

ORDINANCE NO. 1986

AN ORDINANCE REPEALING AND REENACTING ARTICLES IV AND V OF CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION CONCERNING THE FORESTRY AND GARDENING REGULATIONS OF THE CITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That Articles IV and V of Chapter 20 of the Code of Ordinances of the City of Grand Junction be repealed and reenacted to read as follows:

ARTICLE IV. FORESTRY

Division 1. Forestry Board.

Section 20-68: Board Created - Membership:

There is hereby created aboard to be known as the Forestry Board. Such Board shall be composed of five (5) members who shall be appointed by the City Council. The Board shall include a professional arborist, a nursery person, a landscape designer, an applicator and a representative of the Colorado State Forest Service. Terms of service shall be two (2) years for two (2) of the members and three (3) years for the three (3) of the members or until successors are appointed. A chairperson and a vice chairperson shall be elected each year and vacancies owing to death or resignation shall be filled by appointment for the unexpired term.

The Director of Parks and Recreation or his designated representative shall be the secretary of the Forestry Board:

Section 20-69: Meetings - Records:

The members of the Forestry Board shall meet as required - time and place to be determined by said Board. Minutes shall be maintained of all meetings, and the Board shall adopt rules for its own organization and procedures.

Section 20-70: Powers and Duties:

The Board shall act as a reviewing body for the purpose of determining professional qualifications and competence to engage in the business of cutting, trimming, pruning, spraying or removing trees by giving written, oral and practical license examinations. The Board shall recommend to the City Council adoption of rules and regulations pertaining to the tree service business in the City, and it may hear complaints from any citizen of the City including any of its own members, relating to the tree service business. Upon receipt of a complaint and after informing the licensee of the complaint and giving the licensee a chance to be heard, the Board may suspend a tree service license for up to sixty (60) days or may revoke such license.

Section 20-71: Appeals.

A. Any person aggrieved by any decision or order of the Director of Parks and Recreation may appeal said decision or order to the Forestry board. Such appeal may be perfected within ten (10) days from the date of the order. It shall be lodged in writing with the secretary of said Board, and shall state the grounds for the appeal. Such appeal shall operate as a stay of the order unless the Director of Parks and Recreation certifies that a stay would cause imminent hazard to landscape plantings within the City.

B. Any person aggrieved by any decision or order of the Forestry Board may appeal said decision or order to the City Council. Such appeal shall be lodged with the City Clerk within ten (10) days from the date of the order or decision and shall be in writing stating grounds of appeal. The City Council shall hear such appeal at any subsequent meeting and may modify, reverse or affirm such decision or order of the Forestry Board.

Division 2. Trees and Shrubs.

Part 1. Planting and General Requirements.

Section 20-80: Trees in Right of Way.

The Department of Parks and Recreation is hereby authorized to furnish the necessary personnel and services for the planting of trees or replacing damaged trees in the right of way of the City.

a. As a part of the service in planting of the trees as aforesaid, the Department shall give advice and counsel regarding the tree varieties to be selected, the physical soil conditions involved, fertilizers needed, protective devices suggested and other information concerning the selection of the tree sizes and varieties and the planting of the same. Such advice and information regarding the selection and care of trees shall be available to any person in the City so requesting the same.

b. The planting and other services rendered by the Department shall be upon the specific condition that all watering and care, except for spraying and trimming of the trees after the planting, shall be the responsibility of the person or persons requesting the planting and the services of the Department personnel will only be for the purpose of planting the trees. No guarantee or assurance whatsoever shall be made or assumed regarding the growth or survival of the trees so planted.

c. The planting of trees and services by the Department for such planting shall be available only during the usual spring months of each year, provided, however, that subject to the availability of personnel, plantings may be had at other times of the year upon request therefor.

Section 20-81: Trees on Public Ways or Property:

a. It shall be unlawful for any person to plant, prune, spray, remove, destroy, cut, deface or in any way injure any tree or shrub upon a public way of the City without the approval of the Director or designated representative. Such approval shall not be unreasonably withheld.

b. Trees, shrubs, vines and evergreens planted in public ways or parking shall be in conformity with an official list approved by the Parks and Recreation Department Forestry Board. The Parks and Recreation Forestry Board shall consider in preparing an official list the growth habits, mature size, disease resistance or other factors which minimum maintenance costs and nuisances and conform with other provisions of the ordinances of the City. Plantings not in conformity with the approved list shall be removed by the owner or agent at the request of the Director or designated representative.

Section 20-82: Planting Requirements:

The distance between trees to be planted on public ways or parkings shall be determined by the Director so as to provide for and conform with the mature growth of the species involved. Special consideration shall be given to possible interference with utility lines above or below such planting.

