

Chapter 13.20
TREE REMOVAL PERMITS

Sec. 13.20.010. Legislative intent and purposes.

The City Council finds that trees provide important environmental, aesthetic and health benefits to the residents and guests of the City which extend beyond the boundaries of the property upon which trees may grow. The City Council further finds that trees enhance the real estate values of property upon which trees grow and neighboring properties. Large trees are a resource which cannot be fully replaced if injured, damaged or removed. Property development and construction activities can result in injury or loss of valuable trees in the City. It is the intent of this Chapter to preserve to the fullest extent possible existing trees considered desirable by the Manager of Parks and Recreation or his or her designee as hereinafter set forth. ([Ord. 34-1995](#), § 3)

Sec. 13.20.020. Removal of trees; permit required; valuation.

(a) Applicability of Section and definition. The terms and provisions of this Chapter shall apply to all private and public real property situated in or subsequently annexed to the corporate limits of the City. The term *tree* shall include, for purposes of this Chapter, all deciduous trees having a trunk diameter of six (6) inches or more, *Quercus gambelli* (Gamble Oak), *Acer glabrum* (Rocky Mountain Maple), *Amelanchier spp.* (Serviceberry) and *Prunus Virginiana* (Chokecherry) with a trunk diameter of three (3) inches or more and coniferous trees having a trunk diameter of four (4) inches or more. Trunk diameters shall be measured in inches measured as close to four and one-half (4½) feet above ground as possible.

(b) Removal or damage to trees prohibited without permit.

(1) It shall be unlawful for any person, without first obtaining a permit as herein provided, to remove or cause to be removed any tree.

(2) It shall be unlawful for any person, without first obtaining a permit for tree removal as herein provided, to dig, excavate, turn, compact or till the soil within the dripline of any tree in

such a manner as to cause material damage to the root system of the tree. For purposes of this Subsection, the *dripline* of a tree is a cylinder extending from grade level down to a depth of ten (10) feet below grade, having a radius equal to the length of the longest branch of the tree, with the center of the cylinder located at the center of the trunk of the tree.

(3) It shall be unlawful for any person in the construction of any structure or other improvement to park or place machinery, automobiles or structures; or to pile, store or place, soil, excavated material, fill or any other matter within the dripline of any tree. During construction the Manager of Parks and Recreation or his or her designee, may require the erection of suitable barriers around all trees, including trees not included in the definition set forth at Subsection (a) above, to be preserved. These protection areas will be established on site in order to protect existing natural resources when appropriate. Roots must be protected from exposure to the elements with burlap or other suitable materials and these materials must remain moist during the extent of the project. In addition, during construction, no attachments or wires other than protective guy wires shall be attached to any tree.

(4) Where construction of structures or improvements on any property necessitates the removal or relocation of any trees, the Manager of Parks and Recreation or his or her designee, may, as a condition for the approval of the removal or relocation, require that the owner replace any removed or relocated trees with a tree or trees of comparable value on the affected property. When in the opinion of the Manager of Parks and Recreation or his or her designee, replacement of relocated trees cannot reasonably be accommodated on the affected property; the applicant shall pay a cash-in-lieu amount equal to the comparable value of the aggregate of all trees removed as determined pursuant to Section 13.20.020(e), below.

([Ord 16-2016](#) §1)

(5) It shall be unlawful for any person, without first obtaining a permit for tree removal as herein provided, to intentionally top, damage, girdle, limb up or poison any healthy tree. For purposes of this Section *topping* a tree is the removal of more than five percent (5%) of the height from the top of any deciduous tree or the removal of the terminal bud from a coniferous tree. The terminal bud of a coniferous tree is the highest bud on the tree.

(6) It shall be unlawful for any person, without first obtaining a permit as herein provided, to relocate any tree. If a relocated tree dies within two (2) years of relocation and is not replaced with a tree of equal value, the death of the relocated tree shall be deemed an unpermitted tree removal. This Section shall not apply to the initial planting of trees obtained from nursery stock.

(7) It shall be unlawful for any person to fail to provide the Manager of Parks and Recreation or his or her designee, with written notice, delivered at least four (4) working days in advance, of the time and date on which removal of any tree will occur. Written notice pursuant to this Section is required even if a permit for tree removal, as herein provided, has been obtained.

