

City of Kingston, NY
Friday, September 27, 2013

Chapter 373. TREES

§ 373-1. Short title.

This chapter shall be known as the "Municipal Street Tree Ordinance of the City of Kingston."

§ 373-2. Legislative finding of fact.

- A. It is hereby found and declared that the City of Kingston, New York, is especially situated in an area covered with a wide variety of trees and shrubs that are a particularly vital part of the heritage passed on to us by nature and our forefathers considering the city's original Dutch name of "Wiltwyck," meaning wild woods.
- B. Trees provide a vital ecological resource for the well-being of the community and therefore require preservation efforts. Trees stabilize the soil on slopes thereby preventing siltation, erosion and flooding; they control water pollution; they purify the air and generate oxygen; they mitigate noise; their shade reduces energy consumption; they provide habitat and food for birds and animals; and their colorful seasonal characteristics enrich our total environment.
- C. Trees are economically beneficial in attracting new industry, residents and visitors. Healthy trees of the right size and species enhance the value and marketability of property and promote the stability of neighborhoods.

§ 373-3. Purpose.

Indiscriminate and uncontrolled destruction of trees deprives the community of these benefits. The purpose of this chapter is to preserve trees, minimize damage and removal and encourage planting of trees, thereby enhancing the health, safety and general welfare of the inhabitants of the City of Kingston. This chapter is an amplification of the City Charter Tree Protection Ordinance, as defined in the Charter of the City of Kingston under the title "Trees and Plantings."

§ 373-4. Definitions.

For the purpose of this chapter, the following terms shall have the meanings given herein:

APPLICANT

Any individual, partnership, corporation, municipality or other entity, together with employees, officers, directors, agents, independent contractors or any lessee or contract-

vendee of a parcel of property, which owns any real property or portion of real property within the jurisdiction of the city.

DBH (DIAMETER AT BREAST HEIGHT)

The diameter (or caliper) of a tree measured at a point four feet above the ground.

PARK

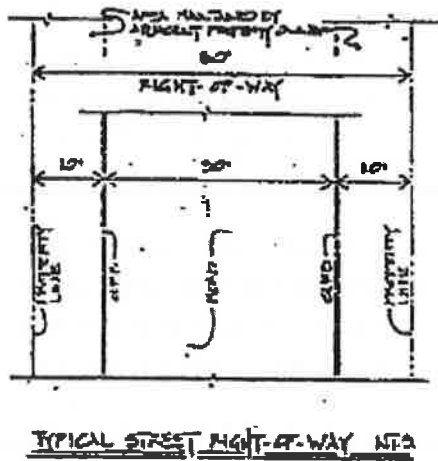
Includes any municipal park having an individual name.

PROPERTY LINE

The outer edge of a street or highway right-of-way.

PROPERTY OWNER

The person owning such property as shown by the Tax Map of the City of Kingston, New York.



PUBLIC TREES

All trees now or hereafter growing on any street, park or any other public place.

TREE

A living single stem tree which is three or more inches DBH.

TREE LAWN

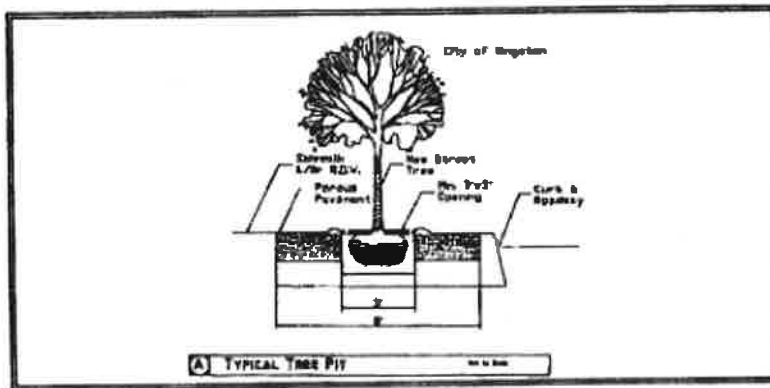
That part of the street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic or that area within the street or highway right-of-way.

TREE PERMIT

A written authorization to remove (a) tree(s) pursuant to this chapter.

