

## Chapter 8.32 TREES

### Sections:

- [8.32.010](#) Trees in right-of-way.
- [8.32.020](#) List of trees and plantings in public ways.
- [8.32.030](#) Inspection of trees.
- [8.32.040](#) Planting of approved species.
- [8.32.050](#) Duty to replace trees.
- [8.32.060](#) Duty to trim trees.
- [8.32.070](#) Removal of dead trees.
- [8.32.080](#) Maintenance of planting strip.
- [8.32.090](#) Tree pruning for building movers.
- [8.32.100](#) Use of equipment.
- [8.32.110](#) License required.
- [8.32.120](#) Control of Dutch elm disease.
- [8.32.130](#) Appeals from order of City Manager.
- [8.32.140](#) Failure to comply with notice – Payment of costs.
- [8.32.150](#) Statement of costs – Notice of hearing.
- [8.32.160](#) Service and notice of assessment.

### **8.32.010 Trees in right-of-way.**

The Department of Parks and Recreation is hereby authorized to furnish the necessary personnel and services for the planting of trees or replacing damaged trees in the right-of-way of the City.

(a) As a part of its service, the Department shall give advice and counsel regarding the tree varieties to be selected, the soil conditions involved, fertilizers needed, protective devices suggested and other information concerning the selection of the tree sizes and varieties and the planting of trees. Such advice and information regarding the selection and care of trees shall be available to any person in the City requesting such information.

(b) The planting and other services rendered by the Department shall be upon the specific condition that all watering and care, except for spraying and trimming of the trees after the planting, shall be the responsibility of the person requesting the planting, and the services of the Department personnel will only be for the purpose of planting the trees. No guarantee or assurance whatsoever shall be made or assumed regarding the growth or survival of the trees so planted.

(c) The planting of trees and services by the Department for such planting shall be available only during the usual spring months of each year; provided, however, that subject to the availability of personnel, plantings may be had at other times of the year upon request therefor.

(Amended during 2009 recodification; Code 1994 § 40-51; Code 1965 § 20-80)

### **8.32.020 List of trees and plantings in public ways.**

Trees, shrubs, vines and evergreens planted in public ways or parkings shall be in conformity with an official list approved by the Forestry Board. The Forestry Board shall consider in preparing an official list the growth habits, mature size, disease resistance or other factors which minimize maintenance costs and nuisances and conform with other provisions of the ordinances of the City. Plantings not in conformity with the approved list shall be removed by the owner or agent at the request of the City Manager.

(Amended during 2009 recodification; Code 1994 § 40-52; Code 1965 § 20-81(b))

### **8.32.030 Inspection of trees.**

The City Manager or designated representative is hereby authorized to inspect trees, shrubs, plants, vines, logs or branches and every other type of plant material on all private and public property to ascertain the condition of such plantings in relation to disease and insects detrimental to the growth, health and life of such plantings, to discover incidence of disease, and take appropriate action to preserve and restore the growth, health and life of the plantings by spraying, removing, pruning or other remedial action. Further, the Director or designated representative is hereby authorized to inspect trees, shrubs and plantings on private property for the above-mentioned conditions. If such conditions are found to exist and, in the professional judgment of the City Manager, such conditions are or will become injurious to other private or public plantings, the owner of the property shall be given written notice to spray, remove, prune or take any other necessary remedial action in regard to the infested plantings within a specified period of time.

(Code 1994 § 40-53; Code 1965 § 20-83(a))

#### **8.32.040 Planting of approved species.**

It shall be the responsibility of the City Manager to prepare or cause to be prepared a list of approved trees for planting in public ways and parkings along the streets and highways, and the City Manager shall be available for consultation with property owners regarding such plantings.

(Code 1994 § 40-54; Code 1965 § 20-84)

#### **8.32.050 Duty to replace trees.**

If a tree is removed by contractors pursuant to any work done in a City right-of-way, such tree shall be replaced by the contractor responsible for such removal. The ratio of replacement shall be as follows: For every six inches of trunk diameter removed measured four feet aboveground, one two and one-half inch balled and burlapped, or equivalent method, tree shall be used in replacement thereof up to a maximum of five inches in diameter, the species of which shall be determined by the City Manager.

(Code 1994 § 40-55; Code 1965 § 20-85)

#### **8.32.060 Duty to trim trees.**

The owner of any house, building or premises shall not permit the branches of any shade, ornamental or other tree to project over any street, avenue or sidewalk in front of or alongside of such building or premises lower than eight feet from the surface of the sidewalk and 14 feet over the surface of the alley or street. In estimating such heights, personnel of the Department of Parks and Recreation shall take into consideration the variation of height due to normal rain, snow, sleet and foliage conditions.

(Code 1994 § 40-56; Code 1965 § 20-86)

#### **8.32.070 Removal of dead trees.**

It shall be the duty of the City Manager to require the owner or agent of any premises whereon are situated any dead trees or overhanging boughs dangerous to life, limb or property to remove the same within a reasonable time. If the owner or agent fails to follow the requirements of a notice to remove same, then it shall be the duty of the City Manager to remove or destroy the dead trees or boughs or otherwise correct the offending condition at the expense of the owner or agent, and if the owner or agent fails to pay the expenses, the City shall recover its cost by suit or assessment, as is provided in GJMC [8.04.080](#).

(Code 1994 § 40-57; Code 1965 § 20-87)

#### **8.32.080 Maintenance of planting strip.**

(a) "Planting strip" shall refer to that area between the back of any curb of any street and the edge of the sidewalk closest to the street, or if there is no curb then from the edge of the asphalt of any street to the edge of the sidewalk.

(b) **Duty of Owner to Maintain.** It shall be the duty and obligation of every person in the City to keep and care for in the manner provided in this section the planting strip fronting or adjoining the premises owned by such person. Such planting strip shall be maintained in an aesthetically pleasing manner in either drought-tolerant plant material, grass or other plantings, stone aggregate, decorative rocks, bark

mulch, or like materials or combinations thereof, with or without plantings. Vegetation shall be watered and fertilized to provide optimum growing conditions.

(c) **Trees.** Any trees planted shall be on the approved list of trees as provided in GJMC [8.32.020](#). The City shall provide maintenance (spraying, trimming and removal) of trees only. Prior to any maintenance, the City shall attempt to notify any contiguous property owner but the City shall not be held liable for failure to give notice.

(d) **Hard Surfacing.** In unusual situations where drainage or traffic problems exist, or in commercial zones or premises where public buildings or uses are involved, hard surfacing such as concrete, terrazzo, brick, flagstone, asphalt or other impervious substances may be authorized by written permit at the discretion of the City Manager. If hard-surfacing materials are authorized in conjunction with tree plantings, proper tree wells as determined by the City Manager shall be constructed by the owner.

(e) **Minimum Open Area Around Trees.** No person shall deposit or maintain, upon the parking strip in any street, stone, cement, debris or other substance which impedes the free entrance of water and air to the roots of any tree in such public highway or other public place without leaving an open space or ground outside the trunk of such tree, in area not less than six square feet for a tree three inches in diameter, and for every two inches of increase of such diameter there must be an increase of at least two square feet of open ground.

(f) **Compliance with Other Provisions.** Any shrubs or other plantings and the use of other materials shall comply with regulations concerning traffic safety and other provisions of this code.

(g) **Appeal.** Any person aggrieved by the decision of the City Manager may appeal such decision to the Forestry Board, and such Board may affirm, reverse or modify the decision of the City Manager.

(Ord. 4424 § 6, 5-5-10; Ord. 3431, 5-15-02. Code 1994 § 40-58; Code 1965 § 20-88)

#### **8.32.090 Tree pruning for building movers.**

(a) If, in the process of moving any building or other object along the streets, alleys or public ways of the City, it is necessary to trim any trees, the trimming shall be done by direction of the City Manager and the cost of labor, material and equipment shall be paid by the person requiring the trimming. Branches over three inches in diameter may not be removed unless in the opinion of the City Manager removal of the limb will not impair the aesthetic value or well being of the tree. If, in the process of moving any building, machine or other object, any tree, shrub or other planting is damaged, destroyed or removed, the replacement or repair of such shall be borne by the party moving or causing to be moved such building or other object. If such work has been performed by the City, payment thereof must be made within 10 days after billing has been made. The City Manager may, in his discretion, require a bond, deposit or other security in advance of such moving to indemnify the payment of the aforesaid expenses.

