

The City of Castle Hills, Texas

**ORDINANCE NO. 2023-07-11-A**

**AN ORDINANCE OF THE CITY OF CASTLE HILLS REPEALING CHAPTER 48, VEGETATION, OF THE CODE OF ORDINANCES AND ADOPTING A NEW CHAPTER 48, VEGETATION, OF THE CODE OF ORDINANCES OF THE CITY OF CASTLE HILLS, TEXAS, INCLUSIVE OF PROVISIONS RELATING TO APPROVED, HERITAGE, AND PROTECTED TREES, PLANTING, REMOVING, AND CARE OF TREES, AND LANDSCAPE MAINTENANCE AND SETTING A PENALTY OF A FINE NOT LESS THAN \$150.00 OR MORE THAN \$500.00 FOR VIOLATIONS OF ARTICLE II OF NEW CHAPTER 48, A PENALTY OF A FINE NOT TO EXCEED \$500.00 FOR A VIOLATION OF SECTIONS 48-77, 48-79, OR 48-80 OF ARTICLE III OF NEW CHAPTER 48, AND A PENALTY OF A FINE NOT LESS THAN \$500.00 OR MORE THAN \$1,000.00 FOR OTHER VIOLATIONS OF ARTICLE III OF NEW CHAPTER 48, WITH EACH AN OFFENSE OCCURS BEING A SEPARATE VIOLATION**

**WHEREAS**, City Council of the City of Castle Hills, Texas, authorized the Architectural Control Committee to review the provisions in Chapter 48 of the Code of Ordinances which is entitled Vegetation and which includes matters relating to heritage and protected trees, planting, removing, and care of trees, and landscape maintenance and to propose revisions to Chapter 48 of the Code of Ordinances; and

**WHEREAS**, the Architectural Control Committee reviewed the current text of Chapter 48 and discussed potential revisions to the text of Chapter 48 at various monthly meetings during 2022 and at its meetings on January 4, 2023, February 8, 2023, March 7, 2023, and April 3, 2023; and

**WHEREAS**, the Architectural Control Committee has recommended to the City Council that a new Chapter 48 of the Code of Ordinances be adopted to clarify and update rules and regulations concerning trees, including without limitation heritage and protected trees, planting, removing, and care of trees, and landscape maintenance; and

**WHEREAS**, the City Council acknowledges the work of the Architectural Control Committee on the proposed new wording for Chapter 48 of the Code of Ordinances and thanks the committee members for their efforts; and

**WHEREAS**, the City Council believes that the current Chapter 48 of the Code of Ordinances should be repealed and that a new Chapter 48 of the Code of Ordinances should be adopted.

**NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE HILLS THAT:**

1. Chapter 48 of the Code of Ordinances is repealed.

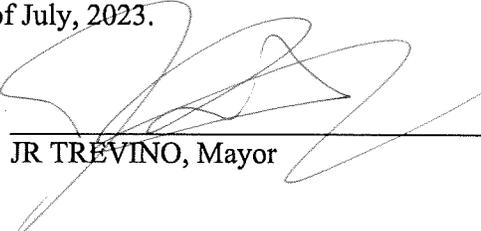
2. A new Chapter 48 of the Code of Ordinances is hereby adopted to read as set out on Exhibit "A" to this Ordinance.

3. This Ordinance is effective upon passage and adoption.

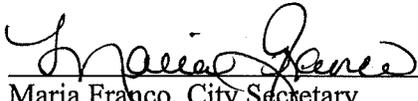
4. The City Manager is directed to make arrangements for publication of the caption of this Ordinance in the official newspaper of the City of Castle Hills.

Passed and adopted on the 11<sup>th</sup> day of July, 2023.



