

Chapter 102 VEGETATION*

***Cross references:** Buildings and building regulations, ch. 14; cemeteries, ch. 22; community development, ch. 26; environment, ch. 34; manufactured homes and trailers, ch. 46; parks, recreation and city property, ch. 58; planning, ch. 66; streets, sidewalks and other public places, ch. 82; waterways, ch. 110; subdivision regulations, app. A.

Article I. In General

Secs. 102-1--102-30. Reserved.

Article II. Trees

Sec. 102-31. Definitions.

Sec. 102-32. Duties generally of city manager and tree committee.

Sec. 102-33. Official street tree species.

Sec. 102-34. Street tree spacing.

Sec. 102-35. Utilities.

Sec. 102-36. Care and maintenance of public trees; private planting in streets, etc., prohibited.

Sec. 102-37. Topping.

Sec. 102-38. Removal of stumps.

Sec. 102-39. Sidewalk damage.

Sec. 102-40. Private trees.

Sec. 102-41. Arbor Day.

Sec. 102-42. Violations and penalties; civil remedies.

Secs. 102-43--102-70. Reserved.

Article III. Noxious Vegetation

Sec. 102-71. Duty of property owners and occupants to destroy and remove noxious vegetation.

Sec. 102-72. Service of notice of noncompliance.

Sec. 102-73. Action by the city upon failure to comply with notice; assessment of costs.

Sec. 102-74. Penalty for violation of article.

Secs. 102-75--102-100. Reserved.

Article IV. Infected, Dead or Dying Trees

Sec. 102-101. Affected trees declared public nuisance; removal required.

Sec. 102-102. Trees in dead or dying condition serving as breeding place declared public nuisance.

Sec. 102-103. Enforcement of provisions; city's right of entry; interference with city representatives.

Sec. 102-104. Notice to remove infected trees, dead and dying trees; removal by city.

Sec. 102-105. Service of notice.

Sec. 102-106. Duty of owner to remove trees; assessment of expenses where city removes trees.

Sec. 102-107. Removal of trees on public lands.

Sec. 102-108. Penalties.

ARTICLE I. IN GENERAL

Secs. 102-1--102-30. Reserved

ARTICLE II. TREES

Sec. 102-31. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Park trees means trees, shrubs, bushes and all other woody vegetation in public parks and all other areas owned by the city.

Private trees means all trees within the city other than park trees and street trees.

Street trees means trees, shrubs, bushes and all other woody vegetation on land lying on the street right-of-way on either side of all streets, avenues or ways within the city.

(Code 1971, § 31-1)

Cross references: Definitions generally, § 1-2.

Sec. 102-32. Duties generally of city manager and tree committee.

It shall be the responsibility of the city manager to develop and administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees and park trees. Such plan will be reviewed and approved, from time to time, by the tree committee of the city council. The committee and city manager shall consider, investigate and make findings, reports and recommendations upon any special matter or question within the scope of this work.

(Code 1971, § 31-2)

Sec. 102-33. Official street tree species.

The following list constitutes the official street tree species for the city. No species other than those included on this list may be planted as street trees without prior written approval of the city manager:

TABLE INSET:

Large Trees	Medium Trees	Small Trees
Sycamore	Linden -Little Leaf -Greenspire	Flowering Cherry* -Tree form varieties
Maple -Norway** -Red (hard) -Autumn Breeze -Other "hard" varieties	Redmond	Flowering Crab* -Tree form varieties
Sweetgum	Oak -Pin -Red -English	Bradford Pear
Thornless Honey Locust		Mountain Ash
Ginko		Amur Maple
Callery Pear		
Japanese Zelkova		
American Liberty Elm		

*Nonfruitbearing varieties

**All varieties acceptable

(Code 1971, § 31-3; Ord. No. 05-351, § 1, 1-4-05)

Sec. 102-34. Street tree spacing.

(a) The spacing of street trees will be in accordance with the three species size classes listed in section 102-33, and no trees may be planted closer together than the following: small trees, 15 feet; medium and large trees, 25 feet; except in special plantings designed and approved for unusual effect, or as approved by both the city engineer and city planner.

(b) No street trees shall be planted closer than 25 feet from any street corner, measured from the point of nearest intersecting curbs or curblines.

