

CHAPTER 97: STREET TREES AND SHRUBS

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§ 97.01 DEFINITIONS

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

BOULEVARD. The area along the public streets and avenues between the curblineline and the sidewalk line. Also known as **PARKING STRIP**.

PARKING STRIP. The area along the public streets and avenues between the curblineline and the sidewalk line. Also known as **BOULEVARD**.

RIGHT-OF-WAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public as a matter of right for the purposes of vehicle traffic.

STREET. Any type of motor vehicle transportation system including, but not limited to, street, avenue, road, drive, circle, court, lane, trail, place, or alley.

STREET TREE. A tree in any parking strip or boulevard.

TOPPING. The indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. (Prior Code, ' 12.24.010) (Ord. 1107, passed 05/15/2023)

§ 97.02 PLANTING REGULATIONS

(A) The City shall establish rules and regulations for the planting of trees in the right-of-way, parking strip, or boulevard including, but not limited to:

- (1) No person shall plant or allow a tree to be planted in the right-of-way, parking strip, or boulevard without a permit subject to the provisions of this chapter;
- (2) Only approved trees may be planted in the right-of-way, parking strip, or boulevard;
- (3) No tree shall be planted where the clear space between the curb and the sidewalk is less than five feet;
- (4) No tree shall be planted closer than three feet from the curb;
- (5) Trees must be one inch in diameter or larger measured six inches above the ground;
- (6) Trees shall not be planted under power lines unless approved by the City;
- (7) Trees shall be planted at least 40 feet apart except where otherwise permitted by the City;
- (8) Trees shall be placed at least ten feet from a fire hydrant;
- (9) Trees shall be placed at least ten feet from a driveway;
- (10) Trees shall be placed at least 15 feet from a streetlight;
- (11) Trees on a corner lot shall be planted at least 30 feet back from the corner;
- (12) Trees shall be placed at least 20 feet back from stop/yield sign or traffic signal;
- (13) Trees should be at least five lateral feet from any underground water line, sewer line, gas lines, transmission line, or other utility.

(B) The established rules and regulations shall be available on the city's website.

(Prior Code, ' 12.24.015) (Ord. 1051, passed 4-16-2018) Penalty, see ' 97.99 (Ord. 1107, passed 05/15/2023)

§ 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 (Ord. 1107, passed 05/15/2023)

§ 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, or to be removed by the City, following notice to such owner or agent. The City Commission shall have the power to destroy trees in the boulevards or parking strips, or on private property, if infested by disease or infested by injurious insects when such destruction is necessary for the protection of other trees. The City Commission may assess the owner or agent of any destroyed tree to pay the costs associated therewith pursuant to §97.19. (Prior Code, ' 12.24.030) (Ord. 1051, passed 4-16-2018) Penalty, see ' 97.99 (Ord. 1107, passed 05/15/2023)

§ 97.05 REMOVAL OF TREES IN CONTACT WITH UTILITIES

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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. (Prior Code, ' 12.24.035) (Ord. 1051, passed 4-16-2018) Penalty, see ' 97.99 (Ord. 1107, passed 05/15/2023)

§ 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 rubble site.

(Prior Code, ' 12.24.040) Penalty, see ' 97.99 (Ord. 1107, passed 05/15/2023)

§ 97.07 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. Penalty, see ' 97.99 (Prior 97.10) (Ord. 1107, passed 05/15/2023)

§ 97.08 TRANSPORTATION OF ASH WOOD PROHIBITED - Repealed (Prior 97.12) (Ord. 1111, passed 06/26/2023)

§ 97.09 NUISANCE TREE DECLARED

Dead, diseased or insect-infested trees or other woody plants identified by the City Commission shall be declared dangerous and a nuisance. Penalty, see ' 97.99 (Ord. 1051, passed 05/15/2023)

§ 97.10 CONTROL ON PRIVATE PROPERTY

The City shall have the authority to regulate and control nuisance trees and other woody plants upon private property only when an action is demonstrably necessary for public safety or to prevent the spread of disease or insects to public trees and places. (Ord. 1107, passed 05/15/2023)

§ 97.11 DUTY TO CORRECT

The occupant, person in charge, or owner of any lot or parcel of land in the city shall keep the property free of nuisance trees and other woody plants by treating or removing, as may be appropriate and approved by the city. (Ord. 1107, passed 05/15/2023)

§ 97.12 PLANTING OF ASH TREES PROHIBITED

No person shall plant, or allow to be planted, any variation of *Genus Fraxinus*, commonly known as ash, on any property. (Prior 97.13) (Ord. 1107, passed 05/15/2023)

