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### VEGETATION

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**ARTICLE I.  
IN GENERAL\***

**Sec. 27-1. Definition.**

As used herein, the term *Director* refers to the Director of Cultural, Library and Recreation Services.  
(Ord. No. 114, § 2005, 10-18-05)

**Secs. 27-2—27-15. Reserved.**

**ARTICLE II.  
TREES AND SHRUBBERY  
DIVISION 1. GENERALLY**

**Sec. 27-16. Creation of position of City Forester.**

The City shall employ or contract for the services of a person to be known as the City Forester. As used herein, the term *City Forester* may refer to the City Forester, his or her designee, or such other person as the City Manager may designate.

(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-17. Powers and duties of City Forester.**

The City Forester shall be the supervisor of the Forestry and Horticulture Division of the Parks and Recreation Department. The City Forester shall be responsible to the Director in carrying out his or her duties. The City Forester shall have the power to establish and enforce rules, regulations, standards and specifications concerning the cutting, trimming, spraying, removing, planting, pruning and other treatment of trees and shrubs upon the right-of-way of any street, alley, sidewalk or other City-owned property in the City, and concerning the performance of such work on public or private property within the City by licensees under this Article. Such rules, regulations, standards and specifications shall be in writing and shall not be effective until approved by the City Manager. Copies of such rules, regulations, standards and specifications shall be available to the public through the office of the City Forester.

(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-18. Certain species of trees prohibited.**

(a) It is unlawful to sell or import into the City or to plant or cause to be planted within the City any of the following trees or shrubs:

- (1) Any cotton-bearing tree of the genus *Populus*, excluding aspen.
- (2) Any seed-bearing (female) box elder tree (*Acer negundo*).
- (3) Any Siberian elm (*Ulmus pumila*).
- (4) Any Russian olive tree (*Eleagnus angustifolia*).
- (5) Any salt cedar shrub (*Tamarisk* species).

(b) The City Forester may authorize the planting on City property of any cotton-bearing tree of the genus *Populus* or any seed-bearing box elder tree, provided that the City Forester first determines that the area where such planting shall occur is a natural area appropriate for the planting of such trees.

(c) It is unlawful to plant or cause to be planted on the right-of-way of any street, alley, sidewalk or other public place within the City any species of tree or shrub which by its habit or growth would obstruct, restrict or conflict with the necessary and safe use of the public rights-of-way.

(Ord. No. 114, 2005, 10-18-05)

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\* **Editor's Note**—Ord. 114, 2005, repealed and reenacted Chapter 27 in its entirety.

**Secs. 27-19—27-30. Reserved.**

DIVISION 2. PERMIT AND LICENSES

**Sec. 27-31. Permit required for planting, pruning or removal of trees in public places.**

It shall be unlawful for any person to plant, cut, trim, prune, remove, destroy or cause to be planted, cut, trimmed, pruned, removed or destroyed any tree or shrub within the public right-of-way of any street or sidewalk, or upon other City-owned property within the City without having first obtained a written permit therefor. For purposes of this Section and § 27-32, "within the public right-of-way of any street or sidewalk, or upon other City-owned property" shall not include trees or shrubs located on private property that encroach upon or overhang public property, as described in § 27-57. Owners of properties adjoining alley rights-of-way may cut, trim, prune or remove trees or shrubs located within such rights-of-way without a permit.

(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-32. Application for permit; contents and conditions.**

(a) Any person desiring to plant, cut, trim, prune, remove or destroy any tree or shrub within the public right-of-way of any street or sidewalk, or upon other City-owned property within the City, must first make written application at the office of the City Forester for a permit, if a permit is required under § 27-31. Such application must 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 or shrub to be planted, cut, trimmed, pruned, removed or destroyed and the location of the same, together with such other information as the City Forester shall require.

(b) The applicant must, at the time of making the application, agree in writing, in all respects, to hold the City harmless and protect the City and the public at all times in connection with the planting, cutting, trimming, pruning, removal or destruction of any tree or shrub to be planted, cut, trimmed, pruned, removed or destroyed under such permit.

