

Chapter 20

VEGETATION*

Art.	I.	In General, 20-120-17
Art.	II.	Noxious Weeds, 20-18-20-30
Art.	III.	Trees, 20-31-20-41

ARTICLE I. IN GENERAL

Sec. 20-1. Definitions.

For the purpose of this article the following terms, phrases, or words shall have the meaning given herein:

Parking strip: The area along the public streets and avenues between the curblineline and the sidewalk line.

Park Superintendent: The superintendent of parks and recreational areas.

Street tree or tree: A tree in any public right-of-way or other public place, except where otherwise indicated.

(Code 1953, 14A.0201; Ord. No. 779, 2-10-75)

Sec. 20-2. Order to preserve or remove.

When the Park Superintendent shall find it necessary to order the trimming, preservation or removal of trees, plants or noxious weeds upon private property or in parking strips or other public areas he shall serve a written order to correct the dangerous conditions upon the owner, operator, occupant or other person responsible for its existence. Such order may be served on any or all of such persons in the same manner as a summons under state law.

(Code 1953, 14A.0213; Ord. No. 779, 2-10-75)

Sec. 20-3. Appeal of order.

A person to whom an order to preserve or remove trees, plants or noxious weeds is directed shall have the right, within five (5) days of the service of such order to appeal to the Board of Commissioners who shall forthwith set a day for hearing thereon and give notice thereof to the person appealing. Upon such hearing and review, the Board may affirm, modify or revoke the order of the Park Superintendent; unless the order is revoked or modified it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within seven (7) days after an appeal shall have been determined.

(Code 1953, 14A.0215; Ord. No. 779, 2-10-75)

* **Cross reference** - Arborist's license, 10-19.

Sec. 20-4. Time for compliance.

The order to preserve or remove trees, plants or noxious weeds shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In case of extreme danger to persons or public property, the Park Superintendent shall have authority to require compliance immediately upon service of the order.

(Code 1953, 14A.0214; Ord. No. 779, 2-10-75)

Sec. 20-5. Remedial action by City.

When a person to whom an order to preserve or remove trees, plants or noxious weeds as directed shall fail to comply within the specified time, the Park Superintendent shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.

(Code 1953, 14A.0216; Ord. No. 779, 2-10-75)

Sec. 20-6. Special assessment.

If the cost of remedying a condition for which an order to preserve or remove trees, plants, or noxious weeds was issued is not paid within thirty (30) days after receipt of a statement thereof from the Park Superintendent such costs may be levied against the property benefited or upon which said condition existed as a special assessment. The levying of such special assessment shall not affect the liability of the person to whom the order is directed for punishments for violations of this Code.

(Code 1953, 14A.0217; Ord. No. 779, 2-10-75)

Secs. 20-7-20-17. Reserved.

ARTICLE II. NOXIOUS WEEDS

Sec. 20-18. Nuisance declared.

All weeds or plants declared to be primary noxious weeds or secondary weeds by the State Weed Board as of February 2, 1955, are hereby declared to be nuisances.

(Code 1953, 14A.0101; Ord. No. 779, 2-10-75)

Sec. 20-19. Cutting.

The occupant, person in charge of, or owner of property shall keep such property free of noxious weeds of every kind that shall grow upon such premises or along the streets, avenues, or alleys adjacent to said premises occupied by them, and shall cut such noxious vegetation at such times as may be necessary to prevent its growth.

(Code 1953, 14A.0102; Ord. No. 779, 2-10-75)

Secs. 20-20-20-30. Reserved.

ARTICLE III. TREES***Sec. 20-31. Injury by moving or trimming.**

- (a) No person shall move any building or other structure along any street, avenue, public place or alley in such a manner as to interfere with or injure any tree in any public area except as otherwise provided.
- (b) If in moving any building or structure, it is necessary to trim or remove any tree, all such work shall be done under the supervision and control of the Park Superintendent and at the expense of the person moving such building or structure.
- (c) Should injury or death result to any tree because of such trimming or moving, the person moving the building or structure shall, on direction of the Park Superintendent, replace the same at his own expense. For every tree removed or severely trimmed, at least ten dollars (\$10.00) shall be deposited and retained until said tree or its successor is permanently established.
(Code 1953, 14A.0203; Ord. No. 779, 2-10-75)

Sec. 20-32. General supervision.

