

Chapter 245

TREES AND TREE BOARD

Cross Reference — As to arborists license, see §605.380.

ARTICLE I Tree Board

Section 245.010. Creation and Establishment of City Tree Board. [CC 1985 §12-110.3; Amended Ord. No. 899, 7-2-1990]

There is hereby created and established a City Tree Board which shall consist of not fewer than five (5) nor more than seven (7) members, citizens and residents of the City who shall be appointed by the Mayor upon the advice and consent of the majority of the City Council. Not less than three (3) members shall be appointed for terms of three (3) years and not less than two (2) members shall be appointed for terms of two (2) years. The City Park's Director shall be an ex officio member of the Board and shall serve as Secretary of the Tree Board. The City Park's Director shall be responsible for making recommendations to the City Tree Board and is not entitled to vote on any matters coming before the Board.

Section 245.020. Operation and Compensation. [CC 1985 §12-110.4; Amended Ord. No. 899, 7-2-1990]

The Board shall elect from among its members a Chairman and Vice Chairman, establish rules and regulations of procedure, and keep records and a journal of all its proceedings. A majority of the membership of the Board shall constitute a quorum for the transaction of business. The members of the City Tree Board shall serve without compensation.

Section 245.030. Duties and Responsibilities. [CC 1985 §12-110.5; Amended Ord. No. 899, 7-2-1990]

- A. It shall be the responsibility of the City Tree Board to study, investigate, counsel, develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal, disposition and management of trees and shrubs in public ways, parks and other public areas. Such plans shall be presented annually to the Governing Body and upon its acceptance and approval shall constitute the official comprehensive City tree plan for the City. In addition, the City Tree Board shall be responsible for long range forestry management for the City subject to the approval of the Governing Body.
- B. The City Tree Board shall be responsible for and shall make recommendations to the Governing Body regarding policy, rules and regulations for the management of trees within the City. It shall make recommendations regarding the species of trees to be located within the street rights-of-way, easements, alleys, parks and public areas of the City. Such recommendations will be presented to the Governing Body and upon acceptance and

approval thereby, the recommendations shall constitute the official policy, rules and/or regulations for the City.

- C. The Board, when requested by the Governing Body, shall consider, investigate, make findings, report and recommend upon any matter or question coming within the scope of its work; including but not limited to such matters as shall be referred to the City Tree Board by the Governing Body from time to time.

ARTICLE II Regulations

Section 245.040. Definitions. [CC 1985 §12-110.1; Amended Ord. No. 899, 7-2-1990]

Words and terms used in this Article shall have the following meanings unless the context otherwise requires:

PARK TREES — Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land, lying between property lines on either side of all streets, avenues or public ways within the City.

TREE SIZE — "*Large trees*" are herein defined as those trees attaining a height of forty-five (45) feet or more. "*Medium trees*" are herein defined as those attaining a height of between thirty-six (36) feet and forty-five (45) feet. "*Small trees*" are herein defined as those attaining a normal maximum height of thirty (30) feet. — For illustrative purposes only, the following common trees are defined according to size:

1. *Small trees.* Flowering crabapple, Redbud, Hawthorne, Bradford pear, Common apricot, Paper mulberry, Amur maple, Purple leaf plum, Flowering peach, Serviceberry and Mimosa.
2. *Medium trees.* Red mulberry, Honeylocust, Western soapberry, Kentucky coffeetree, Goldenraintree, Japanese pagodatree, Hard maple, Pistachio, Ohio Buckeye, Ginkgo, Black cherry, Pin oak, Osageorange, Sweetgum and Little leaf linden.
3. *Large trees.* Bur oak, Red oak, Hackberry, London planetree, American sycamore, Black walnut, Cottonwood, Basswood, Green ash, Silver maple and American linden.

Section 245.050. Tree Spacing. [CC 1985 §12-110.6; Amended Ord. No. 899, 7-2-1990]

The spacing of trees shall be in accordance with the three (3) tree size classifications listed in this Article. The Tree Board is empowered to promulgate written regulations to be kept on file in the office of the City Clerk for minimum and maximum distances within which trees are to be planted in proximity to other trees and structures; said regulations to be subject to the review of the Governing Body.

