

## CHAPTER 151

### PLANTINGS IN PARKING

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**151.01 DEFINITIONS.** As used in this chapter, unless the context otherwise indicates, the following terms have the meanings ascribed herein:

1. “Street trees” means trees on land lying between property lines on either side of all streets, avenues, or ways within the City.
2. “Street parking” means that portion of the public land located between property line (usually the outside edge of the public sidewalk) and the inside edge of the curb and/or driving surface.
3. “Boulevard parking” means the open land area between two hard-surfaced streets that have the same name.
4. “Cul-de-sac island” means the open land area located in the center of a hard-surfaced street turn-around.
5. “Flowers” means annual and perennial plants which consist of a shortened axis bearing modified leaves.
6. “Shrubs” means a low-growing, woody plant or bush.

**151.02 PERMIT REQUIRED.** No person shall plant, move, or remove any tree in any street parking, boulevard, parking, or public place in the City or cause such action to be done by others without first obtaining a written permit from the Building Official in accordance with the following:

1. Exemption. A permit is not required for planting flowers in parkings. Only flowers with a maximum height of thirty (30) inches or less may be planted in any street parking, boulevard or cul-de-sac. However, flowers planted in the twenty-five (25) foot radius of intersections shall not exceed twenty-four (24) inches above the centerline.
2. Residential or Agricultural Permits. An application for a residential or agricultural permit shall be accompanied by a plan or drawing which shall accurately show:

A. The property of the applicant adjacent to the street parking upon which a permit to plant is sought, along with the existing public sidewalk, street, parking area, and curb located between the applicant's property line and the outside edge of the curb, all of which shall be to a definite indicated scale.

B. The species and location of each tree proposed to be planted and of those trees already existing in the street parking and within twenty (20) feet of the proposed tree planting, also in definite scale.

C. The location of any fire hydrant, utility pole, traffic sign, street light pole, mail box and/or other obstructions located upon the street parking, all of which shall be in scaled relation to the other information required.

3. Commercial or Industrial Permits. Street trees may be planted in hard-surfaced (i.e. concrete) street parkings provided they are a minimum of three (3) feet from the inside edge of the curb, and that before any street tree may be planted, the owner of the property abutting said parking must first make application for and secure a permit from the Building Official as hereinafter provided. A conceptual plan showing planting design in relation to the surrounding area, i.e. City Square, shopping mall, may also be required. If concrete or other hard surface does not run continuously from the curb to the sidewalk, then the provisions governing residential or agricultural permits shall apply. The City may plant trees in this area at the direction of the Council. Application data shall include:

A. Local address of the applicant's property which abuts the street parking upon which a permit to plant is sought.

B. The species, number, height and trunk diameter of each tree proposed to be planted.

C. Any additional information which the Building Official shall deem is reasonably necessary to enable the making of a fair determination of whether or not a permit should be issued hereunder.

**151.03 ISSUANCE OF PERMIT.** The Building Official may, after review and consideration of any application as above required, issue a permit to an applicant. Any such permit issued shall be to plant trees in strict compliance with terms and provisions of this chapter. A copy of the application and plan or drawing as finally approved by the Building Official shall be kept on file in the office of the Building Official. All such permits shall be issued upon the

express condition that they may be revoked at any time by the Building Official and that all trees planted pursuant to said permit may be removed by the City or its designee without liability to any person or property for such removal. Further, no such permit shall be issued until the applicant shall have executed and filed with the Building Official an indemnification agreement whereby said applicant agrees to save and hold harmless the City from any and all liability for damage or injury to person or property proximately caused by trees planted, moved or removed pursuant to said permit. All street trees shall be planted within one hundred twenty (120) days after approval unless an extension is requested in writing by the applicant and approved by the Building Official. An extension of one year can be granted for good reasons. If the one hundred twenty (120) days elapses, a new permit with fee shall be required to plant street trees. A five dollar (\$5.00) fee for each permit shall be paid prior to application approval.

