

ARTICLE VI. VEGETATION*

***Cross references:** Accumulations on property, § 8-12 et seq.

Sec. 16-72. Definitions.

Certain words in this article are qualified, restricted and defined as follows:

- (1) *Alley* shall mean any minor public way which is used primarily to locate and to provide vehicular access to public utilities or easements.
- (2) *Intersection visibility triangle* shall mean a triangle sight area, at all intersections, which shall include that portion of public right-of-way and any portion of a corner lot within a triangle formed by a diagonal line extending through points on the two (2) property lines twenty (20) feet from the street corner intersection of the property lines (or that point of intersection of the property lines extended) and intersecting the curb lines.
- (3) *Parkway area* shall mean that area between the curb line of any public street or alleyway and the abutting private property line.
- (4) *Street* shall mean any public right-of-way designed primarily for vehicular traffic, other than an alley, and shall run from curb line to curb line, or from drainage ditch to drainage ditch.

(Ord. No. 93-60, § 1, 10-12-93)

Sec. 16-73. Declared nuisance.

- (a) A tree, shrub or plant shall be deemed a nuisance if it or any part of it:
 - (1) Appears dead or for any other reason appears likely to fall in the city right-of-way;
 - (2) Is located in or over the city street or alley and is not pruned to a height of sixteen (16) feet;

- (3) Is located within the parkway and is not pruned to a height of less than eighteen (18) inches or greater than eight (8) above the sidewalk or top of curb;
- (4) Obstructs a curb, gutter, street or alley, or sidewalk;
- (5) Interferes with sewers;
- (6) Interferes with public utilities;
- (7) Interferes in any manner with the collection of trash from a street or alley;
- (8) Obstructs the view of a traffic control device to the extent that it is not easily visible from any street lane subject to the traffic control device from the applicable distance in the following table:

Speed Limit of Clear Vision

Street in MPH Distance Required in Ft.

20 120

25 165

30 200

35 240

40 275

45 340

50 375

55 450

(Ord. No. 93-60, § 1, 10-12-93)

Sec. 16-74. Prohibited within intersection visibility triangle.

It shall be unlawful to set out, maintain or permit to cause to be set out or maintained any tree, shrub or plant having a height greater than eighteen (18) inches as measured from the top of the curb of the adjacent streets within the intersection visibility triangle. This restriction shall not apply to permanent structures authorized by the zoning

ordinance or to traffic control signs and signals, street signs or utility poles. Any tree, shrub or plant in violation of this section is hereby declared a public nuisance.

(Ord. No. 93-60, § 1, 10-12-93)

Sec. 16-75. Procedure for abatement of nuisance.

- (a) Upon finding that any tree, shrub or plant or part thereof constitutes a nuisance or an immediate danger exists to persons, property or other vegetation, the director of public works or his duly authorized representative shall direct the property owner or resident to abate the nuisance by trimming the tree, shrub or plant or part thereof, to a point where it is once again in compliance with this ordinance.
 - (1) The method of service shall be in one or more of the following ways:
 - a. By personal delivery of the order to the person responsible.
 - b. By leaving the order with a person of suitable age and discretion on the premises.
 - c. By mailing the order by certified mail to the last known address of the owner of the premises.
 - d. By publishing the order in a local newspaper for five (5) consecutive days.
 - (2) The order shall set forth the time limit for compliance, which shall depend upon the degree of danger created by the tree, shrub or plant, but shall in no case be longer than thirty (30) days. In cases of extreme danger, the director of public works or his duly authorized representative shall have the authority to require immediate compliance.
 - (3) A person to whom an order hereunder is directed shall have the right, within forty-eight (48) hours of the service of such order, to appeal to the city manager or his/her designee, who shall review such order within five (5) days and file his decision thereon. Unless the order is revoked or modified it shall remain in full force and be obeyed by the person to whom directed within one (1) week of receipt of notice of the decision of the city manager.
- (b) If at the end of the required time period the tree, shrub or plant has not been removed, it shall be declared a nuisance, and the director of public works or his duly authorized representative is hereby given the authority to have the tree, shrub, plant or the offending portion thereof removed. The costs of this service, including labor, equipment, and materials shall be assessed to the property owner.

- (c) The city will furnish the property owner a written statement of the expenses incurred by the city in abating the nuisance on his property. If the property owner has not paid these charges in full within sixty (60) days, a lien will be placed on the property for the amount of the charges then outstanding. The property owner shall have a right to appeal to the city manager or his/her designees to contest the charges and the placement of the lien prior to the expiration of the sixty (60) days.
- (d) The levying of such lien shall not affect the liability of the person to whom the order is directed with regard to criminal charges as are herein provided.

(Ord. No. 93-60, § 1, 10-12-93)

Sec. 16-76. Nonliability of city.

Nothing contained herein shall be deemed to impose any liability upon the city or upon any of its officers or employees nor to relieve the owner and occupant of any private property from the duty to keep trees and shrubs and vegetation upon private property or under his control in a safe condition. The city shall not be responsible for the proper removal or disposal of vegetation or debris resulting from abatement or enforcement.

(Ord. No. 93-60, § 1, 10-12-93)

Sec. 16-77. Penalty.

No person shall allow a nuisance such as is described herein to exist on property that they own and/or control and any person failing to remove the nuisance after being instructed to do so by the director of public works or on appeal by the city manager shall be guilty of a misdemeanor and shall be subject to a fine not to exceed two hundred dollars (\$200.00). Each day that the nuisance shall exist in violation of such sections shall constitute a separate offense.

(Ord. No. 93-60, § 1, 10-12-93)