

Chapter 240. Tree Board, Trees and Shrubs

Section 240.010. Definitions.

[Ord. No. 1044 §13-501, 8-14-2002]

For purposes of this Chapter, the following definitions shall apply to the listed terms:

PARK TREES

Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

SMALL TREES

Trees, shrubs and other woody vegetation with a potential mature height of no more than twenty-five (25) feet.

STREET TREES

Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

Section 240.020. Authority To Regulate.

[Code 1974 §15-101; CC 2000 §13-501; Ord. No. 1044 §13-502, 8-14-2002]

The City is hereby authorized to regulate the planting, maintenance, treatment and removal of trees and shrubbery upon all streets, alleys, avenues, boulevards and parks within the City.

Section 240.030. Creation and Establishment.

[Ord. No. 856 §1, 2-10-1993; Ord. No. 1044 §13-503, 8-14-2002; Ord. No. 1122 §1, 7-28-2004]

There is hereby created a Tree Board to prescribe regulations relating to the planting of trees, shrubs and other plantings upon City-owned property, to promote the beautification of the City, the protection of the public health and safety and to provide for the preservation and removal of diseased trees, shrubs and plantings. The Tree Board may be composed of the following: eight (8) residents of the City of Mission appointed by the Mayor with at least three (3) out of the four (4) wards of the City represented and the City Community Development Officer or other staff member designated by the City Administrator. Only the resident members shall be voting members of the Committee. Staff members shall act in an advisory capacity. Officers of the Tree Board shall be a Chairperson and Vice Chair. These officers shall be elected by the Tree Board at the first (1st) regular meeting of the calendar year and shall serve for one (1) year and may be re-elected or replaced by election. The Tree Board shall have a Secretary who shall be provided by the City of Mission. In the event a vacancy should occur, his/her successor shall be appointed in the same manner. Appointments shall be made during the first (1st) regular City Council meeting of every January.

Section 240.040. Duties and Responsibilities.

[Ord. No. 856 §1, 2-10-1993; Ord. No. 1044 §13-504, 8-14-2002; Ord. No. 1388 §1, 9-18-2013; Ord. No. 1436 §1, 3-16-2016]

- A. It shall be the responsibility of the Board to study, investigate, counsel and develop a written tree plan to provide a guide for the proper development and maintenance of the trees on City-owned property, including

Street Trees For Mission pruning, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. It shall further be the responsibility of the Board to direct tree care and landscaping in all City parks and to recommend the location. Upon completion of the tree plan, it shall be presented to the Governing Body for approval. Thereafter, the Board shall review and consult with a contracted arborist and update as necessary the plan and submit the same bi-annually to the Governing Body prior to April 1 of evenly numbered years for approval. The Board shall recommend needed budget allocations for accomplishment of agreed-upon projects and recommend projects for inclusion in the City capital improvement program.

- B. The Board, in accordance with the plan, shall control all planting, pruning and removal of all trees located within the street rights-of-way, easements, alleys and parks of the City. Any owners of land abutting such rights-of-way, easements, alleys and parks may, when acting within the provisions of this Chapter and the approved plan, prune, spray, plant or remove trees in that part of such street rights-of-way, easements and alleys abutting his/her land not used for public travel. Any owner of property intending to deviate from the provisions of this Chapter must first secure written approval from the Board.
- C. The Board, when requested by the Governing Body, shall consider, investigate, make findings and report upon any matter coming within its scope of work.

Section 240.050. Advisors.

[Ord. No. 856 §1, 2-10-1993; Ord. No. 1044 §13-505, 8-14-2002]

The Governing Body may designate or employ, with or without compensation, such advisors to the Tree Board as the Governing Body shall hereafter determine to be necessary and advisable to accomplish the purposes of this Chapter.

Section 240.060. Meetings, Rules and Regulations.

[Ord. No. 856 §1, 2-10-1993; Ord. No. 1044 §13-506, 8-14-2002]

The Tree Board shall meet at such times and places as it shall agree upon and at least quarterly or upon call by the Mayor or City Administrator and prepare recommended rules and regulations relating to its meetings and proceedings, subject to approval of the Governing Body, and shall keep minutes of its meetings and provide a copy thereof to the Governing Body. A majority of the members of the Tree Board shall be sufficient as a quorum for the transaction of business of the Board.

