

## Chapter 24 VEGETATION\*

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**\*Editor's note:** Ord. No. 1304, § 1, adopted July 28, 2003, renamed Ch. 24 to read as Vegetation instead of Trees and Shrubs.

**Cross references:** Arborist board, § 2-58.

**State law references:** Home rule powers, Col. Const. Art. XX, § 6.

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**ARTICLE I. IN GENERAL\***

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**\*Editor's note:** Ord. No. 1999-1157, adopted May 10, 1999, repealed and re-enacted Art. I of Ch. 24 to read as herein set out. Prior to this re-enactment, Art. I contained general provisions pertaining to the regulation of trees and shrubs and was derived from Code 1977, §§ 22-3--22-13 and 22-15--22-17; and Ord. No. 1998-1123, adopted June 22, 1998.

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**Sec. 24-1. Purpose.**

It is the policy of the city to serve the public health, safety and welfare by promoting and protecting trees, shrubs, hedges and other plants because of the unique benefits they provide in enhancing community appearance, wildlife habitat and assisting in the natural control of environmental conditions.

(Ord. No. 1999-1157, § 1, 5-10-99)

**Sec. 24-2. City forester.**

The city manager shall appoint a city forester, who shall be an employee of the parks and recreation department.

(Ord. No. 1999-1157, § 1, 5-10-99)

**Sec. 24-3. Powers and duties of city forester.**

The city forester or his or her designee shall have jurisdiction and supervision over all trees and other plants growing on public property within the city; and over all trees and other plants located on private property that constitute a nuisance; a safety hazard to persons or property; a health hazard to other trees and plants; or prevents the safe use of any public area.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1324, § 4, 5-10-04)

**Sec. 24-4. Reserved.**

**Editor's note:** Ord. No. 1324, § 3, adopted May 10, 2004, repealed § 24-4 in its entirety. Former § 24-4 pertained to rules and regulations and derived from Ord. No. 1999-1157, § 1, adopted May 10, 1999.

**Sec. 24-5. Inspection of private property.**

The city forester or his or her designee shall have the right to enter private property in order to inspect trees and other plants during normal working hours, following no less than thirty (30) days' written notice of such entry to the property owner or at an earlier time by mutual agreement between the forester and property owner. In the event the city forester or his or her designee determines an

emergency to exist requiring immediate entry, no written notice shall be required. The city forester or his or her designee shall from time to time conduct surveys to determine if any destructive or communicable disease or other pestilence exists which is detrimental or endangers the good health and well-being of trees or other plant life in the city.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-6. Control of trees, shrubs, etc.**

(a) It shall be the duty of the owner, agent or occupant of any property to remove any dead or dying tree, shrub, etc., or any portion of tree, shrub, etc., which interferes with, obstructs, or in any way endangers the safe use of public areas or utility easement; eradicate, remove, or otherwise control such conditions of pestilence; upon written notice from the city forester or his or her designee to do so and within such reasonable time as specified on the notice, unless the city forester or his or her designee determines that a shorter period is required for the protection of the public health, safety or welfare, such reasonable time shall not be less than thirty (30) days. The notice may be mailed by certified mail to the owner of the property, personally delivered, or posted or left at the property concerned.

(b) If the property owner refuses or neglects to fulfill the requirements of the notice within ten (10) days after the date specified in the written notice from the city forester or his or her designee so to do, the city forester or his or her designee may do or cause to be done the necessary work incident thereto, and the expense thereof shall be recovered from the owner of such property in the manner provided in this article.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-7. Planting, maintenance of trees, shrubs, etc., on public property.**

Unless otherwise authorized by the city forester or his or her designee, and except for routine upkeep and maintenance, it shall be unlawful to cut, prune, spray, remove, treat or plant any tree or shrub, upon the public right-of-way or other public place without first having obtained a permit from the city forester or his or her designee.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1304, § 7, 7-28-03; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-8. Injuring trees on public property.**

(a) It shall be unlawful to injure, damage or destroy any tree, shrub, etc. on any public property within the city. Any person who shall injure, damage or destroy any tree, shrub, etc. on any public property within the city shall notify the city forester or his or her designee of such occurrence and shall within a reasonable time repair or replace the tree, shrub, etc., to the satisfaction of the city forester or his or her designee.

