

CHAPTER 39

TREES AND SHRUBS.

Reference: Neb. Rev. Stat. Section 16-248.

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Article I. In General.

39-101. Injuring prohibited.

It shall be unlawful for any person to willfully, maliciously or wantonly cut down, destroy, by girdling or tapping, or otherwise injure any tree within the city, that is not owned by such person, unless permission to do so has been granted by the owner of such tree.

(Code 1973, 38-1)

39-102. Roots obstructing sidewalks, sewers, etc.

Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement, or so that the roots thereof interfere with any sewer or drain, shall be deemed an obstruction under this chapter. Such roots may be removed by the street commissioner or his duly authorized representative, at the expense of the owner, after the owner shall have failed or neglected after notice to do so.

(Code 1973, 38-2)

39-103. Street plantings -- Permit.

It shall be unlawful for any person to plant or cause to be planted, any tree or shrubbery in or upon any street right-of-way, parkway or other City owned property within the City, without first having obtained a permit in writing from the Director of Parks and Recreation to do so; and the terms of the permit shall be strictly followed by the person to whom it is issued. No tree or shrubbery of another or different kind shall be planted, and no tree or shrubbery shall be planted in another or different location than designated in the permit; provided, the requirement to obtain a permit shall not apply to employees of the City of Hastings when planting trees on behalf of the City.

(Code 1973, 38-3)

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39-104. Street plantings -- Rules and regulations.

The Director of Parks and Recreation, in cooperation with the City Engineer, shall formulate rules and regulations for the planting of trees on City owned real estate. Said rules and regulations, and any amendments thereto, shall be approved by the Hastings City Council.

39-105. Same -- Marking of line for planting.

It shall be the duty of the person about to plant trees on any City owned property, pursuant to the permit issued as required by Section 39-103, to call upon the city engineer who shall properly mark the line on which same may be planted.

(Code 1973, 38-4)

Article II. Diseased Trees.

Reference: Neb. Rev. Stat. Section 2-1001 et seq.

39-201. Declared nuisances; removal generally.

Trees of all species and varieties, including elm, zelkova and planera, infected with the fungus *Ceratostomella Ulmi*, or which are in a dead or dying condition that may serve as breeding places for the European Elm Bark Beetle, *Scolytus Multistriatus*, are hereby declared to be a public nuisance, and shall be removed and burned or buried.

(Code 1973, 38-5; Ord. Nos. 2163 and 2338)

39-202. Enforcement of article.

The Director of Parks and Recreation is charged with enforcement of this article, and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent the Director from entering on private property for purposes of carrying out his duties under this article, or to interfere with the Director in the lawful performance of his duties under the provisions of this article.

(Code 1973, 38-6; Ord. Nos. 2163, 2338, and 2814)

39-203. Notice for removal.

If trees on private property are found to be infected or in a dead or dying condition, the Director of Parks and Recreation shall give to the owner, tenant, agent or occupant of the premises where the same are situated, written notice by publication or personal service of the existence of such disease or of the dead or dying condition of such trees or parts thereof and require the removal and burning or burying of the same. Such notice shall also notify the owner of the premises that if such tree is not removed and burned or buried after twenty-one days notice, that such failure to remove shall subject the owner to a fine.

(Code 1973, 38-7; Ord. Nos. 2163, 2338, and 2814)

39-204. Removal from private lands.

After due notice has been served upon the owner, tenant, agent or occupant of the premises, it shall thereupon become his duty to cause such trees to be removed and burned or buried. It shall be unlawful for any owner, tenant, agent, or occupant of any premises upon which is found any tree which is infected or in a dead or dying condition, to allow same to remain upon said premises for more than 21 days after receiving the notice described in Section 39-203 above.

(Code 1973, 38-9; Ord. Nos. 2163 and 2338)

Article III. City Tree Board.

39-301. Definitions.

(1) Terrace trees: "Terrace Trees" are defined as trees, shrubs, bushes and all other woody vegetation on land lying between the property lines on either side of all streets and avenues within the City.

