

Sec. 18-13. - Tree management.

- (a). Trees and declaration of policy. The Town Council hereby finds that trees provide important environmental and aesthetic benefits to the residents of the Town and to its visitors that extend beyond the property upon which trees may grow. The Town Council further finds that trees enhance the real estate values of property upon which trees grow and of neighboring properties. Large trees are a resource that cannot be fully replaced if injured, damaged or removed. Property development and construction activities can result in injury or loss of valuable trees in the Town. It is the intent of this Section to preserve to the fullest extent possible existing trees considered desirable by the Public Works Director as herein set forth and to prevent the net loss of tree volume, both in quantity and quality. This section also provides guidance on mitigation requirements to preserve the Town tree canopy when tree removal is necessary.
- (b). Definitions and applicability.
- (1). The terms and provisions of this Section shall apply to all private and public real property situated in or subsequently annexed to the corporate limits of the Town.
 - (2). The term *DBH*, or *diameter at breast height*, refers to the diameter of a trunk measured at approximately four and one-half (4½) above grade. If the tree is multi-stemmed at this height, a summation of all trunk DBH is used for the purposes of determining tree mitigation requirements. Synonymous terms for DBH used in other texts include: *caliper*, *trunk diameter*, *trunk width*.
 - (3). The term *tree* shall include, for purposes of this Section, all deciduous trees having a DBH of more than six (6) inches and *Quercus gambelii* (Gambel Oak), *Acer glabrum* (Rocky Mountain Maple), *Amelanchier spp.* (Serviceberry), and *Prunus virginiana* (Chokecherry) with a DBH of more than three (3) inches. If DBH cannot be accurately measured, a height of twelve (12) feet or more shall be considered in this category. For purposes of this Section, the species of tree known as *Ulmus pumila* (Siberian Elm) and *Elaeagnus angustifolia* (Russian Olive) are not included within the term *tree*.
 - (4). The term *damage* shall mean, for purposes of this Section, any cut below the surface of the outer bark of any part of a tree more than one-half (½) inch in depth or more than two (2) inches in length.
- (c). Removal or damage to trees prohibited without permit.
- (1). It shall be unlawful for any person, without first obtaining a permit as herein provided, to damage, remove or cause to be damaged or removed any tree.
 - a. It shall be unlawful for any person, without first obtaining a permit for tree removal as herein provided, to dig, excavate, turn, compact or till the soil within the dripline of any tree in such a manner as to cause material damage to the root system of the tree. For purposes of this Subsection, the *dripline* of a tree is a cylinder extending from grade level down to a depth of ~~ten (10)~~ four (4) feet below grade, having a radius equal to the length of the longest branch of a tree measured horizontally, with the center of the cylinder located at the center of the trunk of the tree. *Material damage* means, for any tree, damage, breakage or destruction to any root one (1) inch in diameter or larger, or to

roots whose cross-section aggregation exceeds that of a root one (1) inch in diameter.

- b. It shall be unlawful for any person in the construction of any structure or other improvement to park or place machinery, automobiles or structures; or to dump liquid material of any kind; or to pile, store or place soil, excavated material, fill, or any other matter within the dripline of any tree. During construction, the Building Official or the Public Works Director may require the erection of suitable barriers around all trees, including trees not included in the definition set forth at Subsection (b) of this Section, to be preserved. Roots shall be protected from exposure to the elements with a landscape fabric. In addition, during construction, no attachments or wires, other than protective guy wires, shall be attached to any tree.
- c. It shall be unlawful for any person, without first obtaining a permit for tree removal as herein provided, or approval from the Public Works Director of a project site plan, to pave or cover, with any nonporous material, more than ten percent (10%) of the area within the dripline of any tree.
- d. It shall be unlawful for any person, without first obtaining a permit for tree removal as herein provided, to intentionally damage, girdle or poison any tree. The intent of this Subparagraph is to prohibit the practice of topping on public and private trees. It shall be unlawful for any person, firm or Town department to top any street tree, park tree or other tree on public and private property. *Topping* is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be permitted where appropriate as determined by the Public Works Director. Trees severely damaged by storms or other cause, or certain trees under utility wires or other obstructions where other pruning practices are impractical, shall be exempted from this Subparagraph. In the instance where a tree needs to be significantly pruned for utility purposes, the utility company shall coordinate with the Town Arborist to ensure that the trimming is conducted in an appropriate manner and to the minimum extent necessary.
- e. It shall be unlawful for any person, without first obtaining a permit as herein provided, to relocate any tree. If a relocated tree dies within two (2) years of relocation and is not replaced with a tree of equal size as defined by the tree mitigation requirements in the permit, the death of the relocated tree shall be deemed an unpermitted tree removal. This Section shall not apply to the initial planting of trees obtained from nursery stock.
- f. It shall be unlawful for any person to fail to provide the Public Works Director with written notice, delivered at least three (3) working days in advance, of the time and date on which removal of any tree will occur. Written notice pursuant to this Section is required even if a permit for tree removal, as herein provided, has been obtained.
- g. It shall be unlawful for any person, without first obtaining a permit for street closure, to impede or stop traffic during routine tree pruning or a permitted tree removal.

