

Chapter 235. TREES

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[HISTORY: Adopted by the City Council of the City of Rockwood as Ch. 1026 of the 1989 Codified Ordinances; amended 7-17-1996 by Ord. No. 346. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Protection of trees in parks — See Ch. 159, § 159-4.

Preparation of tree trimmings for collection — See Ch. 212, § 212-9B(8).

§ 235-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DIRECTOR OF PUBLIC WORKS

Includes his or her duly authorized agents.

HIGHWAY

Includes all land lying between the property lines on either side of public streets, boulevards and alleys.

PARK

Includes all public parks having individual names.

PUBLIC PLACE

Includes all other grounds owned by the City.

TREES AND SHRUBS

Includes all woody vegetation.

§ 235-2. Authority of Director of Public Works; permit required for planting, care and removal.

The Director of Public Works 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 from the Director, prune, spray, plant or remove trees in that part of the street abutting his or her land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which the permit is subject. Where an owner of abutting property requests the removal of a tree, the Director is hereby authorized, in his or her discretion, to require, as a condition to granting approval for such removal, that such property owner make the removal in accordance with regulations established by the Department and assume all or any part of the costs of removing such tree.

§ 235-3. Authority of Department of Public Works; removal of trees.

The Department of Public Works shall have the right to plant, trim, spray or preserve any trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The Director may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition, of a prohibited species or infected with any injurious disease, fungus, insect or other pest. Whenever the Department shall remove any tree, plant or shrub solely for the purpose of constructing any public work, the Director shall, if practicable, replace the same, at public expense, at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

§ 235-4. Spacing.

Future planting of shade and ornamental trees in the streets, parks and public places of the City may be done by the Department upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by Council insofar as such rules and regulations do not conflict with any other provisions of this chapter. No future planting of shade and ornamental trees or shrubs in the highways, parks and public places of the City by owners or anyone employed by them shall be permitted without the approval of the Director. Trees shall be spaced not less than 50 feet apart, except that when any lot is 50 feet or less in width, one tree may be planted per lot. The tree shall be placed at the mid-point between the edge of the curb and the edge of the sidewalk, and a minimum distance of four feet between sidewalk and tree and between tree and curb shall be maintained wherever possible.

§ 235-5. Injury or destruction of trees.

No person shall break, injure, mutilate, kill or destroy any tree or shrub; set any fire within 10 feet of any tree; 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 except by written permit from the Director, and no sign, poster, notice or other material shall be attached or 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 such interference in such manner as shall permit the trimming or removal of such tree by the Department.

§ 235-6. Guarding of trees near excavations and driveways.

Excavations and driveways shall not be placed within five feet of any tree without written permission from the Director. Any person making such 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.

§ 235-7. Obstruction of roots.

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.

§ 235-8. Obstructing streetlights, traffic control devices and signs; trimming.

- A. The owner of any tree on private property overhanging any street or right-of-way within the City shall trim the branches so that such branches 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 sidewalk and any part of the street right-of-way except roadway, and at least 10 feet above any roadway or part of any street intended for vehicular traffic. Such owner shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public.
- B. The City shall have the right to trim any tree or shrub on private property when such tree or shrub interferes with the proper spread of light along the street from a streetlight, or interferes with the visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

§ 235-9. Visibility at corners.

- A. All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of 20 feet each way from the intersection of the right-of-way lines on any corner lot within the City, shall not be permitted to grow to a height of more than 30 inches in height from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property 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.
- B. The owner of any property failing to trim any trees, shrubs or bushes in conformity with this section shall be notified by the Director to do so, and such notice shall require trimming in conformity with this section within 10 days after the date of such notice. Upon the expiration of such period, the Director may cause the trimming to be done and the cost thereof may be collected from the owner of said property as a single-lot assessment in accordance with the City Charter.

§ 235-10. Diseased trees.

- A. Private trees. When the Director of Public Works 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 or she shall forthwith serve a written notice upon the owner or his or her agent, or the occupant of the property, in the manner specified in § **235-12**, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner, agent or occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within 10 days following service thereof upon the owner, agent or occupant of the property on which the afflicted tree is located, or within such additional time as may be stipulated in such notice.
- B. Dutch elm disease. Regulation No. 613 of the State Department of Agriculture declares elm trees and wood infected by Dutch elm disease to be a public menace. Together with other public acts of the state, this regulation provides the framework for municipal control of diseased trees on private and public property.
- C. Nuisance; removal; burning. Trees of all species and varieties of elm, zelkova and planera, affected with the fungus *ceratostomella ulmi*, as determined by laboratory analysis, are hereby declared to be a public nuisance and shall be removed and burned within 10 days following notification of the discovery of such infection. No person, being the owner of property whereon such a tree is situated, shall possess or keep such a tree after the expiration of 10 days following notification of the discovery of such infection.

- D. Removal of dead or dying trees. Trees or parts thereof of elm, zelkova or planera in a dead or dying condition that may serve as a breeding place for the European elm bark beetle, *scolytus multistriatus*, are hereby declared to be public nuisances. No person owning property whereon the same is situated shall possess or keep the same.

§ 235-11. Enforcement by Director of Public Works; inspections.

- A. Enforcement authority. The Director of Public Works is hereby charged with the enforcement of this chapter. To that end, he or she may enter upon private property at all daylight hours for the purpose of inspecting trees thereon and may remove such specimens as are required for the purpose of analysis to determine whether or not the same are infected. No person shall prevent the Director from entering onto private property for the purpose of carrying out his or her duties under this chapter, or interfere with the Director in the lawful performance of his or her duties under this chapter.
- B. Rules and regulations. The Director of Public Works shall make such rules and regulations supplementary to this chapter and not in conflict herewith, as he or she may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the time of adoption of this chapter shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.