(b) Should any person fail or refuse to repair or replace the damaged or destroyed trees, shrubs, etc., within a reasonable time, the city forester or his or her designee shall do or cause to be done the necessary repairing or replacement, and the costs recovered in a manner provided in this article.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-9. Reserved.**

**Editor's note:** Ord. No. 1324, § 3, adopted May 10, 2004, repealed § 24-9 in its entirety. Former § 24-9 pertained to appeals and derived from Ord. No. 1999-1157, § 1, adopted May 10, 1999.

#### **Sec. 24-10. Cost recovery.**

The city forester or his or her designee is hereby authorized to recover the costs of enforcement of the provisions of this chapter from the owner of the affected property in the manner provided at article II of chapter 15 of this Code, or of sections 31-20-105--31-20-107, C.R.S., or by civil action.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1304, § 8, 7-28-03; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-11. Public utilities.**

Public utility work affecting trees, shrubs, vines, hedges, or other plants shall be limited to the actual necessities of the services of the utility company. Such work shall be accomplished in a neat and professional manner, and according to the specifications and rules and regulations as promulgated by the arborist board. The city forester or his or her designee shall be notified before any work is accomplished within utility easements or within the "root zone" as defined in rules and regulations, of said trees, shrubs, vines, hedges or other plants.

(Ord. No. 1999-1157, § 1, 5-10-99; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-12. Nuisance plants.**

It shall be unlawful and deemed a nuisance to sell or import into the city or plant or cause to be planted any female cottonwood trees (*Populus species*), Boxelder (*Acer negundo*) or Siberian elm (*Ulmus pumila*) or other undesirable plants as designated by ordinance upon any property within the city and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance, which may be abated in the manner provided by chapter 15.

(Ord. No. 2001-1219, § 1, 5-21-01; Ord. No. 1304, § 6, 7-28-03)

Secs. 24-13--24-30. Reserved.

**ARTICLE II. TREE SURGEONS, ETC.\***

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**\*Editor's note:** Ord. No. 1998-1123, § 3, adopted June 22, 1998, repealed and re-enacted provisions set out as Ch. 24, Art. II. Former provisions pertained to similar subject matter and were derived from Code 1977, §§ 22-18--22-26; and Ord. No. 1996-1026, adopted May 13, 1996.

**Cross references:** Licenses, permits and miscellaneous business regulations, Ch. 11.

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**Sec. 24-31. License required.**

It shall be unlawful for any person to engage for hire, or peddling, soliciting or canvassing in the business within the city of planting, pruning, removing, spraying or otherwise treating trees, shrubs or vines, or applying herbicides, insecticides, fungicides, soil conditioners or fertilizers by spraying or disseminating materials by any device other than by hand tools not actuated in whole or in part by compressed air, gas, water or mechanical means or source without first procuring a license thereof from the arborist board.

(Ord. No 1998-1123, § 3, 6-22-98)

**Sec. 24-32. Types of license.**

(a) *Ornamental plant license* shall authorize the business holding the license to prune or remove small vegetation where the licensee is not required to leave the ground except by use of a step ladder not exceeding the height of twelve (12) feet, and then only for the purpose of shearing evergreens.

(b) *Large tree license* shall authorize the business holding the license to prune or remove trees of any size.

(c) *Planting license* shall authorize the business holding the license to plant trees, shrubs, etc.

(d) *Spray licensee* shall authorize the business holding the license to spray or otherwise treat trees, shrubs or vines, or applying herbicides, insecticides, fungicides, soil conditioners or fertilizers.

(e) *Stump removal license* shall authorize the business holding the license to remove tree or shrub stumps.

(f) *Arboricultural license* shall authorize the business holding the license to perform all of the above categories.

(Ord. No. 1998-1123, § 3, 6-22-98)

**Sec. 24-33. Application.**

The application for every license to engage in business under the provisions of this article shall specify the types, classifications or kinds of service, constituting all or any part or parts of such business which the applicant desires to perform or render if the same be issued and for the performance and rendition whereof he desires to be licensed. Applications for licenses shall be

accompanied with an application fee in the amount established by resolution; provided however that no application fee shall be required for renewal of an existing license. Any change of ownership require a new application and license with payment of fees thereof. No license shall be issued or renewed without the approval of the city forester and arborist board.

(Ord. No. 1998-1123, § 3, 6-22-98)

#### **Sec. 24-34. Examination of applicants.**

Before any license shall be issued under the provisions of this article, the city forester or his or her designee shall examine the applicant for such license, either orally or in writing or partly orally and partly in writing as the city forester or his or her designee, in his discretion, deems proper, covering the applicant's qualification and competency to engage in the types, classifications or kinds of service for the performance and rendition whereof his application discloses that he desires to be licensed, and who shall require such demonstration of actual practical ability and competence or the furnishing of such evidence of previous satisfactory experience or testing as the city forester or his or her designee, in his discretion, deems proper.

(Ord. No. 1998-1123, § 3, 6-22-98; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-35. Contents.**

Every license issued under the provision of this article shall show upon its face the types, classifications or kinds of service constituting all or any part of parts of such business in which the license therein named is thereby authorized to render or perform.

(Ord. No. 1998-1123, § 3, 6-22-98)

#### **Sec. 24-36. Rules and regulations generally.**

The city forester or his or her designee may adopt rules and regulations governing those aspects of the conduct of the businesses defined in sections 24-31 and 24-32 and any and all parts thereof, directly affecting the public health and safety, and requiring the use of such safety appliances, apparatus and equipment as are reasonably necessary for the protection of the workman engaged therein, the public and private property. It shall be unlawful for any licensee hereunder to violate, or fail, neglect, or refuse to comply with any such rules and regulations.

(Ord. No. 1998-1123, § 3, 6-22-98; Ord. No. 1324, § 2, 5-10-04)

#### **Sec. 24-37. Name, city of license to be displayed.**

All automobiles, trucks, trailers and other vehicles operated by licensee under the provisions of this article for the transportation of the 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 city of such licensee displayed on both sides thereof in plain and legible figures not less than three (3) inches in height, which shall be kept in such condition as to permit the same to be readily distinguished and read at a distance of at least sixty (60) feet, and it shall be unlawful and ground for revocation of his license for any licensee to operate any equipment to be operated or drawn or towed upon the streets, alleys or other public places within the city unless or without the same being so displayed thereon.

(Ord. No. 1998-1123, § 3, 6-22-98)

**Sec. 24-38. Failure to obtain license.**

(a) Any person or business engaging in business as outlined in this chapter shall present proof of his license for inspection upon request of the city forester or his or her designee.

(b) If the person or business is unable to produce proof of the license, or identify the person in whose possession proof of such license could be found, the city forester or his or her designee may order the person or business to cease his operation immediately and not resume such operation until a valid license is obtained.

(c) Any person or business who fails to comply with such order or directive may be issued a municipal summons and complaint.

(d) Any person or business who fails to comply with an order to obtain a license and continues to engage in business in the city, the city may seize and impound any personal property of the person or business, or his agent, located in the city and used in any manner in furtherance of or to facilitate the transaction of the business in the city. The person or business shall be notified of the impoundment and shall have the right to demand an administrative hearing before a hearing officer appointed by the city manager. The hearing shall be held not later than five (5) working days from the date of the seizure, unless the vendor requests a later date. The hearing officer at such hearing shall determine only whether the person or business had a valid arborist license and whether or not the impounded property was used in the furtherance of or to facilitate the transaction of business. If no hearing is demanded or if a hearing is held and it is determined that the property was so used, the impounded property shall be held until the person or business has obtained a license. The determination of the hearing officer shall be appealable to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(e) If the person or business fails to apply for a license within ten (10) days from the date of impoundment the city shall arrange to sell the personal property at a public auction after thirty (30) days' public notice by publication not less than two (2) times in a newspaper of general circulation within the city. Such property may be redeemed by the owner at any time prior to sale by paying such license fees, together with such costs as have accrued from the seizure and preparation for sale.

