

NOTICE

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CHAPTER 949**PUBLIC TREE PRESERVATION**

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949.01 PURPOSE.

- A. This Chapter is adopted to enhance the quality of life and the present and future health, safety, and welfare of all residents, businesses and property owners through the preservation and protection of public trees in the City of Kettering. The City of Kettering recognizes the vitality public trees bring to the community from an ecological, environmental, financial, and beautification perspective.
- B. This ordinance is further intended to maintain Kettering's Trees City USA status, including:
 - 1. Establishment of a Tree Committee;
 - 2. Promote orderly and attractive development of public spaces;
 - 3. Provide for management of public trees, including planting new trees, removal of unsafe trees, and maintenance of existing trees;
 - 4. Mitigate the ecological and environmental impacts of land development on public trees;
 - 5. Promote environmental buffer between public and private spaces in addition to minimizing impacts from non-natural noise, traffic, litter, parking and service areas; and
 - 6. Offer standards for healthy and diverse appearance of public trees.

949.02 DEFINITIONS.

- A. Interchangeability. For purposes of this code, the following terms, phrases, words, and their derivations shall have the meanings as set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include the plural number, words in the feminine include the masculine, and words in the masculine include the feminine. Defined terms remain defined terms whether or not capitalized.

- B. Terms Defined In Other Codes. Where terms are not defined in this code and are defined in any other code within the Kettering Codified Ordinances, such terms shall have the meanings ascribed to them as stated in those codes.
- C. Terms Not Defined. Where terms are not defined through the methods authorized by this section, then such terms shall have ordinarily accepted meanings such as the context implies.
- D. Definitions.

Damage

Any injury to or destruction of a public 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.

Director

The City of Kettering Director of Parks, Recreation and Cultural Arts or the Director's designee.

Public Property

All grounds owned or maintained by the City including rights-of-way (ROWS) adjacent to public property and medians.

Public Tree

Any tree on Public Property.

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.

949.03 TREE COMMITTEE.

- A. Membership. The Tree Committee shall consist of the following individuals: four community members, two Parks and Recreation Board Members, and the Director or the Director's designee. The four community members and two Parks and Recreation Board Members shall be appointed by the Director and shall serve without compensation. The committee members shall serve for two year terms.
- B. Chairperson. The Director shall act as Chairperson of the Committee. Meeting minutes will be kept and all meetings will be open to the public except as otherwise provided by Ohio statute or City ordinance.

C. Tree Committee Functions

1. To provide regular meetings at which the subject of public trees and their relationship to the community may be discussed with Committee members, officers and personnel of the City, and citizens.
2. To evaluate issues and opportunities in relation to public trees and vegetation and to make recommendations to the Director on tree planting, removal, pruning, care, and preservation.
3. To maintain the standards required for Kettering to continue Tree City status.
4. To promote public trees and their importance in the community, which may include community events and education, research, and policy evaluation among others.
5. To assist with the development and implementation of city urban forestry plan for public spaces and rights-of-way.

949.04 DUTIES OF THE DIRECTOR.

Delegation of authority and responsibility. The Director shall have full authority and responsibility implement all portions of this chapter.

949.05 PUBLIC TREE PLANTING AND CARE STANDARDS.

A. Standards.

1. 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 all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
2. The location and species of all public trees planted within a median, a sight visibility area of an intersection or drive approach, and within eight (8) feet of the right-of-way shall first be approved by the City Engineer or their designee.

B. Protection of Public Trees.

1. All public trees and shrubs near any excavation or construction of any building, or structure, shall be guarded with a good substantial fence, frame or box, not less than four feet high and eight feet square, or at a distance in feet from the tree or shrub equal to the diameter of the trunk in inches at chest high, whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier.

2. No person shall excavate any ditches, tunnels, trenches or construct pavement within a radius of ten feet from any public tree or shrub without first obtaining a written approval from the Director.
 3. In the erection, alteration or repair of any building, structure or other work, the owner, owner's agent or individual contractor shall take all measures necessary to prevent injury to public trees.
 4. Unless specifically authorized by the Director, no person shall intentionally damage, cut, carve, transplant or remove any public tree; attach a rope, wire, nails, advertising posters or other contrivances to any public tree; allow any gaseous liquid or solid substance which is harmful to such public trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.
- C. Requirements of utility companies. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- D. Exemption. The following shall be exempt from the standards in this section:
1. All work within a public right-of-way or easement undertaken by or on behalf of the city. This shall include among other work, sidewalk and curb replacement, roadway clearance and sight work, construction of transportation and storm water infrastructure, and other public functions.
 2. Removal of any tree due to a public emergency or damage due to natural causes.
 3. Removal of any tree causing a hazard to the public as deemed by the Chief Code Official, Public Service Director, City Engineer, Police Chief or Fire Chief or their designees.

949.06 PUBLIC TREES.

- A. Tree Topping. The practice of tree topping of public trees is discouraged, as it results in high levels of stress in the structure of the tree, including reduction of nutrition source, sunburn, decay, and development of unsafe offshoots.
- B. Removal of stumps. All stumps from public trees shall be removed below the surface of the ground to facilitate landscaping.
- C. Requirements for planting trees under electric utility lines are found in Chapter 1147 of the Kettering Zoning Code.
- D. Invasive Plants. No invasive plants shall be planted in any public property. The List of Invasive Plants in the State of Ohio are contained in the Ohio Administrative Code,

Rule 901:5-30-01 Invasive Plant Species as currently existing or may hereafter be amended.

- E. The Director shall maintain a list of official Desirable Public Tree species for the City of Kettering.

949.07. VIOLATIONS AND PENALTY.

Any person, firm or corporation recklessly violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

Legislative History: Ord. 4387-22; passed 12/6/22.