§ 235-12. Notice to remove or burn; costs.

- A. Notice requirements. If trees on private property are found to be infected with any of the diseases described in § **235-10**, the Director of Public Works shall give to the owner of the premises whereon such trees are situated written notice of the existence of such disease and shall require the removal and burning of such trees within 10 days following receipt of such notice. Such removal and burning shall be under the direction and supervision of the Director. Such notice shall also state that unless such tree is removed and burned in compliance with this section within such ten-day period, the City will proceed with the removal and burning of such tree and will assess the cost thereof against the property in accordance with the City Charter.
- B. Service of notice. Such notice shall be personally served if the owner of such premises is a resident of the City. If the owner is a nonresident, such notice shall be served by registered mail, addressed to such owner at his or her last known address as shown on the records in the office of the City Assessor, and by publication at least once in a newspaper of general circulation in the City.
- C. Appeals. Where the owner, agent or occupant of the property shall feel himself or herself aggrieved at an order of the Director, he or she may, within 48 hours, make an appeal to Council by a communication filed with the City Clerk. Council shall hear such 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.

D. Private trees; failure of owner to comply with notice. Where the owner, agent or occupant of the property refuses to carry out the order of the Director within the time stipulated, or in case of an appeal, within five days after Council shall have affirmed such order, the Director shall carry out the pruning, spraying or destruction of the trees as deemed necessary by him or her and shall bill the owner, agent or occupant of the property for the cost thereof. Where the owner of such property shall fail to pay such bill within 60 days after the same has been rendered, the Director shall report the same to Council for collection as a single lot assessment against said property in accordance with the City 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 or she deems the same necessary on account of any infestation or disease or threat thereof.

§ 235-13. Removal of trees on public property.

Trees on public lands within the City shall be removed at City expense.

§ 235-14. Vegetation management in, upon or adjacent to utility easements and rights-of-way.

[Amended 4-21-2010 by Ord. No. 458]

A. Scope of section. The provisions of this section shall apply to the removal of trees and other vegetation by public or private utilities, electronic transmission companies and telecommunication companies in, upon or adjacent to utility easements and rights-of-way in the City of Rockwood (Rockwood), including removal for purposes of vegetation management in, under and adjacent to high-voltage electricity transmission facilities, electricity distribution facilities, and other public or private utility facilities.

B. Purpose and intent.

(1) Purpose. It is the purpose of this section to provide for and promote and protect the public health, safety and general welfare of the community, and a safe, wholesome, serviceable and aesthetically attractive municipality, by providing for the regulation of the removal of trees in, upon or adjacent to easements and rights-of-way within Rockwood.

(2) Intent. It is the intent of the City Council of Rockwood that the terms of this section shall be constructed to promote the protection of community residents from personal injury and property damage and the protection of the City of Rockwood from property damage caused or threatened by the improper or incomplete removal of trees or other vegetation located in, upon or adjacent to easements and rights-of-way within the City of Rockwood and to protect the community aesthetics, as a matter of local concern within the City of Rockwood.

C. Removal of trees, other vegetation and stumps in, upon or adjacent to easements and rights-of-way. All public or private utilities, electric transmission companies and telecommunications companies ("actors") engaged in the removal of any tree or other vegetation in, upon or directly adjacent to any utility easement or right-of-way, including without limitation any contractor or employee engaged in said removal in accordance with any vegetation management plan provided for or adopted under any federal or state regulation, shall provide, at the sole expense of the actor, all labor and materials necessary to: a) grind all stumps to no less than six inches below the ground level; b) grade the area impacted by the removal consistent with the immediately surrounding grade; and c) place sod, grass seed, or other satisfactory ground cover visually consistent with the immediately surrounding area and appropriate to the season of the year. In instances where the tree, vegetation or stump has heaved surrounding ground area, said actor shall level the area consistent with the immediately surrounding grade. All debris, including all tree or stump parts, all stump shavings, and all sawdust or wood chips, shall be removed and carted away by and at the expense of said actor. Said actor shall be responsible for avoiding any underground utilities surrounding the location of stumps and roots of trees or other vegetation being removed.

D. Penalty for noncompliance.

(1) Any person who violates the provisions of this section shall be deemed guilty of a civil infraction and, upon conviction, shall be punished in accordance with Article II of Chapter 1 of the Rockwood Code. As provided for under the Rockwood Code, each and every violation of this section is a separate offense, and each and every day that any violation of this section continues is a separate offense.

(2) The penalties provided by this section shall be owing to the City of Rockwood in addition to any damages, costs or attorney fees which may be found owing to the City of Rockwood or any other person in any civil litigation related to any nuisance arising out of a violation of this section.

E. Rules and regulations. The City authorizes the City Administrator, in coordination with the Building Official, to adopt such reasonable rules and regulations as may be necessary to carry out the purpose and intent of this section.

§ 235-15. Interference with enforcement.

No person shall prevent, delay or interfere with the Director of Public Works or his or her assistants in the execution or enforcement of this chapter. Nothing in this chapter shall be construed as an attempt to prohibit a public hearing or any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.

§ 235-16. Collection of costs by City.

The imposition of any penalty for a violation of this chapter shall not be construed as a waiver of the right of the City to collect the costs of removal of a tree in accordance with this chapter and the City Charter where it is necessary for the City to remove such tree in accordance with this chapter.

§ 235-17. Penalty.

- A. A violation of any provision of this chapter shall be a municipal civil infraction, punishable as provided in Chapter 1, General Provisions, Article II.
- B. In addition to the penalty provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter.

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