

City of Sturgis – Tree Ordinance

ARTICLE II. TREES AND SHRUBS

DIVISION 1. GENERALLY

Sec. 66-31 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:

Caliper means the diameter in inches of the trunk six inches above the base of the tree up to and including 4 inches in caliper, and twelve inches above the base of the tree if over 4 inches in caliper.

DBH (Diameter at Breast Height) means the diameter of tree trunks at four feet six inches above the base of the tree.

Park trees means trees in public parks and all areas owned by the city, or to which the public has free access as a park.

Public trees means trees, shrubs, bushes and all other woody vegetation on land owned and controlled by the city.

Street trees means trees on land lying between private property lines and all streets, avenues, or ways within the city.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Cross references: Definitions generally, § 1-2.

(Code 1969, § 96.01; Ord. of 2-11-2004, § 96.02)

Cross references: Definitions generally, § 1-2.

Sec. 66-32. Penalty.

Whoever violates any provision of this article shall, upon a finding of responsibility for a civil infraction, be fined the sum specified in any fine schedules compiled, from time to time, by the city and filed with the court or a city agency of competent jurisdiction. A failure to pay any fine imposed by a court or city agency of competent jurisdiction within any specified time period or a second violation of this article within a 90-day period shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than \$500.00, or imprisonment in the county jail for a period not to exceed 90 days, or both.

(Ord. of 7-25-2001(2), § 4.09; Ord. of 2-11-2004, § 96.99)

Sec. 66-33. Exception for sidewalk, sewer or public improvements.

Nothing contained in this article shall be so construed as to apply to the removal, under the direction of the city manager, of any street tree or park tree or parts thereof, when such removal shall be necessary or advisable in the discretion of the city manager for the

construction or maintenance of any sidewalk, sewer, public utility, electric utility or public improvement.

(Code 1969, § 96.06; Ord. of 2-11-2004, § 96.06)

Cross references: Streets, sidewalks and other public places, ch. 46; utilities, ch. 62.

Sec. 66-34. Appointment of city forester.

The city forester shall be appointed by the city manager.

(Code 1969, § 96.03; Ord. of 2-11-2004, § 96.03)

Sec. 66-35. Duties of city forester; advice to private property owners.

It shall be the duty of the city forester or employees or persons working under his/her direction or control, to superintend, regulate, promote and encourage the preservation, maintenance, culture, planting, treatment and care of street trees or park trees; to direct the method and manner of trimming and caring for same; to designate the times for trimming and for treating same; to advise private property owners, without charge, in regard to the kinds of street trees and the location and planting thereof and as to their care, maintenance, preservation and treatment, and all other matters pertaining thereto, and to take such measures as he may deem necessary or advisable for the control and extermination of insects, pests and diseases which may harmfully affect such street trees or park trees.

(Code 1969, § 96.08; Ord. of 2-11-2004, § 96.08)

Sec. 66-36. Interference with city forester or employees prohibited.

No person shall willfully interfere with, hinder or prevent the city forester, or employees or persons working under his/her direction or control, from exercising the rights, duties, powers and work provided in this article.

(Code 1969, § 96.10; Ord. of 2-11-2004, § 96.10)

Sec. 66-37. Protection of trees during construction.

In the erection, removal, alteration or repair of any building or structure, the owner or owners thereof shall previously thereto place or cause to be placed adequate guards and protection around all nearby street trees or park trees as will effectually prevent injury thereto.

(Code 1969, § 96.07; Ord. of 2-11-2004, § 96.07)

Sec. 66-38. Trees overhanging street or sidewalk.

Every owner of any tree overhanging any street or right-of-way within the city shall prune 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 ten feet above the surface of the sidewalk and 14 feet above the surface of the street. The owner 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 remove or prune any tree or shrub on private property when it interferes with the proper

spread of light, electrical utility facilities, or interferes with visibility of any traffic control device or sign.

(Code 1969, § 96.05; Ord. of 2-11-2004, § 96.05)

Cross references: Streets, sidewalks and other public places, ch. 46.

Sec. 66-39. Tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city forester will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the costs of removal as a tax against the owner's property.

(Code 1969, § 96.17; Ord. of 2-11-2004, § 96.17)

Sec. 66-40. Replacement of removed public trees.

(a) Whenever a person or city agency obtains written permission from the city forester to remove a public tree for the purpose of construction, public improvements or for any other reason, such person or agency shall subsequently replace the public tree within one year of the issuance of the tree-removal permit in a location somewhere in the city to be determined by the city forester, or have the city replace such public tree at the expense of the person who obtained such permission, unless the city forester, for good cause, determines otherwise. Such replacement shall meet the standards of size, species and placement as provided for in the tree removal permit issued by the city forester. Trees shall be replaced by the caliper inch, such that for every inch of diameter (DBH) removed, an equal number of caliper inches shall be replaced (e.g., the removal of one twelve-inch DBH tree shall necessitate the planting of six two-inch caliper trees or four three-inch caliper trees, etc.)