(8) Each violation of the above Subsections (b)(1—7) shall be a separate offense.

(c) Penalty. Any person convicted of violating any provision of Chapter 13.20 shall be subject to punishment as set forth in Section 1.04.080 of this Code.

(d) Tree removal permits.

(1) Any person wishing to obtain a permit or relocate a tree shall file an appropriate application with the Manager of Parks and Recreation or his or her designee. Such application shall contain such information as the Manager of Parks and Recreation or his or her designee, shall require to allow adequate enforcement of this Section.

(2) On request of the Manager of Parks and Recreation or his or her designee and when necessary to adequately apprise the Manager of Parks and Recreation or his or her designee, of the intended tree removal, said application shall include a site plan showing the following:

- (i) Location of proposed driveways and other planned areas or structures on said site;
- (ii) Location of all trees four (4) inches or over identified by trunk diameter and species;
- (iii) Designation of all diseased trees and any trees endangering any roadway pavement or structures and trees endangering utility service lines;
- (iv) Designation of any trees proposed to be removed, retained and relocated and areas which will remain undisturbed;
- (v) Any proposed grade changes which may adversely impact any trees on the site.

(3) After filing said application, the Manager of Parks and Recreation or his or her designee, shall review the application (and site plan if required) and determine what effect the intended removal or relocation of trees will have on the natural and historic resources of the area. Based on a review of the following factors, the Manager of Parks and Recreation shall either grant or deny the requested permit:

- (i) Whether the trees intended for removal or relocation are necessary to minimize flood, snowslide or landslide hazards;
- (ii) Whether retention of the trees is necessary to prevent excess water runoff or otherwise protect the watershed;
- (iii) Whether the removal or relocation of the trees will cause wind erosion or otherwise adversely affect air quality;
- (iv) The condition of the trees with respect to disease, danger of falling and interference with utility lines;
- (v) The number and types of trees in the neighborhood, the contribution of the trees to the natural beauty of the area and the effect of removal or relocation on property values in the area;
- (vi) The necessity or lack thereof, to remove the trees to allow reasonable economic use and enjoyment of the property;
- (vii) The implementation of good forestry practices, including consideration of the number of healthy trees that the parcel of land in question can support;

(viii) The adequacy of the methods proposed to be used to relocate any trees; and

(ix) The impact of any tree on a historically designated property or adjacent right-of-way by considering the following matters:

(A) In cases where a tree is jeopardizing the physical integrity of a historically designated structure through contact with the building, heaving due to roots or shading that results in decay, deterioration or structural defect, this shall be justification for the issuance of a tree removal permit exempt from mitigation pursuant to Section

13.20.020(d). Examples of unacceptable impacts to a historically designated structure include: deterioration of exterior walls, foundations or other vertical supports; deterioration of flooring or floor supports or other horizontal members; deterioration of external chimneys; deterioration or crumbling of exterior plasters or mortars; ineffective waterproofing of exterior walls, roofs and foundations; the inability to retain paint on exterior surfaces; or excessive weathering of exterior surfaces. The applicant for a tree removal permit shall be required to submit proof of the damage that is occurring in the form of a written evaluation from a third party with expertise in structural engineering or a relevant building trade. The Manager of Parks and Recreation may suggest means to prevent the tree from causing further damage short of its removal if these actions would meaningfully reverse the problem.

(B) In cases where, per the advice of the Historic Preservation Commission, a tree detracts from the integrity of a landscape which has been historically designated for its own merits, this shall be justification for the issuance of a tree removal permit exempt from mitigation pursuant to Section 13.20.020(d).

(C) In cases where the visibility of the street facing facades of a historically designated structure are impacted by an evergreen tree which is not located in the City right-of-way, to the extent that the public enjoyment of the resource is seriously diminished per the advice of the Historic Preservation Commission, this shall be justification for the issuance of a tree removal permit exempt from mitigation pursuant to Section 13.20.020(d). The Manager of Parks and Recreation may consider whether the tree in question has a unique character to offset the negative impact to the structure. This character may include an unusual or unique species or specimen tree quality. The Manager of Parks and Recreation may suggest means to prevent the tree from obstructing the resource, short of its removal, if these actions would meaningfully reverse the problem.

