

Chapter 2.104

URBAN FORESTER

Sections:

2.104.010	Definitions.
2.104.020	Urban forester.
2.104.030	Planting.
2.104.040	Maintenance.
2.104.050	Removal of hazard trees.
2.104.060	Tree permits.
2.104.070	Permitting of arborists.
2.104.080	Appeals.
2.104.090	Duties under zoning ordinance.
2.104.100	Educational functions.
2.104.110	Tree advisory committee.
2.104.010	Definitions.

The following definitions shall apply to this chapter.

"Communications facility" means all entities providing telephone or cable television services in the community and having responsibility for keeping service lines free of hazards, including trees.

"Hazard tree" means a public tree or private tree or any portion thereof which is determined by the urban forester to create a health or safety risk to the public because the tree is dead or dying, has an infectious disease or insect problem, is injured beyond restoration, is in danger of falling, is so close to an existing or proposed public structure as to endanger such structure, creates unsafe visual clearance, interferes with public utility services or communications facility services, or poses other risks identified by the urban forester. (Ord. 93-882 § 2, 1994)

"Private tree" means a tree or shrub growing in an area owned by a private individual, business or commercial establishment, company, industry, private institution, or other area not owned by government entities. The area where a tree is "growing" shall be determined by the placement of its trunk.

"Pruning" means selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.

"Public tree" means a tree or shrub on any and all public property, that being property owned by the metropolitan government. Such public property shall include, but not be limited to, streets, avenues, alleys, and any other public right-of-way, public parks, public buildings, hospitals and schools. The area in which a tree or shrub is considered to be growing shall be determined by the placement of the trunk.

"Public utility" means all entities in charge of electrical distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.

"Shrub" means a woody plant with a multiple stem capable of growing to a height of up to fifteen feet.

"Topping" means arbitrary removal of various portions of the tree thereby leaving stubs, with no regard for the natural structure of the tree.

"Tree" means a woody plant with a single trunk or multiple trunk capable of growing to a height of fifteen feet or more. (Ord. 93-882 § 2, 1994)

2.104.020 Urban forester.

There shall be an urban forester of the metropolitan government. The urban forester shall be an employee of the department of codes administration, under the supervision of the zoning administrator. The urban forester shall be skilled and trained in the art and sciences of municipal arboriculture and shall possess tree education and experience as provided in the job description for the position as adopt by the metropolitan civil service commission. The urban forester shall be responsible for administering the programs and policies set forth in this chapter, and may propose rules and regulations designed to carry out said duties and responsibilities. Such rules and regulations shall become effective after they are approved by the metropolitan planning commission and filed with the office of the metropolitan clerk. (Ord. 93-882 § 3, 1994)

2.104.030 Planting.

A. The urban forester shall have general oversight over all tree planting undertaken by the metropolitan government, but shall have no direct supervisory power over metropolitan government employees engaged in tree planting. He or she shall insure that planting of public trees progresses in a systematic manner to assure diversity of age, classes and species. He or she shall further provide information to all Metro agencies as to appropriate tree size, density and planting techniques.

B. When requested, the urban forester shall provide information to owners of private property regarding appropriate tree species, planting techniques, and placement. (Ord. 93-882 § 4, 1994)

2.104.040 Maintenance.

A. The urban forester shall have general oversight over the maintenance of public trees, but shall have no direct supervisory power over metropolitan government employees engaged in tree maintenance. Tree maintenance may include pruning, fertilizing, watering, insect and disease control, or other tree care activities. Maintenance may be accomplished by personnel of the metropolitan government or by contract with commercial tree care companies.

B. The practice of tree topping as opposed to branch removal at branch or trunk junctures is prohibited on all public trees without prior approval of the urban forester.

C. Priming of public trees in the vicinity of power lines or communications facility lines shall be undertaken using

drop crotch pruning and pruning to laterals. unless other pruning methods receive prior approval by the urban forester. Such prior approval may be in the form of written policies and procedures that the urban forester, working in conjunction with public utilities and communications facilities. has established, and which enumerate limited exceptions to these pruning requirements in particular circumstances. In addition, the urban forester will work in conjunction with the public utilities and communication facilities to establish a program of replacing large trees that interfere with power lines with small manning ornamental trees.

D. When requested, the urban forester shall provide information to owners of private property regarding all aspects of tree care, including the latest techniques and procedures currently being practiced (Ord. 93-882 § 5, 1994)

2.104.050 Removal of hazard trees.

The urban forester shall oversee the removal of hazard trees. If the tree is on public property, the urban forester shall make the risk determination and, if appropriate, will cause the tree or hazardous portion thereof to be removed. Furthermore, the urban forester may delegate responsibility for risk determinations to employees of the metropolitan board of parks and recreation and employees of the department of public works who engage in ongoing tree removal activities; provided, however, that the urban forester shall provide education to such employees, to be sure that risk determinations are made in a consistent and appropriate manner. Furthermore, emergency removal of any public tree or portion thereof that poses an immediate hazard may be undertaken by a department or agency of the metropolitan government or a public utility or communications facility without prior approval of the urban forester.