(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-33. Inspection of location by City Forester; issuance of permit.**

The City Forester shall inspect the location of the tree or shrub to be planted, cut, trimmed, pruned, removed or destroyed, and if, in his or her opinion, it is desirable that such tree or shrub be planted, cut, trimmed, pruned, removed or destroyed, as the case may be, the City Forester shall issue a permit. Such permit shall set forth the name of the person who shall perform the work, the location at which the tree or shrub is or shall be located and any conditions or requirements made by the City Forester in connection therewith. Failure to comply with the requirements of any such permit, or with any rules, regulations, standards and specifications established pursuant to § 27-17, shall constitute a violation of this Article.

(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-34. Arborist license required for tree services.**

(a) It shall be unlawful for any business to engage in the following activities within the City for commercial gain or profit without first procuring an arborist license from the City Forester in accordance with the provisions of this Division:

- (1) Cutting, trimming, pruning or removing of trees when the cuts necessary for such cutting, trimming, pruning or removal are made at a height of ten (10) feet or greater above the ground;
- (2) The application of pesticides to trees of any size.

(b) Any licensee under this Article must perform all cutting, trimming, spraying, removing, pruning or other treating of trees on public or private property within the City in accordance with the rules, regulations, standards and specifications established by the City Forester and approved by the City Manager, as provided for in § 27-17 of this Article. Any licensee not complying with this requirement may have its license suspended or revoked pursuant to the provisions of this Article.

(c) The provisions of this Section shall not apply to the production and maintenance of trees in a nursery setting.  
(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-35. License application procedure.**

Any business desiring an arborist license pursuant to this Division shall make application at the office of the City Forester on forms to be provided by the City. The City Forester shall examine the owner or a designated employee of the applicant business, by one (1) or more of the following: an interview, a written examination or a field test, as he or she shall deem advisable in order to determine the applicant's qualifications and competency to engage in the types of tree services applied for. No license shall be issued or renewed without the approval of the City Forester.  
(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-36. Form of license; identification of vehicles.**

Every arborist license issued hereunder shall show on its face the types, classifications or kinds of tree services for which the licensee is licensed and is authorized to perform. All motor vehicles and other major equipment used by any licensee hereunder in conducting the licensed tree services must be clearly identified with the licensee's business name and telephone number.  
(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-37. Insurance coverage required; minimum amounts.**

(a) No arborist license shall be issued or renewed until the applicant has presented to the City Forester a certificate of insurance satisfactory to the City showing that the applicant has acquired a commercial general liability insurance policy covering all of the applicant's proposed tree service operations in the City, with a minimum limit of one million dollars (\$1,000,000.) per occurrence. The City of Fort Collins must be named as an additional insured on such policy.

(b) Such insurance policy must require at least thirty (30) days' advance notice to the City before cancellation. In the event of the cancellation or termination of any such required insurance policy during the licensed term, the license shall be terminated, and the holder shall surrender it to the City Forester unless the licensee presents to the City Forester a substitute insurance policy meeting the requirements of this Section.  
(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-38. License fees; expiration; renewal.**

No license shall be issued until the applicant has paid a license fee of twenty-five dollars (\$25.). Every license issued hereunder shall expire on January 31 of the following year. Renewal applications must be submitted at the office of the City Forester.  
(Ord. No. 114, 2005, 10-18-05; Ord. No. 127, 2010, § 1, 12-21-10)

**Sec. 27-39. Suspension or revocation of license; hearing.**

Any person alleging that a person licensed under this Article has violated any provision of the rules, regulations, standards or specifications established by the City Forester pursuant to § 27-17 may file a written, verified complaint with the City Forester stating the date, time and place of the alleged violation. Upon receipt of the complaint, the City Forester shall determine whether reasonable grounds exist to believe that a violation has occurred and, if so, whether such violation may warrant the suspension or revocation of any licenses issued pursuant to this Article. If the City Forester determines that such reasonable grounds exist and that suspension or revocation of the licensee's license may be an appropriate remedy for such violation, the City Forester shall first mail, by certified mail, a copy of the complaint to the licensee and give notice to the licensee and the complainant of a date, not less than five (5) days after the date of mailing of such notice, on which the City Forester will hold a hearing to determine whether a violation of this Article has occurred and, if the City Forester determines that a violation has occurred, whether or not such license should be suspended or revoked. The complainant may, but need not, be present at such hearing.  
(Ord. No. 114, 2005, 10-18-05)

