

## ARTICLE II. CITY FORESTER\*

\***Editor's note:** Ord. No. 121-02, § 1, adopted Feb. 19, 2002 repealed article II, sections 57-16--57-26, in its entirety and replaced it with a new article II, sections 57-16--57-28. Former article II pertained to similar material and derived from Ord. No. 632-92, § 1, adopted Sept. 8, 1992; Ord. No. 464-98, § 12, adopted July 6, 1998; Ord. No. 999-01, §§ 2, 3, adopted Nov. 26, 2001.

### **Sec. 57-16. Employment of city forester.**

The manager of parks and recreation shall employ a person to be known as the city forester, whose powers and duties are specified in this article.

(Ord. No. 121-02, § 1, 2-19-02)

### **Sec. 57-17. Definitions.**

Words and phrases used in this article shall have the following meaning ascribed to them:

*Maintenance* shall mean any and all work performed on a tree including, but not limited to, pruning, removing, spraying, injecting, and stump grinding.

*Private property* means all land and improvements, including fixtures and appurtenances, located within the property lines of a property.

*Property owner* shall mean any person or entity having a legal or equitable interest in real property and its fixtures and appurtenances, including the interests of a tenant or lessee.

*Public right-of-way* shall mean the area between the curb and the property line of a property, and between the centerline of the alley and the property line of a property.

*Responsible party* shall mean the property owner or an entity or person who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to this article or is responsible for the maintenance or management of said property.

*Tree* shall mean any perennial woody plant, usually, but not necessarily, single stem and long-lived, with a height greater than overall spread.

(Ord. No. 121-02, § 1, 2-19-02)

### **Sec. 57-18. Responsibility for maintenance of trees on public right-of-way or other public place.**

(a) The manager of parks and recreation shall have the responsibility, through the city forester, to either maintain or order the maintenance of trees on the public right-of-way, and other public places.

(b) The responsible party of property abutting the public right-of-way shall have the duty to maintain trees on the abutting portion of the public right-of-way.

(Ord. No. 121-02, § 1, 2-19-02)

### **Sec. 57-19. Planting, maintaining, and removing of trees on public property.**

The city forester shall establish rules and regulations for the planting and maintaining of trees on any public right-of-way or other public place in the city and it shall be unlawful for any person to plant trees upon any public right-of-way or other public place in the city except as prescribed in such rules and regulations. The rules and regulations shall contain:

- (1) Spacing requirements for trees on the public right-of-way and other public places;
- (2) The types of trees which are prohibited on any public right-of-way or other public place; and
- (3) Requirements for maintenance and removal of such trees upon the public right-of-way or other public place.
- (4) Development fees to be charged by the city forester for review of developments on more than ten thousand (10,000) square feet of land area.

(Ord. No. 121-02, § 1, 2-19-02; Ord. No. 325-08, § 1, 6-23-08)

### **Sec. 57-20. Permit required.**

(a) It shall be unlawful to plant trees on, or remove trees from, the public right-of-way or other public place without a permit issued by the city forester.

(b) It shall be unlawful to destroy or otherwise damage an established tree in the front setback area of a zone lot in an R-0, R-1, R-2, or R-2-B zoning district during the course of residential demolition or construction, as governed by section 59-126, without a permit issued by the city forester as provided in section 57-25.

(c) The city forester may, by rules and regulations, establish fees for the review and monitoring required by this section 57-20.

(Ord. No. 121-02, § 1, 2-19-02; Ord. No. 1024-02, § 3, 12-16-02; Ord. No. 325-08, § 2, 6-23-08)

### **Sec. 57-21. Removal of dead or dangerous trees, limbs or shrubs.**

The responsible party of any property shall remove any dead, dying or structurally unsound trees, limbs or shrubs from the premises of that responsible party or the public right of way abutting said property, when said dead, dying or structurally unsound trees or limbs are dangerous to life, limb, or property. When a dead, dying or structurally unsound tree, limb or shrub has the potential to affect adjacent property, and is dangerous to life, limb or property, the responsible party shall remove such tree or limb so as to avoid injury or damage to or on the adjacent property. The responsible party, shall remove any live, dead or dying tree, limb or shrub that is blocking a sight triangle or traffic sign causing a potential traffic hazard. The city forester may order the property owner to remove any such tree, limb or shrub.

