

Trees and Shrubs

Section 6.4.1 Statement of Policy and Applicability of Chapter.

- (a) **Intent and Purpose.** It is the policy of the City of Hillsboro to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.
- (b) **Power to Regulate Trees and Shrubs.**
 - (1) The Common Council has empowered the City Forester to plant, transplant, remove, trim, treat and otherwise care for and protect all trees, shrubs and plants on all public lands not specifically delegated to other City boards, all to insure public safety and to preserve and enhance the beauty of such public lands.
 - (2) Public lands under the jurisdiction of the City Forester includes but is not limited to all lands within the lines of all public streets and alleys in the City, more specifically the terrace strip between the lot line and curb or improved portion of any public street or alley.
 - (3) The Common Council is empowered to require landowners to remove, trim or treat specified trees, shrubs or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs or plants on private lands within the City of Hillsboro.
- (c) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

Section 6.4.2 Definitions.

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

- (a) **Person.** Person, firm, association or corporation.
- (b) **Public Areas.** Includes all public parks and other lands owned, controlled or leased by the City except the terrace areas.
- (c) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.

- (d) **Public Nuisance.** Any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property, including but not limited to:
 - (1) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
 - (2) Any deleterious or fatal tree disease.
 - (3) Any tree or part thereof which is infected by any insect or larvae known to be deleterious or fatal to trees.
 - (4) Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
- (e) **Public Property.** Property owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
- (f) **Boulevard or Terrace Areas.** The land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are no sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter.
- (g) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (h) **Shrubs.** Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (i) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (j) **Evergreen Tree.** Any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.
- (k) **City Forester.** The Common Council shall designate a City Forester, or assign such duties to a City employee.

Section 6.4.3 Authority of City Forester to Enter Private Premises.

The City Forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.0119, Wis. Stats.

Section 6.4.4 Interference With the City Forester Prohibited.

No person shall interfere with the City Forester, or his/her authorized representative, while they are engaged in carrying out any work or activities authorized by this Chapter.

Section 6.4.5 Abatement of Tree Disease Nuisances.

- (a) **Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases, the Common Council hereby declares its intention to control and prevent the spread of such disease and hereby declare the insect pests and vectors which carry such diseases to be public nuisances.
- (b) **Inspection.**
- (1) The City Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon.
 - (2) Whenever necessary to determine the existence of a public nuisance in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the City Forester which shall forward them to an appropriate laboratory for analysis to determine the presence of such nuisances.
 - (3) The City Forester and/or his/her agents shall have authority to enter upon private premises for the purpose of carrying out any of the provisions of this Section.
- (c) **Abatement of Nuisances.**
- (1) The City Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of any and all deleterious tree diseases or the insect pests or vectors known to carry such diseases.
 - (2) Whenever the City Forester, after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he/she shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible any or all deleterious tree diseases, insect pests, or vectors known to carry any deleterious tree disease.
 - (3) When the City Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he/she shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he/she can be found, or upon the occupant thereof, a written notice of the existence of such nuisance, and of a time and place for a hearing before the City Forester, not less than ten (10) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the City Forester shall cause the abatement

thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.

- (4) If, after hearing held pursuant to this Subsection, it shall be determined by the City Forester that a public nuisance exists, he/she shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the City Forester shall proceed to abate the nuisance, and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The City Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.
- (d) **Spraying.**
- (1) Whenever the City Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, the City Forester may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide.
 - (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying.
 - (3) When appropriate warning notices and temporary "no parking" notices have been given and posted, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.
 - (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (c)(3).

Section 6.4.6 Planting of Trees and Shrubs.

- (a) **Responsibility.** The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards shall be determined by the City Forester. All planting, maintenance, trimming, and/or removal of trees in terraces shall be conducted by the City Forester and/or his/her agent.
- (b) **Tree Sizes.** The City Forester shall plant only species desirable for planting in boulevards according to their normal mature height in addition to those specified in Subsection (e) below:
 - (1) Large trees: Over forty (40) feet;
 - (2) Medium trees: Twenty-five (25) to forty (40) feet; and
 - (3) Small trees: Fifteen (15) to twenty-five (25) feet.
- (c) **Planting; Size.**
 - (1) All large or medium trees, when planted, shall be at least eight (8) feet high and have a minimum trunk diameter of one and one-quarter (1-1/4) inches at a point six (6) inches above the ground.
 - (2) All small trees, when planted, shall be least five (5) feet high and have five (5) or more branches.

- (3) The tree shall be planted in a well prepared hole at the same depth as it was originally growing. All trees less than twelve (12) feet high shall be staked. All trees twelve (12) feet or more in height shall be supported by guy wires in such a way as not to injure the bark. The support shall be removed after a year.
 - (4) The tree shall be kept well watered and mulched or cultivated in a two (2) foot diameter around its base to conserve moisture and as a protection from lawn mower damage.
- (d) **Location.**
- (1) There shall be a distance of forty (40) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, planting will not be permitted.
 - (2) Small sized trees shall be planted at least five (5) feet from driveways and large or medium sized trees shall be planted at least fifteen (15) feet from driveways.
 - (3) Evergreen trees or shrubs shall not be planted in a terrace area.
 - (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
 - (5) Trees may not be planted in the terrace closer than:
 - a. Twenty (20) feet to a utility or street lighting pole.
 - b. Eight (8) feet to a fire hydrant, water stop box, or gas shut-off. If possible, allow more distance than eight (8) feet.
 - c. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
 - (6) New street trees shall not be planted over an existing tree stump within two (2) years of removal unless the stump is removed to a depth of four (4) feet.
- (e) **Permitted Species.** Only trees from the following approved listing shall be planted in a public terrace strip (between curb and sidewalk). Trees are listed by their commercial name and grouped by suitability for various terrace strip widths. The mature height is given following the name so that consideration can be given in cases where overhead wires are present:

