

ORDINANCE 18-02

AN ORDINANCE AMENDING TITLE 15A OF THE REVISED ORDINANCES OF SANDY CITY (THE LAND DEVELOPMENT CODE), 2008, TO MODIFY CHAPTER 25, "LANDSCAPING STANDARDS" BY ADDING SOME REGULATIONS FOR CITY AND CITIZEN RESPONSIBILITIES FOR TREE STEWARDSHIP; ALSO PROVIDING A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a request has been made to amend Title 15A of the Revised Ordinances of Sandy City (the Land Development Code), 2008, to modify Chapter 25, "Landscaping Standards" by adding some regulations for city and citizens responsibilities for tree stewardship; and

WHEREAS, the Planning Commission held a public hearing on December 7, 2017 which meeting was preceded by notice by publication in the Salt Lake Tribune on November 23, 2017, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov> on November 15, 2017; and

WHEREAS, following the public hearing before the Planning Commission, the Commission recommended the amendment to the City Council; and

WHEREAS, a public meeting was held by the Sandy City Council on January 23, 2018 to consider adoption of the proposed amendment, which meeting was preceded by publication in the Salt Lake Tribune, on January 9, 2018, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov>, on December 28, 2017; and

WHEREAS, the City Council has been given specific authority in Title 10, Chapter 9a, Utah Code Ann. to adopt a zoning plan, including an ordinance and map which divide the municipality into districts or zones, and within such districts to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures, and the uses of land; and

WHEREAS, the State legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the foregoing legitimate governmental objectives are achieved by reasonable means, in that any adverse impact on private property value or use has been carefully balanced against the corresponding gain to the public; and the regulations have been calculated, on recommendation of City planning staff to permit property owners to beneficially use their properties for the practical purposes to which the property is reasonably adaptable; and procedures have been established by the Land Development Code and Utah Code Ann. whereby appeals can be heard and decided if it is alleged that there is legislative or administrative error, or where a special exception or variance to the ordinance is required.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City, State of Utah, as follows:

Section 1. Amendment. Title 15A is amended as shown on **Exhibit "A"**, which is attached

hereto and by this reference made a part hereof.

Section 2. Severable. If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined in its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. Effective. This ordinance shall become effective upon publication of a summary thereof.

PASSED AND APPROVED this _____ day of _____, 2018.

Linda Martinez Saville, Chairman
Sandy City Council

ATTEST:

City Recorder

PRESENTED to the Mayor of Sandy City for his approval this _____ day of _____, 2018.

APPROVED this _____ day of _____, 2018.

Kurt Bradburn, Mayor

ATTEST:

City Recorder

PUBLISHED this _____ day of _____, 2018.

Exhibit “A”

15A-25-03 Tree Stewardship

A. **Purpose.** Sandy City prides itself on its many areas of public and private landscapes, both natural and enhanced, and recognizes the importance of trees within the community. The City Council declares it to be a policy of the city that:

1. Specified City property be landscaped to enhance the natural beauty of the City.
2. Responsibilities of City departments be coordinated to encourage quality landscaping.
3. Landscaped City properties be effectively managed.
4. The City plant species of trees that are aesthetically pleasing, require less maintenance, (so as to prevent damage to sidewalks and streets and reduce risks to pedestrians and motorists), work with utilities, and conserve natural resources.
5. The street environment be made hospitable through landscaping.
6. Residents of Sandy City be encouraged to participate in beautification efforts through installing and maintaining quality trees and landscaping on private property.

To fulfill this policy, this Section is enacted and intended to establish a tree stewardship ordinance. This Section may be referred to as the Tree Stewardship Ordinance.

