

**CITY OF DUBUQUE**  
**STREET TREE AND LANDSCAPING ON PUBLIC RIGHT-OF-WAY POLICY**

This policy regulates the planting, maintenance, and removal of trees, shrubs, and vegetation in public rights-of-way.

**I. DEFINITIONS.**

For the purpose of this Policy the following terms, phrases, words, and their derivations have the meaning given herein:

1. City - The City of Dubuque, Iowa.
2. Leisure Services Department - The designated City department under whose jurisdiction trees and landscaping in public rights-of-way fall.
3. City Forester or Designee - The qualified designated official assigned to enforce this Policy.
4. City Engineering Department - The designated department under whose jurisdiction public rights-of-way, including but not limited to sidewalks and roadways, fall.
5. Planting lawn - The area between the roadway (or back of curb) and sidewalk.
6. Parkway - The area, excluding the sidewalk, if any, between the property line and the curb, or in the absence of a curb, between the property line and the nearest edge of the street paving.
7. Street tree - A tree located in the planting lawn, planted by the City, by an approved contractor of the City, or by another party having first secured the City's permission.
8. Small trees - Designated as those attaining a height of fifteen feet (15') to thirty-five feet (35').
9. Medium trees - Designated as those attaining a height of thirty-five feet (35') to forty feet (40').
10. Large trees - Designated as those attaining a height of forty feet (40') to sixty feet (60').
11. Undesirable trees - Trees not suitable for use as street trees because they exhibit negative characteristics, including but not limited to the following: thorn production, weak branching habit, messy fruit production, or disease

susceptibility.

- 12. Shrub - A perennial woody plant having several stems originating at the base and relatively low in height, generally less than twenty feet (20'); a bush is often used interchangeably with a shrub and is usually less than six feet (6') tall.
- 13. Non-woody vegetation - Herbaceous plants that have leaves and stems that die down to the soil level at the end of the growing season and have no persistent woody stem above ground. Herbaceous plants may be annual, biennial, or perennial. They are planted in a manner which enhances and improves aesthetic appearance and promotes capturing and usage of stormwater runoff while complying with restrictions set forth in this Policy.
- 14. Landscaping - Improving the planting lawn or other public right-of-way by planting trees, shrubs, and other vegetation for functional and aesthetic purposes.
- 15. Undesirable landscaping - Landscaping not suitable for use in the public right-of-way, including but not limited to the following: fruit and vegetables, noxious weeds, nuisance plants, plants having thorns, spines, and prickles, or others as deemed undesirable by the City Forester.
- 16. Immediate danger or threat - A tree, shrub, or other planting condition that risks public safety and requires the immediate attention of the City Forester.
- 17. Right-of-way trees and brush - Trees and brush found growing on public right-of-way, but not in a planting lawn as defined above. This includes but is not limited to trees and brush that have established naturally or trees and other vegetation that were at one time planted by an adjoining private property owner.
- 18. Sidewalk planting pit - An area within a paved surface where a tree is planted.
- 19. Revocable license - A license issued for landscaping and planting placements that are approved and meet all the requirements of this Policy.
- 20. Permit(s) - Allowing the planting, trimming, removal, or treatment of any tree(s) growing on City property is required. When and where it is indicated that "with written permission" or "prior approval by the City Forester is needed" an application will need to be made.
- 21. SUDAS - Statewide Urban Design & Specifications, Chapter 10 of the Design Manual and Division 9, Section 9030 of the Specification Manual will have Supplemental Specifications for City requirements and refer to this

Policy by reference.

22. Right-of-way - The land area of which the right to possession is secured or reserved by the City for roadway purposes.
23. Appeals - Citizens wishing to appeal any of the requirements of this Policy, process, or fees must submit the appeal in writing to the City Manager.

