edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers.
- (10) URBAN FORESTER means a city employee qualified as a forester.

Source: 1992 Code Sections 10-6-4, 15-10-3, and 16-7-1 ; Ord. 031023-10; Ord. 031211-11.

§ 6-3-2 URBAN FORESTER.

The city manager shall designate an urban forester.

Source: 1992 Code Section 15-10-4; Ord. 031023-10; Ord. 031211-11.

§ 6-3-3 ADMINISTRATION AND ENFORCEMENT.

Except as otherwise specified, the urban forester shall administer and enforce this chapter.

Source: 1992 Code Sections 10-6-3 and 15-10-4(E) and (H); Ord. 031023-10; Ord. 031211-11.

§ 6-3-4 DUTIES OF URBAN FORESTER.

The urban forester shall:

- (1) manage the city's urban forest;
- (2) administer the plan;
- (3) supervise and coordinate with responsible city departments to plant, maintain, or remove trees on public property;
- (4) grant or deny administrative approval to maintain or remove a public tree, and establish conditions of performance;
- (5) supervise and inspect work performed under an administrative approval granted under this article; and
- (6) remove a tree or plant planted in violation of this chapter.

Source: 1992 Code Sections 15-10-4(A), (B), (F), and (G), and 15-10-5(C); Ord. 031023-10; Ord. 031211-11.

ARTICLE 4. PUBLIC TREES.

Division 1. General Provisions.

§ 6-3-61 DUTY TO PROTECT PUBLIC TREE.

(A) Except as provided in Section 6-3-77 (*Exceptions to Requirement for Administrative Approval*) a person on public property may not:

- (1) damage, top, cut, carve, transplant, or remove a public tree;
- (2) allow a harmful substance to contact a public tree;
- (3) set fire to a tree or permit a fire to burn that could injure a public tree; or
- (4) place or store impervious cover or material that impedes the passage of water, air, or nutrients to the roots of a public tree.

(B) Except as provided by ordinance or rule, a person who excavates or performs construction on public property shall surround each public tree in the work area with a fence built at least four feet tall and at least two feet distant from the perimeter of the tree trunk. A person may not allow building material, dirt, or other debris to accumulate inside the fence.

Source: 1992 Code Section 15-10-7; Ord. 031023-10; Ord. 031211-11.

§ 6-3-63 LIABILITY FOR DAMAGE TO A PUBLIC TREE.

(A) A person who damages a public tree is liable to the City for the loss of tree value.

(B) If the damage to a public tree results in treatment or removal of the tree, a person who damages the tree is liable for the cost of treatment or removal.

(C) The urban forester may determine the tree value of a public tree and assess the cost against the person who caused the damage.

(D) As prescribed by Section 6-3-91 (*Appeal of Action of Urban Forester*), a person may appeal the urban forester's determination of the tree value to the board.

(E) The damages authorized by this section are cumulative of other remedies available to the City.

(F) The urban forester shall deposit damages recovered under this section to the Planting for the Future Trust in Agency Fund to plant public trees.

Source: 1992 Code Section 15-10-8; Ord. 031023-10; Ord. 031211-11.

§ 6-3-71 ADMINISTRATIVE APPROVAL REQUIRED.

(A) Except as provided in Section 6-3-77 (*Exceptions to Requirement for Administrative Approval*), a person must obtain approval from the urban forester to maintain, remove or damage a tree on public property.

(B) A person must complete work on a tree on public property:

(1) in compliance with the terms of the administrative approval; and

(2) within the time period prescribed by the administrative approval.

Source: 1992 Code Sections 15-10-5(A)(1) and (3); Ord. 031023-10; Ord. 031211-11.

§ 6-3-72 APPLICATION FOR ADMINISTRATIVE APPROVAL.

A person must file an application with the urban forester on a form approved by the urban forester not less than the fifth business day before the person intends to begin work on public property that may affect a public tree.

Source: 1992 Code Section 15-10-5(A)(2); Ord. 031023-10; Ord. 031211-11.

§ 6-3-73 PROCEDURE FOR ADMINISTRATIVE APPROVAL.

(A) If the urban forester determines that an application for administrative approval demonstrates that proposed work on a tree on public property is in compliance with Section 6-3-6 (*Standards of Care for a Tree or Plant on Public Property*), the urban forester shall grant an administrative approval. An administrative approval granted under this section must contain an expiration date.

(B) If the urban forester fails to act on an application for administrative approval on or before the 15th business day, an administrative approval based on the terms of the application is granted.

(C) The urban forester may not charge a fee for processing an application for administrative approval.

Source: 1992 Code Sections 15-10-5(A)(1), (2), and (3); Ord. 031023-10; Ord. 031211-11.

§ 6-3-74 ANNUAL ADMINISTRATIVE APPROVAL.

(A) The urban forester may grant an annual administrative approval, effective from January 1st to December 31st to an applicant who regularly maintains trees on public property.

(B) An administrative approval granted under this section:

(1) must require compliance with Section 6-3-6 (*Standards of Care for a Tree or Plant on Public Property*); and

(2) may not permit removal of a public tree.

(C) The urban forester may refuse to grant an annual administrative approval to a person who has violated the terms of this article.

(D) A person granted an annual administrative approval must file quarterly reports with the urban forester describing the work completed during the reporting period.

Source: 1992 Code Section 15-10-5(B); Ord. 031023-10; Ord. 031211-11.

