

Sec. 12-16. - Injuring trees or flowers.

It shall be unlawful for any person to cut, injure, mark or deface any tree or flower planted for ornament or shade within the city. This section shall not be deemed to apply to any person cutting trees or flowers upon their own property or upon the property of another with the permission of the owner thereof.

(Code 1961, § 19-33)

**Cross reference**— Vegetation, Ch. 22.

ARTICLE II. - TREES AND OTHER PLANTINGS<sup>[2]</sup>

Footnotes:

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**Cross reference**— License required for tree service businesses, § 9-141 et seq.; posting of handbills on property including trees prohibited, § 12-17.

DIVISION 1. - GENERALLY

Sec. 22-26. - 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:

*Board* means the parks, library and recreation board.

*Department* means the parks, library and recreation department.

*Division* means the forestry division of the department of parks, library and recreation.

*Tree* means any woody plant having a dominant stem or trunk which is normally greater than fifteen (15) feet in height at maturity.

*Tree service business* means the planting, cutting, trimming, pruning, removing, spraying, or other treatment of trees, shrubs or vines or any parts thereof, for hire.

(Ord. No. 9-1988, § 3, 5-24-88, eff. 6-6-88)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 22-27. - Right of city to collect costs, assess penalties.

The prosecution of violations of this article shall not be construed as a waiver of the right of the city to assess any penalties or collect costs for required work which is performed at the direction of the forestry superintendent.

(Ord. No. 9-1988, § 17, 5-24-88, eff. 6-6-88)

Sec. 22-28. - Sale, planting of certain trees prohibited.

It shall be unlawful to sell or import into the city or to plant or cause to be planted within the city limits any seed-bearing cottonwood tree (Genus populus) or any other specifically designated tree as set forth in the rules and regulations as approved by the board.

(Ord. No. 9-1988, § 5(a), 5-24-88, eff. 6-6-88)

Sec. 22-29. - Planting of certain trees on right-of-way prohibited.

It shall be unlawful to plant or cause to be planted any species of tree on the right-of-way of any street, alley, sidewalk or other public place within the city which by its habits or growth would obstruct, restrict or conflict with necessary and safe use of the public right-of-way.

(Ord. No. 9-1988, § 5(b), 5-24-88, eff. 6-6-88)

Sec. 22-30. - Line of sight clearance at intersections.

It shall be unlawful to plant or maintain a tree, shrub or other vegetation growth over thirty-six (36) inches high on the public right-of-way or on private property as follows:

- (1) Where there are curbs and gutters, in the triangular area formed by the lines extending from the intersection point of the projections of the outer curblines at the gutter to a point thirty (30) feet back, and the diagonal connecting such lines.
- (2) Where there are no curbs or gutters, in the triangular area formed by the lines extending from the point of intersection of the projections of the outer paved portion of the roadway to a point thirty (30) feet back, and the diagonal connecting such lines.
- (3) Where any tree, shrub or other vegetation growth is planted on private property where such growth would interfere with a line of sight across the diagonal described in subsections (1) and (2) of this section, so as to interfere with approach from either direction to the intersection.

(Ord. No. 9-1988, § 8(c)(4), 5-24-88, eff. 6-6-88)

Sec. 22-31. - Distance of plantings from fire hydrants.

It shall be unlawful to plant or maintain any tree on the public right-of-way or on private property within a ten-foot radius of any fire hydrant. It shall be unlawful to plant or maintain any shrub or other growth on the public right-of-way or private property within a five-foot radius of any fire hydrant.

(Ord. No. 9-1988, § 8(c)(5), 5-24-88, eff. 6-6-88)

Sec. 22-32. - Distance of plantings from water meters.

It shall be unlawful to plant or maintain any tree, shrub or other vegetation growth on the public right-of-way or on private property within a five-foot radius of any water meter.

(Ord. No. 9-1988, § 8(c)(6), 5-24-88, eff. 6-6-88)

Sec. 22-33. - Right of owners of adjacent property to care for plantings on public property.

A private property owner shall have the right, in accordance with this article, to maintain and care for trees and shrubs on public property which is adjacent to the owner's private property.

(Ord. No. 9-1988, § 9, 5-24-88, eff. 6-6-88)

Sec. 22-34. - Trees on public property—Permit for removal.

- (a) Any person desiring to remove any tree in or upon the public right-of-way of any street, alley, sidewalk or other public place within the city shall first make application for a permit at the office of the department upon forms furnished by the city. The application shall include:
  - (1) The name and address of the applicant;
  - (2) The name and address of the person doing the work;
  - (3) The species of tree to be removed;
  - (4) The location of the tree to be removed; and
  - (5) Such information as the forestry superintendent shall require.
- (b) The forestry superintendent shall inspect the location for the permit. If, in his opinion, it is desirable that such tree be removed, he shall issue a permit.
- (c) Such permit shall set forth the name of the person who will perform the work, the location at which the tree is to be removed, and any conditions or requirements made by the forestry superintendent in connection therewith. The permit shall provide that the permittee, by signing the permit, agrees to save and hold harmless the city from all claims, actions and suits arising under such permit.
- (d) It shall be unlawful for any person, either for himself or for another, to remove any tree in or upon the public right-of-way of any street, alley, sidewalk or other public place within the city without having first obtained a written permit from the forestry superintendent. If the forestry superintendent denies the issuance of a removal permit, the forestry superintendent shall, within ten (10) days of receiving the permit application, deliver to the applicant, via U.S. mail, written notice containing the basis for the denial. The applicant may, within thirty (30) days after receiving notice of denial, appeal the denial to the city manager.
- (e) It shall be unlawful for anyone who has been issued a permit to fail to comply with the requirements of such permit.

