

(1) The charge payable by the owner or lien holder for towing or removing an abandoned vehicle may not exceed the rate charged by the contract towing service as approved by the Board of Public Works and Safety. (Gen. Ord. No. 10, 2000, 5-11-00)

(2) The charge payable by the owner or lien holder for storing an abandoned vehicle or parts may not exceed the rate charged by the contract towing service as approved by the Board of Public Works and Safety. (Gen. Ord. No. 10, 2000, 5-11-00)

Sec. 6-185 through Sec. 6-188 Reserved for Future Use.

ARTICLE 13. TREE REGULATIONS.

Sec. 6-189 Purpose.

It is the purpose of this Article to assure that existing trees and trees to be planted upon public grounds and public right-of-ways are maintained and preserved to protect their economic, aesthetic, and ecological benefit to the City of Terre Haute and its residents. (Gen. Ord. No. 9, 2002; 5-9-02)

Sec. 6-190 Definitions.

- a. **Municipality/City.** The City of Terre Haute, Indiana, and all of its departments.
- b. **City Forester.** The city employee assigned to carry out the enforcement of this Article. (Gen. Ord. No. 9, 2002, 5-9-02)
- c. **Tree Advisory Board.** That group of residents of the City who are appointed by the Mayor and the City Council to make suggestions and recommendations to the Mayor, City Forester, and other City officials in carrying out the urban forestry program. (Gen. Ord. No. 9, 2002, 5-9-02)
- d. **Tree Row.** That ground in the public right-of-way between a curb or a road and a sidewalk, or, where no sidewalk exists, between a curb or road and privately-owned property.
- e. **Tree.** A deciduous or conifer woody plant that is characteristically more than twelve feet (12') in height when it reaches full growth and has fewer than six (6) main stems, most often one main stem. (Gen. Ord. No. 9, 2002, 5-9-02)

Sec. 6-191 Appointment and Qualifications of the City Forester.

The City Forester shall:

- a. Be employed by the City of Terre Haute;

b. Be a person skilled and trained in the arts and science of landscape architecture, urban forestry, municipal arboriculture, or a related field;

c. Hold a college degree in urban forestry, landscape architecture, horticulture, arboriculture, or other closely related field; and

d. Have passed the Indiana State Arborist Examining Board examination within two (2) years from the date of appointment. (Gen. Ord. No. 5, 1998, As Amended, § 933.01, 4-17-98)

Sec. 6-192 Authority and Duties of City Forester.

The City Forester shall:

a. Have the authority to promulgate the rules and regulations of the City Forestry Specifications and Standards governing the planting, maintenance, removal, and pruning of trees, shrubs, and plants upon public grounds and public right-of-ways of the City; and

b. Regulate and control the planting, care and maintenance, pruning, and removal of all trees in any public area of the City; and

c. Supervise or inspect as needed all work done under a license issued in accordance with the terms of this Article; and (Gen. Ord. No. 9, 2002, 5-9-02)

d. Affix reasonable conditions to the granting of a license/permit in accordance with the terms of this Article; and

e. Cause the provisions of this Article to be enforced. In the event that the position of the City Forester becomes vacant, these duties shall be the responsibility of a qualified alternate that shall be designated by the Mayor within a reasonable time not to exceed ninety (90) days. (Gen. Ord. No. 5, 1998, As Amended, 4-17-98; Gen. Ord. No. 9, 2002, 5-9-02)

Sec. 6-193 Urban Forestry Plan.

a. The City Forester shall formulate an Urban Forestry Plan with the advice, hearing, and approval of the Tree Advisory Board.

b. The Urban Forestry Plan shall outline urban forestry program activities for a minimum of the next five (5) years. The plan shall describe:

(1) The urban forestry activities to be undertaken by the City;

(2) The reasons for those activities;

(3) The possible funding sources;

(4) The means of accomplishing the activities; and

(5) The alternatives available to the City to fund or accomplish the activities. Activities may include but are not limited to street tree inventory, planting, tree removal, tree pruning, beautification projects, and educational projects. (Gen. Ord. No. 5, 1998, As Amended, § 933.04, 4-17-98)

Sec. 6-194 City Forestry Specifications and Standards.

