

**ORDINANCE 2013-03
STREET TREE ORDINANCE**

WHEREAS, the Town Council of the Town of Leeds, Utah, recognizes and attributes substantial economic, environmental and aesthetic value to the trees and other plantings within the community; and

WHEREAS, the Town Council determines it is in the best interests of the citizens and public that a plan be developed to standardize the planting and maintenance of trees within easements, in rights-of-way and all other public places within the Town; and

WHEREAS, the Town Council recognizes we live in an arid desert climate and encourages the planting of native species of trees and encourages water-conscious landscape management; and

NOW, THEREFORE, the Town Council of the Town of Leeds, Utah, hereby adopts, passes and publishes the following.

**AN ORDINANCE RELATING TO THE PLANNING, PLANTING, MAINTENANCE,
RESTORATION, PROTECTION AND SURVIVAL OF DESIRABLE TREES LOCATED IN AND
UPON PUBLIC AREAS AND RIGHTS-OF-WAY WITHIN TOWN OF LEEDS, WASHINGTON
COUNTY, UTAH**

BE IT ORDAINED by the Town Council of the Town of Leeds, Utah, as follows:

STREET TREES

- 100: Purpose and Intent
- 101: Definitions
- 102: Designation of a Street Tree Advisory Board
- 103: Ordinance Administration
- 104: Street Tree Maintenance and Care by the Town
- 105: Street Tree Maintenance and Care by Citizens
- 106: Other Plantings
- 107: Street Trees in New Development
- 108: Street Trees in Previously Developed Areas
- 109: Care and Maintenance of Private Trees Affecting Public Property
- 110: Appeals

100: PURPOSE AND INTENT

- (1) **Purpose.** Leeds Town recognizes and attributes substantial economic, environmental and aesthetic value to the trees and other plantings within the community. It is in the best interests of the citizens and public that a plan be developed to standardize the planting and maintenance of trees within easements, in rights-of-way and all other public places within the Town.
- (2) **Intent.** It is the intent of the Leeds Town Council that the terms of this ordinance shall be construed as to promote:
 - (a) The planning, planting, maintenance, restoration, protection and survival of desirable trees within the Town; and,
 - (b) The protection of community residents from personal injury and property damage, and the protection of Leeds Town from property damage caused or threatened by the improper planting, maintenance, or removal of trees located in and upon public areas and rights-of-way within Leeds Town.

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101: DEFINITIONS

- (1) **Other Plants or Plantings.** Other Plants or Plantings shall mean any shrubs, grass or ground cover planted within street rights-of-way or easements or in proximity thereto.
- (2) **Parks and Recreation Director.** The Parks and Recreation Director shall mean the person or designee responsible for maintenance of Street Trees.
- (3) **Responsible Developer.** Responsible Developer shall mean a Developer who has chosen to install Street Trees in a residential, commercial, mixed use, or multi-family development.
- (4) **Street Tree.** Street Tree shall mean any tree planted within the Town right-of-way on either side of all streets, lanes, trails or ways within the Town.
- (5) **Park Tree.** Park Tree shall mean any trees or other woody vegetation in public parks having individual names, and all areas owned by the Town, or areas to which the public has free access as a park.
- (6) **Street Tree Manual.** Street Tree Manual shall mean a manual prepared by the Street Tree Advisory Board and the Parks and Recreation Director, or designee, pursuant to this ordinance containing regulations and standards for the planting, maintenance, and removal of trees in and upon public areas and rights-of-way within the Town.
- (7) **Top or Topping.** Top or Topping shall mean the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.
- (8) **Tree Trimming.** Tree Trimming shall mean the removal of plant parts to control growth and enhance performance or function in the landscape by developing and preserving tree structure and health. The removal of water sprouts, sucker growth, and hanging limbs is not considered tree trimming according to the provisions of this Chapter.

102: DESIGNATION OF A STREET TREE ADVISORY BOARD

- (1) **Street Tree Advisory Board.** A Street Tree Advisory Board shall be designated by the Mayor, in consultation with Town Staff and the Parks and Recreation Director, or designee. The Board shall consist of members of the community interested in promoting the benefit, growth and health of the urban forest. Board members should include, but not be limited to, persons with expertise in the field of urban forestry, Town Staff such as the Department of Public Works and any other appropriate Town personnel or Council Member.
- (2) **Assist The Town.** It shall be the responsibility of the Street Tree Advisory Board to study, investigate, counsel and assist the Parks and Recreation Director, or designee with the development of a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets and in other public areas. The Street Tree Advisory Board shall also assist the Town in the preparation and revision of its Street Tree Manual including recommendations on tree species, tree planting locations and other related matters. The Street Tree Advisory Board shall write and implement an annual community forestry work plan to qualify and be deemed a Tree Town USA.
- (3) **Recommendation.** The Street Tree Advisory Board, when requested by the Parks and Recreation Director, or designee, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.
- (4) **Officers.** The Street Tree Advisory Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings.
- (5) **Service Without Pay.** All members of the Street Tree Advisory Board shall serve without pay.

