

Chapter 8.06 TREES AND VEGETATION

8.06.010 Definitions.

The following definitions will be applicable throughout this chapter:

Agent means any person other than an owner, in charge of or having the control and supervision of the premises. An occupant or tenant of the premises, except hotels, apartment houses, office buildings and other multi-unit dwellings and business buildings, shall, for all purposes, be considered an agent.

ANSI Standards means the safety requirements for pruning, repairing, maintaining and removing trees and brush, as promulgated by the American National Standards Institute, and the use by tree contractors of equipment in such operations.

City of Lakewood means the municipality of Lakewood, Colorado.

Department means the Community Resources of the City of Lakewood.

Director means the Director of the Community Resources Department or designee.

License means the license issued pursuant to this chapter.

Licensee means a tree contractor holding a license issued pursuant to this chapter.

Owner means the recorded owner of property as shown by the records of the Clerk and Recorder of Jefferson County.

Parks manager means the manager of the city's parks division or designee.

Person means any individual, firm, partnership, association, corporation, company or organization.

Public way means and includes all streets within the City of Lakewood as defined in section 1.04.010 of this Code and all public rights-of-way and easements, walkways and sidewalks, public roads, public alleys, public drainage ways, public parks, medians and open space. It shall not include utility easements on private property not located within any other public way or privately-owned ditch canals or easements.

Reciprocal license means a license issued by a jurisdiction other than the City of Lakewood subsequent to passing a test for acceptable arboricultural performance practices standards, as mutually agreed upon among the City of Lakewood and such other jurisdictions.

Tree means a single or multi-stemmed woody plant that attains a minimum mature height of 16 feet with a minimum mature trunk diameter of one inch measured at six inches above the ground.

Tree contractor means any person who performs for hire any tree or shrub maintenance or removal service within the City of Lakewood.

Vegetation means and includes any tree, shrub, vine, weed, grass or herbaceous plant.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 §§ 1-4, 1994; Ord. O-89-3 § 3, 1989; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.020 Authorization for tree maintenance, trimming, planting and similar activities.

The parks manager is authorized to trim, spray, remove, plant and protect vegetation and to trim, spray and remove weeds upon the public way.

(Ord. O-2019-25 § 1, 2019; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.030 Rules and regulations.

- A. The director is authorized to promulgate such reasonable rules and regulations as may be necessary or proper for the following purposes:
1. To protect and promote the enhancement of vegetation within the City of Lakewood;
 2. To regulate all aspects of the tree service business directly affecting public health and safety and requiring the use of such safety appliances, apparatuses and equipment reasonably necessary for the protection of workers engaged in such work performed within the City of Lakewood;
 3. To set out standards for arboricultural practices to be used within the City of Lakewood by tree contractors; and
 4. To address insect and disease infestations that threaten the health of trees within the City of Lakewood.
- B. Copies of such rules and regulations shall be on file in the city parks division office and available for public inspection during regular business hours.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 5, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.040 Damage or destruction—Notice; repair or replacement.

Any person who damages or destroys any vegetation within any public way City of Lakewood shall promptly notify the City of Lakewood of such fact and, within a reasonable time as specified by the parks manager, repair or replace such vegetation with comparable materials approved by the parks manager. If the person fails or refuses to repair or replace such damaged or destroyed vegetation, the City of Lakewood may undertake the repair or replacement and charge the person the cost thereof plus an administrative fee as determined by the department for inspection and incidental expenses. In the event the person fails to pay the cost incurred by the City of Lakewood to repair or replace the damaged vegetation, the City of Lakewood may recover the same, including any administrative or attorney fees, in an action at law in a court of competent jurisdiction.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 6, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.050 Prohibition of trees and vegetation.