Section 240.070. List of Permissible Street Trees.

[Ord. No. 1044 §13-507, 8-14-2002; Ord. No. 1188 §1, 12-14-2005; Ord. No. 1436 §2, 3-16-2016]

- A. *Official Street Tree Species To Be Planted.* The following is a list of street trees species for Mission, Kansas. The Tree Board is authorized to adopt regulations providing procedures and criteria for the approval of the planting of other species. These regulations may authorize, without specific written permission of the Tree Board, the planting of certain trees under specified conditions. The planting of any species not listed in this Section or those regulations shall be prohibited unless prior written authorization of the Tree Board is obtained.

Street Trees For Mission

| Common Name | Growth Rate | Size | Shape | Remarks |
|---|--------------------|--|--------------|---|
| Maple, Norway Crimson Sentry (Acer platanoides) | Medium | 35 feet height, 10 — 12 feet spread | Upright oval | Good maple for restricted spaces. |
| Maple, Columnare Norway (Acer platanoides) | Medium | 40 feet height, 15 — 18 feet spread | Upright oval | Prefers moist, deep soil. Good for restricted spaces. |
| Maple, Amur Flame | | | | |

Street Trees For Mission

| Common Name | Growth Rate | Size | Shape | Remarks |
|---|-------------|---|---------------------------|--|
| (Acer ginnala) | | 15 — 25 feet height | Upright oval | Excellent for small lots. Bright red foliage. Hardiness to cold temperatures. |
| Linden, "American Redmond" (Tilia americana) | Medium | 60 — 70 feet height | Pyramidal to oval | Drought tolerant. Recommended buffer strips along highways or large parking lots. Excellent shade tree. |
| Linden, "Chancellor" Little Leaf (Tilia cordata) | Medium | 30 — 40 feet height, 15 — 20 feet spread | Fastigate pyramidal | to Exposed-moist well drained soil, excellent for paved areas. Pollution tolerant. Does well in difficult sites. |
| Linden, "Greenspire" Little Leaf (Tilia cordata) | Medium | 50 — 70 feet height, 35 — 40 feet spread | Fastigate pyramidal | to Exposed-moist well drained soil, excellent for paved areas, streetside and mall area. Pollution tolerant. Does well in difficult sites. |
| Western Soap Berry (Sapindus drummondii) | Medium | 40 — 50 feet height, 25 — 30 feet spread | Round | Residential street tree. Good in poor drainage area. Pollution tolerant. |
| Oak, "Chinkapin" (Quercus Muehlenbergii) | Medium-fast | 35 — 40 feet height, 40 — 60 feet spread | Oval to rounded | Strong. Mildew can be a problem. Adaptable to soil conditions. |
| Oak, "Shingle" (Quercus imbricaria) | Medium | 50 — 60 feet height, 40 — 60 feet spread | Pyramidal upright oval | to Excellent shade tree. Well adapted to Kansas soil. |
| Oak, "English" (Quercus robur) | Slow | 60 — 80 feet height, 40 — 60 feet spread | Densely oval | Excellent shade tree. Majestic. Usually disease and pest free. |
| Ginkgo (Ginkgo biloba) | Medium-slow | 50 — 60 feet height, 25 — 40 feet spread | Columnar pyramidal | to Slow grower, but long lived. Fan-shaped leaves. Pollution tolerant. Suitable as a street tree. |
| Bald Cypress (Taxodium distichum) | Medium | 40 — 50 feet height | Pyramidal | Excellent for park areas. Absorbs water well. |

Section 240.075. List of Prohibited Street Trees.

A. The following is a list of tree species that are prohibited as street trees.

1. *Abies* spp. (Fir).
2. *Acer saccharinum* (Silver Maple).
3. *Albizia julibrissin* (Mimosa).
4. *Diospyros virginiana* (Persimmon).
5. *Elaeagnus angustifolia* (Russian Olive).
6. *Fraxinus* (entire genus of Ash).
7. *Maclura pomifera* (Osage Orange fruited/thorned varieties).
8. *Morus* spp. (Mulberry).
9. *Picea* spp. (Spruce).
10. *Pinus* spp. (Pine).
11. *Platanus acerifolia* (London Plane-tree).
12. *Occidentalis* (Sycamore).
13. *Populus* spp. (Cottonwood).
14. *Pyrus calleryana* "Bradford" (Bradford Pear).
15. *Salix* spp. (Willow).
16. Edible fruit trees.