## **II. GENERAL PROVISIONS.**

1. Ownership. Trees growing on the property line are the joint property of both parties by law.
2. Maintenance and Removal. Maintenance and removal of publically owned trees will be completed on a priority basis. Street trees and trees planted on other developed publically owned properties will be the highest priority. Trees on undeveloped public right-of-ways and properties will be a lower priority; private property owners may be given permission to remove trees on undeveloped public right-of-ways. Trees planted by private property owners or trees that have naturally established themselves on the right-of-way where no sidewalk exists are the responsibility of the adjoining property owner.
3. Tree Trimming/Pruning, Removal, Grinding. Any plantings obstructing street tree removal, trimming/pruning, or stump grinding will not be replaced if damaged during those operations. The City Forester will not attempt to contact the abutting owner prior to any tree maintenance operation.
4. Relocation of Trees, Shrubs, Landscaping. Whenever the City paves or repaves any street or changes the grade line of any street or public place or constructs or reconstructs any conduit, water main service, or water connection, sewer, or other municipal public works or utility, the abutting owner must, when so ordered by the City, remove any such, privately-planted trees, shrubs, non-woody vegetation, or other landscaping from the public right-of-way to accommodate such work. If the abutting owner fails to remove such shrubs, non-woody vegetation, or other landscaping removal will be done by the City as part of the construction project and the costs of removal will be assessed to the abutting owner and given to the County Treasurer for collection in the same manner as property taxes.
5. Violations. Any person who fails to comply with the terms and conditions of this Policy or approved license after written notice from the City will lose his or her license and not be granted another such license without approval of the City Manager.

## **III. APPROVAL, LICENSE REQUIREMENTS.**

Prior approval from the City Forester is required before planting any tree on public right-of-way. A one-time courtesy or revocable license will be required from the City Manager, City Engineer, and/or Leisure Services depending upon the scope of project.

## IV. STREET TREES.

### 1. General Requirements.

- A. Only the Leisure Services Department or those contracted or approved by the Leisure Services Department may plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree located within the planting lawn. All tree care practices must conform to the standards approved by the National Arborist Association, the International Society of Arboriculture, and the American National Standard ANSI 2133.1 Safety Requirements.
- B. If a property owner or tenant has planted an undesirable tree, or after September 15, 1988, plants a tree that does not meet the specifications set forth in this Policy, the Leisure Services Department will notify the property owner or tenant of this Policy and ask that the tree be removed. If the tree is not removed by the date established, the tree will be removed and costs of removal will be assessed to the abutting owner and given to the County Treasurer for collection in the same manner as property taxes.
- C. In any planting lawn less than four feet (4') in width, the City Forester will determine if a tree can be planted based on site suitability. In planting lawns that measure between four feet (4') and five feet (5') in width, both small and medium size trees may be planted. In planting lawns greater than five feet (5') in width, large trees may be planted. Sidewalk planting pits must have a minimum of thirty-six (36) square feet of exposed ground and be a minimum of three feet (3') deep.
- D. Small trees must be used where overhead lines or building setback present special problems, regardless of the size of the planting lawn. Small and medium size trees must be used in planting pits.
- E. Trees must be planted at least fifty feet (50') from the edge of street intersections, traffic control lights and stop signs, and at least ten feet (10') from driveways and fifteen feet (15') from alleys. The exact location will be determined according to the type of tree to be planted.
- F. No tree may be planted closer than twenty-five feet (25') from a street light and ten feet (10') from a utility pole, water shut-off, hydrant, or gas line lateral.
- G. Spacing of trees will be determined by the City Forester according to local conditions, the species, cultivars, or varieties used, and mature height, spread, and forms. Generally, all large trees must be planted forty feet (40') to sixty feet (60') apart. All medium trees must be planted a minimum of thirty-five feet (35') apart. All small trees must be planted a minimum of

twenty-five feet (25') feet apart.

- H. When a tree is removed from a planting lawn, the City will replace it if budget considerations and this Policy allow replacement. If a property owner wants a tree planted where one does not exist, the City will provide fifty percent (50%) of the cost to plant the tree, if budget considerations and this Policy allow.

If the City is unable to fund replacement or share the cost of adding a tree, the property owner may purchase a tree, and the Leisure Services Department will plant it. The property owner may plant this tree provided the City Forester has approved the tree type and its location.

