

## Chapter 34 - ENVIRONMENT

### ARTICLE V. - Trees

#### DIVISION 1. - GENERALLY

##### Sec. 34-1. - Intent

The purpose of this chapter is to provide for the protection, preservation, and reforestation of the City of Plymouth's trees and woodlands.

##### Sec. 34-2. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dead Tree* means any tree that has no visible growth (within the appropriate growing season for all deciduous trees), no visible buds, twigs that do not exhibit flexibility, and twigs that do not appear green at the cambium layer when outer bark has been physically removed.

*Diameter Breast Height (DBH)* means the diameter, in inches, of a tree measured at four and one-half (4½) feet above the existing grade.

*Dripline* means the imaginary vertical line, which extends downward from the outermost tips of the tree branches to the ground.

*Front Yard Tree* means any tree located in the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the main building.

*Heritage Tree* means any tree that meets the size and species requirements in the table below, or any tree not listed in the table below that is 18 inches DBH or greater.

Common Name	Scientific Name	DBH
Arborvitae	Thuja occidentalis	18"
Ash	Fraxinus species	18"
American Basswood (Linden)	Tilia americana	18"
American Beech	Fagus grandifolia	18"
American Chestnut	Castanea dentata	8"
American Elm	Ulmus americana	18"
Birch	Betula species	18"

Black Alder	<i>Alnus glutinosa</i>	12"
Black Tupelo	<i>Nyssa sylvatica</i>	12"
Black Walnut	<i>Juglans nigra</i>	18"
White Walnut	<i>Juglans cinerea</i>	18"
Buckeye (Horse Chestnut)	<i>Aesculus species</i>	18"
Cedar, Red	<i>Juniperus species</i>	12"
Crabapple (Cultivar)	<i>Malus species</i>	12"
Douglas Fir	<i>Pseudotsuga menziesii</i>	18"
Eastern Hemlock	<i>Tsuga canadensis</i>	12"
Flowering Dogwood	<i>Cornus florida</i>	8"
Ginkgo	<i>Ginkgo biloba</i>	18"
Hickory	<i>Carya, species</i>	18"
Kentucky Coffeetree	<i>Gymnocladus dioicus</i>	18"
Larch/Tamarack	<i>Larix laricina (Eastern)</i>	12"
Locust	<i>Gleditsia triacanthos</i>	18"
Sycamore (London plane tree)	<i>Platanus species</i>	18"
Maple	<i>Acer species (except negundo)</i>	18"
Oak	<i>Quercus species</i>	18"
Pine	<i>Pinus species</i>	18"
Sassafras	<i>Sassafras albidum</i>	15"
Spruce	<i>Picea species</i>	18"
Tulip Tree	<i>Liriodendron tulipifera</i>	18"
Wild Cherry	<i>Prunus species</i>	18"

*Large tree* means any tree larger than 40 feet in height at maturity.

*Medium tree* means any tree between 25 feet and 40 feet in height at maturity.

*Park tree* means any tree located in public parks having individual names, and all publicly owned land, or to which the public has free access as a park.

*Private tree* means any tree located on land that is owned by an individual or group having a vested or financial interest in the subject property.

*Protected Area* means the area contained within the dripline of the tree.

*Protective Barrier* means a physical obstruction that encloses the protected area of a tree and limits vehicular, material, and equipment access.

*Small tree* means any tree less than 25 feet in height at maturity.

*Street tree* means any trees planted or located within a public street or road right-of-way.

*Topping* means 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 trees.

*Transplant* means the digging up of a tree and the planting of that tree in another place on the same property or off-site property.

*Tree* means a woody perennial plant, typically having a single stem or trunk which at maturity is 13 feet or more in height and which has a definite crown of foliage.

*Tree Fund* means the fund to be used exclusively for activities associated with street and park tree inventory protection, maintenance, and planting.

**Sec. 34-3. – Prohibited Trees.**

The following trees are prohibited to be planted or re-planted:

<b>Common Name</b>	<b>Scientific Name</b>
Ash	Fraxinus species
Autumn and Russian-Olive	Elaeagnus species
Boxelder	Acer negundo
Buckthorn	Rhamnus species
Mulberry	Morus species
Poplar	Populus species
Siberian Elm	Ulmus pumila
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus altissima
Willow	Salix species

**Sec. 34-4. - Tree Care.**

- (a) All trees shall be planted, pruned, maintained, and removed, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) The City reserves the right to remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, is blocking street or sidewalk clearance, or is blocking the spread of light or view of traffic control devices.
- (c) If any owner, occupant or person having charge of any land within the city shall refuse or neglect to resolve public safety issues caused by private trees as provided in this chapter, then the City Manager or his/her designee shall cause the land to be entered upon by city employees or a city contractor for the purpose of pruning, or removing said trees at the sole cost to the property owner and such entering upon shall not be deemed a trespass.