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103: ORDINANCE ADMINISTRATION

- (1) **Authority.** The Parks and Recreation Director, or designee shall be responsible for administering and enforcing the Street Tree Ordinance. If a Parks and Recreation Director has not been appointed, these responsibilities shall fall upon the Mayor or Mayor's designee. He or she shall:
 - (a) Have supervision of all trees planted or growing in public rights-of-way or Town-owned places within the Town.
 - (b) Supervise the planting, trimming, spraying, preservation and removal of Street Trees and other plants in public streets, in Town cemeteries and in Town parks to promote safety, protect Town utilities and preserve the beauty of such public places.
 - (c) Supervise the maintenance of Street Trees, Park Trees and Other Plants or Plantings consistent with the language of the Ordinance. See Section 104.
 - (d) Review all development applications for proper design and planting of Street Trees, Park Trees and Other Plants or Plantings in the new development.
- (2) **Desirable Street Tree List.** The Street Tree Advisory Board under the direction of the Parks and Recreation Director, or designee, shall prepare a "Suggested Street Tree List" containing the botanical and common names of all trees approved to be planted in streets, trails, parks or easements. The Street Tree Advisory Board shall also develop an undesirable Street Tree list containing the botanic and common names of all trees not approved to be planted in streets, trails, parks or easements. These lists may be revised from time to time by the Street Tree Advisory Board, to include other suitable or undesirable trees, or trees to be planted for evaluation purposes only. This list shall be included in the Street Tree Manual.
- (3) **Public Awareness.** The Parks and Recreation Director, or designee, shall make copies of the Street Tree Ordinance and the Street Tree Manual available to any interested persons, through the Town Hall and on the Town Website. Copies shall also be available electronically and one copy of the Street Tree Manual will be available in the Leeds Town Hall.

104: STREET TREE MAINTENANCE AND CARE BY THE TOWN

- (1) **Care and Maintenance.** The Street Tree Advisory Board under the direction of the Parks and Recreation Director, or designee, shall initiate and administer a program to encourage the planting, maintenance, care, removal and replacement of Street Trees, consistent with resources available.
- (2) **Standards.** All trees located within Town streets, parks, rights-of-way, landscape borders, or on Town-maintained property shall be maintained according to standards set by the Leeds Town Street Tree Manual.
- (3) **Town Tree Planting and Maintenance.** The Town shall have the right to plant, prune, maintain and remove Street Trees located within the public rights-of-way.
- (4) **Tree Replacement.** The Town may replace Street Trees or Other Plantings which have died or been removed for any reason, or plant additional Street Trees deemed appropriate and consistent with available resources.
- (5) **Tree Topping.** It shall be unlawful as a normal practice for any person, firm, or Town Department to top any street tree, park tree, or other tree on public property including but not limited to electrical, gas, telephone and cable companies. Trees damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this Ordinance at the determination of the Parks and Recreation Director, or designee.
- (6) **Debris Removal.** The person working on trees on a street, highway, or public area shall remove all debris from the rights-of-way by sunset of the same day, unless specifically authorized to do otherwise by the Parks and Recreation Director, or designee. The acceptable standard shall be a broom clean finish or better.

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(7) **Town Authority.** The Town may condemn and remove, or order to be removed any tree, tree stump, shrub, or plant upon any of the public owned property within this Town where the same is dead, diseased or for any reason whatsoever deemed undesirable or unsafe by the Parks and Recreation Director, or designee.