(Ord. No. 121-02, § 1, 2-19-02)

### **Sec. 57-22. Infected or infested trees.**

- (a) The city forester may inspect any tree or tree part, including logs or branches existing or growing upon any property within the city. The city forester shall conduct surveys to determine if any destructive or communicable disease, or other pestilence exists which may be detrimental to or endanger the good health and well being of trees in the city.
- (b) Upon discovery of any destructive or communicable disease, breeding place of the disease, or pestilence that endangers the good health and well being of trees, or is capable of causing an epidemic spread of communicable disease or insect infestation, the city forester shall at once notify in writing the responsible party, of the condition thereof and order such responsible party to eradicate, remove, or otherwise control such condition within a specified time.
- (Ord. No. 121-02, § 1, 2-19-02)

**Sec. 57-23. Obstruction of public property.**

- (a) The responsible party of any property shall maintain and care for the trees upon said property and upon the public right-of-way abutting said property so that said trees do not interfere with, obstruct, or in any way endanger the safe public use of streets, alleys, sidewalks, or other public places. Stumps are not permitted on the public right-of-way or other public place.
- (b) When the city forester determines that a tree is in such a condition that it interferes with, obstructs, or in any way endangers the safe public use of streets, alleys, sidewalks, or other public places, the city forester shall issue an order directing the responsible party to prune, remove, or otherwise take such action as is necessary to eliminate the interference, obstruction, or dangerous condition of the tree.
- (Ord. No. 121-02, § 1, 2-19-02)

**Sec. 57-24. Injuring, damaging or removing trees on public property.**

It shall be unlawful to injure, damage, destroy, or remove any tree situated upon the public right-of-way, or other public place within the city.

- (1) Any person who shall injure, damage (including by excessive pruning or topping), or destroy any tree situated upon the public right-of-way or other public place shall promptly notify the city forester of such occurrence and shall, within such reasonable time as specified by the city forester in an order, repair said damage to the satisfaction of the city forester.
- (2) If the city forester deems the tree to be beyond repair, the responsible party, shall compensate the City of Denver for the lost monetary value of the tree to the satisfaction of the city forester. Tree values shall be in accordance with the most recent edition of "The Guide for Plant Appraisal" published by the Council of Landscape Appraisers. Said compensation may include tree replacement.
- (3) Should any person cause removal of any tree upon the public right-of-way, or other public place, after being denied a permit to do so, the city forester shall cause a penalty of up to treble damages of the appraised value of said tree to be assessed against the responsible party.
- (Ord. No. 121-02, § 1, 2-19-02)

**Sec. 57-25. Removal of trees on certain residential properties.**

- (a) As provided in sections 59-124, 59-139, and 57-20(b), the owner of any lot in an R-0, R-1, R-2, or R-2-B zoning district shall preserve established trees located in the front setback area of the lot during the course of residential demolition or construction unless the owner obtains a permit for removal of the tree from the city forester. The city forester shall issue such a permit only upon a finding that:
- (1) The tree is irreparably damaged, diseased, dying or dead;
  - (2) The tree poses a threat to public health and safety;
  - (3) The tree is of a type the city forester has determined by regulation to be undesirable or a nuisance species;
  - (4) Preservation of the tree would leave the subject property with no reasonable access or would prevent the owner from developing or using the subject property in a manner otherwise permitted by applicable city laws and regulations.
- (b) If an owner to whom the requirements of section 59-126 applies destroys or removes an established tree without obtaining a permit as required by this section, the city forester may order and enforce remediation of the violation as provided in sections 57-27 and 57-28, which order may include a requirement that the owner replace any destroyed tree.
- (Ord. No. 121-02, § 1, 2-19-02; Ord. No. 1024-02, § 4, 12-16-02)

**Sec. 57-26. Unauthorized use of trees on public property.**

It shall be unlawful for any person other than those authorized in writing by the manager of parks and recreation, employees of the manager of parks and recreation, officers of the city, employees of a public utility, or a person licensed to perform work on trees or their employees to climb, and/or attach any lumber, fabric, wire, nails, bolts, cables, ropes or any other material foreign to the natural growth of a tree to any tree located within the public right-of-way, or other public place.

