

CITY OF PLYMOUTH, MICHIGAN ORDINANCE NO. 2024-02

AN ORDINANCE TO AMEND THE
PLYMOUTH CITY CODE OF ORDINANCES:
CHAPTER 34-ENVIRONMENT;
ARTICLE I.-Trees; DIVISION 1.-GENERALLY

TO ACHIEVE ABOVE, THE FOLLOWING ORDINANCE SECTIONS HAVE BEEN AMENDED AS SHOWN:

- **Expand Section 34-1** to list benefits of trees and identify trees as public infrastructure
- **Delete part of Section 34-2** to remove definitions that are no longer referenced, add definition for “diseased tree”, and amend definition for tree protection plan
- **Delete Section 34-18, 34-19, and 34-22** for private tree removal and new construction street tree planting requirement
- **Amend Section 34-23** to reference “private” trees
- **Delete part of Section 34-24** which required permits for tree removal, planting, and replacement
- **Delete part of Section 34-26** that references private tree removal and replacement
- **Amend Section 34-27** to identify the City Commission as the appeal board
- **Reorder remaining sections** to accommodate deleted sections

The entire ordinance can be viewed at: https://www.plymouthmi.gov/agenda_center

Introduced – 5-6-2024

Enacted – 5-20-2024

Publication – 5-29-2024

Effective – 5-30-2024

ARTICLE I. TREES¹

DIVISION 1. GENERALLY

Sec. 34-1. Intent.

The purpose of this chapter is to promote and provide for the protection of the public health, safety, and general welfare through the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Plymouth, preservation, and reforestation of the City of Plymouth's tree canopy, trees, and woodlands. Trees provide numerous benefits such as stormwater management, runoff infiltration, air quality improvements, and support property values, making them an important piece of our public infrastructure.

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Sec. 34-2. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dead tree means any tree that has no visible growth (within the appropriate growing season for all deciduous trees), no visible buds, twigs that do not exhibit flexibility, and twigs that do not appear green at the cambium layer when outer bark has been physically removed.

Diameter breast height (DBH) means the diameter, in inches, of a tree measured at four and one-half feet above the existing grade.

Diseased tree means any tree that shows signs of any of the following issues: premature leaf defoliation or reduction in foliage, leaves or needles with dark spots, unusual colors, or distorted shapes, changes in tree bark, fungi or root rot, or other conditions that indicate disease as identified by the State of Michigan Department of Natural Resources.

Dripline means the imaginary vertical line, which extends downward from the outermost tips of the tree branches to the ground.

Front yard tree means any tree located in the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the main building.

Heritage tree means any tree that meets the size and species requirements in the table below, or any tree not listed in the table below that is 18 inches DBH or greater.

<u>Common Name</u>	<u>Scientific Name</u>	<u>DBH</u>
<u>Arborvitae</u>	<u>Thuja occidentalis</u>	<u>18"</u>

¹Ord. No. 2019-01 , adopted July 15, 2019, repealed art. I, div. 1 in its entirety, and enacted new provisions to read as herein set out. Former art. I, div. 1, §§ 34-1—34-9, pertained to the tree ordinance, and derived from Ord. No. 17-06 , adopted Oct. 16, 2017.

Ash	Fraxinus species	18"
American Basswood (Linden)	Tilia americana	18"
American Beech	Fagus grandifolia	18"
American Chestnut	Castanea dentata	8"
American Elm	Ulmus americana	18"
Birch	Betula species	18"
Black Alder	Alnus glutinosa	12"
Black Tupelo	Nyssa sylvatica	12"
Black Walnut	Juglans nigra	18"
White Walnut	Juglans cinerea	18"
Buckeye (Horse Chestnut)	Aesculus species	18"
Cedar, Red	Juniperus species	12"
Crabapple (Cultivar)	Malus species	12"
Douglas Fir	Pseudotsuga menziesii	18"
Eastern Hemlock	Tsuga canadensis	12"
Flowering Dogwood	Cornus florida	8"
Ginkgo	Ginkgo biloba	18"
Hickory	Carya, species	18"
Kentucky Coffeetree	Gymnocladus dioicus	18"
Larch/Tamarack	Larix laricina (Eastern)	12"
Locust	Gleditsia triacanthos	18"
Sycamore (London plane tree)	Platanus species	18"
Maple	Acer species (except negundo)	18"
Oak	Quercus species	18"
Pine	Pinus species	18"
Sassafras	Sassafras albidum	15"
Spruce	Picea species	18"
Tulip Tree	Liriodendron tulipifera	18"
Wild Cherry	Prunus species	18"