**Sec. 27-40. Appeals and hearings.**

In the event of any suspension or revocation of a license by the City Forester, the licensee shall have the right to appeal such suspension or revocation to the Director. Any such appeal must be submitted in writing to the Director within ten (10) days after the date of suspension or revocation of the license. The Director shall have the power to overrule or otherwise modify any order of the City Forester suspending or revoking any license. In hearing an appeal from any action of the City Forester suspending or revoking any license, the Director may, or shall if so requested by the licensee, select one (1) or more of the following to be present at the hearing: a licensed arborist, an International Society of Arboriculture (ISA) certified arborist, or a recognized expert in the field of arboriculture, who are not City employees, who may advise the Director at the hearing. The hearing shall be held within fifteen (15) days from the date the appeal is filed with the Director.

(Ord. No. 114, 2005, 10-18-05)

**Secs. 27-41—27-55. Reserved.**

**DIVISION 3. CARE AND PROTECTION**

**Sec. 27-56. Right of entry.**

In order to accomplish the purposes of this Division, the City Forester, officers as defined in § 19-66 or any contractor hired by the City Forester is hereby authorized to go upon any public or private property within the City for the purpose of inspecting trees or shrubs. Subject to the notice and hearing requirements of this Division, the City Forester or a contractor hired by the City Forester is also authorized to go upon any public or private property in the City for the purpose of cutting, trimming, pruning and/or removing trees or shrubs that the City Forester has determined present a danger to persons using, or property located upon, the public rights-of-way or other City-owned property within the City, or in order to treat or eliminate a destructive or communicable disease or insect infestation.

(Ord. No. 114, 2005, 10-18-05; Ord. No. 198, 2006, § 28, 12-19-06)

**Sec. 27-57. Duty of property owner to prune or remove trees or shrubs.**

(a) It shall be the duty of the owner of any property within the City to cut, trim, prune or remove as necessary any trees or shrubs located upon the property of such owner in order to provide for the safe and convenient use of streets, sidewalks, alleys or other City-owned property in accordance with the following requirements:

- (1) Shrub growth must not encroach upon the plane of a public sidewalk or street.
- (2) Tree branch growth must be maintained at a height no lower than eight (8) feet over a public sidewalk and not less than fourteen (14) feet over the travel lanes of a street or alley.
- (3) To ensure the safety of motorists on adjacent streets, sight distance triangles must be maintained to protect visual clearances as required by the Traffic Engineer.
- (4) Branches, trees and shrubs must not obscure street name signs.
- (5) Branches or trees that are broken, hanging, decayed or otherwise defective in any way that threatens public property or the safe use thereof must be removed.

(b) Nothing in this Division shall be construed as requiring the owner of a private property to trim or remove any trees or shrubs when such trimming or removing is required to prevent interference with City utility lines or City traffic-control devices. It shall be the duty of the City to do any cutting, trimming, pruning or removing of trees or shrubs necessary for the safe use of City utilities or City traffic-control devices and signs, with the exception of street name signs.

(c) Should a property owner fail to maintain trees and shrubs in the manner required by Subsection (a) of this Section, the City Forester may require that such work be done by notice served upon the owner of such property in accordance with § 27-59. Such work must be performed within the time period specified in such notice.

(Ord. No. 114, 2005, 10-18-05; Ord. No. 198, 2006, § 29, 12-19-06)

**Sec. 27-58. Control of tree diseases or insect infestations on private property.**

Upon notification by the City Forester in accordance with § 27-59, the property owner of property upon which is located a tree afflicted with any destructive or communicable disease or insect infestation which endangers the growth, health, life or well-being of trees in the City, or which is capable of causing an epidemic spread of communicable disease, such as Dutch elm disease or insect infestation, shall eradicate, remove or otherwise control such condition within the time period specified in such notice.

(Ord. No. 114, 2005, 10-18-05; Ord. No. 198, 2006, § 30, 12-19-06)

**Sec. 27-59. Notice of violation; removal authority and procedure; lien on property.**

(a) The City Forester is authorized and directed to give notice to any owner who is in violation of any provision of this Article. In addition, officers as defined in § 19-66 are authorized and directed to give notice to any owner or occupant who is in violation of §§ 27-18, 27-57(a)(1—4) or 27-58. Such notice shall be personally served upon such person or, if not personally served, conspicuously posted upon the property and also deposited in the United States mail, addressed to the owner of record at the address on the assessment roll of the County Assessor or at such other, more recent address as may be available to the City. With respect to occupants, notice may be mailed to the address of the property so occupied.