(2). Pruning.

- a. Pruning to promote tree health or to prevent possible damage to a structure by limbs of a tree is exempt from the provisions of this Section. Pruning by, or at the direction of, organizations furnishing service through aerial transmission lines is not exempt from the provisions of this Section. Pruning must be completed by a qualified Arborist and must follow proper ANSI-A300 standard pruning practices.
- b. Pruning of trees on public property is subject to permitting under [Section 11-91](#) of this Code. If the Town becomes aware of landscaping and/or trees causing a potential nuisance, and the landscaping or trees on private property present a safety hazard and are considered a nuisance to public safety or other private property, is considered aesthetically unacceptable (mostly commonly the case of dead or declining trees) and/or facilitate the spread of communicable insects or disease, the Town has the authority to inspect private trees and require action by the owner to eliminate any problems if necessary. For purposes of this Section, the Public Works Director is hereby authorized to go upon private property within the Town for the purpose of inspecting trees or shrubs as further authorized in [Section 1-101](#) of this Code.
- c. Enforcement of this Section by the Public Works Department shall generally follow these guidelines unless the landscaping poses an immediate danger to public safety:
 1. *First contact:* Notification by personal visit or phone to the property owner requesting that the nuisance landscaping be removed or properly mitigated. The property owner will be given fourteen (14) days to remove the nuisance landscaping. In the event that the property owner cannot be reached by personal visit or phone, the Public Works Department, after first making this attempt, shall send a letter to the property owner requesting compliance.
 2. *Additional contact:* If compliance is not completed within the above fourteen (14) days of first contact as described in Subparagraph 1. above, the Public Works Department shall recontact the property owner by personal visit, phone, email or by letter reminding him or her of the Town's regulations related to nuisance landscaping and asking him or her to comply within the next seven (7) days.
 3. *Notice of violation:* If the compliance is not completed within the time period allotted in Subparagraph 1. above, the Public Works Department shall send a certified letter to the property owner reminding him or her of the Town's regulations related to nuisance landscaping and requiring compliance within two (2) business days and identifying penalties for noncompliance as set forth in [Section 1-82](#) of this Code. The Town Manager can extend the compliance time period if it is determined at the sole discretion of the Town Manager that there are special circumstances. By way of an example, special circumstances may include, but are not limited to, a property owner not being able to be contacted.

In the instance where a hazard tree on private property poses an immediate danger to public safety, the Town Manager may authorize the Public Works Director to remove the hazard tree.

(3). Each violation of the above Subparagraphs (c)(1)a.—f. shall be a separate offense.

(d). Tree removal permits.

(1). Any person wishing to obtain a permit to remove or relocate a tree shall file an appropriate application with the Public Works Director. The application shall contain such information as the Public Works Director shall require to facilitate adequate enforcement of this Section. Any application for a tree removal permit or to relocate a tree shall be accompanied by a tree permit application fee in an amount approved by the Town Council pursuant to [Section 2-381](#), et seq. of this Code.

