

ARTICLE VI. PLANTING, MAINTAINING TREES, SHRUBS ON PUBLIC PROPERTY*

***Editor's note:** Ord. No. 89-11-15, §§ I--VI, VIII, adopted Nov. 13, 1989, not specifically amendatory of this Code, has been codified as Art. VI, §§ 15-116--15-122, of this chapter at the discretion of the editor.

Cross references: Administration, Ch. 2; handbills, § 14-26 et seq.; hazardous material spills, § 14-106 et seq.; landscape development commission, § 16-81 et seq.; streets and sidewalks, Ch. 19; visibility obstructions, § 19-3; utilities, Ch. 21.

Sec. 15-116. Grant of authority; coordination with public works department.

The department of the city parks and recreation department and/or his designees, hereafter referred to as the "director," is granted authority, control and supervision over all trees, plants and shrubs planted or growing in or upon the public highways and public places in the City of Plano. This authority includes, but is not limited to, the planting, removal, care, maintenance and protection thereof. The public works department will coordinate with the director and will provide services as required to assure compliance with this article as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the director.

(Ord. No. 89-11-15, § I, 11-13-89)

Sec. 15-117. Planting, preserving, removing, etc.--On public property.

- (a) The director shall have the authority to plant, preserve, spray, trim, cable or remove any tree, shrub or plant on any street, alley, public ground or easement belonging to or being under the jurisdiction of the city. If any tree, shrub or plant or any part thereof is in an unsafe condition, is injurious to the common good or to sewer pipes, public utility lines, drainage facilities, pavements, improvements, or is infested and dangerous to other trees, shrubs or plant, authority is hereby given to the director to remove or order removed said tree, shrub or plant or parts thereof or order to be sprayed said tree, shrub or plant.
- (b) It is unlawful to plant or remove, or permit or cause to be planted or removed any tree, shrub or plant on any public street, parkway area, park or other municipal property without the written approval of the director. This prohibition shall not apply to trees, shrubs or other

landscaping planted in the parkway area adjacent to residential streets. In any event, no tree, shrub or other landscaping shall interfere with the free passage of vehicles on the street or of pedestrians on the sidewalk or obscure the view of motor vehicle operators of any traffic-control device or street sign, visibility triangle, or otherwise create a traffic hazard and shall at all times comply with city rules, regulations and ordinances. The parkway area is that area lying between the street right-of-way line of any public street and/or alley, and the curb line of the street and/or alley; or if there is no curb line, the paved portion of the street and/or alley. Generally, the parkway area is the area between the edge of the road/curb and the farthest edge of the sidewalk.

- (c) It is unlawful for each person owning property adjacent to the parkway area to fail to prune, trim and maintain the trees, shrubs and landscaping in the parkway area adjacent to their property. The city, without incurring liability, reserves the right to prune, trim or remove any tree, shrub or landscaping located in the parkway area. City costs incurred for pruning, trimming, or removing trees, shrubs and landscaping in the parkway area shall remain the responsibility of the adjacent property owner.
- (d) Firms contracted with any city department to construct new or additional roadways, utilities or facilities may be exempt from these regulations as may be allowed by said department's approval of construction plans and specifications identifying such construction.

(Ord. No. 89-11-15, § II, 11-13-89; Ord. No. 2002-4-14, § I, 4-22-02)

Sec. 15-118. Same--On private property; notice of noncompliance; abatement; hearing; review board; lien for unpaid charges, etc.

- (a) If any tree or shrub on any private property is infested and, in the opinion of the director, is infectious and liable to spread any disease, or if any tree, plant or shrub is dangerous to the public, the authority, though not the obligation, is hereby given to the director to enter said property and spray said tree, plant or shrub or remove the same or any part thereof. In the event that any tree, plant or shrub is determined by the director to be infectious and liable to spread any disease, or if any tree, plant or shrub is dangerous to the public, the director shall give notice to the owner of the real property possessing the hazards causing the noncompliance with this section. Such notice shall be in writing and may be served upon such person in any one (1) of the following ways:
 - (1) Personal delivery;
 - (2) Addressed to such person at his post office address and deposited postpaid in the United States mail, certified, return receipt requested; or
 - (3) Publication in a newspaper of general circulation within the City of Plano no less than two (2) times within ten (10) consecutive days.

