

**§ 29-1. DEFINITIONS. [Ord. No. 06-2728 § 1; Ord. No. 2015-3092]**

**BUILDING** — Shall mean a combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

**CITY FORESTER** — Shall mean a person appointed by the City to supervise and insure the conservation, protection and care of trees, shrubs, and soil within the City, and having otherwise the scope of duties and authority provided for herein. It shall also include those persons working under his or her supervision or authorized by him or her to carry out the duties and obligations assigned to him or her.

**CITY SHRUB** — Shall mean a shrub located on land owned by the City, the Board of Education, the Board of Recreation, or other municipal body, or which is otherwise located on a street, highway, right-of-way, or parkway.

**CITY TREE** — Shall mean a tree located on land owned by the City, the Board of Education, the Board of Recreation, or other municipal body, or which is located on a street, highway, right-of-way, or parkway.

**DBH (DIAMETER AT BREAST HEIGHT)** — Shall mean the diameter of tree trunks at a height of four feet six (4'6") inches from the finished grade at the base of the tree.

**DRIPLINE** — Shall mean the circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the outermost branches of the tree.

**EMERGENCY** — Shall mean an event or events, disease or condition which has damaged or destroyed a tree or trees, such that the continued presence of such damaged or destroyed tree or trees imminently threatens life or property in proximity thereto.

**ENFORCEMENT OFFICER** — Shall mean the Director of Community Services, the Public Works Manager, the City Forester, the Superintendent of Parks, or his/her duly authorized representative.

**HAZARDOUS TREE** — Shall mean any tree that receives an 11 or 12 rating under the International Society of Arboricultural rating method set forth in Hazard Tree

**ANALYSIS FOR URBAN AREAS** — (Copies of this manual are available for reference from the City Forester) and may also mean any tree that receives a 9 or 10 rating, at the discretion of the City Forester.

**LANDMARK TREE** — Shall mean any tree designated and identified as such by the City Forester or any other person designated by the Summit Common Council, in each case pursuant to the standards set forth in this chapter, and affirmed by resolution of the Summit Common Council.

**MANAGEMENT PLAN** — Shall mean a plan for the management of timbered or forested lands developed by the New Jersey Department of Environmental Protection, Bureau of Forestry, or similar State or Federal agency of the City Forester.

**PERIMETER** — Shall mean the area of an individual property that is outside the building envelope and outside the permitted areas for accessory structures as defined and regulated in the Development Regulation Ordinances of Summit in effect from time to time.

PRIVATE TREE — Shall mean any tree other than a City tree as defined above.

PROTECTIVE BARRIER — Shall mean a barrier constructed to protect the root system or trunk of a tree from damage.

REPLACEMENT TREE — Shall mean a certified tree, properly balled and marked with a label indicating genus, species and variety, and acceptable to the City Forester.

ROOT SYSTEM — Shall mean tree roots within the dripline.

SIGNIFICANT TREE — Shall mean (i) any healthy woody perennial plant (species found commonly in Summit are: tulip, oak, maple, beech, linden, sweet gum, black gum, locust and hickory) having a sixteen (16) inch DBH; or (ii) any landmark tree. The diameter of trees composed of multiple stems or trunks shall be the sum total of each individual stem or trunk at DBH.

SPECIMEN TREE — Shall mean a tree of at least twelve (12) inches DBH that possesses distinctive form, size or age, and that has good aesthetic value, and including, without limitation, small hardwoods such as dogwood, and redbud.

TREE — Shall mean any deciduous or coniferous species which (i) reaches a typical mature height of twelve (12) feet or more, and (ii) has a typical DBH of four (4) inches or greater at maturity.

TREE REMOVAL PERMIT — Shall mean a license issued by the Department of Community Services to remove or destroy a tree or trees.

TREE REPLACEMENT COST — Shall mean the average of the "bid" costs for all types of trees purchased by the City of Summit in its most recent planting program.