- I. When the tree removed is from a planting lawn less than four feet (4') in width, the City may provide and plant a tree beyond the sidewalk on private property (in the front yard) at the request of the property owner, based on site suitability as determined by the City Forester, and if budget considerations allow. Such tree then becomes the property and responsibility of the property owner.

If it is determined that there is no room to plant a tree on the neighboring private property, an exception may be made to replace the tree in the planting lawn at the City Forester's discretion. Small and medium trees would be considered for replacement based on the size of the planting lawn and if budget considerations allow.

- J. When special conditions or circumstances that are not directly covered in this Policy arise, the Leisure Services Department will decide the proper course of action.
- K. The City Forester will select the type of street tree to be planted with input from the property owner.
- L. Violations. Any person who fails to comply with the terms and conditions of this Policy or approved license after written notice from the City, will lose his or her license and not be granted another such license without approval of the City Manager.

2. Project Related Trees.

- A. Project submittals to Engineering for future street trees must include a street tree planting layout, the quantity, species/cultivar, and location for the City Forester's review.
- B. One (1) year establishment and warranty periods begin after the installation is accepted by the Engineer. Care and maintenance of all plants will be the

responsibility of the contractor during that time. The Engineer may add additional years.

3. Types of Trees Allowed.

- A. A list is prepared by the City Forester of small, medium, and large trees acceptable for planting as street trees. Undesirable trees will not be used for general planting; their use, if any, will be limited to locations where, because of certain characteristics of adaptability or for landscape effect, they are advantageous. The tree list will be updated as needed and posted on the City's website.
- B. Only desirable, long-lived trees of good appearance, beauty, adaptability, that are generally free from injurious insects or disease will be planted as street trees. The City Forester will review the species, cultivars, and varieties included on the list as needed to determine if any trees should be removed.
- C. The recommended street tree listing is a compilation of tree varieties chosen to meet City street tree planting needs and species diversity. Selections are based upon tree size and stature, crown development, hardiness, disease resistance, fruit /seed production, and urban tolerance. The City Forester will use this list when making placement decisions. It will not be used by anyone else because one tree, size, or selection does not fit all potential locations.

4. Planting.

- A. Size. Unless otherwise specified by the City Forester, all small deciduous tree species, and their cultivars or varieties, must be at least five feet (5') to six feet (6') feet in height, have six (6) or more branches, and must be at least one inch (1") in diameter and planted six inches (6") above ground level.  
All medium and large deciduous tree species, their cultivars and varieties must be at least one and one-fourth inches (1 1/4") to one and one-half inches (1 1/2") in diameter six inches (6") above ground level, and at least eight feet (8') to ten feet (10') in height when planted. The crown must be in good balance with the trunk.
- B. Grade. Unless otherwise allowed for specific reasons, all trees must have comparatively straight trunks, well-developed leaders and tops, and roots characteristic of the species, cultivar, or variety showing evidence of proper nursery pruning. All trees must be free of insects, disease, mechanical injury, and other objectionable features at the time of planting, and conform to standards set forth in American Standards for Nursery Stock.
- C. Depth. All trees planted on City right-of-way must be planted so the tree's buttress root flare is at-grade.

D. Transport Materials. Root balls are fragile and should be handled carefully. All tree root balls must have the transport materials removed or cut back conforming to industry standards, prior to backfilling. Those materials include but are not limited to hard plastic and fiber peat pot containers, fabric grow bags, wire baskets, and all natural and treated burlap and twine used on balled-in-burlap trees.

5. Pruning, Treatment, and Removal.

A. Pruning. Topping or dehorning of trees is not permitted, except with written permission of the City Forester.

Established trees must be pruned over the tree's lifetime to allow free passage of pedestrian and vehicular traffic; to attain a desired branch height of ten feet (10') over sidewalks and recreational trails, and fourteen feet (14') over streets and alleys.

A tree's age, size, location, condition, and natural form are factors that determine the extent of pruning.

B. Treatment. Any treatment of street trees will be completed by City Forestry staff unless treatment option by abutting owner is approved by City Forester and paid for by that owner.