The City Forester, with the assistance of the Tree Advisory Board, shall develop and periodically review and revise, as necessary, the City Forestry Specifications and Standards in accordance with the International Society of Arboricultural Standards. This document shall contain regulations and standards for the planting, maintenance, pruning, and removal of trees planted along and upon public grounds and public right-of-ways. Any changes to the City Forestry Specifications and Standards shall be done by written approval of the City Forester and a majority of the members of the Tree Advisory Board. This document will be made available to the public at the Office of the City Forester. (Gen. Ord. No. 5, 1998, As Amended, § 933.05, 4-17-98)

Sec. 6-195 License.

Any person or entity who derives a principal source of income from the planting, care, maintenance, or removal of trees, directly or indirectly, within the City of Terre Haute, is required to annually secure a license to do so from the City Forester. The license applicant shall:

- a. File with the Board of Public Works and Safety evidence of liability insurance in the minimum amount of \$1,000,000.00 for bodily injury or death and \$100,000.00 for property damage; and
- b. Pay an annual license fee as outlined in Chapter 4, Article 9 of this *Code*; and
- c. Meet the requirements of Chapter 8, Article 5 of this *Code* when working within the public right-of-way; and
- d. Shall provide proof of competences in the practice of tree care.

Failure to comply with any of these requirements may result in the denial or revocation of said license. A copy of the license required herein must be maintained at the location where the licensed activity is performed. (Gen. Ord. No. 9, 2002, 5-9-02)

Sec. 6-196 Permitting.

- a. A permit shall be required of any person or entity wishing to remove a tree within the City right-of-way.

b. A permit shall be required of any person or entity who derives income from the planting, care, removal of trees, directly or indirectly, whenever tree planting and/or maintenance is to be performed within the City right-of-way.

c. Applications for permits must be made through the Office of the City Forester before any work is performed. Upon written approval by the City Forester for such work, a right-of-way permit shall be secured in accordance with Chapter 8, Article 5 of this *Code*.

d. The City Forester shall review each application made and approve or reject said application based upon his or her professional knowledge, the provisions of this Article, and the City Forestry Specifications and Standards. Conditions may be placed upon approval as deemed necessary by the City Forester. Requests for removal of reasonably safe and healthy trees may be denied or may be approved only under the condition that such trees be replaced at the same location or another location as specified by the City Forester.

e. Whenever it is necessary to remove a tree or trees by the City, the City shall, when reasonably possible, replant such trees or replace them pursuant to the said specifications and standards.

f. An annual permit shall be issued to public utility companies for pruning or removing any tree located on City-owned property or City right-of-way for the purpose of maintaining safe line clearance. The permit shall be issued upon submission of a pruning and tree removal schedule by the public utility company. All such work shall be carried out in accordance with the adopted City Forestry Specifications and Standards. If adopted City Forestry Specifications and Standards are not followed, the City Forester shall have the right to file a formal complaint with the state utility regulatory agency. Some emergency situations may exempt public utilities from compliance with the City Forestry Specifications and Standards. (Gen. Ord. No. 9, 2002, 5-9-02))

Sec. 6-197 Prohibited Species.