## **§ 29-2. CITY TREES. [Ord. No. 06-2728 § 1]**

- a. No City tree shall be removed except by the Department of Community Services or by the owner of the tree after receipt of a valid Tree Removal Permit issued by the Department of Community Services.
- b. To the extent that any City tree is located on land not owned in fee by the City, the Department of Community Services shall issue a Tree Removal Permit for the removal of such tree if, but only if:
  1. Such tree is so diseased or so infested as to be a danger to other trees in the City or surrounding communities, or
  2. Such tree is dead, or its presence would cause hardship or endanger the public, the property owner or an adjoining property owner, or
  3. Such tree does not contribute to the health, safety, economy or general welfare of the City.
- c. The Department of Community Services shall remove a City tree that is located on land not owned in fee by the City only after providing thirty (30) days notice of such intended removal to the owner of such land (or if such owner cannot be found within the City, then within thirty-five (35) days after the mailing of such notice,

postage prepaid, to the post office address of such owner or owners if the same can be ascertained). If within thirty (30) days (or thirty-five (35) days thereafter), such land owner objects and requests a hearing before the Department of Community Services as to such removal, a hearing shall be held before such tree is removed. Such tree may thereafter be removed by the Department of Community Services provided that the City Forester finds:

1. Such tree is so diseased or so infested as to be a danger to other trees in the City or surrounding communities, or
  2. Such tree is dead, or its presence would cause hardship or endanger the public, the property owner, or an adjoining property owner, or
- d. The City Forester shall not plant a tree on any street, highway, right-of-way, or parkway, where the land on which the tree is to be planted is not owned in fee by the City, without the consent of the owner of such land.
- e. Maintenance of the City Trees and City Shrubs.
1. All City trees and City shrubs located on property owned by the City shall be maintained solely by the Department of Community Services.
  2. All City trees and City shrubs located on property not owned by the City, including trees and shrubs located on a street, highway, right-of-way, or parkway, shall be maintained by the owner of the property on which the trees or shrubs are located; provided, however, that the City Forester may cause such City trees and shrubs to be trimmed or removed as part of any on-going program of tree and shrub maintenance in any area of the City where such program is being conducted for the health, safety, economy or general welfare of the City.
  3. All City trees and City shrubs not included within the provisions of paragraphs 1 and 2 hereof and not located on property owned by the City, but which property is owned by some other person including, but not limited to, the Board of Education, Board of Recreation or some other municipal body, may be maintained by the Department of Community Services as is required for the public welfare.
  4. If any City tree or City shrub requires trimming in order not to constitute a danger to the public or adjoining property owners, the owner of the land upon which such City tree or City shrub is located shall, upon being notified in writing by the City Forester, trim or cause to be trimmed, such tree or shrub within thirty (30) days after such notification, or if such owner cannot be found within the City, then within thirty-five (35) days after the mailing of such notice, postage prepaid, to the post office address of such owner or owners, if the same can be ascertained.

**§ 29-3. PRIVATE TREES. [Ord. No. 06-2728 § 1]**

No person shall cut or remove, or cause or permit to be cut or removed, any private

tree that is a significant tree within the City of Summit except in compliance with this Chapter 29.

- a. Tree Removal Permit Required. Subject to the exemptions listed in Section 29-6, no person shall cut or remove, or cause or permit to be cut or removed, any private tree that is a significant tree for any reason on any land within the perimeter of their property within the City of Summit unless the person shall have first obtained a Tree Removal Permit in accordance with the regulations and provisions of this chapter; provided, however, that significant tree(s) may be removed without a validly issued Tree Removal Permit in the case of an emergency removal, as described in Section 29-8c.
- b. Standards for Issuing Tree Removal Permit.
  1. Within ten (10) business days of receipt of an application for cutting or removal of trees, the City Forester shall inspect the site on which are located the significant tree(s) sought to be cut or removed and shall make an assessment of whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots.
  2. No Tree Removal Permit shall be issued for the removal of a healthy Landmark Tree(s) that can be preserved through pruning, feeding, cabling, spraying, or other such means as the City Forester determines may be reasonably undertaken.
  3. No Tree Removal Permit shall be issued without first being approved by the City Forester.

