

## **Chapter 142 VEGETATION\***

**\*Cross references: Tree trimmers, § 26-526 et seq.**

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### **ARTICLE I. IN GENERAL**

Secs. 142-1--142-25. Reserved.

## **ARTICLE II. TREES AND SHRUBS**

### **Sec. 142-26. 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:

Owner includes the legal owner of real property fronting any highway or street of the city and any lessee of such owner.

Park includes all public parks having individual names.

Public places includes all grounds owned by the city.

Street or highway includes all lands lying between the property lines on either side of all public streets, roads, boulevards and alleys or parts thereof.

Trees and shrubs includes all woody vegetation growing on any public street or highway or public place.

(Code 1979, § 29-33)

Cross references: Definitions generally, § 1-2.

### **Sec. 142-27. Purpose.**

It is for the best interest of the city and of the citizens and public thereof that a comprehensive master plan for platting and maintenance of trees in public streets within the city should be developed and established, and this article is adopted, therefore, for the purpose of establishing rules and regulations relating to the planting, care and maintenance of such trees.

(Code 1979, § 29-32)

### **Sec. 142-28. Enforcing authority.**

The city manager, through the director of parks and open space or duly authorized representative, shall have full power, authority, jurisdiction and control of the planting, location and replacement of all trees in the public streets and areas of the city and shall likewise have supervision, direction and control of the care, trimming, removal, relocation and replacement thereof and shall be charged with the enforcement of this article.

(Code 1979, § 29-34; Ord. No. 95-53, exhibit A (§ 29-34), 9-11-95)

**Sec. 142-29. Street tree plan.**

The director of parks and open space shall prepare a street tree plan for all residential rights-of-way or other publicly owned places in the city so as to have a master plan showing tree species and locations within the city. This plan shall be kept up to date in accordance with current knowledge about plant materials and their ability to survive under the conditions we have in the city. It shall be unlawful to plant any trees or shrubs in any residential public right-of-way or publicly owned place which is not in conformity with the street tree plan.

(Code 1979, § 29-35; Ord. No. 95-53, exhibit A (§ 29-35), 9-11-95)

**Sec. 142-30. Permission to plant trees.**

No trees or shrubs shall be planted in or removed from any street, residential public right-of-way or other public place in the city without written permission from the director of parks and open space.

(Code 1979, § 29-36; Ord. No. 95-53, exhibit A (§ 29-36), 9-11-95)

**Sec. 142-31. Planting fee.**

(a) There is established a tree planting fee, which fee shall be established by the director of parks and open space in accordance with the provisions of section 2-587 of this Code. The city shall plant a tree approximately every 45 feet on all single-family detached residentially zoned premises abutting, fronting, backing or siding upon a publicly dedicated street. For all other premises abutting, fronting, backing or siding upon a publicly dedicated street not a principal arterial, trees shall be planted within street rights-of-way within the city. The placement of trees funded from other than single-family detached residentially zoned premises will be at the direction of the director of parks and open space. The trees are not required to be planted within the right-of-way adjoining the premises for which fees were collected. Upon receipt, the fees shall be deposited in a special revenue account of the designated revenues fund and shall be expended solely for trees to be planted and capital equipment necessary for the planting and maintenance of trees and for the salary of a tree technician. Such technician is to be assigned to the director of parks and open space.

(b) In residential planned unit developments, no front-footage fee shall be charged on residential frontages abutting upon private drives.

(Code 1979, § 29-37; Ord. No. 95-53, exhibit A (§ 29-37), 9-11-95; Ord. No. 2005-92, § 27, 12-5-2005)

**Sec. 142-32. Limitations on planting.**

For a corner lot, existing hedges, shrubs or any other plant material within 30 feet of the street intersection shall be trimmed and maintained so as not to stand more than 26 inches above the level of the sidewalk. On corners where existing embankments, retaining walls or other objects are placed, no plant materials shall be planted unless by permit from the director of parks and open space.

(Code 1979, § 29-38; Ord. No. 95-53, exhibit A (§ 29-38), 9-11-95)

**Sec. 142-33. Care, planting, removing and replacement.**

It shall be unlawful and is prohibited for any person other than the director of parks and open space or duly authorized agent or deputy to cut, trim, prune, spray, brace, plant, move or replace any tree in any public street or other public place within the city or to cause such to be done, unless and until written permit to do so shall have first been obtained from the director. Any such permit may be declared void by the director if its terms are violated. Nothing in this section shall be construed so as to apply to the removal, under the direction of the public works department, of any root, tree, shrub or plant or parts thereof when such removal shall be necessary for the construction of any sidewalks, sewer or public improvement, after having first notified the director of parks and open space.

