

CHAPTER 25B

Trees, Shrubs and Plantings

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Sec. 25B-1. Applicability.

This Chapter provides full power and authority over all trees located within street or alley rights-of-way, parks and public places of the City and to trees located on private property that constitute a hazard or threat as described herein. (Ord. 836)

Sec. 25B-2. Definitions.

For the purposes of this Chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

(1) *City tree* means any tree planted upon the streets of the City or upon municipally owned lands within the territorial limits of the City.

(2) *Parks Superintendent* means that person, regardless of title, who is responsible for directing the day-to-day work and activities of the Municipal Parks Department and its individual employees.

(3) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

(4) *Private tree* means any tree located on private property in the City.

(5) *Public place* shall include the public streets, public parks and any and all other municipally owned lands within the territorial limits of the City.

(6) *Public street* includes all areas within the dedicated length and breadth of the public streets, roadways and alleys or easements or rights-of-way therefor, including the sidewalks, pedestrian ways, parkways and all other lands dedicated or used for any such purposes.

(7) *Street tree* means any tree or shrub planted upon the public streets of the City. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-3. City Forester appointed.

There is established in the Parks Department of the City the office or position of City Forester. At such time as someone is appointed as City Forester, he or she shall report directly to and be under the jurisdiction of the Parks Superintendent. Until the City Council shall make such appointment, the Parks Superintendent shall exercise the authority of and perform the duties of the City Forester. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-4. Duties and authority of City Forester.

The City Forester shall have jurisdiction and supervision over all trees in public places within the territorial limits of the City, and such other authority and duties as are given and assigned by the provisions of this Chapter and the Parks Superintendent.

(1) The City Forester shall have the authority and it shall be his or her duty to plant, trim, spray, preserve and remove trees in or from public places.

(2) The City Forester shall have the authority and it shall be his or her duty to trim, remove or destroy or order the trimming, removal or destruction of trees or plants upon private property when the City Forester shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-5. Limitations on planting and removal of trees in public places.

Unless the City Forester shall otherwise authorize, all trees planted in public places shall be planted or removed in accordance with the following requirements:

(1) No person shall plant or set out any tree in a public place without first receiving written authorization from the City Forester. The City Forester shall inspect and approve the planting site and tree species. All tree plantings in a public place shall be made in accordance with this Chapter.

(2) No person shall remove any tree from a public place or from the public street without first obtaining written authorization from the City Forester.

(3) Street trees shall be deciduous trees. Evergreens shall not be planted as street trees.

(4) All trees must be a minimum of one (1) inch in diameter of trunk one (1) foot above the ground.

(5) No tree or other planting shall be placed or remain so as, in the opinion of the Chief of Police or Traffic Engineer, to cause a traffic hazard. Any such hazardous condition caused by such tree or planting shall be immediately removed by order of the Chief of Police or Traffic Engineer. The City shall be responsible for the cost of the removal of any street tree that has been determined to be or create a traffic hazard on public streets. The removal of all other plantings in public places shall be the financial responsibility of the adjacent landowner, renter, operator or occupant.

(6) No tree shall be planted on any public street or public place, except of the variety approved by the City Forester for that public street or public place.

(7) Felled trees must be entirely removed and the root stump cut and removed to a depth of twelve (12) inches below ground level, or, if required by the City Forester, entirely grubbed out and removed.

(8) Unless the City Forester, for good reason, shall otherwise permit, street trees shall be planted a minimum of forty (40) feet apart, and no tree shall be planted where the clear space between the curb and the sidewalk is less than eight (8) feet, and no tree shall be planted nearer than three (3) feet from any sidewalk or curb, and no tree shall be planted closer than thirty-five (35) feet from the curb face of the nearest intersection. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-6. Plantings near lines and easements.

Unless the City Forester shall otherwise authorize:

(1) No tree with a mature height of twenty (20) feet or more shall be planted closer than ten (10) feet measured horizontally to the closest point directly beneath the nearest overhead wire or line or conduit of any electric, telephone, communications or other utility or within five (5) feet from any underground service line or utility.

(2) No tree or shrub, regardless of size or height, shall be planted within the boundaries of any surface easement dedicated to or reserved for lines of public utilities. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-7. Duties of private owners.

