

DIVISION 2. TREES LOCATED ON PUBLIC PROPERTY

Sec. 94-41. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arborist means the director of parks and recreation or the director's designated representative.

Median area means any defined area in a street, which centers between opposing traffic lanes.

Person means an individual, or public or private corporation or business, other than the city or a department or employee of the city, or any other governmental entity or its employee.

Protected tree means any tree which has been designated to be preserved.

Public property means any real and personal property owned or under the care, custody and control of the city, including public facilities, buildings, parks, streets, rights-of-way and median areas.

Street means any public right-of-way designed primarily for vehicular traffic and shall run from the curb line or the edge of the pavement to the curb line or the edge of the pavement.

Topping means the severe cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy, thereby disfiguring the tree.

Tree means a woody perennial plant having one or more elongated stems; such term also includes shrubs and bushes.

Tree board means the parks and recreation board, while sitting formally as the tree board.

(Ord. No. 97-765, § I, 11-25-1997)

Cross references: Definitions generally, § 1-2.

Sec. 94-42. Applicability of division provisions.

This division provides full power and authority over all trees located on public property of the city.

(Ord. No. 97-765, § II, 11-25-1997)

Sec. 94-43. Duties of arborist.

The arborist shall follow, supervise, and otherwise administer this division upon public property. In addition, the arborist shall:

- (1) Designate which species of trees shall be planted on any public property. No species other than what the arborist designates shall be planted on public property without prior written approval from the arborist.
- (2) Prepare and keep records, maps or plans which show the kinds of trees planted on public property, and the arborist shall make available such records for inspection by the tree board.
- (3) Advise the tree board, city council and the city manager of any actions, recommendations or other plans which pertain to this division.
- (4) Study, investigate, plan, report or otherwise carry out issues before the tree board regarding matters pertaining to this division, however, subject to the sole direction and control of the city manager.
- (5) Prepare agendas and other information for tree board meetings.
- (6) Develop and update a comprehensive plan for the development, conservation and care of trees on public property of the city.
- (7) Inform city residents and other persons on matters concerning tree care and promotion.
- (8) Coordinate and conduct special projects for the betterment of trees located on public property.

(Ord. No. 97-765, § III, 11-25-1997)

Sec. 94-44. Permission required of arborist.

No person may plant, remove, cut above the ground, or otherwise impact any tree on public property without first submitting a written request to the arborist and receiving written permission from the arborist. A drawing provided by the person and showing the proposed plans must be attached to the person's request. The person receiving

approval shall comply with this division and any conditions placed upon the approval. Any denial of such permission by the arborist may be appealed to the city council.

(Ord. No. 97-765, § IV, 11-25-1997)

Sec. 94-45. Tree care.

- (a) *Pruning.* No person shall top or prune any tree on public property without the prior written consent of the arborist. Trees shall be properly pruned for strength and health as well as to reduce the risk of hazardous limbs, to prevent interference with utilities, traffic lights and signs, and for pedestrian and vehicular clearance. Trees shall be pruned pursuant to the guidelines of the International Society of Arboriculture (ISA) and other local ordinances.
- (b) *Removal of stumps.* Any tree or tree stump removed from public property shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
- (c) *Replacement of trees.* Whenever a tree is removed from public property, adequate replacement shall be made within a reasonable period of time by the person responsible for the initial removal of the tree. Attachment of objects to trees: No person shall attach any rope, wire, cable, sign, card, poster or other object to a tree or its guard located on public property without obtaining prior written consent from the arborist.
- (d) *Defacing trees.* No person shall peel, cut, remove, injure, damage, destroy or otherwise deface any tree located on public property.
- (e) *Stacking.* No person shall stack or pile any material of any kind and description against any tree on public property, unless the tree is sufficiently equipped and protected by a proper guard to prevent possible damage of the tree.
- (f) *Marking of protected trees prior to construction.* Prior to construction, all protected trees shall be clearly marked with a barrier consisting of a four-foot barricade fence or approved equivalent to protect the area under the canopy or drip line of any protected tree or group of protected trees.
- (g) *Waste disposal under canopy.* During construction, the builder shall prohibit the cleaning of equipment or storage of materials and the disposal of any waste material including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy or drip line of any protected tree or group of protected trees.
- (h) *Provision of permeable surface.* Any existing trees which are to be preserved shall be provided with a permeable surface under 75 percent of the existing drip

line of the tree. All new trees shall be provided with a permeable surface under the drip line a minimum of four feet by four feet.

