

PART 1: CITY FORESTER

§ 6-6-1-1 CREATION OF OFFICE.

The City Forester shall be certified by the International Society of Arboriculture with a Municipal Specialization and possess a Bachelor's Degree in Forestry Science, Botany or Landscape Architecture or in a closely related area.

('74 Code, § 11-1-1) (Ord. 957; Am. Ord. 40-2004; Am. Ord. 19-2008)

§ 6-6-1-2 DEFINITION.

For the purpose of §§ 6-6-1-1 et seq., the following definition shall apply unless the context clearly indicates or requires a different meaning.

LANDSCAPB/BUFFER AREA. The part of the public right-of-way that is not occupied or planned to be occupied by street, curb, gutter, or sidewalk; that may be used for street furniture, street trees and vegetation, and utilities; and that is typically located between the back of curb and adjacent property line.

('74 Code, § 11-1-2) (Ord. 957) (C/S O-17-49)

§ 6-6-1-3 DUTIES OF CITY FORESTER.

- (A) The City Forester is hereby authorized and empowered, and it shall be his duty, to supervise the planning, maintenance and removal of all trees, shrubbery and other vegetation within the city, and to formulate rules and regulations for such planning, maintenance and removal under the supervision, and subject to the consent and approval of the Mayor, and to issue permits for such planning, maintenance and removal. In drawing such rules and regulations and in issuing such permits, the City Forester shall be governed by the effect on public health and the nature, kind and quality of the trees, shrubbery and vegetation in the city as a whole, and in such particular sections of the city as it is desired by the applicant for a permit to plant trees, shrubbery or other vegetation in any particular section shall be in harmony with other trees, shrubbery and vegetation in that vicinity.
- (B) The City Forester shall implement and enforce the Albuquerque Pollen Control Ordinance and the Street Tree Ordinance.
- (C) The City Forester shall review all city ordinances, policies and regulations that affect landscaping within the city limits and propose suggested changes to the Mayor and members of Council when appropriate.
- (D) The City Forester shall employ a variety of methods to educate the public about the benefits, best use and maintenance of the urban forest including producing and posting a poster that identifies the levels of pollen emitted by each tree species commonly planted or sold in the city.
- (E) The City Forester shall coordinate with the city's nursery industry to develop and promote plants and trees that provide the highest benefit to the public health, safety and welfare.

('74 Code, § 11-1-3) (Ord. 957; Am. Ord. 40-2004; Am. Ord. 19-2008)

§ 6-6-1-4 PERMIT REQUIRED TO PLANT OR REMOVE TREES.

It shall be unlawful to cut, trim, spray, remove or plant any tree, vine, shrub, hedge, or other plant within the limits of any streets, alley, sidewalk, or other public place within the city without first having obtained a permit so to do from the City Forester, and/or without complying in all respects with the condition set forth in such written permit, save and except, nevertheless, that trees and shrubbery may be trimmed by any person without securing such permit in compliance with § 6-6-1-5.

('74 Code, § 11-1-4) (Ord. 957)

§ 6-6-1-5 DUTY OF OWNERS TO PRUNE.

It shall be the duty of every owner of lot or lots situated within the city to keep all shrubbery and trees situated on the parking strip between the property line and the street line within the lines of his, her or its lot or lots, trimmed so that free passage along said sidewalk and street will not be interrupted or impeded, and so that shrubbery and trees in no way interfere with the adjoining property, to remove any dead trees or dead, overhanging boughs dangerous to life, limb, or property located on the premises of such owner.

('74 Code, § 11-1-5) (Ord. 957)

§ 6-6-1-6 OWNER MUST TREAT TREES WHEN REQUIRED.

- (A) The City Forester shall require any owner, or agent of any premises within the city to treat, trim, spray, and otherwise care for trees or shrubs within the parking strip parallel to his property.
- (B) It shall be the duty of such owner, agent, or occupant of such premises to comply with such requirements within 20 days after receiving written notice so to do from the City Forester.
- (C) In the event such owner fails to treat, trim, spray or otherwise care for same within 20 days, the City Forester is authorized to do the job or cause it to be done at the expense of such owner, and such expenses may be recovered in a proper action at law.
- (D) The City Forester shall notify the Housing Code Enforcement Team if the property presents a danger to the public health, safety and welfare.

('74 Code, § 11-1-6) (Ord. 957; Am. Ord. 40-2004; Am. Ord. 19-2008)

§ 6-6-1-7 REMOVAL OR TREATMENT OF INFECTED OR INFESTED TREES.

- (A) It shall be the duty of the City Forester, when required, to inspect all trees, shrubs, vines, hedges, plants, and vegetation upon any property within the limits of the city.
- (B) Upon discovering any such trees, shrubs, vines, hedges, plants, or other vegetation to be infested with any disease detrimental to the growth, health, and life of such plants, the City Forester shall at once notify in writing the owner, agent, or occupant of the premises whereon the same is located, of the condition thereof, and direct such owner, agent or occupant to eradicate, remove, and destroy such condition, or to remove and destroy such vegetation specified.
- (C) Should the owner, agent, or occupant of the premises fail to comply with the directions of the City Forester within 20 days, the City Forester may thereafter enter upon the premises and remove or treat the infected or infested vegetation in order to eradicate a menacing and hazardous condition.

('74 Code, § 11-1-7) (Ord. 957; Am. Ord. 40-2004; Am. Ord. 19-2008)

§ 6-6-1-8 REGULATIONS PERTAINING TO SPACING OF TREES.

It shall be unlawful to space trees in any street or other public place, other than as prescribed in the specifications promulgated by the Parks and Recreation Department.

('74 Code, §11-1-8) (Ord. 957; Am. Ord. 40-2004; Am. Ord. 19-2008)

§ 6-6-1-9 RESPONSIBILITY FOR DAMAGING TREES ON PUBLIC PROPERTY.

- (A) Any person, firm, or corporation who shall injure, damage, or destroy any tree, shrub, vine hedge, or other plant situate in any street, alley, sidewalk, or other public place in the city shall promptly notify the City Forester of such fact and shall, within such reasonable time as specified by the City Forester, repair or replace the same to the satisfaction of the City Forester.
- (B) Should the person, firm, or corporation fail or refuse to repair or replace the said damaged or destroyed plants within such reasonable time, the City Forester shall do or cause to be done the necessary repairing or replacement, and the costs of this work shall be recovered from the person, firm, or corporation responsible for the damage or destruction by a proper action at law.

('74 Code, § 11-1-9) (Ord. 957)

§ 6-6-1-99 PENALTY.

Any violation of §§ 6-6-1-1 et seq. shall be punished in accordance with Section 1-1-99, ROA 1994.

(Ord. 40-2004)

PART 2: STREET TREES

§ 6-6-2-1 SHORT TITLE.

Sections 6-6-2-1 et seq. shall be known as the "Street Tree Ordinance."

('74 Code, § 8-5-1) (Ord. 54-1981; Am. Ord. 19-1986)

§ 6-6-2-2 INTENT.

Sections 6-6-2-1 et seq. are intended to secure the following objectives, in accordance with Policy 5.1.9, Policy 7.1.3, Policy 7.2.1, Policy 7.6.2, and other policies of the Albuquerque/Bernalillo County Comprehensive Plan.

- (A) To assist in control of water erosion and dust, absorb atmospheric pollutants, and stabilize the soil;
- (B) To provide summer shade and coolness but allow winter solar access; and
- (C) To enhance the appearance of the city's major streets; to enhance the appearance of sidewalks and pedestrian ways within street corridors; to provide physical and psychological buffering between pedestrians and automobile traffic, and to improve the desirability of walking. These objectives are intended to be met by providing evenly spaced lines of street trees, or when otherwise approved informal groupings of street trees.

('74 Code, § 8-5-2) (Ord. 54-1981; Am. Ord. 19-1986; C/S O-17-49)

§ 6-6-2-3 DEFINITIONS.

For the purpose of §§ 6-6-2-1 et seq., the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCENT TREE. A tree or shrub that reaches a height above 10 feet and has a trunk with a caliper greater than 1.5 inches.

CALIPER. The diameter of a tree trunk, six inches above grade on trees up to four inches caliper and 54 inches above grade on trees greater than four inches caliper.

DEVELOPMENT REVIEW BOARD. An administrative board, consisting of six city departments and other agencies. Membership consists of the Planning Director as Chairperson, Zoning Enforcement Officer, City Engineer (who also may function as the AMAFCA designee), Traffic Engineer, Parks and Recreation Director, and Albuquerque-Bernalillo County Water Utility Authority Water Resources Engineer.

