

## ARTICLE I. - IN GENERAL

## Sec. 23½-1. - Short title.

This chapter be known and may be cited as the "City Tree Ordinance of the City of Providence, County of Providence, State of Rhode Island."

(Ord. 1985, ch. 85-59, § 2, 5-21-85)

## Sec. 23½-2. - Value of urban trees.

Trees are economically beneficial in attracting new industry, residents and visitors. Healthy trees of the right size and species, growing in the right places enhance the value and marketability of property and promote the stability of desirable neighborhoods, thus helping to prevent the emergence of blighted areas and slum conditions. Providence, Rhode Island is situated in an area covered with a variety of trees and shrubs that are a vital part of the heritage passed to us by nature and our forefathers. However, there is much concern over the recent indiscriminate destruction of trees in both public and private places.

Trees are recognized as a valued asset, providing a healthier and more beautiful environment in which to live. They provide oxygen, shade, esthetics, and a priceless psychological counterpart to the manmade, urban setting. Trees aid in preventing erosion, siltation of streams and reservoirs, flash flooding, and air, noise, and visual pollution.

(Ord. 1985, ch. 85-59, § 1, 5-21-85)

## Sec. 23½-3. - Violation and penalty.

Any person violating or failing to complying with any of the provisions of this chapter shall be subject to court action and upon conviction thereof, shall be subject to the penalties contained in section 1-10 of the Code of Ordinances of the City of Providence.

In addition, the person shall replace the tree and/or repair damage with a size and species permitted by the city forester.

Each tree affected by noncompliance with this chapter shall constitute a separate violation.

Violation of the chapter shall be the basis of withholding a final inspection permit until such violation is corrected to the satisfaction of the city forester, board of park commissioners.

(Ord. 1985, ch. 85-59, § 18, 5-21-95)

## Sec. 23½-4. - Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

- (a) *City* is the city, municipality, town, village, subdivision, or otherwise designated political jurisdiction of Providence, County of Providence, State of Rhode Island.
- (b) *Board of park commissioners* is the board, commission, or otherwise designated governing body of department of public parks.
- (c) *Department of public parks, division of grounds maintenance services* is the department of "parks and street trees," "parks and forestry," "forestry street trees" or other designated department of the city under whose jurisdiction all city park and/or street trees fall.
- (d) *City forester* is the municipal arborist, city forester horticulturist, landscape architect, director, division of grounds maintenance services, supervisor urban forestry operations or other qualified designated official of the city assigned to carry out the enforcement of this chapter.
- (e) *Person* is any person, firm, partnership, association, corporation, company or organization of any kind, including public utility and city department.
- (f) *Street or highway* is the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- (g) *Parks* shall include any city public spaces designated for recreation and/or conservation.
- (h) *Public place* shall include any other ground owned by the city but not to include property under the management and jurisdiction of the water supply board.
- (i) *Property line* shall mean the boundary between private and city-owned land.
- (j) *Tree lawn* is that part of a street or highway not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
- (k) *Tree*:
  - (1) Any living woody plant with needle or scale type leaf that has a well defined stem(s) with a caliper of at least six (6) inches (15.24 cm) at five (5) feet (1.6 m) from the ground level.
  - (2) Any living, self-supporting woody broadleaf plant that has a well defined stem(s) with a caliper of at least two (2) inches (5.08 cm) at five (5) feet (1.52 m) from the ground level.
- (l) *Public trees* shall include all trees now or hereafter growing on any street, park, or any other public place.
- (m) *Property owner* shall mean the person owning such property as shown by the records of the recorder of deeds of the City of Providence.

- (n) *Tree removal* includes any act that will cause a tree to die within a three-year period.
- (o) *Tree well opening* is the ground area surrounding the base of the tree trunk not covered by sidewalk and paving. Tree well openings shall have a minimum pit size of three (3) feet by three (3) feet.

(Ord. 1985, ch. 85-59, § 3, 5-21-85; Ord. 1985, ch. 85-82, § 1, 10-9-85)

Sec. 23½-5. - Interference with city forester.

No person shall hinder, prevent, delay, or interfere with the city forester or any of his assistants while engaged in carrying out the implementation of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(Ord. 1985, ch. 85-59, § 16, 5-21-85)

Sec. 23½-6. - Waiver for emergencies.