(Ord. No. 121-02, § 1, 2-19-02)

**Sec. 57-27. Unlawful to disobey order.**

- (a) It shall be unlawful for any person to fail or refuse to obey an order of the manager of parks and recreation or the city forester issued under this article within the time specified in the order.
- (b) If the responsible party to whom an order has been issued fails or refuses to take remedial action, which may include compensation, in accordance with and within the time specified in an order, the city forester may cause the remedial action so ordered to be performed at the expense of the responsible party.
- (c) Upon completion of the remedial action ordered to be performed, the city forester shall mail a notice of the final cost of such to the responsible party.
- (d) Any person subject to an order of the city forester may appeal said order to the manager of parks and recreation within fifteen (15) days of said order. The manager of parks and recreation or the manager's designee shall hear said appeal within thirty (30) days of the appeal. An appeal of the decision of the manager or his designee may be had in accordance with the Colorado Rules of Civil Procedure.

(e) The manager of parks and recreation may enter into an agreement with the owners, or responsible party, allowing the costs of remediation to be paid in payments over a period of time. If any person fails or refuses to abide by any such agreement, the manager of parks and recreation may file a lien as provided in section 57-28.

(f) In addition to any other method of enforcement of this article, the city forester may, by rules and regulations, utilize administrative citations pursuant to article XVII (Administrative citations), chapter 2, Denver Revised Municipal Code, to enforce this article.

(Ord. No. 121-02, § 1, 2-19-02; Ord. No. 325-08, § 3, 6-23-08)

**Sec. 57-28. City's lien.**

In the event the property owner fails to pay the costs of remediation or enter into an agreement as provided in 57-27(e) within fifteen (15) days of the notice sent under section 57-27, the costs of remediation shall constitute a lien against the real property where the remediation took place or, if the remediation was on public right-of-way, the abutting property. The department shall thereafter pay the cost and expense of the remediation from any appropriation made available for that purpose, and shall certify a statement of payment to the manager of revenue, who shall assess and charge the same against the property involved and collect the same, together with interest at the rate established by law for delinquent real estate property taxes.

(1) The lien created hereby shall be superior and prior to other liens, regardless of date, except liens for general and specific taxes.

(2) For the purpose of this article, cost of remediation shall include the administrative cost incurred therewith.

(Ord. No. 121-02, § 1, 2-19-02)

Secs. 57-29--57-40. Reserved.

## ARTICLE IV. TREE SERVICE

### DIVISION 1. GENERALLY

**Sec. 57-61. Name and address to be displayed on vehicles and equipment.**

All automobiles, trucks, trailers or other vehicles operated by any licensee for the transportation of the equipment used by the licensee in such business, and all self-propelled, drawn or towed equipment used by any licensee in such business, shall have the name and address of such licensee displayed on both sides thereof in plain and legible figures and letters not less than three (3) inches in height, which shall be kept in such condition as to permit the same to be readily distinguished and read at a distance of at least sixty (60) feet, and it shall be unlawful and a ground of revocation of the license for any licensee to operate any such vehicle or cause any such equipment to be operated or drawn or towed upon the street, alleys or other public ways or places within the city unless or without the same being so displayed thereon.

(Code 1950, § 972.6-4)

**Sec. 57-62. Rules and regulations.**

The manager of parks and recreation may adopt reasonable rules and regulations governing those aspects of the conduct of the business licensed in this article, and of any and all parts thereof, directly affecting the public health and safety, and requiring the use of such safety appliances, apparatus and equipment as are reasonably necessary for the protection of the workmen engaged therein, the public and public and private property, and it shall be unlawful for any licensee hereunder to violate, or fail, neglect or refuse to comply with, any of such rules or regulations.

(Code 1950, § 972.6-3)

**Cross references:** Rules and regulations generally, § 2-91 et seq.

Secs. 57-63--57-70. Reserved.

### DIVISION 2. LICENSE\*

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\***Editor's note:** Ord. No. 517-93, § 1, adopted July 6, 1993, repealed former div. 2 of this article, relative to license, and enacted similar new provisions in lieu thereof as herein set out. Formerly, div. 2 consisted of §§ 57-71--57-76 and derived from §§ 972.6--972.6-2 of the 1950 Code.

