

Chapter 22 - TREES AND SHRUBS ^[57]

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Sec. 22-1. - Short title.

This chapter may be known and cited as the "Tree and Shrub Ordinance."

(Ord. of 9-24-56, § 1)

Sec. 22-2. - Definition.

The word "highway," as used in this chapter, shall include all the land lying between the property lines on either side of all public streets, avenues and alleys.

(Ord. of 9-24-56, § 2)

Sec. 22-3. - Director of public works—General control and supervision.

Subject to the authority of the city council, the director of public works shall have control and supervision of all trees, plants and shrubs, planted or growing in or upon the public highways and public places of the city, and the planting, removal, care, maintenance and protection thereof.

(Ord. of 9-24-56, § 3)

Sec. 22-4. - Same—Authority to plant, etc., on public property.

The director of public works shall be authorized to plant, trim, spray, preserve and remove trees, shrubs and plants in or upon any public highway, park or other public place in the city as may be necessary to ensure safety, protect public improvements and promote and preserve the symmetry and beauty of such public places.

(Ord. of 9-24-56, § 7)

Sec. 22-5. - Power of director of public works and city employees to enter private property to inspect, etc.

The director of public works and city employees under his direction shall have power to enter upon any private grounds in the city to inspect, spray, or otherwise treat or cause to be sprayed or treated, any tree or shrub infested or infested by any plant disease, fungus, parasite, insect or animal pest when it shall be necessary to do so in order to prevent the spread of such disease, fungus or pest. Whenever the trimming or removal of any such tree or shrub located on private property shall be necessary in order to preserve surrounding trees or other property, then the director of public works shall have the power to take such action.

(Ord. of 9-24-56, § 8)

Sec. 22-6. - Interfering, etc., with director of public works or city employees prohibited.

It shall constitute a municipal civil infraction for any person to prevent, delay or interfere with, or to cause or authorize or procure any delay or interference with the director of public works, or with any city employee working under his or her direction, while the director or employee is engaging in the planting, cultivating, pruning, spraying or removal of any trees or shrubs in or upon any public highway or public place or upon any private ground as authorized in this chapter.

(Ord. of 9-24-56, § 11; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-7. - Injuring trees, etc. prohibited.

It shall constitute a municipal civil infraction for any person, without the written permission of the director of public works, to remove, destroy, break, cut down, deface or in any way injure or interfere with any tree, shrub or plant in, on or upon any highway, park or public place within the city; provided, however, that nothing in this section shall be construed so as to apply to the trimming of trees or shrubs as required in this chapter.

(Ord. of 9-4-56, § 4; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-8. - Attaching ropes, etc. prohibited.

It shall constitute a municipal civil infraction for any person to attach or keep attached to any tree or shrub in or upon any public highway or public place within the city, or to the guard or stake intended for the protection of such tree or shrub, any rope, wire, chain, sign or other device whatsoever.

(Ord. of 9-4-56, § 4; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-9. - Excavations; driveways; permission required.

Excavations shall not be undertaken and driveways shall not be placed within six (6) feet of any tree located in any public highway or public place within the city without the prior written permission from the director of public works. Any person making or causing such excavation or construction shall guard every tree within six (6) feet thereof with a substantial frame box, and all building materials and debris shall be kept at least four (4) feet from any such tree. Violation of any provision of this section shall constitute a municipal civil infraction.

(Ord. of 9-4-56, § 4; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-10. - Allowing injurious substances to come into contact with soil surrounding roots prohibited.

It shall constitute a municipal civil infraction for any person owning, using or having control or charge of gas, gasoline, fuel oil or any other substance injurious to tree life, to allow any such substance to come into contact with the soil surrounding the roots of any tree, shrub or plant located in any public highway or public place within the city so as to destroy or injure such tree, shrub or plant, or the roots thereof, by dripping or seepage, or by any other manner whatsoever.

(Ord. of 9-4-56, § 4; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-11. - Interference with free passage of water, etc., to roots prohibited.

It shall constitute a municipal civil infraction for any person to place near or adjacent to any tree located in any public highway or public place within the city, any stone, cement, brick, sand or other material which would in any way interfere with the free passage of water, air or fertilizer to the roots of such tree.

(Ord. of 9-4-56, § 4; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-12. - Duty of owners to trim trees and shrubs overhanging streets.