B. **Urban Forester.** The Urban Forester shall be the supervisor of the Tree Stewardship Ordinance and administrator of the provisions of this Chapter. The Urban Forester shall:

1. Be responsible for the long term management, health, maintenance, inventory, planting, and design of City trees in cooperation with the Community Development Department, Parks & Recreation Department, Public Utilities Department, and the Public Works Department.
2. Foster and maintain partnerships between public and private parties for the benefit of trees.
3. Facilitate communication, coordination, cooperation, and education for the stewardship of City and private trees.
4. Keep abreast of new information and research in arboriculture.
5. Provide a written annual report to the Parks & Recreation Department Director highlighting the fiscal year activities of the tree stewardship program.
6. Train and supervise City crews so the best methods of tree care are practiced in the community.
7. Work with engineers, architects, and the Community Development Department during the design phase of development.
8. Periodically review this Section, the Tree Stewardship Ordinance, the Streetscape Plan, and Streetscape Specifications to evaluate the effectiveness of each and make recommendations for improvement and/or change.

C. **Citizen Responsibilities.** Citizens/property owners, occupants, and their agents shall have the following responsibilities for the protection of trees in parkstrips abutting their real property except in those parkstrips that are maintained by the city.

1. Periodic watering and fertilization of City trees as necessary to maintain good health and vigor.
2. Protect City trees in parkstrips from damage caused by lawn mowers, weed trimmers, snow blowers, and similar equipment.
3. Protect City trees in parkstrips from damage caused by attachment of any items such as signs, nails, wires, ropes, and chains.
4. The species of trees planted in the parkstrips should comply with the list contained in the Streetscape Plan unless otherwise approved by the Urban Forester. They should also be planted as set forth in the Streetscape Plan and Sandy City's Standard Specifications and Details for Municipal Construction, which states that no trees are to be planted within intersection sight triangles. See detail for exact dimensions of the sight triangle, which can vary depending on location.
5. Remove private trees or limbs that have fallen upon a City street, property, or sidewalk.
6. Maintain ground covers except in those parkstrips maintained by the City.
7. Notify the Urban Forester of any hazard tree.
8. Rake, clean up, and properly disposing of leaves that fall from City and private trees so leaf fall does not impede the storm water system.
9. Sandy City shall have no liability for the failure of any tree or landscaping installed by private parties on other than City-maintained property.
10. Keep any branches that overhang a sidewalk pruned eight feet (8') above the sidewalk and any branch that overhangs a road pruned fourteen feet (14') above the road.

D. **City Responsibilities.** The City shall assume responsibility for:

1. Tree care in City owned and operated parks, on the grounds of City buildings, and in parkstrips that the City administration has designated will be maintained by the City in this Chapter.
2. Pruning of City trees, as necessary, after appropriate notification to property owners.
3. Pruning of trees in the city maintained public rights-of-way and utility easements.
4. Removal of diseased or dying City trees that are beyond reclamation.
5. Removal of City trees and/or limbs that the Urban Forester of Transportation Engineer determines to be a hazard after appropriate notification.
6. Maintenance of planted areas on City property and specifically designated City rights-of-way.

E. **Responsibility for Correcting Private Hazard Trees.** Where a hazard tree exists upon private property, the property owner and all other persons having control of the property on which such hazard tree exists shall be responsible to mitigate, abate, remove, or correct the hazard. Any tree that is a hazard tree is a public nuisance.

1. It is unlawful for any person, firm, or corporation, either as owner, agent, or occupant, to create, aid in creating, or maintain a hazard tree.

2. If the City determines that a particular tree is a hazard tree, the City may give a written notice to the owner, occupant, or agent of any lot, building, or premises in or upon which a hazard tree is found, or to the person who may be the cause of such hazard tree to remove, mitigate, abate, or correct the hazard, including its recommendation as to the most effective method of doing so.
3. Notice under this Section may be served by personal service or by mailing the notice to the person, firm, or corporation by certified mail (return receipt requested), and posting a copy on the property a minimum of 28 calendar days in advance of further action.
4. If the hazard tree is not mitigated, abated, removed, or corrected within 28 additional calendar days after the notice is complete, the City may mitigate, abate, correct, or remove the hazard tree at the expense of such person, firm, or corporation or may take further action as determined.
5. The City may recover the costs and expenses incurred in mitigating, abating, correcting, or removing the hazard tree, serving notice, and the costs of a lawsuit, if any.
6. If the person, firm, or corporation disputes or denies the City's determination that the tree is a hazard tree or refuses to remove or permit removal, the City may bring an action to abate the hazard tree as a public nuisance. If the City is granted a judgment, the City may recover the costs of having the public nuisance abated.
7. The City, its agents, or employees, if acting in good faith, incur no liability for causing removal of a hazard tree.
8. Notice of appeal of the City's determination that a tree is a hazard tree may be filed with the Urban Forester or Transportation Engineer within 10 working days of service of the notice to abate. Appeals from the Urban Forester's or Transportation Engineer's decision shall be heard by the City's Parks & Recreation Director or Public Works Director within 15 calendar days of receipt of the appeal, which decision is final.