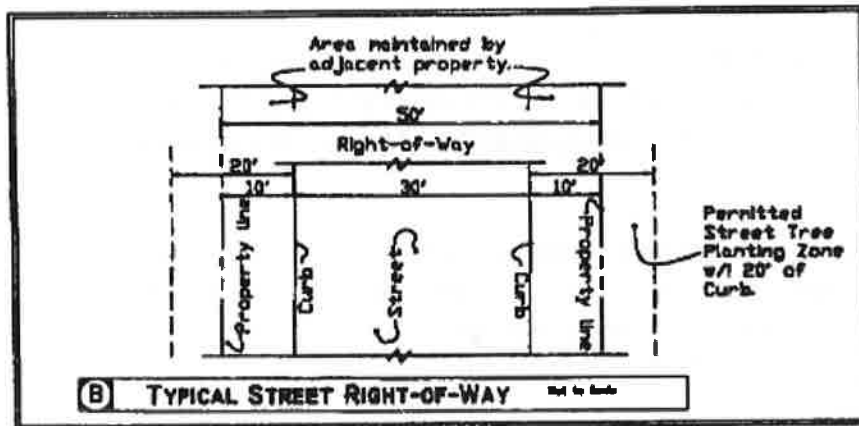
TREE PIT

A minimum three-foot-by-three-foot planting pit whose surface may be mulched or covered by a tree grate. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**



TREE PLANTING ZONE

The city may plant a street tree with the property owner’s permission within 20 feet of the curbline (outside of the official right-of-way) in order to avoid overhead or underground utilities and/or promote the growth of the tree. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**



TREE PROTECTION ZONE

All streets, parks and other city-owned property and all land within any right-of-way of any street or highway.

TREE REMOVAL

Any act which will cause a tree to die within a three-year period.

§ 373-5. Tree Commission; creation; term of office.

- A. There is hereby created and established a Tree Commission consisting of seven members to be appointed by the Mayor, at least one of who shall be either professionally trained or experienced in the field of municipal arboriculture; one of who shall be a member of the Common Council; one of who shall be a member of the Planning Department or other appropriate city department; and one of who shall be a member of the Memorial Tree Fund, Inc. All lay members of the commission shall be citizens and actual residents of the City of Kingston. The professionally trained advisor, the member of the Common Council

and the member of the Planning Department or other city department and the member from the Memorial Tree Fund, Inc., shall be ex-officio members of the Commission and shall have no vote on matters before the Commission. There shall be three voting members. All members of the Commission shall serve without pay.

- B. Of the members of the Commission who are first appointed pursuant to this chapter, two shall be designated to serve for terms of two years; two shall be designated to serve for terms of three years; and three shall be designated to serve for terms of four years. Thereafter, the term of office shall be three years.
- C. The Tree Commission shall have power and it shall be its duty:
- (1) To study problems and needs of the city in connection with the tree planting program and to make recommendations to the Mayor and/or his designee as to type and kind of trees to be planted by the city;
 - (2) To assist in the dissemination of news and information regarding the protection, maintenance, removal and planting of trees in the city;
 - (3) To make recommendation to the Common Council as to desirable legislation concerning the tree program and activities for the municipality such as certification as "Tree City, USA"; **[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**
 - (4) To provide for the holding of regular and special meetings and to adopt rules and regulations not inconsistent with this chapter for the conduct of the meeting and business of the Commission. The Commissions shall file a copy of the rules and regulations, and any amendments thereto, with the City Clerk.
 - (5) All determinations and decisions shall be by majority vote.
 - (6) To provide the Mayor with a recommendation upon his/her receipt of an appeal; to meet within 10 business days of receipt of a request for an interpretation of this chapter, or as otherwise necessary; and to advise the Mayor on appeals from the issuance, denial, or revocation of a tree permits. A special or emergency meeting may be convened by either the Chairperson or any five members on two days notice. All meetings of the Tree Commission shall be open to the public.
 - (7) To assist with funding applications and development of associated programs that are consistent with this chapter.

§ 373-6. Master Street Tree Plan programs consistent with this chapter.

- A. The Tree Commission shall have the authority to formulate and adopt a Master Street Tree Plan with the advice and approval of the Common Council. The Master Street Tree Plan shall specify the species of trees to be planted on each of the streets or other public sites

of the municipality. From and after the effective day of the Master Street Tree Plan, or any amendment therefor, all planting shall conform thereto.

