

CHAPTER 26D.

TREES AND SHRUBS.

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**Sec. 26D-1. Trees and shrubs—
Generally.**

(a) **Trees and shrubs on public grounds.** The intent of this chapter is to provide the city with a long-term, well planned program of tree care and beautification for its citizens and visitors and the intent is to establish an attractive and healthy environmental setting within the community through a closely supervised treatment of tree care. This chapter shall pertain specifically to public grounds and to public rights-of-way within the city limits as well as commercial, industrial and parking areas. It shall be applicable to thoughtful planning, placement, and maintenance of trees and shrubs.

(b) **Authority.** The city parks and recreation department shall have the power to promulgate rules, standards and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk or other public place in the city as well as commercial and parking areas as provided herein. Rules, regulations and specifications promulgated by the parks and recreation department are subject to review and approval by the city council.

(c) **Definitions.**

(1) **City forester** is defined as the city staff member in the city parks and recreation department designated to enforce this chapter.

(2) **Commercial and/or industrial uses** are as defined in the Cortez Zoning Code now adopted or hereinafter amended.

(3) **Cut area** is defined as any area where the existing grade is lowered.

(4) **Public grounds** are defined as grounds owned by the city of Cortez.

(5) **Public right-of-ways** are defined as streets or alleys owned by the city of Cortez.

(6) **Street trees** are herein defined as trees, shrubs, bushes and all other woody vegetation on land located within the right-of-way of any street or alley within the city. (Ord. No. 763 (part).)

Sec. 26D-2. Cortez tree commission.

(a) A commission to be known as the Cortez tree commission is hereby created as an advisory board to the city council. The commission shall consist of five members. In addition to the tree commission, an ex officio board of advisors consisting of the following: a member of the city council, a

member of the city staff, and a representative from the Colorado State Forest Service shall be appointed. The mayor, with the approval of the council, shall appoint the commission. No compensation shall be paid to members of the commission.

(b) The duties of the commission shall be to study, investigate, plan, advise, report and recommend to the city council any action, program, plan or legislation which the commission shall find or determine to be necessary or advisable for the care, preservation, trimming, planting, removal or disposition of trees and shrubs in public ways, streets and alleys. To assist the city council and the citizens of Cortez in the dissemination of news, educational material and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same are on private or public property, and to make such recommendations from time to time to the city council as to desirable legislation concerning the tree program and activities for the municipality, such as an annual Arbor Day program. (Ord. No. 763 (part).)

Sec. 26D-3. Tree protection and disease control.

(a) **Tree protection.** It is unlawful for any person, not the owner thereof, or without lawful authority to do so, to injure, wilfully deface, disfigure, or destroy any tree or shrub, or to injure, destroy, cut or pick any vegetation located on any public place.

(b) **Disease control.** Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the city, or which is capable of causing an epidemic spread of communica-

ble disease or insect infestation such as Dutch elm disease, the city forester shall at once cause written notice to be served upon the owner of the property upon which such diseased tree is situated, which notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time, which time period shall be not more than thirty days. If the owner, agent, or occupant of the property fails to comply within the time period specified, the city shall correct such condition and assess the cost of such correction to the owner or agent, and such costs shall constitute a lien against the property until paid. (Ord. No. 763 (part).)

Sec. 26D-4. Tree and shrub planting and spacing.

(a) **Spacing.** The spacing of street trees shall be thirty feet to fifty feet apart. The city forester shall approve the planting distance for all street trees. The distance trees may be planted from curbs, curblines, sidewalks, sidewalk lines and property lines will be in accordance with the species size at maturity. Trees shall be centered in the space between the sidewalk and street. Approval for planting street trees must be obtained by permit from the city forester. No street tree shall be planted closer than twenty feet from any street corner, measured from the point of nearest intersection curbs or curblines. No street tree shall be planted closer than ten feet from any fire hydrant. (Ord. No. 763 (part).)

**Sec. 26D-5. Trees and shrubs—
Trimming
responsibility—City to
perform work when.**

(a) **In general.** Any tree growing over a public alley, street or highway, or so located as to extend its branches over a public alley, street or highway, shall be trimmed by the owner, agent or occupant of the property on which the tree stands so that there shall be a clear height of fourteen feet above the surface of the street, alley or highway, and eight feet above the surface of the sidewalks unobstructed by the branches. Such owner or agent or occupant shall remove all dead branches and stubs on such tree, or trees, which are or may become a menace to travelers on public highways, streets or alleys of the city. If a tree or its parts in any way cause a hindrance to the general public, or in any way endanger the security or usefulness of any public street, right-of-way, highway, alley, sewer or sidewalk as determined by the city forester, it is declared to be a public nuisance. If the owner of such property does not correct or remove such nuisance within thirty days after written notification by the city forester, the city forester shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner or agent of the property in question and shall be a lien on the property if not paid.