Large tree means any tree larger than 40 feet in height at maturity.

Licensed tree professional means a nurseryman or an ISA-certified arborist.

Medium tree means any tree between 25 feet and 40 feet in height at maturity.

Park tree means any tree located in public parks having individual names, and all publicly owned land, or to which the public has free access as a park.

Private tree means any tree located on land that is owned by an individual or group having a vested or financial interest in the subject property.

Protected area means the area contained within the dripline of the tree.

Protective barrier means a physical obstruction that encloses the protected area of a tree and limits vehicular, material, and equipment access.

Small tree means any tree less than 25 feet in height at maturity.

Street tree means any trees planted or located within a public street or road right-of-way.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the trees.

Transplant means the digging up of a tree and the planting of that tree in another place on the same property or off-site property.

Tree means a woody perennial plant, typically having a single stem or trunk which at maturity is 13 feet or more in height and which has a definite crown of foliage.

Tree fund means the budget account located in the solid waste/recycling fund to be used for activities associated with public tree inventory, protection, maintenance, and planting.

~~*Tree-planting permit* means the permit application reviewed and approved by the administration that shows the location, species, and size of trees that will be planted or transplanted.~~

~~*Tree protection plan* means the documentation describing plan reviewed and approved by the administration that shows how trees will be protected from construction activities.~~

~~*Tree-removal permit* means the permit application reviewed and approved by the administration that shows the location, species, and size of trees that will be removed.~~

~~*Tree-replacement plan* means the permit application reviewed and approved by the administration that shows how the requirement for replacing removed tree(s) will be satisfied.~~

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Sec. 34-3. Prohibited trees.

The following trees are prohibited to be planted or replanted:

Common Name	Scientific Name
Ash	Fraxinus species
Autumn and Russian-Olive	Elaeagnus species
Boxelder	Acer negundo
Buckthorn	Rhamnus species
Mulberry	Morus species
Poplar	Populus species
Siberian Elm	Ulmus pumila
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus altissima
Willow	Salix species

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-4. Tree care.

- (a) All trees shall be planted, pruned, maintained, and removed, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) The city reserves the right to remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, is blocking street or sidewalk clearance, or is blocking the spread of light or view of traffic control devices.

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- (c) If any owner, occupant or person having charge of any land within the city shall refuse or neglect to resolve public safety issues caused by private trees as provided in this chapter, then the city manager or his/her designee shall cause the land to be entered upon by city employees or a city contractor for the purpose of pruning, or removing said trees at the sole cost to the property owner and such entering upon shall not be deemed a trespass.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-5. Pruning.

Trees shall be pruned so that branches do not obstruct the light from any street light or obstruct the view of any street intersection. A clear space of 15 feet above the surface of the street and eight feet above the surface of the sidewalk shall be maintained. The city shall have the right to prune or cause to be pruned any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of roadway, sidewalk, traffic control devices, and/or signs.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-6. Corner clearance.

Within the required corner clearance area as defined in section 78-207, all trees and limbs, including dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public, shall be removed by the property owner upon which the tree is located.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-7. Tree topping.

It shall be prohibited for any person to top any tree. Trees severely damaged by storms, an act of God, or other causes out of the city's or property owner's control, may be exempted from this section at the determination of the city manager or his/her designee. This section does not apply to a utility company who may be required to top a tree for purposes of public safety or valid equipment issues.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-8. Removal of stumps.

All stumps of street, park, and front yard trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The stump excavation site shall be backfilled to match existing grade as defined in section 78-21.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-9. Tree fund.