(Ord. No. 1998-1123, § 3, 6-22-98; Ord. No. 1324, § 4, 5-10-04)

**Sec. 24-39. Insurance required.**

No license issued under this article shall be effective and no such license shall be issued until the applicant or licensee shall have filed with the city forester a satisfactory public liability insurance policy covering all operations of such applicant licensee in such business in the city in the sum of at least two hundred fifty thousand dollars (\$250,000.00) for each person injured and not containing a limitation of liability of less than one million dollars (\$1,000,000.00) in case of injury of two (2) or more persons in any one accident, except that ornamental, planting and fertilizing licenses contain a limitation of liability of less than six hundred thousand dollars (\$600,000.00) and in the sum of not less than one hundred thousand dollars (\$100,000.00) for damage to property. In addition, workmen's compensation insurance satisfying the statutes of the State of Colorado shall be on file with the city forester. Should any policy be canceled, the city shall be notified of such within ten (10) days after such cancellation is effective, and a provision to that effect, which shall also place upon the company writing such policy the duty to give such notice, shall be incorporated in each such policy. In the event any such insurance policy at any time fails, in the opinion of the city forester or his or her designee to comply with the provisions hereof or to afford reasonably satisfactory protection to the persons intended to be protected thereby, it shall in writing so notify the licensee and the arborist board and failure to maintain the insurance required hereby shall be a ground for revocation of any such license, or in the

discretion of the city forester or his or her designee, for the suspension thereof until the insurance required hereby be so furnished. It shall be unlawful for any person to engage in the business defined in this article while his license to do so is for any reason suspended or after the same is for any reason revoked.

(Ord. No. 1998-1123, § 3, 6-22-98; Ord. No. 1324, § 4, 5-10-04)

#### **Sec. 24-40. Fee; limits on licensee's activity.**

The annual license fee for every licensee to engage in the business under the provisions of this article or in any type, classification or kind of service constituting all or any part or parts of such business shall be established by resolution and the issuance of such license shall entitle and authorize the licensee therein named to engage in only such types, classifications or kinds of service constituting all or any part or parts of such business shall be designated or shown upon the face of such license. It shall be unlawful and a ground for revocation of such license, for the licensee to engage in any other or different type, classification or kind of service constituting all or any part or parts of business.

(Ord. No. 1998-1123, § 3, 6-22-98)

#### **Sec. 24-41. Violations.**

It shall be a violation of this chapter [article] to conduct landscape business within the scope of this chapter within the city without a valid license or without an application filed in a timely manner with the city forester. Each day that a business is conducted in violation of this article shall be a separate offense.

(Ord. No. 1998-1123, § 3, 6-22-98)

#### **Sec. 24-42. Denial.**

A license may be denied for any reason that it can be suspended or revoked.

(Ord. No. 1998-1123, § 3, 6-22-98)

#### **Sec. 24-43. Revocation.**

An arborist license may be revoked by the city forester:

- (a) When the city forester or his or her designee determines that issuance of the license was illegal or improper.
- (b) When the license was issued to the wrong person, business or premises or the wrong license was issued.
- (c) When it appears that the license was obtained by fraud or misrepresentation or false statements within the application.
- (d) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code, state statute, or decided case law.
- (e) Upon other grounds provided by this Code, state statute or decided case law.

(Ord. No. 1998-1123, § 3, 6-22-98; Ord. No. 1324, § 4, 5-10-04)



**Sec. 24-44. Suspension.**

An arborist license may be suspended with or without conditions, by the city forester or his or her designee when the licensee has, in the opinion of the city forester or his or her designee:

- (a) Conducted an activity pursuant to such license which violates this Code or state statute.
- (b) Demonstrated incompetence, as measured by generally accepted industry standards.
- (c) Misused the license.
- (d) Violated [any] of the provisions or conditions of the license.
- (e) Failed to comply with any of the license responsibilities imposed by this chapter [article].
- (f) Knowingly conspired with a person to permit a license to be used by another person.
- (g) Acted as an agent, partner, associate or in any capacity with persons to evade the provisions of this article or rules and regulations of the city forester or parks and recreation commission.
- (h) Willfully violated or disregarded any of the provisions of Colorado Statutes regarding the use of pesticides.
- (i) Repeatedly violated the provisions of this chapter, the rules and regulations of the city forester or parks and recreation commission, or repeatedly failed to obey orders in a timely fashion.
- (j) Acted in a manner which would authorize revocation of a license except actions which make revocation mandatory.
- (k) Acted in a manner which would authorize suspension provided by this Code.

