

ARTICLE III. - TREES AND PLANTS

Footnotes:

--- (2) ---

Cross reference— Landscaping, § 18-491 et seq.; environment, Ch. 22; nuisances, § 38-386 et seq.

DIVISION 1. - GENERALLY

Secs. 46-76—46-100. - Reserved.

DIVISION 2. - TRIMMING AND REMOVAL

Sec. 46-101. - Violations and penalties.

Any person who shall violate any of the provisions of this article shall, upon conviction, be punished as provided in Section 1-8(a).

(Code 1975, § 63-5; Ord. No. 596, 4-8-74; Ord. No. 1043, 6-22-81; Ord. No. 2323, § 6, 6-13-94)

Sec. 46-102. - City forester; powers and duties.

The parks, buildings and recreation director shall appoint the city forester. The city forester shall have such duties and responsibilities as assigned by the parks, buildings and recreation director. The city forester shall also have the authority to order the removal of any trees or plants upon public or private property when the city forester determines such action is necessary to prevent the spread of disease or insects, and to protect the public health and safety based upon standards established by the International Society of Arboriculture. It is declared to be a public nuisance for an owner to maintain a tree or plant in a condition that presents a threat to the public health and safety.

(Code 1975, § 63-1; Ord. No. 596, 4-8-74; Ord. No. 1043, 6-22-81; Ord. No. 2323, § 1, 6-13-94)

Sec. 46-103. - Notice to correct

(a)

When the city forester shall find it necessary to order the trimming or removal of any trees or plants on public or private property, as provided in [Section 46-102](#), a written notice to correct such conditions shall be served upon the owner, lessor, lessee, or occupant by mailing a copy of the notice to correct to the address of the property upon which the tree or plant is located. If the property has no address, the notice to correct shall be mailed to the address of the owner, lessor, or lessee at the address shown at the county assessor's office. The notice to correct shall be mailed first class postage prepaid; such notice shall be deemed effective upon the date of mailing.

(b)

The notice to correct shall set forth a time period for compliance not to exceed 30 days. However, in cases of extreme danger to the public health, safety, or welfare or public property, the city forester shall have the authority to immediately eliminate such danger as provided in [Section 46-105](#). Failure to comply with a notice to correct is a violation of this division and is unlawful. The city forester shall have the authority to allow additional time for compliance if requested by the person to whom a notice to correct is directed. The city forester shall provide written notification by mail, first class postage prepaid, to the person to whom the notice to correct was directed of any additional time allowed.

(c)

If a person to whom a notice to correct is directed fails to comply with the notice to correct within the time specified or fails to comply with any additional time granted by the city forester, the city forester shall correct or cause to be corrected the conditions involved and shall charge the cost thereof to the property owner. In order to perform such obligations the city forester and duly authorized agents shall have access to any premises when required to carry out the provisions of this article. If the cost of the correction is not paid within 30 days after the receipt of an invoice from the city, such cost shall be levied against the affected property and shall thereupon become a lien upon the property involved.

(Code 1975, § 63-2; Ord. No. 596, 4-8-74; Ord. No. 2188, 9-14-92; Ord. No. 2323, § 2, 6-13-94)
Sec. 46-104. - Appeal.

(a)

Any person to whom a notice to correct is directed under this article may, within seven days of the effective date of the notice to correct, file a written appeal with the city manager's office. The written appeal shall state the name of the person filing the appeal, such person's address, phone number, such person's relationship to the property which is subject to the notice to correct and the basis for the appeal.

(b)

Within five days of receipt of such written appeal the city manager shall appoint a hearing officer who shall set a date and time for a hearing to be held to consider the appeal. The hearing must be held within 15 days of receipt of the written appeal.

(c)

Any appeal presented pursuant to this article shall be conducted in conformance with standards of procedural due process applicable to administrative hearings, including the right to present testimony and to confront witnesses.

(d)

The decision of the hearing officer shall be final, and compliance with such decision shall be required within seven days of the date of such decision.

(Code 1975, § 63-3; Ord. No. 2323, § 3, 6-13-94)

Sec. 46-105. - Immediate compliance.

Under this article, if the city forester deems any situation to be an immediate threat to the public health, safety, or welfare or threat to public property or when a person fails to comply with a notice to correct and upon obtaining a warrant for seizure from any state court of record, the city forester may enter upon any private or public property for the purpose of eliminating such threat or bringing the property into compliance. In cases where no notice to correct has been mailed and subsequent to enforcement under this section, the owner, lessor, lessee or occupant of the property will have a right to appeal the city forester's action and request a hearing in the same manner as provided in [Section 46-104](#).

(Code 1975, § 63-4; Ord. No. 2323, § 5, 6-13-94)