(2). On request of the Public Works Director, Building Official or appropriate Town designee, and when necessary to adequately apprise the Public Works Director of the intended tree removal, said application shall include information necessary to evaluate the tree removal and may include a site plan showing the following:

- a. Location of proposed driveways, other planned areas of structures and impervious surfaces on said site;
- b. Location of all trees in the potentially disturbed area with trunk diameter four (4) inches or more, all oak trees with trunk diameter of two (2) inches or more and all conifers more than ten (10) feet in height, identified by trunk diameter or height and species;
- c. Designation of all diseased trees and any trees endangering any roadway pavement or structures, and trees endangering utility service lines;
- d. Designation of any trees proposed to be removed, retained and relocated and areas which will remain undisturbed;
- e. Any proposed grade changes which may adversely impact any trees on the site.
- f. Additional site map requirements can be requested at the discretion of the Public Works Director or Town Arborist, and shall be clearly stated on the removal application;

(3). After filing said application, the Public Works Director, Town Arborist, or appropriate designee, shall review the application (and site plan if required) and determine what effect the intended removal or relocation of trees will have on the natural resources of the area. More specifically, the Public Works Director shall consider:

- a. Whether the trees intended for removal or relocation are necessary to minimize flood, snowslide or landslide hazards;
- b. Whether retention of the trees is necessary to prevent excess water runoff or otherwise protect the watershed or riparian habitat;
- c. Whether the removal or relocation of the trees will cause wind erosion or otherwise adversely affect air quality;
- d. The condition of the trees with respect to disease, danger of falling and interference with utility lines;
- e. The number and types of trees in the neighborhood, the contribution of the trees to overall town canopy cover, and to the natural beauty of the area and the effect of removal or relocation on property values in the area;

- f. The necessity, or lack thereof, to remove the trees to allow reasonable economic use and enjoyment of the property;
 - g. The implementation of good forestry practices, including consideration of the number of healthy trees that the parcel of land in question can support; and
 - h. The adequacy of the reasons for removal and stated methods proposed to be used to relocate any trees.
- (4). Based on review of these factors, the permit shall either be granted or denied by the Public Works Director, Town Arborist, or appropriate designee.
- a. If, during the permit review process, the Town Arborist or Public Works Director deems that the reason(s) for removal are either a) not appropriate reasoning for removal, or b) the defined value of the tree outweighs reason(s) for removal, the Town reserves the right to *deny or refuse* approval of the permit. In such cases, the Town Arborist must provide a written statement outlining the reasoning for refusal and, if possible, provide alternative solutions to remedy reason(s) for removal without actually removing the tree.
- (5). The Town Building Official shall initiate inquiry as a part of each building permit application regarding the possibility of construction-related impacts to trees and shall provide to each applicant, as appropriate, a copy of this Section and a tree removal permit application.
- a. Tree removal permits for the purpose of new construction shall adhere to the same tree mitigation guidelines as outlined below. Additional considerations may be factored into the tree mitigation requirements, including: new site landscape plans, classification of quality/species/size of trees to be removed, reasonable effort made to avoid removal, reasonable effort made to protect remaining trees on site and benefit(s) of new construction for Town that outweigh benefit of trees proposed for removal.
- (6). Tree removal permits/tree mitigation. The Public Works Director, Town Arborist or appropriate Town designee may, as a condition of any tree removal permit, require that the owner replace any removed or relocated trees with a tree or trees of comparable value on the affected property. Mitigation requirements for each tree removal permit will be determined on a case-by-case basis using the following parameters as guidance:
- a. If the proposed removal is of a tree that has died, is declining or reached the end of its' functional life cycle: A one-to-one replacement of trees removed; or one (1) replacement tree for every ten (10) inches DBH of trees removed; whichever is less. Additional exemptions may be allowed depending on the specific reason(s) for removal.
 - b. If the proposed removal is of a healthy tree: A one-to-one replacement of trees removed; or one (1) replacement tree for every ten (10) inches DBH of trees removed; whichever is greater. Additional considerations may reduce or increase this requirement depending on the specific reason(s) for removal and comparable value of proposed removal.
 - c. If the proposed removal is of a tree that died or is declining from an invasive or highly communicable disease/insect; or if the tree poses a "moderate" or greater consequence of failure as defined by a Level 2 Basic Tree Risk

Assessment: additional mitigation reductions may be considered to reduce burden of removal.

