

ORDINANCE 2024-13

AN ORDINANCE AMENDING THE MUNICIPAL ORDINANCES OF THE CITY OF HARRISBURG BY AMENDING CHAPTER 6.05 STREET TREES

BE IT ORDAINED by the City Council of the City of Harrisburg as follows:

ARTICLE I – PURPOSE AND JURISDICTION

SECTION 1 – PURPOSE.

Ordinance 2024-13 is an ordinance to amend the Municipal Trees section of the Municipal Ordinances of the City of Harrisburg. The City Council of the City of Harrisburg has deemed these regulations and controls to be reasonable and related to the purpose of promoting the health, safety, and general welfare of the City of Harrisburg.

SECTION 2 – JURISDICTION.

This Ordinance shall govern all territory within the statutory jurisdiction of the City of Harrisburg, South Dakota.

SECTION 3 – SEVERABILITY AND SEPARABILITY.

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

ARTICLE II – AMENDMENTS TO CHAPTER 6.05, MUNICIPAL TREES

Chapter 6.05 of the Municipal Ordinances of the City of Harrisburg shall be replaced in its entirety with the following:

6.0501 Duties of the Park Board. The Park Board shall study, investigate, counsel, develop, and administer a Community Forestry Plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs within the City. The Park Board, when requested by the City Council, shall consider, investigate, make findings, report, and recommend upon any special matter or question pertaining to forestry. Any person may appeal a ruling or order by the Park Board to the City Council.

6.0502 Planting of Ash Trees Prohibited. No person shall plant, or allow to be planted, any variation of Genus *Fraxinus*, commonly known as ash, on any property within the jurisdiction of the City of Harrisburg.

6.0503 Transportation of Ash Wood Prohibited. No person shall transport raw wood from any variation of Genus *Fraxinus*, commonly known as ash, from Memorial Day to Labor Day without prior permission from the Park Board.

6.0504 Official Tree Species. The following list provides the current acceptable street tree species for the city. Species other than those included in this list may be planted as street trees with the prior permission of the City of Harrisburg.

- A. Approved Street Trees: Shagbark Hickory, Kentucky Coffeetree, Gingko, Northern Catalpa, Ironwood, Common Hackberry, Thornless Honeylocust, American Elm, David Elm, Black Locust, Bur Oak, English Oak Hybrids, Northern Red Oak, Swamp White Oak, Northern Pin Oak, American Linden, Little Leaf Linden, Amur Maackia and Japanese Tree Lilac.

6.0505 Street Tree Requirements.

- A. Street trees shall be planted at least 40 feet apart except where otherwise permitted by the City of Harrisburg.
- B. Street trees shall be planted at least 3 feet from the curb.
- C. A street tree shall not be planted closer than thirty feet to any street corner, measured from the point of nearest intersecting curbs or curb lines.
- D. A street tree shall not be planted closer than 10 feet from a fire hydrant.
- E. Street trees shall not be planted under or within ten lateral feet of any overhead utility line, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility unless approved by the City of Harrisburg.
- F. The minimum clearance of any portion of a tree that overhangs a sidewalk, trail, street, alley, or other pedestrian/bicycle right-of-way shall be ten feet above the walking/biking surface.
- G. The minimum clearance of any portion of a tree that overhangs a street, alley, highway, private drive, driveway, or other vehicle right-of-way shall be fourteen feet above the driving surface.

6.0506 Tree Care.

- A. The City has the right to plant, prune, maintain, and remove trees within the limits of all streets, alleys, avenues, lanes, parks, squares, trails, and public grounds,

as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

- B. The City of Harrisburg may remove, or cause an order for removal of, any tree or part thereof which is an unsafe condition or which, by reason of its nature, is detrimental to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected by any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with these regulations.
- C. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Section by the City of Harrisburg.
- D. Unless otherwise specifically authorized by the Park Board, no person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertising posters, or other device to any tree, allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with them, or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any tree.
- E. The owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any streetlight or obstruct the view of any street intersection. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City has the right to prune any tree on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.
- F. The City has the right to cause the removal of any dead or diseased tree on private property within the City, when such a tree constitutes a hazard to life or property, or harbors insects or disease which constitute a potential threat to other trees within the City.
- G. Stumps of street trees shall be removed to below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- H. The failure of a property owner to comply with the planting, minimum spacing or separation distance, trimming, care, or tree removal provisions of these

regulations is hereby declared a public nuisance.

- I. It shall be a violation of these regulations for any person to prevent, delay, or interfere with the City of Harrisburg while engaged in the care, planting, pruning, cultivating, maintaining, mulching, spraying, treating, or removing of any tree as authorized by these regulations.

6.0507 Donations. Donations given for tree projects shall be deposited in a reserved account by the City which shall be designated as the Community Tree Donation Fund. Each donation may be accompanied by a "Donation Designation" form to be completed and signed by the donor to ensure that each donation is used for the purpose intended by the donor. It shall be the responsibility of the Park Board to select a project(s) appropriate to each donation and submit such project plans to the City Council for approval of the disbursement of donation funds. Interest earned on monies accumulating in the Community Tree Donation Fund shall become a part of that fund to be used solely for tree projects.

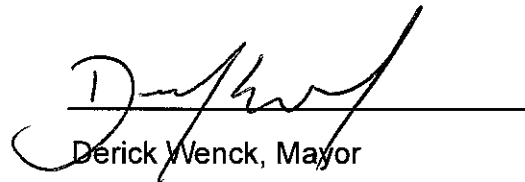
6.0508 Definitions:

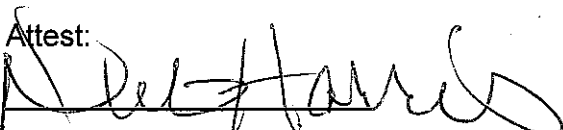
STREET TREES: Trees, shrubs, bushes, and all other woody vegetation located in whole or in part within the public right-of-way of all public streets.

TOPPING: The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree to remove the normal canopy and disfigure the tree.

BE IT FURTHER ORDAINED by the City Council of the City of Harrisburg that this Ordinance shall become effective in accordance with law.

Date Adopted:


Derick Wenck, Mayor

Attest:

Deb Harris, Finance Officer

1st Reading: Oct 15, 2024

2nd Reading: Nov 5, 2024

Publication: Nov 12, 2024

Effective Date: Dec 2, 2024