- B. The Tree Commission with the approval of the Common Council shall have the authority to amend, update or add to the Master Street Tree Plan at any time that circumstances make it advisable.

§ 373-7. Tree permits and procedures.

[Amended 3-2-1999, approved 3-8-1999; 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]

- A. Public tree maintenance or planting permit. No person shall plant, remove or otherwise disturb trees in public places without first filing an application and procuring a permit from the Tree Commission. The application shall be on a form designated by the Tree Commission and shall contain such information and data as deemed reasonably necessary to a fair determination of whether a permit should be issued. The Tree Commission shall issue the permit provided for herein if, in their judgment, the proposed work is necessary and desirable and the proposed method and workmanship are satisfactory (there shall be no fee assessed for such permits). When necessary, the Tree Commission shall check with local utilities prior to issuance of permits.
- B. Public tree removal permit.
- (1) The Tree Commission shall have primary responsibility for administering this chapter through the issuance, revocation or denial of public tree permits.
 - (2) Application for a public tree permit shall be made in writing to the Tree Commission on prescribed forms available in the City Hall.
 - (3) A public tree permit for the removal of a public tree shall normally be issued under the following conditions:
 - (a) The location of the tree(s) clearly endangers the health, safety and welfare, or the property of the general public, the property owner of this adjoining property owner closest to the tree(s).
 - (b) The location of the tree(s) prevents the property owner from undertaking a construction or alteration because the location of the tree(s) substantially interferes with a permitted use of the property and the construction or alteration cannot be reasonably adjusted to accommodate the tree(s).
 - (c) The tree(s), due to death or advanced age, disease, blight, infestation, storm damage, accident or other condition, causes undue hardship for the property owner to maintain it (them).

§ 373-8. Duty to trim, treat or remove trees.

- A. It shall be the duty of any person or person owning real property abutting on any street upon which property there are trees or shrubs to trim or remove such trees so that they will not obscure or interfere with the view of motorists entering any intersection of the city, obstruct the passage of pedestrians on sidewalks or obstruct the street lights or traffic signs. **[Amended 12-16-1999 by L.L. No. 2-2000 approved 1-3-2000]**
- B. The owner of private property shall treat or remove any trees suffering from a transmittable disease or insect infestation which is on such private property, but may affect the health of trees in public places.
- C. If the provisions of Subsections **A** and **B** are not complied with, the Tree Commission or designee may serve written notice to comply with the provisions of said subsection upon the owner of such property. The Aldermember in whose ward such tree or trees exist shall also receive a copy of the written notice to comply.
- D. Such notice shall be affixed or posted upon said property, and a copy of such notice shall be mailed by certified mail, return receipt requested, to such owner, at his last know address. Such notice shall require compliance with provisions of said subsection within 30 days after the time of posting of such notice as aforesaid. Compliance shall be requested within five days after the time of posting such notice in the case of hazardous conditions.
- E. If the person upon whom such notice is served fails, neglects or refuses to trim, treat or remove such trees within 30 days after the date of mailing or posting of such notice as aforesaid or within five days after the date of mailing or posting of such notice in the case of hazardous conditions, the Tree Foreman shall cause such trees on such private property to be trimmed, treated or removed.
- F. The actual cost to the city of such trimming, treating or removal plus a sum equal to 5% of such actual cost for inspection and other additional cost in connection therewith shall be certified by the Superintendent of Public Works and/or his designee to the City Comptroller and the amount thereof shall become and be a lien upon the property on which such tree was located, or if the tree was in a public right-of-way on the abutting property owner, the total amount thereof shall be added to and become part of the next annual assessment roll at the time and in the manner prescribed by the Charter of the city and subject to all the provisions thereof. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

§ 373-9. Tree removal and restoration.

Removal of any designated tree shall require the following actions:

- A. The tree trunk, limbs, stump and any roots remaining above grade shall be removed completely and to a depth below grade that will permit replanting another tree, minimum of 12 inches. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
- B. The disturbed area be backfilled and replanted.