There are certain species of trees that are detrimental to the City because they have qualities that cause destruction of property and require high maintenance and pose danger to the public safety. For this reason, the species enumerated in the City Forestry Specifications and Standards shall not be planted in public ground or in public right-of-way. (Gen. Ord. No. 5, 1998, As Amended, 4-17-98)

Sec. 6-198 Tree Advisory Board.

a. **Establishment.** There is hereby established and created a City of Terre Haute Tree Advisory Board. Within thirty (30) days after the appointment of the Tree Advisory Board, the same shall meet, organize, and elect a chairperson and appoint the City Forester as secretary.

b. **Membership.**

(1) The City of Terre Haute Tree Advisory Board shall consist of seven (7) members. (Gen. Ord. No. 9, 2002, 5-9-02)

(2) The Mayor shall appoint two (2) members. (Gen. Ord. No. 9, 2002, 5-9-02)

(3) The City Council shall appoint one (1) member. (Gen. Ord. No. 9, 2002, 5-9-02)

(4) The three (3) members, appointed to the Tree Advisory Board by the Mayor of the City of Terre Haute and the City Council, of the board shall be residents of the City. (Gen. Ord. No. 9, 2002, 5-9-02)

(5) The three (3) members, appointed to the Tree Advisory Board by the Mayor and by the City Council shall be persons who have a general knowledge of trees and urban forestry and who have demonstrated concern regarding urban forestry. (Gen. Ord. No. 9, 2002, 5-9-02)

(6) The following shall serve by reason of their office as members of the Tree Advisory Board: the City Forester, the City Engineer, the Superintendent of the Parks and Recreation Department, and the Superintendent of the Street Department. (Gen. Ord. No. 9, 2002, 5-9-02)

c. **Terms of Appointments.** Of the three (3) initially appointed members who are not ex officio, one (1) appointed by the Mayor shall serve for two years, one (1) appointed by the Council shall serve for three (3) years, and one (1) appointed by the Mayor shall serve for four (4) years. When their terms expire, their replacements shall serve four-year terms. Vacancies caused by death, resignation, or other reasons shall be filled for the unexpired term in the same manner as the original appointments were made. (Gen. Ord. No. 9, 2002, 5-9-02)

d. **Duties.** The duties of the Tree Advisory Board, whose members shall serve without fees or salary, shall be:

(1) To study the problems and determine the needs of the City in connection with its tree management plan and to make recommendations concerning the same;

(2) To assist the properly constituted officials of the City and the citizens and residents of the City in the dissemination of news and information regarding the selection, planting, and maintenance of trees within the City, whether the same be on private or public property;

(3) To make such recommendations from time to time to the City Council as to desirable ordinances concerning the tree program and activities for the City;

(4) To provide regular and special meetings at which the subject of trees insofar as it relates to the City may be discussed by members of the Tree Advisory Board, officers and personnel of the City, and others interested in the management plan;

(5) To review, approve or reject, by a majority of the members in writing after discussion with the City Forester, any changes to the City Forestry Specifications and Standards. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-199 Abuse or Mutilation of Public Trees.

Unless specifically authorized by the City Forester, no person shall intentionally damage, mutilate, transplant or remove any tree planted upon public grounds and public right-of-ways. The insertion into trees of metal objects such as nails and spikes shall constitute mutilation. Chaining an animal or object to a tree shall constitute abuse. Any person in violation of this provision shall be subject to the penalties as established in this Article. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-200 Topping Trees.

It shall be unlawful for any person to top any tree located upon public grounds and public right-of-ways. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within a tree crown so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees near or under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Article at the determination of the City Forester. Any person in violation of this provision shall be subject to the penalties as established in this Article. (Gen. Ord. No. 5, 1998, As Amended, § 933-10, 4-17-98)

Sec. 6-201 Interference with City Forester.

No person shall hinder, prevent, delay, or interfere with the City Forester while the City Forester is engaged in carrying out the execution or enforcement of this Article; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy in any court of competent jurisdiction. Any person in violation of this provision shall be subject to the penalties as established in this Article. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-202 Protection of Trees.

All trees planted upon public grounds and public right-of-ways near any excavation or construction or new development or street work shall be protected against unnecessary damage and destruction in accordance with the City Forestry Specifications and Standards. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-203 Avoiding Injury by Utility Pipes and Wires.

