

City of Niles – Tree Ordinance

ARTICLE III. TREES

Sec. 94-76. Statement of determination and purpose.

The city hereby determines that, to the greatest extent possible, maintaining of growing trees on public rights-of-way and other public property within the city is a meritorious community goal; growing trees present numerous benefits to the community, including but not limited to, reducing noise pollution, providing shade, cooling the air, restoring oxygen to the air, reducing glare, providing an ecological habitat for birds and other plants and animals, and contributing to the overall esthetics of the community; further, the city council finds that unnecessary removal, trimming, or pruning growing trees within the city within the public rights-of-way or other public property effects public safety, health, and general welfare and should be addressed and regulated.

(Ord. No. 430, § 1, 12-13-2004; Ord. No. 432, § 1, 1-10-2005)

Sec. 94-77. Definitions.

As used in this article, the following words have the meanings as indicated:

Circumference shall mean the circumference of the trunk of a tree measured at a height of four and one-half feet above the ground using an ordinary tape measure or diameter tape. Tree diameter in inches times 3.14 equals the circumference of a tree in inches. If the tree has unusual swells in the trunk at measurement height, measurement shall be taken either below or above the swell at the smallest trunk diameter as close to four and one-half feet as possible.

Damage or *damaged* shall mean to take any action which will, in all reasonable probability, result in the death of a tree, either immediately, or after a reasonable period of time.

Dead shall mean no longer living, deprived of life, or lifeless. Such examples of lifelessness includes unseasonable lack of foliage, brittle, dry branches, or lack of growth during a growing season.

Dying shall mean in the process of becoming dead so as to not survive beyond the existing growing season.

Excessive pruning techniques shall pertain to any growing tree with a circumference of 20 inches or more and shall include all of the following as defined:

(1) *Lion's tailing*: The improper practice of removing most secondary and tertiary branches from the interior portion of the canopy leaving most live foliage at the edge of the canopy.

(2) *Topping, hatracking, stag heading, de-horning, lopping, and rounding over*: The improper practice of reducing tree size by making heading cuts through a stem more than two years old; a pruning practice that destroys tree architecture and serves to initiate discoloration and decay in the cut stem.

(3) *Pollarding*: The pruning technique that removes sprouts to the same location annually or biannually maintaining a tree to a specific height.

(4) *Shearing*: A pruning technique which is typically accomplished with cuts made through wood less than a year old at the sides of the canopy to create uniform dense canopies.

(5) *Poodle trimming*: Combines shearing and removing lower limbs to create tree forms that look like a lollipop.

Permit shall mean the permit as required by this article.

Persons shall mean any individual, entity, corporation, trust, unincorporated organization, partnership, or any other form of entity.

Tree (or protected tree) shall mean any existing tree or trees growing on the public right-of-way or other public property.

Trim or prune shall mean the removal of ten percent or more of the growth of an existing tree or any amount, which upon removal would be anticipated to cause the tree to decline and/or die from the removal within that growing season.

(Ord. No. 430, § 2, 12-13-2004; Ord. No. 432, § 2, 1-10-2005)

Sec. 94-78. Prohibition.

No person shall intentionally remove, trim, or perform excessive pruning techniques on any tree growing in any public right-of-way or other public property throughout the city without first securing a permit as provided herein from the office of the public works director based on the written application as set forth herein.

(Ord. No. 430, § 3, 12-13-2004; Ord. No. 432, § 3, 1-10-2005)

Sec. 94-79. Application and permit.

A person desiring to remove, trim, or perform an excessive pruning technique on a tree growing in any public right-of-way or other public property in the city prior to performing said work shall secure a permit issued by the office of the public works director.

The application required in order to secure the permit referenced above shall include the following information:

(1) The name of the person making the application.

(2) The location of the tree or trees to be removed, trimmed, or to be subject to an excessive pruning technique.

(3) Identification of the specific trees to be removed, trimmed, or to have performed on them the excessive pruning technique.

(4) A statement for the reason of the removal, trimming, or performing of excessive pruning technique.

(5) The name of the person intended to do the removal, trimming, or performing the excessive pruning technique. If this person is a paid professional, a certificate of insurance shall accompany the application naming the city as an additional insured. In any event, the person making application and/or performing the work shall indemnify and hold the city harmless from any loss, injury, or damage arising therefrom.

If a person has retained another person to perform the removal, trimming, to perform the excessive pruning technique, the person paying for the work requested in the permit shall be responsible for obtaining the permit required by this article.

The public works director or his designate, upon receipt of the application, shall review the application and upon making a determination that the removal, trimming, or excessive pruning technique will not conflict with the statement of determination and purpose as set forth above, shall issue the permit; if a permit is refused, a written reason for the refusal shall be provided.

All removal, trimming, or the performing of excessive pruning techniques of trees on public property shall be performed in accordance with the pruning standards for shade trees as adopted by and amended by the National Arboreous Association.

Upon issuance of a permit, the permit shall remain valid for 30 days, after which a renewal must be secured through the process as set forth above.

(Ord. No. 430, § 4, 12-13-2004; Ord. No. 432, § 4, 1-10-2005)

Sec. 94-80. Additional provisions.

When a tree is removed, trimmed, or subject to an excessive pruning technique, during the process of performing the work, the parts removed shall be neatly placed off the traveled portion of the right-of-way and shall be completely taken away within 24 hours of completion of the removal, trimming, or performing of an excessive pruning technique. Any remaining stump shall be completely removed by the end of that growing season.

This article does not apply to trees which are dead or can be anticipated to die within the existing growing season nor to any tree the limbs or branches of which are dead or dying.

(Ord. No. 430, § 5, 12-13-2004; Ord. No. 432, § 5, 1-10-2005)

Sec. 94-81. Violation and penalty.

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction, in addition to fines and costs as allowed by statute shall pay a sum not exceeding \$500.00 for each tree illegally removed, trimmed, or subject to excessive pruning techniques. Each violation for each individual tree shall be a separate and distinct offense.

(Ord. No. 430, § 6, 12-13-2004; Ord. No. 432, § 6, 1-10-2005)