This section establishes the city's tree fund. The purpose of the tree fund shall be to maintain and reestablish the city's public tree canopy. The city commission shall review the rate structure annually as part of their budget process.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-10. Installation and planting.

All trees shall be planted according to ANSI Standards A300.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-11. Maintenance provisions.

All trees shall be maintained in a safe, healthy, neat and orderly state free from refuse and debris.

(Ord. No. 2019-01 , 7-15-19)

DIVISION 2. PUBLIC TREES

Sec. 34-12. Permitted street trees.

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted unless approved, in writing, by city manager or his/her designee.

(1) *Small trees:*

Common Name	Scientific Name
Cherry, Flowering	Prunus species and hybrids
Crabapple, Flowering	Malus species and hybrids
Dogwood	Cornus species and hybrids
Goldenrain Tree	Koelreuteria paniculata
Hawthorn	Crataegus species
Lilac, Japanese Tree	Syringa reticulata
Magnolia	Magnolia hybrids
Magnolia, Star	Magnolia stellata
Maple, Amur	Acer ginnala
Maple, Paperbark	Acer griseum
Maple, Tatarian	Acer tataricum
Maple, Trident	Acer buergeranum
Peach, Flowering	Prunus species and hybrids
Plum, Flowering	Prunus species and hybrids
Redbud, Eastern	Cercis canadensis
Serviceberry	Amelanchier species and hybrids

(2) *Medium trees:*

Common Name	Scientific Name
Amur Maackia	Maackia amurensis
Corktree, Amur, Fruitless Male	Phellodendron amurense
Hophornbeam, American	Ostrya virginiana
Hornbeam, American	Carpinus caroliniana
Hornbeam, European	Carpinus betulus
Horsechestnut, Red	Aeculus x carnea

Maple, Bigtooth	Acer grandidentatum
Maple, Hedge	Acer campestre
Maple, Shantung	Acer truncatum
Mountain Ash	Sorbus species
Mulberry, Red Fruitless Male	Morus rubra, fruitless varieties
Osageorange, Thornless Male	Maclura pomifera
Pagodatree (Scholartree)	Styphnolobium (Sophora) japonicum
Paw Paw	Asimina triloba
Pear, Flowering	Pyrus species and hybrids
Sassafras	Sassafras albidum
Yellowwood	Cladrastis kentukea

(3) *Large trees:*

Common Name	Scientific Name
Baldcypress	Taxodium distichum
Beech, American	Fagus grandifolia
Beech, European	Fagus sylvatica
Blackgum (Tupelo)	Nyssa sylvatica
Catalpa, Northern	Catalpa speciosa
Chestnut	Castanea hybrids
Coffeetree, Kentucky	Gymnocladus dioicus
Elm, American Dutch Elm resistant varieties	Ulmus hybrids
Filbert, Turkish	Corylus colurna
Ginkgo (Maidenhair Tree), Fruitless Male	Ginkgo biloba
Hackberry	Celtis occidentalis
Hardy Rubber Tree	Eucommia ulmoides
Hickory	Carya species
Honeylocust	Gleditsia triacanthos
Horsechestnut	Aesculus species
Katsura Tree	Cercidiphyllum japonicum
Linden, American	Tilia Americana
Linden, Littleleaf	Tilia cordata
Linden, Silver	Tilia tomentosa
Maple, Black	Acer nigrum
Maple, Freeman Hybrid	Acer x freemanii
Maple, Miyabe	Acer miyabei
Maple, Norway	Acer platanoides
Maple, Red	Acer rubrum
Maple, Sugar	Acer saccharum
Maple, Sycamore	Acer pseudoplatanus
Oak, Bur	Quercus macrocarpa
Oak, Chinkapin	Quercus muehlenbergii
Oak, English	Quercus robur

Oak, Northern Red	Quercus rubra
Oak, Pin	Quercus palustris
Oak, Sawtooth	Quercus acutissima
Oak, Scarlett	Quercus coccinea
Oak, Shingle	Quercus imbricaria
Oak, Shumard	Quercus shumardii
Oak, Swamp White	Quercus bicolor
Oak, White	Quercus alba
Planetree, London	Platanus x acerifolia
Redwood, Dawn	Metasequoia glyptostroboides
Sweetgum	Liquidambar styraciflua
Sycamore	Platanus occidentalis
Tuliptree	Liriodendron tulipifera
Walnut, Black	Juglans nigra
Zelkova	Zelkova serrata

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-13. Distance from street corners, driveways, curbs, and sidewalks.

No tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No tree shall be planted closer than ten feet from any driveway or approach. Trees planted in the area between the curb or curb lines and sidewalks shall be in accordance with the three species size classes listed in section 34-12. No trees may be planted within any area between the curb or curb line and sidewalk other than the following: small trees: two feet; medium trees: three feet; and large trees: four feet.

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Ord. No. 2020-06 , adopted Dec. 21, 2020, changed the title of § 34-13 from "Distance from street corners and fire hydrants" to read as herein set out.

Sec. 34-14. Distance from utilities, signs, and hydrants.

No trees, other than those species listed as small trees in section 34-12(1), may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. No trees shall be planted closer than ten feet from any manhole structure. No tree shall be planted closer than ten feet from any hydrant. No tree shall be planted closer than ten feet from any streetlight pole. No tree shall be planted closer than ten feet from any traffic control device.

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Ord. No. 2020-06 , adopted Dec. 21, 2020, changed the title of § 34-14 from "Distance from curb and sidewalk" to read as herein set out.

Sec. 34-15. Distance between trees.

Trees shall be planted a sufficient distance away from other trees. The distance between small trees as listed in section 34-12(1) shall be 20 feet. The distance between medium trees as listed in section 34-12(2) shall be 30 feet. The distance between large trees as listed in section 34-12(3) shall be 40 feet.

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Ord. No. 2020-06 , adopted Dec. 21, 2020, changed the title of § 34-15 from "Distance from utilities" to read as herein set out.

Sec. 34-16. Tree size.

The minimum size for a street tree or park tree shall be one and one-half inches in caliper DBH. All trees planted must be of the tree form variety, have a single stem with branching limbs, and branches must be at least eight feet off the ground at maturity, as predicated by the size definitions in section 34-2.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-17. Removal and replacement of street trees.

- (a) Should a property owner wish to have the street tree adjacent to his or her property removed, he or she shall submit a request, in writing, to the city manager or his/her designee. Within ten business days of the receipt of the request an ISA certified arborist, provided by the city, will perform a condition and risk assessment. The cost for this service shall be borne by the property owner making the request. Following the condition and risk assessment by the ISA certified arborist, if the street tree is found to be dead, diseased, or dying the city shall remove the street tree at the city's cost. Following the condition and risk assessment by the ISA certified arborist, if the street tree is not found to be dead, diseased, or dying, the tree shall remain.
- (b) Only in extenuating circumstances, as determined by the city manager or his/her designee, shall a healthy street tree be removed or caused to be removed. Such extenuating circumstances shall include but are not limited to catastrophic event, repair, replacement, or maintenance of underground utilities, or an act of God.
- (c) When a street tree is removed every effort shall be made to replace the tree within one year of removal with one replacement tree that meets the requirements in sections 34-12 through 34-16 above.

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Ord. No. 2020-06 , adopted Dec. 21, 2020, changed the title of § 34-17 from "Removal of street trees" to read as herein set out.