**Cross references:** Licenses generally, Ch. 32.

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**Sec. 57-71. Required.**

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning or removing trees, shrubs or vines without first procuring a license therefor from the director of excise and licenses.

(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-72. Application.**

Applicants for a license to engage in the businesses specified in section 57-71 shall file an application with the director of excise and licenses on forms to be provided by the director for that purpose which shall contain, in addition to the information required by chapter 32, a statement describing the types, classifications or kinds of service which the applicant wishes to engage in.

(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-73. Fees.**

Application and license fees under this division are prescribed in section 32-123.  
(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-74. Classes of licenses.**

- (a) Ornamental plant management license shall authorize the person holding the license to plant, cut, trim, prune, and remove small vegetation where the licensee is not required to leave the ground except by use of a step ladder not exceeding the height of twelve (12) feet and then only for the purpose of shearing evergreens.
  - (b) General tree license shall authorize the licensee to plant, cut, trim, prune, and remove vegetation of any size.
- (Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-75. Requirements.**

The applicants for licenses under section 57-74(a) and (b) shall be tested by the city forester to determine their competence to perform the type of work which the respective license authorizes.  
(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-76. Tests.**

- The city forester shall:
- (1) By rule and regulation establish testing procedures; and
  - (2) Develop examinations for each type of license in order to test the competency of the applicant to perform the work authorized by the license requested.
- (Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-77. Insurance requirements.**

- (a) No license shall be issued under this division until the applicant shall file with the city forester a satisfactory certificate of public liability insurance policy covering all operations of the applicant and the operation of all vehicles operated in the business in the sum of at least one hundred fifty thousand dollars (\$150,000.00) for each person injured and five hundred thousand dollars (\$500,000.00) in the case of the injury of two (2) or more persons in a single occurrence, and the sum of not less than five hundred thousand dollars (\$500,000.00) for property damage for a general tree license and one hundred thousand dollars (\$100,000.00) for property damage for an ornamental tree license. Such policy may be written to allow the first five hundred dollars (\$500.00) of liability for damages to property and persons to be a deductible. The policy shall contain a noncancellability endorsement which requires that the city be notified of any proposed cancellation at least thirty (30) days prior to the cancellation being effective. At any time that the city forester receives notice of proposed cancellation of insurance, the city forester shall immediately notify the holder of the license that, unless the holder of the license can satisfy the city forester that an appropriate insurance policy as required by this section has been obtained to replace the policy being cancelled, the license is cancelled and the holder of the license shall do no further work until such time as adequate insurance is provided.
  - (b) No license shall be issued until such time as the applicant for the license files with the city forester a certificate of workmen's compensation insurance satisfying the statutes of the State of Colorado and cannot be cancelled without thirty (30) days' notice to the city forester. At any time that the city forester receives notice of proposed cancellation of insurance, the city forester shall immediately notify the holder of the license that, unless the holder of the license can satisfy the city forester that an appropriate insurance policy as required by this section has been obtained to replace the policy being cancelled, the license is cancelled and the holder of the license shall do no further work until such time as adequate insurance is provided.
- (Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-78. Rules and regulations.**

- (a) The city forester shall establish rules and regulations which shall establish safety requirements for persons performing work under the licenses issued under this division and which may establish standards and conditions for the performance of any work performed by a license holder.
  - (b) In addition to any other method of enforcement of this article, the city forester may, by rules and regulations, utilize administrative citations pursuant to article XVII (Administrative citations), chapter 2, Denver Revised Municipal Code, to enforce this article.
- (Ord. No. 517-93, § 1, 7-6-93; Ord. No. 325-08, § 4, 6-23-08)

**Sec. 57-79. Licensee responsibility.**

- (a) Persons holding licenses under this division shall be responsible for performing all work in conformity with the rules and regulations of the city forester and any and all applicable statutes of the State of Colorado and ordinances of the City and County of Denver.
- (b) All holders of licenses shall in addition:
  - (1) Provide safety measures and equipment to protect workmen and the public.
  - (2) Employ qualified persons, appropriately certified or licensed where required by the statutes of the State of Colorado.
  - (3) Obey all orders or notices issued under the authority of the city forester.
  - (4) Provide all vehicles used in the operation of the business with identification and letters a minimum of two (2) inches in height and of a color contrasting with the background. The identification shall include the following information:
    - a. Name of company;
    - b. Business address;
    - c. Business telephone number.

