

ORDINANCE NO. 898

**AN ORDINANCE TO PROVIDE FOR THE PLANTING AND MAINTENANCE OF TREES AND SHRUBBERY LOCATED ON OR ADJACENT TO CITY-OWNED PROPERTY AND ON PUBLIC RIGHTS-OF-WAY AND AMENDING THE MONTE VISTA MUNICIPAL CODE.**

WHEREAS, it is necessary to define the representative rights, duties and obligations of the City of Monte Vista and its property owners concerning the planting, excavation, and care of trees and shrubs on and adjacent to public rights-of-way, and,

WHEREAS, the City Council desires to establish a "Tree Board" to advise and oversee the City's urban forrest,

WHEREAS, it is necessary to encourage the proper growth of a landscape program to enhance City beautification and increase individual property values,

NOW, THEREFORE, it is hereby ordained by the City Council of the City of Monte Vista that Article III, Chapter 14 of the Monte Vista Municipal Code is hereby amended to read as follows:

**Article III, Section 9-3-10 – Street Trees**

The purpose of this Article is to provide for the planting, maintenance, and demolition of trees and shrubs on the public rights-of-way; to provide for a controlled plan; and to provide a consistent tree-care and shrub-care program on and adjacent to public rights-of-way and upon private property where diseased plants or the growth of certain plants, trees, or shrubs may endanger or become a nuisance to public and private property/properties within the City of Monte Vista.

**Sec. 9-3-20. Prohibited trees.**

(a) It is unlawful and deemed a nuisance to sell or import into the City or plant or cause to be planted within the City limits any female box-elder tree (*Acer negundo*), female cottonwood trees (*Populus* species), Siberian elm (*Ulmus pumila*) or other undesirable trees or shrubs as designated by ordinance upon any property within the City, and the planting or setting out of such trees and shrubs is declared to be a menace to public health, safety and welfare and a public nuisance. (b) The owner of any property within the City, upon which any tree listed in Subsection (a) above has been planted after 2009, the effective date of the initial ordinance codified herein, shall cut and remove such tree from his or her property after being given two (2) days' written notice to do so by the City. (c) In case of the failure of any owner of such property to cut and remove such tree as required in Subsection (b) above, the City shall cut and remove such tree. (Ord. 811 §1, 2009)

**Sec 9-3-30 Removal or Treatment of Infected Trees and/or Shrubs:**

The Director of Public Works or designee – both are herein described as 'the Director' may inspect all trees and shrubs upon any property within the City. Upon discovering any such plant material to be infested with any serious disease or insects detrimental to the life, growth, or health of such plants or adjoining plants, or upon discovering any plant material dangerous or detrimental to existing trees and/or shrubbery within the City, the Director shall at once notify the owner, agent, or occupant of such property in writing.

Such notification shall: a) designate the location of the property where the disease or insect infestation exists; b) describe the conditions thereof and may direct such owner, agent, or occupant to remove and destroy or otherwise treat these plant materials. If the owner, agent, or occupant fails to comply with the written notification within the time specified by the Director of Public Works, the City may correct such

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condition and assess the cost of such correction(s) to the owner, agent, or occupant. In the case of detection of Dutch Elm disease, a period of at least thirty (30) days shall be allowed for the removal of standing trees. If such Dutch Elm disease is detected in dead or downed wood, it shall be removed immediately.

Owners of property adjacent to City rights-of-way shall be responsible for notifying the City of any trees or shrubs creating dangerous or hazardous conditions upon the City rights-of-way. If the owner desires that non-hazardous trees or shrubs on City rights-of-way be removed by the City of Monte Vista or by a private tree maintenance service, the owner shall (a) first secure the written permission of the City prior to such removal, and (b) shall be responsible for the costs of such removal. The owner shall be responsible for replacing the removed tree in accordance with the approved Tree Plan or in cooperation with the Tree Board; such replacement shall be approved in advance in writing by the Tree Board. If the condition of such trees originating upon the City's rights-of-way is deemed to be hazardous or dangerous by the Director of Public Works, then said removal shall be at City expense.

**A. Trees Creating Obstructions; Dangerous Trees:**

Any tree growing over a public street, highway, or alley, or so located as to extend its branches over a public street, highway, or alley, shall be trimmed by the owner of the private property on which the tree stands or by the owner's agent so that there shall be a clear height of a minimum of fourteen (14) feet above the surface of the street, highway, or alley, and/or a clear height of eight (8) feet above the surface of sidewalks. Such tree-trimming shall be in compliance with the City's rules and regulations and shall be done in accordance to good pruning practices. Such owner or agent shall remove all dead branches and stubs on such tree(s) which are or may become a menace to travelers on public streets, highways, alleys, or sidewalks of the City.

