



## **PUBLIC WORKS OPERATIONS POLICY**

### **PUBLIC RIGHT-OF-WAY VEGETATION & TREE MAINTENANCE & REMOVAL**

#### **Purpose:**

The purpose of this policy is to outline the procedures and practices that are used in routine protection, maintenance, control and removal, as may be necessary, of vegetation, including trees, in, on, below and over the City's public streets and sidewalks. This policy is not applicable to removal of vegetation as a result of, or associated with, emergencies resulting from such events as snow or ice storms, wind, lightning, floods or other such natural occurrences.

#### **The Right-of Way**

The right-of-way typically encompasses both the paved areas for use of vehicles plus strips of land along each side where shoulders, curbs, sidewalks or drainage swales exist. These strips of land which abut the paved road may appear to be private property, but in fact are regulated by the City in the interests of public health and safety.

The City has a statutory obligation to maintain municipal highways, which includes both public streets and highways. As part of this obligation, the public right-of-way must be kept clear of obstructions, not only in the interests of safe passage for the traveling public, but also for operation of below-ground public utilities, such as water, sewer and storm water services.

#### **Vegetation in the Right-of-Way**

Many of the streets in our neighborhoods are lined with trees and shrubs, most planted long ago. Where these trees are located in the right-of-way, the City may make the determination if a tree has become a safety hazard, whether to the walking or traveling public or whether because it is dead, diseased or so overgrown that it prevents safe passage.

The following procedures shall be followed at all times in regards to the removal of trees from the City's streets and sidewalks:

1. Prior to the removal, regardless of size, the Director of Public Works, or his/her designee must determine whether or not the tree is a public nuisance or a safety hazard or liability because it is dead or diseased.
2. If the tree has a circumference of 15" or more at a point 4 feet from the ground, it shall not be removed in the absence of notice to the abutter(s) except when the delay entailed by such notice would pose an imminent threat to public safety. Notice will be sent certified mail to the abutting landowner(s), who has 30 days to appeal the matter if they disagree with the proposed removal and who has the option of hiring a tree warden to prove otherwise.

3. Small trees do not require such advanced notice to abutters prior to removal, but the city must receive written permission from the abutter(s) who have planted any protective shrubbery, shade trees or fruit trees before removing them, unless dead, damaged, diseased or considered a public safety hazard.

4. Landowners have a legal duty to maintain trees and bushes on their property so that they do not pose an unreasonable risk of harm to others. However, the City also has a duty to maintain its streets and sidewalks in as safe a manner as possible. The City may not remove trees or bushes located on private property outside the right-of-way unless they pose a safety hazard to the public or impede the ability to maintain the right-of-way; however, the City may cut any limbs in the air or roots on or under the ground that intrude into the right-of-way, even if the trunk of the tree is outside the right-of-way if such growth creates a public nuisance by way or damage to City improvements on or under the right-of-way or creates a safety hazard. If a tree located on private property abutting the public right-of-way is determined to be a hazard to the public, the City will contact the property owner to discuss resolution of the issue.

5. The owner of the abutting property will be given the “first right of refusal” for the wood from such cutting on or abutting the property.

6. If a tree is located in the right-of-way but is not (in determination of the municipal officer) a public nuisance or a safety hazard, then the municipality is under no duty to remove it, even if the abutter requests removal. However, should an abutter determine that a tree located in the right-of-way is a safety hazard to the abutter's property, the abutter may be permitted to remove such tree, at the abutter's sole cost, with the advance written permission of Public Works and a release of all City liability for the removal.

7. If a tree straddles the boundary between the right-of-way and private property, the City and the property owner may negotiate a division of the cost of removal, but in no circumstances shall the City be obligated to pay more than one-half of the removal cost.

## **Conclusion**

The City of Claremont will maintain the trees in the right-of-way to the best of its ability, manpower and budget considerations permitting, but it cannot predict or be responsible for the consequences of “Acts of God,” or emergencies, unpredictable hazards and/or extreme weather events. The City maintains 252+/- lane miles of public roads, most of which have trees along them. Communication and cooperation between the City and Claremont’s landowners is essential for preserving and maintaining roadside trees and other vegetation, which provide us with a protective canopy that helps to make Claremont a safe, healthy and attractive place to live.