

ARTICLE III. - TREES AND SHRUBBERY

DIVISION 1. - GENERALLY

Sec. 26-36. - Purpose.

The purpose of this article is to provide for the care of trees and shrubs on public rights-of-way and to aid in the proper growth of the landscape program to enhance the beauty of the city. Voluntary compliance is sought as the prime means of enforcing this article although provision is made for certain provisions if the objective of the city beautification is to be met. This article provides for a controlled, planned and consistent tree care program on public rights-of-way which will provide a demonstration of proper tree and shrub care.

(Code 1962, § 9-5-2)

Sec. 26-37. - Removal or treatment of infected trees and shrubs.

The director of parks and recreation may inspect all trees, shrubs and logs upon any property within the city. Upon discovering any such plant material to be infested with any serious disease or insects detrimental to the growth, health and life of such plants or adjoining plants, the director shall at once notify the owner, agent or occupant of such property in writing. Such notification shall designate the location of the property where the disease or insect infestation exists, shall describe the conditions thereof and shall direct such owner, agent or occupant to remove and destroy these plant materials. If the owner, agent or occupant fails to comply with the written notification within the time specified by the director of parks and recreation, which time period shall not be less than ten (10) days, the city shall correct such condition and assess the cost of such correction to the owner, agent or occupant. In the case of detection of Dutch elm disease, a period of at least thirty (30) days shall be allowed for the removal of standing trees. If such Dutch elm disease is detected in dead or downed wood, it shall be removed immediately.

(Code 1962, § 9-5-13)

Sec. 26-38. - Trees creating obstructions; dangerous trees.

Any tree growing over a public alley, street or highway or so located as to extend its branches over a public alley, street or highway, shall be trimmed by the owner of the property on which the tree stands or his agent so that there shall be a clear height of fourteen (14) feet above the surface of the street, alley or highway and eight (8) feet above the surface of the sidewalks unobstructed by the branches. Such owner or agent shall remove all dead branches and stubs on such tree or trees which are or may become a menace to travelers on public highways, streets or alleys of the city. Trees whose roots are causing upraised sidewalks slabs are declared a nuisance. If a tree or its parts in any other way cause a hindrance to the general public or in any way endanger the security or usefulness of any public street, highway, alley, sewer or sidewalk is determined by the director of parks and recreation, it is hereby declared to be a public nuisance. If the owner of such private property does not correct or remove such nuisances within a reasonable time after written notification by the director of parks and recreation, the director shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner of the property in question.

(Code 1962, § 9-5-14)

Sec. 26-39. - Trees to be trimmed.

Any owner or occupant of real property shall trim all trees on property owned or occupied by him so that the branches thereon will not interfere with public travel as more specifically required in section 26-38.

(Code 1962, § 9-5-15)

Sec. 26-40. - Hedges and shrubbery adjacent to sidewalks.

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of such hedges or shrubbery shall extend over any part of a public sidewalk of the city.

(Code 1962, § 9-5-16)

Sec. 26-41. - Injuring.

It is hereby declared unlawful for any person, not the owner thereof, or without lawful authority so to do, to injure, willfully deface, disfigure or destroy any tree or shrub or to injure, destroy, cut or pick any flower or plant located either on private ground or on any public place or thoroughfare.

(Code 1962, § 9-5-17)

Sec. 26-42. - Appeals.

- (a) Appeals from orders, actions or determinations made pursuant to this article may be made by an affected party by the filing of written notice thereof with the city clerk within thirty (30) days after such order, action or determination is made. Such notification shall state in substance that an appeal is being made from such order, action or determination to the parks and forestry board which shall serve as an appeals board with respect to disputes arising pursuant to this article. The clerk shall thereupon cause such appeal to be placed on the agenda of the next regular meeting of the parks and forestry board at which meeting the appellant and the director of parks and recreation may present evidence in connection with the order, action or determination which is the subject matter of the appeal.
- (b) For good cause, the parks and forestry board may set the hearing over to a date subsequent to the next regular meeting of the parks and forestry board; provided, however, the appeal shall be heard no later than forty-five (45) days after the filing of written appeal by an aggrieved party. The parks and forestry board shall hear evidence and make a determination either upholding the order, action or determination or setting such order, action or determination aside. Action taken by the parks and forestry board after a hearing in conjunction with such appeal shall be conclusive, subject to the right of an aggrieved party to file a subsequent appeal in a court of competent jurisdiction for the purpose of obtaining judicial review of such administrative determination.

(Code 1962, § 9-5-18)

Sec. 26-43. - Interference with enforcement.