  
\_\_\_\_\_  
JR TREVINO, Mayor

ATTEST:

  
\_\_\_\_\_  
Maria Franco, City Secretary

## Chapter 48 VEGETATION<sup>1</sup>

### ARTICLE I.

#### IN GENERAL

#### Sec. 48-1. Definitions.

For the purposes of this chapter, the following capitalized terms shall have the special meanings ascribed to them below, which shall govern in case of any conflict with other definitions set forth in this Code:

**Approved Tree** means one of Tree species below, unless otherwise required or approved by city council in conjunction with a tree removal request under this chapter:

(1) <b>Shade Trees:</b>	<u>Protectable DBH</u>	<u>Heritage DBH</u>
Afghanistan pine	6	18
Anacua	8	20
Arizona cypress	6	20
Bald cypress	8	24
Bur oak	8	24
Cedar elm	6	20
Chinese elm	6	18
Chinese pistache	8	24
Chinquapin oak	8	24
Italian stone pine	8	20
Lacey oak	6	18
Live oak	8	24
Monterrey oak (Mexican white oak)	6	18
Montezuma bald cypress	8	24

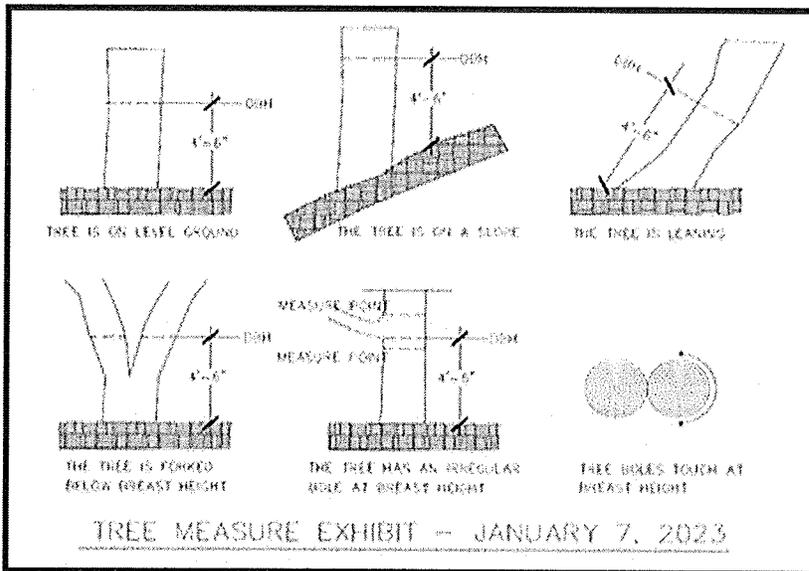
---

<sup>1</sup>Editor's note(s)—Ord. No. 2017-12-20-A, (Exh. A), adopted Dec. 20, 2017, amended former Ch. 48, Arts. I, II, III in its entirety to read as herein set out. Former Ch. 48 pertained to similar subject matter. See the Code Comparative Tables at the back of this volume for a listing of 1995 Code sections and ordinances from which former Chapter 48 derived.

State law reference(s)—Municipality authority to require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush, and other environmental nuisances, V.T.C.A., Health and Safety Code § 342.001 et seq.; protection of endangered plants, V.T.C.A., Parks and Wildlife Code § 88.001 et seq.; municipal landscaping services, V.T.C.A., Health and Safety Code § 756.101 et seq.; noxious weeds control districts, V.T.C.A., Agriculture Code § 78.001 et seq.; local regulation of noxious and invasive plants prohibited, V.T.C.A., Agriculture Code § 71.153; nuisance or noxious aquatic vegetation control, V.T.C.A., Parks and Wildlife Code § 12.010.

Osage orange	8	18
Pecan	8	24
Southern Magnolia	8	24
Sycamore	8	20
Western soapberry	6	18
<b>(2) <u>Ornamental Trees:</u></b>		
Anacacho orchidtree	6	10
Chitalpa	6	16
Crape myrtle	6	18
Desert willow	4	10
Gallery pear	6	10
Goldenball leadtree	4	10
Mexican plum	4	10
Rusty blackhaw	4	10
Texas mountain laurel	4	10
Texas persimmon	4	10
Yaupon	4	10

**Diameter at Breast Height (DBH)** means the diameter of a tree trunk, expressed in inches, when measured 4.5 feet above ground level. See following illustrations of measurement of DBH:



**Drip-Line** means the outermost circumference the tree's canopy, from which water drips onto the ground.

**Drip-Line Area** means the soil and roots that lie within a Tree's Drip Line.

---

**Heritage Tree** means any Approved Tree with a DBH equal to or greater than the Heritage DBH shown in the above definition of Approved Trees.