**Sec. 34-5. - Pruning.**

Trees shall be pruned so that branches do not obstruct the light from any street light or obstruct the view of any street intersection. A clear space of fifteen feet above the surface of the street and eight feet above the surface of the sidewalk shall be maintained. The City shall have the right to prune or cause to be pruned 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 roadway, sidewalk, traffic control devices, and/or signs.

**Sec. 34-6. – Corner Clearance.**

Within the required corner clearance area as defined in Section 78-207, all trees and limbs, including dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public, shall be removed by the property owner upon which the tree is located.

**Sec. 34-7. - Tree Topping.**

It shall be prohibited for any person to top any tree. Trees severely damaged by storms, an act of God, or other causes out of the City's or property owner's control, may be exempted from this section at the determination of the City Manager or his/her designee. This section does not apply to a utility company who may be required to top a tree for purposes of public safety or valid equipment issues.

**Sec. 34-8. - Removal of Stumps.**

All stumps of street, park, and front yard trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The stump excavation site shall be backfilled to match existing grade as defined in Section 78-21.

**Sec. 34-9. - Tree Fund.**

This section establishes the City's tree fund. The purpose of the tree fund shall be to maintain and reestablish the City's public tree canopy. The City Commission shall review the rate structure annually as part of their budget process.

**Sec. 34-10. - Installation and Planting**

All trees shall be planted according to ANSI Standards A300.

**Sec. 34-11. - Maintenance Provisions.**

All trees shall be maintained in a safe, healthy, neat and orderly state free from refuse and debris.

**DIVISION 2. – PUBLIC TREES**

**Sec. 34-12. Permitted Street Trees**

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted unless approved, in writing, by City Manager or his/her designee.

(a) *Small trees:*

<b>Common Name</b>	<b>Scientific Name</b>
Cherry, Flowering	Prunus species & hybrids
Crabapple, Flowering	Malus species & hybrids
Dogwood	Cornus species & hybrids
Goldenrain Tree	Koelreuteria paniculata
Hawthorn	Crataegus species
Lilac, Japanese Tree	Syringa reticulata
Magnolia	Magnolia hybrids
Magnolia, Star	Magnolia stellata
Maple, Amur	Acer ginnala
Maple, Paperbark	Acer griseum
Maple, Tatarian	Acer tataricum
Maple, Trident	Acer buergeranum
Peach, Flowering	Prunus species & hybrids
Plum, Flowering	Prunus species & hybrids
Redbud, Eastern	Cercis canadensis
Serviceberry	Amelanchier species & hybrids

(b) *Medium trees:*

<b>Common Name</b>	<b>Scientific Name</b>
Amur Maackia	Maackia amurensis
Corktree, Amur, Fruitless Male	Phellodenron amurense
Hophornbeam, American	Ostrya virginiana
Hornbeam, American	Carpinus caroliniana
Hornbeam, European	Carpinus betulus
Horsechestnut, Red	Aeculus x carnea
Maple, Bigtooth	Acer grandidentatum
Maple, Hedge	Acer campestre
Maple, Shantung	Acer truncatum
Mountain Ash	Sorbus species
Mulberry, Red Fruitless Male	Morus rubra, fruitless varieties

Osageorange, Thornless Male	Maclura pomifera
Pagodatree (Scholartree)	Styphnolobium (Sophora) japonicum
Paw Paw	Asimina triloba
Pear, Flowering	Pyrus species & hybrids
Sassafras	Sassafras albidum
Yellowwood	Cladrastis kentukea

(c) *Large trees:*

<b>Common Name</b>	<b>Scientific Name</b>
Baldcypress	Taxodium distichum
Beech, American	Fagus grandifolia
Beech, European	Fagus sylvatica
Blackgum (Tupelo)	Nyssa sylvatica
Catalpa, Northern	Catalpa speciosa
Chestnut	Castanea hybrids
Coffeetree, Kentucky	Gymnocladus dioicus
Elm, American Dutch Elm resistant varieties	Ulmus hybrids
Filbert, Turkish	Corylus colurna
Ginkgo (Maidenhair Tree), Fruitless Male	Ginkgo biloba
Hackberry	Celtis occidentalis
Hardy Rubber Tree	Eucommia ulmoides
Hickory	Carya species
Honeylocust	Gleditsia triacanthos
Horsechestnut	Aesculus species
Katsura Tree	Cercidiphyllum japonicum
Linden, American	Tilia Americana
Linden, Littleleaf	Tilia cordata
Linden, Silver	Tilia tomentosa
Maple, Black	Acer nigrum
Maple, Freeman Hybrid	Acer x freemanii
Maple, Miyabe	Acer miyabei
Maple, Norway	Acer platanoides
Maple, Red	Acer rubrum
Maple, Sugar	Acer saccharum
Maple, Sycamore	Acer pseudoplatanus
Oak, Bur	Quercus macrocarpa

