

City of Charlotte - Tree Ordinance

CHAPTER 70: VEGETATION

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ARTICLE I. IN GENERAL

§§ 70-1 – 70-25 RESERVED.

ARTICLE II. TREES

DIVISION 1. GENERALLY

§ 70-26 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

DEPARTMENT. The Department of Public Works of the city.

DIRECTOR. The Director of the Department of Public Works or his authorized representative.

PARK. Includes all public parks having individual names and all areas, whether owned by the city or not, to which the public has free access as a park.

PROHIBITED SPECIES. Any tree of poplar (*Populus* sp.), willow (*Salix* sp.), box elder (*Acer negundo*), silver maple (*Acer saccharum*), locust (*Robina* sp.), tree of heaven (*Ailanthus altissima*), catalpa (*Catalpa* sp.), mulberry (*Morus* sp.) and Siberian elm (*Ulmus pumila*).

PUBLIC UTILITY. Any person owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telegraph service.

STREET. All the land lying between property lines on either side of all streets, highways and boulevards in the city.

TREE. Trees, shrubs, bushes and all other woody vegetation.

(1993 Code, § 70-26)

Cross reference:

Definitions and rules of construction generally, § 1-2

§ 70-27 APPLICABILITY.

The provisions of this article, except as otherwise specifically stated, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(1993 Code, § 70-27)

§ 70-28 ENFORCEMENT.

The director shall be charged with the duty of enforcing the provisions of this article.

(1993 Code, § 70-28)

§ 70-29 ADDITIONAL RULES AND REGULATIONS.

The city manager shall make such rules and regulations supplementary to this article and not in conflict with this article as he may from time to time deem necessary, to be effective upon approval by the city council. No person shall fail to obey any rule or regulation effective under this article.

(1993 Code, § 70-29)

§ 70-30 PLANTING, CARE, REMOVAL.

(A) The director shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal thereof, subject to the regulations contained in this article.

(B) The owner of land abutting on any street may, upon obtaining prior written permission of the director, prune, spray, plant or remove trees in that part of the street abutting his land not used for public travel, but no person shall otherwise prune, spray, plant or remove and tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject.

(C) Where an owner of abutting property requests the removal of a tree, the director is authorized, in his discretion, to require as a condition to granting of approval for such removal that such property owner make the removal in accordance with regulations established by the department and assume all or any part of the costs of removing such tree.

(1993 Code, § 70-30)

§ 70-31 PUBLIC TREE REMOVAL.

The department shall have the right to plant, trim, spray, preserve and remove trees, plant and shrubs within the lines of all trees, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The director may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which is of a prohibited species or is affected with any injurious disease, fungus, insect or other pest. Whenever the department shall remove any tree, plant or shrub solely for the purpose of constructing

any public work, the director shall, if practicable, replace the same at public expense at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

(1993 Code, § 70-31)

§ 70-32 SPACING OF SHADE TREES.

Future plantings of shade and ornamental trees in the streets and parks of the city will be done by the department in accordance with prescribed tree planting practices. No trees shall be planted in the parkway between the curb and sidewalk when that area is less than three feet wide. No tree shall be planted nearer to the intersection of any streets than 25 feet from the corner of such intersection.

(1993 Code, § 70-32)

§ 70-33 TREE PROTECTION.

No person shall break, injure, mutilate, kill or destroy any tree or shrub or set any fire within 25 feet of any tree or permit any fire or the heat thereof to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No electrical wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor, except by special written permit from the director, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control facilities which may interfere with the trimming or removal of any tree shall, after notice thereof by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department. The director shall certify all city permits for construction, installation, altering, moving or razing of all buildings, utilities, sidewalks, sewers or other operations where trees or shrubs or parts thereof are involved.

(1993 Code, § 70-33)

§ 70-34 EXCAVATIONS NEAR TREES.

Excavations and driveways shall not be places within five feet of any tree without written permit from the director. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the department, and all building material or other debris shall be kept at least four feet from any tree.

(1993 Code, § 70-34)

§ 70-35 COVERING SURFACE NEAR TREES.

No person shall place within the street right-of-way any stone, brick, sand, concrete or other material which will in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location.

(1993 Code, § 70-35)

§ 70-36 GAS LEAKAGE.

Gas pipes or mains within any public rights-of-way or on any public property shall be so maintained as to avoid any leakage therefrom. If a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within 24 hours. Any damage to trees, shrubbery or grass resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and the replacement of any trees, shall be levied against the owner of the pipe or main causing the damage.

(1993 Code, § 70-36)

§ 70-37 CORNER VISIBILITY.