**Impervious Cover** means materials that do not permit rainwater to permeate into the subsurface.

**Owner** means the person or entity having legal title to the property or a lessee, agent, employee or other person acting on behalf of the titleholder with authorization to do so.

**Protectable Tree** means any Approved Tree with a DBH equal to or greater than the Protectable DBH shown in the above definition of Approved Trees.

**Protected Tree** means a Protectable Tree that is to be preserved in accordance with this Ordinance.

**Public Plant** means any Tree, shrub, plant, or vegetation having 50 percent or more of its growth or DBH located on or over Public Property or when it reaches mature height or growth, it is expected to have 50 percent or more of its growth or DBH, located on or over public property.

**Public Property** means all property owned by the city or state and any property in which the city or state has an easement or property right, including, but not limited to, streets, roadways, alleys, traffic islands, rights-of-way, utility easements and drainage easements.

**Removal** means the elimination of a tree by any means from a site or an act that causes, or may be reasonably expected to cause, a tree to die. Such acts include, but are not limited to: uprooting; severing the main trunk; damaging the root system; and excessive pruning.

**Retaining Wall** means an earthen or solid structure of rock, brick, landscape timbers or other approved materials used to preserve existing grade at the base of a Tree if the base of the Tree is above the proposed Grade.

**Root Protection Zone (RPZ)** means the area around a Tree which must remain undisturbed or otherwise preserved in order to protect the Tree's root system; generally, the area with a radius of one-half-foot for each inch of DBH, or if branching occurs at or before four and one-half feet, the diameter is measured at the point where the smallest Trunk diameter occurs. The RPZ need not be exactly centered around the Tree or circular in shape, but it should be positioned so that no disturbance occurs closer to the Tree than one-half of the radius of the RPZ or within five feet of the Tree, whichever is less. For any Tree or groups of Trees, the RPZ need not exceed 1,000 square feet in size. The radial RPZs of Trees may overlap one another so that the area of protection required for one Tree may be shared by the area of protection required for another Tree to minimize the total square footage of protected area where possible.

**Tree** means a woody plant having a defined stem, or multi-trunk and a formed crown, usually attaining a mature height of at least eight feet.

**Tree Well** means an earthen or solid structure of rock, brick, landscape timbers or other approved materials used to preserve existing grade at the base of a Tree if the base of the Tree is below the proposed grade.

**Tree Survey** means a scaled drawing, survey or plat prepared by a licensed Civil Engineer, licensed Surveyor or a certified Arborist that:

- Identifies all Heritage Trees and other Protectable Trees in relation to existing property lines, Improvements or Impervious Cover; and.
- Includes a summary table that Identifies each Heritage Tree or Protectable Tree by DBH, species, existing topography and assigned number.

---

**Sec. 48-2. Disposition of permit fees.**

Fees collected from the issuance of Tree permits and mitigation fees required in this chapter will be deposited in the tree fund of the city.

**Secs. 48-3—48-22. Reserved.**

**ARTICLE II. HERITAGE AND PROTECTED TREES**

**DIVISION 1. GENERALLY**

**Sec. 48-23. Purpose and intent.**

The purpose of this article is to protect existing Trees, promote the planting of Approved Trees, and establish a city policy regarding the Removal and replacement of specified Trees within the city limits.

**Sec. 48-24. Applicability.**

Upon adoption by City Council, this article applies in all zoning districts subject to the following exceptions.

**Exceptions**

- (1) Heritage Trees and Protectable Trees so located as to unreasonably restrict access to the property.
- (2) Upon application to the City, owner occupants of residential properties in zoning districts A, AA, B and RR will be given a permit to remove Heritage Trees and Protectable Trees which are dead, dying, diseased or posing an eminent risk to an existing structure such that pruning or recovery is not practicable.
- (3) Upon application to the City, owner occupants of residential properties in zoning districts A, AA, B and RR will be given a permit to remove up to 3 Protectable non Heritage Trees in a calendar year for the purpose of making improvements upon the property. If more than three Protectable Trees are to be removed, the first three trees may be removed as noted in this exception, with any additional trees to be removed done in accordance with Sec. 48-25.

If a tree is removed in accordance with an Exception under this Section 48-24, then the mitigation requirements in Section 48-25 are not applicable.

