

ORDINANCE NO. 590

AN ORDINANCE REGULATING THE APPOINTMENT OF A CITY FORESTER AND PRESCRIBING THE DUTIES THEREOF: AND REGULATING THE PLANTING, PROTECTION, AND PRESERVATION OF SHADE AND ORNAMENTAL TREES, SHRUBS, AND OTHER PLANTS, PLANTED OR TO BE PLANTED WITHIN THE CORPORATE LIMITS OF GRAND JUNCTION.

BE IT ORDAINED BY THE CITY COUNCIL OF GRAND JUNCTION, COLORADO

SECTION 1. CITY FORESTER. There shall be appointed a City Forester who shall be the head of the Forestry Department, and who, under the direction and control of the Chief of Health and Parks, shall have full power to direct the affairs of that department.

SECTION 2. QUALIFICATIONS. The City Forester shall be an expert, trained professionally in the practice, care and culture of trees, shrubs and plants, shall have satisfactorily completed a course in Forestry at some reputable school or shall have had at least five years' practical experience in such work.

SECTION 3. DUTIES OF FORESTER. It shall be the duty of the Forester to superintend, regulate and encourage the preservation, culture and planting of shade and ornamental trees, shrubs and other plants on the highways and other public places of the City of Grand Junction and to enforce all of the provisions of this ordinance pertaining to the pruning, spraying, fertilizing, cultivating, repairing and otherwise maintaining such trees, shrubs and plants and to direct the time and method incident to all trimming, spraying, fertilizing and care of the same, and to recommend and enforce such rules and regulations as are necessary to control and exterminate all insect pests and plant diseased that may injuriously affect any trees, shrubs or plants that are now growing, or may be hereafter grown in the City of Grand Junction.

SECTION 4. EXCLUSIVE CONTROL AND AUTHORITY OVER PLANTING, DESIGNATION OF VARIETIES TO BE PLANTED, PRUNING, REMOVING, ETC. The Department of Health and Parks shall have complete and exclusive control of all trees, shrubs and plants, planted or to be planted on the public highways and other public places of the City of Grand Junction, Colorado, under the direct supervision of the City Forester and his assistants. It shall also have the sole and final authority to designate varieties of trees and other plants to be retained or planted, the removal of undesirable varieties and prohibition of the same in the future, as may be necessary to insure safety, ease and economy of maintenance or to preserve the symmetry and beauty of the highways and other public places of the City of Grand Junction. The City Forester, under the power here given, may cause to be removed any tree, shrub or plant within the corporate limits of said City which is determined to be in an unsafe condition or which by reason of its nature is injurious to sewers or other improvements or is affected by any injurious scale, pest or disease.

SECTION 5. DEFINITIONS. The words "public highway" shall include all the land lying between property lines on either side of all public streets, boulevards and alleys, and "public places" shall be deemed to mean any park, park lot, parkway, square or other property under the control or jurisdiction of the City of Grand Junction.

SECTION 6. CERTAIN TREES PROHIBITED. It shall be unlawful to plant poplar, cottonwood or willow trees on any public highway within the limits of the City of Grand Junction.

SECTION 7. PERMIT TO PLANT NECESSARY. It shall be unlawful for any person, firm or corporation to plant any trees, shrubs or any other plants in any public highway within the City of Grand Junction, either for himself or for anyone else, until he has secured a written permit therefor from the City Forester, or when said permit shall have been issued, to fail, refuse or neglect to comply, strictly, with the rules and regulations therein prescribed. The application for such permit shall designate the size, locations and species of trees, shrubs or plants to be planted and the method proposed to be followed, and such application shall become a part of the permanent records of the City Forester who shall have the authority to refuse the granting of such permits when such planting is likely to create a public danger or a nuisance.

SECTION 8. FURNISHING AND PLANTING TREES. Property owners desiring to have trees planted along the sidewalks, between the curb and sidewalk, in front of their property may have trees furnished and planted by the City of Grand Junction upon application to the City Forester, and upon payment to the City Treasurer of the cost thereof.