C. Stump Removal. The stumps of trees removed must be cut to at least six inches (6") below the ground, soil must be replaced and the area must be leveled. If the area where the tree is removed will be paved, the tree must be cut or the stump must be removed at least eight inches (8") below the ground.

D. Tree Trimming/Pruning, Removal, or Grinding. Any plantings obstructing tree removal, trimming/pruning, or stump grinding will not be replaced if damaged during those operations. The City Forester will not attempt to contact the abutting owner prior to any tree maintenance operation.

6. Tree Roots Affecting Sidewalk.

A. City street trees that cause or raise problems with sidewalks will be removed by the City, only when it meets the City Forester's predetermined removal criteria. This criteria prevents the indiscriminate removal of a valuable resource. City street trees will be removed only when one (1) or more of the following is met:

1) The tree is in a state of decline due to disease or insect pest for which

a cure is unlikely.

- 2) The tree poses a safety risk that cannot be corrected, or an unreasonable safety risk would be created by the construction process or root pruning.
- 3) Required work improvements around the tree will likely kill or render the tree a hazard.
- 4) Tree preservation is not cost effective compared to the tree's monetary value.
- 5) The tree is a public nuisance because of its species, size, location, fruit and seed drop, limb breakage, or other objectionable condition.
- 6) The aesthetic value of the tree is extremely low, or the tree interferes with the growth and development of a more desirable tree.

When a City street tree's root(s) causes or raises problems with the sidewalk and the tree's removal is not an option, the sidewalk will be repaired using the approved replacement modifications which best corrects the sidewalk anomaly while minimizing harm to the tree.

B. City street trees that crack or raise problems for City curbs or streets, cause intersection site problems, or cause non-sidewalk related public safety problems (such as dead or dying trees) will be removed by the City when they cannot be saved or branches or roots cannot be pruned properly. The adjacent property owner will be given five (5) working days' notice by regular U.S. mail that the tree will be removed and the reasons for removal. The notice will state that the adjacent property owner may appeal such removal to the City Manager. Such appeal must be in writing to the City Manager within the five (5) working day period. This notice and appeal does not apply to a tree posing an immediate danger or threat to public safety, requiring immediate removal.

## **V. LANDSCAPING ON PUBLIC RIGHT-OF-WAY.**

Section IV, Street Trees, set forth above does not address, permit, or regulate planting groups of shrubs, non-woody vegetation, or other landscaping on public rights-of-way. This Section governs the planting, maintaining, and removal of groups of shrubs, non-woody vegetation, or other landscaping on public rights-of-way for landscaping purposes.

### **1. General Notes.**

- A. Landscaping and/or screening required by the City's Zoning Ordinance may not be placed on City right-of-way.
- B. The property owner must plant and maintain the shrubs, non-woody

vegetation, or other landscaping according to this policy. The applicant is responsible for any and all liability arising from the planting of shrubs, non-woody vegetation, or other landscaping on City property.

2. **Plantings Permitted**. A property owner in the City may plant, care for, and maintain shrubs, non-woody vegetation, or other landscaping (“plantings”) in the public right-of-way. It is the responsibility of the property owner to trim and maintain all plantings so there is no overhang onto, over, or into the sidewalk or street. Placement of moisture retention materials, weed control, and containment measures may be used. The plantings are subject to the restrictions below:
  - A. Any person planting in the public right-of-way must contact Iowa One Call System for utility locations. These locations will give approximate alignment but not depth. The use of mechanical equipment for tilling is now allowed. Hand digging is recommended.
  - B. Plantings may not exceed eighteen inches (18”) in height; may not overhang onto the public sidewalk, curb, or roadway; may not be within twenty feet (20’) from intersections.
  - C. Plantings are permitted along areas of parking and bus stops. However, if complaints are received, removal, reduction, trimming, or other order will be determined by the City Manager.
  - D. Any placement of planters with plantings will require a revocable license approval process.
  - E. Where no public sidewalk exists, a four foot (4’) unobstructed path will be identified by Engineering. This area must be kept free from any plantings and also be maintained by the abutting owner.
3. **Enforcement**. Complaints will be logged and investigated. Violators will be notified in writing of the violations and given a compliance deadline. If the City receives subsequent complaints of the failure to comply, the City or City’s designated contractor will trim or remove non-compliant plantings. The City will assess any costs associated with that work at the County Treasurer’s Office to be collected in the same manner as property taxes.
4. **Plantings Obstructing Tree Trimming/Pruning, Removal, Grinding**. The City is not liable for damage to plantings that obstruct street tree removal, trimming/pruning, or stump grinding which are damaged or destroyed during those operations. The City Forester will not attempt to contact the abutting owner prior to any street tree maintenance operation.
5. **Violations**. Any person who fails to comply with the terms and conditions of this Policy may be issued a municipal infraction.

