

**ORDINANCE**

**CITY OF NEW ORLEANS**

**CITY HALL:** \_\_\_\_\_

**CALENDAR NO.** \_\_\_\_\_

**NO.** \_\_\_\_\_ **MAYOR COUNCIL SERIES**

**BY: COUNCILMEMBER** \_\_\_\_\_ **(BY REQUEST)**

**AN ORDINANCE** to amend and reordain Sections 106-211 through 106-229 of the Code of the City of New Orleans, relative to the protection of trees and other vegetation under the purview of the Department of Parks and Parkways; and otherwise to provide with respect thereto.

**SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS**, that Sections 106-211 through 106-260 of the Code of the City of New Orleans are hereby amended and reordained to read as follows:

**“CHAPTER 106 – PARKS AND RECREATION**

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**ARTICLE IV. – PROTECTION OF VEGETATION**

**Sec. 106-211. – Definitions**

Except as otherwise expressly provided in this article, the following terms and their variant forms shall mean the following:

*Air Spade* means the use of compressed air to remove soil to expose a tree’s root structure.

*Arborist* means a specialist who is an expert in the care, pruning, trimming and removal of trees who is currently licensed by the state of Louisiana.

*Caliper* means a measurement of a nursery grown tree trunk taken six inches above the ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at twelve inches above the ground.

*City tree* means a tree located on any city property or right-of-way.

*City vegetation* means shrubs, plants, or groundcover on any city property or right-of-way.

*Critical Root Zone or CRZ* means a measurement established based on the trunk diameter at breast height. The CRZ is an equidistant circular area which has a radius calculated at one-foot to every one-inch DBH or is defined as the outer edge of the dripline, whichever distance is furthest.

*Department* means the Department of Parks and Parkways.

*Diameter at breast height or DBH* means the method used to measure caliper by the timber industry, which is taken approximately four and one-half feet high on the trunk of a tree above the ground line.

*Director* means the Director of the Department of Parks and Parkways.

*Drip line* means the vertical line extending from the outermost portion of the tree canopy to the ground.

*Sidewalk Bridging* means a method of installing a walkway over root systems without excavation.

*Tree Protection Zone or TPZ* means an area containing roots that are critical for a tree's health and survival.

*Tree Topping* means the removal of a tree's top, large branches or trunk.

*Trenching* means the mechanical excavation of a narrow area of ground, commonly used in the repair or installation of utilities.

*Tunnel and Bore* means the use of machinery to displace soil within the CRZ.

*Utility Arborist* means a specialist in the care of trees located along utility rights-of-way who is currently licensed by the state of Louisiana.

**Sec. 106-212. - Protection of trees and vegetation on city property.**

(a) Only arborists with prior written approval from the department may perform work on city trees.

(b) No person is permitted to remove, cut, disturb, or interfere in any way with any city tree without prior written approval from the department.

(c) Vehicles and heavy equipment are prohibited from working within the CRZ of a city tree or on city vegetation without prior written approval from the department.

(d) No equipment or vehicles may be cleaned, repaired, or stored on any city property within the CRZ of a city tree or on city vegetation.

(e) Excavation and fill greater than two inches in depth within the CRZ of a city tree is prohibited.

(f) Placement of decorations, string lights, wires, ropes, signs, posters, barricades, or other fixtures on city trees is prohibited unless prior written approval is received from the department.

(g) Placement of any sign, stationary or mobile, streamer, poster, bill, or other advertisement anywhere on city property, neutral ground, park, place, triangle, or sidewalk is prohibited unless prior written approval is received from the department.

(h) The attachment or installation of any electrical wire, cable, utilities, insulator, or any device to any city tree is prohibited.

(i) Injury to city trees, including the misuse or removal of any device placed to protect any tree, is prohibited.

(j) Placement of building materials, debris, or any other material within the CRZ of a city tree or on city vegetation is prohibited.

(k) Dumping of grass clippings, tree trimmings, rocks or refuse of any nature on city property is prohibited.

(l) Paving or placing of gravel or other such material under a city tree canopy or within four feet of the trunk, whichever is greater, is prohibited.