In the case of officially declared emergencies, such as windstorms, ice storms, or other disasters, the requirements shall be waived so that the requirements of this chapter would in no way hinder private or public work to restore order in the city. This work shall follow maintenance standards as outlined by the city forester.

(Ord. 1985, ch. 85-59, § 12, 5-21-85)

Sec. 23½-7. - Moving large objects.

No person shall move any building or other large objects that may injure public trees, or parts thereof, without first obtaining the approval of the city forester and agreeing to conform to his/her requirements.

(Ord. 1985, ch. 85-59, § 13, 5-21-85)

Sec. 23½-8. - Nonapplicability to one- and two-family residences.

Except for sections 23½-6 and 23½-7, this chapter in no way regulates protection, maintenance, removal or planting of trees on the property of a one or two-family dwelling, where the owner of the property resides thereon.

(Ord. 1985, ch. 85-59, § 20, 5-21-85)

Secs. 23½-9—23½-20. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 23½-21. - Authority and responsibility of board of park commissioners.

- (a) The board of park commissioners shall have the authority to regulate and enforce the operations of the department of public parks, division of grounds maintenance services, as provided for in Providence Home Rule Charter, 1980, Section 1003. The board of park commissioners shall have jurisdiction over all greenspaces of the city and all forestry functions including the setting out, care and removal of trees, shrubs and other plants on the streets of the city as well as on the properties for which it is responsible. They shall do all acts necessary and proper for the care, management, improvement, maintenance and protection of the public parks and street trees under their jurisdiction.
- (b) The duties of said board of park commissioners shall be interpreted to include but not be limited to the protection, maintenance removal and planting of trees on public property, and to make such recommendations from time to time to the city council as to desirable legislation concerning the tree program and activities for the city [and] to hear appeals as set forth in section 23½-22.

(Ord. 1985, ch. 85-59, § 4, 5-21-85)

Sec. 23½-22. - Appeals.

Any adjustment of the standards required by this chapter or an appeal of a decision of the city forester shall be taken to the board of park commissioners. The board of park commissioners upon receipt of such request, on forms provided by the city forester, shall have the authority and duty to consider and act upon the request. This application shall clearly and in detail state what adjustments or requirements are being requested, reasons such adjustments are warranted, and shall be accompanied with such supplementary data as is deemed necessary to substantiate the adjustment. The board of park commissioners may approve, modify, or deny the requested adjustment, based upon protection of public interest, preservation of the intent of this chapter and possible unreasonable and unnecessary hardships involved in the case.

The board of park commissioners shall act on the application as expeditiously as possible and shall notify the applicant in writing within five (5) days of the action taken.

(Ord. 1985, ch. 85-59, § 17, 5-21-85)

Sec. 23½-23. - Mary Elizabeth Sharpe Street Tree Advisory Committee.

It shall also be the duty of the city forester to work in conjunction with the Providence Street Tree Advisory Committee to define street tree policies and priorities and to administer "Mary Elizabeth Sharpe Street Tree funds."

(Ord. 1985, ch. 85-59, § 7, 5-21-85)

Sec. 23½-24. - City forester—Appointment and qualifications.

The city forester shall be appointed or selected from candidates recommended by an appropriately constituted search committee of the board of park commissioners who base their recommendations on a personal interview, education, experience, general qualifications and references.

He or she shall be a person holding at least a bachelor's degree from an accredited college or university in arboriculture or a related field or the equivalent in training or experience.

(Ord. 1985, ch. 85-59, § 5, 5-21-85)

Sec. 23½-25. - Same—Duties, generally.

The city forester shall affirm the rules and regulations of the arboricultural specifications and standards of practice governing the protection, maintenance, removal, planting of trees on the streets, parks, public places, and other tree protection zones in the city. He or she shall plan, direct, regulate, and control the protection maintenance, removal, and planting of all trees growing now or hereafter in the streets, parks, public places, and other tree protection zones of the city. He or she is further charged with keeping informed of environmental and technical changes that could affect the trees of the city. He or she shall also cooperate and communicate with other park department personnel, mayor's office of community development, planning and urban development, Providence Redevelopment Agency and all other city, state and federal agencies, lastly the city forester shall cause the provisions of the chapter to be enforced.

(Ord. 1985, ch. 85-59, § 6, 5-21-85)

Sec. 23½-26. - Same—Authority and responsibility.