- (b) Such notice shall state the nature of the conditions in noncompliance, that said conditions must be abated within fifteen (15) days, and that a request for a hearing must be made in writing and received by the department before the expiration of the fifteen-day period ("request for hearing"). If such person fails or refuses to comply with the demand for compliance in the notice within fifteen (15) days of the date of delivery of such notice or publication, and if such person fails to request a hearing in accordance with this section, the director may do such work or cause such work to be done to remove said hazard, infestation or infection from public exposure. The request for hearing must include a correct name and address of the person requesting a hearing. If any notice is returned undelivered by the United States Post Office, official action to prune or remove the tree, plant or shrub shall be continued to a date of less than ten (10) days after the date of return. In the event a request for hearing is timely made, a public hearing shall be held before the pruning or removal of any tree, plant or shrub on private property.
- (c) The public hearing shall be held by the tree ordinance review board ("board"), which shall consist of three (3) persons, a member of the Plano Parks and Recreation Board, a member of the landscape development commission, and a local practicing consulting arborist. The members may be recommended by the director and shall be appointed by the city council. The members of the board shall serve until they are either removed by the city council or resign their positions. The hearing shall be held no sooner than ten (10) days after receipt by the department of a request for hearing or ten (10) days after the return of an undelivered notice, whichever occurs later. All persons requesting a hearing shall be given written notice, by personal delivery or by regular first class mail, of the time and place of the hearing ("notice of hearing"). The notice of hearing shall be mailed or delivered at least five (5) days prior to the hearing. The board shall conduct the hearing. Adherence to the strict rules of evidence shall not be required. Two (2) members of the board shall constitute a quorum for conducting a hearing. A simple majority vote is necessary in order for the board to make a finding or ruling. If, after the hearing, the board finds that a tree, plant or shrub is infectious and liable to spread any disease or is dangerous to the public, the board shall order the pruning or removal of the tree, plant or shrub. The order shall include a description of the tree, plant or shrub, the correct scientific name, the location, the ailment, and a description of the work to be performed.
- (d) The costs, charges and expenses incurred in doing or having such work done or improvements made to real property shall be a charge to and personal liability of such person (called "charges"). If a notice as provided herein is delivered to the owner of such real property and he fails or refuses to comply with the demand for compliance within the applicable time period as herein provided, the aforementioned charges shall be, in addition to a charge to and personal liability of the owner, a privileged lien upon and against such real property, including all fixtures and improvements thereon. In order to perfect such lien, the director shall first give such owner written notice of demand for payment of such charges. Such written notice may be given by any one (1) of the methods provided for the initial notice requiring compliance. If the owner fails or refuses to make complete payment of the charges within twenty (20) days of the delivery of the notice, the director or his designee shall file a written statement of such charges with the county clerk of the county in

which the real property is located for filing in the county land records. The statement shall be sufficient if it contains the following:

- (1) The name of the owner;
- (2) A description of the real property;
- (3) The amount of the charges;
- (4) A statement that all prerequisites required by this section for the imposition of the charges and the affixing of the lien have been met;
- (5) A statement signed by the director or his designee under oath that the statements made therein are true and correct.

The statement may also contain such other information deemed appropriate by the director. Any tree, plant or shrub removed by the director due to it being unsafe, injurious to the common good, infectious, or dangerous to the public is not required to be replaced by the director, and the director shall not be required to compensate the owner for said removal. All charges shall bear interest at the rate of ten (10) percent per annum from the date the director incurs the expense. The director may bring suit to collect the charges, institute foreclosure proceedings, or both. The statement, as provided herein, or certified copy thereof shall be prima facie evidence of the director's claim for charges or right to foreclose the lien. The owner or any other person responsible as provided herein shall be jointly and severally liable for the charges.

(Ord. No. 89-11-15, § III, 11-13-89)

Sec. 15-119. Breaking, injuring, etc., trees, shrubs on public property.

Except to remove, prune, trim or maintain trees, shrubs or landscaping as required by section 15-117 of this article or as authorized by the director in writing, it shall be unlawful for any person, firm or corporation to cut or break any branch of any tree or shrub or injure in any way the bark of any tree or shrub growing on any public street, parkway area, park or other municipal property. No person, firm or corporation shall allow any injurious substance such as gas, salt, oil or other harmful substance to come in contact with any public tree, plant or shrub.

(Ord. No. 89-11-15, § IV, 11-13-89; Ord. No. 2002-4-14, § II, 4-22-02)

Sec. 15-120. Attaching objects to public trees.

It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope, sign or any other object to any public tree, plant or shrub without written permission from the director.

(Ord. No. 89-11-15, § V, 11-13-89)

Sec. 15-121. Reserved.

Editor's note: Ord. No. 2002-4-14, § III, adopted April 22, 2002, repealed § 15-121 in its entirety. Formerly, said section pertained to the permit required to plant, prune, etc., trees, shrubs on public property, as adopted by Ord. No. 89-11-15, § VI, adopted Nov. 13, 1989.

Sec. 15-122. Penalty for violation.

Any person, firm, association, partnership or corporation, agent or employee thereof who shall violate any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4 of the Code of Ordinances of the City of Plano, Texas.

(Ord. No. 89-11-15, § VIII, 11-13-89)