LANDSCAPE/BUFFER AREA. The part of the public right-of-way that is not occupied or planned to be occupied by street, curb, gutter, or sidewalk; that may be used for street furniture, street trees and vegetation, and utilities; and that is typically located between the back of curb and adjacent property line.

MAJOR STREET. A street which is shown in the adopted Long Range Major Street Plan as a principal arterial, minor arterial, or collector street.

PARKWAY. Arable land located behind the back of the street curb and in front of the sidewalk.

PRIVATE WAY. A lot or easement which is not public right-of-way and which contains a street providing access to or between public rights-of-way.

PUBLIC RIGHT-OF-WAY. The area of land acquired by the city, county, or state primarily for the use of the public for the movement of people, goods, and vehicles.

STREET. That portion of a public right-of-way or private way which is primarily devoted to vehicular use; it is normally paved, and it normally provides primary access to abutting property.

STREET TREE. A tree growing within 20 feet of the edge of a street that directly or indirectly affects public passage or safety and comprises a tree pattern adjacent to a street.

STREET TREE PLAN. An accurate plan which covers a portion of public right-of-way or private way and the adjacent portion of one or more lots, which portion is within 20 feet of the street; the plan shall show existing and proposed street trees, major bushes and shrubs, ground cover, and the location of pavement and structures, including tree grates where applicable; it shall specify the common and botanical name of trees and their caliper or, in case of multi-stem trees or evergreen trees, it shall designate the height of the tree. All underground and overhead utility lines, both existing and proposed, that are within 20 feet of a proposed street tree, shall be shown on the street tree plan. The street tree plan may be a part of a more extensive landscaping or site plan.

STRUCTURE. Anything constructed or erected above ground level which requires location on the ground or attached to something having a location on the ground.

TREE GRATE. A barrier with parallel or crossed bars blocking a passage but admitting that allows for tree trunk diameter growth.

TREE PATTERN. The spacing of trees along the side of a roadway in a random or regular arrangement.

TREE WELL. The basin where the root ball of the tree is planted.

URBAN FOREST. An urban forest is the sum total of all vegetation growing in urban areas.

(‘74 Code, § 8-5-3) (Ord. 54-1981; Am. Ord. 19-1986; Am. Ord. 12-2004; Am. Ord. 40-2004; C/S O-17-49)

§ 6-6-2-4 REQUIRED STREET TREES.

(A) Required street trees.

- (1) All applicants for building permits for construction of a new building or building addition of 200 square feet or more shall submit a street tree plan for those parts of the lot abutting a major street, a major local street, or another street where street trees are required.
- (2) Any person who constructs a new building addition of 200 square feet or more or who paves a parking lot or required off-street parking area for apartments and/or non-residential development on a lot abutting a major street, a major local street, or another street where street trees are required shall plant street trees according to a street tree plan approved by the Mayor. Such planting shall occur no later than 60 days after the completion of construction and shall occur before final inspection as required in the Building Code.
- (3) Street trees shown on an approved street tree plan and required to meet the requirements of § 14-16-5-6 shall be maintained alive and healthy. Maintenance and trimming of street trees

and replacement of dead trees are the responsibility of the owner of the lot abutting or on which the tree is located.

- (4) The City shall maintain a list of trees, as part of the Official Albuquerque Plant Palette and Sizing List, generally suitable for use as street trees in Albuquerque. This Street Tree List shall include a description of the physical characteristics and cultural requirements of each species.
- (5) City staff, in coordination with appropriate private sector input, shall develop and make available information regarding the required soil volume for trees of a given mature size, and the Planning Director shall make this available in the Development Process Manual. This soil volume consists of un-compacted and irrigated soil. The root space may be long and linear, to match a landscape/buffer area size, and/or the space may be created through mechanical de-compaction, or the use of either structural soils under pavements, or soil vault systems under pavements.

('74 Code, § 8-5-4) (Ord. 54- 1981; Am. Ord. 19-1986; Am. Ord. 12-2004; Am. Ord. 40-2004; Am. Ord. 2016-006; C/S O-17-49) Penalty, see § 1-1-99

§ 6-6-2-5 STREET TREE POLICIES.