- A. The director is hereby authorized to prohibit or place a moratorium on the planting of new and existing tree species where it has been determined that an eminent health issue due to insect, disease or structural problems has been identified.
- B. Tree species that constitute a nuisance to the public as determined by the City of Lakewood include, but may not be limited to, cotton-bearing Cottonwoods, Siberian Elms, Russian Olives and Female Box Elders. Native

cotton-bearing Cottonwood trees and female Box Elder trees, as well as any other species of tree, are not considered nuisance trees if, historically, such trees were used to create a buffer between land uses.

- C. The parks manager is authorized to enforce any and all quarantines on plant material imposed by state and federal governments.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.060 Firewood prohibitions.

In the event of a disease or insect infestation, the City of Lakewood is authorized to prohibit the import or export into or out of the City of Lakewood, or the storing or selling within the City of Lakewood, of any tree species, including firewood, in order to limit the spread of such disease or insect infestation. Any prohibited species will be identified on the City of Lakewood's website at Lakewood.org. Any violation of such prohibitions is hereby deemed unlawful and subject to criminal penalties under this Code.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.070 Insect, disease and structural inspections; deficiency.

- A. The parks manager is authorized and empowered to inspect any vegetation upon any property within the City of Lakewood, whether public or private, and to take such samples of vegetation as may be necessary or desirable, to determine whether any disease or insect infestation exists. Inspections may also be made to determine whether trees are structurally deficient and capable of causing significant damage to private or public property.
- B. Where any such inspection reveals the existence of diseases or insects capable of causing an epidemic spread, epidemic insect infestation or imminent structural deficiency, the parks manager shall notify the owner in writing of the condition and the corrective action required. Such notice shall require the corrective action to be completed within 30 days after the owner's receipt of the notice.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 7, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.080 Projection into public way.

- A. Where any vegetation upon private property projects into or encroaches upon any public way in such a manner as to visually or physically impair, obstruct or endanger pedestrian or vehicular traffic or to present a potential hazard or potential damage to public or private property, the parks manager may give written notice to the owner requiring the removal, trimming or other treatment of such vegetation. Such notice shall require the corrective action to be completed within 30 days after the owner's receipt of the notice.
- B. The clearance height of any vegetation over sidewalks and walkways shall be not less than eight feet measured vertically from the walk to the first foliage. The clearance height of vegetation over public streets and public alley ways shall be not less than 16½ feet measured vertically from any point in the street to the first foliage.
- C. The parks manager is authorized to prohibit plantings on private property in locations that will, at maturity, encroach upon the public way as set forth in this section.

(Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 8, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.090 Sight Distance Triangle.

- A. No vegetation shall exist within the sight triangle, as defined in the City of Lakewood's Transportation Engineering Design Standards.
- B. The Transportation Engineering Design Standards define additional areas in which sight distance triangle criteria apply.
- C. The parks manager is authorized to prohibit planting within the sight triangle where deemed inappropriate pursuant the Transportation Engineering Design Standards.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 9, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.100 Correction notice; noncompliance.

- A. Where a violation of this chapter exists and correction is required, the parks manager shall give written correction notice to the owner of the premises upon which the violation is located, requiring such owner to remove, trim or otherwise treat such vegetation within 30 days after the owner's receipt of the notice.
- B. If conditions set out in the written correction notice have not been corrected within 30 days after the owner's receipt of such notice, the parks manager shall issue a final written notice, sent by certified mail, informing the owner that the City of Lakewood may engage a contractor to enter the premises and make the required corrections and that the costs therefor, including all administrative fees, may be assessed against the owner.
- C. Should the owner refuse or fail to comply with the terms of the correction notices, the City of Lakewood is hereby authorized to solicit a contractor to enter the premises and remove, treat or dispose of, or otherwise care for, vegetation in order to make the required corrections. The costs therefor, including all administrative fees, may be assessed against the owner in the form of a property lien.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 10, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.110 License—Application.