No person shall prevent, delay or interfere with the director of parks and recreation or any of his duly authorized agents or assistants in the execution or enforcement of this article; provided, however, nothing contained in this section shall be construed as an attempt to prohibit a public hearing or to prohibit any legal or equitable remedy in any court of competent jurisdiction for the protection of property rights of the owner of property within the city.

(Code 1962, § 9-5-19)

Sec. 26-44. - Enforcing authority.

The city manager, through the director of parks and recreation, or his duly authorized agent, shall have full power, authority, jurisdiction and control of planning, locating and replacing all trees on public streets and other areas of public property and shall likewise have supervision, direction and control of the care, trimming and removal thereof, as well as the enforcement duties with respect to the obligations imposed by this article. In implementing the enforcement objectives of this article, the city manager and the director of parks and recreation shall seek advice on technical matters from the parks and forestry board and the state forest service until such time as a professional forester is employed by the city.

(Code 1962, § 9-5-10)

Secs. 26-45—26-55. - Reserved.

DIVISION 2. - PRUNING OR REMOVAL OF TREES

Sec. 26-56. - License—Required.

It shall be unlawful for any person to engage in the business within the city of cutting, trimming, pruning or removing trees or shrubs for compensation without having first procured a tree trimmer's license from the finance director. Such a license shall be issued in the name of an individual person, a firm or a corporation and, when so issued, shall permit such person, firm or corporation or any person employed by the person, firm or corporation to engage in the business of cutting, trimming, pruning or removing trees or shrubs within the city.

(Code 1962, § 9-5-3)

Cross reference— Licenses and business regulations, Ch. 13.

Sec. 26-57. - Same—Application.

The application for every license required by this division shall contain the name of the person making such application, the business address of the applicant as well as the mailing address for such application if the mailing address varies from the business address. The application shall also require a summary of the experience and training, if any, that the applicant has had in the cutting, trimming, pruning or removing of trees or shrubs as well as a summary and number and identification of persons employed by the applicant, and at least three (3) references from former places of employment for the applicant, if any. If the applicant has not been previously employed in the business of cutting, trimming, pruning or removing trees or shrubs, a practical test may be given prior to certification by the director of parks and recreation. In the case of applications by firms or corporations, the experience and background of each individual which will actually be cutting, trimming, pruning or removing trees or shrubs must be supplied and each crew working within the city on behalf of such firm or corporation must have a certified member exercising supervisory control over crew members.

(Code 1962, § 9-5-4)

Sec. 26-58. - Same—Examination and certification.

Before any license may be issued under this division, the application therefor shall be submitted to the director of parks and recreation for processing pursuant to the provisions of this article. Within ten (10)

days after receipt of an application for the license, the director of parks and recreation, or his authorized agent, shall examine the applicant for purpose of licensing and certification. Such examination may be oral or in writing, or may consist of a partial oral examination and a partial written examination, at the discretion of the director of parks and recreation. The examination for purposes of licensing and certification may, in the director's discretion, require an actual demonstration of the applicant's ability. Corporate applicants may submit multiple applications for certification for more than one (1) employee.

(Code 1962, § 9-5-5)

Sec. 26-59. - Same—Fee; transfer; employees; insurance coverage.

- (a) The city clerk, prior to granting a license, shall first collect from the applicant an annual license fee of seventy-five dollars (\$75.00). The license, when issued, shall show upon its face the name of the applicant, the applicant's business address, the date of issuance, the fact that the license fee has been paid, and the fact that the licensee is entitled to engage in the business of cutting, trimming, pruning or removing trees and shrubs within the city. The license issued shall be nontransferable.
- (b) If multiple applications have been made by a corporate applicant, the license shall also reflect the names of the employees of the applicant who have received certification from the director of parks and recreation. The licensee shall pay an annual license fee of seventy-five dollars (\$75.00) on the calendar year basis and there shall be no prorated fees for licenses issued for only a portion of the calendar year. In addition to the license fee required in this subsection, the applicant shall also be required to obtain an appropriate city occupational license each year.
- (c) It shall be unlawful for any licensed person to fail to have at least one (1) certified employee within each crew when operating within the city limits. The head of the firm or corporation shall be responsible for any crew working as part of his employment staff.
- (d) Prior to granting any license, the city clerk shall require the filing with the clerk of an insurance policy or certificate of insurance with coverage for personal injury and property damage, including coverage for damage to trees, in amounts of not less than twenty-five thousand dollars (\$25,000.00) for each person, fifty thousand dollars (\$50,000.00) property damage and aggregate limits of one hundred thousand dollars (\$100,000.00) for each incident or occurrence. The city shall be named as an additional insured on any such policies of insurance and the licensee shall agree, as part of the license application to indemnify the city against any loss, liability or damage resulting from the operations of the licensee.

