

**TREE REGULATIONS
CHAPTER 60**

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**TREE REGULATIONS
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Article I. Tree Regulations

Sec. 60-101 Authority to Regulate.

The Ottawa City Commission is hereby authorized to regulate the planting, maintenance, treatment and removal of street trees, park trees, and shrubbery in the City of Ottawa related to matters of health, safety, and enjoyment of property. The City Commission has established the Tree Advisory Board to assist in this purpose.

Sec. 60-102 Definitions.

Words and terms, when used in this Article, shall have the following meanings:

Arborist indicates a specialist in the care and maintenance of trees. For purposes of this chapter, “Arborist” does not include City of Ottawa employees performing routine tree/utility maintenance activities.

Disease is a condition in the plant that impairs the performance of a vital function, such as fungus or blight.

Hanger is a broken limb remaining in the canopy of a tree that may be dangerous to vehicles and/or pedestrians.

Infection indicates the presence of disease or fungus.

Infestation is to be inhabited by insects adversely affecting the plant material.

Large Tree indicates a tree that will mature to a height greater than forty-five feet (45').

Medium Tree indicates a tree that will mature to a height greater than thirty feet (30'), but less than forty-five feet (45').

One-Call is a system in place to reduce the hazard related to excavation near underground utilities. A toll free call in Kansas to 1-800-DIG-SAFE will notify all registered utility companies of the intent to dig in a specific location.

Park Trees are trees, shrubs, bushes, or any other woody vegetation in named City parks and on other properties (not public right-of-way) owned by the City.

Private Trees are trees, shrubs, bushes, or any other woody vegetation originating within the boundaries of privately owned property.

Prune is to cut off or cut back parts of a tree to remove only damaged portions of limbs, for better shape, or for more fruitful growth.

Right-of-Way is that land dedicated to the City of Ottawa for public uses including streets, alleys, utilities and sidewalks.

Small Tree indicates a tree that will mature to a height less than thirty feet (30').

Street Trees are trees, shrubs, bushes, or any other woody vegetation on the public right-of-way.

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Topping a tree is the practice of severely cutting back limbs to stubs larger than three inches (3") in diameter in such a manner that the normal canopy of the tree is removed or the tree is disfigured.

Tree Board means Tree Advisory Board, established and operated according to provisions of Chapter 5, Article 5 of the Ottawa Municipal Code.

Sec. 60-103 Arborist Licensing.

- A. The City of Ottawa shall approve licensing of arborists demonstrating appropriate qualifications and certifications, and who demonstrate a willingness to operate in a manner consistent with the regulations, including those established in this Chapter, OSHA, and other regulations considered appropriate by City of Ottawa Staff and the Tree Board. These licenses shall be issued by the City Clerk at no expense to the arborist.
- B. The Tree Board shall also establish and periodically review the criteria for such licensing, to be approved by the City Commission by Resolution. Criteria shall include:
 - 1. Certification(s) of appropriate training from Arborists associations, or other recognized authorities in the field of arboriculture.
 - 2. Certificates of liability insurance and workmen's compensation insurance, such insurance in amounts consistent with current industry practice, as determined by the City Attorney.
 - 3. Submission of a statement signed by the arborist/applicant indicating a desire to operate in accordance with appropriate Safety guidelines and rules in order to protect the public and his/her employees.
- C. Arborists are not required to be licensed to work on private property within the City of Ottawa. However, a list of voluntarily licensed arborists shall be maintained by the City of Ottawa, and distributed to citizens requesting the names of qualified arborists for work on private property. Arborists not voluntarily in compliance with these requirements shall not be included on the list.
- D. Arborists working within the public right-of-way shall be required to have a current Arborist License issued by the City of Ottawa.

Sec. 60-104 Rights, Responsibilities and Duties of Private Property Owner(S).

- A. As trees planted on private property or in public right-of-way abutting such private property have historically been planted and maintained by the abutting private property owner(s), said owner(s) have certain rights, responsibilities and duties.
- B. Private property owners shall have such interest in street trees as to enable them, in the event of injury to said street trees, the right to seek recovery from the party causing the injury. Owners shall have the right of action in any court of competent jurisdiction to enjoin injury of such street trees, except that no recovery or injunction shall be had against the City of Ottawa in making public improvements or any other reasonable exercise of authority within the right-of-way.