Section 240.080. Prohibited Trees.

[Ord. No. 1044 §13-508, 8-14-2002; Ord. No. 1388 §2, 9-18-2013]

A. The following is a list of tree species that may not be planted or grown within the corporate limits of the City of Mission, Kansas:

1. *Ulmus* spp. (elms except for *Ulmus parvifolia* and *Ulmus americana*).
2. *Ailanthus altissima* (tree of heaven).
3. *Acer negundo* (Boxelder).
4. *Fraxinus* (entire genus of ash).

Section 240.090. Distance From Paved Surface.

[Ord. No. 1044 §13-509, 8-14-2002]

No tree or shrub shall be planted within three (3) feet from any paved surface unless authorized by the Tree Board.

Section 240.100. Planting Near Overhead Utilities — Prohibited Trees.

[Ord. No. 1044 §13-512, 8-14-2002; Ord. No. 1436 §4, 3-16-2016^[1]]

A. Unless authorized by the Tree Board, no trees other than those species defined as small trees in Section **240.010** may be planted or allowed to grow under or within ten (10) lateral feet of any overhead primary or secondary utility wire or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. No tree of the following species shall be planted or allowed to grow under or within thirty (30) lateral feet of any overhead primary or secondary utility wire:

1. Acer saccharinum (Silver Maple).
2. Fraxinus (entire genus of Ash).
3. Populus spp. (Cottonwood).
4. Platanus spp. (Sycamore and London Planetree).

[1] *Editor's Note: Section 4 also redesignated prior Section 240.120 to be Section 240.100. History was retained from prior designation.*

Section 240.110. Sight Distance — Fireplugs.

[Ord. No. 1044 §13-510, 8-14-2002; Ord. No. 1436 §5, 3-16-2016^[1]]

A. No landscaping, tree, shrub, fence, wall or similar item shall be placed in zones of ingress or egress at street corners, or in the intersection of a public right-of-way, that the City determines is an obstruction to visibility or is otherwise a traffic hazard.

B. No tree, shrub or woody vegetation shall be planted within a distance of ten (10) feet from any fireplug.

[1] *Editor's Note: Section 5 also redesignated prior Section 240.100 to be Section 240.110. History was retained from prior designation.*

Section 240.120. Residential Traffic Islands, Thoroughfare Rights-of-Way, Planting Restrictions.

[Ord. No. 1044 §13-511, 8-14-2002; Ord. No. 1436 §6, 3-16-2016^[1]]

No trees, shrubs, woody vegetation or other landscape improvements over two (2) feet in height will be permitted on residential traffic islands or thoroughfare rights-of-way unless approved by the Tree Board.

[1] *Editor's Note: Section 6 also redesignated prior Section 240.110 to be Section 240.120. History was retained from prior designation.*

Section 240.130. Interference With City Tree Board.

[Ord. No. 1044 §13-513, 8-14-2002]

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds as authorized in this Chapter.

Section 240.140. Tree Service License and Bond.

[Ord. No. 1044 §13-514, 8-14-2002; Ord. No. 1388 §3, 9-18-2013]

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the City of Mission without first applying for and procuring a license. The license fee shall be ten dollars (\$10.00) annually in advance; provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of twenty-five thousand dollars (\$25,000.00) for bodily injury and ten thousand dollars (\$10,000.00) property damage

indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. Each applicant shall also possess any other insurance required by State law.

Section 240.150. Review By City Council.

[Ord. No. 1044 §13-515, 8-14-2002]

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal any ruling or order of the City Tree Board to the City Council who may hear the matter and make final decisions. The Tree Board shall be represented and heard at the time of appeal.

Section 240.160. Rights of Property Owners Over Plants in Parking Areas.

[Code 1974 §15-102; Ord. No. 1044 §13-516, 8-14-2002]

The owners of property abutting on streets, alleys, avenues and boulevards shall have such title to and property in growing trees and shrubbery in the parking in front or to the side of such real estate between the curb line and the property line as to enable the owners in case of injury to or destruction of such trees, shrubbery and parking to recover from the person causing said injury or destruction the full damage which the abutting property in front of which they are situated may sustain by reason thereof and such abutting property owners shall all have the right of action in any court of competent jurisdiction to enjoin injury to or destruction of such trees, shrubbery and parking, except that no recovery or injunction shall be had against the City in the making of public improvements or in any other reasonable exercise of its authority over such streets, alleys, avenues or boulevards or over the trees and shrubbery located thereon.