#### **§ 29-4. LANDMARK TREES. [Ord. No. 06-2728 § 1]**

- a. The City Forester upon request shall determine whether any tree qualifies as a "Landmark Tree." A tree may qualify as a Landmark Tree if it meets one (1) or more of the following criteria:
  1. The tree species is rare.
  2. The tree is more than one hundred (100) years of age.
  3. The tree is of an abnormal height or has an abnormal trunk diameter or dripline diameter for a tree of its species.
  4. The quality of the tree foliage is abnormal for a tree of its species.
  5. The location, shade value, fragrance, erosion control, aesthetic, features, or scenic enhancement of such tree is of especial importance to the City.
- b. All trees designated as Landmark Trees by the City Forester, shall be shown on an official City Map with appropriate code marks signifying each tree's designation, number, species, age, size and other distinguishing characteristics for ready reference and periodic monitoring.

- c. If the owner or owners of the property on which a Landmark Tree is located consents thereto, the City may identify such tree as a Landmark Tree by the placement of a suitable marker thereon.
- d. If, and when, any Landmark Tree is removed, the City Forester shall arrange for the necessary changes to be made to the official Landmark Tree inventory records and City Map.

**§ 29-5. OTHER PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO CITY TREES. [Ord. No. 06-2728 § 1]**

- a. It shall be unlawful to commit any of the following acts with respect to City trees without the prior written permission of the City Forester.
  - 1. Cut, prune, break, injure, alter or remove any tree; or cut, unduly disturb or interfere in any way with any root of a tree or trees.
  - 2. Spray any tree with a chemical.
  - 3. Fasten any rope, wire, sign, or other device to a tree or trees or to any guard about such a tree or trees.
  - 4. Install, remove or injure any guard or device placed to protect any trees.
  - 5. Close or obstruct any open spaces provided about the base of a tree or trees to permit the base of a tree or trees to permit the access of air, water and fertilizer to the roots of such tree or trees.
  - 6. String any wires or lines through a public park.
- b. The City Forester shall grant such written permission if the activity for which such permission is requested is in the public interest and is not likely to materially injure any City tree.
- c. Any and every person having or maintaining any electric, telephone, telegraph, or other wires or lines running through a public street or park, shall securely fasten and maintain such wires and lines in such a manner as will safeguard City trees against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to City trees and City shrubs.
- d. When necessary to prune or remove any City tree(s), along a public street, any person having any wires or lines running through or along the public street shall temporarily remove, or cause to be removed, such wires or lines within five (5) business days after the serving upon the owner of the wires or lines or his agent, of a written notice from the City Forester.
- e. Any person performing line clearance operations (tree trimming) or having line clearance operations performed by any other person or persons shall first obtain the written approval of the City Forester.
- f. Any person or persons who cause damage to any City tree(s) by machines, autos,

etc. shall be held liable for damages to the tree or trees. Damages shall be corrected or repaired by the City and the liable person or persons billed for the damages.

- g. No person shall move, or cause to be moved, any building or large object along any street without having first obtained a valid permit from the City Forester who, if he deems necessary, may require the person to furnish a bond or cash deposit in an amount sufficient to cover any damage to, or destruction of, City trees on such street or streets as a result of such moving operations.
- h. The provisions of this chapter are not to be construed as requiring the City to maintain, replace or move any sidewalk not located on property owned by the City. Should such maintenance, replacement or moving be required to preserve or protect the health of any City tree, the owner of the land upon which such tree or trees are located shall, upon being notified in writing by the City Clerk at the direction of the Common Council, maintain, replace or move such sidewalk in the manner directed by the Common Council within thirty (30) days after such notification, or if such owner cannot be found within the City, then within thirty-five (35) days after the mailing of such notice, postage prepaid, to the post office address of such owner or owners, if the same can be ascertained.
- i. Whenever it shall become the duty of any such owner or owners to cut, trim, remove or destroy any City tree or City shrub or to maintain, replace or move any sidewalk under the requirements of this section, and the work as directed by the City Forester shall not have been done at the expiration of the time provided herein, or satisfactory explanation shall not have been presented for such failure, then the Common Council, upon presentation of a report in writing by the City Forester, may authorize such work to be performed under the direction of the City Forester and paid for out of the monies of the City to the credit of the City Forester. The cost of this work shall be certified by the City Forester to the person having charge of the collection of assessments in the City. Upon filing the certificate, the amount of the cost of such work shall be paid to the City by the property owner, and may be collected by the City in the manner provided by law.