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- C. Private property owners shall be responsible for all aspects of tree care, including those on private property and street trees in the public right-of-way abutting their private property. Such responsibilities include, but are not limited to, planting, watering, fertilizing, pruning, treating for infestation or disease, and removing dead limbs, trees and stumps.
1. Private trees and street trees shall be pruned/trimmed by property owners so as not to impede vehicular and pedestrian traffic on public ways.
 2. In order to provide for unimpeded parking, safe passage of vehicles, and access by street maintenance equipment, no limbs shall be permitted over any streets less than fifteen feet (15') above the top of the curb/edge of pavement.
 3. No limbs shall be permitted to overhang any street in such a manner as to impede a vehicle operator's view of traffic signals, signs, or other such devices.
 4. No limbs shall obstruct the light from a street (illumination) lamp.
 5. In order to provide for safe pedestrian travel, no limbs shall be permitted over public sidewalks less than eight feet (8') above the surface of the sidewalk.
 6. Private property owners shall be responsible to remove limbs damaged by storms (hangers) in private trees and in street trees abutting their property, as these damaged limbs may fall from the tree, becoming a hazard to the public.
 7. Private property owners shall be responsible for the disposal of branches, limbs, brush, etc. removed from the trees and shrubbery, from their private property or from the public right-of-way abutting their property, at their expense.
 8. Private property owners shall be responsible for compliance with remediation requirements of the City of Ottawa in the event a tree is inspected and found to be infested, diseased or damaged, and the property owner is appropriately notified.
 9. Private property owners shall be responsible to locate utilities prior to digging. This can be accomplished by contacting one agency that notifies all registered public utilities. The "One Call" in Kansas should be made to 1-800-DIG SAFE (1-800-344-7233).
 10. Private property owners should plant trees appropriate for the restrictions of a particular site. The "Recommended Tree List" maintained by the City should help in this effort.

Sec. 60-105 Rights, Responsibilities and Duties of The City.

- A. The City shall have the right, but not the responsibility, to enter onto private property for the purpose of inspecting trees for infestation, disease, damage and/or other conditions that may be detrimental trees or to other property. Should infestation, disease or other conditions exist, the City shall notify the owner of the situation and necessary remediation, which shall be the responsibility of the owner.

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- B. The City shall have the right, but not the responsibility, to enter the private property and correct a tree infestation, disease, or damage deficiency by pruning, removing or otherwise correcting the tree deficiency at the property owner's expense.
- C. Nothing in this Chapter shall be deemed to impair the right of the City to care for street trees and park trees. When property owners neglect duties related to care and maintenance of street trees (Sec. 60-104, above), the City shall have the right to perform such maintenance, including treatment for disease/infestation, pruning, tree removal and stump grinding, and may seek reimbursement of the necessary expenses from property owners by legal means.
- D. If not adequately maintained by property owners, the City of Ottawa may periodically prune trees overhanging streets to maintain minimum clearance for vehicular traffic and street maintenance activities. When such work is undertaken, City crews may remove some of the lower limbs from such trees. Such pruning will not be limited to limbs overhanging the street, but will include pruning limbs around the tree for a uniform appearance. This pruning activity will apply to trees on private property that overhang streets, as well as street trees.
- E. City crews will assist property owners in removing limbs damaged by storms in trees (hangers) when resources are available. This removal is ordinarily a property owner responsibility, and will only be completed by City crews if other commitments allow and resources are available.
- F. In the event of a significant storm event resulting in tree damage generally throughout the City, the City may, if resources allow, provide for collection of limbs and brush at curbside along streets. This service is not one that is generally provided, and public notice will be made by the City in the official newspaper and on local radio stations when this service will be available.
- G. The Public Works Director, with approval of the Tree Board, shall maintain a "Recommended Tree List" designating trees as appropriate, discouraged, or prohibited for specific applications.

Sec. 60-106 Infected or Infested Trees On Public or Private Property.

