

CHAPTER 27 TREE REGULATIONS

3.41. Definitions. The following definitions shall apply in the interpretation of this Chapter:

- (1) The word "street" shall mean all of the land lying between property lines on either side of all streets, highways and boulevards in the City.
- (2) The word "park" shall include all public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- (3) The word "tree", unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.
- (4) The words "public utility" shall mean 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.
- (5) The words "prohibited species" shall mean any tree of the species of poplar (Populus Sp.), willow (Salix Sp.) and box elder (Acer Negundo).
- (6) The word "department" shall mean the Department of Public Works of the City. "Director" shall mean Director of the Department.
- (7) 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.

3.42. Responsibility. The Director shall be charged with the duty of enforcing the provisions of this Chapter under the supervision of the City Manager.

3.43. 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 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 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 Director 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 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.

3.44. Removal of Dead, Diseased and 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.

3.45. 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 thereof by the Department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the Department.

3.46. Removal of Other Trees. Trees may be removed which are not dead or infected with any disease when such trees are of an undesirable (though not prohibited) species, but only upon notice to the owner of the abutting property, and if such owner shall file written objection with the City Clerk within forty-eight (48) hours after service of such notice, a public hearing on such removal shall be had before the City Commission and the abutting owner shall be notified of the time and place of such hearing. (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.)

3.47. Tree Planting Regulations. 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 fifty (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 forty (40) feet apart, except that trees may be planted less than forty (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 (2) 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 forty (40) feet from an existing tree, but in no case shall such planting be within thirty (30) feet of any existing tree, within the right-of-way.

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 (3) feet in width. No tree shall be planted nearer to the intersection of any streets than twenty-five (25) feet from the corner of such intersection.

3.48. Excavations Near Trees. Excavations and driveways shall not be placed within six (6) feet of any tree without written permit from the Director. Any person making such excavation or construction shall guard any tree within six (6) 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 (4) feet from any tree.

Sec. 3.49. 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.

Sec. 3.50. Private Trees—Clearance.

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 any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or right-of-way. Said 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. All shrubs and bushes located on the triangle formed by two (2) center lines at the intersection of two (2) streets, and extending for a distance of seventy-five (75) feet each way from the intersection of the center lines on any corner within the City, shall not be permitted to grow to a height of more than three (3) feet above the center line point of the surface of the roadway nor two (2) feet above the surface of the sidewalk, 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 eight (8) feet above the roadway surface.

Sec. 3.51. Private Trees—Dangerous, Diseased or Infested.

When the Director shall discover that any tree growing on private property within the City is dead, dying, damaged, or has broken or decayed tree limbs and constitutes a hazard to the safety of persons or property, or 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 hazard, infestation or tree disease and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to eliminate such hazard or 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 (10) days after service thereof, upon the owner, agent or occupant of the property on which the hazardous or afflicted tree is located, or within such additional time as may be stipulated in such notice.

(Ord. No. 438, § 1, 12-14-99)

Sec. 3.52. "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 ten (10) days after the Manager shall learn of the condition and, if on the property, within ten (10) days after notice as specified in Section 3.51.

Sec. 3.53. 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 forty-eight (48) hours make an appeal to the City Commission by communication filed with the City Clerk. The City Commission shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter.

Sec. 3.54. Private Trees—Owners' Failure to Comply.

In case the owner, agent and occupant of the property refuse to carry out the order of the Director within the time limited, or in case of an appeal, within five (5) days after the Commission shall have affirmed such 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 such property shall fail to pay such bill within thirty (30) days after the same has been rendered, the Director shall report the same to the City Commission for collection as a single lot assessment against said property in accordance with the Charter. The Director may, without serving the above notice, when the owner or occupant of any 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.

Sec. 3.55. Private Trees—Inspection.

The Director and his assistants and employees shall have the 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 Director or under his direction, in accordance with this Chapter.

Sec. 3.56. Lawn Extensions.

On residential streets, the abutting owner or occupant shall maintain a lawn in the area between the sidewalk and curb or street and may plant grass, flowers and trees therein in conformity with this Chapter. No more than ten (10) per cent of the lawn extension, excluding driveway approach right-of-way parking space, shall be covered with non-living landscaping materials such as gravel, brick, stone, logs or concrete nor shall any non-living landscaping materials be placed in such a manner as to cause a hazard to pedestrians or vehicles. No person shall willfully injure or destroy any grass, flower, or tree upon any lawn extensions or throw any papers, refuse or other debris thereon. No person shall drive or park an automobile, bicycle or other vehicle over or upon any lawn extension, excluding driveway approach and approved right-of-way parking space, except as provided in the City Code.

(Ord. No. 368, § 1, 12-14-93)

3.57. Overhead Lines—Trimming Permit.

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 the Department. Said permanent shall require reasonable prior notice to the City before any work is commenced thereunder. In the event of an emergency requiring immediate maintenance work on the overhead lines of said public utilities, prior notice of commencing work under said permit shall not be required.

3.58. Rules and Regulations.

The Director, subject to the approval of the City Manager, shall make such 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.

3.59. Violations; Penalties.

(1) A person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than one hundred fifty dollars (\$150.00) or more than five hundred dollars (\$500.00), plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Section 1.13(3)(b) of this Code.

(2) Any tree maintained in violation of this Chapter shall be deemed a public nuisance and may be abated by injunctive process. Each day of maintenance contrary to this Chapter after notice of violation shall be deemed an additional and distinct violation thereof.

(3) Nothing in this Chapter shall be construed to limit, in any way, the police and remedial actions available to the City under the law.

(Ord. No. 419, § 1, 5-19-98)