

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, RELATING TO TREES; AMENDING CHAPTERS 50 AND 130 OF THE CITY OF EDGEWOOD CODE OF ORDINANCES TO CLARIFY AND CONSOLIDATE REQUIREMENTS RELATED TO TREES, SHRUBS, AND PLANTS; AMENDING PROVISIONS RELATED TO MAINTENANCE AND RESPONSIBILITY FOR TREES AND TREE BRANCHES LOCATED WITHIN AND ADJACENT TO RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, CONFLICTS, AND EFFECTIVE DATE

WHEREAS, the City Council appreciates the aesthetic and environmental value of trees and vegetation within the City; and

WHEREAS, the City Council also recognizes trees and vegetation require proper maintenance and care; and

WHEREAS, the City Council finds that when trees located adjacent to or within rights-of-way are not properly maintained, such trees or their branches may present safety hazards to those traveling upon the rights-of-way; and

WHEREAS, in order to ensure continued proper maintenance of such trees, the City Council finds it appropriate to clearly delineate the responsibilities related to tree maintenance of public and private property owners; and

WHEREAS, the City Council finds the Code of Ordinances contains multiple Sections in varying locations dealing with planting, care, and removal of trees and vegetation; and

WHEREAS, in the interest of clarity, the City Council finds it appropriate to consolidate and clarify the existing provisions.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF EDGEWOOD, FLORIDA:

SECTION 1: Amendment of Existing Code: The Edgewood City Code is hereby amended as follows (note: underlined text indicates additions to the Code, ~~strikethrough~~ text indicates deletions, and ~~clipses (***)~~ indicate portions of Code that remain unchanged and are not reprinted here):

~~ARTICLE IV. -- TREES~~

~~Sec. 50-109. -- Injury and destruction of trees.~~

~~No one shall willfully injure or destroy any tree or shrub located on or in any public right-of-way, park or public property within the city.~~

Sec. ~~50-110. Planting shrubbery and trees at intersections prohibited.~~

- (a) ~~No person shall plant any shrubbery or trees within the area formed by the property lines of the intersecting streets for a distance of 25 feet from their intersection with one another, which shrubbery or trees reach a height of more than 2½ feet.~~
- (b) ~~It shall be the duty of any owner of property lying within this area to keep existing shrubbery and trees cut to a height of less than 2½ feet above the pavement.~~

Sec. ~~50-111. Tree planting, maintaining, and removal permits required for public rights-of-way and public property; fallen trees on public rights-of-way and public property.~~

- (a) ~~*Planting trees.* No tree, shrub, or plant shall be planted within any right of way of the city without first obtaining a permit from the city. There will be no charge for such a permit. The permittee shall submit with the application for permit a site plan showing where the tree, plant, or shrub will be planted, the spacing between trees or plants, if applicable, and the species proposed to be planted. The city official shall approve of such plan before the permit may be granted.~~
- (b) ~~*Maintaining trees.* Upkeep, trimming, and maintenance of all trees, shrubs, or plants on any right of way which abut private property shall be the responsibility of the private property owner between the property line and the curb of the street, except that the city shall be responsible for trimming and maintaining portions of trees on the street side so as to allow clearance for vehicles. When any maintenance or trimming of trees in any rights of way is necessary to afford clearance for wires or cables, it shall be the responsibility of a public utility company to trim and maintain said trees after seeking a permit for same from the city. It shall be unlawful for any person to maintain any tree, shrub, or plant within any right of way of the city in such a manner that will damage or constitute a hazard to any street, sidewalk curb, driveway, drainage, water line, sewer line or any other public utility.~~
- (c) ~~*Removing trees.* No tree shall be removed from any public right of way without first obtaining a tree removal permit. The city official may, in some instances, recommend that the city share the costs for removal of said trees, such costs to be approved by city council.~~
- (d) ~~*Removing fallen trees.* The city shall be responsible for removing any fallen tree planted in the right of way upon being notified of same, a tree planted on private property which falls on any right of way shall be removed by the property owner within a reasonable period of time, not to exceed 60 days or sooner if the city deems necessary to protect public safety. If said fallen tree is not removed within the designated periods of time, the city may remove it and assess costs for removal to the property owner. In the event any tree falls such that a substantial portion of the tree interferes with traffic, the city shall be responsible for removal of the portion of the tree which has fallen in the city right of way.~~
- (e) ~~*Permit required.* No tree planting, removal, surgery, cavity filling, trimming or spraying shall be done on any tree or shrub within any public right of way or on any property owned by the city without first obtaining permit for such work from the mayor or his or her designee. The city shall require the applicant to provide a certified arborists report supporting the removal of the tree prior to issuance of a permit for the removal of any tree located within the public right of way. There shall be no charge for such a permit. No tree or shrub shall be trimmed by or under the direction of any public utility company to afford clearance for wires~~

~~or cables or for any other purpose without possession of such a permit. Such a permit shall be granted upon a showing that public safety will not be endangered.~~

Sec. 130-4. - Care of trees; unlawful removal of or injury to trees.