Section 20-83: Trees on Public Ways or Property:

a. The Director or designated representative is hereby authorized to inspect trees, shrubs, plants, vines, logs or branches and every other type of plant material on all private and public property to ascertain the condition of such plantings in relation to disease and insects detrimental to the growth, health and life of such plantings, to discover incidence of disease, and take appropriate action to preserve and restore the growth, health and life of the plantings by spraying, removing, pruning or other remedial action. Further, the Director or designated representative is hereby authorized to inspect trees, shrubs and plantings on private property for the abovementioned conditions. If such conditions are found to exist and, in the professional judgement of the Director such conditions are or will become injurious to other private or public plantings, the owner of the property shall be given written notice to spray, remove, prune or take any other necessary remedial action in regard to the infested plantings within a specified period of time.

b. The sale or distribution of trees, vines, shrubs, scions, cuttings or grass within the corporate limits shall be in accordance with the rules, regulations, inspections and licenses of the State Department of Agriculture.

Section 20-84: Planting of Approved Species:

It shall be the responsibility of the Director or his designated representative to prepare or cause to be prepared a list of approved trees for planting in public ways and parkings along the streets and highways, and the Director or his designated representative shall be available for consultation with property owners regarding such plantings.

Section 20-85: Duty to Replace Trees:

In the event that a tree is removed by contractors pursuant to any work done in a City right of way, such tree shall be replaced by the contractor responsible for such removal. The ratio of replacement shall be as follows: for every six inches (6") of trunk diameter removed measured four feet (4') aboveground, one two and one-half inch (2 1/2") balled and burlapped or equivalent method, tree shall be used in replacement up to a maximum of five inches (5") in diameter, the species of which shall be determined by the Director or his designated representative.

Section 20-86: Duty to Trim Trees:

The owner of any house, building or premises shall not permit the branches of any shade, ornamental or other tree to project over any street, avenue or sidewalk, in front of or alongside of such building or premises, lower than eight feet (8') from the surface of the sidewalk and fourteen feet (14') over the surface of the alley or street. In estimating such heights, personnel of the Department of Parks and Recreation shall take into consideration the variation of height due to normal rain, snow, sleet and foliage conditions.

Section 20-87: Removal of Dead Trees:

It shall be the duty of the Director or his designated representative to require the owner or agent of any premises whereon are situated any dead trees or overhanging boughs dangerous to life, limb or property to remove the same within a reasonable time. In the event the owner or agent fails to follow the requirements of the notice, then it shall be the duty of the Director or his designated representative to remove or destroy the trees or boughs or otherwise correct the offending condition at the expense of the owner or agent, and in the event the owner or agent fails to pay the expenses, the City shall recover its cost by suit or assessment as is provided in Section 31 of Chapter 14 of the Code of Ordinances of the City of Grand Junction.

Section 20-88: Maintenance of Street Parkings:

a. Definition. For the purpose of this Section, a street parking is defined as that area between the property line and the curb line.

b. Duty of Owner to Maintain. It shall be the duty and obligation of every person in the City to keep and care for in the manner

provided in this Section the street parking fronting or adjoining the premises owned by such person. Said street parking shall be maintained in an aesthetically pleasing manner in either drought tolerant plant material, grass or other plantings, stone aggregate, decorative rocks, bark mulch, or like materials or combination thereof with or without plantings. Vegetation shall be watered and fertilized to provide optimum growing conditions.

c. Trees.

(1) Any trees planted shall be on the approved list of trees as established by the Park and Recreation Department.

(2) The City shall provide maintenance (spraying, trimming and removal) of trees only. Prior to any maintenance, the City shall attempt to notify any contiguous property owner but the City shall not be held liable for failure to give notice.

d. Hard Surfacing. In unusual situations where drainage or traffic problems exist, or in commercial zones or premises where public buildings or uses are involved, hard surfacing such as concrete, terrazzo, brick, flagstone, asphalt or other impervious substances may be authorized by written permit at the discretion of the Park and Recreation Department. In the event hard surfacing materials are authorized in conjunction with tree plantings, proper tree wells as determined by the Park and Recreation Department shall be constructed by the owner.

e. Minimum Open Area Around Trees. No Person shall, deposit or maintain upon the parking strip in any street, stone, cement debris or other substance which impedes the free entrance of water and air to the roots of any tree in such public highways or other public place without leaving an open space or 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.

f. Comply with Other Provisions. Any shrubs or other plantings and the use of other materials shall comply with regulations concerning traffic safety and other provisions of this Code.

g. Appeal. Any person aggrieved by the decision of the Director of Parks and Recreation may appeal such decision to the Forestry Board and said Board may affirm, reverse or modify the decision of the Director.