(1) The notice shall state that if the offending trees, parts of trees or shrubs are not pruned, trimmed, treated, removed or otherwise controlled as required within fourteen (14) days or within any longer time period as specified by the City Forester, a civil citation may issue and the work may be done by the City and any costs, including the cost of inspection and other incidental costs in connection therewith and the costs for carrying charges and costs of administration, will be charged against the property, in addition to any other penalty and costs or orders that may be imposed.

(b) If the trees or shrubs have not been brought into compliance with this Article within fourteen (14) days or within any longer time period as specified by the City Forester, from the date of the notice, the work may be done by the City, either by City personnel or by private contractors, as the City Forester shall determine, and a civil infraction citation may be issued. In the event of abatement by the City, the cost, including inspection, other incidental costs in connection therewith and an amount for carrying charges and administration, may be assessed against the property owner, in addition to any fines, penalties, costs and fees imposed.

(c) Any cost assessment shall be a lien in the several amounts assessed against each property from the date the assessment became due until paid and shall have priority over all other liens, except general taxes and prior special assessment liens. Any such assessment shall be billed by the Director of Neighborhood and Building Services, or the City Forester, or his or her designees, to the owner by deposit in the United States mail addressed to the owner of record at the address as shown on the tax rolls or such other, more recent address as may be available to the City, and to any agents, representatives or occupants as may be known. If any such assessment is not paid within thirty (30) days after it has been billed, the Financial Officer, or his or her designee, is hereby authorized to thereafter certify to the County Treasurer the list of delinquent assessments so billed, giving the name of the owner as it appears of record, the number of the lot and block and the amount of the assessment plus a ten-percent penalty. The certification shall be the same in substance and form as required for the certification of other taxes. The County Treasurer, upon receipt of such certified list, is hereby authorized to place it upon the tax list for the current year and to collect the assessment in the same manner as general property taxes are collected together with any charges as may by law be made by the County Treasurer, and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for unpaid taxes and the redemption thereof, shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property is not subject to taxation, the City may elect alternative means to collect the amounts due pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.

(Ord. No. 114, 2005, 10-18-05; Ord. No. 198, 2006, § 31, 12-19-06; Ord. No. 131, 2007, § 3, 11-20-07)

**Sec. 27-60. Time limit for compliance; appeals; hearings.**

Upon receipt of a notice given by the City Forester pursuant to § 27-18, 27-57 or 27-58, the property owner shall have the right to contest the order of the City Forester to the Referee by filing with the Referee a petition for review at the office of Neighborhood and Building Services. A written request for a hearing before the Referee must be submitted within five (5) days from the date of service of the order. Pending a final determination by the Municipal Court Referee, the property owner need not complete the work required to be done by the City Forester, unless such work involves a violation of Paragraph 27-57(a)(5). If the Referee sustains all or any part of the order of the City Forester, the Referee shall set the time within which the required work shall be completed, and the property owner must complete the required work within such time.

(Ord. No. 114, 2005, 10-18-05; Ord. No. 198, 2006, § 33, 12-19-06)

**Sec. 27-61. Noncompliance with notice; liability of property owners.**

(a) If a property owner fails to accomplish any work required under § 27-18, 27-57 or 27-58 within the time specified on a notice given by the City Forester, and the property owner has not contested the notice to the Referee as provided in § 27-60, the City Forester shall cause the work to be done pursuant to Subsection 27-59(b), and the property owner must reimburse the City all costs pursuant to Subsection 27-59(c).

(b) If the City Forester has caused a property owner to be assessed the costs of complete tree removal, and such property owner is unable to pay the cost of such work within thirty (30) days, the property owner and City Forester may enter into an agreement for the payment of the same in monthly installments over a period not to exceed three (3) years. Any unpaid balance due under such agreement shall bear interest at the rate of six (6) percent per annum.

(Ord. No. 114, 2005, 10-18-05; Ord. No. 198, 2006, § 34, 12-19-06)

**Sec. 27-62. Violations and penalties.**

Any person who violates § 27-18, Paragraphs 27-18(a)(1—4) or § 27-58 commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f).

(Ord. No. 198, 2006, § 37, 12-19-06; Ord. 085, 2008, § 8, 8-19-08)