

Policy on Boundary Trees in City of Durham, NC

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I. Introduction

Maintaining trees that bisect both public and private property in urban settings can be problematic because these “boundary trees,” by typical definition, are owned by more than one party. When one of the parties is a government agency, such as the City of Durham, a greater liability can be placed on that agency. When communities lack a clear or adequate policy on boundary trees, the shortcoming can place a community in a vulnerable position if litigation were ever to occur.

II. Background

A community potentially bears a much greater culpability than an adjacent property owner for any incident involving a boundary tree. There are three main reasons for this expectation.

- (1) Partial ownership, regardless of amount of ownership, will draw a municipality into litigation.
- (2) A municipality is generally held to a higher standard of care than a private resident.
- (3) The larger insurance policies held by communities make the municipality a more susceptible target for litigation.

For these reasons it is proposed that Durham adopt an aggressive policy on boundary trees.

There are three issues addressed in this policy for boundary trees: (1) defining what constitutes a boundary tree, (2) defining responsibility for a boundary tree, and (3) defining the level of care to be given to these trees.

III. What constitutes Boundary Tree?

For the purpose of this policy, a boundary tree is one which is shared by more than one property owner, one being the City of Durham.

To be specific and definitive, to be considered a boundary tree in the City of Durham, the trunk column of the tree must intersect the property line as delineated at DBH (4' – 6" above grade). By comparison, the asymmetrical form of the root collar or tree crown can result in some confusion between staff and residents as to what would be considered their responsibility.

IV. City Responsibility for Boundary Trees

To eliminate the ambiguity of ownership and responsibility surrounding boundary trees in Durham it is proposed that the City of Durham takes complete maintenance responsibility for all trees whose trunk, at DBH, encroaches on the public ROW.

V. Maintenance Policy on Boundary Trees

Once responsibility for defined boundary trees becomes a matter of policy in the City of Durham, it follows that all maintenance activities conducted on fully public-owned trees (e.g. pruning, monitoring, and removals) will be extended to these boundary trees.

VI. Protocol for Discovery, Notification and Documentation of Boundary Trees

Boundary trees will be discovered through the course of our service request inspections and verified by Survey. Once verified, the tree's co-owner will be given the choice to accept full responsibility for the tree or allow the City to

assume sole ownership. Forms will be prepared that will document this decision, to be periodically updated in the event that ownership of the tract or parcel changes hands while the tree is still present in the landscape.

When work is scheduled on a boundary tree, notification will be provided to the co-owner in the same manner as is done with city trees adjacent to residences or businesses, through door-hanger, site visit, or post.

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ATTACHMENT 1 - DEFINITIONS FOR MUNICIPAL CODE OR ARBORICULTURAL STANDARDS MANUAL

BOUNDARY TREE: A tree that has any portion of its *trunk column*, as delineated at DBH (4' – 6" above grade, located on a property line between private property and public property. Diagram 1, below, shows in blue, the area in which the property line must fall to be considered a boundary tree.

PRIVATE TREE: A tree that has its trunk column located entirely on private property, along with any Boundary Tree that becomes a Private Tree by agreement of the Municipality and private property owner.

PUBLIC TREE: A tree that has its trunk column located entirely on public property, along with any Boundary Tree that becomes, or remains, a Public Tree pursuant to Sections _____ of the Municipal Code.

ROOT COLLAR: The part of a tree or shrub, usually at or near ground level, where the roots and Trunk Column meet. The beginning of the Root Collar is usually identifiable as a marked swelling at the base of the Trunk Column. The Root Collar may also be referred as the "root flare."

TRUNK COLUMN: An imaginary column that includes, and is the same diameter as, the trunk of a tree at diameter breast height (DBH)--a point 4.5 feet from the ground.

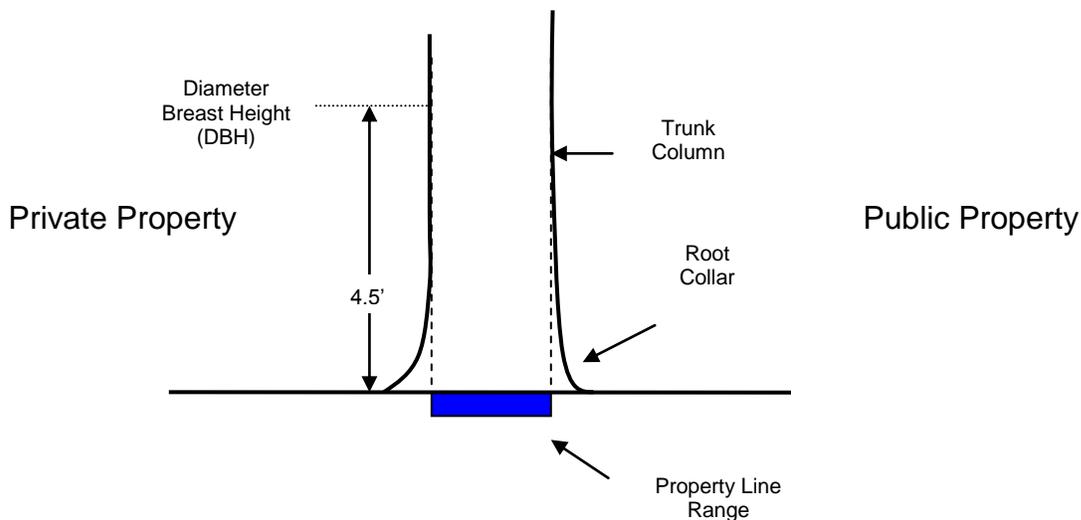


Diagram 1 – Boundary Tree