(Code 1979, § 29-39; Ord. No. 95-53, exhibit A (§ 29-39), 9-11-95)

**Sec. 142-34. Public utility and owners.**

No person other than an owner or public utility may do any act for which a permit is required under section 142-33, except a person whose principal business is tree care, trimming or maintenance and who, in the opinion of the director of parks and open space, is qualified for such business or who has obtained a permit and paid the required license fee to carry on such business in the city.

(Code 1979, § 29-40; Ord. No. 95-53, exhibit A (§ 29-40), 9-11-95)

**Sec. 142-35. Removal or treatment when infected or infested.**

The director of parks and open space may inspect all trees, shrubs and logs upon any property within the city limits. Upon discovering any such plant materials 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 in writing the owner, agent or occupant of the premises whereon such is located of the condition thereof and shall direct such person to eradicate, remove and destroy these plant materials. If

the owner, agent or occupant fails to comply within the time specified by the director, he or she shall correct such conditions and the cost assessed to such owner, agent or occupant.

(Code 1979, § 29-41; Ord. No. 95-53, exhibit A (§ 29-41), 9-11-95)

#### **Sec. 142-36. Protection.**

Except to abate a nuisance, it shall be a violation of this article to:

- (1) Fasten any sign, card, poster, wire, rope or other material to or around or through any public tree or shrub or its guard in the city without a written permit of the director of parks and open space, except in emergencies such as storms or accidents.
- (2) Deposit, place, store or maintain upon any public area of the city any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein.
- (3) Break, injure, mutilate, kill or destroy any tree or shrub or permit any fire to burn where such fire will injure any portion of any tree or shrub in any public area. No person shall permit any toxic chemical to seep, drain or be emptied on or about any public tree or shrub. No person shall knowingly permit electric wires to come in contact with any public trees or shrubs unless protected by approved methods, and no person shall attach any electrical insulation to any public tree or shall excavate any ditches, tunnels or trenches or lay any drive within a radius of ten feet from any public tree or shrub without first obtaining permission from the director of parks and open space. During building operations, the builder shall erect suitable protective barriers around public trees or shrubs apt to be injured.
- (4) Permit any leaks to exist in any gas pipes or mains laid beneath the surface of any street, alley or public place in the city by any person owning, maintaining or operating such gas pipes or mains or to permit any leaks to exist within 40 feet of any tree growing in any street or public place in the city. If leaks exist or occur in such pipes or mains, it shall be the duty of the person owning or operating such defective pipes or mains to repair such immediately and stop such leak in a manner so as to prevent a recurrence of leak, upon receiving written notice from the director of parks and open space calling the attention of such person to such leak.

(Code 1979, § 29-42; Ord. No. 95-53, exhibit A (§ 29-42), 9-11-95)

#### **Sec. 142-37. Permits to public utilities.**

Upon application to the director of parks and open space by a telephone, telegraph, electric power or public service corporation or utility to trim trees or perform other operations affecting public trees or

shrubs, including the activities otherwise prescribed in section 142-34, or upon application of qualified contractors who have entered into contracts with a telephone, telegraph, electric power or other public service corporation or utility to trim trees or perform other operations affecting public trees or shrubs, the director shall grant a blanket permit, good until revoked for cause, covering all tree trimming and other operations affecting public trees or shrubs by such telephone, telegraph, electric power or other public service corporation or utility or qualified contractor. The director shall be notified of when and where such operations will take place. The amount of such trimming or extent of the other operations shall be done in a neat, workmanlike manner, and according to generally accepted practices. If necessary, the director may assign an inspector to supervise the provisions of the permit and the cost of such service shall be charged to the public service corporation or utility or contractor at cost.

(Code 1979, § 29-43; Ord. No. 95-53, exhibit A (§ 29-43), 9-11-95)

#### **Sec. 142-38. Permits.**

Every permit granted by the manager under this article or his or her authorized agent, shall specifically describe the work to be done under it and shall expire at the end of not exceeding 60 days from the date of its issuance, except for those permits issued under section 142-37. No charge shall be made for any permit.

(Code 1979, § 29-44)

#### **Sec. 142-39. Interference with enforcement.**

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

(Code 1979, § 29-45; Ord. No. 95-53, exhibit A (§ 29-45), 9-11-95)

#### **Sec. 142-40. Appeals.**

Appeals from orders made under this article may be made by filing written notice thereof with the city manager within ten days after such is received, stating in substance that appeal is being made from such order to the council. The city manager thereupon shall call such appeal to the attention of the council at

the next regular succeeding meeting, at which meeting the appellant and the director of parks and open space may present evidence unless a future date is set for hearing the appeal. Action taken by the council after such a public hearing shall be conclusive.

(Code 1979, § 29-46; Ord. No. 95-53, exhibit A (§ 29-46), 9-11-95)

**Secs. 142-41--142-70. Reserved.**