(b) If, in the process of moving any building, machinery or other object along the streets, alleys or public ways of the City, the City Manager determines that it is necessary to remove any branch over three inches in diameter or any major portion of any tree, or such branch or portion of a tree becomes broken or damaged and must be removed as a result of the moving, the person doing or requesting the moving shall pay to the City such amounts as determined by the City Manager as compensation for the loss of each such branch removed plus the regular service charges for all labor and materials used in connection with the removal of the branches. All measurements to determine the size of the branches shall be made by the City. When, in the process of moving any building or other object, it is necessary to remove a tree from the streets, alleys or other public ways of the City, the value of the tree so removed shall be paid for by the person requiring its removal and the moneys received shall be used to replace as nearly as possible a planting of comparable size and value. The determination of the value of the tree shall be made by the City Manager, and he shall consider in arriving at the value current nursery estimates including the age, variety and condition of the tree removed.

(Code 1994 § 40-59; Code 1965 § 20-89)

#### **8.32.100 Use of equipment.**

It shall be the duty of any person using tools on trees or shrubs to properly disinfect such tools immediately after any work done on any individual tree or shrub. Failure to so disinfect such tools shall be considered to be a misdemeanor, and any person convicted of such a violation shall be punished in accordance with GJMC [1.04.090](#).

(Code 1994 § 40-60; Code 1965 § 20-90)

### **8.32.110 License required.**

(a) No person shall engage in the business of cutting, pruning, trimming or removing, and/or spraying of trees (collectively tree maintenance) in the City without first obtaining an annual license from the Forestry Board authorizing the person to engage in such business. Tree maintenance licenses may be issued to a person or to a business entity. If the person who completes the examination in accordance with GJMC [2.36.030](#) for or on behalf of a business entity leaves the employ of the business entity, then another responsible person shall be required to take and pass the examination within 14 days. A person taking/passing an examination for or on behalf of a business entity shall not be deemed to be a licensee after he/she leaves the employ of the business on whose behalf he/she took the examination. A person may hold a license only if he/she complies with all of the conditions of licensure; failure to continuously maintain compliance shall cause the license to be void.

(b) It shall be unlawful for any business entity to conduct or offer to conduct tree maintenance in the City unless at least one person within each crew performing and/or offering to perform tree maintenance is licensed by the City.

(c) The license required by this section shall establish minimum qualifications and competency. The manner and form of the license and the conditions and regulations imposed thereon are prescribed by GJMC [2.36.030](#) and Chapter [5.04](#) GJMC.

(d) The annual license fee shall be established by resolution of the City Council and be on file in the City Clerk's office beginning January 1st of each year.

(e) Every license shall show on its face the type(s) and classification or kind(s) of tree maintenance services that the licensee may perform.

(f) All motor vehicles and major equipment (chippers, stump grinders, trailers etc.) used in conducting tree maintenance services shall be clearly identified with the name of the licensee and the license number.

(g) No license shall be issued until the applicant therefor has presented to the City Manager a satisfactory liability insurance policy by a company licensed and duly operating lawfully in the State of Colorado covering all proposed operations of the applicant in such business in the City, including Colorado employee's liability (or worker's compensation insurance). The liability policy shall minimally provide coverage in the sum of at least \$350,000 for the injury or death of any one person; \$990,000 for the injury or death of any number of persons in any one accident; and \$150,000 for damage to property. The policy may allow the first \$1,000 of liability to be deductible. The policies must be valid for at least the term of the license and shall require at least 30 days' advance notice to the City before cancellation. If there are no employees of the company, a waiver of worker's compensation, in a form acceptable to the City Attorney, shall be permitted. In the event of the cancellation or termination of any such required insurance policy during the licensed term, the license shall be terminated and the holder thereof shall surrender such license to the City Manager unless the licensee presents to the City Manager a substitute insurance policy meeting the requirements of this section.

(Ord. 4608, 10-16-13)

**Cross reference(s)** – Businesses, GJMC Title [5](#).

### **8.32.120 Control of Dutch elm disease.**

(a) It shall be unlawful to possess or transport into or within the City all or any part of trees infected with the *Ceratocystis ulmi* fungus; provided, however, that the wood, branches and roots of such trees may be transported to a safe place for burial under a minimum of two feet of earth within 10 days

following discovery of such infection, or to such sites and under such conditions as are approved by the City Manager for processing and subsequent elimination of the disease hazard.

(b) Trees 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 multistratus* and the native bark beetle, *Hylurgopinus rufipes*, are hereby declared to be a threat and a hazard to all elm trees in the City. Transportation into or within the City or possession within the City of such trees or parts thereof, except for immediate burial or processing in a manner approved by the City Manager, shall be unlawful unless the bark has been completely removed. If such trees or parts thereof are found to exist, the owner of the property shall be given a written order by the City Manager to take necessary remedial action including, if necessary, the removal of such trees or parts thereof within a specified period of time.

