

ORDINANCE ENACTING AND AMENDING AND RE-ENACTING  
 CHAPTER 6 SECTION 9-6-1 THROUGH 9-6-8  
 OF THE CODE OF ORDINANCES  
 CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of Harrisonburg, Virginia:**

**That Section 9.6-1 – Purpose be amended as shown:**

Sec. 9-6-1. - Purpose.

The purpose of this chapter is to set forth a policy to ensure the proper care and use of trees on property owned and maintained by the city, within city limits. ~~public property.~~ Well-placed and managed trees add value to the city by providing shade, improving air quality, minimizing storm water runoff, providing erosion control and contributing to aesthetic beauty. Under some circumstances, however, trees can be hazardous to public safety, such as when the wrong tree is planted in the wrong place or not properly managed. This chapter also provides guidelines for pruning or removal when warranted.

None of the requirements set forth in this chapter apply to activities related to city maintenance of existing water, sewer, and stormwater mains.

**That Section 9.6-2 – Definitions be amended as shown:**

Sec. 9-6-2. - Definitions.

*Public trees:* Trees with a diameter at breast height (DBH) of four (4) inches or greater with the majority of the tree trunk located on city-owned and maintained property. Trees that are planted as part of city projects that are less than four (4) inches DBH shall be considered public trees. ~~Trees located on city-owned property including: land on both sides of all city-owned streets, city parks, land around city owned buildings and/or facilities and on any other city-owned property.~~

*Superintendent of parks:* ~~A position within the city department of parks and recreation under whose jurisdiction the care and planning for public trees falls. As used in this chapter, this term shall include designees of the superintendent of parks.~~

*Hazard tree:* Any tree that has been assessed, by an ISA-certified arborist or tree risk assessor of the city's choosing, to have a High or Extreme risk rating based off a three-year time period.

*Occupant:* Any person owning or occupying real property.

**That Section 9.6-3 – Public Tree work plan be removed**

~~Sec. 9-6-3. Public tree work plan.~~

- ~~(a) The superintendent of parks shall have the authority to develop and administer an annual work plan for maintenance of existing public trees and plans for planting of any new public trees.~~
- ~~(b) The superintendent of parks shall have the authority to amend or add to the annual work plan at any time circumstances warrant its amendment.~~

**That Section 9.6-4– Public Tree Advisory be amended as follows**

Sec. 9-6-~~34~~. - Public tree advisory board.

The public tree advisory board is hereby established and is charged with certain advisory responsibilities to the operations of the city with regard to the care of public trees ~~and the annual work plan.~~

This board shall consist of nine (9) members, four (4) residents or business owners in the city, together with one (1) representative from each of the following: department of parks and recreation, public utilities, community development, public works and the Harrisonburg Electric Commission. Resident or business owner members shall be appointed by the city council. Of the initial members, two (2) shall be appointed for a three-year term and two (2) shall be appointed for a two-year term. Thereafter, all appointments shall be for a three-year term and no member shall serve more than two (2) consecutive terms. Members shall serve without compensation. City staff and Harrisonburg Electric Commission members shall be appointed by their respective department heads.

**That Section 9.6-5– Duties and responsibilities of the public tree advisory board be amended as follows:**

Sec. 9-6-~~45~~. - Duties and responsibilities of the public tree advisory board.

The board shall:

- (1) ~~Provide advice to the superintendent of parks on the annual work plan;~~
- (2) Review applications for permits required by Section 9-6-6 within thirty (30) days of receipt;

~~Review requests by the city or others as provided below within thirty (30) days of receipt;~~

- (23) Assist with providing public information and promoting awareness for activities such as Arbor Day recognitions; and the Tree City USA program;

~~and Help provide public information and promote awareness for activities such as Arbor Day recognitions; and~~

- (34) ~~\_\_\_~~ Assist with development ~~Develop lists~~ of appropriate and/or inappropriate tree ~~lists~~ s for planting on public property.

**That Section 9.6-6– Obstruction be amended as follows:**

Sec. 9-6-~~56~~. - Obstruction.

- (a) ~~\_\_\_~~ Duty of occupant: With the exception of the central business district, it shall be the duty of any occupant ~~person owning or occupying real property~~ bordering on any street right-of-way to prune, maintain or remove any privately owned trees or shrubbery ~~trees, vegetation or weeds within such right-of-way~~ in a manner to ensure that the trees or shrubbery they will not: cause potential hazard to public safety, damage public infrastructure through root systems, obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision or traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be nine (9) feet over sidewalks, and sixteen (16) feet over all streets. Prior to commencing such work, ~~property owners are required to obtain a permit as specified in this chapter. occupants should confirm with the department of public works whether any trees are public trees and, if so, obtain the permit as specified in this chapter.~~
- (b) ~~\_\_\_~~ Notice to prune: Should any ~~person owning real property~~ occupant bordering on any street right-of-way fail to prune, maintain or remove trees ~~, vegetation or weeds as provided above~~ or shrubbery as provided above, the department of public works ~~, with the advice of the superintendent of parks~~ shall order such person to contact the department of public works within five (5) days after receipt of written notice to discuss pruning, maintenance or removal of such trees or shrubbery. to so prune, maintain or remove such trees, vegetation or weeds within five (5) days after receipt of written notice. Such notice shall be given in writing, ensuring the occupant receives it, mailed by certified mail, return receipt requested, to the last known address of the property owner. If additional time is needed, occupants may contact the department of public works or city staff listed on the notice to prune.
- (1) If the majority of the tree trunk/base of shrubbery is located on private property, the occupant is responsible for performing remediation work. If the occupant fails to perform such work within the specified time, the city may do the work or cause the work to be done. The cost of such work shall be charged to the owner of the lot and if not paid shall be added to and collected with the real estate taxes for the current year.
- (2) If the majority of the tree trunk/base of shrubbery is located within city right-of-way or on city-owned property, city staff will perform the work at no cost to the occupant. If the occupant wishes to perform the work they can, after informing the appropriate party listed on the notice to prune and adhering to the public tree care standards. Such remediation work does not require review or approval from

