

ORDINANCE

**AN ORDINANCE OF THE CITY OF MANITOU SPRINGS, COLORADO,
ADDING A NEW CHAPTER 12.38 TO THE MANITOU SPRINGS
MUNICIPAL CODE ESTABLISHING A TREE COMMITTEE,
STANDARDS FOR TREE CARE ON CITY PROPERTY, AND
PROTECTION OF PUBLIC AND PRIVATE HERITAGE TREES**

WHEREAS, "Tree City USA" is a designation given by the Arbor Day Foundation to communities that meet the four designated standards of having a sustainable tree management program;

WHEREAS, communities designated as a Tree City USA commonly enjoy cleaner air, improved stormwater management, energy savings, increased property values, and commercial activity, among other benefits;

WHEREAS, the Arbor Day Foundation and National Association of State Foresters have established four standards for obtaining such designation;

WHEREAS, one such standard for obtaining such designation is to implement a public tree care ordinance; and

WHEREAS, the City Council wishes to amend the Manitou Springs Municipal Code by adding a new Chapter 12.38 establishing a Tree Committee, the standards of tree care on City property, and protection of public and private heritage trees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: A new Chapter 12.38 is hereby added to the Manitou Springs Municipal Code to read as follows:

CHAPTER 12.38 – TREE CARE ON PUBLIC AND PRIVATE PROPERTY

12.38.010 – Purpose.

The purpose of this Chapter is to improve the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, creates a Tree Committee, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

12.38.020 - Definitions.

- A. "Adjacent Properties" refers to all public and private lands adjoining and surrounding the site, including but not limited to streets, sidewalks, rights-of-ways, drainage ways, easements, and buildings.
- B. "Damage" means any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.
- C. "Director" refers to the individual that is responsible for and oversees maintenance of the City's urban forest.
- D. "Director of Parks and Recreation" means the City of Manitou Springs Director of Parks and Recreation, their designee, or someone designated by the City Administrator.
- E. "Heritage Tree" means a unique tree that contributes to the environment and City character based on meeting one of the listed criteria.
- F. "Nuisance" refers to any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare. This is not exclusive to the definition of a "nuisance" in the Municipal Code 6.08.010.
- G. "Parkway" is the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.
- H. "Public property" refers to any public rights-of-way, street, alley, park, or recreation area in the City which is owned, leased, operated, or controlled by the City.
- I. "Public tree" is any tree on a city-owned or city-maintained property or right-of-way.
- J. "Top or Topping" refers to the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
- K. "Tree" means woody, perennial plant, ordinarily with one main stem or trunk, which develops many branches and which ordinarily grows to a height of a minimum of five feet and/or four inches in diameter.

- L. "Tree Canopy Assessment" provides a measure of a community's tree canopy cover as a percentage of the total land area and serves as a baseline for setting tree canopy goals and measuring progress.
- M. "Tree Inventory" includes the location, size, species and general health of all trees on public property with a minimum height of five feet and/or six inches in diameter. May also include private property if included in the Heritage Tree program.
- N. "Right-of-way" means the entire dedicated tract or strip of land that is to be used by the public for circulation and service. The length and width of a right-of-way shall be sufficient to provide adequate accommodations for all the physical features (ie. trees and shrubs) to be included in such right-of-way, as hereinafter established.

12.38.030 - Authority and power.

- A. Delegation of authority and responsibility. The Director of the Parks and Recreation Department and/or their designee, hereinafter referred to as the "Director", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, right-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten public safety, electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, pest or disease.
- B. Coordination among city departments. All city departments will coordinate as necessary with the Director and/or their designee and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, right-of-way, drainage, easements, and other public properties not under the direct jurisdiction of the Director.
- C. Interference. No person shall hinder, prevent, delay, or interfere with the Director and/or their designee while engaged in carrying out the execution or enforcement of this Ordinance.

12.38.040 - Tree Committee.

The City Council hereby designates the Parks and Recreation Advisory Board as the official "Tree Advisory Board" per Tree City USA requirements. Hereinafter referred to as "Tree Committee" and includes the following duties:

- A. Coordinate and promote Arbor Day activities;
- B. Review and update the multi-year plan to plant and maintain trees on City property;
- C. Support public awareness, education, and incentive programs relating to trees;

- D. Review City departments' concerns relating to tree care;
- E. Assist with the annual application to renew the Tree City USA designation;
- F. Develop a list of recommended trees for City property;
- G. Advise the removal or replacement of trees when feasible;
- H. Designate heritage trees per the Heritage Tree Program;

12.38.050 - Tree planting and care standards.

