

CHAPTER 13
NATURAL RESOURCES
ARTICLE III. TREES

Sec. 13-300. DEFINITIONS.

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on either side of all streets, avenues, bike paths and located within the bounds of a municipality-owned highway right-of-way in the city.

Park trees: "Park trees" are herein defined as tree, shrubs, bushes and all other woody vegetation in any public parks and all areas owned by the City to which the public has free access as a park.

Sec. 13-301. CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.

There is hereby created and established the City Tree Board which shall consist of nine members, citizens, residents, and interested non-residents, who shall be appointed by the City Council. The City Tree Board shall function under this ordinance and 24 V.S.A., Chapter 67, or successor provision to protect the public health and welfare by improving and preserving the beauty of the city as it relates to street trees and park trees.

Sec. 13-302. TERM OF OFFICE.

Each member will be appointed for a period of three years. In the event that a vacancy shall occur during the term of any member, their successor shall be appointed for the unexpired portion of their term. Any member may be removed from the board for cause. Cause shall include but not be limited to excessive absences from scheduled board meetings and clearly identified conflicts of interest. To remove a member from the board shall require a majority vote of the remaining members and the concurrence of the City Council.

Sec. 13-303. COMPENSATION.

Members of the Board shall serve without compensation.

Sec. 13-304. DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the Board to study, investigate, counsel, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, removal, or disposition of trees and shrubs in parks, along streets and in other public areas. The Tree Board will either work with, or counsel, Parks and Trees Staff and the Parks Commission regarding trees on City park lands. The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

Sec. 13-305. OPERATION.

The Board shall choose its own chairperson on an annual basis during a regularly scheduled meeting in the month of October. A member will also be chosen as secretary and will keep the

minutes of each meeting. The City Tree Warden will attend all meetings and will serve in the capacity of advisor to the board. It will be the Tree Warden's additional responsibility to act as the interface between the Board and other regulatory bodies within the city. Meetings will be held once a month. If less than a majority of the members are in attendance, there is no quorum and a meeting cannot be held.

Sec 13-306. STREET TREE SPECIES TO BE PLANTED.

The following list constitute the official Street Tree species for the City of Montpelier, State of Vermont. No species other than those included in this list may be planted as Street Trees without written permission of the City Tree Board and the concurrence of the City Tree Warden.

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Amelanchier spp. (serviceberry)	Littleleaf Linden	Sugar Maple
Hawthorn	Honeylocust	Swamp White Oak
Lilac	Basswood Linden	Black Oak
	Red Oak	Gingko
	Pin Oak	Freeman Maple
	Hackberry	White Oak
	American Hophornbeam	

Sec. 13-307. SPACING.

Spacing of Street Trees will be in accordance with the three species size classes listed in Section 13-306 of this ordinance and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; Large Trees, 50 feet; except in special plantings designed or approved by the City Tree Warden.

Sec. 13-308. DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs, edges of roads and sidewalks and will be in accordance with the three species size classes listed in Sec. 13-306 and no tree may be planted closer to any curb, edge of road or sidewalk than the following: In Central Business District I and II: Small Trees, 2 feet; Medium Trees, 3 feet; Large Trees, 4 feet. In General Business District and Residential: Small Trees, 6 feet; Medium Trees, 7 feet; Large Trees, 8 feet. Exceptions may be granted by the Board based on the recommendations of the City Tree Warden on a case-by-case basis and consultation with the Department of Public Works.

Sec. 13-309. DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or edges of roads. No Street Tree shall be planted closer than 10 feet of any fire hydrant. Exceptions may be granted only by approval of the Board upon recommendation of the City Tree Warden and consultation with the Department of Public Works.

Sec. 13-310. UTILITIES.

No Street Trees other than those species listed as Small Trees in Sec 13-306 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Sec. 13-311. CONSTRUCTION IN VICINITY OF CITY TREES.

Any Construction within 10 lateral feet of city trees requires consultation with the City Tree Warden who will provide non-binding specific written recommendations.

Sec. 13-312. PUBLIC TREE CARE.

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Tree Warden may remove or cause to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature presents a hazard to the general public, is injurious to sewers, electric power lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pests. 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 Sections 13-306 through 13-310 of this ordinance.

Sec. 13-313. TREE TOPPING.

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. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstruction where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board upon recommendations by the Tree Warden.

Sec. 13-314. SUBSTANCES HARMFUL TO TREE LIFE.

It shall be unlawful for any person owning, using or having control of substances harmful to tree life to allow such substance or substances to come in contact with the soil surrounding the roots of any tree in any public thoroughfare, or of any tree or plant in any city park or parking strip in the City of Montpelier in such manner as may injure or destroy the tree or plants.

Sec. 13-315. PRUNING, CORNER CLEARANCE.

Every 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 street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. 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 shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign, or to maintain a clear space of 8' above the surface.

Sec. 13-316. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The City shall have the right to cause the removal of any dead or diseased tree on private property within the city, when such tree constitutes a hazard to life and property, or harbors insects or disease which constitutes a potential threat to other trees within the city. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Sec. 13-317. REMOVAL OF STUMPS.

The removal of any stumps of Street or Park Trees shall not be mandatory unless it is deemed necessary by the City Tree Board to allow for a replanting or other reason. The City Tree Board must find that the removal of the stump is necessary for other than just aesthetic reasons. Any landowner with property adjacent to any stump may petition the City Tree Board to allow removal of said stump at the landowners' expense for purposes of aesthetics.

Sec. 13-318. INTERFERENCE WITH CITY TREE BOARD.

It shall be unlawful for any person to prevent, delay, or interfere with the City Tree Board, the City Tree Warden, Parks and Trees staff, or any agents of the Board, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees or trees on private grounds, as authorized in this ordinance.

Sec. 13-319. ARBORIST LICENSE AND BOND.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license, or unless the person is a Certified Arborist through the International Society of Arboriculture. The license fee shall be \$25 annually, in advance; provided however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before securing a contract with the City, or before doing work on a Street tree or a Park tree within the City a contractor must have possession of liability insurance in the minimum amounts of \$1,000,000 aggregate, general liability per occurrence indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. All tree work performed in the public right-of-way must conform with the ANSI A300 Standards.

Sec. 13-320. REVIEW BY CITY COUNCIL.

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make a final decision.

Sec. 13-321. REVIEW BY CITY COUNCIL.

Any person violating any provision of this ordinance shall be, upon conviction or plea of guilty, subject to a fine not to exceed \$500 plus the cost of tree removal.

Sec. 13-322. TREE WARDEN'S JURISDICTION, PUBLIC SHADE TREES.

The Tree Warden shall have complete power and authority over any and all trees, shrubs, or plants planted and growing or hereafter to be planted and grown in the public right-of-way, or any public highway property of the City of Montpelier not under the jurisdiction of the Park Commission or the Cemetery Commission. Trees so located shall be deemed public shade trees.

The Tree Warden shall have all powers granted to Tree Wardens under 24 V.S.A., Chapter 67, or successor provision. He or she may refer violations of this ordinance or that chapter to the City Attorney or State's Attorney for prosecution.

The Tree Warden will advise the City Tree Board and any other regulatory boards of the City in matters of tree health, care and maintenance as needed. All actions taken by the Tree Warden will be reported to the Tree Board and maintained in an historical file.