105: STREET TREE MAINTENANCE AND CARE BY CITIZENS

- (1) **Planting.** Any person, firm, partnership, corporation or organization of any kind, must obtain written approval from the Parks and Recreation Director, or designee prior to planting a tree in any public right-of-way. Said approval shall specify with a drawing/plan the location and variety of trees to be planted.
- (2) **Trimming.** Any person, firm, partnership, corporation or organization of any kind, must obtain approval from the Parks and Recreation Director, or designee, prior to trimming any designated street tree. Approval is not required for removing sucker growth, watersprouts, minor limbs causing obstructions, or for removal of less than ten percent (10%) of the tree canopy.
- (3) **Adjacent Property Owners to Maintain Trees on Their Property.** Trees and other plantings on adjacent property shall not inappropriately overhang or encroach upon sidewalks, streets, public rights-of-way or other designated pedestrian ways, nor obstruct the view of traffic signs or any street intersection. Trees and other plantings that project over any street or access road that may be used for emergency purposes shall be trimmed to a safe height and shape. Adjacent property owners shall remove all dead, diseased, or dangerous trees; or broken or decayed limbs which constitute a menace to public safety, at their expense; or prune to eliminate encroachment on sidewalks and streets.
- (4) **Removing Stumps.** Any tree that shall be removed from any of the public streets or places within the Town, shall be removed below the surface of the ground so that the top of the stump shall not project above the level of the ground, unless permission to leave a projecting stump is granted by the Parks and Recreation Director, or designee.
- (5) **Abuse or Mutilation.** It shall be unlawful to injure Street Trees.
- (6) **Approval Required.** Any person, firm, partnership, corporation or organization of any kind, must obtain approval from the Parks and Recreation Director, or designee prior to removing any tree found upon any public street or on any Town-owned property within the Town. The Parks and Recreation Director, or designee, shall determine whether or not such tree must be retained, in order to preserve the intent and purpose of the Street Tree Plan. In making this determination the Parks and Recreation Director, or designee, shall consider the inconvenience or hardship which retention of the tree would cause the property owner, and consider also the condition, age, desirability of tree species and location. If the Parks and Recreation Director, or designee, finds that the tree may be removed without violating the Street Tree Plan, he may schedule the removal by Town personnel or by the property owner and in accordance with the Street Tree Manual.
- (7) **Considerations on Removing or Replacing a Street Tree.** In determining whether a tree may be removed and replaced, the Parks and Recreation Director, or designee, shall consider, among other things, the following:
 - (a) Whether the tree(s) pose a potential for safety problems despite a sound maintenance program;
 - (b) Whether the roots from adjacent park strip trees are interfering with wastewater lines or systems servicing the abutting property to the extent that the property owner requires frequent repair of said wastewater lines or systems;
 - (c) Whether the tree is dead, dying or incurably diseased;

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- (d) Whether the tree is diseased and weakened by age, storm, fire or other injuries so as to pose a danger to persons, property, improvements or other trees;
 - (e) Whether the tree(s) is of an undesirable species;
 - (f) Whether the tree poses a hardship to the adjacent property owner such as, but not limited to, the cracking or raising of a garage floor or, in the case of a handicapped person, special circumstances exist which cause the location of the tree to become a hindrance for vehicle and handicapped access;
 - (g) Whether removal is necessary for construction of a street widening or other public improvement project, or necessary street or public improvement repair work.
- (8) **Exceptions.** Street Trees or other plantings which are required to be planted by a Responsible Developer, Town Crews or Town Contractor may be planted without approval, provided however, that such trees and plantings shall conform to such plans and specifications and shall be planted according to the Street Tree Manual.

106: OTHER PLANTINGS

- (1) **Considerations for Other Plantings.** The property owner is encouraged to plant in planting strips and easements various plantings such as lawn, ivy, various perennials or annuals, or shrubs not to exceed two feet (2') in height and which will not interfere with the functioning of any curb, gutter, sidewalk, water meter, fire hydrant, or other public facility, and will not interfere with or impair the growth of any approved street tree, and will not constitute a public nuisance.

107: STREET TREES IN NEW DEVELOPMENT

- (1) **Responsible Developers.** Where right-of-way park strip improvements require trees in accordance with an approved Development Plan/Agreement, the Responsible Developer shall install all Street Trees in accordance with approved development plans and shall bond with the Town for the street tree improvements. The bond will be sufficient to cover installation, maintenance and warranty of the trees for one year after planting.
- (2) **Street Tree Manual.** All Street Trees will be planted in accordance with the Street Tree Manual. Street Tree Plantings will be inspected by the Parks and Recreation Director, or designee.
- (3) **Planting Street Trees.** Street Trees will not be planted in planter strips in front of a home until development of the home along any street in a new development is at least eighty percent (80%) complete and the home is occupied.
- (4) **Watering Street Trees.** It will be the responsibility of the Responsible Developer to water and maintain Street Trees for the first year after planting. After that time, the property owner, or their agent, will be responsible.

108: STREET TREES IN PREVIOUSLY DEVELOPED AREAS

- (1) **Planting.** Planting of Street Trees in previously developed areas will be approved and supervised by the Parks and Recreation Director, or designee. Trees planted in these areas will be of suggested species where possible. Private Citizens may only plant Street Trees in these areas with the approval of the Parks and Recreation Director, or designee. Unapproved plantings may be removed by the Town at the owner's expense.
- (2) **Restrictions.** Planting of Street Trees in previously developed areas will generally occur according to the Suggested Tree Selection Lists found in the Street Tree Manual. Areas with planter strips too narrow may not receive new Street Trees, even if existing trees are removed.