## **VI. STREET CONSTRUCTION.**

1. Purpose. The purpose of this Section is to prevent or minimize damage to street trees as a result of street construction activities. This Section provides an administrative procedure to follow when street trees are encountered in street, sewer, water, or utility construction projects.

2. Policy.

A. Administrative Procedures. Street and utility construction activities cause varying degrees of damage to street trees. For this reason, the City Forester advises other City Departments and private contractors when street construction activities take place within ten feet (10') of a street tree.

The outlined procedures are followed by all City Departments and contractors working within the public right-of-way:

- 1) The City Forester is a technical resource in the design and construction specification writing phase of City construction projects to identify issues and potential problems relating to street trees, which could arise from the construction activities.
- 2) Prior to the construction of a City street or utility construction contract, a project representative will walk the project area with the City Forester to determine what specific procedures should be followed to protect adjacent street trees. These procedures will be incorporated into the project specifications.
- 3) The City Forester, or appropriate representative, will be invited to the project pre-construction meeting with the contractor to emphasize the importance of protecting the trees while the work is progressing.
- 4) The City Forester will attend public meetings and hearings (as needed) on projects where potential damage to street trees has been identified by prior inspection and review. Trees intended for trimming will be identified in the specifications and the public involvement process.
- 5) The City Forester will be available to the Engineering Division to monitor the progress of the contractor and to advise the City departments or private contractor if the work is not proceeding according to the adopted specifications relating to tree protection, or if the specifications should be altered during the progress of the work.
- 6) The City Forester will be available to discuss in greater detail the

anticipated effect on the tree, and to answer property owner's questions.

- 7) For privately contracted work, the contracting authority and the contractor are responsible for the protection of street trees pursuant to this policy.
- 8) **Tree Trimming/Pruning, Removal, Grinding.** Any plantings obstructing tree removal, trimming/pruning, or stump grinding will not be replaced if damaged during those operations. The City Forester will not attempt to contact the abutting owner prior to any tree maintenance operation.

B. **Tree Removal.** City street trees growing over existing curbs or located too close to the curb or utility being placed, upgraded, or replaced such that reconstruction is not feasible without causing death of the tree, will be removed by the City or the City's designated contractor. In such cases, the adjacent property owner will be notified as outlined above.

Trees removed for construction projects will be replaced as part of the City construction contract at no cost to the property owners if the planting lawn is a minimum of four feet (4') wide and meets other established guidelines in this Policy. Replacement of removed trees will be done during normal planting seasons after the construction work is complete.

C. **Construction Practices.** The construction specifications will outline specific procedures to be followed by the contractor, along with tree damage liabilities, including penalties and costs of damage remediation.

Prior to the commencement of construction, the City Forestry crew will prune street trees extending over the roadway, which could be damaged.

Contractors must notify the City if damage is done beyond the level anticipated, and repairs to trees damaged during construction will be made by the contractor.

When trees are damaged or destroyed due to negligence or non-compliance, the contractor must pay for the necessary cost of repairs, removals, replacements, and reimburse the City for loss of value.

Loss of value will be determined by the City Forester, using the most recent edition of The Council of Tree & Landscape Appraisers, Guide for Plant Appraisal.

The following specific requirements protect and preserve our street trees.