(c) For the purpose of this subsection the term "tree lawn" shall be defined as the area between the curb or edge of pavement and the public sidewalk or right-of-way line, if no sidewalk is present. The location of street trees within the tree lawn shall be as follows:

(1) Street trees shall be centered in the tree lawn between the curb and public sidewalk. If no sidewalk is present, trees shall be centered between the curb and a line 6.5 feet inside and parallel to the right-of-way line of the street.

(2) For streets without curbs, street trees shall be centered in the tree lawn between the future proposed curb line, as established by the city engineering department, and the public sidewalk. If no sidewalk is present, trees shall be centered between the future proposed curb line and a line 6.5 feet inside and parallel to the right-of-way line of the street.

(3) In residential neighborhoods a minimum clear tree lawn width of five feet should be maintained for all street trees, unless approved by both the city engineer and the city planner.

(d) The city may enter into contractual arrangements with the owners of private properties for the planting and maintenance of trees where there is insufficient space between the curb or curblines and the sidewalk or right-of-way line. In such instances, the city may establish a new line of street trees on private properties, with property owner approval. Whether such planting is desirable or not, and the selection of the tree species and specific planting locations, shall be the determination of the city. When such plantings occur, the initial costs of trees and their planting shall be as determined by mutual agreement. The proper care of such trees for a period of three years thereafter shall be the responsibility of the city. Following such three-year period, the trees shall become the responsibility of the property owners.

(Code 1971, § 31-4; Ord. No. 99-291, 4-5-99)

Sec. 102-35. Utilities.

(a) No street trees other than those species listed as small or medium trees in section 102-33 may be planted under or within ten lateral feet of any overhead utility wire unless approved by the city manager or his designee.

(b) Any subsurface installation or work (water line, sewer line, transmission line or other utility) within a ten-foot distance of a street tree or park tree will be by jack and bore method, except and unless written approval for open trenching is issued, in which case a charge for vigor pruning, fertilization or other preventative maintenance service will be applicable. This requirement shall not apply to the repair or placement of that portion of a private utility lateral or service which is on private property.

(Code 1971, § 31-5)

Sec. 102-36. Care and maintenance of public trees; private planting in streets, etc., prohibited.

(a) The city shall have the right to plant, replant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) No tree, plant or shrub shall be planted or replanted within the line of any street, alley, lane, square or public grounds by any private party, except by written permission of the city.

(Code 1971, § 31-6)

Sec. 102-37. Topping.

It shall be unlawful as a normal practice for any person or city department to top any street tree, park tree or other tree on public property. The term "topping" is defined as the severe cutting back of limbs to such a degree as to remove the normal canopy and disfigure the 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 section at the determination of the city manager or his designee.

(Code 1971, § 31-7)

Sec. 102-38. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground to a depth of six inches.

(Code 1971, § 31-8)

Sec. 102-39. Sidewalk damage.

(a) Existing street trees which have caused an upheaval or severe cracking of public sidewalks may be removed at such time that sidewalk replacement is ordered by the city or desired by the property owner. The necessity for such removal shall be based upon the overall vigor of the tree and the extent of conflict with the sidewalk structure, as determined by the city. Where such removal is approved and the damaged sidewalk replaced, the city will provide a credit or refund of costs which shall be proportionate to the estimated remaining life of the sidewalk if no damage had occurred, as compared to the estimated normal sidewalk life.

(b) When removal of an obstructing tree is determined not to be desirable by the city, the city manager or his designee may direct forming of sidewalk around the tree as an alternative to tree removal.

(Code 1971, § 31-9)

Sec. 102-40. Private trees.

(a) Private trees are not regulated by the terms of this article, except for the provisions of this section.

(b) No person shall plant any box elder, basswood, willow, soft maple, common catalpa, horsechestnut, ash, or tree of heaven on any private property without first obtaining a written permit therefore from the city manager.

(c) The city shall have the right to cause the removal or proper treatment of trees of any species on private property which harbor insects or disease and which constitute a potential threat to other trees within the city. Provisions for removal shall conform to the procedures recited in article IV of this chapter, sections 102-101 through 102-106 inclusive.