#### **151.04 PLANTING REGULATIONS.**

1. Trees should be spaced so there will be little or no interference with their full development. The minimum spacing shall be twenty-five (25) feet for Category A; forty (40) feet for Category B; and sixty (60) feet for Category C, measured from center to center on each street tree.
2. Trees shall not be planted closer than one-half ( $\frac{1}{2}$ ) of the minimum spacing requirement per category to the neighboring property owner's side or rear lot line, i.e. Category A = 12.5 feet; Category B = 20 feet; Category C = 30 feet.
3. No impervious material shall be placed nearer than twenty-four (24) inches to the trunk of the tree.
4. No street tree shall be planted nearer than two and one-half ( $2\frac{1}{2}$ ) feet from the curb or the inside existing or potential sidewalk line and centered in parkings if possible. This eliminates all tree plantings in the parkings under nine (9) feet in width.
5. No street tree shall be planted closer than twenty-five (25) feet from the ends of the street radii at intersections, or closer than ten (10) feet to the edge of a driveway. No street tree shall be planted within ten (10) feet of any fire hydrant.
6. The minimum spacing from a light standard or transmission pole shall be ten (10) feet for Category A; twenty (20) feet for Category B, and thirty (30) feet for Category C measured from center of street tree to standard or pole.

7. The City shall not allow the planting of street trees in the City parking within five (5) horizontal feet of the exterior dimension of any sanitary sewer, storm sewer or water lines; and it may only be the type listed in this chapter under Category A.
8. Street trees planted under power lines may only be the type listed in this chapter under Category A.
9. The City reserves the right to restrict the planting of trees if there are too many other underground utilities in the parking such as gas, phone, etc.
10. Category A and B trees may be used in Category C plantings as can Category A be planted in Category B.
11. As new tree species are introduced, they will be added to these lists.
12. A variety of street trees planted along City blocks shall be encouraged and enforced by the Building Official.
13. All street trees shall be of nursery stock unless previously approved by the Building Official.

**151.05 STREET TREE CATEGORIES.** The following is a list of street trees by category which may be planted in street parkings. Street trees not listed must receive prior planting approval from the Building Official.

<b>“A” Category (Parking 9 feet to 14 feet)</b>			
<i>Common Name</i>	<i>Minimum Spacing</i>	<i>Height</i>	<i>Spread</i>
Amur Maple (tree form only)	25	20	20
Japanese Tree Lilac	25	15	10
Flowering Crabs:			
Radiant	25	25	25
Vanguard	25	25	25
Snowdrift	25	25	25
Zumi	25	25	25
Marshalls Ovama (Columnar)	25	25	25
Pink Spires	25	25	25
Columnar Flowering Crab - Sargents	25	25	25
Purpleleaf Plum	25	15	15
Globe Norway Maple	25	20	20
Washington Hawthorn	25	25	25
Scarlet Hawthorn	25	25	25
Bradford Pear	25	20	20

<b>“A” Category (Parking 9 feet to 14 feet) (continued)</b>			
<i>Common Name</i>	<i>Minimum Spacing</i>	<i>Height</i>	<i>Spread</i>
White Fringe Tree	25	25	25
Corkscrew Willow	25	25	25
Euonymous Bunageana (North Platte)	25	25	25
Pagoda Dogwood	25	25	25
Bladdernut	25	20	20
Note: Where utility wires are conflicting, only trees in Category “A” may be planted.			

<b>“B” Category (Parking 14 feet to 20 feet)</b>			
<i>Common Name</i>	<i>Minimum Spacing</i>	<i>Height</i>	<i>Spread</i>
Columnar Norway Maple	40	50	25
Columnar Sugar Maple	40	35	10
Pyramidal American Linden	40	50	35
Littleleaf European Linden	40	50	35
Greenspire Linden	40	50	35
Christine Buisman Elm	40	45	35
Mountain Ash	25	30	15
Cork Ash	40	50	45
Maple, Sycamore	40	35	30
Maple, Red	40	35	30
Hesse Ash	40	35	30
Shubert Chokecherry	40	35	30
River Birch (single stem only)	40	50	35
Blue Ash (Quadrangulate)	40	40	35