(b) **Owner to maintain or city to correct deficiencies at owner's expense.** Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of such hedges or shrubbery shall extend over any part of a public sidewalk of the city. If a hedge, shrub, or its parts in any way causes a hindrance to the general public, or in any

way endangers the security or usefulness of any public street, right-of-way, highway, alley, sewer or sidewalk, as determined by the city forester, it is declared to be a public nuisance. If the owner of such property does not correct or remove such nuisance within thirty days after written notification by the city forester, the city forester shall cause the nuisance to be corrected or removed, and the cost thereof shall be assessed to the owner or agent of the property in question, and the costs shall constitute a lien on the property until paid. (Ord. No. 763 (part).)

Sec. 26D-6. Approved tree species.

A list of recommended tree species for a variety of settings and uses shall be obtainable from the city forester. The city forester will also supply a list of trees not suitable for planting as street trees. No conifer trees shall be permitted to be planted between the sidewalk and the street as specified by the city forester. (Ord. No. 763 (part).)

Sec. 26D-7. Utilities.

No street trees other than those species of small trees approved by the city forester may be planted in any city right-of-way under or within ten feet of any underground water line, sewer line, transmission line, or other utility. In addition, it is encouraged that the same guidelines be followed for the planting of trees on private property. (Ord. No. 763 (part).)

**Sec. 26D-8. Commercial/industrial
landscaping
developments.**

(a) **Intent—Exemptions.** The intent of requiring landscape treatment for open space is to improve the appearance and

layout of commercial development in the community. These requirements shall apply to commercial development of vacant lands, as well as new development on land where existing structures are removed to provide commercial development property. The central business district is exempted from these regulations except for zones overlapping the central business district which shall meet the following regulations:

(1) Landscaping plans pertaining to city rights-of-way shall be submitted as part of the site development plans submitted with the building plans. In all cases where a project is subject to review by the planning and zoning commission, the city forester shall provide a statement as to the conformance of the submitted plan.

(2) Landscaping plans pertaining to commercial private property shall be submitted together with the site development plan in building permit process. They shall be processed concurrently.

(b) **Submission of landscaping plans.** All landscaping plans shall contain the following information:

(1) Location of existing improvements (curbs, gutter, sidewalk, building, etc.) and existing vegetation including all trees with a diameter of one and one-half inches or greater;

(2) Location of proposed structures, parking areas, circulation ways, pedestrian way, signs, and landscaping areas;

(3) A minimum of ten percent of the commercial area to be developed must be landscaped. A statement pertaining to percentages of lot coverage of building, parking areas and landscaping area;

(4) A statement pertaining to preservation and disposition of existing vegetation;

(5) Proposed landscaping showing the location, size, species and spacing of trees and shrubs, and the identification of the type of ground cover or ground treatment in all areas not covered by building or pavement;

(6) Size, species and spacing shall be by direct labelling or by a clearly understandable legend;

(7) When phasing of the project is proposed, a phasing program for the landscaping may also be proposed;

(8) Flower and shrub bed definition must be clearly indicated;

(9) A schematic drawing of any proposed irrigation system;

(10) Identification of the method of reclamation for repair of cut-and-fill areas and other land form disruptions caused by construction;

(c) **Landscape plan design criteria.**

(1) Plants must be sized according to the following table:

Type	Minimum Size
Standard deciduous trees	1-1/2" caliper
Small ornamental and flowering trees	1-1/2" caliper
Evergreen trees	4 feet
Shrubs/ground covers	Adequate size to be consistent with design intent

(2) All plant material must meet specifications of the American Association of Nurserymen (AAN) for No. 1 grade;

(3) Trees, as identified in guidelines promulgated by the city representative, shall be placed in the city rights-of-way at intervals no greater than fifty feet on center and be at least of one and one-half inch caliper (minimum size);

(4) In areas where commercial and/or industrial uses are proposed, landscaping shall be required within the city right-of-way (exclusive of area necessary for sidewalks) which shall serve as a visual buffer to screen parking areas. In areas where such a landscaping area is not available, cuts shall be made in the sidewalk for the placement of street trees. This will be considered part of the total ten percent landscape retirement. In cases where city rights-of-way border state-controlled roads, then landscaping requirements shall meet any state requirements in addition to these requirements;

(5) The owner, agent or developer of the commercial property shall provide a written statement of the provisions being made for the maintenance and replacement of landscaping, to include mandatory replacement of any vegetation which dies within a one-year period from the time of planting. The city forester shall approve the plan;

(6) Ground cover shall be planted on exposed cut areas. The proposed ground covers shall be approved by the city forester and shall include various species which are selected for their ability to stabilize the slope and prevent erosion.

(d) Arborist License and Bond.

(1) Definitions

Award of permit is awarded to a person who takes the arborist test and passes, but who is not licensed or does not require a license. A permit is only valid when used under the auspices of a valid license.