(d) No tree shall be planted upon private property within ten feet of any fire hydrant or within three feet of the right-of-way line of any street, alley, lane, square or public ground.

(e) 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 view of any intersection and so that there shall be a clear space of 14 feet above the surface of the street and eight feet above the surface of the sidewalk. 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 using streets and sidewalks. The city shall have the right to cause the removal of such menace in conformance with the procedures recited in article IV of this chapter, sections 102-101 through 102-106 inclusive. The city shall have the right upon notification, to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign.

(Code 1971, § 31-10; Ord. No. 05-351, § 2, 1-4-05)

Sec. 102-41. Arbor Day.

The city shall annually celebrate Arbor Day. Such day shall be recognized and noted each year, by proclamation, in conjunction with other cities throughout the United States.

(Code 1971, § 31-11)

Sec. 102-42. Violations and penalties; civil remedies.

Violation of this chapter shall constitute a misdemeanor. A violation of this chapter shall be punished by a fine not exceeding \$500.00, imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court. Each violation of this chapter shall constitute a separate offense. The city may also seek an injunction for abatement of a nuisance.

(Code 1971, § 31-12)

Secs. 102-43--102-70. Reserved.

ARTICLE III. NOXIOUS VEGETATION*

*Cross references: Nuisances, ch. 50.

Sec. 102-71. Duty of property owners and occupants to destroy and remove noxious vegetation.

No person who is owner, possessor, or occupier of land within the city shall fail to cut, destroy, remove and keep free from all weeds, plant material, grass, leaves or vegetation growing thereon or along the sidewalk, street or alley adjacent to such land, between the property line and the curb, or middle of the alley, or for ten feet outside the property line, if there is no curb, when such weeds, plant material, grass, leaves or vegetation are noxious, unsightly or detrimental to the public health and welfare, at least once before each of the following dates: June 1, July 1, August 1, September 1, October 1 and November 1 and as many other times as may be necessary to prevent such land from becoming noxious, unsightly or detrimental to the public health and welfare. For the purposes of this section, when said weeds, plant material, grass or vegetation reach 8

inches in height in all residential, office service and commercial zones or 12 inches in height in all industrial zones, it shall be deemed noxious, unsightly or detrimental to the public health and welfare.

No owner or occupant of any premises, their agents or employees, shall push, place or deposit any weeds, plant material, grass, leaves, or vegetation from any private or public land into the right-of-way of any street, alley, or highway within the city. When any such weeds, plant material, grass, leaves, or vegetation shall be found to have been pushed, placed or deposited in such right-of-way of any street, alley or highway, it shall be prima facie evidence that the owner or occupant of the premises bordering such street, alley or highway caused such weed, plant material, grass, leaves, or vegetation to be placed there. Further, the owner or occupant of premises adjacent to the right-of-way of any street, alley or highway onto which weeds, plant material, grass, leaves, or vegetation has been pushed, placed or deposited shall be liable for violating the provisions of this section, regardless of whether the owner or occupant pushed, placed or deposited such weeds, plant material, grass, leaves, or vegetation themselves or whether such weeds, plant material, grass, leaves, or vegetation was pushed, placed or deposited in such right-of-way by an agent or employee of such owner or occupant. The only exception to this is when weeds, plant material, grass, leaves, or vegetation have been properly bagged and placed curb side for pickup by the city on scheduled pickup dates.

(Code 1971, § 31-15; Ord. No. 08-385, 7-7-08; Ord. No. 09-390, 2-16-09)

Sec. 102-72. Service of notice of noncompliance.

In the event that any person who is the owner, possessor or occupier of any of the land described in section 102-71 shall fail to comply with the provisions of this article, the city manager or their designee shall, through the proper department or agency of the city, cause the owner, lessee or occupant or any person having the care and control of the land, to be served, either by certified mail or personally, a written notice to comply with the provisions of this article within five days of receipt of such notice. Such notice may be attached to the residence on a door hanger department form.

(Code 1971, § 31-16 Ord. No. 08-385, 7-7-08; Ord. No. 09-390, 2-16-09)

Sec. 102-73. Action by the city upon failure to comply with notice; assessment of costs.