- d. If the planting of a replacement tree(s), as determined by the Public Works Director, Town Arborist, or appointed designee, is not reasonable on the site; or if it is not desired by the applicant, the Town may offer a cash-in-lieu option for tree mitigation. The amount required shall be equal to the cost for the Town to fulfill the required tree mitigation on public property. In this case, the Town shall comply with the same tree mitigation requirements as was required for the applicant. In the specific case of removal of a healthy tree, a cash-in-lieu option may be subject to comparable value of the tree removed.
 - e. A *replacement tree*, for purposes of this Section, shall mean any tree listed on the Town recommended tree list with a minimum DBH of two (2) inches. Other species may be considered but are subject to approval by the Town Arborist. Replacement trees shall be installed within the same calendar year as when the removal is completed, or the following growing season if the removal is completed in winter. If a replacement tree dies within one (1) calendar year of planting, the applicant may be responsible for additional replacements to fulfill the tree mitigation requirement.
 - f. *Comparable value*, for purposes of this Section, shall mean the replacement cost of a tree or trees of aggregate value, cross-section and species equal to the trees removed or relocated. Such cash-in-lieu payments shall be used by the Town to acquire and plant trees. If a comparable value cannot be obtained, a basic value (as calculated below) shall be used instead.
- (7). If the proposed removal of a tree is located within an Environmentally Sensitive Area (ESA) as defined by Section 16-461, special consideration is required to grant a tree removal permit. An ESA Exemption is required, certified by the Town Planner, to allow removal. Additional tree mitigation may be required to preserve the health of the surrounding environment.
- (e). Valuation of trees. When, in accordance with this Section, the value of a tree must be determined because an aggregate comparable value cannot be obtained, the basic value shall equal thirty-six dollars (\$36.00) per square inch of the cross-sectional area of the tree at the point where the diameter of the tree is measured. Basic tree valuation will be used in specific cases where the tree provides value to the public that is beyond the basic benefits of a landscape tree; most commonly when the tree in question is deemed to be a *legacy tree*. In this context, a *legacy tree* is defined as any non-invasive species of tree that provide excessive value to the Town through: canopy size, age, location, rarity/value of specific epithet, perceived importance to the public, or historical value.
- (f). In calculating the basic value, the following equation shall be used:

$$\text{Basic Value} = \$36.00 \times 3.14 \times (D/2)^2$$

Where D = the **DBH** of the tree in inches

Note that this is a basic valuation and is subject to adjustments based on tree age, species, condition, location, historical value, etc. A comprehensive list of factors affecting tree value

are outlined in *"Guide for Plant Appraisal 10th Edition, Revised"* (Council of Tree and Landscape Appraisers, June 2019).

- (g). Removal of trees from Town property. No trees of any size or species shall be removed from Town property, other than by direction of the Public Works Director or appropriate Town designee, except in accordance with this Section.
- (h). Removal of dead trees. The removal of dead trees shall be governed by the same regulations as the removal of living trees and shall be in accordance with this Section.
- (i). Removal of one (1) or more trunk(s) from multi-stemmed tree. The removal of individual trunk(s) of a tree shall be governed by the same regulations as whole tree removal if the removed trunk is live and the removal results in at least 50% loss of total canopy. In such cases the removal shall be in accordance with this Section.
- (j). Emergency tree removal. In case of an emergency caused by a tree being in a hazardous or dangerous condition posing an immediate threat to person or property, such tree may be removed without resort to the procedures herein described; provided, however, that evidence of such an emergency is provided to the Public Works Director, Town Arborist, or appropriate Town designee, within twenty-four (24) hours after the removal of the tree and the Public Works Director, Town Arborist, or appropriate Town designee, provides written agreement with such evidence that a hazardous or dangerous condition existed that posed an immediate threat to persons or property.
- (k). Enforcement. Any person convicted of violating any provision of this Section shall be subject to punishment as set forth in [Section 1-82](#) of this Code.

(Ord. 13 §1, 2007; Ord. 11 §§15—17, 2011)