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109: CARE AND MAINTENANCE OF PRIVATE TREES AFFECTING PUBLIC PROPERTY

- (1) At a minimum, adjacent property owners will be required to maintain their park strips by watering Street Trees and removing fallen leaves and branches from the adjacent gutter.
- (2) The Town may remove, or suggest to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its presence is injurious to wastewater systems, electrical power lines, natural gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest.
- (3) The Town shall have the authority to condemn and remove, or order to be removed any tree, tree stump, shrub, or plant upon private property when the Parks and Recreation Director, or designee, shall find such action necessary for public safety or to prevent the spread of disease or insects to public trees. Where no apparent emergency exists, the Parks and Recreation Director, or designee, shall give at least fifteen (15) days notice of the Town's intent to remove any Street Tree, to adjacent property owners.

110: APPEALS.

The decision of the Parks and Recreation Director, or designee, may be appealed by any person. The appeal shall be in writing, signed by the applicant with a statement of reasons supporting the appeal. The appeal shall be filed with the Parks and Recreation Board, or designee no later than the fifteenth (15th) calendar day following the decision of the Parks and Recreation Director, or designee. The Parks and Recreation Board, or designee, shall hear the appeal and render an opinion within forty-five (45) days after the appeal is filed.

Any person objecting to the decision rendered by the Parks and Recreation Board, or designee, may appeal to the Council, in writing, within thirty (30) days after the date of mailing of the decision to the applicant.

ORDINANCE NUMBER 2013-03 PASSED AND WAS ADOPTED BY THE TOWN COUNCIL OF LEEDS, WASHINGTON COUNTY, STATE OF UTAH, ON THIS ____ DAY OF _____ 2013, AND BECOMES EFFECTIVE ON _____ DAY OF _____ 2013.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: ANGELA ROHR	_____	_____	_____	_____
COUNCILMAN: FRANK LOJKO	_____	_____	_____	_____
COUNCILMAN: WAYNE PETERSON	_____	_____	_____	_____
COUNCILMAN: JOE ALLEN	_____	_____	_____	_____
COUNCILMAN: NATE BLAKE	_____	_____	_____	_____

Angela Rohr, Mayor
TOWN OF LEEDS

ATTEST:

Kristi Barker, Deputy Clerk/Recorder

Exhibit A

Title: Foliage and Tree Maintenance Ordinance

Section 1: Purpose and Intent

The purpose of this ordinance is to ensure the safety and accessibility of public streets and sidewalks within the town by regulating the maintenance of foliage and trees that encroach upon them. This ordinance aims to promote a safe and pleasant environment for pedestrians and motorists.

Section 2: Definitions

- A. "Foliage" refers to any plants, shrubs, or vines.
- B. "Tree" refers to any woody perennial plant having a single main stem or trunk.
- C. "Street" refers to any public road, avenue, lane, or thoroughfare.
- D. "Sidewalk" refers to any paved or designated pedestrian walkway.

Section 3: Responsibilities of Property Owners

- A. Property owners shall maintain any foliage or trees located on their property in such a manner that they do not obstruct or encroach upon public streets and sidewalks.
- B. Maintenance includes regular trimming, pruning, and removal of any vegetation that obstructs streets or sidewalks.
- C. Property owners shall be responsible for the cost of maintaining foliage and trees on their property to comply with this ordinance.

Section 4: Prohibited Actions

- A. It is prohibited to allow foliage or tree branches to extend over streets or sidewalks in a manner that obstructs the normal flow of pedestrian or vehicular traffic.
- B. It is prohibited to allow dead or diseased trees or branches that pose a hazard to the public to remain on the property.

Section 5: Maintenance Standards

- A. Foliage and trees shall be trimmed and pruned to maintain a minimum clearance height of 8-feet over sidewalks and 16 feet over streets.
- B. Property owners shall ensure that trimmed foliage and tree branches are properly disposed of in accordance with local regulations.

Section 6: Enforcement

- A. The Town Ordinance Officer shall have the authority to inspect properties for compliance with this ordinance.
- B. Property owners found in violation of this ordinance shall receive a written notice of violation, specifying the required corrective actions and a reasonable timeframe for compliance.
- C. Failure to comply with the notice of violation may result in fines and penalties as determined by local law.

Section 7: Appeals

Property owners may appeal a notice of violation to the Town Hall within 10 - days of receiving the notice.

Section 8: Severability

If any section or provision of this ordinance is found to be invalid or unenforceable, the remaining sections and provisions shall remain in full force and effect.

Section 9: Effective Date

This ordinance shall take effect on:

_____, 2023

Adopted by the _____ day of _____ 2023.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: Bill HOSTER				
COUNCILMEMBER: DANIELLE STIRLING	_____	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	_____	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	_____
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	_____

Bill Hoster, Mayor

ATTEST:

Aseneth Steed, Clerk/Recorder