

CHAPTER 97: STREET TREES AND SHRUBS

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§ 97.01 BOULEVARD AND PARKING STRIP DEFINED.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOULEVARD and **PARKING STRIP**. The space between the sidewalk and the curb line or curb. (Prior Code, § 12.24.010)

§ 97.02 PLANTING REGULATIONS.

(A) No trees shall be planted or replaced in the boulevard unless they are in compliance with the following regulations:

- (1) At least 40 feet between each tree;
- (2) At least two feet from the curb line and/or sidewalk;
- (3) At least 25 feet from any street corner where the curb lines intersect;
- (4) At least ten feet from any fire hydrant; and

(5) At least five lateral feet from any underground water line, sewer line, gas line, transmission line or other utility.

(B) No hedge, shrub, bush, or fence more than three feet in height shall be planted or allowed within 50 feet of any street corner measured from the point of intersecting curbs or curb lines.

(C) The property owner shall remove, at the property owners sole expense, any tree or shrub, which was planted in violation of the planting regulations and as directed by the City Commission. (ORD 1051, Effective 5.17.18)

(D) A digging permit is required by the city for any and all trees and shrubs that are planted in the city right-of-way.

(Prior Code, § 12.24.015) Penalty, see § 97.99

§ 97.03 TRIMMING EXISTING TREES AT INTERSECTIONS.

All trees and shrubs growing on the boulevards and parking strips in the city at the intersection of all streets and avenues shall be trimmed, and so maintained, a sufficient distance from all intersections, so that such trees and shrubs do not obstruct the clear vision of travelers to approaching traffic. (Prior Code, § 12. 24.020) Penalty, see § 97.99

§ 97. 04 REMOVAL OF DEAD OR DISEASED TREES AND OVERHANGING BRANCHES.

It shall be the duty of the City Commission to require the owner or agent of any premises whereon is situated any dead trees or overhanging branches, dangerous to life, limb or property, to remove the same within a reasonable time, to be fixed by the city, in its notice to such owner or agent. The City Commission shall have the power to destroy trees in the boulevards or parking strips if infested by disease or infested by injurious insects when such destruction is necessary for the protection of other trees. (ORD 1051, Effective 5.17.18)

§ 97. 05 REMOVAL OF TREES IN CONTACT WITH UTILITIES.

The property owner is responsible for the removal of any tree or part which may come into contact with underground utilities, water lines, sewer lines, gas lines, curb and gutter, sidewalks or other public improvements, as directed by the City Commission. (ORD 1051, Effective 5.17.18)

§ 97. 06 TREE BRANCHES TO BE TRIMMED AND CUT.

(A) No person, firm, corporation or any other owner of real property within the corporate limits of the city shall permit their tree limbs or branches to become a hazard or a nuisance to street maintenance and garbage disposal equipment by permitting tree branches to grow too close to the ground or overhang into certain areas of streets and alleys. It shall be the duty, unless otherwise provided herein, of each property owner to trim and cut all tree limbs or branches of trees located upon his or her real property and upon the boulevard and alley ways which are adjacent to his or her property to a minimum height of 13 feet above ground level.

(B) It shall be the duty of each property owner to trim and cut all tree limbs or branches of trees located upon his or her real property and boulevard areas which are adjacent to the following city streets to a minimum height of 15 feet above ground level.

- (1) Fifth Street (SD Highway 18);
- (2) Dakota Street from the south edge of Seventh Street north to the city limits;
- (3) Cedar Street from the north edge of Fifth Street south to the city limits; and
- (4) Seventh Street from the west edge of Cedar Street east to the east edge of Dakota Street.

(C) All branches and limbs so cut and trimmed off of trees shall be disposed of by the property owner at his or her expense at a designated location at the city dump grounds. (Prior Code, § 12. 24.040) Penalty, see § 97.99

§ 97. 07 ACCUMULATION OF WEEDS AND RUBBISH.

No accumulated weeds, rubbish or other obstruction shall be allowed to accumulate on any boulevard or parking strip in the city. (Prior Code, § 12. 24.050) Penalty, see § 97.99

§ 97.08 ENFORCEMENT BY THE CITY.

The city is granted, power to enforce the provisions of this chapter, and shall also have the power and authority to cut and trim, or order limbs and branches of trees that may extend over the curb line or sidewalk line to be cut and trimmed to a height and in a manner determined by the City Commission. (ORD 1051, Effective 5.17.18)

§ 97.09 FAILURE TO COMPLY.

Any person, who has received notice to trim, preserve or remove trees or plants and fails to comply within the time specified in the notice, the city shall remedy the condition or contract with others for such purpose and charge the cost or assess thereof to the person to whom the order was directed by sending him or her a statement of costs. The person remedying the condition shall be authorized to enter the premises for that purpose. If the owner of the property does not pay the cost of such work within 30 days after receipt of the statement thereof, such costs may be levied against the property benefitted or upon which the condition existed as a special assessment. (Prior Code, § 12. 24.065) Penalty, see § 97.99

§ 97.10 CLEARANCE OVER SIDEWALKS.

It shall be the duty of the property owner or persons occupying property adjacent to any street, boulevard or parking strip, to keep all trees and overhanging branches trimmed to a clearance of eight feet over the sidewalk. (Prior Code, § 12. 24.070) Penalty, see § 97.99

§ 97.11 TREE BOARD.

(A) *Purpose.* The purpose of this section is to establish the City Tree Advisory Board, which shall be responsible for advising and educating on issues pertaining to trees and wooded plants in the city and to maintain the status of a Tree City USA program.

(B) *Board established.* The Board will be comprised of the Public Works Superintendent, the Water Superintendent and one citizen appointed by the City Commission. (ORD 1051, Effective 5.17.18)

(C) *Meetings.*

(1) The Board shall have at least one regular meeting three times per year. The Board shall determine meeting dates and times. Special meetings may be held as often as the Board deems necessary or as directed by the Public Works Commissioner. (ORD 1051, Effective 5.17.18)

(2) The Board shall elect such officers as it deems necessary to conduct business. The Board shall adopt such rules of procedure as it deems necessary.

(3) The Board shall keep written minutes of all meetings held and all business transacted. All records of the Board shall be open to public inspection, except those that may be exempt from public disclosure under state law.

(D) *Duties.*

- (1) Coordinating and promoting Arbor Day activities;
- (2) Developing public awareness and education programs relating to trees;

- (3) Submitting an annual report of its activities to the City Commission;
- (4) Submitting the annual application to renew the Tree City USA designation; and
- (5) Other duties that may be assigned by the Public Works Commissioner. (ORD 1051, Effective 5.17.18)

(E) *Tree City USA*. By adopting this section the city agrees to maintain the status of a Tree City USA community by meeting the following four standard requirements:

- (1) Establish a Tree Board or Department;
- (2) Establish a tree care ordinance;
- (3) Provide a community forestry program with an annual budget of at least \$2 per capita;
- (4) An Arbor Day observance and proclamation

and

(F) *Severability*. If any section, sentence, clause or phase of this section shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phase of this section.

(Prior Code, § 1224.075)

§ 97.99 PENALTY.

Except as in this chapter otherwise specifically provided, any person or persons, firm or corporation violating any of the provisions of this chapter or failing to comply with any of the provisions thereof, shall be deemed guilty of a misdemeanor and shall be fined in an amount not to exceed \$500.

(Prior Code, § 12.24.080)