

Division 4. Trees and Shrubs

Sec. 3.13.161 Title

This division shall be known and may be cited as the municipal tree ordinance of the Town. (1971 Code, sec. 15 1/2-1)

Sec. 3.13.162 Definitions

For the purpose of this division, the following terms, words and their derivations shall have the meaning given herein:

Director. The Director of Parks for the Town.

Park Department. The Park Department of the Town.

Person. Any person, firm, partnership, association, corporation or organization of any kind.

Private tree. Any tree or shrub located on private property.

Property line. The outer edge of the street or highway.

Public land. Any public land of the Town, including but not limited to parks, public parkways, streets, alleys, easements, and land around public buildings.

Public tree. Any tree or shrub located in a public place.

Resident or property owner. The person owning such property as shown on property records of the Town.

Street or highway. The entire width of every public way or right-of-way.

Tree Advisory Committee. An advisory committee of the Town.

(1971 Code, sec. 15 1/2-2)

Sec. 3.13.163 Tree Advisory Committee; urban forestry plan

(a) There is hereby created and established a Tree Advisory Committee for the Town, which shall consist of the Town Administrator, the Director of Public Works and the Director of Parks. In addition, the Mayor may appoint as many additional members as deemed necessary with the approval of the Town Council. This Committee shall serve in an advisory capacity to the Town Council.

(b) It shall be the responsibility of the Committee to develop a written plan for the planting, preservation, trimming, care and removal of trees, shrubs, and other plant material in the public parkways, streets, alleys, and easements within the Town. Such plan, when approved by the Town Council, shall constitute the official comprehensive urban forestry plan of the Town. The plan shall be reviewed annually and updated as deemed appropriate by the Town Council.

(1971 Code, sec. 15 1/2-13)

Sec. 3.13.164 Jurisdiction of Park Department

The Park Department of the Town shall have jurisdiction over all trees, shrubs and grassy areas in all public places within the Town. (1971 Code, sec. 15 1/2-3)

Sec. 3.13.165 Waiver of requirements during emergencies

During a period of Town emergency such as a hurricane, tropical storm, freeze or flood, or any other act of God, the requirements of this division may be waived by the Town Council. (1971 Code, sec. 15 1/2-12)

Sec. 3.13.166 Care by abutting property owners

Any resident of the Town who resides contiguous to the public right-of-way is specifically granted authority by the Town to care for those trees and shrubs in that portion of the right-of-way contiguous to his or her property. The authority granted to the resident of any property contiguous to the public right-of-way to care for trees and shrubs in the public right-of-way shall include the right to prune, cut or spray such trees and shrubs as he or she may see fit, as it is the policy of the Town to encourage its residents to be responsible for the care and beauty of the parkways of the Town adjacent to their property. The authority here given to any resident to care for the public right-of-way contiguous to his or her parkways shall not be construed in any manner to infringe upon the superior rights of the Town and its residents to use the parkway and streets for the purposes for which they were dedicated. (1971 Code, sec. 15 1/2-4)

Sec. 3.13.167 Removal

It shall be the responsibility of the Town to remove from the public land trees or shrubs which are diseased or dying, and trees or shrubs which, due to their existing condition, constitute, in the opinion of the Town, a threat to the safety and welfare of the general public. The owners of private property contiguous to a public right-of-way may, upon the written approval of the Town, remove trees and shrubs from the right-of-way. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (1971 Code, sec. 15 1/2-5)

Sec. 3.13.168 Damaging or destroying

It shall be unlawful for any person to intentionally damage, cut or carve any public tree or shrub. Unless specifically authorized by the Town, no person shall transplant or remove any public tree or shrub. It shall be unlawful for any person to attach any rope, wire, nails, advertising posters or other contrivance to any public tree or shrub; allow any gaseous liquid or solid substance which is harmful to such public trees or shrubs to come in contact with any public tree or shrub; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any public tree or shrub. (1971 Code, sec. 15 1/2-6)

Sec. 3.13.169 Planting of trees on public property

(a) The following listed tree species are the only trees that shall be planted on any public land within the Town, and they shall be planted no closer to another tree than twenty (20) feet:

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Redbud	Golden raintree	Live oak
Hawthorn	Bald cypress	Bur oak
Flowering dogwood	Sweetgum	Red oak (Shumard)
Crape myrtle	Caddo maple	Water oak
Gum elastic	Slash pine	Chinese pistachio
Mesquite	Big tooth maple	Cedar elm
	River birch	Pecan
	Western soap berry	
	Chinese elm (Parvifolia)	
	Austrian pine	
	Calleryana pear	

(b) Any person desiring to plant a tree or shrub in any public place within the Town other than the approved trees shall submit their request in writing to the Tree Advisory Committee for consideration.

(c) No trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet.

(d) No public tree or shrub shall be planted closer than twenty-five (25) feet of any street corner, measured from the point of the nearest intersection, curbs or curblines. No public tree shall be planted within ten (10) feet of any fire hydrant, streetlight, traffic-control device or alley intersection.

(e) No public trees other than those species listed as small trees in subsection (a) of this section may be planted under or within ten (10) lateral feet of any overhead utility wire. No public tree may be planted which is located more than twelve (12) inches into any alley or easement used for sanitation collection or public or private utilities.