**Sec. 48-25. Tree Preservation and Mitigation.**

The Owner must preserve a minimum of 40% of the total DBH of Protectable Trees in the Tree Survey's tree log. One-half of the required 40% of the DBH requires preservation of Protectable Trees currently on the property.

One-half of the required 40% may be removed but must be mitigated by the following singly or in combination (i) planting the equivalent DBH of Approved Trees with a minimum of 2" DBH per planted Approved Tree, (ii) paying a mitigation fee of \$100.00 per DBH of the Removed Trees.

Exception: Removal of any Heritage Tree requires approval of the City Manager or their designee. The Removal of any Heritage Tree must be mitigated by the applicant by the following singly or in combination (i) planting Approved Trees (with a minimum of 2" DBH) equal to the DBH of the removed Heritage Tree, (ii) paying a mitigation fee of

---

\$100.00 per DBH of the Removed Heritage Tree if the removed tree was located on an owner occupied residential property in the A, AA, B, or RR Zoning district or a mitigation fee of \$300.00 per DBH if removed tree was not on an owner-occupied property in the A, AA, B, or RR Zoning district.

A certified Arborist will be required to oversee any Heritage Tree mitigation in order to certify compliance with the requirements of this Ordinance.

All mitigation fees collected must be deposited into a City Tree Fund. The City Tree Fund is established by this Ordinance and will be used exclusively to fund city planting of Approved Trees on Public Property, and Oak Wilt mitigation. The City Tree Fund will be administered by the City Manager. The City Manager or his or her designee may approve an expenditure out of the City Tree Fund in an amount not to exceed \$1,000.00 for city planting of Approved Trees on Public Property or for oak wilt mitigation. Any expenditure from the City Tree Fund greater than \$1,000.00 must be authorized by a vote of the City Council.

### **Secs. 48-26. Penalties.**

Any violation of this article II shall be a misdemeanor and shall, upon conviction, be punishable by a fine of not less than \$150.00 or more than \$500.00. Each Tree Removed in violation of this Article shall be a separate violation.

### **Secs. 48-27—48-54. Reserved.**

### **Sec. 48-55. Tree removal approval authority.**

Except for trees located on owner-occupied residential property in the A, AA, B, or RR Zoning districts:

City Plan Examiners or the City Engineer shall review plans for compliance with this Ordinance. Compliance with this Ordinance is required in order to obtain a building permit. Applicant is responsible for providing confirmation by a certified arborist that the submitted plans comply with this Ordinance.

If the applicant is unable to meet the city's minimum tree preservation requirements, a variance can be requested from the City's Board of Adjustment based on hardship circumstances.

### **Sec. 48-56. Exception for emergency Tree Removal.**

In the event of a dead, dying or diseased Tree with an infestation threatening other Tree(s), or the Tree(s) pose an imminent or immediate threat to persons or property which cannot be mitigated without Removal, the property Owner may submit a written application for emergency Removal to the city manager stating the specific emergency and the city manager or the designee of the city manager may authorize immediate Removal. No tree mitigation fee will be imposed for removal of such tree.

### **Sec. 48-57. Application for Tree Removal.**

- (a) An application for a Tree Removal permit must be in writing and provide, at a minimum:
  - (1) An explanation of the need to remove the Tree(s);
  - (2) A Tree Survey; and
  - (3) Photographs showing all Trees scheduled for Removal clearly physically tagged.
- (b) The City requires a certified arborist's report that defines the impact of any commercial development upon existing Trees affected by proposed construction. This report shall further define methods of Tree protection

---

during construction, compliance with the Impervious Cover limitations adjacent to existing Trees, proposal for Tree replacement, maintenance requirements for new planting, and related Tree preservation and care information.

- (c) Failure to provide any of the information required by this section shall constitute grounds for denial of the permit.
- (d) If the Tree Removal is part of a building project that requires an Architectural Review Committee hearing and city council approval, the Tree Removal may be included in the project Architectural Review Committee application.

#### **Sec. 48-58**

#### **Construction protection measures.**

- (a) Prior to construction or land development, four-foot-high safety fencing shall be installed around the Root Protection Zone of any Protected Tree that is to be preserved.
- (b) During construction, the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to paint, oil, solvents, asphalt, concrete, mortar, etc., under the Drip-line Area of any Protected Tree shall be prohibited.
- (c) No attachments or wires of any kind, other than those of a protective nature, shall be attached to any Protected Tree.
- (d) Grading or fill in an area within the Drip-line Area of a Protected Tree shall be prohibited unless approved by the city manager and city engineer. If grading or filling is approved, a Retaining Wall or Tree Well shall be constructed around the Protected Tree no closer than the outer perimeter of the Drip-line Area of the Protected Tree.