Section 240.170. Injuring Trees.

[Code 1974 §15-103; Ord. No. 1044 §13-517, 8-14-2002; Ord. No. 1436 §7, 3-16-2016]

It shall be unlawful for any person to cut, girdle, destroy or in any manner injure any shade tree or fruit tree standing or growing, wholly or partly, in or on any street, alley, or within any public park without the consent of the abutting landowner and the City Tree Board.

Section 240.180. Duty To Trim Trees and Shrubs On or Near Streets, Sidewalks.

[Code 1974 §15-104; Ord. No. 1044 §13-518, 8-14-2002]

The owners, occupants or persons in charge of real estate in the City abutting public streets and avenues are required to cause all trees and shrubs growing and situated in front of such real estate, but within the boundary line of the streets or avenues and within the curb line thereof, and all trees and shrubs or branches or limbs thereof growing or situated on any such real estate which overhang any such street or avenue to be properly trimmed so as not to interfere with public travel upon the streets and sidewalks in front or abutting upon any such property. Trimming shall be done in a proper and scientific manner by an arborist as described in Section **240.140** of this Chapter or by a property owner or his/her agent. Any trees, shrubs or limbs projecting beyond the back of the curb line or the usual location thereof at a point less than twelve (12) feet above the street level are hazardous and interfere with the use of the streets and avenues. Any trees, shrubs or limbs projecting over any sidewalk or usually traveled pedestrian way, at a point less than eight (8) feet above the level thereof, are hazardous and interfere with the use of sidewalks and usually traveled pedestrian way.

Section 240.190. Removal of Dead Trees, Shrubs, Limbs.

[Code 1974 §15-105; Ord. No. 1044 §13-519, 8-14-2002]

The owners, occupants or persons in charge of real estate abutting upon any public street or avenue in the City shall remove or cause to be removed all dead trees and shrubs or all dead limbs or branches on any trees or shrubs situated or growing in front of such real estate but within the boundary line of any such street or avenue and within the curb line thereof; or any dead tree or shrub or any dead limb or branch of any tree situated or growing upon any such real estate but overhanging any such street or avenue or sufficiently near thereto to become dangerous to the public traveling thereon or on any sidewalk, which the dead trees or dead limbs or branches thereof are or may become dangerous and a menace to public travel upon the streets and sidewalks in front of or abutting upon any such property. A property owner may request a replacement tree from the Tree Board.

Section 240.200. Notice Requiring Trimming or Removal.

[Code 1974 §15-106; Ord. No. 1044 §13-520, 8-14-2002]

The Code Enforcement Officer is hereby authorized and directed, whenever in his/her opinion it becomes necessary, to notify, in writing, the owner of any such real estate to cause the trimming of any trees as required by Section **240.180** or to cause the removal of any dead trees or dead limbs or branches of any trees as required by Section **240.190** whenever in his/her opinion the same may be necessary, or if such owner cannot be found in the City, then to notify the occupant, agent or person in charge of the property in the same manner.

Section 240.210. Failure To Comply With Notice.

[Code 1974 §15-107; Ord. No. 1044 §13-521, 8-14-2002]

If within ten (10) days from the date of the service of the notice required by Section **240.200**, the owner or occupant, agent or person in charge of such property shall fail to comply with the provisions of the notice, the person shall be deemed guilty of a violation of this Chapter, and the Code Enforcement Officer shall cause a complaint to be filed in the Municipal Court and the owner, occupant or person in charge of the property shall be prosecuted for the violation of the provisions of this Chapter, but failure to serve notice shall not relieve any person from complying with the provisions of Sections **240.180** and **240.190** and any violator thereof shall be punished whether notice is served or not.

Section 240.220. Violations Declared Nuisance — Abatement.