Every owner of a tree or shrub overhanging a street or highway within the city shall trim and cut back such tree or shrub so that the foliage thereof shall not obstruct the light from any street lamp, obstruct the view of

any street intersection, or interfere with the visibility of any traffic-control device or sign, and so that there shall be a clear space of twelve (12) feet above the surface of the street or highway. Violation of any provision of this section shall constitute a municipal civil infraction.

(Ord. of 9-4-56, § 5; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-13. - Duty of owners to remove dead trees, etc.

Every owner shall, promptly upon their discovery, remove dead, diseased or dangerous trees, or broken or decayed limbs, and the failure to do so shall constitute a municipal civil infraction.

(Ord. of 9-4-56, § 5; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-14. - Permit to plant required.

It shall constitute a municipal civil infraction for any person to plant or set out any tree or shrub or to cause or authorize or procure any person to plant or set out any tree or shrub in or upon any part of any public highway or public place without first obtaining from the director of public works a written permit to do so, and complying in all respects with the conditions set forth in such written permit and with the provisions of this chapter.

(Ord. of 9-4-56, § 5; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-15. - Planting trees and shrubs having extensive root systems prohibited; liability for damages; penalties.

- (a) It shall constitute a municipal civil infraction for any person to plant a poplar, elm, box elder, basswood, soft maple, black walnut, willow or other tree or shrub having an extensive root system in any location where the roots are likely to penetrate through or under any public sidewalk or highway or under or through any city easement for water or sewer lines.
- (b) Should the roots of any tree or shrub disturb any city water or sewer system, or cause any break or eruption in any sidewalk or highway within the city, then the owner of such tree or shrub shall, in addition to any other penalty provided or permitted by this Code, be liable to the city for the full cost of removing the offending tree or shrub and for the full amount of all costs incurred by the city as the result of such disturbance, breakage or eruption plus an amount equal to ten (10) per cent of such combined amount for administrative overhead. The clerk/treasurer shall bill or cause the billing of all such sums to the owner of the offending tree or shrub.
- (c) All charges billed by the clerk/treasurer pursuant to subsection (b) shall, upon billing, become a lien upon the premises to which they apply. On April 1 of each year, the clerk/treasurer shall certify any and all unpaid charges for such services incurred during the preceding twelve (12) months to the city assessor. The city assessor shall add thereto ten (10) per cent of total charges against each of the several premises so certified to cover the city's additional costs should this procedure be necessary to effect collection, and shall enter the resulting total upon the next tax roll against each of the premises so certified. This lien shall be collected and/or enforced in the same manner as provided in respect to that for any other taxes assessed upon such roll.

(Ord. of 9-4-56, § 5; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-16. - Planting certain trees in right-of-way prohibited.

It shall constitute a municipal civil infraction for any person to plant any tree that will exceed a maximum growth height of forty (40) feet, in any highway or right-of-way where street lighting, traffic signal or public utility overhead wires or equipment are located.

(Ord. of 9-4-56, § 5; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-17. - Notice to owner to trim, etc.; failure to comply; penalties.

- (a) In the event that any violation of any of the provisions of this chapter requires that a tree or shrub be trimmed, cut or removed, then the director of public works or an authorized local official, as defined in [section 13¼-1](#) of this Code, shall notify, in writing, the person responsible for such violation, if known, to cure such violation or cause the same to be cured by trimming, cutting or removing the offending tree or shrub, by the end of the thirtieth day after the date of such notice. Such notice shall be served in any means permitted by [chapter 13¼](#) of this Code for the service of a municipal ordinance violation notice. Such notice may, but shall not be required to, be given by the issuance of a municipal ordinance violation notice or a citation for a municipal civil infraction, as those terms are defined in [chapter 13¼](#) of this Code. The giving of such notice by any other means shall not preclude the additional issuance of a municipal ordinance violation notice or a citation for a municipal civil infraction for such violation.
- (b) If the person served with the notice specified in subsection (a) of this section fails and/or refuses to cure the violation of this chapter by the end of the thirtieth day after the date of service of such notice, he or she shall be deemed liable for a separate and distinct municipal civil infraction and for an additional separate and distinct municipal civil infraction for each day thereafter that he or she continues to fail or refuse to cure the violation, in addition to the procedures and penalties specified in [section 22-18](#) of this chapter. Further, the curing of the original violation of this chapter within the specified thirty-day period shall not operate to relieve any part of liability for the municipal civil infraction resulting from the original violation of this chapter.