(1971 Code, sec. 15 1/2-7)

Sec. 3.13.170 Rights of Town

The Town shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, and public grounds, as may be necessary when servicing Town utilities or to preserve the symmetry and beauty of such public grounds. The Town may remove, or cause to be removed, any tree, plant or shrub, or any part thereof, which is located on public streets, parkways, easements, and other municipal-owned property which is injurious to sewers, electric power lines, gas lines, water lines or other public improvements or interferes with maintenance or replacement thereof. (1971 Code, sec. 15 1/2-8)

Sec. 3.13.171 Protection during excavation and construction work

(a) All trees and shrubs on any street or other publicly owned property within ten (10) feet of any excavation or construction of any building, structure, or street work shall be guarded and all building material, dirt, or other debris shall be kept outside the barrier.

(b) It shall be unlawful for any person to excavate any ditches, tunnels, or trenches or construct any drive within a radius of ten (10) feet from any public tree or shrub without first obtaining a written permit from the Town.

(1971 Code, sec. 15 1/2-10)

Sec. 3.13.172 Depositing materials interfering with roots

It shall be unlawful for any person to deposit, place, store, or maintain upon any public place of the municipality any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree or shrub growing therein, except by written permit from the Town. (1971 Code, sec. 15 1/2-11)

Sec. 3.13.173 Pruning of trees on private property abutting right-of-way

(a) It shall be the responsibility of any person or persons owning or occupying real property contiguous to the public right-of-way, upon whose property there may be trees or shrubs, to prune such trees or shrubs in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on public sidewalks, obstruct vision of traffic signs, or obstruct the public view of any street or alley intersection. The minimum clearance of any overhanging portion of a tree or shrub shall be eight (8) feet over sidewalks, and ten (10) feet over all streets except Preston Road, which shall have a clearance height of sixteen (16) feet over the street.

(b) Should any person or persons owning or occupying real property bordering on any street fail to prune trees or shrubs as hereinabove provided, the Town shall order such person or persons, within ten (10) days after receipt of written notice, to so prune such trees or shrubs. Failure to prune such tree or shrub shall constitute a violation of this division.

(1971 Code, sec. 15 1/2-9)

Sec. 3.13.174 Trees or plants on private property causing hazard to public place

(a) Prohibited conditions. It shall be unlawful for any person, firm, or corporation to grow any tree, bush, or plant abutting a public place which causes a hazard to public places or interferes with the proper lighting of public streets.

(b) Trimming or removal by Town. Should any owner of any lot or lots within the Town fail to trim or remove any tree, bush, or plant which causes a hazard to a public place or which interferes with proper lighting of public streets within ten (10) days after notice in writing by the Town or by letter addressed to such owner at his post office address to do so, then in that event, the Town may do such trimming and cutting down and/or removing of any tree, bush, or plant which causes a hazard to a public place or which interferes with proper lighting of public streets, or cause the same to be done and may pay therefor, and charge the expenses incurred in doing such work or having such work done to the owner of such lot or lots or real estate; and if such work is done by

the Town then such expenses shall be assessed on the real estate or lot or lots on which such expenses were incurred.

(c) Lien for Town's expenses. The Mayor, Town Administrator, or Director of Public Works shall file with the County Clerk a statement of such expenses incurred under subsection (b) of this section giving the amount of such expenses and the date on which the work was done; and the Town shall have a privileged lien on such lot or lots or real estate upon which said work was done to secure the expenditures so made in accordance with the provisions of V.T.C.A., Health and Safety Code, chapter 342, which said lien shall be second only to tax liens and liens for street improvements; and said amount shall bear ten percent (10%) interest from the date said statement was filed. It is further provided that, for any such expenditures and interest, as aforesaid, suit may be instituted and recovery and foreclosure of said lien shall be had in the name of the Town; and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work.

(d) Penalty. Any person or entity violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined as provided in section 1.01.009 of this code. In case the owner or occupant of any lot, lots or premises under the provisions of this section shall be a corporation, and shall violate any provision of this section, the president, vice-president, secretary, and/or treasurer of such corporation, and/or any manager, agent, or employee of such corporation, shall be also severally liable for the penalties herein provided.

(1971 Code, sec. 14-9)

ARTICLE 3.14 PUBLIC WORKS CONSTRUCTION SPECIFICATIONS

Sec. 3.14.001 Adopted

The Town hereby accepts and adopts the provisions of the Public Works Construction Standards - North Central Texas Council of Governments, dated October 2004, and as may be amended from time to time, as the Town's standards for specifications and drawings for public works construction.

Sec. 3.14.002 Authority to make changes and revisions

The Town Engineer will have authority to make changes and revisions to specifications and/or drawings, as necessary, on all public works projects.

(Ordinance 1704 adopted 8/13/07)

ARTICLE 3.15 PERMIT APPLICATION REVIEW PROCEDURES AND VESTED RIGHTS DETERMINATIONS

Sec. 3.15.001 Applicability

This article applies to any application for a permit authorized under this chapter, which is submitted for filing after the effective date of this article, including expressly any permit application which has expired under the provisions of such articles, or under the provisions of this