Any person or company maintaining any private, public, or municipal utility in the City shall, in the absence of provision in its franchise otherwise, maintain the utility in a manner to avoid injury to any tree on public ground or in public right-of-way. However, nothing in this Section shall be construed to apply to the removal of any tree by a utility when permit for such

work has been granted by the City Forester or in the event of an emergency. (Gen. Ord. No. 9, 2002, 5-9-02)

Sec. 6-204 Illegally Planted Trees.

Any and all trees hereafter planted on public ground or in public right-of-way of the City, in violation of the terms of this Article, are expressly declared a public nuisance and subject to treatment and abatement as such. Any tree so raised contrary to law shall be abated as a common nuisance. All costs of such abatement, including cost of removal of any such trees, shall be paid by the violator to the City of Terre Haute, Indiana. Shrubs and plants are subject to the same regulations as trees under this Section. Such costs incurred by the City for the removal of such tree may be reduced to judgment and become a lien against the property of the violator. (Gen. Ord. No. 9, 2002, 5-9-02)

Sec. 6-205 Violation Notification; Stop Work Order.

a. **Stop Work Order.** The City Forester shall have authority to immediately issue a Stop Work Order in the event that the work under way is in violation of any of the provisions of this Article.

b. **Preliminary Notice of Violation.** Once a Stop Work Order is issued, the City Forester shall notify the violator with a written Preliminary Notice detailing the violation. The violator will be given five (5) working days to respond to the City Forester.

c. **Formal Notice of Violation.** If the violator does not respond to the Preliminary Notice of Violation within five (5) working days, the violator shall be given formal notice by the City Legal Department of the violation and subject to the penalties established in this Article.

d. In the event that a violation or nuisance is not abated by the day specified in any notice given by the City or any person on behalf of the City, the City Forester is authorized to cause the abatement of said violation or nuisance at the cost of the violator. Any decision made in this connection under this Article is appealable to the Circuit Court of Vigo County, Indiana. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-206 Emergencies.

a. In emergencies, when a tree or trees have been severely damaged by storms or other causes, the Mayor or the Urban Forester may waive the requirements for a permit. All removal of public trees under those conditions shall be reported to the Urban Forester.

b. The City of Terre Haute Street Department, public utilities, or the State Highway Department may act to trim or remove trees in emergency situations. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-207 Penalties.

a. Any person who violates any provision of this Article shall appear in City Court and be subject to a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) and not less than Five Hundred Dollars (\$500.00) in addition to all other fines provided in this Article if the violator is a person who derives income from the planting, care, maintenance, and removal of trees or if the violator is an owner of commercial property.

b. Any person who violates any provision of this Article who does not derive income from the planting, care, maintenance, and removal of trees shall appear in City Court and be subject to a fine of not more than Three Hundred Dollars (\$300.00) and not less than One Hundred Dollars (\$100.00), and shall be required to replace any tree so removed with a tree or trees of equal value to the one removed as specified by the City Forester.

c. A separate offense shall be deemed committed on each day that a violation occurs or continues.

d. If, as a result of the violation of any provision of this Article, the injury, mutilation, or death of a tree is caused, the cost of repair or replacement or the appraised dollar value of such tree shall be borne and paid to the City by the party in violation. The value of trees shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture. Such costs incurred by the City for the repair or replacement of such a tree may be recorded with the Vigo County Recorder's Office as a lien against the property. (Gen. Ord. No. 5, 1998, As Amended, § 933.10, 4-17-98)

Sec. 6-208 through Sec. 6-214 Reserved for Future Use

ARTICLE 14. EMERGENCY DISASTER PLANS.

Sec. 6-215 Local Emergencies.

Reserved for Future Use.

Sec. 6-216 through Sec. 6-224 Reserved for Future Use.

ARTICLE 15. MASSAGE THERAPY PRACTICES AND MASSAGE ESTABLISHMENTS.

Sec. 6-225 Definitions.

As used in this Article, the following terms shall have the meanings ascribed to them in this Section: