

City of Garden City – Tree Ordinance (2009)

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CHAPTER 95: TREES

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§ 95.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEPARTMENT. The Department of Public Services of the city.

DIRECTOR. The Director of Public Services or his authorized designee.

PARK. All public parks, and all areas owned by the city, or to which the public has free access as a park.

PROHIBITED SPECIES. Any tree of the species of poplar (*Populus Sp.*), willow (*Salix Sp.*), and box elder (*Acer Negundo*).

PUBLIC UTILITY. Any person or company owning or operating any pole, line, pipe, or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service, or telegraph service.

STREET. All of the land lying between property lines on either side of all streets, highways, and boulevards of the city.

TREE. Trees, shrubs, bushes, and all other woody vegetation.

('83 Code, § 95.01)

§ 95.02 APPLICATION.

The provisions of this chapter, except as otherwise specifically stated herein, shall apply only to public streets, parkways, parks, and other land publicly owned or controlled by the city.

('83 Code, § 95.01)

§ 95.03 ENFORCEMENT.

The Director of Public Services shall be charged with the duty of enforcing the provisions of this chapter.

('83 Code, § 95.02)

§ 95.04 TREE PLANTING REGULATIONS; CARE AND REMOVAL.

(A) The Director shall have control over all **trees** located within the street rights-of-way and parks in the city, and the planting, care, and removal thereof, subject to the regulations contained in this chapter. The owner of land abutting on any street may, upon obtaining prior written permission of the Director, prune, spray, plant, or remove **trees** in that part of the street abutting his land not used for public travel, but no person shall otherwise prune, spray, plant, or remove any tree in any street or park. Every permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of abutting property requests the removal of a tree, the Director is authorized, in his discretion, to require as a condition to granting of approval for the removal of a tree, that the property owner make the removal in accordance with regulations established by the Department, assume all or any part of the costs of removing the tree, and replace the tree at some other nearby location by planting another tree, not necessarily of the same type. ('83 Code, § 95.03)

(B) (1) No tree of any prohibited species shall be planted in any street or park, nor shall any such tree be planted on any private property within 50 feet of any street or sidewalk right-of-way or any sewer or sewer extension. Shade **trees** planted in any street right-of-way shall be spaced not less than 40 feet apart, except that **trees** may be planted less than 40 feet from an existing tree in the right-of-way, providing the existing tree has been approved for removal within a period of two years from the date of planting of the new tree. The owner of a single lot may, in order to provide a shade or ornamental tree in front of his lot, secure special permission from the Department to have a tree planted closer than 40 feet from an existing tree, but in no case shall the planting be within 30 feet of any existing tree, within the right-of-way.

(2) No tree shall be planted in any planting strip between the street proper and the sidewalk where the distance between the back of the curb and the sidewalk is less than three feet in width. No tree shall be planted nearer to the intersection of any streets than 25 feet from the corner of the intersection.

('83 Code, § 98.06)

(C) No person shall break, injure, mutilate, kill, or destroy any tree or shrub, or set any fire, or permit any fire or the heat thereof to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No electric wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor, and no material shall be fastened to or hung on any tree. All persons having under their care, custody, or control facilities which may interfere with the trimming or removal of any tree shall, after notice thereof by the Department, promptly abate the interference in such manner as shall permit the trimming or removal of the tree by the Department. ('83 Code, § 95.07)

(D) All dead **trees** and **trees** afflicted with any fatal or communicable disease shall be removed by the Department. The Department is authorized to remove any tree of a prohibited species. ('83 Code, § 95.04)

(E) The Department is authorized to remove any tree growing within any street, park, or public place, when the tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic-control devices, or construction within street rights-of-way. ('83 Code, § 95.05)

Penalty, see [§ 10.99](#)

§ 95.05 EXCAVATIONS NEAR **TREES**.

(A) Excavations and driveways shall not be placed within six feet of any tree without written permit from the Director. Any person making an excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the department, and all building material or other debris shall be kept at least four feet from any tree. All persons desiring to make an excavation or construction shall deposit with the city a sum sufficient to cover the cost of inspection and any damage which may result therefrom, provided that the charge shall not be less than \$2 in any case. ('83 Code, § 95.08)

(B) No person shall place within the street right-of-way any stone, brick, sand, concrete, or other material which will in any way impede the full and free passage of water, air, or fertilizer to the roots of any tree, except a sidewalk of authorized width and location. ('83 Code, § 95.09)

Penalty, see [§ 10.99](#)

§ 95.06 DAMAGE FROM GAS MAIN LEAKAGE; REPAIR.