Section 20-89: Tree Pruning for Building Movers:

a. If, in the process of moving any building or other object along the streets, alleys or public ways of the City, it is necessary to trim any trees, the trimming shall be done by direction of the Director or designated representative and the cost of labor, material and equipment shall be paid by the person requiring the

trimming. Branches over three inches (3" in diameter may not be removed unless in the opinion of the Director or designated representative removal of the limb will not impair the aesthetic value or well-being of the tree. If, in the process of moving any building, machine or other object, any tree, shrub or other planting is damaged, destroyed or removed, the replacement or repair of such shall be borne by the party moving or causing to be moved said building or other object. In the event that such work has been performed by the City, payment therefor must be made within ten (10) days after billing has been made. The Director may, in his discretion, require a bond, deposit or other security in advance of such moving to indemnify the payment of aforesaid expenses.

b. If, in the process of moving any building, machinery or other object along the streets, alleys or public ways of the City, the Director or designated representative determines that it is necessary to remove any branch over three inches (3") in diameter or any major portion of any tree, or such branch or a portion of a tree becomes broken or damaged and must be removed as a result of the moving, the person doing or requesting the moving shall pay to the City such amounts as determined by the Director as compensation for the loss of each such branch removed plus the regular service charges for all labor and materials used in connection with the removal of the branches. All measurements to determine the size of the branches shall be made by the City. When, in the process of moving any building or other object, it is necessary to remove a tree from the streets, alleys or other public ways of the City, the value of the tree so removed shall be paid for by the person requiring its removal and the moneys received shall be used to replace as nearly as possible a planting of comparable size and value. The determination of the value of the tree shall be made by the Director and he shall consider in arriving at the value current nursery estimates including the age, variety and condition of the tree removed.

Section 20-90: Use of Equipment:

It shall be the duty of any person using tools on trees or shrubs to properly disinfect such tools immediately after any work done on any individual tree or shrub. Failure to so disinfect such tools shall be considered to be a misdemeanor and any person convicted of such a violation shall be punished in accordance with Section 1-8 of the Code of Ordinances of the City of Grand Junction.

Section 20-91: License Required:

a. No person shall engage in the business of landscape gardening or trimming, repairing, spraying or planting of trees, shrubs and plants in the city, or the selling of nursery stock for planting upon the public highways in the City, without first obtaining from the City Clerk a license therefor each year authorizing such person to engage in such business.

b. The license required by this article shall be issued in the manner and form and subject to the conditions and regulations prescribed by Article I of Chapter 17 of this Code.

c. The City Clerk shall issue no license hereunder without first having referred the application therefor to the division of forestry and having received its approval thereof and without being satisfied of the qualifications of the applicant to engage in such business.

d. The applicant receiving a license under this article shall pay an annual license fee of \$50.00 beginning January 1st of each year, subject to the approval of the Forestry Board or the Parks and Recreation Director, to the City Treasurer, which license shall entitle the holder to conduct such business during the calendar year within which the license is issued.

e. The City Manager shall have the power after hearing to revoke or refuse any license under this article whenever it shall appear to him the licensee has violated any ordinance or regulation of the City, or any of the regulations set forth in this Code, governing and pertaining to the care, preservation, planting, trimming, spraying and removal of trees, shrubs or plants.

f. Every license issued hereunder shall show on its face the types, classification or kinds of services for which the licensee is licensed and authorized to perform. All motor vehicles and other major equipment of any person licensed hereunder used in conducting the licensed business shall be clearly identified with the name of the licensee and the license number.

g. Adequate insurance coverage required; minimum amounts. No such license shall be issued until the applicant therefor has presented to the City Forester a satisfactory public liability insurance policy covering all proposed operations of the applicant in such business in the City in the sum of at least One Hundred Fifty Thousand Dollars (\$150,000) for the injury or death of any one (1) person. Four hundred Thousand Dollars (\$400,000) for the injury or death of any number of persons in any one (1) accident, and Seventy-five Thousand Dollars (\$75,000) for damage to property. Such policy may allow the first One Hundred Dollars (\$100.00) of liability to be deductible. Such insurance policy must be prepared for at least the term of the license and shall require at least thirty (30) days advance notice to the City before cancellation. In the event of the cancellation or termination of any such required insurance policy during the licensed term, the license shall be terminated and the holder thereof shall surrender the same to the City Forester unless the licensee presents to the City Forester a substitute insurance policy meeting the requirements of this Section.

Part 2. Diseased, Nuisance Trees and Shrubs.