(Ord. No. 9-1988, § 8(a), (b), (c)(2), (3), 5-24-88, eff. 6-6-88; Ord. No. 17-2007, 10-9-07, eff. 10-19-07)

Sec. 22-35. - Same—Improper pruning or other injury.

It shall be unlawful for any person, either for himself or for another, to improperly prune, top, deface or in any way injure any tree in or upon the public right-of-way of any street, alley, sidewalk or other public place within the city.

(Ord. No. 9-1988, § 8(c)(1), 5-24-88, eff. 6-6-88)

Sec. 22-36. - Same—Attachment of handbills, signs, etc.

It shall be unlawful for any person to attach in any manner or cause the attachment of any bill, notice, announcement or advertisement of any type or to post, paste, paint, mark, nail or otherwise fasten or append any item of personal property to any tree on city property, on a city right-of-way, or on any public real or personal property. The attachment of any handbill, sign, poster, advertisement or notice of any kind contrary to this section shall be prima facie evidence that it was attached by the person or entity named therein or the business or entity advertised thereby.

(Ord. No. 9-1988, § 7, 5-24-88, eff. 6-6-88)

Secs. 22-37—22-55. - Reserved.

## DIVISION 2. - TREES ON PRIVATE PROPERTY

Sec. 22-56. - Removal of dangerous trees or limbs.

It shall be the duty of the owner of any private property to remove any dead or dying trees or dead or dying limbs dangerous to life, limb or property, when located on the premises of such owner, whenever required to do so by notice given by the forestry superintendent served upon the owner of such property in accordance with this article. Such work shall be performed within such reasonable time as may be specified in such notice. This section shall be construed as requiring the owner of private property to trim or remove any tree or shrub when such trimming or removing is required so as to provide for safe use of streets or sidewalks, or because of utility lines or traffic-control devices or signs, or generally endangers the public health, safety, or welfare.

(Ord. No. 9-1988, § 6, 5-24-88, eff. 6-6-88; Ord. No. 39-1996, 12-10-96, eff. 12-20-96)

Sec. 22-57. - Control of disease or insect infestation.

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the city or which is capable of causing an epidemic spread of communicable disease or insect infestation such as Dutch elm disease, the forestry superintendent shall at once cause written notice to be served upon the owner of the property upon which such diseased tree is situated. The notice shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified in such notice. Trees or shrubs or parts thereof of the genus *ulmus* in a dead or dying condition that may serve as a breeding place for the smaller European elm bark beetle (*Scolytus multistriatus*) are hereby declared to be a threat and hazard to all elm trees in the city unless all bark has been completely removed or the wood has otherwise been treated in a manner approved by the forestry superintendent.

(Ord. No. 9-1988, § 13, 5-24-88, eff. 6-6-88)

Sec. 22-58. - Service of notices.

Any notice authorized in this division may be served by delivering a copy of such notice to the recorded owner of such property or by leaving a copy of such notice at such owner's usual place of residence with some member of his family over the age of eighteen (18) years. In case there is more than one (1) owner of property, service upon any one (1) owner shall be adequate service upon all co-owners. If the owner of any property cannot be found in the city, service may be made by mailing a copy of the notice to such owner, postage prepaid, certified mail, return receipt requested, addressed to the last known address, and by posting a copy of such notice in a conspicuous place on the premises involved. Service by mail shall be completed five (5) days after the date that the notice is deposited in the mail and posted on the premises.

(Ord. No. 9-1988, § 16, 5-24-88, eff. 6-6-88)

Sec. 22-59. - Compliance with notice required.

It shall be unlawful for any person to fail to comply with the requirements of any notice given pursuant to this division within the time specified in such notice.

(Ord. No. 9-1988, § 14, 5-24-88, eff. 6-6-88)

Sec. 22-60. - Appeals from orders of superintendent.

Any notice given by the forestry superintendent pursuant to this division shall allow at least ten (10) days for the property owner to perform the work required after the time the notice is served on the property owner. During such period, the property owner shall have the right to appeal the order of the forestry superintendent to the city manager or his designee, by filing with the city manager or his designee a notice that the property owner desires to appeal from such order. Such appeal shall be submitted in writing to the city manager or his designee within ten (10) days from the date of service of the order, and the city manager or his designee shall give notice to the property owner of the date for a hearing not less than ten (10) days after the date of mailing of the hearing notice. The city manager or his designee shall hold the hearing to determine whether or not the property owner shall or shall not be required to perform the work required as provided in the notice. The property owner shall have further right of appeal to the public works board. An appeal to the public works board must be submitted in writing, addressed to the public works board, within ten (10) days following the order of the city manager or his designee. Such appeal from the order of the city manager or his designee shall be pursuant to the appeal provisions of the public works board and pursuant to the rules and regulations of the public works board.

(Ord. No. 9-1988, § 15, 5-24-88, eff. 6-6-88)

Sec. 22-61. - Performance of work by city.

Any notice given pursuant to this article shall state that, if the work required is not done within the time specified, the city will cause the work to be done at the expense of the property owner. If any work required under this division is not accomplished within the time specified in the notice, the forestry superintendent shall cause the work to be done. Upon completion of the required work, the forestry superintendent shall submit the cost thereof to the director. Such work shall be billed in accordance with and be subject to all provisions of section 21-26 et seq.

(Ord. No. 9-1988, § 18, 5-24-88, eff. 6-6-88)