(Code 1962, § 9-5-6)

Sec. 26-60. - Rules and regulations.

The director of parks and recreation shall, subject to review by the parks and forestry board and subsequent approval by the city council, promulgate such rules and regulations, including safety regulations, as may be necessary for the protection of the public in connection with the manner in which licensed tree trimmers shall operate within the city. The violation of any such regulation shall constitute grounds for revocation or suspension of a license issued pursuant to this division in addition to any other penalties provided for in this division. Such rules and regulations shall become effective upon their adoption by the city council after recommendation from the department of parks and recreation and the parks and forestry board.

(Code 1962, § 9-5-6)

Sec. 26-61. - Identification of equipment.

Any licensee under this division shall cause his name and address to be prominently displayed upon all vehicles and equipment utilized in connection with the activities authorized by the license to be issued pursuant to the terms of this division. All automobiles, trucks, trailers and other vehicles operated by any licensee for the transportation of equipment used by him in such business and all self-propelled, drawn or towed equipment used by any licensee in such business shall have the name and address of such licensee displayed upon both sides thereof in plain and legible figures and letters not less than three (3) inches in height, which lettering shall be kept in sufficient condition to permit the same to be readily distinguished and read at a distance of at least sixty (60) feet. It shall be unlawful for a licensee to operate any such vehicles or equipment upon streets, alleys or other public ways or places within the city without such identification being legibly displayed thereon and such conduct upon any part of any licensee may be grounds for revocation or suspension of the license granted pursuant to the terms of this division.

(Code 1962, § 9-5-8)

Sec. 26-62. - Penalties.

- (a) Any person violating or failing to comply with any of the provisions of this division shall, upon conviction therefor, be fined in an amount not to exceed three hundred dollars (\$300.00) or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment.
- (b) Each and every day or portion thereof during which any violation of any of the provisions of this division is committed, continued or permitted, shall constitute a separate and distinct offense.

(Code 1962, § 9-5-9)

Secs. 26-63—26-75. - Reserved.

DIVISION 3. - STREET TREE PLAN

Sec. 26-76. - Preparation; updating; conformance required.

The city manager, through the director of parks and recreation, shall cause to be prepared a street tree plan for all public streets or other publicly owned places within the city and such plan shall reflect the species of trees as well as locations within the city. The plan shall be updated periodically in accordance with current knowledge about plant materials and their ability to survive under varying conditions. It shall be unlawful to plant any trees or shrubs in any public right-of-way or publicly owned place which is not in conformity with the street tree plan.

(Code 1962, § 9-5-10)

Sec. 26-77. - Permits.

- (a) *Required.* It shall be unlawful for any person to prune, trim, plant, remove or replace any tree or shrub on public property or within the public right-of-way without first having obtained a permit for such activity from the director of parks and recreation, or his authorized agent. Such permits shall be requested by written application which shall specifically describe the work to be done and the location thereof. Any permit issued pursuant to application previously submitted shall expire within sixty (60) days from the date of its issuance or within such shorter time as may be set forth within the permit. No charge shall be made for any permit or for the processing of any application requesting a permit.
- (b) *Permits to public utilities.* Upon application to the director of parks and recreation by a telephone, telegraph, electric power, service or utility corporation to trim trees or to perform other operations

affecting trees or shrubs on public property or upon such application by a licensed contractor who has entered into a contract with the telephone, telegraph, electric power or other public service corporation or utility to trim such trees or shrubs or to perform other operations affecting trees or shrubs on public property or within the public right-of-way, the director of parks and recreation may grant an annual permit covering all tree trimming and other operations affecting trees or shrubs in such public right-of-way or on public property. Such permit shall be effective for a period of one (1) year unless sooner revoked for cause. Notwithstanding the issuance of such a permit, the director of parks and recreation shall be notified of the time and location when and where such operation shall take place. The amount of trimming or extent thereof or other operation shall be performed in a manner consistent with standards set by the director of parks and recreation and all such trimming, cutting, pruning or removal of trees and shrubs shall be accomplished in a neat, workmanlike manner consistent with generally accepted arboricultural practices. The director of parks and recreation may, if necessary, assign an inspector to supervise the activities conducted pursuant to such permit and the cost of such inspection shall be charged to the public service corporation, utility or contractor.