DIVISION 3. PRIVATE TREES

~~Sec. 34-18. Removal and replacement of heritage trees.~~

~~This section shall apply to all private heritage trees. Each heritage tree that is removed shall be replaced in a manner consistent with the following subsections:~~

- ~~(1) Heritage trees shall be replaced at a sliding scale rate set by the city commission annually for each tree removed. Replacement tree(s) shall be located on the parcel(s) where each heritage tree is removed or in the right of way adjacent to the affected property. The city manager or his/her designee may consider alternate locations on a case by case basis. Replacement trees shall be shown on a tree replacement plan.~~
- ~~(2) If trees cannot be reasonably planted on the property, the property owner shall pay into the tree fund at a rate defined by the city commission and stated on the rate card, rounded up to the nearest one inch of DBH required to be replaced by section 34-18(1).~~

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- (3) ~~If the requirements of section 34-18(1) and (2) cannot be met, a combination of paying into the tree fund and replacement trees shall be used. Replacement trees shall be shown on a tree replacement plan.~~
- (4) ~~When required, a tree replacement plan shall be submitted within 90 days of the removal of heritage tree(s). The city manager or his/her designee may consider an extension on a case by case basis.~~
- (5) ~~When a tree from the subject property is transplanted and saved from removal, that DBH shall be added as a credit to the property owner's replacement requirements. Trees shall be relocated by a licensed tree professional. The property owner shall ensure the tree's successful establishment in new location.~~
- (6) ~~Trees that are dead, diseased, or dying with no visible growth as determined by an ISA certified arborist are exempt from replacement requirements.~~
- (7) ~~The minimum size for a replacement tree shall be one and one half inches in caliper DBH. All trees planted must be of the tree form variety.~~

~~(Ord. No. 2019-01, 7-15-19; Ord. No. 2020-06, 12-21-20)~~

Sec. 34-19. Removal and replacement of front yard trees.

~~This section shall apply to any front yard trees with a DBH of six inches or greater but less than the heritage tree standard for that species. Each tree that is removed shall be replaced in a manner consistent with the following subsections:~~

- (1) ~~Front yard trees shall be replaced at a sliding scale rate set by the city commission annually for each tree removed. Replacement front yard tree(s) shall be located on the front yard of the parcel(s) where each front yard tree is removed or in the right-of-way adjacent to the affected property. The city manager or his/her designee may consider alternate locations on a case by case basis. Replacement trees shall be shown on a tree replacement plan.~~
- (2) ~~If trees cannot be reasonably planted on the property, the property owner shall pay into the tree fund at a rate defined by the city commission and stated on the rate card, rounded up to the nearest one inch of DBH required to be replaced by section 34-19(1).~~
- (3) ~~If the requirements of section 34-19(1) and (2) cannot be met, a combination of paying into the tree fund and replacement trees shall be used. The city manager or his/her designee may consider alternate locations on a case by case basis. Replacement trees shall be shown on a tree replacement plan.~~
- (4) ~~When required, a tree replacement plan shall be submitted within 90 days of the removal of a front yard tree(s). The City manager or his/her designee may consider an extension on a case by case basis.~~
- (5) ~~When a tree from the subject property is transplanted and saved from removal, its DBH shall be added as a credit to the property owner's replacement requirements. Trees shall be relocated by a licensed tree professional. The property owner shall ensure the tree's successful establishment in new location.~~
- (6) ~~Front yard trees that are dead, diseased, or dying with no visible growth as determined by an ISA certified arborist are exempt from replacement requirements.~~
- (7) ~~The minimum size for a replacement tree shall be one and one half inches in caliper DBH. All trees planted must be of the tree form variety.~~

~~(Ord. No. 2019-01, 7-15-19; Ord. No. 2020-06, 12-21-20)~~

~~Ord. No. 2020-06, adopted Dec. 21, 2020, changed the title of § 34-19 from "Electively removed trees" to read as herein set out:~~

Sec. 34-~~1829~~. Dead tree removal on private property.

The city shall have the right to cause the removal of any dead tree on private property within the city when such trees constitute a hazard to life or property. The city will notify, in writing, the owners of such trees. Removal shall be done by such owners at their own expense within 30 days after the date of service of notice. Upon the owner's failure to comply with such provisions, the city shall have the authority to remove such trees at a rate set by the city commission. The city manager or his/her designee shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the same shall be assessed against the lot or parcel and collected as provided by section 12.22 of the city Charter.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-~~1921~~. Diseased trees on private property.