SECTION 9. SIZE OF PARKWAY FOR TREE PLANTING. No permit for planting trees shall be given where the clear space between the sidewalk and curb is less than three feet, and no permit shall be given for any planting on intersections, neither shall a permit be given where the soil is too poor to insure the growth of the trees, unless the applicant agrees to excavate a suitable hole of not less than four feet in diameter and two and one-half feet deep and to replace the material removed with suitable good loam or other approved soil.

SECTION 10. SIZE AND DISTANCE APART OF TREES. No tree shall be planted which is less than 8 feet in height and of standard grade. Such trees shall not be allowed to form permanent branches less than eight (8) feet from the ground, and the lowest branch shall not be over nine and one-half feet from the ground. No permanent trees shall be planted closer than twenty-five feet apart, this distance to be altered only at the discretion of the City Forester or other duly authorized person.

SECTION 11. UNLAWFUL TO CUT OR INJURE TREE, ETC. It shall be

unlawful for any person, firm or corporation, to remove, cut, prune, molest, break, move, deface, destroy, spray, repair, climb or do surgery work upon any tree or part thereof, or in any manner to interfere with, disturb or injure any tree upon the public highways or other public places of the City of Grand Junction without first having secured a license or written permit, as provided in this ordinance; nor shall any chemical be used for the control of insects or other disease; or for any other reason, nor shall any person, firm or corporation permit any chemical, either solids or fluids to seep, drain or be emptied on or about any tree, shrub or plant that is now or may hereafter be growing upon any public highway or other public place within the City of Grand Junction. Under the written permission of the City Manager, the Department of Public Works or any other City department may cause the removal of any tree, when such removal shall be necessary for the construction of any sidewalk, sewer, water main conduit or public improvement after notifying the City Forester as to location, time and extent of the proposed project. Any work done under such written permit must be performed in strict accordance with the terms thereof.

SECTION 12. WHITEWASHING TREES. No person, firm or corporation shall be permitted to whitewash any trees, planted or to be planted on the public highways or other public places of the City of Grand Junction.

SECTION 13. MINIMUM OPENING FOR TREES IN PARKING STRIP. No person, firm or corporation shall, without first having received a written permit from the City Forester, deposit or hereafter maintain, upon the parking strip in any street, stone, cement debris or other substance which shall impede the free entrance of water and air to the roots of any tree in such public highway or other public place without leaving an open space of ground outside the trunk of said tree, in area not less than six square feet for a tree three inches in diameter and for every two inches of increase of such diameter there must be an increase of at least two square feet of open ground.

SECTION 14. INJURY, MISUSE OR REMOVAL OF PROTECTION. It shall be unlawful for any person, firm or corporation, without the written permit of the City Forester to injure, misuse or remove or cause, authorize or procure any person to injure, misuse or remove any device set for the protection of any tree or plant in any public highway or other public place of said City.

SECTION 15. KILL OR REMOVE TREE OR PLANT. No person, firm or corporation shall authorize or procure the death, removal, cutting, pruning, repair or trimming of any tree, shrub or plant planted or growing in any public highway, or any tree, shrub or plant planted or growing in any public place within the said City of Grand Junction without written permission from the City Forester. Any person, firm or corporation desiring for any lawful purpose to take down or remove, cut, prune, repair or trim any tree or plant in any public highway of said City of Grand Junction

may apply to the City Forester, and, if in the judgment of the said City Forester, the desired request shall appear necessary, the said City Forester may thereupon issue a written permit therefor. Any work done under such written permit must be performed in strict accordance with the terms thereof.

SECTION 16. MINIMUM HEIGHT OF OVER-HANGING BRANCHES. All trees standing on any public highway in the City of Grand Junction shall be kept trimmed by the owner or occupant of the adjacent property so that the branches of such trees and plants projecting over any public sidewalk or street beyond the curb line, or private driveways, shall be not less than nine feet from the ground. In case of failure of said owner or occupant of adjacent property to keep said trees trimmed as herein required, such work may be performed at his expense under the direction of the City Forester.