(m) Dumping, pouring, or spilling of oil, concrete mix, salt or salt water or other substances upon any city tree, or within its CRZ, is prohibited.

(n) Any person who injures, damages, or destroys any city tree or city vegetation shall promptly notify the department of such fact and that person shall, within such reasonable time as specified by the department, repair or replace such damaged city tree or city vegetation to the satisfaction of the department, in addition to any applicable penalties outlined herein.

(o) The use of any chemicals, insecticides, or oils, or the application of whitewash or paint to any city tree or city vegetation is prohibited.

**Sec. 106-213. - Tree protection near construction work.**

(a) Any construction work that occurs within the CRZ of a city tree requires the presence of an arborist to ensure that correct arboreal practices are followed.

(b) Prior to the commencement of construction, and with the prior written approval of the department, an arborist must identify each city tree that will require trimming to clear for construction.

(c) Cutting, trimming, removing, spraying, treating, or planting any city tree or city vegetation without prior written approval by the department is prohibited.

(d) The contractor shall be responsible for damage to all city trees and city vegetation and shall be liable to the city, for either compensation or tree replacement, as determined by the department.

(e) When an approved construction plan specifies for the removal of city trees or city vegetation, the owner, contractor, or agency authorizing the work shall compensate the city prior to beginning construction.

(f) If it is found that city trees or vegetation must be removed to complete a project and the department agrees to the removal, the trees or vegetation shall be transplanted to adjacent city property if possible and shall meet all additional department planting specifications, including one year of watering. If it is not possible to transplant the plant materials the city shall be compensated for the city trees or city vegetation.

(1) Compensation may include replacement planting on the city portion of the construction site or on nearby city property. The minimum rate of replacement shall be

one caliper inch of replacement tree for each inch of DBH as assigned by the project survey or department.

(2) If it is not possible to plant a replacement tree on the city property portion of the construction site or on nearby city property, the city may accept a monetary amount equal to the replacement cost of the tree based upon current market conditions and the DBH, condition, and height of the tree to be removed.

(g) Installation of tree protection fencing is required around all city trees prior to construction and shall stay in place for the duration of construction.

(1) Tree protection fencing shall include a wood or chain link barricade at least five feet high along the CRZ and shall avoid damaging trees and plant materials unless an alternative tree protection method is approved in writing from the department.

(2) The removal of tree protection fencing during construction is prohibited.

(3) The contractor or property owner shall contact the department for an inspection of the tree protection fencing prior to the commencement of any site work, including demolition or clearing.

(4) Tree protection fencing shall carry durable signs designating the area as "Tree protection zone. No entry unless authorized by the Department of Parks and Parkways". Such signs shall be spaced around the perimeter of all tree protection zones with a maximum spacing of 25 feet. Signs shall be a minimum eight inches by ten inches in size and shall be firmly affixed to the tree protection fence.

(h) Signs, barricades, equipment, or materials shall not be attached to city trees or plant materials. “Overhead Clearance” signs may be loosely attached using a rope or chain when approved by the department.

(i) If a route for machinery is required through a grove of city trees, the department may allow a temporary pathway through the grove. Such a pathway shall be as narrow as practical, temporarily covered with 8 inches of wood chips and a layer of plywood and enclosed by protective fencing on both sides.

(j) When construction work is taking place within the CRZ of a city tree, including sidewalk, drainage work, utility work, or planting, all work shall be completed without the use of heavy equipment and must receive prior approval from the department.

(1) Use of an air spade, hand-digging, or similar technology may be required to reveal the roots for preventative pruning by an arborist under the supervision of department.

(2) Alternative means for utility installation, such as tunnelling and boring, may be required where deemed necessary by the department.

(3) Alternative paving methods such as sidewalk bridging, flexible paving, ADA compliant gravel, and other technologies may be required as deemed appropriate by the department.

(k) The department may order additional tree protection measures if site conditions warrant them.

(l) Each city tree shall be irrigated at least two times per week for the period of April through October over the duration of the project.