#### **Secs. 48-76. Reserved.**

### ***ARTICLE III. OTHER TREES***

#### ***DIVISION 1. GENERALLY***

#### **Sec. 48-77. Permits required.**

- (a) Except as provided in subsection (b), any firm, Corporation, contractor, landscape contractor, tree trimmer, or any other type of entity performing the trimming, pruning, removing, planting, or placing of any Tree for a fee within the city shall apply for the appropriate permit(s) and, upon issuance, shall pay the permit fee provided in the city fee schedule. Permits issued for oak tree trimming, pruning, removing planting or placing of an oak tree includes non-oak trees.
- (b) Subject to Section 48-78, no permit is required to trim, prune, remove, plant or place any Tree by individual residents residing in a one or two-family dwelling occupied by the resident where the work is performed by the resident. Individual residents are required to comply with Division 2, Planting, Removing and Care of Trees.
- (c) Utility companies who trim, prune, remove, plant or place any Tree shall apply for, and be entitled to, a permit without charge. The no-charge permit for utility companies applies to property where the utilities have lines, services, or easements they necessarily and customarily maintain.
- (d) The city is exempt from the requirement of obtaining a permit to prune, remove, plant or place any Tree.

- 
- (e) Trees in need of emergency pruning or Removal based on threats to lives or property due to damage beyond the control of the Owner, may be trimmed or removed without a permit but must otherwise comply with the requirements of section 48-104 of this Ordinance.
  - (f) The trimming of sucker roots under one-half inch in diameter does not require a permit.

**Sec. 48-78. Oak trimming prohibited February through June.**

Oak Trees of any type growing within the corporate limits of the city may not be trimmed during the months of February, March, April, May, and June due to the increased activity of the nitidulid beetles and the potential for the spread of oak wilt. Any branches posing an immediate threat of danger to persons or property may be trimmed during the prohibited months with the issuance of a special permit and the approval of the city manager.

**Sec. 48-79. Duration of permit.**

Any permit issued under this Ordinance shall be effective for 90 days from the date of issuance and shall apply only to the lot or parcel of land for which it is issued. The permit may be extended for an additional 90-day period without charge upon the request of the permit holder.

**Sec. 48-80. Posting of permit.**

Any permit issued under this Ordinance shall be posted in a place where it can be seen from the nearest street while the work is in progress.

**Sec. 48-81. Red oak firewood prohibited.**

No resident shall knowingly bring red oak firewood into Castle Hills jurisdiction.

**Secs. 48-82—48-101. Reserved.**

*DIVISION 2. PLANTING, REMOVING AND CARE OF TREES*

**Sec. 48-102. Removal of cuttings.**

Any person, individual, firm, Corporation, contractor, landscape contractor, tree trimmer or any other type of business entity who trims, prunes or removes any Tree in the city for a fee shall remove the cuttings, debris, branches and logs resulting from the work within 48 hours from completion of the work.

**Sec. 48-103. Planting near rights-of-way and easements.**

No Tree may be planted closer than ten feet to any right-of-way or within any drainage easement. No Tree may be planted in any other easement without the written permission from all parties to, and users of, the easement.

---

#### **Sec. 48-104. Painting of wounds to oak trees.**

- (a) Any person, individual, firm, Corporation, contractor, landscape contractor, tree trimmer, the City of Castle Hills or any other entity which causes a wound to an oak Tree, whether from ground maintenance equipment, trimming, cutting, pruning or accident at any time of the year, shall paint the wound or stump within one hour of the cutting, trimming, pruning or wounding of the tree with asphaltic, black exterior oil, or black latex-based paint to prevent contact with contaminated nitidulid beetles.
- (b) Any wound to an oak Tree caused by weather conditions, such as a windstorm, emergency trimming, or Removal shall be painted with asphaltic, black exterior oil or black latex-based paint by the resident of the property upon which the oak Tree is located during the daylight hours following the damage to the Tree.
- (c) The existence of unpainted oak Tree wounds is hereby declared to be a nuisance and if the Owner of the property upon which the damaged Tree is located fails to eliminate the nuisance as required herein, within 24 hours after receipt of written notice of unpainted oak Tree wounds, the city may proceed to treat the wound by using its own personnel or by hiring a contractor to perform the work, and in such event, the property Owner shall reimburse the city for the treatment expense. If the bill for treatment expense remains unpaid for more than ten days, the property Owner shall be cited for a nuisance violation for failing to treat the oak Tree wound as required by this section.