The city forester shall have the authority and jurisdiction of regulating the protection, maintenance, removal, and planting of trees on streets, parks, and public places, such as the grounds of public buildings, schools, libraries where trees may exist or be planted. This section shall not be interpreted to prohibit the removal as determined by the city forester of:

- (1) Dead, dying, diseased, insect-infested, or hazardous trees.
  - (2) Unwanted weed species.
  - (3) The necessary minimum amount of trees and limbs by survey parties.
- (b) *Enforcement.* The police department shall enforce this chapter and insure that provisions of this chapter are not violated including, but not limited to, the issuance of citations for the violation of any provision of this chapter upon request of the city forester.
  - (c) *Supervision.* The city forester shall have the authority and it shall be his/her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.
  - (d) *Condition of permit.* The city forester shall promulgate needful regulations to effectuate the

intent of this chapter.

- (e) *Master street tree plan*: The city forester shall also have the authority to formulate a master street tree plan with the advice and approval of the board of park commissioners. The master street tree plan shall include the inventory of existing trees and shall specify the species of trees to be protected, maintained, removed, and/or planted on each of the streets, parks and other public places of the city. This plan shall be reviewed and updated every two (2) to five (5) years. All tree work shall conform thereto.
- (f) *Inventory of existing trees*. The city forester shall have the responsibility to inventory (and classify as to location, species, size, condition, and evaluation) the existing trees on streets, parks, and other public places, as an integral part of the master street tree plan. This inventory shall be periodically updated.
- (g) *Public organizations*. The city forester shall work in conjunction with the Providence Street Tree Committee and all other civic and public interest groups devoted to tree care and preservation.
- (h) *Factors for consideration*. The city forester shall consider all existing and proposed buildings and utilities and environmental factors when recommending the planting of a tree species or other work for each of the streets, parks and other public places of the city.

(Ord. 1985, ch. 85-59, § 8, 5-21-85)

#### Sec. 23½-27. - Permits.

- (a) A permit shall be a written document that authorized the bearer thereof to perform the proposed work as outlined on such permit. The permit shall be issued only by the city forester or his/her representative.
- (b) A permit shall be obtained by filling out an application in the division of grounds maintenance services, Carriage House, Roger Williams Park. Upon approving the application, the city forester or his/her representative shall issue said permit.
- (c) A permit shall be required for planting, spraying, pruning, cutting above ground, removing, or otherwise disturbing any tree on any street, park, or other public place.
- (d) The city forester shall issue any permit provided for herein if the proposed method and workmanship shall be of a satisfactory nature and the project shall be consistent with this chapter. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.
- (e) The city forester shall be notified by the bearer of said permit upon satisfactory completion of designated work.
- (f) Planting:
  - (1) The application required herein shall state the number of trees to be set out or planted in

public places, the location, grade, species, cultivar or variety of each tree, the method of planting, and such other information as the city forester shall find reasonably necessary to a fair determination of whether a permit should be issued.

- (2) The city forester shall have the right to make the final determination as to location, species, cultivar or variety of each tree and the method of planting before issuing said permit.
- (g) Maintenance. The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the city forester shall find reasonably necessary to a fair determination of whether a permit should be issued.
- (h) Removal, replanting and replacement;
  - (1) Wherever it is necessary to remove a tree in connection with the paving of a sidewalk, or the widening of the portion of a street or highway, the city shall replant the tree or replace it. This requirement will be satisfied in an equivalent number of trees of the same size and species as provided in the arboricultural specifications and standards of practice are planted within one-fourth ( $\frac{1}{4}$ ) mile of the original tree location.
  - (2) No person shall remove a public tree for the purpose of construction or any other reason, without first filing an application and procuring a permit from the city forester. The city forester may require replacement of a removed tree as a condition to the issuance of a permit. Such replacement shall meet the standards of size, species and placement as provided for in a permit issued by the city forester. The person or property owner shall bear the cost of removal and replacement of all trees removed.