Trees whose roots are causing upraised sidewalk slabs are declared a nuisance. If a tree or its parts in any other way cause a hindrance to the general public or endanger in any way the security or usefulness of any public street, highway, alley, sidewalk, or recreational area, it is hereby declared to be a public nuisance. The owner of such property shall (a) be responsible for replacement of such sidewalk or if applicable (b) shall apply for the City Sidewalk Replacement Program with appropriate sharing of costs as determined by the Director of Public Works and shall be responsible for having his/her name added to the City Sidewalk Replacement Program. If the owner of such private property does not correct or remove such nuisance(s) within 30 days after written notification by the Director of Public Works, the Director shall cause the nuisance(s) to be corrected or removed and the cost thereof shall be assessed to the owner of the property in question. Apples and other tree-created debris on public rights-of-way shall be removed by the adjacent property owner within twenty-four (24) hours. Placing of apples or other debris from trees and shrubbery into the ROW shall be considered a nuisance and may be cause for further action by the City.

**B. Hedges and Shrubbery Adjacent to Sidewalks:**

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 public sidewalk of the City.

**C. Appeals:**

Appeals regarding orders, actions, or determinations made pursuant to this Article may be made by first presenting the appeal to the City Manager within ten (10) days from the date of said order or action.

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If such appeal to the City Manager fails to resolve the issue, then a written appeal may be thereafter filed with the City Clerk within twenty (20) days of such determination by the City Manager, and the Clerk shall thereupon place such appeal on the agenda of the next regular meeting of the City Council unless another date is mutually agreed upon.

**D. Pruning or Removal of Trees – License Required:**

It shall be unlawful for any person to engage in business within the City of cutting, trimming, pruning, or removing trees or shrubs for compensation without having first procured a contractor's license from the City Clerk.

Such license shall be issued in the name of an individual person, firm, or corporation, or any person employed by the person, firm, or corporation to engage in the business of cutting, trimming, pruning, or removing trees and/or shrubs within the City.

An application for the license required by this division shall contain the name of the person making such application and the business address for such application if the mailing address varies from the business address.

The application also shall require a summary of the experience and training – of any – that the applicant has had on the cutting, trimming, pruning, or removing of trees and/or shrubs as well as a summary, number of, and identification of persons employed by the applicant and at least three (3) references – if any – from former places of employment for the applicant.

If the applicant has not been previously employed in the business of cutting, trimming, pruning or removing trees and/or shrubs, a practical test may be given or the Director of Public Works may require a certification of training.

In the case of the application by firms or corporations, the on-the-ground crew leader must be approved by the Director of Public Works. Such approval shall be based on the experience of the crew leader or by examination at the discretion of the Director of Public Works or by the City Manager before the City Clerk issues a license. In all cases, proof of liability insurance is a requirement to obtain a license.

**E. License Administration:**

The City Clerk, prior to issuing a license, shall collect a fee for the amount currently in effect as set by the City Council. This is an annual fee and will not be pro-rated for periods of less than a year.

The license will include, as a minimum, the following:

- a) Name and address of the licensee;
- b) Date of issue and expiration date;
- c) Brief description of the activities covered by the license;
- d) A statement that the license is not transferable;
- e) A statement that an employee certified or to serve as a competent person to cut, trim, prune, and remove trees and shrubs is required to be within each crew working in the City; and
- f) Certification by the City Clerk that insurance is in effect for personal injury and property damage and that the City is an additional *named* insured on such policies.

**F. Additional:**

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1) Destroying street trees is prohibited. No person shall break, cut, mar, injure or destroy any shade or ornamental tree or shrubbery growing, standing, or existing in or upon any street, highway, alley, or other public place.

2) Street Tree Plan and Permits: The City Manager, via the Director of Public Works and with the advice and recommendations of the City Tree Board, shall cause to be prepared a Street Tree Plan for all public streets or other publicly-owned places within the City. The plan shall be updated periodically in accordance with current knowledge about plant materials and their ability to survive under varying conditions, or as necessary.

G. Violations:

It shall be unlawful for any person to cut, trim, prune, plant, remove or replace any tree or shrub on any public property or within the public right-of-way which is not in conformity with the Street Tree Plan and without having first obtained a permit for such activity from the Director of Public Works or his/her authorized agent. Such permits shall be requested by written application which shall specifically describe the work to be done and the location thereof. No charge shall be made for any permit or for the processing of any application requiring a permit. All tree planting, replacement, or removal practices shall follow professional arboricultural standards.

H. Penalties:

Any person violating or failing to comply with any of the provisions of this Ordinance shall, upon conviction thereof, be fined in an amount not to exceed Five Hundred Dollars (\$500.00).

IT IS HEREBY DECLARED THAT THIS ORDINANCE IS NECESSARY TO THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY, AND SHALL TAKE EFFECT AND BE ENFORCED FROM AND AFTER FIVE (5) DAYS OF THE FINAL PUBLICATION OF THIS ORDINANCE.

Introduced, read in full, adopted approved, and signed this 5 day of December, 2019



Print Date: 10/9/19

APPROVED AS TO FORM:

APPROVED:   
Mayor, City of Monte Vista