If the urban forester is informed of a private tree that falls within the definition of hazard tree, he or she shall serve notice of the risk and the need for removal, and allow thirty days for removal of the tree at the expense of the property owner.

If the owner fails to reprove the tree or hazardous portion thereof, the urban forester shall authorize removal by the metropolitan government, and shall be authorized to bill the property owner for the expense of such removal.

Notwithstanding the above, emergency removal of any private tree or portion thereof that poses an immediate hazard to the public may be authorized by the urban forester.

Appropriate tree care and removal of hazard trees or portions thereof on private property is the responsibility of the property owner, and nothing in this chapter shall be construed as creating an affirmative duty on the metropolitan government to remove or cause the removal of hazard trees on private property. (Ord. 93-882 § 6, 1994)

2.104.060 Tree permits.

A. No person shall directly or indirectly damage, destroy or remove any public tree in violation of the terms of this chapter without first filing an application and procuring a tree removal permit from the urban forester, except as allowed in Section 2.104.050 hereof. Any public tree which is damaged, destroyed or removed without the permit required herein shall be repaired or replaced in the manner directed by the urban forester in accordance with accepted practices of the International Society or Arboriculture.

B. Notice of commencement and completion of the work or other activity authorized by the tree permit shall be made to the urban forester as stated on the permit issued.

C. Permits for Public Utilities and Communications Facilities. Tree permits allowing for pruning or removal of trees necessitated by the installation and/or on-going maintenance of public utilities shall be issued by the urban forester for a period of one year and may be renewed annually subject to continued compliance with the conditions of this section.

D. There is hereby established a fee of ten dollars to cover the costs of administration, including the review of permits and inspection to be charged to applicants for tree permits established by this chapter. (Ord. 93-882 § 7, 1994)

2.104.070 Permitting of arborists.

A. All individuals and firms conducting tree care and removal as a business shall be required to have a permit to engage in tree care and removal activities. Such permit shall be issued by the urban forester upon proof by the applicant that he or she, or a member of his or her firm with supervisory power over other employees, has successfully completed a test of tree knowledge given by the International Society of Arboriculture, and proof that he or she or his or her firm has a minimum of three hundred thousand dollars of liability insurance. Firms existing at the time the ordinance codified in this chapter is enacted may be waived from the testing requirement, provided they meet the requirement within two years of the adoption of the ordinance codified in this chapter.

B. The fee for the permit referred to in Section 2.104.070(A) of arborists shall be twenty-five dollars per year.

C. The provisions of this Section 2.104.070 shall not be applicable to a private tree except when such tree is a hazard tree, it being the intent of this chapter that the provisions be applicable only to public trees and for the protection of public utility distribution lines. (Amdt. 1 to Ord. 93-882, 3/15/94; Ord. 93-882 § 8, 1994)

2.104.080 Appeals.

Any person dissatisfied with the decisions, rules, regulations and interpretations of the urban forester on any matter covered by Sections 2.104.010 through 2.104.060 of this chapter, shall have the right to appeal to the vegetation

control board in accordance with the procedures set forth in Section 10.28.070 of the Metropolitan Code of Laws. There shall be no filing fees for such appeals. (Ord. 93-882 § 9, 1994)

2.104.090 Duties under zoning ordinance.

The urban forester shall perform the duties, if any, assigned to him or her under any tree removal permit procedures or other procedures set out in any landscaping and buffering regulations that are part of any zoning ordinance passed by the metropolitan council. (Ord. 93-882 § 10, 1994)

2.104.100 Educational functions.

The urban forester shall assist the community and agencies of the metropolitan government by:

- A. Providing information and public relations to citizens and groups in the city regarding trees;
- B. Maintaining a prohibited tree species list;
- C. Gathering information and publishing reports as needed about city tree resources; and,
- D. Working with Metro departments and agencies such as the department of public works to improve agencies' understanding of trees and tree problems.
- E. Meeting regularly with the tree advisory committee to the metro beautification and environment commission. (Ord. 93-882 § 11, 1994)

2.104.110 Tree advisory committee.

A- Not less than four months nor more than six months after the initial employment of the urban forester, the metropolitan tree board, created and established by ordinance, shall be abolished and there is established in its place the tree advisory committee to the metro beautification and environment commission. Those members of the tree board, including ex officio members, whose terms extend beyond the date that the tree board is abolished, shall become members of the tree advisory committee until such time as their terms expire. At that time, the metro beautification and environmental commission shall appoint new members to the committee in accordance with procedures established by the commission.

B. The tree advisory committee shall have such duties and responsibilities as are conferred upon it by the metro beautification and environment commission, including but not limited to community education regarding the value of trees and proper techniques for the planting, maintenance and removal of trees. (Ord. 93-882 § 12, 1994)