(b) Wherever it is necessary to remove a street tree from a public right-of-way in connection with the paving of a sidewalk or the paving or widening of a street, the city or responsible agency or person shall replant such street tree or replace it. If conditions prevent planting in the right-of-way, this requirement may be satisfied by planting on the adjoining property if the property owner agrees.

(Ord. of 2-11-2004, § 96.19)

Sec. 66-41. Vandalism, arboricide prohibited.

Unless specifically authorized in writing by the city forester, no person or city agency shall intentionally damage, cut, carve, transplant or destroy any public tree; attach any rope, wire, nails, advertising posters or other contrivance to any such public tree; allow any gas, liquid or solid substance which is harmful to any such public tree to come in contact with it; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any public tree.

(Ord. of 2-11-2004, § 96.09)

Secs. 66-42--66-55. Reserved.

DIVISION 2. TREES ON PUBLIC PROPERTY*

***Cross references:** Streets, sidewalks and other public places, ch. 46.

Sec. 66-56. Public tree care.

The city shall have the right to plant, prune, maintain and remove street trees and park trees as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such trees. The city forester may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insects, or other pests. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with section 66-58 through 66-62.

(Code 1969, § 96.02; Ord. of 2-11-2004, § 96.02)

Sec. 66-57. Permit required to plant, trim, or destroy trees and shrubs.

No street tree or park tree shall be placed until the city forester shall have first approved in writing the kind, type, variety, species, and size thereof, and the location thereof, and shall have first issued a permit therefore; and no person shall remove, trim, cut, break, deface, injure or destroy, or in any manner interfere with any street tree or park tree without a permit specifically describing the work to be performed by virtue of it. The permit shall be in writing, upon suitable uniform blank forms to be provided by the city, and shall be signed by the city forester. No charge shall be made for the execution of the permit. The permit shall expire at the end of 60 days from the date of issue, or upon written revocation thereof by the city forester for cause, the cause being a violation of the terms and intent of the permit by the applicant thereof, or by his agents or employees, and service of the written revocation upon the applicant shall be by registered mail, return receipt demanded, at his last known business address, or by personal service upon him thereof.

(Code 1969, § 96.04; Ord. of 2-11-2004, § 96.04)

Sec. 66-58. Street trees species to be planted.

The city forester will maintain, publish and make readily available to the public a list of suitable tree species, grouped into three size classifications of small, medium and large, for planting as street trees. No species other than those included in this list may be planted as street trees without written permission of the city forester.

(Code 1969, § 96.11; Ord. of 2-11-2004, § 96.11)

Cross references: Streets, sidewalks and other public places, ch. 46.

Sec. 66-59. Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in Section 66-58, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet, except in special plantings designed by a landscape architect and approved by the city forester.

(Code 1969, § 96.12; Ord. of 2-11-2004, § 96.12)

Sec. 66-60. Distance from curb and sidewalk.

The distance trees may be planted from curbs, or curb-lines and sidewalks will be in accordance with the three species size classes listed in section 66-58, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet, medium trees, 3 feet, and large trees, 4 feet.

(Code 1969, § 96.13; Ord. of 2-11-2004, § 96.13)

Sec. 66-61. Distance from street corners and fire hydrant.

No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb-lines. No street tree shall be planted closer than ten feet to any fire hydrant.

(Code 1969, § 96.14; Ord. of 2-11-2004, § 96.14)

Cross references: Fire prevention and protection, ch. 26.

Sec. 66-62. Utilities.

No street trees other than those species listed as small trees in section 66-58 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, electrical facilities or other utility.

(Code 1969, § 96.15; Ord. of 2-11-2004, § 96.15)

Cross references: Utilities, ch. 62.

Sec. 66-63. Tree topping.

It shall be unlawful for any person, firm, or city department to engage in the topping of any street tree or park tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the city forester or electrical superintendent.

(Code 1969, § 96.16; Ord. of 2-11-2004, § 96.16)

Sec. 66-64. Removal of stumps.

All stumps of street trees and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Code 1969, § 96.18; Ord. of 2-11-2004, § 96.18)

Sec. 66-65. Appeal process.

Should a dispute arise in the administering of the chapter, an appeal can be requested by petitioning, in writing, the city forester. The city forester will have five working days to reply in writing. Should this provide an unsatisfactory resolution, a second appeal can be requested by petitioning the city manager. The city manager will have ten working days from the filing of the second appeal to reply in writing. Should this also provide an unsatisfactory resolution, a third appeal can be requested by petitioning the city commission. The city commission will act upon the petition within 30 days from the date of receiving the petition. The decision of the city commission shall be final.
(Ord. of 2-11-2004, § 96.20)