

City of Brighton – Tree Ordinance 2008

ARTICLE II. TREES

Sec. 94-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the department of public works of the city.

Park means and includes all public parks and all areas owned by the city, or to which the public has free access as a park, or areas designated as parks on recorded plats.

Prohibited species means any tree of the species of poplar (*Populus Sp.*), willow (*Salix Sp.*) and box elder (*Acer Negundo*).

Public utility means any person 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 means all of the land lying between property lines on either side of all streets, highways and boulevards in the city.

Tree, unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.

(Code 1981, § 43.1(1--6))

Cross references: Definitions generally, § 1-2.

Sec. 94-27. Application.

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

(Code 1981, § 43.1(7))

Sec. 94-28. Responsibility for enforcement.

The city manager shall be charged with the duty of enforcing the provisions of this article.

(Code 1981, § 43.2)

Sec. 94-29. Rules and regulations.

The city manager shall make such rules and regulations supplementary to this article and not in conflict therewith, as he may from time to time deem necessary. No person shall fail to obey any rule or regulation effective hereunder.

(Code 1981, § 43.19)

Sec. 94-30. Permits for tree planting, care, removal.

The city manager 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 article. The owner of land abutting on any street may, upon obtaining prior written permission of the city manager, 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 such 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 city manager is authorized, in his discretion, to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance with the regulations established by the department, assume all or any part of the costs of removing such tree, and also to require that the tree removed be replaced at some other nearby location by planting another tree not necessarily of the same type.

(Code 1981, § 43.3)

Sec. 94-31. Removal of dead, diseased, prohibited trees.

All dead trees and trees afflicted with any fatal or communicable disease, shall be removed by the department with the approval of the manager. The city manager is hereby authorized to direct the department to remove any tree of a prohibited species.

(Code 1981, § 43.4)

Sec. 94-32. Removal of other trees.

The city manager is hereby authorized to direct the department to remove any tree growing within any street, park or public place, when such tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic control devices or construction within street rights-of-way.

(Code 1981, § 43.5)

Sec. 94-33. Tree planting regulations.

(a) 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 a 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 city manager to have a tree planted closer than 40 feet from an existing tree, but in no case shall such planting be within 30 feet of any existing tree, within the right-of-way.

(b) 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 such intersection.

(Code 1981, § 43.6)

Sec. 94-34. Tree protection.

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 by the city manager, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department.
(Code 1981, § 43.7)

Sec. 94-35. Excavations near trees.

Excavations and driveways shall not be placed within six feet of any tree without written permit from the city manager, the cost of such permit to be set by resolution of the council. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame to be approved by the department, and all building material or other debris shall be kept at least four feet from any tree.
(Code 1981, § 43.8)

Sec. 94-36. Covering surface near trees.

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.
(Code 1981, § 43.9)

Sec. 94-37. Gas main leakage.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. If a leak exists or occurs, it shall be reported to the owner of such 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.
(Code 1981, § 43.10)

Sec. 94-38. 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, after the manager shall learn of the condition and, if on private property, within ten days after notice. 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 tree so afflicted, except that wood, branches and roots of any trees so afflicted may be transported to a place for burning if first sprayed thoroughly with an appropriate solution in a manner approved by the director of public works.
(Code 1981, § 43.13)

Sec. 94-39. Private trees--Clearance.

(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 such branches shall not obstruct the light from the street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. Such 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 of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

(b) 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 25 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 three feet above the surface of the roadway, 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 in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of 14 feet above the roadway surface.

(Code 1981, § 43.11)

Sec. 94-40. Same--Diseases and infestations.

Trees afflicted with infections, insects and diseases shall be considered a nuisance. 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 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 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 ten days after 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.

(Code 1981, § 43.12)

Sec. 94-41. Same--Owner's failure to comply.

If the owner, agent and occupant of the property refuse to carry out the order of the city manager within the time limited, or in case of an appeal, within five days after the council shall have affirmed such order, the city manager shall carry out the pruning, spraying or destruction of the trees or engage the same to be done, and shall bill the owner, agent or occupant of the property for the cost thereof. If the owner of such property shall fail to pay such bill within 30 days after the same has been rendered, the city manager shall report the same to the city council for collection in accord with section 11.9 of the city Charter. The city manager 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.

(Code 1981, § 43.15)

Sec. 94-42. Same--Inspection.

The city manager 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, or plant or fruit or injury to the same, if done by the city manager or under his direction, in accordance with this article.

(Code 1981, § 43.16)

Sec. 94-43. Appeal.

In case the owner, agent or occupant of the property shall feel himself aggrieved at an order of the city manager 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 city 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.

(Code 1981, § 43.14)

Sec. 94-44. Lawn extensions.

On residence 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 article. No person shall willfully injure or destroy any grass, flower, tree or shrub, upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.

(Code 1981, § 43.17)

Sec. 94-45. Overhead lines.

The city manager 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 such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the director of public works. 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 upon an emergency requiring immediate maintenance work on the overhead lines of such public utilities, prior notice of commencing work under such permit shall not be required. The word "emergency" as used in this section means 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.

(Code 1981, § 43.18)

Secs. 94-46--94-65. Reserved.