

RULES AND REGULATIONS RELATIVE TO
PLANTING AND MAINTENANCE OF STREET TREES

DEPARTMENT OF PARKS AND RECREATION
CITY AND COUNTY OF HONOLULU

Pursuant to and by virtue of the authority set forth in Ordinance 3738 adopted June 2, 1971, the Director of Parks and Recreation of the City and County of Honolulu, subject to the approval of the Mayor of the City and County of Honolulu, hereby adopts these rules to read as follows:

DEFINITIONS

The following words or terms shall have the following meanings, unless the context clearly indicates otherwise:

- a. "Department" - Department of Parks and Recreation of the City and County of Honolulu.
- b. "Director" - Director of Parks and Recreation.
- c. "Tree" - Any plant that has a single trunk and will eventually attain a height of at least 15 feet.
- d. "Street" - The entire area between the adjoining property lines of a road, highway or way publicly owned and maintained and used for the public purpose of vehicular or pedestrian travel; or any private street, highway or way which for more than five years has been continuously used by the general public.
- e. "Planting Strip" - That portion between the curb line or pavement of a street and the adjacent property line intended for the use of pedestrians, including any setback area acquired by the City for road widening purposes. The term also includes any street under the control and jurisdiction of the City intended primarily for the use of pedestrians.
- f. "Maintenance" - Amelioration of the ground, fertilizing, mulching, staking, spraying, trimming, removing and pruning.
- g. "Street Tree" - Any tree planted within the entire area between the adjoining property lines of a road, highway or way publicly owned and maintained and used for the public purpose of vehicular or pedestrian travel; or any private street, highway or way which for more than five years has been continuously used by the general public.
- h. "Street Tree Planting Plan" - A plan for the planting of trees along public streets in general or specific areas abutting city planting strips which is prepared and maintained by the Department.

- i. "Street Tree Planting Standards" - Design standards for the planting or maintenance of street trees."
- j. "Official Street Tree List" - List of trees approved for planting as street trees prepared and maintained by the Department.
- k. "Excavation Permit" - Permit issued by the Department of Public Works, City and County of Honolulu, for digging or otherwise excavating within the public right-of-way.
- 1. "Street Tree Planting Permit" - A permit issued by the Director upon finding that the proposed plantings conform with the Street Tree Planting Plan, Street Tree Planting Standards, Official Street Tree List, and Excavation Permit Requirements.

PLANTING AND MAINTENANCE

- 1. The Director shall be responsible for the enforcement of provisions regulating the planting and maintenance of street trees and shall issue all permits required hereunder to replace, remove, plant, spray, trim, and prune street tree.
- 2. The Director may trim obstructing or hazardous portions of any tree standing on private property which overhangs or projects into a street.
- 3. The Department shall perform all general maintenance of street trees; however, the abutting property owner shall be responsible for watering and weeding area around trees.
- 4. It shall be unlawful for any person to prune, spray or remove trees growing in the planting strip, without first obtaining a permit from the Director; provided however, that in emergencies, the Traffic Engineer and the Chief Engineer of the City and County of Honolulu may, at their discretion, remove trees.
- 5. It shall be unlawful for any person to plant trees in the planting strip without first obtaining a Street Tree Planting Permit from the Director. Where an excavation permit is required by the Department of Public Works prior to the planting of a tree, the applicant shall obtain said permit prior to his application to the Department for a Street Tree Planting permit.
- 6. It shall be unlawful for any person to injure or destroy street trees in any manner or by any means, including but not limited to:
 - a. Constructing a concrete asphalt, brick or gravel sidewalk or otherwise filling in the ground area around any tree so as to shut off the air or water from the roots.
 - b. Piling building materials, equipment or other substance around any tree so as to cause injury.

c. Pouring any deleterious or poisonous matter on or around any tree, or on the ground, sidewalk or lawn.

d. Posting any sign, advertisement or notice on any tree, tree stakes or guard or fastening any guy wire, cable or rope to any tree, tree stake or guard; provided, however, that under supervision of the Director, warning, traffic and official notices may be temporarily installed or placed on tree trunks.

e. Damaging any tree, tree stake or guard with a vehicle or animal, or in any other manner causing injury to any tree.