- A. Whenever the City of Ottawa, an agency of the State of Kansas, or an agency of the U.S. Government determines that private trees are infected or infested with disease, insects pests or larvae, the uncontrolled presence of which may constitute a hazard to other trees in the community, the City shall notify the property owner that removal of the hazard is required at property owner expense. Should the owner not remove the hazard, the City shall have the right to enter onto the property, remove or mitigate the hazard, and assess the expense to the property in accordance with legal methods available to the City.
- B. When it appears that there is, or is likely to be, a general infection or infestation of trees with disease, insects pests or larvae throughout the City of Ottawa expected to result in the damage or death of many trees, the City Commission may provide for general treatment of the condition, and may pay the costs from the General Fund.

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Sec. 60-107 Authority of Public Service Utilities to Trim Trees and Other Vegetation In/On Public Rights-Of-Way

- A. Firms performing normal tree trimming for line clearance shall make a reasonable effort to notify affected property owners no less than seven (7) days prior to tree trimming/pruning. Utility providers shall have the right to trim/prune as necessary to restore service in emergency situations without prior notification to property owners.
- B. Private firms which are not public service utility providers conducting such activities in the public right-of-way shall be required to be licensed by the City of Ottawa, including proof of insurance and training. Contractors working for public utility providers are required to be licensed.
- C. Public utility providers shall have the right to trim/prune as necessary to keep lines clear from tree limb hazards as a matter of routine maintenance.

Sec. 60-108 Planting, Growing, Cultivation, Maintenance, Treatment, Trimming, Pruning and Removal Of Trees and Shrubbery in Public Rights-Of-Way

- A. Suggested Trees/Tree Selection
 - 1. No street tree shall be placed so as to cause a traffic hazard, as determined by the Chief of Police, or his designee.
 - 2. Street trees should be planted with consideration to available space and other restrictions. Property owners should review the "Recommended Tree List" with the Public Works Department prior to selecting and planting any tree.
 - 3. Inappropriate trees planted in the right-of-way may be removed by the City.
- B. Tree Spacing/Proximity to Intersections, Fire Hydrants, Curbs and Sidewalks
 - 1. To provide for adequate space for tree canopies to develop, trees should be spaced no closer to each other than:

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|-------------------|---|--------------|
| Thirty feet (30') | - | Small Trees |
| Forty feet (40') | - | Medium Trees |
| Fifty feet (50') | - | Large Trees |
 - 2. To protect the integrity of curbs and sidewalks, trees should be no closer than:

| | | |
|----------------------|---------------------|-----------------|
| | <u>to Sidewalks</u> | <u>to Curbs</u> |
| Small & Medium Trees | four feet (4') | four feet (4') |
| Large Trees | four feet (4') | six feet (6') |
 - 3. To provide for safe use of street intersections, trees should be placed such that they do not violate the "sight triangle", as defined in Chapter 13, Article IV of the Ottawa Municipal Code.
 - 4. No tree, shrub, bush, or any plant material large enough to obstruct access shall be planted in such a fashion that any portion thereof including expected growth shall infringe on a three foot (3') circumference around any fire hydrant.

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C. Proximity to Overhead & Underground Utilities

1. No trees should be planted immediately under, and only “small trees” should be planted within fifteen feet (15') laterally of, overhead wires.
2. The “Recommended Tree List” shall include listings of trees that are “unfriendly” to underground utilities. Planting an unfriendly tree within five feet (5') laterally of an underground utility is prohibited.

D. Tree Topping Prohibited.

It shall be unlawful for any person to “top” a street tree, park tree, or any other tree on public property. Trees severely damaged by storm or other causes, or certain trees under utility wires or other obstructions where normal pruning practices are impractical may be exempted from this prohibition on a case-by-case basis. A request to top a tree must be processed and approved by the Public Works Department.

E. Stump Removal.

When trees are removed, stumps shall either be cut off flush with the surrounding ground or ground mechanically such that the remaining stump is at or below the level of the surrounding ground.

Sec. 60-109 Assessment For Cost of Work Completed by City.

Assessment against property owners and collection thereof, if necessary, will be made in accordance with the statutes of the State of Kansas.

Sec. 60-110 Tree Requirements for New Developments/Plats.

Requirements for trees in new developments within the City of Ottawa shall be included in the Zoning Ordinance.

CHAPTER CREATED: (Ord. No. 3429-02, 12-18-02)