- C. The applicant shall remain responsible for the acts of his employees, contractors or subcontractors.
- D. In the case of a tree destroyed or removed illegally, another tree of comparable species shall be replanted at the expense of the property owner.
- E. Tree removal and restoration shall conform to guidelines promulgated by the Tree Commission pursuant to this chapter.

§ 373-10. Recommended and prohibited street trees.

A. Recommended trees. The following species of trees have been determined to be suitable for maintaining a vigorous urban forest based upon city wide tree surveys conducted in 1982 and 1990. It will be the responsibility of the Tree Commission to maintain and revise this list as necessary.

(1) Trees for three-foot-by-three-foot tree pits:

- (a) Sargent crabapple.
- (b) Lavelle hawthorn.
- (c) Spring snow crabapple.
- (d) Whitehouse or redspire flowering pear.
- (e) Princess Diana serviceberry. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
- (f) Ivory silk Japanese tree lilac. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
- (g) Flame amur maple. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(2) Trees for four-foot-by-four-foot tree pits:

- (a) Japanese stewartia.
- (b) Pyramidal european hornbeam.
- (c) Regent Japanese pagoda tree.
- (d) Hardy rubber tree.
- (e) Gingko - male trees only.
- (f) Burr oak.

- (g) Sky rocket English oak. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
- (h) Robin hill pink serviceberry. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
- (3) Trees for five-foot-by-five-foot tree pits or larger tree pits:
 - (a) Katsura tree.
 - (b) Red oak.
 - (c) Patmore green ash. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
 - (d) Tulip tree.
 - (e) Littleleaf linden.
 - (f) American elm - disease resistant varieties, i.e., Liberty, Washington, Delaware, etc.
 - (g) Bauman horse chestnut. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
 - (h) Dynasty lace bark elm. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
 - (i) Legacy sugar maple. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
 - (j) Sweet shadow sugar maple. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
 - (k) Silver mountain linden. **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
- (4) Trees recommended under utility lines, with a three-foot-by-three foot tree pit: **[Added 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**
 - (a) Trident maple.
 - (b) Hedge maple.
 - (c) Flame maple.
 - (d) Tatarian maple.
 - (e) Autumn brilliance serviceberry.
 - (f) Cole's select serviceberry.

- (g) Princess Diana serviceberry.
- (h) Snowcloud serviceberry.
- (i) Crimson cloud hawthorn.
- (j) Lavalle hawthorn.
- (k) Snowbird hawthorn.
- (l) Toba hawthorn.
- (m) Washington hawthorn.
- (n) Amur maackia.
- (o) Adirondack crabapple.
- (p) Golden raindrops crabapple.
- (q) Red barton crabapple.
- (r) Red jewel crabapple.
- (s) Sentinel crabapple.
- (t) Red cascade mountain ash.
- (u) Ivory silk Japanese tree lilac.
- (v) Summer charm tree lilac.

B. Prohibited trees. No person shall plant or cause to be placed on or within any right-of-way or easement of the city any of the following trees:

- (1) Willow - salicaceae salix species.
- (2) Poplar - salicaceae populus species.
- (3) Conifers.
- (4) Silver maple - acer saccharinum (no cultivars).
- (5) Box elder - acer negundo.
- (6) Walnut - juglans species.
- (7) Mulberry - morus species.
- (8) Gingko - gingko species, female trees.

- (9) Apple - malus species (not including those varieties commonly referred to as flowering).
- (10) Peach - prunus species (not including those varieties commonly referred to as "flowering").
- (11) Pear - pyrus species (not including those varieties commonly referred to as "flowering").
- (12) Plum - prunus species (not including those varieties commonly referred to as "flowering").

§ 373-11. Emergencies.

In case of officially declared emergencies, such as windstorms, ice storms, or other disasters, the requirements of § **373-8** shall be waived so that the requirements of this chapter would in no way hinder private or public work to restore order in the municipality. This work shall follow maintenance standard as outlined by the Superintendent of Public Works and/or his designee.

§ 373-12. Penalties for offenses.

Any person violating or failing to comply with the provisions of this chapter shall be subject to civil penalty not to exceed \$250 not including value of replacement tree(s). The penalty may be collected by the action against the responsible person commenced by the Corporation Counsel of the city. For the purpose of this chapter, each tree affected by noncompliance with the provisions of this chapter shall constitute a separate violation.