Section 245.060. Distance From Curbs and Sidewalks. [CC 1985 §12-110.7; Amended Ord. No. 899, 7-2-1990]

- A. The distance trees may be planted from curbs and curblines and sidewalks will be in

accordance with the three (3) tree size classifications listed in this Article. Distances trees may be planted from curbs and sidewalks shall be designated by the Tree Board in consultation with the City Superintendent of Street and shall be published as regulations by filing with the Office of the City Clerk. All such regulations published and filed with the office of the City Clerk shall be subject to the review of the Governing Body.

- B. The City Tree Board may waive the provisions of the regulations provided for above for good cause shown.

Section 245.070. Planting Near Utility Lines. [CC 1985 §12-110.8; Amended Ord. No. 899, 7-2-1990]

No street trees other than those species defined as small trees in this Article may be planted under or within fifteen feet (15) of any overhead utility lines. No trees shall be planted within three (3) linear feet of any underground water line, sewer line or other utility main or service lines.

Section 245.080. Distance From Street Corners and Fire Hydrants. [CC 1985 §12-110.9; Amended Ord. No. 899, 7-2-1990]

No street tree shall be planted within twenty (20) feet of any street corner, measured from the point of nearest intersecting curblines. No street tree shall be planted within ten (10) feet of any fire hydrant.

Section 245.090. Public Tree Care. [CC 1985 §12-110.10; Amended Ord. No. 899, 7-2-1990]

- A. Provisions relating to public tree care for trees in the City shall be as follows:
1. The City shall have the right to plant, trim, spray, preserve, remove and otherwise manage trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, parks and other public areas as may be necessary to insure safety or to preserve the symmetry and aesthetic condition of such public ways and areas.
 2. The owner of any adjacent property shall be responsible at the owner's expense to prune, maintain and remove trees or woody plants, including shrubs, lying within the right-of-way of any public way, including but not limited to streets and alleys.
 3. The City or City Tree Board may remove or cause or order to be removed any tree, shrub or other woody plant or any part thereof situated within the right-of-way of any public ways, including but not limited to streets and/or alleys which is in an unsafe condition or which by reason of its nature interferes with public utilities, or other public improvements or is infected with any injurious fungus, insect or other pest; including any such trees, shrubs or woody vegetation which constitutes a traffic hazard.
 4. The City, the City Tree Board and/or their agents will notify in writing the owners of property abutting such trees or woody plants affected by this Article. Removal shall be done by said abutting owners at their own expense within thirty (30) days of the date of service of notification which shall be served by personal delivery or by certified mail, return receipt requested, to the owner or person under whose charge the property has been placed by the owner. In the event of failure of the abutting

owner to comply with or cause compliance with these provisions, the City shall have the authority to remove such trees or parts thereof and the cost of such work shall be assessed and charged against the abutting property as a special assessment to be certified by the City Clerk at the time of certification of other City taxes to the County Clerk to be extended on the tax roles of the County against the abutting property.

Section 245.100. Removal of Dead or Diseased Trees From Private Property. [CC 1985 §12-110.11; Amended Ord. No. 899, 7-2-1990]

The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life or property, including but not limited to trees which harbor insects or disease which constitutes a potential threat to the health and safety of other trees within the City. The City Tree Board or its agent will notify in writing the owners of such trees or the person being placed in charge of such trees by the owners. Removal shall be done by the owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees, shrubs, other woody vegetation or parts thereof and assess the costs of such work against the abutting property as a special assessment to be certified by the City Clerk at the time of certification of other City taxes to the County Clerk and extended upon the tax rolls of the County against the abutting property. Any land owner or person placed in charge of such land and/or the trees thereupon by the owner shall have the right to request a hearing before the Tree Board within ten (10) days of receipt of such notice as provided for in this Article to challenge the reasonableness or necessity of the action directed to be taken.