#### **§ 29-6. EXEMPTIONS. [Ord. No. 06-2728 § 1]**

Any destruction or removal of trees, except Landmark Trees, shall be exempt from the provisions of this chapter if the trees sought for destruction or removal are:

- a. Growing on property actually being used as a nursery, garden center or orchard, or
- b. Removed in accordance with a management plan developed by a recognized State or Federal environmental protection authority, provided that a copy of such plan is filed with the Department of Community Services.
- c. Any tree located on publicly owned land and removed by the public agency or its representatives.
- d. Dead or diseased or hazardous trees upon certification by a New Jersey Certified Tree Expert.

- e. Any private tree that is not a significant tree.
- f. Trees subject to the emergency removal process described in Section 29-8 of this chapter.

**§ 29-7. PROTECTION OF TREES. [Ord. No. 2728 § 1]**

- a. No person shall (a) operate, place or maintain within the dripline of any tree any machinery, equipment, heavy object, stone, rocks, cement, earth, soil, or other substance which may harmfully affect such tree by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such tree, or (b) excavate around or remove earth or soil from, or cause any water to flow upon, the roots of any tree, except that if provisions of this section create any undue hardship in the appropriate use and enjoyment of property, the City Forester may waive in whole or part such provisions, but only to the extent absolutely necessary to alleviate such undue hardship.
- b. Private Trees. The following additional provisions shall apply to private trees:
  - 1. Tree protection measures and the limit of disturbance line shown on the site plan or grading plan shall be provided in the field with snow fencing or other durable material and verified by the City Forester prior to soil disturbance.
  - 2. Protective barriers shall not be supported by the plants/trees they are protecting, but shall be self-supporting. Barriers shall be four (4) feet high and shall last until construction is complete.
  - 3. Chain link fence may be required for tree protection if warranted by site conditions and relative rarity of the plant.
  - 4. Snow fencing used for tree protection shall be firmly secured along the dripline but shall be no less than six (6) feet from the trunk.
  - 5. The grade of land located within the dripline shall not be lowered or raised unless compensated by welling or retaining wall methods; and in no event shall be permitted within the dripline or within six (6) feet of any remaining trees, whichever is greater.
  - 6. Any excavation within the dripline, or within six (6) feet of the trunk of a remaining tree, whichever is greater, shall be done by airspade or hand-operated equipment.
  - 7. Where a tree that has been noted for preservation is severely damaged and unable to survive, tree replacement shall occur as provided in the Tree Removal Permit section (Section 29-8).

**§ 29-8. APPLICATIONS FOR AND ISSUANCE OF TREE REMOVAL PERMIT. [Ord. No. 06-2728 § 1]**

- a. Information Required; Issuing Agent. Applications for a Tree Removal Permit for

the removal or destruction of a tree or trees where required under this chapter, shall be made directly to the City Forester, and shall contain the name of the applicant, location of the property and plot as aforesaid, and in addition thereto, the purposes for which the application is being made, including but not limited to the following: clearing land for agricultural use, harvesting timber, fire protection, industrial use, private parks, scenic improvements, hardship, danger to adjacent properties, removal of diseased or damaged trees, transplanting or removal in a growing condition to other locations, installation of utilities or drainage of surface water.

- b. **Nonemergency Removal.** Within ten (10) business days after the submission of an application for a Tree Removal Permit for the removal of a tree or trees, the City Forester shall review the site and the application and either grant or deny the Tree Removal Permit, or extend for an additional ten (10) business days the period for review by the end of which he shall grant or deny the Tree Removal Permit. Failure of the City Forester to act within the aforesaid time shall be deemed approval of the application.
- c. **Emergency Removal.** Within five (5) business days following an emergency, requiring immediate removal of a tree or trees for which a Tree Removal Permit from the City Forester is required under this section, written notice shall be given to the City Forester by the property owner, supported by sufficient evidence demonstrating in form and content satisfactory to the City Forester that the removal meets the criteria of an emergency removal.
  - 1. If such removal is determined to be an emergency by a New Jersey Certified Tree Expert, and
  - 2. The property owner removing, or causing the removal of, the significant tree(s) applies for a Tree Removal Permit within five (5) business days of initiating emergency tree removal and provides documentation from the New Jersey Certified Tree Expert that the removal was an emergency.