(D) In cases where, per the advice of the Historic Preservation Commission, a tree is inconsistent with established historic landscape patterns in the area or landscape practices associated with the period of significance of the property or district, the removal or relocation of the tree should be considered, subject to mitigation pursuant to Section 13.20.020(d). The Manager of Parks and Recreation may consider whether the tree in question has a unique character to offset the negative impact to the structure. This character may include an unusual or unique species or specimen tree quality.

(E) In cases where, per the advice of the Historic Preservation Commission, the protection of a tree conflicts with the redevelopment of a historically designated property in a manner that is consistent with the "City of Aspen Historic Preservation Design Guidelines," the Manager of Parks and Recreation shall consult with the Historic Preservation Commission to consider the feasibility of all options including removal or relocation of the tree or redesign of the development. Unless the tree is an unusual or unique species or specimen tree quality, flexibility shall be allowed for its removal or relocation in favor of the best preservation option for the historic structure, subject to mitigation pursuant to Section 13.20.020(d).

(4) Where construction of structures or improvements on any property necessitates the removal or relocation of any trees, the Manager of Parks and Recreation or his or her designee, may, as a condition for the approval of the removal or relocation, require that the owner replace any removed or relocated trees with a tree or trees of comparable value on the affected property. When in the opinion of the Manager of Parks and Recreation or his or her designee, replacement of

relocated trees cannot reasonably be accommodated on the affected property; the applicant shall pay a cash-in-lieu amount equal to the comparable value of the aggregate of all trees removed.

Comparable value for purposes of this Section shall mean a tree or trees of equal aggregate value and species to the replacement cost of the tree to be removed or relocated.

(5) No trees shall be removed from City property except in accordance with Chapter 21.20 of this Code.

(6) The removal of dead trees shall require prior notice to the Manager of Parks and Recreation or his or her designee and a permit from the City.

(7) In case of an emergency caused by a tree being in a hazardous or dangerous condition posing an immediate threat to person or property, such tree may be removed without resort to the procedures herein described; provided, however, that evidence of such an emergency is provided to the Manager of Parks and Recreation or his or her designee, within twenty-four (24) hours.

(8) After obtaining a permit as herein provided the responsible party must post the permit in such a manner that it is clearly visible from curbside of the property.

(e) Valuation of trees. When, in accordance with this Section, the value of a tree must be determined, the Basic Value shall be \$X per square inch of the cross sectional area of the tree at the point where the diameter of the tree is measured. In calculating the Basic Value, the following equation shall be used:

$$\text{Basic Value} = \$X \times \pi \times (D/2)^2$$

Where: D = the diameter of the tree in inches, measured at 4.5 feet from the ground.

X = the \$(dollar) value assigned in the Tree Fees – Mitigation Fee in Section 2.12.080.

([Ord. No. 34-1995](#), § 3; [Ord. No. 19-2004](#) § 1; [Ord. No. 16-2016](#) § 2)

Sec. 13.20.030. Fees.

The applicable administrative fees for tree removal permits and permits to landscape in the public right-of-way shall be as established in Section 2.12.080, Parks Department fees, where a *removal permit* is a request unrelated to construction activities and a *removal permit – development* is a request where construction of a structure or improvements on any property necessitates the removal or relocation of any trees.

([Ord. No. 19-2004](#), § 1; [Ord. No. 16-2016](#), § 3)

Sec. 13.20.040. Appeals.

Any person not satisfied with the action taken by the Manager of Parks and Recreation or his or her designee or any other City staff person with regard to an application pursuant to this Chapter shall have the right to take successive appeals, first to the City Manager and then to the City Council. An appeal to the City Manager shall be taken by filing with the City Clerk a signed statement that the applicant desires to appeal to the City Manager, along with a copy of the application and the written denial or the permit objected to. An appeal of a decision by the City Manager to the City Council shall be taken by filing with the City Clerk copies of the application, denial or permit and the written decision issued by the City Manager, along with a signed statement that the applicant desires to appeal to the City Council. Each appeal shall be filed within two (2) days, exclusive of Saturdays, Sundays and legal holidays, of the decision appealed from. An informal summary hearing shall precede a decision by either the City Manager or City Council, and advance notice of the hearing shall be provided to the applicant and the City official whose decision is being appealed as soon as is practicable. The right to appeal an adverse decision by the City Manager to City Council shall be contingent upon City Council's regular meeting schedule. If the applicant's appeal cannot be heard by the City Council within ninety (90) days of the original decision then the City Manager's decision shall be final. ([Ord. No. 19-2004](#), § 1)