SECTION 17. INJURY BY WIRE OR CONDUIT CHARGED WITH ELECTRICITY. It shall be unlawful for any person, firm or corporation to attach any electric wire insulator or any other device for holding any electric wire to any tree or to cause, authorize or procure a wire or other conductor, charged with electricity to come into contact with any tree in any public highway or other public place in the City of Grand Junction in such manner as to injure, abrade, kill or destroy such tree or plant.

SECTION 18. INJURY BY TYING HORSE OR ATTACHING WIRE, ROPE OR SIGN, ETC. No person, firm or corporation shall be permitted to hitch any animal to any tree or shrub, nor for the purpose or anchorage, to attach or fasten any wire, rope, chain or cable to any tree or shrub; nor shall any person, firm or corporation nail, tie, or in any other manner, fasten any cards, signs, posters boards or any other article to any tree, shrub or plant that is now or may hereafter be growing upon any public highway or other public place within the City of Grand Junction.

SECTION 19. EXCAVATION NEAR TREES. No person, firm or corporation shall excavate any ditches, tunnels or trenches, nor lay any drive within a radius of ten feet from any tree, shrub or plant that is now or may hereafter be growing upon any public highway or other public place within the City of Grand Junction, without first obtaining a written permit from the City Forester. All persons, firms and corporations desiring to excavate any ditches, tunnels, trenches, or construct drives which may in any way interfere with any tree, plant, or shrub, shall deposit a sum sufficient to cover the cost of inspection and damage to any such tree, plant or shrub that may result therefrom.

SECTION 20. GUARD TREES WHILE BUILDING. All trees, shrubs, or plants within the limits of any street, boulevard, highway or other public place near any excavation or construction of any building or structure, shall be guarded with a good substantial frame box not less than four feet square and six feet high, and all building material or other debris shall be kept at least four feet from any tree, shrub or plant.

SECTION 21. DUTY TO TRIM AND REMOVE TREES AND OTHER PLANTS LOCATED ON PRIVATE GROUND. Every owner of any tree, shrub or plant overhanging the street or highways within the City of Grand Junction shall trim the branches so that they shall not obstruct the light from any street lamp, or obstruct the view of any street intersection, and so that there shall be a clear space of nine feet above the surface of the street or sidewalk. Said owner or owners shall remove all dead, diseased or dangerous trees, broken or decayed limbs which may be considered a menace to the safety of the public. Failure to do so upon order or notice of the City Forester shall constitute a violation of this ordinance.

SECTION 22. SHRUBS OR OTHER PLANTS ON PRIVATE GROUND OBSTRUCTING INTERSECTIONS. All bushes, shrubs or plants located on any corner lot within the limits of the City of Grand Junction, that obstruct the view of a driver of a vehicle approaching a street intersection, shall not be permitted to grow to a height of more than three feet above the surface of the roadway. It shall be a violation of this section, should the owner or owners or person in possession of any such bush, shrub or plant, fail, refuse or neglect to cut the same to the height specified or to remove the same within ten days after notified or ordered so to do by the City Forester.

SECTION 23. AUTHORITY TO CUT OBSTRUCTING TREE OR OTHER PLANTS ON PRIVATE GROUNDS. In case the owner or owners or the person in possession of any bush, shrub or vine shall fail to cut the same to the height specified in the preceding section or as elsewhere required in this ordinance within ten days after being notified so to do, the City Forester shall report such failure to the City Council, who may then order said bush, shrub or vine to be cut the height herein specified, and the cost of such work shall be levied against said owner or owners of such bush, shrub or vine, and shall be collected by special assessment, or otherwise.