<b>“C” Category (Parking 20 feet and Over)</b>			
<i>Common Name</i>	<i>Minimum Spacing</i>	<i>Height</i>	<i>Spread</i>
Maples:			
Black Maple	60	75	50
Schwedler Maple	60	50	30
Sugar Maple	60	75	50
Crimson King	60	50	40
Fassems Black	60	50	40
Royal Red	60	50	40
Norway	60	50	40
Oak:			
White Swamp Oak	60	75	50
Red Oak	60	75	50

<b>“C” Category (Parking 20 feet and Over) (continued)</b>			
<i>Common Name</i>	<i>Minimum Spacing</i>	<i>Height</i>	<i>Spread</i>
Ash:			
Summit	60	50	40
Autumn Purple	60	50	40
White	60	80	50
Green	60	60	40
Marshall Seedless	60	50	40
Others:			
Maidenhair Tree (Ginko Male)	40	50	40
Hackberry	40	50	40
Linden	40	50	40
Kentucky Coffeetree	60	60	50
London Plane Tree	60	60	50
White Beech	50	50	50

**151.06 PROHIBITED SPECIES.** It is unlawful to plant any of the following described species of street trees upon any street parking in the City along with any new species and varieties that are known to be, or which may become a public nuisance. This list includes but is not limited to the following:

<b><u>Prohibited Species</u></b>		
Elm	Birch	Black Locust
Box Elder	Catalpa	Cottonwood
Ginko (female only)	Hawthorn	Mulberry, Common
Carolina Poplar	Russian Olive	Soft or Silver Maple
Sumac	Willow	Poplar
Common fruit trees		
Trees bearing large nuts (i.e. walnut, hickory, butternut)		
Conifers (evergreens)		
All species of shrubbery and bushes — except as provided in the cul-de-sac and/or boulevard island sections. (Exception: Street trees, flowers and shrubs which produce thorns or any sharp pointed spines shall not be planted in street parkings, boulevards or cul-de-sac islands.)		

**151.07 CUL-DE-SAC ISLANDS AND BOULEVARDS.** Street trees and shrubs may be planted in cul-de-sac islands and boulevards. Prior to planting, a design plan and a signed statement in writing accepting maintenance responsibility from at least three (3) abutting property owners must be submitted to and approved by the Building Official. Such planting shall be subject to the same limitations as provided in this chapter for street tree planting in street parkings.

**151.08 MAINTENANCE OF STREET TREES.** It is the duty of all property owners having street trees abutting or overhanging any public property, street parkings, public alleys, public sidewalks and other private property:

1. To keep all trees pruned so that the lower branches are not less than eight (8) feet in height above public sidewalks and sixteen (16) feet above the traveled portion of all public streets, public alleys and primary highways.
2. To remove or prune all limbs of street trees that are or may become damaging, dangerous, or a potential nuisance to abutting real and personal property.
3. To maintain all street trees in such a manner so as not to interfere with the visions of drivers or vehicles approaching any intersection, street, or alley.
4. To keep all street trees trimmed so as not to unduly obstruct street lights or traffic signs and signals.

**151.09 PROTECTION OF STREET TREES.** No person shall break, deface, injure, kill or destroy any street tree in any street parking, park or public place in the City. Also, no person shall place or permit any toxic, liquid, gaseous, or solid substances to seep, drain or be placed on or about any public street tree. During all public building and construction operations, the contractor or builder shall erect protective barriers around all street trees during the period of construction.

**151.10 NUISANCE ABATEMENT.** All street trees which are planted in violation of or not maintained in strict compliance with the provisions of this chapter are hereby declared to constitute a public nuisance. The Building Official shall cause written notice to be served on the property owner requiring such nuisance to be corrected within a specified period, or the Building Official shall cause such nuisance to be abated, and the costs thereof assessed against the owner of the property in the manner of ordinary taxes.

**151.11 APPEALS TO COUNCIL.** Whenever, because of unusual circumstances, there are practical difficulties involved in carrying out the provisions of this chapter, the Council may grant a specific exemption for individual situations, provided the Council shall first find that a special and unusual individual circumstance makes the strict application of this chapter impractical and that the exemption granted with appropriate safeguards is in conformity with the intent and purposes of this chapter.

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