Oak, Chinkapin	Quercus muehlenbergii
Oak, English	Quercus robur
Oak, Northern Red	Quercus rubra
Oak, Pin	Quercus palustris
Oak, Sawtooth	Quercus acutissima
Oak, Scarlett	Quercus coccinea
Oak, Shingle	Quercus imbricaria
Oak, Shumard	Quercus shumardii
Oak, Swamp White	Quercus bicolor
Oak, White	Quercus alba
Planetree, London	Platanus x acerifolia
Redwood, Dawn	Metasequoia glyptostroboides
Sweetgum	Liquidambar styraciflua
Sycamore	Platanus occidentalis
Tuliptree	Liriodendron tulipifera
Walnut, Black	Juglans nigra
Zelkova	Zelkova serrata

**Sec. 34-13. - Distance from street corners and fire hydrants**

No tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No tree shall be planted closer than ten feet from any fire hydrant.

**Sec 34-14. - Distance from curb and sidewalk.**

Trees planted in the area between the curb or curb lines and sidewalks shall be in accordance with the three species size classes listed in Section 34-12. No trees may be planted within any area between the curb or curblines and sidewalk other than the following: Small trees: two (2) feet; Medium trees: three (3) feet; and Large trees: four (4) feet.

**Sec. 34-15. – Distance from utilities.**

No trees, other than those species listed as small trees in section 34-12(a), may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility.

**Sec. 34-16. – Tree Size.**

The minimum size for a street tree or park tree shall be one-and-a-half (1.5) inches in caliper DBH. All trees planted must be of the tree form variety, have a single stem with branching limbs, and branches must be at least eight feet off the ground at maturity, as predicated by the size definitions in Section 34-2.

**Sec. 34-17. Removal of Street Trees.**

(a) Should a property owner wish to have the street tree adjacent to his or her property removed, he or she shall submit a request, in writing, to the City Manager or his/her designee. Within 10 business days of the receipt of the request an ISA certified arborist, provided by the City, will perform a condition and risk assessment. The cost for this service shall be borne by the property owner making the request.

Following the condition and risk assessment by the ISA certified arborist, if the street tree is found to be dead, diseased, or dying the City shall remove the street tree at the City's cost. Following the condition and risk assessment by the ISA certified arborist, if the street tree is not found to be dead, diseased, or dying, the tree shall remain.

(b) Only in extenuating circumstances, as determined by the City Manager or his/her designee, shall a healthy street tree be removed or caused to be removed. Such extenuating circumstances shall include but are not limited to catastrophic event, repair, replacement, or maintenance of underground utilities, or an act of God.

### **DIVISION 3. - PRIVATE TREES**

#### **Sec. 34-18. - Removal and Replacement of Heritage Trees**

This section shall apply to all private heritage trees. Each heritage tree that is removed shall be replaced in a manner consistent with the following subsections.

(a) Heritage trees shall be replaced at a rate of 25% of the DBH of each tree removed.

(b) If the tree(s) cannot be reasonably placed on the property, the property owner shall pay into the tree fund at a rate defined by the City Commission and stated on the Rate Card, rounded up to the nearest 0.5 inch of DBH required to be replaced by Section 34-18(a).

(c) Replacement tree(s) shall be located on the parcel(s) where each heritage tree is removed or in the right-of-way adjacent to the affected property.

(d) Trees that are dead, diseased, or dying with no visible growth as determined by an ISA certified arborist are exempt from replacement requirements.

(e) If the requirements of Section 34-18(a) and (b) cannot be met, a combination of paying into the tree fund and replacement trees shall be used. The City Manager or his/her designee may consider alternate locations on a case by case basis.

(f) The minimum size for a replacement tree shall be one-and-a-half (1.5) inches in caliper DBH. All trees planted must be of the tree form variety.

#### **Sec. 34-19. – Electively Removed Trees.**

This section shall apply to any front yard trees with a DBH of six (6) inches or greater but less than the heritage tree standard for that species. Each tree that is removed shall be replaced in a manner consistent with the following subsections.