§ 6-3-75 REQUIREMENT TO REPLACE TREE.

(A) The urban forester may require a person who requests administrative approval to remove a tree on public property to plant a replacement tree or make a payment equal to the value of a replacement tree.

(B) The urban forester may waive the requirements of this section if the urban forester determines that the applicant cannot afford to plant a replacement tree.

(C) If a person fails to plant a replacement tree required under this section, the urban forester may plant the replacement tree and collect all charges incurred by the city from the person.

(D) The urban forester shall deposit funds collected under this section in the Planting for the Future Trust in Agency Fund to plant public trees.

Source: 1992 Code Section 15-10-5(D); Ord. 031023-10; Ord. 031211-11.

§ 6-3-76 REVOCATION OF APPROVAL FOR NON-COMPLIANCE.

(A) The urban forester may revoke an administrative approval if the applicant fails to comply with the terms of this article, the application, the administrative approval, or a rule.

(B) The urban forester shall send written notice to the applicant before approval is revoked. Notice under this section must include a statement that the applicant may request a hearing under Section 6-3-91 (*Appeal of Action of Urban Forester*) before approval is withdrawn.

Source: 1992 Code Sections 15-10-5(A)(3) and (E); Ord. 031023-10; Ord. 031211-11.

§ 6-3-77 EXCEPTIONS TO REQUIREMENT FOR ADMINISTRATIVE APPROVAL.

(A) A city department or city contractor may maintain public trees in compliance with Section 6-3-6 (*Standards of Care for a Tree or Plant on Public Property*).

(B) A person may remove a tree or limb if a hazardous or dangerous condition exists because the tree or limb has fallen or is in imminent danger of falling.

(C) A person may remove a fallen tree or limb that blocks pedestrian or vehicular travel on a street or sidewalk.

(D) A public utility may remove a fallen tree or limb or a tree or limb that is in danger of falling to restore service or prevent damage to a utility line or facility.

(E) A person who complies with Section 6-3-62 (*Restriction of Location of Tree on Public Property*) or Section 6-3-64 (*Tree Use in Capital Improvements*) may perform work authorized by a site plan, subdivision development, or other development permit issued by the City.

(F) The urban forester may permit a person to perform minor maintenance on a public tree in compliance with Section 6-3-6 (*Standards of Care for a Tree or Plant on Public Property*).
Source: 1992 Code Sections 15-10-5(F) and 15-10-7 ; Ord. 031023-10; Ord. 031211-11.

Division 3. Appeal Process and Penalty

§ 6-3-91 APPEAL OF ACTION OF URBAN FORESTER.

As prescribed by Section 6-3-93 (*Procedure for Appeal to Board*), a person may appeal to the board the urban forester's:

- (1) determination of conditions in an administrative approval;
- (2) denial of an application for an administrative approval; or
- (3) revocation of an administrative approval.

Source: 1992 Code Section 15-10-10(A); Ord. 031023-10; Ord. 031211-11.

§ 6-3-92 APPEAL OF TREE VALUE.

As prescribed by Section 6-3-93 (*Procedure for Appeal to Board*), a person may appeal the urban forester's determination of tree value under Section 6-3-63 (*Liability for Damage to a Public Tree*) or Section 6-3-75 (*Requirement to Replace Tree*) to the board.

Source: 1992 Code Sections 15-10-5(D), 15-10-8(A), and 15-10-10(A) and (B); Ord. 031023-10; Ord. 031211-11.

§ 6-3-93 PROCEDURE FOR APPEAL TO BOARD.

(A) A person must file a written notice of appeal under Section 6-3-91 (*Appeal of Action of Urban Forester*) or Section 6-3-92 (*Appeal of Tree Value*) not later than the 10th day following the urban forester's determination.

(B) The board shall hold a hearing not later than the 30th day following receipt of a notice of appeal, or at the earliest available date. The appellant shall be permitted to present evidence and testimony at the hearing. The board may overrule, sustain, or modify the urban forester's determination.

(C) The board shall send written notice of a hearing to the appellant, including the date and time of the hearing and a statement that the person may present evidence and testimony.

Source: 1992 Code Sections 15-10-5(D), 15-10-8(A), and 15-10-10(A) and (B); Ord. 031023-10; Ord. 031211-11.

§ 6-3-94 APPEAL OF BOARD DECISION.

(A) A person may appeal a decision of the board to the Planning Commission.

(B) The Planning Commission shall hold a hearing not later than the 30th day following receipt of a notice of appeal, or at the earliest available date. The appellant shall be permitted to present evidence and testimony at the hearing. The Planning Commission may overrule, sustain, or modify the board's decision.

(C) The Planning Commission shall send written notice of a hearing to the appellant, including the date and time of the hearing and a statement that the person may present evidence and testimony.

(D) An appeal under this section shall stay the board's decision and work is suspended.

Source: 1992 Code Section 15-10-10(C); Ord. 031023-10; Ord. 031211-11.

§ 6-3-95 PENALTY.

A person who violates this article commits a Class C misdemeanor and is subject to the penalty prescribed by Section 1-1-99 (*Offenses; General Penalty*) not to exceed \$100 for each offense. Each occurrence of a violation of this article is a separate offense.

Source: 1992 Code Section 15-10-99(B) and (C); Ord. 031023-10; Ord. 031211-11.