It is the duty of any person growing a tree upon private property:

(1) To trim trees so as not to cause a traffic hazard or other hazard to any street, alley or other public place or interfere with the proper lighting of public streets, sidewalks and alleys by the streetlights and so that a clearance of any portion thereof overhanging the public street or walkway shall be a minimum of fourteen (14) feet;

(2) To treat and remove any tree or plant so diseased or insect ridden as to constitute a hazard to public places or public streets or trees and plants thereon;

(3) To observe the planting specifications and limitations set forth in this Chapter and to refrain from planting any "cotton" bearing species of cottonwood or willow tree. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-8. Procedure upon order to trim or remove; appeal.

(a) When the City Forester shall find it necessary to order the trimming or removal of trees upon private property as authorized by the provisions of this Chapter, a written order to do the work or correct the condition shall be served upon the owner, operator, occupant or other person responsible for the premises. The order shall be served in one (1) of the following ways:

(1) By making personal service of the order upon the person responsible; such service may be made by the Police Department;

(2) By leaving the order with an adult member of the family of the person responsible; such service may be made by the Police Department;

(3) By securely affixing the order to the door at the entrance of the premises;

(4) By mailing a copy of the order to the last known address of the owner of the premises; or

(5) By publishing a copy of the order in the local newspaper three (3) times, once a week for three (3) successive weeks.

(b) The order shall set forth a time limit for compliance determined and specified by the City Forester based upon his or her assessment of the immediacy and the extent of the hazard and danger to public places, public streets, City trees or street trees created by the condition. In case of extreme danger to such property, the City Forester shall have the authority to require compliance immediately upon service of the order.

(c) A person to whom an order hereunder is directed shall have the right, within ten (10) working days of the service of such order, to appeal to the Director of Public Works, who shall review such order within ten (10) days and make a decision on the issue of the appeal. 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 ten (10) days after an appeal shall have been determined. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-9. Failure to comply; assessment of cost for compliance.

(a) When a person to whom an order is directed shall fail to comply within the specified time, the City Forester 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.

(b) If the cost of remedying a condition is not paid within ten (10) days or such other additional time as may be allowed by the City Clerk, the City Clerk shall cause a notice of such assessment to be mailed, by first class mail, to the owner. In addition, said notice shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the City, the last publication to be not less than one (1) week prior to the date of the hearing. Said notice of assessment shall advise the property owner of the amount assessed against the property and shall designate a time and place when the City Council will hear any objections as to the correctness of the amount so assessed.

(c) If the assessment which is finally determined by the City Council to be due and payable is not paid within ten (10) days after the Council session at which it was considered, the City Clerk shall certify the final assessment to the County Treasurer to be placed on the tax list for the current year, to be collected in the same manner as other taxes are collected, with an added ten percent (10%) to defray the cost of collection. (Ord. 777, §1(part); Ord. 836)

Sec. 25B-10. Tree Advisory Board created; duties; meetings.

(a) There is created and established for the City a Tree Advisory Board consisting of five (5) citizens who shall be residents of the City, appointed by the Mayor with the advice and consent of the City Council. The City Forester, a representative of the Colorado State Forest Service, a representative of the Morgan County CSU Extension Service, and a student at Fort Morgan High School shall serve as ex officio and nonvoting members of the Tree Advisory Board. Initially, one (1) citizen member of the Board shall be appointed to serve a one-year term, two (2) citizen members shall be appointed to serve a two-year term and two (2) citizen members shall be appointed to serve three-year terms. Following completion of the initial term, each citizen member shall be appointed to serve a full three-year term. Any person appointed to fill a vacancy shall finish the term of the replaced member. The Tree Advisory Board shall annually elect a Chairperson, Vice-Chair and Secretary at its first meeting of each year. The Chairperson shall make an annual report to the City Council at its first meeting of each year of the previous year's activities of the Tree Advisory Board.

(b) The Tree Advisory Board shall advise and make recommendations to the City Forester and the City Council as to selection of planting sites, species, treatment and disposition of trees and plantings in and upon public places, and propose policy, rules, regulations and specifications for planting, pruning and trimming, and removal for disease and pest control and protection for City trees and plantings. (Ord. 777, §1(part); Ord. 836)