(2) Park trees: "Park Trees" are defined as trees, shrubs, bushes and all other woody vegetation in public parks.

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(3) Public community forest: "Public Community Forest" is defined as all street and park trees, and other trees owned by the City as a total resource.

(4) Private community forest: "Private Community Forest" is defined as all trees within municipal boundaries but not owned by the City.

(5) Community forest manager: "The Community Forest Manager" shall be the City's Parks and Recreation Director or his or her designee and as such is responsible for administration of the Community Forestry Program.

39-302. Creation and establishment of a city tree board.

There is hereby created and established a City Tree Board for the City of Hastings, Nebraska, which shall consist of seven (7) members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council. The Community Forest Manager shall be an ex-officio member of the City Tree Board.

(Ord. No. 4061-2/2006)

39-303. Term of office.

Initial appointments to the Tree Board shall be as follows: Two members to a one-year term; two members to a two-year term, and one member to a three-year term. Thereafter, all appointments to the Tree Board shall be for a three-year term. In the event a vacancy occurs during the term of any member, a successor shall be appointed to fulfill the remaining unexpired term. Members of the Tree Board shall be eligible for reappointment upon expiration of their terms of office.

39-304. Compensation.

Members of the Tree Board shall serve without compensation.

39-305. Duties and responsibilities.

The duties and responsibilities of the Tree Board shall be as follows:

(1) To beautify the appearance of the City of Hastings by promoting and encouraging the responsible planting, care, replacement, and maintenance of trees in the City.

(2) To conduct fund raising activities, the proceeds of which shall be designated for the planting of trees, shrubs, and bushes.

(3) To plan and sponsor activities in celebration of Arbor Day.

(4) To provide educational materials and programs to the public concerning the planting and care of trees.

(5) To make recommendations to the Park and Recreation Director concerning landscape plans for any new or existing public facilities constructed by the City.

(6) When requested by the City Council, to consider, investigate, make finding, report, and recommend upon any special matter or question relating to trees.

39-306. Operation.

The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

39-307. Terrace tree species to be planted.

The City of Hastings, Nebraska, shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the City upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the Community Forest.

39-308. Distances and clearances for planting.

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Trees may be planted in the terrace where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk, driveway or street.

No tree shall be planted that does not comply with the vision clearance requirements specified in Section 34-306 of the Hastings City Code.

No terrace tree shall be planted closer than 10 feet from any fireplug.

Special permission must be obtained from the Community Forest Manager when planting a tree within 10 feet of any point on a line on the ground immediately below any overhead utility wire.

39-309. Public tree care.

The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and all publicly-owned property, as may be necessary to insure the public safety.

The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature affects the safe operation and maintenance of electric power lines or other public improvements, or is seriously affected with any fatal disease.

The City shall remove and dispose of dead trees, tree stumps and large hanging, fallen or broken branches, when they are located upon city-owned property, including parks and terraces. For the purposes of this section, the term "dead" shall mean a tree which is, in the judgment of the Community Forest Manager, at least 75% dead; and the term "large" shall mean a branch of at least four inches in diameter.

The abutting property owners shall have the responsibility to perform normal tree care on all terrace trees.

39-310. Tree topping.

It shall be undesirable as a normal practice for any person, firm, or city department to top any terrace tree, park tree, or other tree on public property. Topping, rounding off or pollarding is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and 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 section by the Community Forest Manager.

39-311. Clearance over streets and walkways.

Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property. Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of seven feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets and alleys.

39-312. Dead or hazard tree removal.

Hazard trees are defined as trees with severe structural defects or splits. Removal is the responsibility of the owners of such trees and shall be accomplished within time limits set by the Community Forest Manager. The City will notify in writing the owners of such trees. The City shall have the right to cause to be removed any tree within the City limits that is dead or has been declared a hazard.

39-313. Access.

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representative in the legal performance of any section of this ordinance.
(Ord. No. 3190-10/90)