- A. *License required.*
 - 1. No person, other than an individual on his or her own property, shall engage in any tree maintenance, or shrub maintenance or removal, within the City of Lakewood without a license.
 - 2. No person shall engage in any tree removal under a contractual arrangement within the City of Lakewood without a license.
 - 3. Any person holding a valid, current, reciprocal license from another Denver metropolitan area municipality must obtain a license and pay the fee, but is not required to be tested, to operate as a tree contractor within the City of Lakewood.
- B. *Application.* Any person required to obtain a license shall apply for a license on forms furnished by the City of Lakewood. The City of Lakewood will not accept any application that is not complete in every detail.
- C. *Requirements.* To obtain a license, each applicant must pass the test required for the issuance of a reciprocal license, which the City of Lakewood shall administer, and must provide to the City of Lakewood a certificate of insurance showing proof of the coverages required under this chapter.

D. *Fee.* Each applicant and every licensee shall pay an annual fee as determined by the City of Lakewood.

E. *Renewal.* Each license shall be valid for one calendar year and must be renewed annually.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-2003-34 § 1, 2003; Ord. O-94-16 § 11, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.120 Insurance.

A. *Requirements.* Each licensee shall procure and maintain, for the duration of the license, the following minimum insurance coverages:

1. Commercial general liability insurance of at least of \$1,000,000.00 per occurrence for bodily injury and/or property damage.
2. Comprehensive automobile liability insurance, including statutory personal injury protection and uninsured motorist coverage, for all motor vehicles, whether owned, non-owned or hired, used in performance of the Licensee's business, of no less than a combined single limit of \$500,000.00.
3. Worker's compensation insurance in compliance with Colorado law.

B. *Nonrenewal.* Licensees shall provide to the City of Lakewood by certified mail, return receipt requested, a minimum of 30 days prior written notice of cancellation of, or any material change in, any insurance policy required under this chapter, which notice shall identify the license.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.130 License denial, suspension or revocation.

A. The parks manager may suspend, revoke or refuse to issue a license if a licensee or license applicant has had its license suspended or revoked in another state or city, has refused to provide the parks manager with requested information, or has provided false information on the license application.

B. The parks manager may suspend or revoke a license if it is determined that the licensee no longer meets the requirements of this chapter or the licensee or employees of the licensee have engaged in any fraudulent or illegal practices. Licenses may be suspended immediately if insurance is allowed to lapse.

C. An applicant who is denied a license shall be notified of the denial and the grounds therefor. An applicant may appeal any denial to the city manager in writing within ten days of receipt of a notice of denial. The decision of the city manager shall be final.

D. Any applicant denied a license shall not be allowed to reapply for a license for at least 30 days after the denial becomes final.

(Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 12, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.140 Standards.

All licensees shall adhere to ANSI Standards, and failure to do so may result in suspension or revocation of the license.

(Ord. O-2019-25 § 1, 2019).

8.06.150 Regulation—Pesticides.

Any licensee or commercial pesticide applicator who applies pesticides to any tree in the City of Lakewood shall register with the parks manager's office the licensee's current commercial applicator business license issued by the Colorado Department of Agriculture.

(Ord. O-2019-24 § 4, 2019; Ord. O-2019-25 § 1, 2019; Ord. O-94-16 § 14, 1994; Ord. O-82-46 § 1 (part), 1982; Ord. O-73-34 § 1 (part), 1973).

8.06.160 Vehicles and equipment.

All vehicles operated by any licensee for the transportation of any personnel or equipment shall have the licensee's name and phone number displayed on both sides of the vehicle as follows:

- A. In plain, legible figures and letters not less than three inches in height; and
- B. Kept in such a condition as to permit the same to be readily distinguished and read.

(Ord. O-2019-25 § 1, 2019).

8.06.170 Unlawful acts.

It is unlawful for any licensee to violate or neglect or refuse to comply with any provision of this chapter or the rules and regulations promulgated by the director pursuant to section 8.06.030 of this chapter.

(Ord. O-2019-25 § 1, 2019).