- A. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations," International Society of Arboriculture (ISA) Best Management Practices, Manitou Springs Organic Land Management Policy, and Manitou Springs Wildfire Mitigation Standards.
- B. Requirements of franchise utility companies. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards and must be approved by the Director and/or their designee.
- C. The Director and/or their designee shall maintain an official list of desirable tree and plant species for planting on public property. Trees will be categorized into three size classes: Small (under 30 feet at maturity), medium (under 50 feet at maturity) and large (greater than 50 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with written approval from the Director and/or their designee.
- D. Spacing requirements for the planting of trees on a public right-of-way shall be a minimum of thirty feet apart. No tree may be planted within the visibility triangle of a street intersection or within ten feet of a fire hydrant. Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen lateral feet of any overhead utility wire.
- E. Protection of public trees during construction. Any person, firm, corporation, or City department performing construction near any public tree must employ appropriate measures to protect the tree and its root system, including, but not limited to, placing barriers around the tree to prevent damage. The Director and/or their designee will review construction documents to evaluate the proposed protections for trees that may be impacted and make a determination to preserve the trees.
- F. Conducting tree canopy assessments. The Director and/or their designee shall conduct a tree canopy assessment a minimum of every five years to maintain the

tree inventory list, measure tree loss and gain, identify heritage trees, set tree planting goals, and measure progress on the goals.

- G. Treatment of trees must adhere to the City's Organic Land Management Policy and only use pre-approved organic products with no harmful chemicals.

12.38.060 – Prohibition against harming public trees.

- A. It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without prior approval from the Director and/or their designee.
- B. It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree without prior approval from the Director and/or their designee.
- C. It shall be unlawful for any person, firm, or corporation to “top” any public tree without prior approval from the Director and/or their designee. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director and/or their designee.
- D. Any person, firm, corporation, or city department performing construction near any public tree(s) shall consult with the Director and/or their designee and shall employ appropriate measures to protect the tree(s).
- E. Each violation of this section as determined and notified by the Director and/or their designee shall constitute a separate violation, punishable by fines and penalties under Section 12.38.110, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section as determined in Code Section 12.38.080.

12.38.070 - Certain trees declared a nuisance

- A. Any tree or limb thereof on private property determined by the Director and/or their designee to have contracted a lethal, communicable disease or insect, to be dead or dying, to obstruct the view of traffic signs or the free passage of pedestrians or vehicles, or that threatens public health, safety, and/or poses a fire hazard is declared a nuisance and the Director and/or their designee may require its treatment or removal.
- B. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Director and/or their designee may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within 30 days.

- C. No property owner shall allow a tree, or other plant growing on their property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If the obstruction persists, the Director and/or their designee shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Director and/or their designee may undertake the necessary work and charge the cost to the property owner.
- D. Harmful chemicals, as defined in the City's Organic Land Management policy, are prohibited to be used on trees that are located on City grounds. If a situation warrants the use of chemical pesticides or fertilizers which would otherwise not be permitted under this policy, the Director and/or their designee shall have the authority to grant a temporary waiver for a reasonable duration. Any waiver granting the use of pesticides on City grounds shall require the use of the least toxic material chosen for any given application.

12.38.080 - Permit required for planting, pruning or removal of trees in public places.

The City maintains a zero net tree loss standard on public property. The preference is to preserve the tree with pruning first prior to removal. No person shall remove or destroy any tree or plant in the public right-of-way without first having a plan approved by the Director and/or their designee for the mitigation of the loss of such tree or plant. The removed or destroyed tree or plant shall be replaced in an amount equivalent to the value, as determined by the Director and/or their designee, of the tree, shrub, or plant that existed prior to loss, by:

- A. Planting or transplanting an approved tree or plant of the same species and size as previously existed in a location approved by the Director and/or their designee.
- B. Planting one or more approved trees or plants where the combined value equals or exceeds that which previously existed in terms of species, condition and size, in a location approved by the Director and/or their designee.
- C. Reimbursement to the City for the value of the tree or plant removed or destroyed subject to a determination by the Director and/or their designee that the trees or plants lost could not be adequately replaced at or near the location where the loss occurred. The reimbursement amount is determined by the Director and/or their designee.
- D. Any person desiring to plant, cut, trim, prune, remove or destroy any tree or shrub within the public right-of-way of any street or sidewalk, or upon other City-owned property within the City, must first submit an application for a permit.
 - 1. Such application must set forth the name and address of the applicant, the name and address of the person doing the work, the kind or species of tree or shrub to be planted, cut, trimmed, pruned, removed or

destroyed and the location of the same. The applicant must, at the time of making the application, agree in writing, in all respects, to hold the City harmless and protect the City and the public at all times in connection with the planting, cutting, trimming, pruning, removal or destruction of any tree or shrub to be planted, cut, trimmed, pruned, removed or destroyed under such permit.