#### **Sec. 48-105. Declaring oak wilt a nuisance; oak wilt reporting, remediation, and removal.**

- (a) The spread of oak wilt and oak wilt infestation are hereby declared a nuisance in the city.
- (b) Any person who discovers or suspects the presence of oak wilt infestation or a Tree infected with oak wilt shall report that information to the city manager by the next business day. The city will promptly contact the state forest service or certified arborist and request confirmation of the diagnosis of oak wilt. If oak wilt is confirmed, all measures recommended by the state forest service or certified arborist to control and prevent the spread of the oak wilt shall be initiated within seven days, be carried out to completion, and be paid for by the Owner of the property upon which the oak wilt infestation or infected oak wilt Tree is located, all to prevent the spread of the oak wilt infection. The city will notify the property Owner and neighbors within 100 feet of the oak wilt infected area.
- (c) In the event that the Owner of property where oak wilt is confirmed fails to timely initiate all remediation measures recommended by the state forest service or certified arborist to control and prevent the spread of oak wilt within seven days or fails to carry out to completion such remediation or fails to have the oak wilt infected Tree removed, then the city is authorized to remediate or remove a Tree with untreated or incompletely treated oak wilt and to place a lien on property where the city remediates untreated or incompletely treated oak wilt or where the city removed an oak wilt infected Tree.
- (d) It is an offense and a nuisance to knowingly fail to timely initiate or complete recommended remediation of a Tree which has been diagnosed with oak wilt by a certified arborist or the state forest service.

#### **Sec. 48-106. Oak tree warranty.**

No person, individual, firm, Corporation, contractor, landscape contractor, tree trimmer or any other type of business entity shall transport or plant an oak Tree within the city limits unless the Tree is warranted to be free of oak wilt infection. The planting of oak Trees in the Red Oak Group *Erythrobalanus* (e.g. Texas red oak, Shumard oak, Spanish oak, and Blackjack oak) is prohibited on all residential and commercial properties.

---

**Sec. 48-107. Diseased red oak trees declared a nuisance.**

If a red oak Tree is diagnosed with oak wilt, such diseased red oak Tree is hereby declared a nuisance, and the Owner of the property upon which the red oak Tree is located shall remove the infected Tree immediately from the property and promptly grind out the stump and dispose of the Tree and stump as recommended by the state forest service. Diseased or dead red oak plant matter shall not be used or stored for firewood or mulch.

**Sec. 48-108. Penalty.**

Any person, individual, firm, Corporation, contractor, landscape contractor, tree trimmer or any other business entity that violates the provisions of Sections 48-77, 48-79, or 48-80 shall, upon conviction, be punished according to the general penalties described in section 1-17. Any person, individual, firm, Corporation, contractor, landscape contractor, tree trimmer or any other business entity that violates any of the other provisions of this article shall, upon conviction, be fined an amount not less than \$500.00 or more than \$1,000.00 per offense. Each day an offense occurs shall be a separate offense. In addition to the foregoing, the city is authorized to seek injunctive or other equitable relief to enforce compliance with the provisions of this article and to seek recovery of the city's costs of litigation and attorney's fees, as well as all funds which the city spends to mitigate or eliminate a violation of this article.

**Secs. 48-109—48-133. Reserved.**

**ARTICLE IV. LANDSCAPE MAINTENANCE**

**Sec. 48-134. Purpose and intent.**

The purpose of this article is to provide for the care of existing Trees and landscaping and establish standards and responsibilities for Tree care applicable to all property within the city limits.

**Sec. 48-135. Penalty.**

Any person violating any of the provisions of this article shall be guilty of a Class C misdemeanor and, upon conviction or a plea of guilty or nolo contendere, shall be subject to a fine in an amount not to exceed \$500.00 for each offense. Each day that the violation continues shall constitute a separate offense.

