

## ARTICLE 090.050 - STREET TREES

### 090.050.010 - Purposes.

The purposes of this article are to provide generally for the protection of trees, to ensure proper planting and maintenance of trees in the public right-of-way and in City parks, to provide for the abatement of nuisance trees on public and private property, and to provide for the proper licensing of all tree cutters doing business in the City.

### 090.050.020 - Administration.

The Parks Superintendent is hereby appointed to administer and implement this article. Subject to review and approval by the City Council, the Superintendent shall promulgate and make available to the public such rules, regulations and policies as are necessary to carry out the administration of this article.

### 090.050.030 - Trees on public property.

- (a) *Permit required.* It shall be unlawful for any person to plant, remove, destroy or cause to be planted, removed or destroyed any tree in or upon the public right-of-way or other public property within the City without having first obtained a written permit therefor. For purposes of this section, a development plan duly approved under the procedures set forth in [Title 070](#) of this Code shall be considered a permit. The planting of trees and vegetation on public rights-of-way shall meet City criteria in accordance to spacing street trees, tree species from the superintendent's list of approved street trees, and recommendations affecting blockage of street signs, street corners and vision of traffic. Plantings shall be approved by the Superintendent.
- (b) *Permit application.* Any person desiring a permit pursuant to this section shall make written application therefor at the office of the Superintendent upon forms furnished by the Superintendent. Such application shall set forth the name and address of the applicant, the name and address of the person doing the work, the kind or species of tree involved and the location of same, a specific description of the work to be performed and such other information as the Superintendent may require. The applicant shall, at the time of making the application, agree in writing to save and hold the City harmless and protect the City and the public at all times in connection with the work authorized by the permit.
- (c) *Criteria for permit issuance.* The Superintendent shall base any decision to approve or deny a permit upon the extent to which the application does or does not comply with City goals, policies and plans, with the purposes of this article and with any rules and regulations promulgated pursuant to this article. In addition, the Superintendent shall take the following factors into account:
  - (1) The extent to which a tree does or may create hazards to motorists, pedestrians and other members of the public;
  - (2) The extent to which a tree does or may constitute a threat to public or private property, including but not limited to, buildings, streets, curbs, sidewalks, driveways and utilities;
  - (3) The extent to which a tree does or may interfere with solar access to public or private property;
  - (4) The extent to which a tree is diseased, infested, dead or dying or is susceptible to disease, infestation or death; and
  - (5) The extent to which a tree is or is not appropriate for the local climate and growing conditions and does or does not require extraordinary maintenance efforts.
- (d) *Rights of abutting property owners.* Property owners shall have the right to plant and care for trees on any abutting public right-of-way in accordance with the provisions of this section.
  - (1) Planting of trees or other vegetation must be approved by the superintendent, and must come from the superintendent's list of approved street trees, unless otherwise approved in writing by the Superintendent.
  - (2) Trees must be planted thirty (30) feet apart, unless otherwise approved in writing by the Superintendent.
  - (3) Planting shall be done so as not to impede vision at corners of intersections of streets, alleys, driveways and other thoroughfares of traffic, as well as of signage for such traffic.
- (e) *Topping prohibited.* Except as provided herein, it shall be unlawful for any person to top a tree in or upon the public right-of-way or other public property within the City. For purposes of this subsection, topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees that pose an imminent threat to property or to public safety such that other pruning practices are impractical, may be exempted from this section at the discretion of the Superintendent.

- (f) *Stop orders.* Whenever any work is being done contrary to the provisions of this section, the Superintendent may order the work stopped by notice in writing se person engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized in writing by the Superintendent with the work.