- (i) *Other care.* The arborist may consult the standards and specifications for tree care as established by the National Arborist Association and the American Association of Nurseryman.

Sec. 94-46. Tree board.

There is hereby created and appointed the tree board of the city which shall be organized in the following manner and shall have the following duties and responsibilities:

- (1) The board shall consist of the current members of the parks and recreation board.
- (2) The terms of appointment and designation of the tree board shall follow and be the same as the terms of appointment and designation of the parks and recreation board.
- (3) The requirements for a quorum, the election of a chairperson and vice-chairperson, the adoption of rules governing the procedures and matters coming before the board, holding meetings, and the board's relationship to the city council, shall be governed by the same terms which govern the parks and recreation board.
- (4) The secretary to the director of parks and recreation shall serve as secretary for the board, taking the minutes and posting and furnishing all necessary notices of meetings, which meetings shall be separately posted and held separate from the parks and recreation board meetings.
- (5) The arborist or the arborist's duly appointed representative shall serve as an ex officio nonvoting member of the board.
- (6) The duties and responsibilities of the board shall be expressly limited to trees on public property regarding the following:
 - a. Recommend to the city council rules, regulations, policies and standards and specifications for tree care, pursuant to the purpose and intent of this division;
 - b. Be generally informed concerning any matters that relate to trees and tree care in the city;
 - c. Regularly report and make recommendations to the city council regarding all matters related to trees and tree care in the city;

- d. Identify any problems or needs that exist in regard to trees and tree care in the city and develop proposed solutions and recommendations;
 - e. Complete any special projects or requests of the city council relating to trees and tree care; and
 - f. Hear citizen complaints or other comments regarding all matters related to trees and tree care in the city.
- (7) The members of the board shall serve without compensation.
- (8) The board, at its discretion, may appoint special subcommittees on various issues regarding trees and tree care. These subcommittees shall consist of at least two members of the board appointed by the full board and other subcommittee members appointed by the arborist. The subcommittee shall appoint a chairman who shall be one of the board members and who shall report the subcommittee's activities to the full board. Further duties of the subcommittee may be assigned at the discretion of the board.

(Ord. No. 97-765, § VI, 11-25-1997)

Sec. 94-47. Offenses.

- (a) A person commits an offense if:
- (1) The person fails to obtain any required approval of the arborist under section 94-44.
 - (2) The person prunes, fails to remove a stump, fails to replace a tree, attaches an object to a tree, defaces a tree, or stacks or piles material against a tree in violation of, and as required by section 94-45.
- (b) A culpable mental state is not required for the commission of an offense under this section, unless the provision defining the conduct expressly requires a culpable mental state.

(Ord. No. 97-765, § VII, 11-25-1997)

Sec. 94-48. Enforcement of division.

The arborist shall have the duty and authority to administer rules, regulations, and standards and specifications for tree care adopted by the city council.

(Ord. No. 97-765, § VIII, 11-25-1997)

Sec. 94-49. Contract indemnity.

All contracts entered into between the city and another party relative to the application of this division shall include a requirement that the other party shall comply with this division and shall provide indemnity for the city if the party damages or destroys a tree. The value of trees damaged and to be repaired and/or replaced shall be determined in accordance with the latest revision of "Guide for Plant Appraisal," as published by the Council of Tree and Landscape Appraisers (CTLA).

(Ord. No. 97-765, § IX, 11-25-1997)

Sec. 94-50. Penalty for violation of division.

It shall be unlawful for any person to violate any provision of this division and, upon being found guilty of a violation, shall be subject to a fine not to exceed \$500.00 for each separate offense. Each day during which any violation of the provisions of this division shall occur or continue shall be a separate offense. Each tree affected by a person's violation of any provision of this division shall be a separate offense. In addition, the city may enforce the provisions of this division through injunction or any other legal remedy.

(Ord. No. 97-765, § X, 11-25-1997)