(m) Trenching within the CRZ of any city tree is prohibited. If work within the area within the CRZ cannot be avoided, the department may grant permission for the work and shall require the use of boring or air spade equipment to tunnel beneath the CRZ. The minimum depth for boring is 30 inches and tunneling shall be located as far from the trunk as possible.

**Sec. 106-214. – Bond of contractors.**

Contractors and others doing work on a neutral ground, either for excavations or other projects shall, at the director's written request, give bond to the department to guarantee the payment of all costs for repairing any settlement or other damage or deterioration that shall take place in such neutral ground as a result of the project undertaken by them.

**Sec. 106-215. – Public utilities.**

(a) Public utility companies shall submit, subject to approval by the department, an annual trim plan by January 31 of each year to the department.

(b) Utility contractors shall abide by the requirements set forth in the Louisiana Revised Statutes Chapter 24: Horticulture, and the Louisiana Administrative Code 7: XXIX.117 (H).

(c) Only utility arborists shall execute the removal of trees or portions of trees along utility rights-of-way.

(d) Except for trees being removed, utility arborists shall not use climbing irons except in locations where other practical means of tree trimming are not available or as provided by the Louisiana Administrative Code.

(e) Utility arborists shall carry insurance as provided by the Louisiana Administrative Code.



(f) Utility arborists shall prominently display their license during all work.

(g) Treatment recommendations and pruning practices shall meet the standards outlined in the latest edition of the International Society of Arboriculture *Certification Manual and Best Management Practices—Utility Pruning of Trees*.

(h) In an emergency, public utility companies may perform minimum pruning or digging measures without a permit only to a degree necessary to restore or to avoid the loss of service or to abate imminent endangerment to human life in accordance with the provisions herein. The department shall be notified of the emergency work in a timely manner.

(1) All pruning or digging within the root system of a tree or shrub shall be done in accordance with the rules of good arboricultural practice as set forth in the publication *Tree Care Operations--Tree, Shrub and Other Woody Plant Maintenance--Standard Practices*, latest edition document number A300, published by the American National Standards Institute.

(2) Any emergency work must be subsequently brought up to appropriate standards to the greatest extent possible, as determined by the department. Such remedial work shall commence as soon as possible.

(i) When the department undertakes the removal or trimming of trees for the benefit of a utility company, the department may charge the utility company at rates to be determined by the department.

**Sec. 106-216. – Written permission required.**

(a) No tree, shrub or plant shall be planted on city property by any person without the prior written permission of the department.

(b) Any tree, shrub or plant planted in any city property may be removed by the department at the expense of the responsible party.

(c) Each tree, plant, shrub, or other vegetation planted on city property shall become the property of the city.

(d) No tree shall be removed from city property without the prior written permission of the department.

(e) No tree located on city property shall be cut, pruned, or treated without the prior written permission of the department.

(f) Written permission must be attained for the temporary use of city property under the jurisdiction of the department, including but not limited to neutral grounds, rights-of-way, and parks.

(g) The department shall keep a record of all permitted city tree maintenance, removals, and plantings. These records shall be made available to the public.

**Sec. 106-217. – Maintenance.**

All permitted planting on city property must meet maintenance standards as set forth by the department.

(a) The permittee shall be responsible for the maintenance, repair, and replacement of all landscape materials that are installed as part of a permit. Maintenance includes, but is not

195 limited to: mulching, weeding, irrigating, fertilizing, pruning, and replacement of dead or  
196 dying plants.

197 (b) All plant materials and planted areas must be tended to and maintained in a healthy  
198 growing condition and kept free of refuse and debris. Plant materials that exhibit evidence of  
199 pests, disease, or damage must be appropriately treated and dead plants must be replaced.

200 (c) Care shall be taken to protect all trees and landscape materials while performing routine  
201 maintenance operations such as grass cutting and trenching.

202 (d) Tree topping is prohibited.