SECTION 24. ESCAPING GAS. No person, firm or corporation owning, maintaining or operating any gas pipes or mains laid beneath the surface of any street, alley or other public place of the City of Grand Junction, shall permit any leak to occur within a radius of forty feet from any tree, shrub or plant now or hereafter growing in any street or other public place in said City; in the event that a leak exists or occurs in such pipe or main, it shall be the duty of such person, firm or corporation owning or operating such defective pipe or main to repair the same immediately and stop such leak in a manner as to prevent a recurrence thereof; if such person, firm or corporation shall fail, within three days after receipt of written notice from the City Forester, to stop such leak in such manner as to prevent recurrence thereof, such person, firm or corporation shall be guilty of a violation of this ordinance.

SECTION 25. ENTER PRIVATE PROPERTY. Employees or agents of the Forestry Department of the City of Grand Junction may enter

private grounds for the purpose of inspection for and suppressing insects or pests infesting trees, shrubs, and plants wherever and whenever there is danger of such insects or pests infesting other trees, shrubs or other plants on public highways or in other public places of the City of Grand Junction.

SECTION 26. AUTHORITY TO CUT OR REMOVE TREES IN DANGEROUS CONDITION. The City Forester shall be vested with the power and authority to remove or cause to be removed at the expense of the owner of the abutting property, all trees, shrubs or plants, planted upon the public highways and other public places within the City of Grand Junction, when, in his judgment, such removal will be beneficial to the peace, health and safety of the public, for public improvements, or where said trees, shrubs or plants are detrimental to the growth of adjacent or other trees, shrubs or plants; where, in the judgment of the City Forester, there exists the necessity of replacing such trees, shrubs or plants, the cost thereof shall be borne by the owner of the abutting property, by direct payment thereof to the City Treasurer.

SECTION 27. LICENSE TO OPERATE AS GARDENER, ETC., NECESSARY. No person, firm or corporation shall engage in the business of landscape gardening or trimming, repairing, spraying or planting of trees, shrubs and plants in the City of Grand Junction, or the selling of nursery stock for planting upon the public highways in said City, without first obtaining from the City Clerk a license therefor each year authorizing such person, firm or corporation to engage in such business.

The license required by this ordinance shall be issued in the manner and form, and subject to the conditions and regulations prescribed by Sections 1 to 6 inclusive, of Ordinance No. 238, as amended by Ordinance No. 397, and any subsequent amendments thereto.

The City Clerk shall issue no license hereunder without first having referred the application therefor to the City Forester and having received his approval thereof and without being satisfied of the qualifications of the applicant to engage in such business. The applicant receiving such license shall pay a license fee of Five Dollars upon receipt of license and One Dollar for each renewal thereafter to the City Treasurer, which license shall entitle the holder to conduct such business during the calendar year within which the license is issued. The City Manager shall have the power to revoke or refuse any such license whenever it shall appear to him the licensee has violated any of the rules of the Department of Health and Parks or of the Forestry Department, or any of the regulations set forth in this ordinance governing and pertaining to the care, preservation, planting, trimming, spraying and removal of trees, shrubs or plants.

SECTION 28. INTERFERENCE, AGENTS OR EMPLOYEES. No person shall hinder, prevent or interfere with the agents or employees of the Forestry Department while engaged in carrying out the provisions

of this ordinance.

SECTION 29. PENALTY FOR VIOLATIONS. Any person, firm or corporation found guilty of violating any of the provisions of this ordinance shall be punished by a fine not to exceed One Hundred Dollars or by imprisonment for a period not to exceed thirty days, or both such fine and imprisonment, in the discretion of the Court.

SECTION 30. REPEALING AND SAVING CLAUSE. Ordinance No. 224 and all ordinances and parts of ordinances inconsistent with the provisions hereof, shall be and the same are hereby repealed. And in the event any part or portion of this ordinance shall be held ultra vires, illegal or invalid, it shall not be construed to affect or nullify any other part or section of this ordinance which may be valid or legal.

Passed and adopted this 2nd day of March, A. D. 1938.

/s/ C.K. Enstrom
President of the Council

ATTEST:

/s/ Helen C. Tomlinson
City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 590, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 16th day of February, A. D. 1938, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City, this 3rd day of March, A. D. 1938.

/s/ Helen C. Tomlinson
City Clerk

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