the public tree advisory board. If the occupant performs the work, they will be responsible for the cost.

~~(c) Failure to comply: When a person to whom an order it directed shall fail to comply within the specified time, the city may do the work or cause the work to be done, and the cost thereof, shall be charged to the owner of the lot and if not paid, shall be added to and collected with his real estate tax for the current year.~~

**That Section 9.6-7– Public Tree Care be amended as follows**

Sec. 9-6-~~67~~. - Public tree care; Permits.

(a) (a) — All public trees shall be planted, pruned, and cared for using The city shall use established standards to plant and care for public trees, such as: ISA (International Society of Arboriculture) standards, Virginia Cooperative Extension Service publications, and ANSI standard A-300.

(b) Occupants, or their agents, must obtain a permit from the public tree advisory board before planting, pruning, or removing any public tree, except:

(1) When the tree has been assessed a hazard tree as defined in Sec 9-6-2. In this case the city will remove the tree.

(cb) City departments must obtain a permit from the public tree advisory board before removing any public tree, except:

(1) When the tree has been assessed a hazard tree as defined in Sec 9-6-2.

(2) When the tree is within a public park; or

(3) When the removal is related to a capital improvement project.

~~—Permits must be requested and obtained from the public tree advisory board before:~~

~~(1) Removal of any public trees by the city or private property owners or others;~~

~~(2) Planting of any public tree by any private property owner or others; or~~

~~(3) Pruning of any public tree by any private property owner or others.~~

~~(c) — Established standards shall be followed for work as cited above to ensure quality care of public trees.~~

~~(d) — In the event of an emergency, such as a fallen tree or other condition requiring the immediate removal of a public tree, the tree may be removed without complying with the provisions of subsection (b) above. An "emergency" shall include, but not limited to: trees posing an immediate danger to public safety, trees causing outage of utility services, etc.~~

~~(e) — When the city removes a tree, it shall be city policy to plant an appropriate replacement somewhere in the general area, which may include offering a~~

~~replacement to a private property owner for planting on private property where replacement on public property is not practical.~~

- (ef) —Applications for permits required by the provisions of this chapter shall be made at the office of the ~~department of planning and community development,~~ department of public works not less than thirty (30) days in advance of the time the work is desired to be done.

**That Section 9.6-7– Damages and Replacement Trees be enacted as follows**

Section 9-6-7 Damages and Replacement Trees.

- (a) If an individual removes a public tree with a permit from the public tree advisory board, that person shall be responsible for paying the city for an appropriate replacement tree as determined by a city staff person who is also a certified arborist. At no time shall a replacement tree be smaller than a minimum caliper of 1.5 inches and minimum height of five (5) feet.
- (b) If an individual removes a public tree without obtaining a permit from the public tree advisory board, that person shall be fined the value of that tree, up to \$2,500.
- (c) If an individual improperly prunes a tree and the tree is assessed by a city staff person who is also a certified arborist to be perpetually damaged, that person will be responsible for paying the city for an appropriate replacement tree, with a minimum caliper of 1.5 inches and minimum height of five (5) feet.
- (d) If an individual plants a tree on public property without first obtaining a permit from the public tree advisory board and that tree causes a public safety concern, the person who planted the tree shall be ordered to remove the tree, or city staff will remove or prune the tree and bill the responsible party.
- (e) It shall be the responsibility of any city department that removes a public tree to replace one for one with an appropriate tree, subject to appropriations. The replacement tree shall be a minimum caliper of 1.5 inches and a minimum height of five (5) feet.

Sec. 9-6-8. - Right of appeal to city council.

Any person affected by an action of the public tree advisory board or any failure to act by the public tree advisory board shall have an automatic right of review by the city council. A request for review shall be made in writing and filed with the city clerk and shall be placed on the city council's regular meeting agenda within thirty (30) days after the written request is received by the city clerk.

This ordinance shall be effective on the 26th day of May, 2020

ADOPTED AND APPROVED this 26th day of May, 2020.

Deanne R. Reed  
MAYOR

ATTEST:

Samela Ulmer

City Clerk