Section 245.110. Pruning and Corner Clearance. [CC 1985 §12-110.12; Amended Ord. No. 899, 7-2-1990]

Every owner of any tree, shrub or woody plant overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of nine (9) feet above the surface of any sidewalk, street or public way, including but not limited to alleys, and there shall be a clear space of fifteen (15) feet above the ground of any street, alley or other public way. The owners shall remove all dead, diseased, or dangerous trees or broken or decayed limbs which constitute a hazard to the public safety. The City shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, interferes with visibility of any traffic control device or intersection or otherwise constitutes a traffic hazard.

Section 245.120. Damaging Trees While Moving Buildings. [CC 1985 §12-110.13; Amended Ord. No. 899, 7-2-1990]

Any person or firm while moving any building shall use the highest degree of care to prevent injury to trees and shall be liable for any unnecessary damage or injury done to trees, shrubs or other woody vegetation while moving any building or structure including but not limited to freight containers. Such damage or injury shall be reported at the next regular meeting of the City Tree Board and it shall be the duty of the Board to examine, estimate and determine such damage and file a claim therefore against the bond or insurance required by any such mover or freight hauler.

Section 245.130. Cutting, Trimming, Persons Maintaining Poles, Wires. [CC 1985 §12-110.14; Amended Ord. No. 899, 7-2-1990]

To prevent the destruction of shade and ornamental street trees as defined in this Article and or the regulations issued under this Article, all persons maintaining wires or poles in the City, their agents, servants and employees, are hereby prohibited from cutting or trimming trees except under the direction of the City Tree Board or its authorized agent.

Section 245.140. Tree Topping. [CC 1985 §12-110.15; Amended Ord. No. 899, 7-2-1990]

It shall be unlawful as a normal practice for any person, firm, their agents, servants or employees, including but not limited to the City, its agents or employees, to top any street tree, park tree or other tree on public property. "*Topping*" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the trees crown to such a degree so as to remove the normal canopy of the tree and/or to disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Article upon the determination to that effect of the City Tree Board.

Section 245.150. Interference With City Tree Board. [CC 1985 §12-110.16; Amended Ord. No. 899, 7-2-1990]

It shall be unlawful for any person or firm or the servants, agents or employees thereof to prevent, delay or interfere with the City Tree Board or its agents or servants while engaged in the planting, cultivating, mulching, pruning, spraying, removal or other management of any street trees, park trees or trees on private grounds authorized in this Article or the regulations issued herein.

ARTICLE III Administration

Section 245.160. Review by City Council. [CC 1985 §12-110.17; Amended Ord. No. 899, 7-2-1990]

The City Council as the Governing Body shall have the right to review any and all conduct, acts and decisions of the City Tree Board. Any person may appeal any ruling or order of the City Tree Board to the City Council who shall hear the matter and make a final decision thereupon.

Section 245.170. Administration of Ordinance, Rules and Regulations, Fund Created. [CC 1985 §12-110.19; Ord. No. 906, 12-3-1990]

There is hereby created a fund for the Tree Board to defray the costs of administration thereof. Any fee, fine, costs, or assessments collected in connection with the administration of the Tree Board, the Tree Board Ordinance and/or the rules and regulation's promulgated thereunder shall be credited, maintained and utilized in a fund for the exclusive use of the Tree Board. Said fund shall be expended only by the Tree Board upon a majority vote of its members and shall not be expended by any other agency. The Council member serving as Commissioner of Parks shall be authorized to approve and direct such expenditures voted on by the Tree Board upon his/her signature.

Section 245.180. Penalty for Violation. [CC 1985 §12-110.18; Amended Ord. No. 899, 7-2-1990]

Any person or firm or the agents, servants or employees thereof violating any provision of this Article shall, upon conviction thereof, be fined in a sum not to exceed two hundred fifty dollars (\$250.00) and/or be imprisoned not to exceed thirty (30) days, or by both such fine and imprisonment.