§ 97.13 CONTROL ON PUBLIC PROPERTY

The City shall have exclusive jurisdiction and supervision over all trees and other woody plants growing in public places. The City shall have authority to regulate and control the planting, trimming, spraying, preservation, and removal of trees and other woody plants in public places to ensure safety or preserve the symmetry and beauty of those public places. (Ord. 1107, passed 05/15/2023)

§ 97.14 INJURY TO TREES BY MOVING; TRIMMING

(A) No person shall move any building or other structure in a manner as to interfere with or injure any tree in any area, except as provided in this section. If in moving any building or structure it is necessary to trim or move any tree, all work shall be done under the supervision and control of the City and at the expense of the person moving the building or structure. Should injury or death result to any tree because of trimming or moving, the person moving the building or structure shall, upon direction of the City replace the tree at the expense of the person moving the building or structure.

(B) Any tree trimming above the established height of branches above a street as established in § 97.06 shall require written permission from the abutting property owner of those tree(s). The permission will be attached to the building moving application. If permission from the abutting property owner is denied, the moving route will not be approved by the city. (Ord. 1107, passed 05/15/2023)

§ 97.15 ORDER TO REMOVE; PROCEDURE

When the City Commission determines that the removal of trees or other woody plants upon private property is necessary to preserve public health and safety, or protect the health of the urban forest, the City may serve a written order to correct the dangerous condition upon the owner, operator, occupant, or other person responsible for its existence. (Ord. 1107, passed 05/15/2023)

§ 97.16 ORDER TO REMOVE; TIME FOR COMPLIANCE

The order to remove trees or other woody plants shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City may require compliance immediately upon service of the order. (Ord. 1107, passed 05/15/2023)

§ 97.17 ORDER TO REMOVE; APPEAL OR ORDER

A person to whom an order to remove trees or other woody plants is directed may, within three days of the service of the order, appeal to the City Commission who shall set a day for hearing thereon and give notice thereof to the person appealing. Upon the hearing and review the City Commission may affirm, modify, or revoke the order. Unless the order is revoked or modified it shall remain in full force and be obeyed by the person to whom directed. All persons to whom an order is directed shall comply with the order within five days after an appeal shall have been determined. (Ord. 1107, passed 05/15/2023)

§ 97.18 ORDER TO REMOVE; FAILURE TO COMPLY

When a person to whom an order to remove trees or other woody plants is directed fails to comply within the specified time, the City shall remedy the condition or contract with others for that purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made under this section may enter the premises for that purpose. (Ord. 1107, passed 05/15/2023)

§ 97.19 ORDER TO REMOVE; SPECIAL ASSESSMENT

If the cost of remedying a condition for which a written notice of responsibility from the city to remove or trim trees or other woody plants is not paid within 30 days after receipt of a statement, the cost may be levied against the abutting property benefitted as a special assessment. The levying of special assessment shall not affect the liability of the person to whom the written notice of responsibility is directed to fine and imprisonment for the violation of this chapter. (Ord. 1107, passed 05/15/2023)

§ 97.20 DUTIES OF PRIVATE OWNERS

Any person growing a tree within the parking strip, boulevard, or other public place or responsible for trees growing on property abutting on public places supporting trees or woody plants shall:

(A) Trim trees or woody plants so as not to cause a hazard to public places or interfere with the proper lighting of public streets by the streetlights or interfere with the visibility of any traffic sign. All trees or woody plants shall be trimmed to allow free passage of pedestrians and vehicular traffic and in a manner so as to allow eight feet clearance over sidewalks and 13 feet clearance over all streets; provided, however, that trees along the streets identified in § 97.06(B) shall be trimmed to allow a clearance of 15 feet; and

(B) Treat or remove any trees or woody plants that are so diseased or insect ridden as to constitute a hazard to public safety or other trees or plants in public places. (Ord. 1107, passed 05/15/2023)

§ 97.21 ASSESSMENT FOR MAINTENANCE

The City Commission may, at the time of making its annual tax levy for other purposes, levy for the purpose of maintaining, repairing, planting, and otherwise improving and caring for boulevards a special front foot assessment. (Ord. 1107, passed 05/15/2023)

§ 97.22 ACCUMULATION OF WEEDS AND RUBBISH

No accumulated weeds, rubbish or other obstruction shall be allowed to accumulate on any boulevard or

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parking strip in the city. (Prior 97.07) (Ord. 1107, passed 05/15/2023)

§ 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) (Ord. 1107, passed 05/15/2023)