203 (e) The department may require that the permittee allow the city to treat trees or shrubs  
204 suffering from transmittable diseases or infestation of pests. If the disease or pests warrant  
205 drastic action to curb the spread to healthy trees or shrubs, or if the tree represents a public  
206 hazard, on the advice of the department, the permittee may be required to allow the city, or  
207 its agent, to treat or remove the tree.

208 (f) Clear sight lines must be maintained at a minimum height of six feet for a minimum  
209 distance of 25 feet from all intersections.

210 (g) Watering shall be sufficient to maintain vigorous and healthy plant growth and shall occur  
211 a minimum of two times per week during the months of March through October and one time  
212 per week during the remainder of the year.

213 **Sec. 106-218. - Request for pruning.**

214 Requests may be made to the department in writing for the cutting, pruning, or removal of  
215 a city tree adjoining, adjacent to, or abutting private property.

(a) If it is found that a city tree substantially causes loss, damage, or deprivation of the lawful use of such property, then the department may cut, prune, or remove such tree.

(b) Requests for the cutting, pruning, or removal of a city tree performed at the applicant's expense, rather than by the department, shall receive prior written permission.

(c) All such requests for cutting, pruning, or removal of city trees shall be completed by arborists, pursuant to the following provisions:

(1) Such requests shall provide the department at least ten working days advance notice of the date and time contemplated for such work.

(2) No cutting, pruning, or removal of a city tree shall be done without written permission from the department.

(3) In no instance shall a city tree be cut, pruned, or removed contrary to the expressed stipulations of the department, nor shall work commence prior to receiving written permission from the department.

(4) The department further reserves the right and authority to inspect the work in progress and to require such work comply with standards for arboricultural work as well as all applicable ordinances and policy decisions of the department.

(d) No party shall be permitted to personally cut, trim, or remove any city tree adjoining, adjacent to, or abutting their property without prior written permission from the department.

**Sec. 106-219. – Enforcement.**

(a) Any person or entity who violates this article shall be subject to penalties in accordance with Section 1-13 of this Code. Each day that such violation exists shall constitute a separate and distinct offense.

(b) The department shall issue a stop work order when work is being done in violation of this article, without approval, or if determined by the department to be hazardous.

(c) Willful destruction of city trees shall render the party responsible liable for the actual cost of replacement. The responsible party shall replace the damaged tree(s) with a specimen(s) of equal size and caliper, as approved by the department, including a one-year watering contract and a five-year warranty. If in kind replacement is not possible, the difference in cost shall be met through additional financial penalties that match the monetary value of the destroyed tree or with the planting of additional city trees.

(1) The Cost of Replacement Method as established by the department and the current edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers, shall form the basis of calculating monetary damages due for damage or destruction to the tree.

(d) If a person or entity who causes damage to a city tree or other plant on city property fails or refuses to repair or replace the damaged or destroyed trees or other vegetation within a reasonable time, the department shall perform the necessary repair or replacement and the cost of this work shall be recovered from the person or entity responsible for the damage or destruction.

(e) The department may require the person or entity responsible for damage to a city tree hire an arborist to perform remediation work including, but not limited to: root pruning, termite

258 treatment, mulching, irrigation, vertical mulching, radial aeration, mycorrhizal fungal  
259 inoculate, or growth regulation.

260 (f) In addition to any fine or penalty imposed by this article, the city may seek all available  
261 relief in a court of competent jurisdiction to enjoin any violation.

262 **Sec. 106-220. – Department not to be interfered with.**

263 No person shall prevent, delay, or interfere with the department in the planting, pruning, spraying,  
264 or removal of a city tree or city vegetation, or in the removal of stone, cement, or other substances  
265 about the trunk of a city tree.

**ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**\_\_\_\_\_

\_\_\_\_\_  
**PRESIDENT OF THE COUNCIL**

**DELIVERED TO THE MAYOR ON** \_\_\_\_\_

**APPROVED:**  
**DISAPPROVED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**RETURNED BY THE MAYOR ON** \_\_\_\_\_ **AT** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COUNCIL**

**ROLL CALL VOTE:**  
**YEAS:**  
**NAYS:**  
**ABSENT:**  
**RECUSED**