The Park Superintendent, under the direction of the Mayor, shall have exclusive jurisdiction and supervision over all trees, other plants and grassy areas planted or growing in public places.
(Code 1953, 14A.0203; Ord. No. 779, 2-10-75)

Sec. 20-33. Superintendent's power generally.

The Park Superintendent shall have power to regulate and control the planting, trimming, spraying, preservation and removal of trees, other plants and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.
(Code 1953, 14A.0204; Ord. No. 779, 2-10-75)

Sec. 20-34. Dutch elm disease.

- (a) Any elm wood or tree, living or dead, found to have the Dutch elm disease fungus, *Ceratocystis ulmi*, or which could harbor the European elm bark beetle, *Scolytus multistriatus*, and/or the native elm bark beetle, *Hylugopinus rufipes*, shall be declared a nuisance.
- (b) The Park Superintendent will make at least one other inspection of the elm trees for Dutch elm disease. If the Park Superintendent or experts working with him are unable to determine with reasonable certainty whether or not a tree is infected with Dutch elm disease, a sample shall be taken and a laboratory diagnosis made.

- (c) Any tree found to have Dutch elm disease, or elm wood which could harbor the elm bark beetles, or any elm tree on private property found to harbor a public nuisance such as Dutch elm disease shall be removed.

(Code 1953, 14A.0205; Ord. No. 779, 2-10-75)

Sec. 20-35. Removal of diseased trees on public property.

The City shall be responsible for the removal of all diseased trees located on public property and public rights-of-way. The Park Superintendent shall designate such trees.

(Code 1953, 14A.0207; Ord. No. 779, 2-10-75)

Sec. 20-36. Control over private property.

The Park Superintendent shall have authority to order the trimming, preservation and removal of trees or plants upon private property when he shall find such action necessary for public safety or to prevent the spread of disease or insect to public trees and places.

(Code 1953, 14A.0207; Ord. No. 779, 2-10-75)

* **Cross reference** - Tree trimming by City, 7-48.

Sec. 20-37. Permit to preserve or remove.

No person shall spray or remove trees in the public right-of-way without first filing an application and procuring a permit from the Park Superintendent.

(Code 1953, 14A.0208; Ord. No. 779, 2-10-75)

Sec. 20-38. Permit to plant.

No person shall plant or set out any tree or plant in public right-of-way without first filing an application and procuring a permit from the Park Superintendent to do so.

Sec. 20-39. Street trees permitted.

Trees used for street tree planting shall be Norway Maple, American Linden or Basswood, Hackberry, and such other types as may be approved by the Park Superintendent.

(Code 1953, 14A.0210; Ord. No. 779, 2-10-75)

Sec. 20-40. Regulations for planting in a public place.

- (a) The provisions of this Section shall govern the planting of trees in a public place.
- (b) No tree or plant shall be planted or permitted to grow in the area formed by intersecting streets nor shall any tree or plant be placed so as, in the opinion of the Park Superintendent, to cause a traffic hazard.

- (c) In planting of trees, all requirements as stated in the zoning Ordinance shall be complied with.
- (d) In falling trees the same must be removed with the root stump grubbed out when so required by Park Superintendent.
- (e) All cuts above one inch in diameter must be waterproofed.
- (f) Trees shall be planted at least forty (40) feet apart except where otherwise indicated by the Park Superintendent.
- (g) No tree shall be planted where the clear space between the curb and the sidewalk is less than six (6) feet.
- (h) No tree shall be planted on any parking strip except of the variety selected by the Park Superintendent for that street.
(Code 1953, 14A.0211; Ord. No. 779, 2-10-75)

Sec. 20-41. Trimming by private owners.

It shall be the duty of any person growing a tree within the parking strip or other public place or responsible for trees growing on property abutting on public places supporting trees or plants to trim trees so as not to cause a hazard to public streets or avenues by the lights. All large established trees shall be trimmed to sufficient height to allow free passage of pedestrians and vehicular traffic and in such a manner so as to allow ten (10) feet of clearance over all sidewalks and twelve (12) feet clearance over all streets, provided however, that trees along principal traffic thoroughfares shall be trimmed so as to allow clearance of at least sixteen (16) feet.
(Code 1953, 14A.0212; Ord. No. 779, 2-10-75)

[The next page is 4200]