(Ord. No. 1998-1123, § 3, 6-22-98; Ord. No. 1324, §§ 1, 4, 5-10-04)

Secs. 24-45--24-49. Reserved.

**ARTICLE III. WEEDS AND TALL GRASS****Sec. 24-50. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The terms defined below shall be broadly interpreted to achieve the purposes intended.

*Ornamental grasses* means those plants of the Gramineae family having ornamental value and commonly used in formal lawn landscapes.

*Tall grass* means grass in excess of twelve (12) inches in height with the exception of ornamental grasses.

*Weed* means weeds, grass, brush or other rank or noxious vegetation, and shall not include flower gardens, plots of shrubbery or vegetable gardens, nor shall it apply to or be construed to require removal of any weeds from the city's owned or leased greenbelt natural area.

(Ord. No. 1304, § 3, 7-28-03)

**Sec. 24-51. Weed and tall grass control.**

(a) All owners and occupants of land shall prevent property owned or occupied by them from becoming overgrown with weeds or tall grass.

(b) It shall be unlawful for the owner or occupant of any undeveloped property zoned as agricultural, excluding the city's owned or leased greenbelt natural areas, to permit weeds or tall grass to grow on such property to a height of more than twelve (12) inches within a distance of one hundred (100) feet from any public street, highway or park, or within a distance of one hundred (100) feet from property lines adjoining any residential, commercial, industrial or open zone or use.

(c) Weeds and tall grass shall be controlled by cutting, spraying or other lawful and suitable method of control. such methods shall include eradication, containment and/or suppression, as appropriate and as deemed by the city to be consistent with 35-5.5-101 et seq., C.R.S.

(d) It shall be unlawful and shall be deemed a nuisance for the owner of any property, regardless of its zoning, to allow weeds or tall grass in excess of twelve (12) inches height to grow on the adjacent street or right-of-way.

(e) The city may notify property owners and occupants in violation of this section either by posting the property, or by first class or certified mail, at the city's option. Such notice shall be dated and shall include a statement directing that failure to cut and remove the weeds or tall grass within seven (7) days of the notice will result in the city cutting such weeds or tall grass and the actual cost of the cutting and/or removal, plus administrative fees of twenty-five (25) percent for the first cut, fifty (50) percent for the second cut and seventy-five (75) percent for the third cut within the same growing season, plus a fifteen (15) percent fee if not paid within thirty (30) days, charged to the owner notwithstanding the provisions of section 15-11(a).

(f) If the owner or occupants shall fail to cut weeds or tall grass, as required by this section, within seven (7) days after being notified to do so, the city may direct that the weeds or tall grass be cut and charge the cost thereof to the owner in the manner permitted by section 24-10.

(g) This section shall not apply to:

(1) Lots or parcels zoned for and also used for agricultural operations, OR

(2) Lots or parcels larger than twelve thousand, five hundred (12,500) square feet, under a single ownership, used for the growing and harvesting of agricultural crops, regardless of the zoning of the lots or parcels.

(h) The city may pursue the remedies set forth herein with or without also filing a complaint in the municipal court, at the city's sole discretion.

(i) For the purposes of this section, the following terms shall be defined:

*Agricultural crop.* Cultivated grain and non-grain plants grown for food or fiber, including vegetables, fruits, nuts, and nursery plants.

*Agricultural operation.* A purpose related to the production, harvest, exhibition, processing or manufacture of agricultural products by a natural person who cultivates, plants, propagates or nurtures the agricultural products.

(Ord. No. 2001-1219 § 1, 5-21-01; Ord. No. 1304, § 4, 7-28-03; Ord. No. 1335, § 1, 11-15-04)