The following city policies govern the placement of all street trees which are planted on private property, abutting the public right-of-way, or which are required to be planted near streets pursuant to city plans, policies and ordinances; the policies are applicable for all street trees:

- (A) Size of the trees at maturity should be in proportion to the planting space provided for them. Spacing between evenly spaced street trees should be no greater than the diameter of the tree canopy at maturity, per the Official Albuquerque Plant Palette and Sizing List. Smaller species of trees will require closer spacing, and larger trees will require greater spacing. Spacing shall be approved as part of the plan approval process.
 - (1) Adequate room and spacing for Street Trees shall be accommodated/provided pursuant to the details and specifications developed by the City in the Development Process Manual.
 - (2) The planting hole shall be twice as wide as the root ball of the tree being planted, but only as deep as the distance from the bottom of the root ball to the top of the highest first-order root in the root ball. Details and specifications for planting holes shall be developed by the City Forester.
 - (3) On sites where evenly-spaced street trees are not possible or do not conform to the overall design objectives of the site, random clustering of street trees may be acceptable, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly-spaced.
- (B) Street trees shall be placed between the curb and the public sidewalk and in the landscape/buffer area, unless traffic safety requires different locations of trees, as specified in division (2) of this division (B).
 - (1) The standard setback of trees located between the curb and the public sidewalk depends on the relationship of the sidewalk to the curb.
 - (a) Where more than four feet of space exists between the back of curb and the sidewalk, street trees shall be planted with their centerline two feet from the sidewalk.

- (b) Where less than three feet of space exists, street trees shall not be planted into the landscape/buffer area. Any street trees required by the city shall be planted within 20 feet of the back of curb of the abutting street. In addition to fulfilling the street tree requirement, such trees can be included in the calculation described in § 14-16-3-10(E) (2). Furthermore, if an off-street parking area is located along the frontage of the site, these trees may also be used to fulfill the landscaping regulations for these areas, in possible addition to the street tree and coverage requirements.
 - (c) Where the sidewalk is at the curb, two planting schemes are possible:
 - 1. Preferably, the tree shall be planted at least two feet beyond the property-side edge of the sidewalk; or
 - 2. If the sidewalk is six feet wide or wider, street trees may be planted in cutouts in the sidewalk, and provide the minimum soil volume requirement per the City Forester. The centerline of the tree shall be at least two feet from the back of curb, and at least four feet from the property-side edge of the sidewalk. If the remaining clear sidewalk space between the tree well and the property-side edge of the sidewalk is less than four feet, a grate shall be used to cover the planting hole. The grate shall be of a size and design approved by the City Forester. In all cases, the minimum effective clear sidewalk width (including grate overlap) shall be four feet to allow for wheelchair access.
- (2) Conflicts can occur with large trees near overhead electric utility lines. The larger the tree, the farther it should be located from an electric utility line. Small growth trees (those under 25 feet high at maturity) can be near the electric utility lines. If possible, locate medium growth trees at least 15 feet away from the electric utility lines and locate large growth trees at least 25 feet from electric utility lines. Trees that grow into or near electric lines may be trimmed back to prevent any growth into the lines.
- (C) Notwithstanding the standards in division (1) above, the location of street trees shall be determined by the Development Review Board if the standards of division (1) above would result in a tree being located less than eight feet from the face of the street curb. In making decisions on tree location, the Development Review Board shall balance traffic safety with the appearance of the streetscape. The Board shall consider the purposes of § 6-6-2-1 et seq. as well as traffic speed and other relevant traffic aspects which may impact public safety.
- (1) Street trees shall be selected from the species in the Official Albuquerque Plant Palette and Sizing List maintained by the City Forester. The most appropriate species will depend upon the conditions of the particular site.
 - (2) Street trees shall be at 2.0 inches in caliper at the time of planting.
 - (3) Notwithstanding the other provisions of this section, trees planted abutting the public right-of-way or in easements for underground utilities should be located so as not to interfere, either at the time of installation or later, with the function of overhead and underground utility lines. Where this is not possible, street trees shall be planted near but off the public right-of-way. Reasonable location is the responsibility of the person preparing the street tree plan and the person planting the tree. Per criteria that is acceptable to the City Forester, the Planning Director or his/her designee may approve alternative planting schemes if it can be shown that the resulting tree canopies will still provide adequate shading for the sidewalk.
 - (4) Property owners acknowledge that approved landscaping and trees installed and maintained in public rights-of-way abutting private properties are the property of the city, and that the

city reserves the right to remove it if necessary for a transportation project without compensation, but at no cost to the property owner. Landscaping installed in the abutting public right-of-way by property owners and later removed by the city shall not impact previously approved net lot area calculations for required landscaping as described in § 14-16-3-10(E)(2),