such sidewalk, driveway, curb or gutter within thirty (30) days. It shall be unlawful for any person to fail or refuse to comply with such notice to repair. Upon a failure or refusal to comply with such a notice to repair, the City Engineer may repair the same by day's work or by contract, and the cost of such repair may be assessed upon and made a lien upon the land so benefited. In addition thereto, the City may cause an action to be instituted against the owner or the person in charge of the premises upon whom such notice was served in any court of competent jurisdiction to recover such costs. All such remedies shall be cumulative. ([Ord. No. 42-1999, §1 \[part\]](#); [Ord. No. 15, 2007, §3](#))

Sec. 21.16.090. Definition of sidewalk in need of repair.

For the purpose of this Chapter, a *sidewalk in need of repair* shall mean a sidewalk in any of the following conditions:

- (a) Concrete that is spalling or crumbling.
- (b) Vertical displacement of the adjoining sidewalk section is in excess of three-quarters ($\frac{3}{4}$) inch;
- (c) Lateral displacement of adjoining sidewalk section is in excess of one (1) inch; or
- (d) The sidewalk has a transverse slope in excess of one (1) inch per foot or the combination of transverse and longitudinal grade is insufficient for adequate drainage of the sidewalk causing accumulation of water and ice. ([Ord. No. 42-1999, §1 \[part\]](#); [Ord. No. 15, 2007, §3](#))

² **Editor's note**—Ord. No. 42-1999, §1, repealed former §21.16.090 and enacted a new §21.16.090. Former §21.16.090 was derived from Code 1971, §19-104, as amended by Ord. No. 30-1975, §1.

**Chapter 21.20
TREES AND LANDSCAPING ON PUBLIC RIGHT-OF-WAY¹**

¹ **Editor's note**— Ord. No. 30-1975, §1, repealed Art. V, §§19-121—19-135, pertaining to trees on public property and enacted in lieu thereof a new Art. V, §§19-121—19-127 [Ch. 21.20], as herein set out. Former Art. V was derived from Code 1962, §§8-5-1—8-5-5 and Ord. No. 14-1970.

Sec. 21.20.010. Approval required for landscaping in sidewalk area.

All trees, shrubs, foliage and other landscaping planted in the sidewalk area or other public right-of-way shall be approved as to location and type by the City Engineer and the Director of Parks in accordance with the provisions of this Chapter and the following considerations:

- (a) Location, arrangement and species shall conform to the adopted street landscaping plan.
- (b) Special consideration shall be given to the problem of drainage and snow removal.
- (c) Location and arrangement shall provide for pedestrian access.
- (d) Location shall be such as not to obstruct corner sight distances at intersections.
- (e) Coordination of landscaping on public rights-of-way with required open or landscaped areas on private property so as to achieve the most effective use of the total area. (Code 1971, §19-121; [Ord. No. 30-1975, §1](#); [Ord. No. 36-1976, §1](#))

Sec. 21.20.020. Landscaping required for new construction.

For all new construction landscaping shall be provided in the sidewalk area or public right-of-way adjoining the building site in accordance with the adopted street landscaping plan. (Code 1971, §19-122; [Ord. No. 30-1975, §1](#))

Sec. 21.20.030. Specifications for landscaping in sidewalk area.

Landscaping and planting areas shall meet the following specifications:

- (a) Planting areas at sidewalk grade adjoining the curb shall be a minimum of four (4) feet in width.
- (b) Planting areas provided in paved areas shall be a minimum of three (3) feet in diameter or eight (8) square feet in area.
- (c) Trees planted at sidewalk grade shall be provided with tree grates and trunk protectors at least four (4) feet in height.
- (d) Elevated planting areas are preferred in Commercial Districts and where provided, shall be a minimum of twenty (20) inches above sidewalk grade.
- (e) Gravel, crushed stone, washed rock and similar materials shall not be allowed in the sidewalk area at grade. Such materials shall not be allowed in lieu of landscaping unless approved as part of an overall plan.
- (f) When any area is paved, a minimum of twelve (12) inches of unsurfaced area shall be left around the base of all existing trees. (Code 1971, §19-123; [Ord. No. 30-1975, §1](#))

Sec. 21.20.040. Property owner responsibility for landscaping after construction.