#### **090.050.040 - Trees on private property.**

- (a) *Nuisance trees.* It shall be the duty of the owner of any property to adequately prune or otherwise abate any nuisance trees upon the owner's property or adjacent right-of-way after notice as required in Subsection (f) below. For purposes of this section, nuisance trees are defined as:
- (1) Trees that pose a threat to public safety or adjacent public property, including but not limited to public rights-of-way, or any tree growing over a public alley, street or highway, shall be trimmed by the owner of the property on which the tree stands, so that there shall be a clear height of fourteen (14) feet above the surface of the street, alley or highway and eight (8) feet above the surface of the sidewalks. Such owner shall remove all dead branches and stubs on such trees that are or may become a menace to travelers on public highways, streets or alleys of the City. Trees whose roots are causing upraised sidewalk slabs are hereby declared a nuisance. If a tree or its parts in any other way cause a hindrance to the general public or in any way endanger the security or usefulness of any public street, highway, alley, sewer or sidewalk as determined by the Superintendent, it is hereby declared to be a public nuisance. If the owner of such private property does not correct or remove such nuisances within a reasonable time after written notification by the Superintendent, the Superintendent shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner of the property in question as required in Subsection (f) below.
  - (2) Trees that harbor any destructive or communicable disease or other pestilence that endangers the well-being of other trees in the City or that are capable of causing an epidemic spread of a communicable or insect infestation.
- (b) Any owner or occupant of real property shall trim all trees on property owned or occupied by him/her so that the branches thereon will not interfere with public travel as more specifically required in Paragraph (a)(1) above.
- (c) Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of such hedges or shrubbery shall extend over any part of a public sidewalk of the City.
- (d) The trees, vegetation and turf grass on the right-of-way between the street and sidewalks shall be considered the responsibility of the adjacent landowner, including maintenance, such as watering, mowing, trimming and weed control.
- (e) *Injuring.* It is hereby declared unlawful for any person, not the owner thereof, or without lawful authority to do so, to willfully deface, disfigure or destroy any tree or shrub or to injure, destroy, cut or pick any flower or plant located either on private ground or on any public place, thoroughfare, trails or parklands.
- (f) *Notice of abatement.* Upon the discovery of a nuisance tree, the Superintendent shall cause written notice to be served upon the owner of the property upon which the tree is located requiring the owner to abate the nuisance within a reasonable time specified in such notice. It shall be unlawful for any person to fail to comply with the requirements of any notice given pursuant to this section within the time specified in such notice. If the notice to abate is not complied with within the required time, the City may cause such nuisance to be abated, shall assess the costs of such assessment against the property and shall notify the owner of the amount thereof. Such assessment shall be a lien upon the property until it is paid.

#### **090.050.050 - Licensing of commercial tree cutters.**

- (a) *Purpose.* The purpose of this section is to protect the City and the citizens thereof and to protect and preserve trees in the City by assuring a minimum level of knowledge and competency on the part of all persons engaged in the business of cutting trees in the City.
- (b) *License required.* It shall be unlawful for any person to engage in the business of cutting, trimming, pruning or removing trees within the City without first procuring a license from the City. For purposes of this section, business is defined as any work for which a charge is made, either by a fixed sum, price, fee, wage, percentage, barter or any combination of these.
- (c) *Application procedure.* Any person desiring a license pursuant to this section shall make application therefor at the Office of the Superintendent on forms to be provided by the Superintendent. Within ten (10) days after receipt of the application, the Superintendent shall examine the applicant either orally or in writing as he/she shall deem appropriate. At the discretion of the Superintendent, the examination may also include an actual demonstration of the applicant's ability. No license shall be issued or renewed without the approval of the Superintendent.
- (d) *Insurance.* Every person granted a license under this section shall maintain at all times workers' compensation insurance, as well as public liability and property damage insurance in the following minimum amounts: seventy-five thousand dollars (\$75,000.00) coverage per occurrence, fifty thousand dollars (\$50,000.00) coverage for bodily injury and death per person, and ten thousand dollars (\$10,000.00) for property damage.
- (e) *License fees, term and renewal.* No license shall be issued or renewed hereunder until the applicant has paid an annual license fee of seventy-five dollars (\$75.00). Every license issued hereunder shall expire twelve (12) calendar months after it is issued. Renewal applications may be submitted at the Office of

the Superintendent any time within thirty (30) days of the date the license will expire.

- (f) *Suspension or revocation of license.* Upon the verified complaint in writing by any person, the Superintendent may suspend or revoke any license issued hereunder for violations of this article or for violations of any rules or regulations promulgated pursuant to this article. The complaint shall be submitted in writing to the Superintendent and shall state the date, time and place of the violation for which the suspension or revocation of said license is requested. Before suspending or revoking any license pursuant to this section, the Superintendent shall first mail, by certified mail, a copy of the complaint to the license holder and give notice to the license holder of a date, not less than five (5) days after the date of mailing of such notice, on which the Superintendent will hold a hearing to determine whether or not such license should be suspended or revoked.
- (g) *Appeal of suspension or revocation.* In the event of any suspension or revocation of a license by the Superintendent, the licensee shall have the right to appeal such suspension or revocation to the City Manager and thence to the City Council. An appeal of the Superintendent's decision must be submitted in writing to the Superintendent within ten (10) days after the suspension or revocation of the license or, if an appeal for the decision of the City Manager, within ten (10) days of his/her decision. The City Manager or the City Council shall have the power to affirm, reverse or modify the decision of the Superintendent or City Manager, respectively.

(33-83 § 5; 29-97 §§ 1, 2)