(Code 1994 § 40-62; Code 1965 § 20-92)

#### **8.32.130 Appeals from order of City Manager.**

Any person aggrieved by any decision or order of the City Manager regarding the condition of trees, shrubs and plantings on private property may appeal such decision or order to the Forestry Board. If the decision of the Forestry Board is not favorable to the appellant, an appeal of the decision of the Forestry Board may be made to the City Council. Every appeal must be perfected within 10 days from the date of the order appealed from. It shall be lodged with the secretary of the Forestry Board and shall state the grounds for appeal. Such appeal shall operate as a stay of the order unless the City Manager shall certify that a stay would cause imminent hazard to landscape plantings within the City.

(Code 1994 § 40-63; Code 1965 § 20-93)

#### **8.32.140 Failure to comply with notice – Payment of costs.**

(a) It shall be unlawful for the owner, agent or occupant of the premises notified that conditions exist in the trees, shrubs and plantings on their property that will or are injurious to other private or public plantings to fail to comply with the written notice provided in GJMC [8.32.030](#).

(b) Should the owner, agent or occupant of premises fail or refuse to comply with the terms of the written notice sent by the City Manager, the City Manager, his employees or agents may enter upon the premises and cause to be removed, treated or otherwise cared for such diseased matter in order to eradicate or control the same, or to prevent the spreading of any threatening communicable disease or insect infestation.

(c) Payment of costs for failure to comply shall be the same as set out in GJMC [8.32.150](#).

(Code 1994 § 40-64; Code 1965 § 20-94)

#### **8.32.150 Statement of costs – Notice of hearing.**

(a) Upon the completion of the work done pursuant to this chapter and determination of the total cost thereof, the City Manager shall prepare an itemized statement showing the cost, including an additional fee as established by resolution of the City Council and on file in the City Clerk's office for the cost of collection and other incidentals and shall serve a copy of such statement upon the owner, agent or occupant of the real property upon which the work was performed, together with a notice to such owner, agent or occupant therein specifying:

- (1) The whole cost of the work done.
- (2) That any complaints or objections which may be made in writing by the owner or agent to the City Council must be made within 10 days from the date of such notice, and that such will be heard and determined by the City Council before the passage of any ordinance assessing the cost of such work.
- (3) The date and place for hearing of such complaints or objections.

(b) At the time and place specified in the notice provided by subsection (a) of this section, or at some adjourned time, the Council shall hear and determine all complaints and objections and may thereupon make such modifications and changes as may seem equitable and just. The Council shall thereupon, by

ordinance, assess the cost of such work, and the passage of such ordinance shall be prima facie evidence that such assessment has been lawfully levied. More than one assessment against the same or different lots or tracts of land may be included in one ordinance.

(c) Any assessment made under the terms of this section shall be a perpetual lien against the land and shall have priority over all other liens excepting general tax liens, and shall be collected in one installment in the same manner as are other special assessments with interest at one percent from the date of passage of the assessing ordinance.

(Code 1994 § 40-65; Code 1965 §§ 20-95 – 20-97)

### **8.32.160 Service and notice of assessment.**

Service of any notice or assessment statement required in GJMC [8.32.150](#) shall be made as follows:

- (a) Personally, by handing to and leaving with the owner or agent or any member of his household over the age of 18 years a copy of such directive, statement or notice.
- (b) Proof of service shall be made by certificate of service of the City Manager or any City employee actually making such service or by the affidavit of the person serving the same, if not a City employee.
- (c) By certified mail, by mailing such directive, statement or notice, postage prepaid, return receipt requested, to be signed by addressee only, addressed to the last known address of the owner or agent. Service by certified mail shall be complete upon the date of receipt by the addressee. Proof of service shall be made by certificate of mailing of the City Manager, together with signed receipt of the addressee.
- (d) If service cannot be made personally or by certified mail, such directive, statement or notice shall be served by publishing the same for one publication in the official City newspaper. Service shall be complete five days after the date of publication. Proof of service shall be made by the certificate of mailing of the City Manager, together with the publisher's affidavit of publication.

(Code 1994 § 40-66; Code 1965 § 20-98)

**The Grand Junction Municipal Code is current through Ordinance 4847, passed April 3, 2019.**

Disclaimer: The City Clerk's Office has the official version of the Grand Junction Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.gjcity.org/>  
 (<http://www.gjcity.org/>)  
 City Telephone: (970) 244-1511  
 Code Publishing Company  
 (<https://www.codepublishing.com/>)