Section 20-92: Control of Dutch Elm Disease:

a. It shall be unlawful to possess or transport into or within the City all or any part of trees infected with the *Ceratocystis ulmi* fungus; provided, however, that the wood, branches and roots of such trees may be transported to a safe place for burial under a minimum of two feet (2') of earth within ten (10) days following discovery of such infection, or to such sites and under such conditions as are approved by the Director of Parks and Recreation or designated representative for processing and subsequent elimination of the disease hazard.

b. Trees or parts thereof of the Genus *Ulmus* in a dead or dying condition that may serve as a breeding place for the smaller European elm bark beetle, *Scotus Multistratus* and the native bark beetle, *Hylurgopinus Rufipes*, are hereby declared to be a threat and a hazard to all elm trees in the City. Transportation into or within the City or possession within the City of such trees or parts thereof, except for immediate burial or processing in a manner approved by the Director of Parks and Recreation or designated representative shall be unlawful unless the bark has been completely removed. If such trees or parts thereof are found to exist, the owner of the property shall be given a written order by the Director of Parks and Recreation or designation representative to take necessary remedial action including, if necessary, the removal of such trees or parts thereof within a specified period of time.

Section 20-93: Appeals:

Any person aggrieved by any decision or order of the Director regarding the condition of trees, shrubs and plantings on private property, may appeal said decision or order to the Forestry Board. If the decision of the Forestry Board is not favorable to the appellant, an appeal of the decision of the Forestry Board may be made to the City Council. Every appeal must be perfected within ten (10) days from the date of the order appealed from. It shall be lodged with the Secretary of the Forestry Board and shall state the grounds for appeal. Such appeal shall operate as a stay of the order unless the Director shall certify that a stay would cause imminent hazard to landscape plantings within the City.

Section 20-94: Failure to Comply with Notice; Payment of Costs:

a. It shall be unlawful for the owner, agent or occupant of the premises notified that conditions exist in the trees, shrubs and plantings on their property that will or are injurious to other private or public plantings to fail to comply with the written notice provided in Section 20-83.

b. Should the owner, agent or occupant of said premises fail or refuse to comply with the terms of the written notice sent by the Director, the Director, his employees or agents may enter upon the premises and cause to be removed, treated or otherwise cared for

such diseased matter in order to eradicate or control the same, or to prevent the spreading of any threatening communicable disease or insect infestation.

c. Payment of costs for failure to comply shall be the same as set out in Section 20-95.

Section 20-95: Statement of Costs; Notice of Hearing:

Upon the completion of the work and determination of the total cost thereof, the Director shall prepare an itemized statement showing the cost, including ten percent (10%) or ten dollars (\$10.00), whichever is greater, additional for the cost of collection and other incidentals and shall serve a copy of the same upon the owner, agent or occupant of the real property upon which the work was performed, together with a notice to said owner, agent or occupant therein specifying:

a. The whole cost of the work done.

b. That any complaints or objections which may be made in writing by the owner or agent to the City Council must be made within ten (10) days from the date of such notice, and that such will be heard and determined by the City Council before the passage of any ordinance assessing the cost of said work.

c. The date and place for hearing of such complaints or objections.

Section 20-96: Hearing and Assessing Ordinance:

At the time and place specified in said notice, or at some adjourned time, the Council shall hear and determine all complaints and objections and may thereupon make such modifications and changes as may seem equitable and just. The Council shall thereupon, by ordinance, assess the cost of said work, and the passage of such ordinance shall be prima facie evidence that such assessment has been lawfully levied. More than one assessment against the same of different lots or tracts of land, may be included in one ordinance.

Section 20-97: Assessment and Collection:

Such assessment shall be a perpetual lien against the land and shall have priority over all other liens excepting general tax liens, and shall be collected in one installment in the same manner as are other special assessments with interest at one percent (1%) from the date of passage of the assessing ordinance.

Section 20-98: Service and Notice of Assessment:

Service of any notice or assessment statement required herein shall be made as follows:

a. Personally, by handing to and leaving with the owner or agent or any members of his household over the age of eighteen (18) years, a copy of such directive, statement or notice.

b. Proof of service shall be made by certificate of service of the Director or any City employee actually making such service or by the affidavit of the person serving the same, if not a City employee.

c. By registered mail, by mailing such directive, statement or notice, postage prepaid, return receipt requested, to be signed by addressee only, addressed to the last known address of the owner or agent. Service by registered mail shall be complete upon the date of receipt by the addressee. Proof of service shall be made by certificate of mailing of the Director, together with signed receipt of the addressee.

d. If service cannot be made personally or by registered mail, said directive, statement or notice shall be served by publishing the same for one publication in the official City newspaper. Service shall be complete five (5) days after the date of publication. Proof of service shall be made by the certificate of mailing of the Director, together with the publisher's affidavit of publication.

PASSED and ADOPTED this 5th day of August, 1981.

Louis R. Brach

President of the Council

Attest:

Theresa F. Martinez

Deputy City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 1896, 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 15th day of July, 1981, 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 6th day of August, 1981.

Theresa F. Martinez

Theresa F. Martinez
Deputy City Clerk

Published: July 17, 1981

Final Publication: August 7, 1981

Effective: September 6, 1981