In the event the owner, occupant or possessor or person upon whom the notice has been served pursuant to this article shall fail, neglect or refuse to comply with the provisions of this article within five days after receipt of such notice, the city manager or their designee may, through the proper department or agency of the city, cause the vegetation to be cut, destroyed or removed as the case may be, and all expenses incurred in such cutting, destruction or removal shall be paid by the owner of the land and the city shall have a lien against such lands for such expenses or the city manager or their designee may cause a citation to be issued in accordance with section 102-74, through the proper department or agency of the city, or both.

In the event the owner of such property shall fail to pay such costs or expenses the city may add the costs on the tax rolls relative to this property, such costs and expenses to become a lien in the same vein as the regular taxes applied to such premises, until such expenses and costs are paid

(Code 1971, § 31-17 Ord. No. 08-385, 7-7-08; Ord. No. 09-390, 2-16-09)

Sec. 102-74. Penalty for violation of article.

Any owner, possessor or occupier of land within the city, or persons having charge of such land who shall fail to conform with any of the provisions of sections 102-71, 102-72 or 102-73 shall be responsible for a civil infraction and shall be assessed a civil fine not to exceed \$500.00. It is the intent of the city that the remedies provided in this article shall be cumulative and may be imposed at the discretion of the city and its officials.

(Code 1971, § 31-18; Ord. No. 02-321, § 3, 2-18-02, Ord. No. 08-385, 7-7-08; Ord. No. 09-390, 2-16-09)

Secs. 102-75--102-100. Reserved.

ARTICLE IV. INFECTED, DEAD OR DYING TREES

Sec. 102-101. Affected trees declared public nuisance; removal required.

Trees of all species and variety affected with fungus or other disease are hereby declared to be a public nuisance, and shall be removed and buried within ten days following notification of the discovery of such infection. It shall be unlawful for any person, being the owner of property whereon such a tree is situated, to possess or keep such a tree after the expiration of ten days following notification of the discovery of such infection.

(Code 1971, § 31-31)

Sec. 102-102. Trees in dead or dying condition serving as breeding place declared public nuisance.

Trees or parts thereof in a dead or dying condition that may serve as a breeding place for fungus or other disease are hereby declared to be public nuisances, and it shall be unlawful for the person owning property whereon such trees or parts thereof are situated, to possess or keep such trees in a dead or dying condition.

(Code 1971, § 31-32)

Sec. 102-103. Enforcement of provisions; city's right of entry; interference with city representatives.

The city manager is charged with enforcement of this article, and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not such trees are infected. It shall be unlawful for any person to prevent the city manager or his representative from entering on private property for purposes of carrying out his duties under this chapter, or to interfere with the city manager or his representative in the lawful performance of his duties under the provisions of this article.

(Code 1971, § 31-33)

Sec. 102-104. Notice to remove infected trees, dead and dying trees; removal by city.

If trees on private property are found to be infected, or in a dead or dying condition, the city manager shall give to the owner of the premises where such tree or trees are situated written notice of the existence of such disease, or dead or dying condition, and requiring the removal and burying of such tree within a period of ten days following such notice, such removal and burying to be under the direction and

supervision of the city manager. Such notice shall also notify the owner of such premises that unless such tree is removed and buried in compliance with terms thereof within such ten-day period, the city will proceed with the removal and burying of such tree, and assess the cost thereof against the property.

(Code 1971, § 31-34)

Sec. 102-105. Service of notice.

Service of such notice shall be by personal service or by certified mail addressed to such owner at his last known address as shown on the records in the office of the city treasurer.

(Code 1971, § 31-35)

Sec. 102-106. Duty of owner to remove trees; assessment of expenses where city removes trees.

It shall be the duty of the owner of such premises to cause such tree to be removed and buried under the direction and supervision of the city manager or his authorized deputy or employee. If the city shall remove and bury any tree, all expenses incurred in connection with the removal and burial shall be reported to the city council, for assessment against the land whereon such tree was situated.

(Code 1971, § 31-36)

Sec. 102-107. Removal of trees on public lands.

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

(Code 1971, § 31-37)

Sec. 102-108. Penalties.

If any person shall violate or fail to comply with any of the terms of this article, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$500.00 and costs of prosecution, or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment in the discretion of the court.

(Code 1971, § 31-38)