Whenever the landscaping in any portion of the sidewalk area or other public rights-of-way is disturbed by construction or excavation related to construction on private property, the owner of the property shall be responsible for landscaping the damaged right-of-way in accordance with the provisions of this Chapter. (Code 1971, §19-124; [Ord. No. 30-1975, §1](#))

Sec. 21.20.050. Property owner responsible for maintenance of landscaping in adjoining right-of-way.

The property owner shall be responsible for maintaining the landscaping in that portion of the sidewalk area or other public right-of-way which adjoins his or her property; provided that the City shall be responsible for the pruning or removal of any trees which are not under any guarantee of the owner. Maintenance shall include mowing, trimming and planting of annual plants if such is required by the landscape plan. (Code 1971, §19-125; [Ord. No. 30-1975, §1](#))

Sec. 21.20.060. Approval required for paving of planting areas.

Planting areas provided in accordance with an approved landscape plan shall not be paved without the approval of the Director of Parks. (Code 1971, §19-126; [Ord. No. 30-1975, §1](#); [Ord. No. 36-1976, §2](#))

Sec. 21.20.070. Requirements for removal of trees; approval required.

It shall be unlawful for any person, whether a property owner or not, to cut or remove trees situated upon City property, streets or other public rights-of-way without first obtaining written approval from the Director of Parks. Grant or denial of approval shall be based upon the adequacy of the replanting plan as relates to the number, size and species of new trees; guarantees for restoration of any other landscaping;

indemnification of the City against any claims arising from damage to public or private property or injury to persons; and any other conditions the Director of Parks shall deem pertinent. (Code 1971, §19-127; [Ord. No. 30-1975, §1](#); [Ord. No. 36-1976, §3](#))

Sec. 21.20.080. Requirements of conservation of water in landscaping on public rights-of-way.

The Director of Parks shall develop and implement a conservation and irrigation program to increase the efficiency of water use on public open space areas including parks, greenbelts, public golf courses, roadway right-of-way plantings, street medians and all other public open spaces.

The program shall include, as a minimum, the following:

(a) Limiting to functional areas of heavy pedestrian traffic, such as ball fields or areas proximal to entryways, the locations on which frequently irrigated and mowed turf such as bluegrass is to be maintained and restricting the use of turf in median strips;

(b) Ensuring the use of efficient irrigation techniques and systems, including the limitation of landscape irrigation between the hours of 11:00 a.m. and 3:00 p.m.; employing the use of nonpotable water supplies and water reuse where such supplies and water reuse are available for irrigation of areas exceeding ten (10) acres; and using seasonally variable irrigation schedules which match the evapotranspiration needs of the plants being irrigated;

(c) Analyzing and improving soil on the site to maximize moisture availability for plant intake and to increase soil moisture penetration and retention;

(d) Using mulches to reduce water needs and weed growth and to check soil erosion;

(e) Using lower water-demand plants, ground cover and grass species to reduce water usage;

(f) Planning for routine maintenance such as weed control, pruning and irrigation system adjustments so as to reduce water usage; and

(g) Using evapotranspiration data, when available, to determine water needs. (Code 1971, § 19-128; [Ord. No. 37-1991, § 4](#))

Chapter 21.24

PERMITS FOR SKI STORAGE RACKS ENCREACHING OR LOCATED UPON PUBLIC RIGHTS-OF-WAY

Sec. 21.24.010. Permit for installing and operating ski storage rack encroaching or located upon public right-of-way; qualification; application.

The owner of any business conducted within the City for which a business license has been issued may apply to the City Engineering Department for a permit to install, operate and maintain a ski storage rack on the outside wall of the building in which his or her business is located or in such other area as may be approved by the City Engineering Department, for purposes of temporary storage of skis by the general public. The application shall be made upon the form provided by the City Engineering Department and shall include an affidavit signed by the applicant (and by the owner of the building if the applicant is a lessee) stating the name of the applicant and of the owner of the building, the name and address of the business and such other additional information as the City Engineering Department may reasonably require from time to time and stating further that the applicant (and owner, if not the applicant) agrees to save, defend and hold harmless the City from all liabilities or claims due to loss, damage, theft or injury of or to persons or property arising from