- (a) *Artificial irrigation.* Artificial means of irrigation shall be easily available and used regularly for every tree as may be required for healthy tree growth and maintenance.
- (b) *Trees near billboards.* It shall be unlawful for persons or businesses trimming tree growth away from billboard (off-premises sign) surfaces to remove trees or to trim or cut trees below the level necessary for survival of the tree.
- (c) *Fallen trees.* In the event a tree has fallen within the boundaries of a private property because of an act of God or other damage, ~~such that its trunk has been substantially damaged to the extent that the tree no longer can survive,~~ the property owner shall remove said fallen tree within a reasonable period of time not to exceed 60 days. If a property owner does not remove a fallen tree within a reasonable period, he or she may be found to be in violation of this chapter. ~~If the fallen tree poses a safety hazard, the city may remove the tree and assess the costs for such removal to the property owner.~~ No permit is required for removal of fallen trees.
- (d) *Tree removal permit required.* Except as otherwise provided herein or by Florida Statutes, it shall be unlawful for any person to, or cause to, to destroy, permanently injure or remove any existing tree, as defined herein, within the city, without first obtaining a tree removal permit as required by the provisions of this chapter, or to cause or allow such action to be performed by an agent.
- (e) *Unlawful alteration of grade.* It shall be unlawful ~~for any person to, or cause to,~~ place material, solvents, machinery, temporary soil deposits, or to make any grade changes within six feet of any tree, or to attach, other than protective wires, braces or other similar, injurious materials to such tree or to cause or allow such action to be performed by an agent.
- (f) *Paving around trunk perimeter.* No structure or impervious paving shall be located within a six-foot radius of the trunk perimeter of any tree. Trees four feet or more in diameter as measured three feet above actual grade shall require additional space as may be determined.

Sec. 130-10. - Trees, shrubs, and plants-etc., in and adjacent to public rights-of-way.

- (a) *Planting trees.* No tree, shrub, or plant shall be planted within any right-of-way of the city without first obtaining a permit from the city. There will be no charge for such a permit. The permittee shall submit with the application for permit a site plan showing where the tree, plant, or shrub will be planted, the spacing between trees or plants, if applicable, and the species proposed to be planted. The city official shall approve of such plan before the permit may be granted.
- (b) *Visibility triangle.* It shall be unlawful to plant on a corner lot any shrubbery or trees which will grow to a height more than 2 ½ feet within the triangle formed by a line connecting the two intersecting streets at points 25 feet from the intersection. It shall be the duty of the owner of such property to keep all shrubbery and trees within the above described triangle cut to a height no greater than 2 ½ feet.
- (c) *Maintaining trees, shrubs, and plants.*

(1) Upkeep, trim, and maintenance of all trees, shrubs, or plants located between the right-of-way line and the curb of the street on any right-of-way which abuts private property shall be the responsibility of the private property-owner of the property immediately abutting the right-of-wayowner between the line and the curb of the street, except that the city shall be responsible for trimming and maintaining portions of trees on the street side so as to allow clearance for vehicles.

(2) Property owners shall keep all trees, shrubs, and plants located on their private property and those for which they are responsible for maintenance pursuant to paragraph (1), above, trimmed in such a manner that motor vehicle traffic and pedestrian paths on public rights-of-way are not obstructed.

(3) Property owners shall remove any unhealthy, diseased, or dying branches that present a risk of falling on the right-of-way from any trees located on their private property and those for which they are responsible pursuant to paragraph (1), above.

(4) Property owners shall remove from their private property or from within the right-of-way between the abutting right-of-way line and the curb of the street any dead or dying trees or trees that, due to some other condition, present a significant and immediate risk of falling upon the right-of-way.

(5) When the City identifies dead or dying trees or branches that present a significant and immediate risk of falling on the right-of-way the City shall notify the property owner responsible for such tree and require removal of such tree or branches within thirty days or such shorter time as the City deems necessary based on the condition of the trees or branches. If the private property owner fails to remove the tree or branches within the time allowed, the City may, in its sole discretion, prosecute the matter as a code violation, remove any such trees or branches located within the right-of-way and assess the costs to the property owner responsible, or both.