All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines on any corner lot within the city shall not be permitted to grow to a height of more than 30 inches from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of 10 feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section or § 70-51 shall be notified by the Director in the manner provided in § 1-15 to do so, and such notice shall require trimming in conformity with this section within 10 days after the date of such notice. Upon the expiration of such period, the Director may cause the trimming to be done and the cost thereof may be collected from the owner of the property as a single lot assessment in accordance with Charter, § 9.10.

(1993 Code, § 70-37)

§ 70-38 LAWN EXTENSIONS.

On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, trees and shrubbery therein in conformity with this article. No person shall willfully injure or

destroy any grass, flower, tree or shrub upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.

(1993 Code, § 70-38)

§ 70-39 TRIMMING TREES NEAR OVERHEAD LINES.

The Director shall grant permission to public utilities to trim and keep trimmed all trees within the streets, alleys, parks and public places of the city, in such a manner as shall keep the overhead lines of such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the Department. The permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. However, in an emergency requiring immediate maintenance work on the overhead lines of such public utilities, prior notice of commencing work under such permit shall not be required. The word “emergency” as used in this section means the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.

(1993 Code, § 70-39)

§§ 70-40 – 70-50 RESERVED.

DIVISION 2. PRIVATE TREES

§ 70-51 CLEARANCE.

Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim 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 10 feet above the surface of the street or right-of-way. Such owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. 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 streetlight or interferes with visibility of any traffic- control device or sign, such trimming to be confined to the area immediately above the right-of-way.

(1993 Code, § 70-51)

§ 70-52 INSPECTION.

The Director and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants or vines for the

presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub or plant or fruit or injury to the tree, shrub, plant or fruit, if done by the Director or under his direction in accordance with this article.

(1993 Code, § 70-52)

§ 70-53 DISEASES AND INFESTATIONS.

When the Director shall discover that any tree growing on private property within the city is afflicted with any dangerous and infectious insect infestation or tree disease, he shall serve a written notice upon the owner or his agent or the occupant of the property, in the manner specified in § 1-15. Such notice shall describe the tree, its location and the nature of the infestation or tree disease and order the owner, agent and occupant to take such measures as may be reasonably necessary to curb such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within 10 days after service thereof upon the owner, agent or occupant of the property on which the afflicted tree is located or within such additional time as may be stipulated in such notice.

(1993 Code, § 70-53)

§ 70-54 OWNER'S FAILURE TO COMPLY.

If the owner, agent and occupant of the property refuse to carry out the order of the Director as stated in § 70-53 within the time limited or, in case of an appeal, within 5 days after the Council shall have affirmed such order, the Director shall carry out the pruning, spraying or destruction of the trees as deemed necessary by him and shall bill the owner, agent or occupant of the property for the cost thereof. If the owner of such property shall fail to pay such bill within 60 days after the bill has been rendered, the Director shall report the nonpayment to the City Council for collection as a single lot assessment against the property in accordance with the Charter. The Director may, without serving the notice as provided in this division, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he deems the spraying necessary because of any infestation or disease or threat thereof.

(1993 Code, § 70-54)

§§ 70-55 – 70-60 RESERVED.

DIVISION 3. TREE PRESERVATION IN SAMUEL A. COMBS INDUSTRIAL PARK

§ 70-61 TITLE.

This division shall be known and may be cited as the “City of Charlotte Samuel A. Combs Industrial Park Tree Preservation Ordinance.”

(1993 Code, § 70-61) (Ord. passed 9-27-1993)

§ 70-62 DEFINITIONS.

For the purposes of this division, words and phrases defined in this section have the meaning ascribed to them as follows.

PERSON. Any individual, partnership, state, trust, firm, joint stock company, federal agency, corporation, including a government corporation, association, municipality, commission, political subdivision of a state, interstate body, or other public body created by or pursuant to any state law or any combination of these.

SAMUEL A. COMBS INDUSTRIAL PARK. The 189.268 acres of land, which was donated by Samuel A. Combs to the City of Charlotte, and located north of Packard Highway between —50 and Benton Road as more fully described as:

That part of the South ½ of Section 6, T2N, R4W, Eaton Township, Eaton County, Michigan, beginning on the east-west 1/4 line of said Section 6 at a point South 89 degrees 36'35" East 400.80 feet from the west 1/4 corner thereof, thence along said 1/4 line South 89 degrees 36'35" East 3306.65 feet to the Northeast corner of the West ½ of the Southeast 1/4 of said Section 6, thence along the East line of said West ½ South 00 degrees 52'37" East 1906.58 feet to the northwesterly line of the Grand Trunk Western Railroad right-of-way, thence along said Railroad right-of-way line the following two courses, Southwesterly 387.72 feet along the arc of a 9225.50 foot radius curve to the left whose cord bears South 38 degrees 31'26" West 387.69 feet to point of tangency; thence South 37 degrees 19'12" West 540.35 feet to the South line of said Section 6, thence North 89 degrees 44'38" West 743.27 feet to the South 1/4 corner of said Section 6; thence continuing along the South Section line South 89 degrees 49'52" West 1482.20 feet; thence North 00 degrees 51'38" West 600.00 feet; thence South 89 degrees 49'52" West 500.00 feet; thence parallel with the West Section line North 00 degrees 54'90" West 2064.76 feet to the point of beginning, subject to the right-of-way of Packard Highway, Benton Road and any other right- of-way or easements of record, described parcel containing 189.268 acres of land, more or less.

TREES. The natural grove of mature hickory and hard maple trees that are located in the center of the Samuel A. Combs Industrial Park described as follows:

A parcel of land in the SW 1/4, of Sec. 6, T2N, R4W, City of Charlotte, Eaton County, Michigan, the surveyed boundary of said parcel described as: Com. At the SW

corner of said Sec. 6; then N89°49'52" E along the S line of said Sec 1305.60 ft to the E line of Lipsey Drive; thence N00°10'08" W along said E line 1112.25 ft to the point of beginning of this description, thence N00°10'08" W continuing along said E line 236.33 ft; thence N89°49'54" E 795.35 ft; thence S01°27'01"W 236.42 ft, thence S89°49'52"W parallel with said S line 788.67 feet to the point of beginning; said parcel containing 4.29 acres more or less; said parcel subject to all easements and restrictions if any.

(1993 Code, § 70-62) (Ord. passed 9-27-1993; Ord. passed 5-24-1999)

§ 70-63 CUTTING, HARVESTING, INJURING, AND THE LIKE OF TREES; EXCEPTIONS.

On the date of passage of this division by the City Council, no person shall cut, harvest, injure or otherwise damage the trees located in the Samuel A. Combs Industrial Park, as defined herein. Cutting, harvesting, injuring or otherwise damaging does not include practices approved by the International Society of Arboriculture for the purposes of preserving and protecting a tree.

(1993 Code, § 70-63) (Ord. passed 9-27-1993)

§ 70-64 PENALTY.

Any person who violates this division by cutting, harvesting, injuring or damaging any trees in the Samuel A. Combs Industrial Park is responsible for a municipal civil infraction for each violation. In addition, the City Attorney may commence a civil action against any person for cutting, harvesting, injuring or damaging any trees in the Samuel A. Combs Industrial Park, and if such acts are willful, the City Attorney shall seek treble damages as provided by law.

(1993 Code, § 70-64) (Ord. passed 9-27-1993; Ord. passed 2-26-1996)

§§ 70-65 – 70-75 RESERVED.

ARTICLE III. WEEDS

§ 70-76 WEED GROWTH PROHIBITED.

(A) All areas, except those lots which are in excess of 5 acres in size, shall be kept free from weeds in excess of 12 inches. Lots which are in excess of 5 acres shall be kept free from weeds in excess of 12 inches within 100 feet of any street or alley and within 100 feet of any property line which abuts any occupied property.

(B) Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs; provided, however, this term shall not include cultivated flowers and gardens. It shall be the duty of any person owning, leasing, occupying or otherwise controlling any plot of ground in the city to prevent the growth of weeds thereon.

(1993 Code, § 70-76)

§ 70-77 DUTY OF OCCUPANT OR OWNER.

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city to cut and remove or destroy by lawful means all such weeds and grass as often as may be necessary to comply with the provisions of § 70-76.

(1993 Code, § 70-77)

§ 70-78 CUTTING BY CITY.

(A) If any person shall fail to comply with the provisions of § 70-77 by the specified time, the City Manager shall, through the Department of Public Works, cause all such grass and weeds to be cut or destroyed upon lands of the person not complying with the provisions of this article. The City Council shall determine the hourly rates to be charged for cutting of weeds. The Director of the Department of Public Works shall cause the owners of property, upon which the city has cut weeds, to be billed for such services in accord with time spent and in accord with rates established.

(B) If such charges are unpaid, the costs for weed cutting shall be certified to the City Treasurer and collected as provided in Charter, § 9.10.

(1993 Code, § 70-78)

§ 70-79 VIOLATION NOT EXCUSED.

The facts that grass or weeds are cut by the city and the cost thereof charged to or paid by the owner shall not excuse the owner from responsibility for the violation of this Code thereby abated. Failure to cut grass or weeds by the owner as required in this article shall constitute a violation of this Code punishable as provided in § 1-16, regardless of whether such grass and weeds are cut subsequent to the commission of such violation.

(1993 Code, § 70-79)