- (5) Street trees should normally be deciduous. Adequate vertical clearance below the branches must be maintained for pedestrians, cars, and bicyclists. The minimum height to the lowest permanent branch overhanging a sidewalk shall be seven feet; the lowest height of a permanent branch overhanging a street shall be 14 feet. Coniferous trees may be used as street trees only when the minimum required vertical clearance over streets and sidewalks can be maintained throughout the life of the tree and only where they will not at maturity block solar access to abutting buildings.
- (6) As it is desirable to have a mix of species and genera represented in the urban forest in order to protect against the loss of trees due to disease, insects or environmental conditions, the following guidelines shall be used:
 - (a) Plantings of ten (10) or fewer trees may all be of the same genus;
 - (b) Plantings of more than ten trees must use at least two different genera, with roughly equal numbers of each.
- (7) One of every three street trees planted may be an accent tree per the Official Albuquerque Plant Palette and Sizing List, provided the guidelines in § 14-16-5-6(D) are met.

(’74 Code, § 8-5-5) (Ord. 54- 1981; Am. Ord. 19-1986; Am. Ord. 40-2004; Am. Ord. 19-2008; Am. Ord. 2016-006; C/S O-17-49) Penalty, see § 1-1-99

§ 6-6-2-6 STREET TREE PROGRAMS.

- (A) The Mayor shall prepare, distribute, and continue to keep available to the public a booklet or other printed material encouraging street trees, indicating recommended species, city regulations, appropriate street tree locations, and tree care.
- (B) The Mayor shall, through the Capital Improvements Program, cause street trees to be planted near the street frontages of all city-owned lots, at least meeting the requirements of § 6-6-2-1 et seq.
- (C) The Mayor shall propose to the City Council appropriate major streets for special assessment districts for the planting and maintenance of street trees. The Mayor shall designate appropriate city staff to administer such supports.
- (D) Whenever a city project on the public right of way removes or kills one or more street trees, the Mayor shall replace each such tree with one of the same species in approximately the same location, unless the species or location is contrary to § 6-6-2-1 et seq. or to related regulations or plans, in which event each such tree shall be replaced with a tree of conforming species and location.

(’74 Code, § 8-5-6) (Ord. 54- 1981; Am. Ord. 19-1986; Am. Ord. 44-1989; Am. Ord. 2016-006) Penalty, see § 1-1-99

§ 6-6-2-7 MORE DETAILED REGULATIONS.

Regulations detailing the provisions of § 6-6-2-1 et seq. should be enacted in coordination with and through the Departments with installation and maintenance responsibilities, and be amended by the Environmental Planning Commission for regulations in the Integrated Development Ordinance and by the DPM Executive Committee for technical standards in the Development Process Manual at an advertised public hearing.

(‘74 Code, § 8-5-7) (Ord. 54- 1981; Am. Ord. 19-1986; Am. Ord. 2016-006; C/S O-17-49)

§ 6-6-2-8 WAIVERS AND VARIANCES.

The Mayor, upon application of land owners, may waive or modify requirements § 6-6-2-1 et seq., if it is found that:

- (A) Street trees would necessarily contribute to unsafe conditions on the public right-of-way;
- (B) The lot frontage is sufficiently forested to be in general compliance with the intent of § 6-6-2-1 et seq.; or
- (C) Alternative landscaping plans, in harmony with the surroundings and meeting the intent of § 6-6-2-1 et seq. are proposed.

(‘74 Code, § 8-5-8) (Ord. 54- 1981; Am. Ord. 19-1986; Am. Ord. 2016-006)

§ 6-6-2-9 APPEALS.

Appeals from the decision of the Mayor on requests for waivers or variances may be taken to the City Council, through the Land Use Hearing Officer, by filing written notice with the Planning Division within 15 days after the request for variance has been denied.

(‘74 Code, § 8-5-9) (Ord. 54- 1981; Am. Ord. 19-1986; Am. Ord. 2016-006; C/S O-17-49)