**Sec. 48-136. Responsibility for maintenance of land adjacent to public property,**

- (a) The Owner of land adjacent to any Public Property shall have the responsibility to maintain all portions of land between the private property line and the curb of a public street or, if no curb exists, the edge of street pavement; the center line of an alley if private property abuts both sides of the alley or, if private property abuts only one side, the entire alley; and all easements.
- (b) The city shall have responsibility for maintaining all property owned by the city or designated as public right-of-way accessed and used by the public not included in subsection (a) of this section.

---

**Sec. 48-137. Height and placement restrictions,**

- (a) No Public Plant that is expected to exceed 15 feet in height at maturity may be planted under or within ten lateral feet of any overhead utility wires, poles, crossbars, or aboveground infrastructure. If Trees are planted within the ten-foot restricted area, they must be of a species listed as ornamental trees in section 48-1 and maintained at a height not to exceed 15 feet. No Public Plant may be planted on, over, or within five lateral feet of any underground utility.
- (b) It shall be unlawful for vegetation of any kind to be located, grown, planted, maintained or cultivated in such a manner that any portion of such vegetation may overhang or obtrude upon or over any sidewalk unless there is a full 12-foot vertical clearance between the surface of all portions of such sidewalk and such overhang or obstruction. The 12-foot clearance must be maintained under all weather conditions and circumstances. It shall be unlawful for vegetation of any kind to be located, grown, planted maintained or cultivated in such a manner that any portion of such vegetation may overhang or obtrude upon or over any curb, roadway, pavement, or alley unless there is a full 14-foot vertical clearance between the surface of all portions for such curb, roadway, pavement, or alley and such overhang or obstruction. The 14-foot clearance must be maintained under all weather conditions and circumstances.
- (c) Except for ground cover, neatly trimmed and maintained at a maximum height of four inches, it shall be unlawful for vegetation of any kind to be located, grown, planted, maintained, or cultivated within a five-foot radius from any fire hydrant in the city or within a five-foot-wide corridor centered on and perpendicular to the fire hydrant measured in a straight-line distance between the fire hydrant and the nearest street surface.

**Sec. 48-138. Damage to public plants prohibited.**

Unless specifically approved by the city or its authorized agents, no person shall intentionally damage, cut, carve, transplant, fail to maintain, or remove any Public Plant; attach any rope, wire, nails, advertising posters, or other contrivance to any Public Plant; allow any gaseous, liquid, or solid substance which is harmful to a Public Plant to come in contact with it; or set fire or permit any fire to burn when such fire or heat therefrom will injure any portion of any Public Plant.

**Sec. 48-139. Obstructing public plant root systems prohibited.**

No person shall deposit, place, store, or maintain upon any Public Property of the city any stone, brick, sand, concrete, wood, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any Public Plant growing therein, except by written permit of the city or its authorized agent.

**Sec. 48-140. Removal of dead trees.**

Any dead Tree on any private property or adjacent to Public Property shall be promptly removed by the private property Owner to a point at or below ground level.

---

**Sec. 48-141. Right of city to enter and maintain.**

- (a) The city shall have the right to maintain Public Plants within the lines of all Public Property, as may be necessary to ensure the safe passage of pedestrians and vehicles, and the safety and protection of life and property when servicing city utilities, and to preserve the symmetry and beauty of Public Property.
- (b) The city may remove or cause to be removed any Public Plant or part thereof which is located on or over Public Property, which is in violation of this article, or which because of its size, location, or condition may injure, damage, encumber, or adversely affect people, traffic flow, utilities, or other public improvements.
- (c) It shall be unlawful for any person to prevent, delay or interfere with the city or its authorized agents while engaging in and about planting, cultivating, mulching, pruning, spraying, maintaining, or removing any Public Plant as authorized in this section.

**Sec. 48-142. Violations; abatement by city; lien on property for abatement costs.**

If the property Owner having responsibility for compliance with this article does not comply within seven days of notice of a violation, the city or its agent may abate the violation and charge all expenses to the property Owner and file a lien for any unpaid charges in a manner prescribed by V.T.C.A., Health and Safety Code §§ 242.006 and 242.007.

