

ARTICLE III. TREES AND OTHER SIGHT OBSTRUCTIONS*

***State law references:** Activities, including use and landscaping in rights of way, Vernon's Ann. Civ. St. art. 1085c.

Sec. 25-46. 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:

Curb line shall mean the boundary of that portion of any street which is improved, designed or ordinarily used for vehicular traffic.

Fence shall mean any enclosed barrier, movable or immovable, constructed of wood, metal or other material, regardless of its use or purpose.

Intersection shall mean:

- (1) The area embraced within the prolongation or connection of lateral curb lines, or if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- (2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Object shall mean every sign, advertisement, container or display item of any type or form, whether movable or immovable, which is not authorized by a provision of this Code, state law or city ordinance.

Park trees shall mean trees, shrubs and all other woody vegetation in public parks having individual names and all other areas owned by the city or which the public has free access to as a park.

Person shall mean the owner, occupant or lesser of any piece of property.

Plant shall mean any hedge, bush, vine, palm or other vegetation, except trees.

Property line shall mean the boundary line of any street, which lines mark the division between the street area and the property abutting upon same.

Sidewalk or *sidewalk area* shall mean that portion of a street between the curb lines or the lateral lines of the street and the adjacent property lines intended for the use of pedestrians.

Street or *highway* shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel.

Street trees shall mean trees, shrubs and all other woody vegetation on land lying between the curb, pavement line, and the property lines on either side of all streets, avenues or ways within the city.

Traffic shall mean pedestrians, riders of animals and drivers of vehicles while using any street for the purpose of travel.

Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a street.

(Ord. No. 1990-10, § 1(34-35), 3-20-90)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 25-47. Penalty for violations.

Any person found to have violated any provision of this article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine in an amount not to exceed \$500.00 for each offense.

(Ord. No. 1990-10, § 1(34-45), 3-20-90)

Sec. 25-48. Tree board--Created; organization.

There is hereby created and established a city tree board which shall consist of four members. The parks and recreation commission shall appoint three of its members to serve on the board and one member shall be an ex officio member from the department of leisure services staff. This tree board shall serve as a committee of the parks and recreation commission and through them to the city council. The term of the three

persons to be appointed by the parks and recreation commission shall be two years, except that the term of one of the members appointed to the first board shall be for only one year. If a vacancy shall occur during the term of any member, the successor shall be appointed by the parks and recreation commission for the unexpired portion of the term. The chairman of the tree board shall be appointed by the parks and recreation commission. The board shall make its own rules and regulations with concurrence of the parks and recreation commission and keep a journal of its proceedings. Members of the tree board shall serve without compensation. A majority of the members of the board shall be a quorum for the transaction of business.

(Ord. No. 1990-10, § 1(34-36), 3-20-90)

Sec. 25-49. Same--Objectives.

It shall be the objective of the tree board to study, investigate, develop, and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of park trees, street trees and shrubs in parks, along streets and in other public areas.

(Ord. No. 1990-10, § 1(34-37), 3-20-90)

Sec. 25-50. Official street trees enumerated.

- (a) The following species of trees shall be the official street trees species for the city:
- (1) *Large trees.* Walnut, Live Oak, Bur Oak, Red Oak, Lacy Oak, Monterrey Oak, White Oak, Chinquapin Oak, Cedar Elm, Pecan, Elderica Pine, Southern Magnolia and Chinese Pistachio.
 - (2) *Medium trees.* Bald Cypress, Sweetgum, Western Soap Berry and Little Leaf Elm (*Parvifolia*).
 - (3) *Small trees.* Yaupon Holly, Possum Holly, Bradford Pear, Callary Pear, Mexican Plum, Japanese Black Pine, Redbud, Crepe Myrtle, Flowering Dogwood and Mountain Laurel.
- (b) The tree board will recommend other species of street trees and species of park trees along with planting guidelines for such trees in its annual plan. When requested by the parks and recreation commission or the city council, the tree board shall consider, investigate, make findings, report and recommend upon any special matter or question commonly within the scope of its responsibilities.

(Ord. No. 1990-10, § 1(34-37), 3-20-90)

Sec. 25-51. Sight obstructions at intersections.