2. The Director and/or their designee shall inspect the location of the tree or shrub to be planted, cut, trimmed, pruned, removed or destroyed, and if, in their opinion, it is desirable that such tree or shrub be planted, cut, trimmed, pruned, removed or destroyed, as the case may be, the Director and/or their designee shall issue a permit.
3. Failure to comply with the requirements of any such permit, or with any rules, regulations, standards and specifications, shall constitute a violation of this Article.

12.38.090 - Protection of Public and Private Heritage Trees

- A. A heritage tree program recognizes the significance of trees to the City. A tree may be retained beyond its useful life because of its contribution to the environment and City character. The purpose of the heritage tree program shall be to accomplish the following:
 1. Increase public awareness of trees in general and specifically Manitou Spring's urban forest.
 2. Draw attention to and protect those significant heritage trees that are unique within the terms of this section.
 3. Provide publicity for increased awareness of the purpose and activities of the City and the Tree Committee.
 4. Encourage public participation in the identification and perpetuation of heritage trees throughout the City.
- B. A heritage or historical tree is designated based on meeting one of the following criteria:
 1. Has a diameter at breast height of thirty-six inches or greater.
 2. Has historical significance to a person, place, or event.
 3. Has a distinctive size, shape or location, or is of a distinctive species or age which warrants heritage tree status.

4. Has special aesthetic qualities for its species.
5. Is prominently visible to the public, along major roads, or public places.
6. Possesses rare horticulture or environmental value.
7. Is not a hazard or obstruction without solutions or alternatives.

C. The process for nomination shall be as follows:

1. Any individual or group of individuals interested in identifying and preserving heritage trees may nominate a tree or grove of trees on any City or private property for “heritage” status.
2. Heritage tree nominations shall be submitted to the Tree Committee on nomination forms provided by the Director and/or their designee . The Tree Committee reviews nomination forms and makes a recommendation on trees to designate as heritage trees based on the listed criteria.
3. The nomination shall at least include a description of the tree(s) nominated, the characteristics that merit the tree being designated for heritage tree status, the history of the tree if known, a photograph of the tree and a map locating the tree.
4. The owner of the property on which the nominated tree is located shall agree to the nomination by signing the consent statement on the nominating form. The owner of the property must also agree in writing to allow the tree to be placed on a City map of heritage trees.
5. To inform future property owners, the owner of the property will be encouraged in a notification letter to indicate the location of the heritage tree on the property. Future property owners may also be notified by the Director and/or their designee as part of the regular upkeep of tree inventory.

D. All heritage trees will be identified and recorded in a register maintained by the Tree Committee and the Director and/or their designee. Heritage trees will include a unique designation symbol on the City’s tree inventory list.

E. Notice of all trees identified as heritage trees by the Tree Committee shall be collected by the Director and/or their designee. All designated trees, including names of the nominator and the property owner, will then be acknowledged in a letter from the Director and/or their designee to the nominator and property owner.

F. The Director and/or their designee will provide the owner with a professional assessment of the health of the tree and recommendations for maintaining the tree according to accepted pruning and care standards.

G. A heritage tree or grove of trees is retained by the property owner and does not become the property or responsibility of the City. The property owner is responsible for all maintenance and liability issues pertaining to the tree or trees. Prior to removal of a heritage tree, a property owner must consult with the Director and/or their designee, as specified on the consent form. The City strongly encourages all heritage tree property owners to retain these significant tree(s). However, a heritage tree designation does not prohibit a property owner from developing a property and/or removing the heritage tree or trees subject to the City's tree retention regulations.

H. The Tree Committee may establish additional procedures for nomination of heritage trees consistent with this section.

12.38.100 - Appeals.

A person may appeal the decision regarding the designation of a heritage tree or the removal of a tree to City Council within ten (10) days of the date of the opinion by filing a written statement with the City Clerk setting forth the reasons for the appeal. City Council shall hear such appeal within thirty days of its receipt by the City Clerk and shall render its decision no later than twenty-one days following the conclusion of the hearing. City Council may uphold or overturn a decision in whole or in partial or take any other action it deems appropriate on appeal.

12.38.110 - Violations.

Violations of this chapter shall be punished as provided in Section 1.01.100 of this code.


Passed on first reading and ordered published this 6th day of September 2022.

City Clerk, Judy Morgan

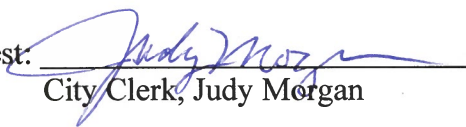
A Public Hearing on this ordinance will be held at the September 20, 2022, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: September 8, 2022
Pikes Peak Bulletin

Passed on second reading and adopted by Council this 20th day of September 2022.



Mayor, John Graham

Attest: 

City Clerk, Judy Morgan

Published: September 22, 2022 (by title)
Pikes Peak Bulletin