(Ord. of 9-4-56, § 5; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-18. - Charges for removal by city.

- (a) If the person served with the notice specified in subsection (a) of [section 22-17](#) fails and/or refuses to cure the violation of this chapter by the end of the thirtieth day after the date of service of such notice, then the director of public works shall be authorized to cure such violation or cause the same to be cured by trimming, cutting, or removing the offending tree(s) or shrub(s), and the owner of such tree or shrub shall, in addition to any other penalty provided or permitted by this Code, be liable to the city for the full cost of effecting such cure plus an amount equal to ten (10) per cent of such cost for administrative overhead. The director of public works shall keep an accurate account of the expenses incurred in carrying out the provisions of this section with respect to each parcel of land entered upon therefor, and shall make a sworn statement of such account and present the same to the clerk/treasurer. The clerk/treasurer shall bill or cause the billing of all such sums to the owner of the offending tree or shrub.
- (b) All charges billed by the clerk/treasurer pursuant to subsection (a) shall, upon billing, become a lien upon the premises to which they apply. On April 1 of each year, the clerk/treasurer shall certify any and all unpaid charges for such services incurred during the preceding twelve (12) months to the city assessor. The city assessor shall add thereto ten (10) per cent of total charges against each of the several premises so certified to cover the city's additional costs should this procedure be necessary to effect collection, and shall enter the resulting total upon the next tax roll against each of the premises so certified. This lien shall be collected and/or enforced in the same manner as provided in respect to that for any other taxes assessed upon such roll.

(Ord. of 9-4-56, § 9; Ord. No. C. O. 95-1, § 29, 1-23-95)

Sec. 22-19. - Permit for public utilities to chemically control and trim; fee.

- (a) Upon the written request of any public utility operating in the city and such utility's payment of the applicable permit fee specified in the official fee schedule adopted by resolution of the city council, the director of public works shall issue an annual permit, and shall annually thereafter renew such permit, granting permission to such public utility to chemically control and trim and keep trimmed all trees and shrubs intruding into the air spaces over, or growing within the confines of, the public highways, rights-of-way or public places of the city in such manner as shall keep the overhead lines and equipment of such public utility safe and accessible, and clear of all tree growth which endangers or may endanger such overhead lines or equipment and the public health and safety. Such chemical control and trimming shall be done in accordance with practices approved by and under the general direction of the director of public works.
- (b) Such permit, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder; provided, however, that in the event of an emergency requiring immediate maintenance work on overhead lines of any such public utility, prior notice of commencing work under such permit shall not be required. The word "emergency" as used in this section shall be defined to mean the occurrence or happening of an event which could not be expected or prevented by the exercise or reasonable care and foresight and which endanger or may endanger the overhead lines of the public utility and the public health and safety.

(Ord. of 9-24-56, § 10; Ord. No. C. O. 94-5, § 29, 5-9-94)

Cross reference— Licenses, Ch. 12.

Sec. 22-20. - Violations; penalties.

The violation of any provisions of this chapter shall constitute a municipal civil infraction. Upon an admission or determination of responsibility for a municipal civil infraction referenced in this chapter, the violator, in addition to any other penalty specified in this chapter, shall be subject to a civil fine and costs in the amounts specified in the Official Municipal Civil Infraction Fines and Costs Schedule adopted by resolution of the city council, which fine and/or costs shall include the sum of all expenses incurred by the city in curing the violation, including, without limitation, replacement of any injured or damaged tree or shrub. Each day that a violation of any provision of this chapter is permitted to exist shall constitute a separate violation or infraction.

(Ord. No. C. O. 95-1, § 30, 1-23-95)

FOOTNOTE(S):

⁽⁵⁷⁾ **Charter reference**— Power of city relative to trees, shrubs and plants, § 2.2(28). [\(Back\)](#)

⁽⁵⁷⁾ **Cross reference**— Yards, § 6-27; garbage, trash and refuse, Ch. 9; health and sanitation, Ch. 10; advertising matter on trees, § 10-2(g); streets and sidewalks, Ch. 18; limbs or foliage of trees or shrubs obstructing sidewalks, § 18-2; water and sewers and sewage disposal, Ch. 24. [\(Back\)](#)