[Code 1974 §15-109; Ord. No. 1044 §13-522, 8-14-2002; Ord. No. 1388 §4, 9-18-2013]

In addition to the other provisions of this Chapter, any tree which is not trimmed in accordance with the provisions hereof, or any dead tree or dead branch or limb of any tree which is not removed in accordance with the provisions hereof, or any other dead tree or dead branch or limb of any tree situated on any premises in the City which is or may become in danger of falling and injuring any person or property in the City is hereby declared a public nuisance, and if any such tree is not properly trimmed, or any dead tree or dead branch or limb of any tree is not removed within ten (10) days of written notice given to the owner, occupant, agent or person in charge of any such premises by the Code Enforcement Officer or within ten (10) days of mailing of such notice to the last known address of the responsible party or within ten (10) days of the publication of notice in the official City paper, then, and in any such event, the Community Development/Neighborhood Services Department shall cause the nuisance to be abated and removed and the cost thereof reported by that department to the City Clerk and assessed against the lot or piece of land upon which the same exists, or abutting the street or avenue upon which the same exists, and certified by the City Clerk to the County Clerk and collected as other taxes are collected.

Section 240.230. Right of City To Maintain Trees Not Affected.

[Code 1974 §15-110; Ord. No. 1044 §13-523, 8-14-2002]

Nothing in this Chapter shall be deemed to impair the right of the City to trim, protect or otherwise care for trees upon all public streets, avenues, boulevards, parks and other public grounds, and the Director of Public Works is hereby authorized and directed, whenever it may be necessary, to perform or to cause to be performed any such work.

Section 240.240. Diseased Trees and Shrubs — Notice.

[Code 1974 §15-201; Ord. No. 1044 §13-524, 8-14-2002]

Whenever any competent City, State or Federal authority, when requested by the Governing Body of the City, shall file with the Governing Body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the City are infected or infested with or harbor any tree or plant disease or insect pest or larvae, the uncontrolled presence of which may constitute a hazard to or result in damage or destruction of other trees or shrubs in the community describing the same and where located, the Governing Body shall direct the Code Enforcement Officer to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or remove any such designated tree, tree materials or shrub within a time specified in such notice. In no event shall the time specified in such notice be less than three (3) days. Such notice shall be served by the Code Enforcement Officer by delivering a copy thereof to the owner or agent of the property or if the same shall be unoccupied and the owner a non-resident of the City, then the Code Enforcement Officer shall notify the owner by mailing a notice to his/her last known address, the notice providing the non-resident owner at least ten (10) days in which to comply with the terms of this Chapter.

Section 240.250. Diseased Trees and Shrubs — Failure To Comply With Notice.

[Code 1974 §15-202; Ord. No. 1044 §13-525, 8-14-2002]

If the owner or agent shall fail to comply with the requirements of the notice required by Section **240.240** within the time specified in the notice, then the duly authorized officer of the City shall proceed to have the designated tree, tree materials or shrub treated or removed and report the cost thereof to the City Clerk and the cost of the treatment or removal shall be paid by the owner of the property or shall be assessed and charged against the lot or parcel of ground on which the tree, tree materials or shrub was located. The City Clerk is hereby authorized upon determination of the amount to be assessed to any such lot or parcel of ground to furnish a written notice by United States mail to the last known address of the owner or agent of the amount of such assessment. The City Clerk shall, at the time of certifying other City taxes to the County Clerk, certify the unpaid cost to be so assessed and the County Clerk shall extend the same on the tax roll of the County against the lot or parcel of ground. The cost of the work shall be paid from the general fund or other proper fund of the City and the funds shall be reimbursed when payment thereof is received or when such assessments are collected and received by the City.

Section 240.260. Powers of City in Case of General Infection.

[Code 1974 §15-203; Ord. No. 1044 §13-526, 8-14-2002]

The Governing Body, after recommendation from the Tree Board, when it appears that there is or is likely to be a general infection or infestation of trees or shrubs within the City by tree or plant disease or insect pest or larvae resulting in damage to or the death of many trees or shrubs, may provide such preventive measures or treatments as may be necessary and may pay the cost from the general fund or other proper fund.

Section 240.270. Penalty.

[Ord. No. 1044 §13-527, 8-14-2002]

Any person violating any provision of this Chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed twenty-five dollars (\$25.00) for the first (1st) offense, fifty dollars (\$50.00) for the second (2nd) offense, one hundred dollars (\$100.00) for the third (3rd) offense, and one hundred dollars (\$100.00) per day/per violation for the fourth (4th) and any further offenses. For the purposes of this Section, the number of offenses are calculated on an annual basis.