4 Feet +

Globe Norway Maple	16 feet
Almira Norway Maple	16 feet
Amur Maackia	20 feet
Japanese Tree Lilac	20 feet
Anise Magnolia	20 feet
Callery Pear	20 feet
Toba Hawthorne	20 feet
Lavalle Hawthorne	20 feet
Washington Hawthorne	20 feet
Rancho Sargent Cherry	25 feet
Hop Hornbeam	25 feet
Olmsted Columnar Norway Maple	30 feet

Mountain Ash	30 feet
Scanlon Red Maple	35 feet

6 Feet +

Manchurian Bird-cherry	20 feet
Frau Louise Dittman Crabapple	20 feet
Flame Crabapple	25 feet
Double Flowered Mazzard Cherry	30 feet
Sargent Cherry	30 feet
Mongolian Linden	30 feet
Wineleaf Sycamore Maple	30 feet
Tilford Red Maple	35 feet
Littleleaf Linden	40 feet
Amur Corktree	45 feet
Chinese Pearleaf Crabapple	20 feet
Ruby Red Horsechestnut	25 feet
Seneca Sugar Maple	25 feet
Rancho Littleleaf Linden	25 feet
Golden-Leaf Sycamore Maple	25 feet
Pyramidal Sycamore Maple	25 feet
Globe Blue Ash	25 feet
Pyramidal European Ash	30 feet
Manchurian Ash	30 feet
Cleveland Norway Maple	30 feet
Schwedler Norway Maple	30 feet
Pyramidal European Hornbeam	35 feet
Columnar Sugar Maple	45 feet

8 Feet +

Kobus Magnolia	20 feet
Dolgo Crabapple	30 feet
Redbug Maple	45 feet

10 Feet +

Liset Crabapple	20 feet
Shakespear Crabapple	20 feet

- (f) **Certain Species Restricted.** No person shall plant within the City of Hillsboro any female tree of the species *Populus Deltoidea*, commonly called the "Cottonwood," or any tree commonly called the seed-bearing Box Elder or *Acer Negundo*, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed.

- (g) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the City Forester may be removed. The City Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (h) **Who May Plant, Maintain, or Remove Trees.**
 - (1) **City Forester.** No person, except the City Forester and/or his/her agent, shall plant, transplant, move, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a public tree or shrub in the City, or cause such act to be done by others.
 - (2) **Exceptions.** Residents may be allowed to cultivate, fertilize, perform minor cutting or pruning or watering of public trees or shrubs, after obtaining permission from the City Forester to do so.

Section 6.4.7 Trimming.

- (a) Any person growing a tree, plant or shrub on any private property abutting on public streets or public places shall:
 - (1) Trim them so as not to be a hazard to persons using the streets or to interfere with the proper lighting of the streets.
 - (2) Treat or remove any tree, plant or shrub which the City Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets.
 - (3) Remove and refrain from planting any tree, plant or shrub designated by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- (b) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The City Forester may waive the provisions of this Section for newly planted trees if he/she determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (c) The necessity of the pruning may be determined by the City Forester. Trimming activity, and the cost thereof, shall be the responsibility of the City within Public, Boulevard, or Terrace areas. Pruning or trimming costs associated with trees growing on private property shall be the responsibility of the property owner.
- (d) Clearance from sidewalk to lower branches shall not be less than eight (8) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.

Section 6.4.8 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the City Forester shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which such tree or shrub stands.
- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1.1.7 of this Code of Ordinances.

Cross-Reference: Section 13.1.81

Section 6.4.9 Removal of Trees and Stumps.

- (a) **Dangerous, Obstructive and Infected Trees.**
 - (1) Any tree or part thereof growing upon private premises, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the general public or other trees or shrubs growing within the City, or to be injurious to sewers, sidewalks or other public improvements, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located as directed by the City Forester. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the City Clerk, who shall thereupon enter such cost as a special charge against the property.

- (2) All trees or shrubbery growing upon public property, including boulevards, within the City shall be maintained, trimmed, cut or removed by the City Forester, and/or his/her agent, according to best forestry practices.
- (b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree will be removed by the City Forester, and/or his/her agents, according to best forestry practices. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.
- (c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place. When the removal, trimming, or cutting of any such tree or shrub is necessary, as determined by the City Forester for any reason, the City Forester and/or his/her agent will perform, or cause to be performed, whatever removing, cutting, or trimming that he/she shall determine is necessary.

Section 6.4.10 Prohibited Acts.

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permission from the City Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
 - (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
 - (7) To place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without written permission from the City Forester.
- (c) **Interference With Forester.** No person shall:
 - (1) Interfere with or prevent any acts of the City Forester or his/her agents while it is engaged in the performance of duties imposed by this Section.

- (2) Refuse to permit the City Forester or his/her representative to enter upon his/her premises to exercise the duties imposed by this Section.
- (d) **Refusal to Abate Nuisance.** No person shall permit any public nuisance to remain on any premises owned or controlled by him/her when ordered by the City Forester to abate such nuisance.

Section 6.4.11 Appeal from Determinations or Orders.

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances, to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk.

Section 6.4.12 Inspection of Trees.

An annual inspection by competent personnel may be conducted of all trees within the terrace strip along every public way within the City, and also those trees on private lands within falling distance of any public way or public place.

Section 6.4.13 Adoption of State Statutes.

Secs. 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.

State Law Reference: Secs. 27.09 and 86.03, Wis. Stats.