(a) Front yard trees shall be replaced at a rate of 25% of the DBH of each tree removed.

(b) If the front yard tree(s) cannot be reasonably placed on the property, the property owner shall pay into the tree fund at a rate defined by the City Commission and stated on the Rate Card, rounded up to the nearest 0.5 inch of DBH required to be replaced by Section 34-19(a).

(c) Replacement front yard tree(s) shall be located on the front yard of the parcel(s) where each front yard tree is removed or in the right-of-way adjacent to the affected property.

(d) Front yard trees that are dead, diseased, or dying with no visible growth as determined by an ISA certified arborist are exempt from replacement requirements.

(e) If the requirements of Section 34-19(a) and (b) cannot be met, a combination of paying into the tree fund and replacement trees shall be used. The City Manager or his/her designee may consider alternate locations on a case by case basis.

(f) This section only applies to front yard trees and does not apply to trees located in the rear or side yard of a private parcel of land, except if the tree is determined to be a heritage tree.

(g) The minimum size for a replacement tree shall be one-and-a-half (1.5) inches in caliper DBH. All trees planted must be of the tree form variety.

#### **Sec. 34-20. - Dead Tree Removal on Private Property.**

The City shall have the right to cause the removal of any dead tree on private property within the City when such trees constitute a hazard to life or property. The City will notify, in writing, the owners of



such trees. Removal shall be done by such owners at their own expense within 30 days after the date of service of notice. Upon the owner's failure to comply with such provisions, the City shall have the authority to remove such trees at a rate set by the City Commission. The City Manager or his/her designee shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the same shall be assessed against the lot or parcel and collected as provided by Section 12.22 of the City Charter.

**Sec. 34-21. - Diseased Trees on Private Property.**

The City shall have the right to cause the removal or treatment of any diseased tree on private property within the City when such tree constitutes a hazard to life or property or harbors deadly insects or disease which constitutes a potential threat to other trees within the City. Treatment of a diseased tree shall include chemical treatment to render the disease or affliction non-threatening to any affected tree. The City will notify, in writing, the owners of such trees. Treatment or removal shall be done by such owners at their own expense within 30 days after the date of service of notice. Upon failure of owners to comply with such provisions, the City shall have the authority to treat or remove such trees and charge the cost of treatment or removal at a rate set by the City Commission. The City Manager or his/her designee shall keep an accurate account of expense incurred for each lot or parcel of land in carrying out the provisions of this section and such expense shall be charged against such lot or parcel and collected by giving notice thereof to the owner of the lot or parcel. If such expense or charge shall not be paid the same shall be assessed against the lot or parcel and collected as provided by Section 12.22 of the City Charter.

**Sec. 34-22. – Installation of Street Trees for New Residential Construction.**

(a) Residential property owners shall install one (1) new street tree at the effected property when a new construction home is built. If the right-of-way adjacent to the residential property is not suitable for the long-term health requirements of a tree based on Sec. 34-13 through Sec. 34-15, the property owner shall pay into the tree fund at a rate set by the City Commission.

(b) Residential property owners must choose one of the following tree replacement processes from the following three options:

- (1) Plant a tree before any Certificate of Occupancy is issued.
- (2) Pay into the tree fund prior to the issuance of any Certificate of Occupancy at a rate approved by the City Commission.
- (3) Property owner plans to plant a tree within one year of Final Certification of Occupancy issuance. Property owner pays a cash bond at a rate approved by the City Commission before any Certificate of Occupancy is issued. The bond will be refunded once the tree is planted and the property owner notifies the City in writing of planting. If the tree is not planted within one year, the bond is forfeited to the Tree Fund.

**Sec. 34-23. - Tree Protection Standards during Construction.**

(a) When a building permit is required for work including accessory structure, addition, approach/drive, carport/porte cochere, deck, demolition, egress window, fence, foundation, land division/combination/reconfiguration, new construction, patio, parking lot, pergola, porch, pool, ground sign, or any other changes the lot coverage or floor area ratio of the property, existing front yard and heritage trees shall be indicated on a boundary survey to include property boundaries, topography, and tree size, location, and species, and existing and proposed structure(s) and building envelop. The survey shall be submitted to the City in a compatible digital format.

(b) During construction, protective fencing shall be placed at the drip line of the street, park, and/or front yard or heritage private tree(s). The ground area within the drip line shall be maintained undisturbed from its pre-construction state.

(c) Vehicles, materials, and equipment are prohibited from being stored in, staged in, or driven through the protected area of the front yard or heritage tree. Practical difficulties shall be dealt with by the Administration on a case by case basis.