The city shall have the right to cause the removal or treatment of any diseased tree on private property within the city when such tree constitutes a hazard to life or property or harbors deadly insects or disease which constitutes a potential threat to other trees within the city. Treatment of a diseased tree shall include chemical treatment to render the disease or affliction non-threatening to any affected tree. The city will notify, in writing, the owners of such trees. Treatment or removal shall be done by such owners at their own expense within 30 days after the date of service of notice. Upon failure of owners to comply with such provisions, the city shall have the authority to treat or remove such trees and charge the cost of treatment or removal at a rate set by the city commission. The city manager or his/her designee shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the same shall be assessed against the lot or parcel and collected as provided by section 12.22 of the city Charter.

(Ord. No. 2019-01 , 7-15-19)

~~Sec. 34-22. Installation of street trees for new residential construction.~~

- ~~(a) Residential property owners shall install a minimum of one new street tree at the effected property when a new construction home is built. If the right of way adjacent to the residential property is not suitable for the long term health requirements of a tree based on sections 34-13 through 34-15, the property owner shall pay into the tree fund at a rate set by the city commission.~~
- ~~(b) Residential property owners must choose one of the following tree replacement processes from the following three options:
 - ~~(1) Plant a tree before any certificate of occupancy is issued.~~
 - ~~(2) Pay into the tree fund prior to the issuance of any certificate of occupancy at a rate approved by the city commission.~~
 - ~~(3) Property owner plans to plant a tree within one year of final certification of occupancy issuance. Property owner pays a cash bond at a rate approved by the city commission before any certificate of occupancy is issued. The bond will be refunded once the tree is planted and the property owner notifies the city in writing of planting. If the tree is not planted within one year, the bond is forfeited to the tree fund.~~~~

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Sec. 34-2023. Tree protection standards during construction.

- (a) When a building permit is required for work including accessory structure, addition, approach/drive, carport/porte cochere, deck, demolition, egress window, fence, foundation, land division/~~combination~~/reconfiguration, new construction, patio, parking lot, pergola, porch, pool, ground sign, or any other changes the lot coverage or floor area ratio of the property, existing ~~private front yard and heritage~~ trees shall be indicated on a boundary survey to include property boundaries, topography, and tree size, location, and species, and existing and proposed structure(s) and building envelope. The survey shall be submitted to the city with a tree protection plan in a compatible digital format. The tree protection plan shall be submitted at the time that building plans are submitted to the community development department for review. The tree protection plan shall include the location and type of protective barrier that will be used to protect the trees throughout construction.
- (b) During construction, a protective barrier shall be placed at the drip line of the street, park, and/or ~~front yard or heritage~~ private tree(s). The ground area within the drip line shall be maintained undisturbed from its pre-construction state.
- (c) Vehicles, materials, and equipment are prohibited from being stored in, staged in, or driven through the protected area of the ~~private front yard or heritage~~ tree. Practical difficulties shall be dealt with by the administration on a case-by-case basis.
- (d) If the protected area of ~~the front yard or heritage~~ a private tree falls within the building envelope, every precaution shall be taken to preserve and protect the affected tree(s).

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

DIVISION 4. ADMINISTRATION AND ENFORCEMENT

~~Sec. 34-24. Permits required.~~

- ~~(a) A tree removal permit is required when any tree is planned for removal.
 - ~~(1) Permits shall be obtained from the department of municipal services (DMS) on a form provided.~~
 - ~~(2) DMS shall review the application for compliance with this chapter.~~
 - ~~(3) DMS shall perform a site visit to measure and document the affected tree(s).~~
 - ~~(4) DMS shall provide a report to the applicant detailing the trees planned for removal and any required replacement.~~
 - ~~(5) After review, DMS shall issue a permit to applications that meet the requirements of this chapter.~~
 - ~~(6) If replacement trees are required see {subsection} (c).~~~~
- ~~(b) A tree planting permit is required when trees are transplanted or planted.
 - ~~(1) Permits shall be obtained from the department of municipal services (DMS) on a form provided. The application shall include a scaled site plan or boundary survey or scaled drawing that shows all property lines, pavement, hard surfaces, and the size, species, and location of the proposed tree(s) to be planted.~~
 - ~~(2) DMS shall review the application for compliance with this chapter.~~~~