- (c) *Permit to plant trees.* No trees or shrubs shall be planted in or removed from any public street, public parking strip or other public property within the city without the prior acquisition of a written permit therefor from the director of parks and recreation.
- (d) *Limitations on planting.* For purposes of maintaining visibility for traffic at intersections, existing hedges, shrubs or other plant material within ten (10) feet from the face of the curb of the street on a corner lot shall be trimmed and maintained so as not to stand more than thirty-six (36) inches above the level of the sidewalk. On corners where existing embankments, retaining walls or other objects are placed, no plant material shall be planted unless a permit has been previously obtained from the director of parks and recreation. The parks and recreation department shall have complete and exclusive control of the planting of all trees and shrubs on all streets and highways.
- (e) *Tree care, planting, removal and replacement.* It shall be unlawful for any person other than the director of parks and recreation or his duly authorized agent, to cut, trim, prune, spray, brace, plant, remove or replace any tree in any public street or other public place within the city or cause the same to be done unless and until a written permit to do so has first been obtained from the director of parks and recreation. Any such permit previously issued may be declared void by the director of parks and recreation if the terms of its issuance have been violated. Nothing contained in this subsection shall be construed to preclude the removal of any root, tree, shrub, plant or any part thereof when such removal is under the direction of the office of the city engineer of the department of public works and such removal is necessary for the construction of any sidewalk, sewer or public improvement. If any such removal becomes necessary, the department of public works or the office of the city engineer shall advise the director of parks and recreation prior to any such removal. All tree planting, maintenance and removal practices shall follow approval professional arboricultural standards.

(Code 1962, § 9-5-12)

TREE & SHRUB ORDINANCE

The following is a summation of the major points included in the Tree and Shrub Ordinance, primarily as they relate to private citizens. A copy of the complete ordinance may be obtained at the Parks and Recreation Department or Planning and Community Development Department.

Purpose

This ordinance provides for the care of trees and shrubs on public right-of ways and aids in the proper growth of a landscape program to enhance the beauty of the City. Voluntary compliance is sought as the prime means of enforcement of certain provisions if the objective of City beautifications are to be met.

The ordinance provides for a controlled, planned and consistent tree care program on public right-of-ways which will provide a demonstration of proper tree and shrub care.

Major Provisions

1. License, examination and certification is required for any person, firm or corporation engaged in tree trimming. The license is issued from the City Clerk and examination and licensing are the responsibility of the Director of Parks and Recreation and the City Arborist.
2. Specialty license fees are payable in addition to the general business license fee. Tree trimmers' fees are \$75 per year. Before any license may be issued, the applicant shall be examined for the purpose of licensing. Corporations may submit applications for licensing for more than one employee. Prior to licensing, proof of insurance for personal injury and property damage, including damage to trees, must be filed with the City Clerk in the amounts of not less than twenty-five thousand dollars (\$25,000) for each person, fifty thousand dollars (\$50,000) property damage and aggregate limits of one hundred thousand dollars (\$100,000) for each incident or occurrence. The City shall be named as an additional insured on any such policies and the licensee shall agree to indemnify the City against any loss, liability, or damage resulting from the operations of the licensee.
3. The Director of Parks and Recreation and the City Arborist are responsible for the safety of the public in connection with the manner of operation of tree trimmers. Rules and regulations pertaining to licensed Arborists are subject to review by the Parks and Recreation

Advisory Board and approval by City Council.

4. The Director of Parks and Recreation and the City Arborist are the enforcing authority for planting, location and replacing all trees on public streets and other public property, as well as their trimming and removal. The Parks and Recreation Board serves in an advisory capacity.
5. All trees in the public parks and all trees along the public streets have been inventoried as to location, species and condition.
6. Hedges and shrubs within 10' of curb at a corner must be trimmed and stand no higher than 36" above sidewalk.
7. Any property within the city limits may be inspected for diseased plant material. The Director of Parks and Recreation or the City Arborist will notify the property holder in writing to correct the situation. If there is no compliance, the City will correct the situation and assess the property owner.
8. Trees on private property should not provide a menace to public travel and must be trimmed for 14' clearance above streets and 8' clearance above sidewalks. Tree roots may not cause upraised sidewalk slabs. Any tree causing a hindrance or endangering the public may be declared a public nuisance by the Director of Parks and Recreation and/or the City Arborist. If the condition is not corrected by the owner following written notification, the Director of Parks and Recreation and the City Arborist will see that the nuisance is corrected and the owner billed for the cost.
9. Appeals are filed with the City Clerk and heard by the Parks and Recreation Advisory Board.