(d) If the protected area of the front yard or heritage tree falls within the building envelop, every precaution shall be taken to preserve and protect the affected tree(s).

## **DIVISION 5. - ADMINISTRATION AND ENFORCEMENT**

### **Sec. 34-24. Permits required**

(a) A permit is required for the removal or relocation of any street, park, or front yard tree with a DBH of six (6) inches or greater, or any heritage tree.

(b) Permits shall be obtained by submitting a tree removal and replacement plan on a form provided by the Community Development Department. The plan shall contain the following information:

(1) Owner information and address or parcel number of the property on which the front yard tree or heritage tree is located, or the same of the property adjacent to the street tree.

(2) A site plan/sketch drawing showing the location, size, and species of each front yard or heritage tree to be removed and showing the same for new tree(s) to be planted.

(d) City Administration shall review the application for compliance with this Chapter.

(e) Discretionally removed trees or trees that are intentionally damaged that are not replaced according to the provisions of this chapter require payment into the tree fund at the rate established by the City Commission.

### **Sec. 34-25. Notice.**

The City Manager or his/her designee shall notify, by first class mail or by posting notice in a conspicuous location on the property, the owner, agent or occupant of any lands on which a violation of this chapter is found to exist. Such notice shall require that the person having charge of such land to resolve any violations of this chapter; and shall contain a summary of the provisions of this chapter. Failure of the City Manager or his/her designee to give notice shall not, however, constitute a defense to any action to enforce the payment of any penalty provided for, or debt created under, the provisions of this chapter. If the property is not in compliance with this article at the end of the period specified in the notice of violation, an appearance ticket may be issued.

### **Sec. 34-26. Penalty and Enforcement.**

(a) The City shall have the right to enter property to investigate the removal of front yard or heritage trees on private property. The penalty for removal of front yard or heritage tree(s) without a required permit shall be a civil infraction plus a \$500.00 fine, per tree. In addition to the fine, the offender shall pay fair market replacement per front yard or heritage tree removed based on a minimum size of 18 inch DBH.

(b) A person who violates any provision of this Chapter 34 or the terms or conditions of a permit is responsible for municipal civil infraction; and shall be subject to payment of not less than \$500.00, plus costs and other sanctions, for each infraction.

### **Sec. 34-27. Appeals**

Any appeals to this chapter shall be submitted, in writing, on a form provided by the City Manager or his/her designee within 21 days of the administration's determination. Appeals cannot be made when a determination includes a healthy, safety, welfare concern.

### **Sec. 34-28. Severability**

The various parts, sentences, paragraphs, sections, and clauses of this chapter 34 are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter 34 is adjudged

unconstitutional or invalid by any court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter 34.

**RATE CARD**

This rate card is separate from the ordinance and shall be reviewed by the City Commission annually.

<b>Rate Description</b>	<b>Cost</b>
Heritage tree replacement (Sec. 34-18(a))	\$150.00 per inch required to be replaced
Non-heritage tree replacement (Sec. 34-19(a))	\$100.00 per inch required to be replaced
Dead tree removal on private property, if owner fails to comply with requirements, after proper notification (Sec. 34-20)	Cost of work plus \$500 fine
Diseased tree removal or treatment on private property if owner fails to comply with requirements, after proper notification (Sec. 34-21)	Cost of work plus \$500 fine
Installation of street tree for new construction (Sec. 34-22(a))	\$400.00
Cash bond to ensure street tree planting for new construction (Sec. 34-22(b)(3))	\$400.00
Trees removed without first obtaining a permit (Sec. 34-26)	Replacement cost of 18" DBH tree plus \$500 fine

**Heritage Tree Replacement Scenario**

American Chestnut that is 10" DBH

10 \* 25% = 2.5 inches, rounded up to 3.0 inches of replacement tree required or \$450.00

American Elm that is 20" DBH

20 \* 25% = 5 inches of replacement tree required or \$750.00

Kentucky Coffeetree that is 30" DBH

30 \* 25% = 7.5 inches, rounded up to 8.0 inches of replacement tree required or \$1,200.00

**Private Tree Replacement Scenario**

American Chestnut that is 7" DBH

7 \* 25% = 1.75 inches, rounded up to 2.0 inches of replacement tree required or \$200.00

American Elm that is 12" DBH

12 \* 25% = 3 inches of replacement tree required or \$300.00

Kentucky Coffeetree that is 17" DBH

17 \* 25% = 4.25 inches, rounded up to 5.0 inches of replacement tree required or \$500.00