(5) Maintain with the city forester a current mailing address. Any order, notice, summons and complaint or other departmental communication, whether delivered by personal service or by certified, registered or first class mail sent to that address, shall constitute service.

(6) Maintain workers' compensation insurance or, if such insurance is not required by state law and is not carried voluntarily, notify in writing the person contracting for the service that no workers' compensation insurance is in effect. (Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-80. Suspension or revocation of license.**

(a) *Authority.* The city forester may suspend or revoke a license for any one (1) or more of the following acts or omissions:

- (1) Incompetence.
- (2) Misuse of the license.
- (3) Violation of any of the provisions of the license.
- (4) Failure to comply with any of the licensee responsibilities outlined in section 57-79, license.
- (5) Knowingly conspires with a person to permit a license to be used by another person.
- (6) Acts as agent, partner, associate or in any other capacity with persons to evade the provisions of this article or rules and regulations established by the city forester.
- (7) Willfully violates or disregards any of the provisions of state statutes regulating the use of pesticides.
- (8) Repeatedly violates the provisions of this article, the statute regulating the use of pesticides, the rules and regulations of the city forester or repeatedly fails to obey orders in a timely fashion.

(b) *Procedures.* When a licensee commits any acts or omissions enumerated above and the city forester deems that the license shall be suspended or revoked, the action shall be as follows:

(1) *Notification.* The city forester shall send written notice, containing the grounds for the action, the effective date of the action, that the licensee can request a hearing, and that if a hearing is requested the effective date of the action is stayed, to the license holder, at least seven (7) days prior to suspension or revocation.

(2) *Request hearing.* Upon receipt of the notice, the license holder may request a hearing to show cause why the license should not be suspended or revoked. This request shall be in writing to the department within seven (7) days after receipt of the notice.

(3) *Time of hearing.* If a hearing is requested by the license holder, the city forester or a designee of the city forester shall notify the license holder of the time, date and place of the hearing. Suspension or revocation of the license shall be stayed until after the hearing.

(4) *Attendance.* The license holder and other interested parties may be in attendance at the hearing. Upon completion of the hearing, the city forester shall take all evidence available as a result of the investigation, all evidence presented at the hearing, and if the hearing was held by a designee, the recommendation of the designee under advisement, and shall give written notice of the findings and ruling to the license holder by certified mail or personal service.

(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-81. Effect of suspension or revocation.**

(a) A license suspended under sections 57-77 or 57-80 may be reissued upon payment of a fee equal to the fee for the license suspended and evidence satisfactory to the city forester that the licensee can comply with all provisions of this division and is competent to perform the work authorized by the license.

(b) A licensee whose license has been revoked may not apply for a license for a period of five (5) years and after five (5) years must satisfy the city forester that if a new license is issued the licensee will comply with the provisions of this section and is competent to perform the work authorized by the license.

(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-82. Appeals from decisions of the city forester.**

(a) *Procedure.* Any person aggrieved may have a decision of the city forester reviewed in the manner provided by the Colorado Rules of Civil Procedure. The city forester shall not be required to return the original papers acted upon by it, but shall return copies thereof. The returned copies shall concisely set forth facts pertinent and material to the decision appealed from and shall be verified.

(b) *Effect of repeal.* The issuance of a writ on a petition hereunder shall not stay proceedings upon the decision appealed from; but the court, on application after notice to the city forester and on due cause shown, may grant a restraining order.

(c) *Transcript costs.* Whenever a transcript is demanded by the person making the appeal, or when a transcript is furnished by the city forester pursuant to court order, the cost of preparing the transcript of proceedings shall be borne by the applicant.

(Ord. No. 517-93, § 1, 7-6-93)

**Sec. 57-83. Contents of license.**

Every license issued under this division shall show on its face, in addition to the requirements of chapter 32, the types, classifications or kinds of service, including all or any part or parts of the services which the license authorizes to be performed.

(Ord. No. 517-93, § 1, 7-6-93)

Secs. 57-84--57-99. Reserved.