(6) After the City has given notice of a tree or branches that threaten the right-of-way, if the identified tree or branches fall, the City may, in its sole discretion, remove the fallen tree or branches from the right-of-way or relocate the fallen tree or branches within the right-of-way to ensure continued safe passage of vehicular and pedestrian traffic. The City shall assess the costs of any mitigation undertaken by it to the property owner responsible for maintenance of the tree. If vehicular and pedestrian traffic is not impaired by the fallen tree or branches or if the City relocates the fallen tree or branches within the right-of-way, the City shall notify the property owner responsible and allow the said property owner ten days to remove the fallen tree or branches. If the property owner fails to remove the fallen tree or branches within such time, the City may, in its sole discretion, prosecute the matter as a code enforcement action, remove the fallen trees or branches and assess the costs to the property owner responsible, or both.

(7) In the event the City assesses any costs as provided herein, the City shall mail or hand deliver a notice of such costs and demand for payment to the property owner responsible with an invoice detailing such costs. If such invoice is not paid within thirty days, the City shall institute Code Enforcement proceedings against the property owner responsible.

(8) No tree removal permit shall be required for the removal of a tree identified hereunder by the City as necessitating removal.

(9) A private property owner may appeal to the City Council the determination that a tree or branches require removal at private expense.

(10) When a tree or branch, whether on private property or upon the right-of-way, for which the City has given no prior notice to the property owner to remove falls upon the right-of-way, the City shall be responsible for the removal of that portion of the tree or branch that lies upon the right-of-way. The City may, in its sole discretion, with the permission of the property owner remove any portion of the tree or branch that lies upon private property.

(11) The provisions of this Section are supplemental to any other rights and authority possessed by the City and nothing provided herein shall impair or abrogate any authority the City possesses pursuant to this code or State law to immediately mitigate a dangerous condition.

(12) A private property owner shall utilize a licensed and insured tree maintenance provider whenever maintenance activity occurs over a public road or street or when maintenance activity would require the closing of lanes upon a road or street.

(c) *Maintenance of trees impacting utilities.* When any maintenance or trimming of trees in any right-of-way is necessary to afford clearance for wires or cables, it shall be the responsibility of a public utility company to trim and maintain said trees after seeking a permit for such trimming and maintenance from the city. It shall be unlawful for any person to maintain any tree, shrub or plant within any right-of-way of the city in such a manner that will damage or constitute a hazard to any street, sidewalk, curb, driveway, drainage, water line, sewer line or any other public utility.

(d) *Protection of infrastructure.* It shall be unlawful for any person to maintain any tree, shrub or plant within any right-of-way of the city in such a manner that will damage or constitute a hazard to any street, sidewalk, curb, driveway, drainage, water line, sewer line or any other public utility.

~~(e)~~(e) *Removing trees and shrubs planted in rights-of-way and public property.* Except as otherwise provided herein, ~~No tree or shrub shall be willfully damaged or removed from any public right-of-way or other public property by any party other than the City or its employees or agents, without prior written permission from the City without first obtaining a tree removal permit. The city official may, in some instances, recommend that the city share the costs for removal of said trees, such costs to be approved by city council.~~

~~(d) *Removing fallen trees.* The city shall be responsible for removing any fallen tree planted in the right-of-way upon being notified of such fallen tree. A tree planted on private property which falls on any right-of-way shall be removed by the property owner within a reasonable period of time, not to exceed 60 days, or sooner if the city deems necessary to protect public safety. If said fallen tree is not removed within the designated periods of time, the city may remove the fallen tree and assess costs for removal to the property owner. In the event any tree falls such that a substantial portion of the tree interferes with traffic, the city shall be responsible for removal of the portion of the tree which has fallen in the city right-of-way.~~

SECTION 2: Codification: Section 1 of this Ordinance shall be codified and made part of the City of Edgewood Code of Ordinances.

SECTION 3: Severability: It is the intent of the City Council of the City of Edgewood, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this

Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 4: Effective Date: This Ordinance shall become effective upon adoption.

PASSED AND ADOPTED this 15th day of October, **2019**, by the City Council of the City of Edgewood, Florida.

PASSED ON FIRST READING: September 17, 2019

PASSED ON SECOND READING: October 15, 2019



Richard A. Horn, Council President

ATTEST:



Bea L. Meeks, MMC, CPM, CBTO
City Clerk