- 1) All heavy equipment (other than hand tools) must be kept off of the

planting lawn particularly under the drip line of any tree.

- 2) The planting lawn will not be cut into or disturbed in any way particularly within the trees' drip line. This includes creating setbacks for new curb and gutter, accommodating slip form pavers, reducing the height of the planting lawn or where an alternative exists, trenching or digging for utilities. If the contractor or an individual suspects the planting lawn must be disturbed, he or she must notify Leisure Services and consult with the City Forester who will determine whether such disturbance will be permitted.

Curb and gutter removal will be done in such a way as to minimize any damage to the tree's root system or above ground parts.

- 3) The tracks or tires of the excavator/backhoe or pavement grinder, etc. are not allowed to ride on the curb or planting lawn within a tree's drip line where it would damage the roots, buttress root flair, trunk or crown of the tree, without protective measures in place to protect the tree and avoid soil compaction.
- 4) Construction equipment or materials, including gravel, sand, or soil, may not be stored on the surface of any unpaved area within a protected tree's drip line.
- 5) Chemicals, rinsates, or petroleum products may not be deposited within the drip line of City street trees.
- 6) Exposed tree roots must be protected from direct sunlight and air with wet burlap following curb and gutter removal if backfilling is not completed by the end of the same workday. Prior to backfilling, all lime stone base material must be removed from behind the newly poured curb and gutter. Backfilling must be completed with hand tools to avoid compaction.
- 7) Where possible and specified by the City Forester, orange plastic barrier fencing or snow fence must be erected to protect trees and their root zones. The fencing must be installed prior to construction and cannot be removed until after final clean-up of the construction site.
- 8) To preserve viable root systems and maintain structural stability of a tree, all underground utility placement or replacement must be done by boring or tunneling beneath the root systems of the tree with open cut excavating done only outside of the tree's drip line. If a contractor or an individual determines boring or tunneling is not possible, he or she must notify Leisure Services and consult with the City Forester

who will determine whether boring or tunneling is possible.

- 9) Trenching/Tunneling Near Trees by Dr. James R. Fazio shall be used as a guide by qualified utility workers.
- 10) If a root must be cut and removed or a damaged root pruned, a clean cut must be made with a sharp cutting tool. The following sequence must be used:
  - a) Expose the root by hand using hand tools such as shovel, trowel;
  - b) Make a clean cut with a sharp tool such as a hand pruner or hand saw and in the event of larger roots, a chain saw; (root grinding is not an option);
  - c) Remove root;
  - d) Protect exposed root or backfill.
- 11) Curb and gutter replacement adjacent to street trees may be made with a slip form paver only if the paver can be accommodated without any additional alterations to the existing planting lawn. Where insufficient room does not exist, the area will be poured using hand set steel forms. Expansion joint or masonite may be necessary for forming around the base of trees where conventional forms will not fit. Non-linear paving (bump outs), skip overs, and narrower streets are all options to consider for avoiding root injury.
- 12) Where sidewalk replacement is necessary, care must be taken to avoid injury to the tree's root system. Sidewalk repairs must be made using the approved replacement modifications that best correct the sidewalk anomaly while minimizing harm to the tree. Surface roots less than two inches (2") in diameter may be cut when necessary, making clean pruning cuts to a maximum depth just below the finished grade of the new walk. The root system may not be cut further than five inches (5") away from the edge of the proposed new walk to accommodate its forms.
- 13) At no time may the planting lawn grade be changed by removing soil or through the addition of soil within the tree's drip line.
- 14) When a situation arises that may potentially harm to the tree and is clearly not addressed by this Policy, the Engineering Department and City Forester will determine the best course of action.

D. **Soil Quality.** Backfill soil used in the right-of-way must be friable topsoil. It may not contain admixtures of subsoil and must be free of lumps larger than two inches (2") in diameter, stones, plants, or their roots or construction matter or debris.

## **VII. GOVERNING CODES.**

Governing codes for enforcement of this Policy include Iowa Code §364.12; City Code of Ordinances Title 6, Chapter 8 and Title 10, Chapter 1.