(Ord. 1985, ch. 85-59, § 14, 5-21-85)

#### Sec. 23½-28. - Registration of tree experts.

To protect the public, the city shall require any person who removes or maintains trees on public property as a business to be:

- (a) Properly licensed to perform such work.
- (b) Certified by State of Rhode Island or any other agency that regulates arboricultural practices.
- (c) Covered by workman's compensation to the extent required by Rhode Island law and public liability and personal property insurance, in minimum amounts hereinafter mentioned adequate to cover and save harmless the City of Providence and its agents from all suits, claims, or actions of every class and nature for or on persons, or property damage caused or claimed to be caused, directly or indirectly by the conduct of work contemplated, or by or in by acts of strangers, or any conditions due to the elements or any defects or insufficiencies in

any method, material ways, machinery, equipment or apparatus used in connection with the work. Public liability insurance with limits of not less than five hundred thousand dollars (\$500,000.00) shall be carried.

(d) Bonded.

(e) Insured (medical).

(Ord. 1985, ch. 85-59, § 15, 5-21-85)

Secs. 23½-29—23½-40. - Reserved.

### ARTICLE III. - STANDARDS FOR PLANTING AND MAINTENANCE

Sec. 23½-41. - Protection.

- (a) During development, redevelopment, razing or renovating, no trees shall be cut, damaged, destroyed or removed except by specified permit.

All trees removed, destroyed or severely damaged shall be replaced at the expense of the permittee. The total caliper of all trees planted in the course of restoration shall in no event be less than the total caliper of all trees removed. Replacement shall be made with two and one-half (2½) to six-inch caliper trees and/or as directed by the city forester.

If sufficient tree planting locations are unavailable within the contract area, the replacement trees shall be planted within one-fourth mile of the contract area as determined by the city forester except by special permit of the city forester.

- (b) All trees within thirty (30) feet (9.1 m) of any excavation or construction of any building, structure, or street work shall be guarded through the length of the project with a good substantial fence, frame or box not less than four (4) feet (1.2 m) high and eight (8) feet (2.4 m) square, or equivalent. All equipment, building materials, chemicals, dirt, or other debris shall be kept outside the barrier at all times.
- (c) No person shall intentionally damage, cut, carve or transplant any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous, liquid, chemical, or solid substance that is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree without first obtaining a written permit from the city forester.
- (d) No person shall deposit, place, store, or maintain any stone, brick, sand, fill dirt, concrete, or other materials that may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the city forester.
- (e) No person shall install steel grate or any facsimile or like substance within the confines of the



ground area surrounding the base of the tree trunk.

- (f) No person shall preclude or inhibit the percolation of water, nutrients and gaseous exchange necessary to a tree's survival by placement of any material which so precludes or inhibits within the tree well opening.

(Ord. 1985, ch. 85-59, § 9, 5-21-85; Ord. 1994, ch. 94-15, § 1, 5-30-94)

#### Sec. 23½-42. - Pruning.

It shall be the duty of any person or persons owning or occupying real property bordering on any street, upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight (8) feet (2.4 m) over sidewalks, and twelve (12) feet (3.66 M) over all streets except truck thoroughfares, which shall have a clearance of eighteen (18) feet (5.49 m) and/or at the discretion of the city forester.

- (a) *Notice to prune.* Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the city forester shall order such person or persons, within three (3) weeks after receipt of written notice, to so prune such trees.
- (b) *Order required.* The order required herein shall be served by certified mail to the last known address of the property owner.
- (c) *Failure to comply.* When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the city to prune such trees and assess the property owner for the cost of services rendered.

(Ord. 1985, ch. 85-59, § 11, 5-21-85)

#### Sec. 23½-43. - Proposed development on public land.

- (a) The site plan for proposed development or improvement of any tract or parcel of land on which there are public trees shall be evaluated and approved by the city forester before a building permit can be issued. The city forester may inspect the site before approving or disapproving the site plan and at any time during the development, redevelopment, renovating or razing thereafter.
- (b) The site plan shall include the following:
  - (1) An accurate scale drawing detailing curb cuts, utility installations, paving, grade changes, existing trees, tree wells, proposed buildings.
  - (2) Approximate location, size and species of all existing trees, trees to be maintained and trees to be removed.

(3) Specification documents for:

- a. Protection of existing trees during the development, redevelopment, renovating, or razing.
- b. Grade changes or other work within a tree's drip line.
- c. Disposal of trees to be removed. All debris shall be discarded by the contractor and the area made safe prior to the end of the working day.

(4) Any new planting and/or tree replacement, specifying the location, species, size, and a completion date for the proposed work.

(Ord. 1985, ch. 85-59, § 10, 5-21-85)