Gas pipes or mains within any public rights-of-way or on property shall be so maintained as to avoid any leakage therefrom. In the event a leak exists or occurs, it shall be reported to the owner of the pipe and main, and the leak shall be repaired within 24 hours. Any damage to **trees**, shrubbery, or grass resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and the replacement of any **trees**, shall be levied against the owner of the pipe or main causing the damage.

('83 Code, § 95.10) Penalty, see [§ 10.99](#)

§ 95.07 TREES ON PRIVATE PROPERTY.

(A) Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim the branches so that they shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of eight feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased, or dangerous **trees**, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility on any traffic-control device or sign, the trimming to be confined to the area immediately above the right-of-way. **Trees** may be planted and maintained in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface. ('83 Code, § 95.11)

(B) When the Director shall discover that any tree growing on private property within the city is afflicted with any dangerous and infectious insect infestation or tree disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, describing the tree, its location, and the nature of the infestation or tree disease, and ordering the owner, agent, and occupant to take any measures as may be reasonably necessary to cure the infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. The order may require the pruning, spraying, or destruction of **trees** as may be reasonably necessary. Every notice shall be complied with, within ten days after service thereof, upon the owner, agent, or occupant of the property on which the afflicted tree is located, or within any additional time as may be stipulated in the notice. ('83 Code, § 95.12)

(C) In case the owner, agent, and occupant of the property refuse to carry out the order of the Director within the time limit, or in case of an appeal, within five days after the Council shall have affirmed the order, the Director shall carry out the pruning, spraying or destruction of the **trees** as deemed necessary by him, and shall bill the owner, agent or occupant of the property for the cost thereof. In case the owner of the property shall fail to pay the bill within 30 days after it has been rendered, the Director shall report it to the City Council for collection as a single lot assessment against the property in accordance with the Charter. The Director may, without serving the above notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause **trees** growing on private property to be sprayed when he deems the same necessary on account of any infestation or disease or threat thereof. ('83 Code, § 95.15)

(D) The Director and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any **trees**, shrubs, plants, or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub, plant, or fruit, or injury to the same, if done by the Director or under his direction, in accordance with this chapter. ('83 Code, § 95.16)

(E) On residential streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb, and may plant flowers, **trees**, and shrubbery therein in conformity with this chapter. No person shall wilfully injure or destroy any grass, flower, tree, or shrub upon any planting strip, or throw any papers, refuse,

or other debris thereon. No person shall drive an automobile, bicycle, or other vehicle upon or over any planting strip. ('83 Code, § 95.17)

(Ord. 78-009, passed 4-3-78) Penalty, see [§ 10.99](#)

§ 95.08 TREATMENT OF DUTCH ELM DISEASE.

Every elm tree, regardless of species or variety, infected with the fungus *Ceratostomella ulmi*, popularly called Dutch Elm disease, shall be cut and burned; if on public property, within 30 days after the Director shall learn of the condition; if on private property, within ten days after notice as specified in [§ 95.07\(B\)](#). No person shall possess, sell, give away, or transport any elm tree afflicted with the fungus *Ceratostomella ulmi*, nor any wood from, or parts of, any afflicted tree, branches, and roots of any tree so afflicted may be transported to a place for burning in a manner approved by the Director.

('83 Code, § 95.13) Penalty, see [§ 10.99](#)

§ 95.09 TRIMMING NEAR UTILITY POLES; PERMITS.

The Director shall annually issue permits granting permission to public utilities to trim and keep trimmed all [trees](#) within the streets, alleys, parks, and public places of the city in such a manner as shall keep the overhead lines of the public utilities safe and accessible. Trimming shall be done in accordance with approved practices and under the general direction of the Director of the Department. A permit, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. However, in the event of an emergency requiring immediate maintenance work on the overhead lines of the public utilities, prior notice of commencing work under a permit shall not be required. **EMERGENCY** as used in this section shall mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.

('83 Code, § 95.18) Penalty, see [§ 10.99](#)

§ 95.10 ADDITIONAL RULES AND REGULATIONS.

The Director, subject to the approval of the City Council, shall make rules and regulations supplementary to this chapter and not in conflict herewith, as he may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this code shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.

('83 Code, § 95.19) Penalty, see [§ 10.99](#)

§ 95.11 APPEAL.

In case the owner, agent, or occupant of the property shall feel himself aggrieved at an order of the Director requiring the treatment or destruction of any tree, he may within 48 hours make an appeal to the City Council by communication filed with the City Clerk. The Council shall hear the appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.

('83 Code, § 95.14)