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- (3) After review, DMS shall issue a permit to applications that meet the requirements of this chapter.
- (c) A tree replacement plan is required when replacement trees are required to be planted after tree(s) have been removed:
- (1) Permits shall be obtained from the department of municipal services (DMS) on a form provided. The application shall include a scaled site plan or boundary survey or scaled drawing that shows all property lines, pavement, hard surfaces, and the size, species, and location of the proposed tree(s) to be planted.
- (2) DMS shall review the application for compliance with this chapter.
- (3) DMS shall provide a report to the applicant detailing how the replacement requirement shall be met.
- (4) After review, DMS shall issue a permit to applications that meet the requirements of this chapter.
- (d) A tree protection plan is required when a qualifying construction project is planned for a property:
- (1) Permits shall be obtained from the department of municipal services on a form provided.
- (2) The tree protection plan shall be submitted at the time that building plans are submitted to the community development department for review. The tree protection plan shall include a topographic boundary survey that shows which tree(s) are being protected during construction and the location and type of protective barrier that will be used to protect the trees throughout construction.
- (3) After review, DMS shall issue a permit to applications that meet the requirements of this chapter.
- (4) No building permit shall be issued until an approved tree protection plan permit has been issued.
- (e) No tree shall be removed, replaced, transplanted, or planted unless a tree permit has been first issued for such work.
- (f) When a building permit is required for any work that includes changes to lot coverage, floor area ratio, or hardscaping of the property, existing front yard and heritage trees shall be indicated on a boundary survey. The boundary survey shall include property boundaries; topography; the size, location, and species of each tree; existing and proposed structure(s); and building envelop. The survey shall be submitted to the city in a compatible digital format.
- (g) The permit fees shall be set and reviewed annually by the city commission.
- { Ord. No. 2019-01, 7-15-19; Ord. No. 2020-06, 12-21-20 }

Sec. 34-2125. Notice.

The city manager or his/her designee shall notify, by first class mail or by posting notice in a conspicuous location on the property, the owner, agent or occupant of any lands on which a violation of this chapter is found to exist. Such notice shall require that the person having charge of such land to resolve any violations of this chapter; and shall contain a summary of the provisions of this chapter. Failure of the city manager or his/her designee to give notice shall not, however, constitute a defense to any action to enforce the payment of any penalty provided for, or debt created under, the provisions of this chapter. If the property is not in compliance with this article at the end of the period specified in the notice of violation, an appearance ticket may be issued.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-~~2226~~. Penalty and enforcement.

~~(a) The city shall have the right to enter property to investigate the removal of front yard or heritage trees on private property. The penalty for removal of front yard or heritage tree(s) without a required permit shall be a civil infraction plus a \$500.00 fine, per tree. In addition to the fine, the offender shall pay fair market replacement per front yard or heritage tree removed based on a minimum size of 18-inch DBH.~~

~~(b) A person who violates any provision of this chapter 34 or the terms or conditions of a permit is responsible for municipal civil infraction; and shall be subject to payment of not less than \$500.00, plus costs and other sanctions, for each infraction.~~

~~(c) Discretionally removed trees or trees that are intentionally damaged that are not replaced according to the provisions of this chapter require payment into the tree fund at the rate established by the city commission.~~

(Ord. No. 2019-01 , 7-15-19; Ord. No. 2020-06 , 12-21-20)

Sec. 34-~~2327~~. Appeals.

Any appeals to this chapter shall be submitted, in writing, [to the city commission](#) on a form provided by the city manager or his/her designee within 21 days of the administration's determination. Appeals cannot be made when a determination includes a healthy, safety, welfare concern.

(Ord. No. 2019-01 , 7-15-19)

Sec. 34-~~2428~~. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this chapter 34 are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter 34 is adjudged unconstitutional or invalid by any court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter 34.

(Ord. No. 2019-01 , 7-15-19)

Secs. 34-~~2529~~—34-41. Reserved.