- (a) It shall be unlawful for any person to place or maintain, or cause or allow to be placed or maintained, any plant, tree, fence, object or vehicle having a height greater than three feet above the level of the center of the nearest abutting street on or in that portion of any corner lot in the city, which portion is included in a triangle on the street corner of the lot formed by a diagonal line intersecting the curblines, at points 30 feet from the street corner intersection of the curblines.
- (b) It shall be unlawful for any person to place or maintain, or cause or allow to be placed or maintained, any plant, tree, fence, object, or vehicle in such a position on a corner lot in the city that a driver of a vehicle on a street at an arterial intersection does not have a minimum sight distance of 350 feet down the arterial street at a corner. It shall also be unlawful for any person to place or maintain, or cause or allow to be maintained, any plant, tree, fence, object or vehicle in such a position on a corner lot in the city that a driver of a vehicle on a street at a nonarterial intersection does not have a minimum sight distance of 200 feet down the intersecting streets at a corner. The above minimum sight distance shall be measured from the position of a driver's eye (a height of 3.75 feet from the street surface at a normal stopping point when viewing an object four feet high in either direction down the intersecting street or streets at a corner). A normal stopping point shall be a position ten feet from an intersection, 15 feet if on the approach to an arterial street, measured from the edge of the intersection.
- (c) The conditions of both subsections (a) and (b) of this section must be met for a corner lot to be in compliance with this section.
- (d) The provisions of subsection (b) of this section must be met for a lot on the corner of an alley and a street to be in compliance with this section.
- (e) The provisions of subsection (b) of this section must be met for a private driveway to be in compliance with this section.

(Ord. No. 1990-10, § 1(34-38), 3-20-90)

Sec. 25-52. Overhangs.

It shall be unlawful for any person to maintain, permit or allow to be maintained or permitted the limbs of trees growing on property within the city, or any other object or plant, to overhang or grow above the area between the property line and curb line of any abutting street unless trimmed or maintained to a minimum clearance of ten feet above the street level at the nearest curb line, or to such clearance that will provide an unobstructed view of traffic- control devices for a minimum of 200 feet, or as necessary

to satisfy the requirements set forth in the Texas Manual on Uniform Traffic Control Devices.

(Ord. No. 1990-10, § 1(34-39), 3-20-90)

Sec. 25-53. Topping of trees.

It shall be unlawful, as a normal practice, for any person to top any street tree, park tree or other tree on public property or right-of-way. Topping is defined as a severe cutting back of limbs to stubs larger than three inches in diameter within the tree crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, trees under utility wires, trees obstructing the visibility of intersections, traffic- control devices or creating other obstructions, where other pruning practices are impractical, are exempted from this section.

(Ord. No. 1990-10, § 1(34-40), 3-20-90)

Sec. 25-54. Obstruction of public rights-of-way.

- (a) It shall be unlawful for any person to place, maintain, permit or cause to be placed or maintained, any tree, shrub or plant of any kind, or vehicle of any kind on or across public rights-of-way or streets in such a way as:
 - (1) To obstruct passage on and use of that area by the public;
 - (2) To create a hazard to persons using the right-of-way or street; or
 - (3) To restrict the drainage flow.
- (b) It shall be unlawful for any person within the city, without obtaining a permit, to erect, construct, reconstruct, alter or repair or to permit the erection, construction, alteration or repair of any fence, wall, hedge or structure of any kind, on or across public rights-of-way.
- (c) These restrictions shall apply to streets, used rights-of-way, and to unused rights-of-way between the property line and curb line.

(Ord. No. 1990-10, § 1(34-41), 3-20-90)

Sec. 25-55. Fire hydrants.

It shall be unlawful for any person to place, maintain or permit, or cause to be placed or maintained, on any property, any tree, plant, or object within five feet of a fire hydrant in the city.

(Ord. No. 1990-10, § 1(34-42), 3-20-90)

Cross references: Fire prevention and protection, ch. 10; water system, § 26-76 et seq.

Sec. 25-56. Responsibility for violations.

- (a) The owner, the occupant and the lessee of any property shall all be responsible for any violation of this article. The city will give the owner, occupant or lessee written notice of a violation of this article. Such notice shall include the nature of the violation and state a time period within which the owner, occupant, or lessee must correct the violation.
- (b) If the owner, occupant or lessee fails to correct the violation or have it corrected within the stated time period, a complaint may be issued against the person receiving this notice.
- (c) Where the owner, occupant, or lessee of any property fails to correct or have corrected any violation of this article after receiving notice of such, the city is authorized to remove, or cause to be removed, the obstruction causing the violation of this article.
- (d) Where any violation of this article is of such a nature that it is the opinion of the city that immediate removal of the obstruction is necessary to provide for the safety of those using a street, the city is authorized to remove, or cause to be removed, the obstruction causing the violation without prior notice to the owner, occupant or lessee of the property on which the obstruction is found.

(Ord. No. 1990-10, § 1(34-43), 3-20-90)

Sec. 25-57. Authority of city.

The city shall have the right to plant, trim, spray, preserve, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, right-of-ways, and public grounds as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds.

(Ord. No. 1990-10, § 1(34-44), 3-20-90)

Secs. 25-58--25-75. Reserved.