#### **§ 29-9. FEES. [Ord. No. 06-2728 § 1]**

- a. **City Trees.** There shall be no fee charged for the issuance of a Tree Removal Permit.
- b. **Private Trees.** In connection with the application for a Tree Removal Permit, the applicant shall pay the fee identified below.
  - 1. For the removal of any private tree that is a significant tree and that is certified as dead, diseased or structurally unsound by a New Jersey Certified Tree Expert, no fee.
  - 2. For the removal of a private tree that is a significant tree and that is located within the allowable building area as defined by Development Regulation Ordinances of Summit in effect from time to time, no fee.
  - 3. For the removal of a private tree that is a significant tree that does not satisfy



the conditions of 1 and 2 above, a nonrefundable fee of twenty-five (\$25.00) dollars per tree. In addition, the applicant shall be required to (i) replace on their property the private tree removed with a suitable tree, as determined by the City Forester in his/her reasonable discretion, or (ii) in lieu of replacing the private tree, pay the Tree Replacement Cost to the City of Summit.

4. Tree Removal Permit fees collected under this subsection shall be used to pay the City Forester's hourly fee to inspect tree(s) to be cut or removed in order to render his/her endorsement or rejection of a Tree Removal Permit. Tree replacement costs collected under this subsection shall be deposited into the Tree Dedication Fund of the City of Summit, and shall be used to purchase replacement trees within the City of Summit.

#### **§ 29-10. APPEAL. [Ord. No. 06-2728 § 1]**

Any person aggrieved by the decision of the City Forester shall have the right to appeal such decision to the City of Summit's Shade Tree Advisory Committee. Such appeal shall be by written notice stating the reason(s) upon which the appeal is based, and filed with the Department of Community Services within fourteen (14) business days of the decision of the City Forester.

The Shade Tree Advisory Committee shall hear the matter, upon notice to the applicant, within forty-five (45) days after filing of the notice of appeal. The Shade Tree Advisory Committee may in its discretion and upon complete review of the application and after hearing the testimony of the City Forester, the applicant, and such other experts as may be appropriate, reverse, modify or affirm the aforesaid decision. The Shade Tree Advisory Committee shall forward its recommendation to the Department of Community Services for final approval and/or determination.

#### **§ 29-11. ENFORCEMENT. [Ord. No. 06-2728 § 1]**

- a. The requirements of this chapter shall be enforced by the Enforcement Officer who shall seek such penalties as are provided in this chapter.
- b. The Enforcement Officer may order to be stopped forthwith any tree work or other activity which he believes is carried on in violation of any provision of this chapter. The order shall be issued in writing and a copy served upon any person engaged in such tree work or such other activity. If no such person is present upon the property, then the order shall be served upon the owner of the property in question. Thereafter, any further work shall comply with the terms and conditions of any Tree Removal Permit issued by the City Forester with respect to such property and the provisions of this chapter.

#### **§ 29-12. PENALTIES. [Ord. No. 06-2728 § 1]**

- a. A person violating, or causing to be violated, any of the provisions of this chapter including, but not limited to, any person cutting down or removing a City Tree or a private tree that is a significant tree without obtaining a valid Tree Removal Permit permitting such removal of the tree(s) in accordance with this chapter, (i) shall be

required to obtain retroactively a Tree Removal Permit for the trees already removed and to pay any fees or tree replacement costs as required in subsection 29-9b3, and (ii) shall be subject to a fine in an amount equal to:

1. The tree replacement cost, plus
  2. Ten (10%) percent of the tree replacement cost, multiplied by
  3. The sum of (x) the number of trees improperly removed, and (y) one.
- b. If any significant tree is not properly protected during construction then the cost of a replacement tree will be put in escrow for two (2) years. If the tree dies during these two (2) years, then the escrow money will be used to replace the tree. If the tree does not die then the escrow money will be returned two (2) years after the CO has been issued.