7. Transplanting or removal of trees necessitated by widening or relocation of driveway or by any other construction by the owner of abutting property shall be done at the expense of the owner of abutting property after said owner has obtained a permit therefor from the Director. Wherever the owner removes a tree which for any reason cannot be transplanted, he shall replace said tree with a new tree where the Director determines that the planting of said new tree is feasible. The Director may require a deposit or a performance bond in such amount as will guarantee the satisfactory completion of said transplanting or removal and may require the permittee or his contractor to procure an insurance policy for property damage and public liability naming the City and County of Honolulu as an insured party with limits of coverage in such amount as will reasonably protect the City from any liability consequent upon said transplanting or removal.

PENALTY

Any person violating any provision of these Rules shall upon conviction be punished by a fine not exceeding \$500 or by imprisonment not exceeding six months, or by both.

REVOCATION OF PERMITS ISSUED PURSUANT TO "PLANTING AND MAINTENANCE- RULES 4, 5 AND 7

1. Notice of Hearing

Where the Director has determined that a permit which he has issued, pursuant to Rule 4, 5 or 7 of "Planting and Maintenance" hereof, should be revoked, the Director shall speedily place the matter on the agenda of the Department for a hearing to be held forthwith and in conformity with Section 91-9, HRS 1968, notify the appellant of his opportunity to be heard. Such notice shall be sent not less than five (5) calendar days before the date of the scheduled hearing.

2. Application

Where a person has received a Notice of Hearing from the Director in the matter of a proposed revocation of a permit, the permittee: shall submit a petition to the Department of Parks and Recreation setting forth:

- a. His name, mailing address and telephone number.
- b. Identification of the permit and his interest therein.
- c. The particular pertinent provision of the Revised Ordinances of Honolulu or of the rules and regulations of the Department of Parks and Recreation.
- d. All pertinent facts.
- e. The proposed action of the Director.
- f. His reasons for objecting to the proposed revocation, including a statement as to why the appellant believes that the Director's proposed action is based on an erroneous finding of a material fact, or that the Director's proposed action is arbitrary or capricious or a manifest abuse-of his discretion.

3. Hearing

At such hearing, the Department shall afford the appellant and-all other interested persons an opportunity to be heard. Such hearing shall be conducted in conformity with the applicable provisions of Sections 91-9, 91-10, 91-11, of HRS 1968.

4. Consultation by Department Members Prohibited

No member of the Department shall consult any person on any issue of fact, except upon notice and opportunity for all parties to participate.

5. Decision and Order

The applicant's petition shall be sustained only if the Department finds that the Director's action was based on an erroneous finding of a material-fact, or that the Director had acted in an arbitrary or capricious manner or had manifestly abused his discretion. If the Department so finds, it shall issue an order granting the petition, stating its reasons therefor. The Director shall Promptly notify the appellant thereof. If the Department finds otherwise, it shall issue an order denying the petition. Such order shall be accompanied by separate findings of fact and conclusions of law pursuant to Section 91-12, HRS 1968. A certified copy thereof shall be sent immediately to the appellant pursuant to said Section 91-12, HRS 1968.

ADOPTED THIS 23rd DAY OF June, 1971, IN HONOLULU, HAWAII.

/s/ Young Suk Ko
Young Suk Ko
Director of Parks and Recreation
City and County of Honolulu

Approved this 23rd day of
June, 1971

/s/ Richard K. Sharpless
Acting Mayor
City and County of Honolulu

APPROVED AS TO FORM:

/s/ P.Hood
Deputy Corporation Counsel

Received this 23rd day of
June, 1971.

/s/ Eileen K. Lota
City Clerk

CERTIFICATION

I, YOUNG SUK KO, Director of Parks and Recreation, City and County of Honolulu, do hereby certify:

1. That the foregoing is a full, true and correct copy of the Rules and Regulations of the Director of Parks and Recreation relating to the planting and maintenance of street trees.
2. That a public hearing was held on the foregoing on June 9, 1971, and that notice of public hearing, including a statement of the substance of the proposed Rules and Regulations, was published in the Advertiser on May 20, 1971 and June 4, 1971.

/s/ Young Suk Ko
YOUNG SUK KO
Director of Parks and Recreation
City and County of Honolulu