F. Protection of City Trees.

1. It shall be unlawful for any person to do any of the following:
 - a. Construct a concrete, asphalt, brick or gravel sidewalk within 18 inches of a City tree that damages any part (roots, crown, trunk) of the tree so as to cause injury or death to the tree.
 - b. Fill up the ground area around any city tree so as to shut off air, light, or water from its roots.
 - c. Pile building material, equipment, or other substance on or near a City tree so as to cause injury to the tree.
 - d. Pour or spray any injurious matter on or around a City tree.
 - e. Injure any City tree, tree stake, or guard with any vehicle or animal, or in any other manner causing injury to any City tree, shrub, groundcover, or lawn.
 - f. Post any sign, tree stake, or guard, or by fastening any guy wire, cable, or rope to any City tree, tree stake, or guard.
 - g. Prune trees for commercial exposure.
2. Any person doing construction, excavation, or demolition work in the near vicinity of a City tree shall protect the tree from injury or damage with a substantial protective barrier. Said barrier shall not be less than 4 feet high and have a 2 foot radius or to a distance in feet from the tree equal to the diameter

of the tree trunk in inches measured 4 ½ feet above ground, whichever is greater. All building materials, extra dirt, or other debris shall be kept outside the barrier. The Urban Forester and the City Transportation Engineer must be consulted about any deviation to this standard.

3. No person shall use a City tree for any unauthorized purpose.
- G. **Trees Planted in Parkstrips.** Trees planted in parkstrips or other public rights-of-way should be in conformance with the Streetscape Plan.
 - H. **Interference with Service.** It shall be unlawful for any person to interfere with City personnel or contractors under the direction of the Urban Forester in the performance of their duties.
 - I. **Historic Tree Preservation.** The Urban Forester, in conjunction with the City's Parks & Recreation Department, the Community Development Department, and property owners may identify, mark, publicize, and preserve historic and notable trees on public or private property in conjunction with the Utah Heritage Tree Act. The Urban Forester may help locate and record healthy trees that qualify as candidates for the Utah Heritage Tree Register.
 - J. **Preservation of Trees During Development.** Tree surveys may be required as part of the development review and approval process. Said surveys shall be reviewed by the Community Development Department and the Urban Forester. Tree surveys must identify both City and private trees or groves of trees of at least 2 inch caliper and shall indicate which, if any, may be preserved or relocated. Where practically possible, site designs should be modified to accommodate significant tree cover. Proper care should be taken during the construction phase to protect tree root zones from compaction and excessive excavation. Clear cutting an area of trees on a site will not be allowed unless determined appropriate by the Community Development Department and the Urban Forester.
 - K. **Violation and Penalty.** Any person who violates any provision of this Chapter shall be guilty of a Class C Misdemeanor. In addition to other remedies provided for herein or otherwise provided by law, if the violation of any provision of this Chapter causes the injury, mutilation, or death of a tree, shrub, or other plant located on City owned or maintained property, the violating party shall pay the cost of repair or replacement of such tree, shrub, or other plant. The replacement value of trees and/or shrubs shall be determined in accordance with the latest edition of the "Guide for Plant Appraisal" as published by the International Society of Arboriculture. The City may pursue criminal or civil actions against any person or entity who violates this Chapter as is deemed appropriate, including abatement or injunctive relief.