License means a document that is provided by the city to any person, firm or corporation that meets all the requirements of obtaining an arborist's license. Any per-

son issued a license does not need to obtain an award of permit for themselves.

It shall be unlawful for any person or firm to engage in the business or occupation of cutting, trimming, pruning, treating, or removing trees for compensation within the city without first applying for and procuring an arborist's license. Such a license shall be issued in the name of an individual person, a firm or a corporation and, when so issued, shall permit such person, firm or corporation or any person employed by the person, firm or corporation to engage in the business of cutting, trimming, pruning, treating or removing trees within the city.

Licensee means a person, firm or corporation that procures an arborist's license to engage in the business or occupation of cutting, trimming, pruning, treating, or removing trees for compensation.

(2) Application—License. The application for every license shall contain the name of the person making such application, the business address of the applicant, as well as the mailing address of such application, if the mailing address varies from the business address. The application shall also require a summary of the experience and training, if any, that the applicant has had in the cutting, trimming, pruning, or removing of trees, as well as a summary, number, and identification of persons employed by the applicant, as well as at least three (3) references from former places of employment for the applicant, if any. All applicants shall be given a practical test prior to licensing by the director of parks and recreation or his authorized agent. Each crew working within the city on behalf of such firm or corporation must have a person who is licensed or has an award of permit, on site,

exercising supervisory control over crew members.

(3) **Application—Award of Permit.** The application for every permit shall contain the name of the person making such application, the business address of the applicant's licensed employer, as well as the mailing address of such employer if the mailing address varies from the business address. The application shall also require a summary of the experience and training, if any, that the applicant has had in the cutting, trimming, pruning, or removing of trees, and at least three references from former places of employment for the applicant, if any. All applicants shall be given a practical test prior to the awarding of a permit by the director of parks and recreation or his authorized agent.

(4) **Examination.** Before any license or permit may be issued under this section, the application therefore shall be submitted to the director of parks and recreation for processing pursuant to the provisions of this section. Within ten days after receipt of an application for the license or permit, the director of parks and recreation or his authorized agent, shall examine the applicant for purpose of licensing or award of permit. Such examination shall be in writing and shall consist of a written examination. The examination, for purposes of licensing or award of permit, shall, in the director's discretion, require an actual demonstration of the applicant's ability. Corporate applicants may submit multiple applications for licenses or award of permit for more than one employee.

(5) **Fee; transfer; employees; insurance coverage.**

(a) The city clerk, prior to granting a license, shall first collect from the applicant

an annual license fee. The license, when issued, shall show upon its face the name of the applicant, the applicant's business address, the date of issuance, the fact that the license fee has been paid, and the fact that the licensee is entitled to engage in the business of cutting, trimming, pruning or removing trees within the city. The license issued shall be nontransferable.

The applicant may, if more stringently licensed in another community, obtain an arborist license upon receipt of a nominal fee as approved by the director of parks and recreation.

(b) If multiple applications have been made by a corporate applicant, the license shall also reflect the names of the employees of the applicant who will be licensed. The licensee shall pay an annual license fee on a calendar year basis and there shall be no prorated fees for licenses issued for only a portion of the calendar year.

(c) Prior to granting any license, the city clerk shall require the filing with the clerk an insurance policy or certificate of insurance with coverage for personal injury and property damage, including coverage for damage to trees, in amounts of not less than twenty-five thousand dollars for each person, fifty thousand dollars property damage and aggregate limits of one hundred thousand dollars for each incident or occurrence. The city shall be named as an additional insured on any such policies of insurance and the licensee shall agree, as part of the license application to indemnify the city against any loss, liability or damage resulting from the operations of the licensee.

(d) There shall be no fee assessed for the issuance of an award of permit. Awards of permit shall require the same testing requirements as for licensing.

(e) It shall be unlawful for any licensed firm or corporation to fail to have at least one license or award of permit employee within each crew when operating within the city limits. The head of the firm or corporation shall be responsible for any crew working as part of his employment staff.

(f) Fees shall be set by council.

(6) **Rules and regulations.** The director of parks and recreation shall, subject to review by the Cortez tree commission and subsequent approval by the city council, promulgate such rules and regulations, including safety regulations, as may be necessary for the protection of the public in connection with the manner in which licensed tree trimmers shall operate within the city. The violation of any such regulation shall constitute grounds for revocation or suspension of a license or award of permit issued pursuant to this section in addition to any other penalties provided for in this chapter. Such rules and regulations shall become effective upon their adoption by the city council after recommendation from the Parks and Recreation Department and the Cortez tree commission.

(7) **Identification of equipment.** Any firm, corporation, or individual licensee under this section shall cause his name and address to be prominently displayed upon all vehicles and equipment utilized in connection with the activities authorized by the license to be issued pursuant to the terms of this section. All automobiles, trucks, trailers, and other vehicles operated by any licensee for the transportation of equipment used by any licensee in such business shall have the name and address of such licensee displayed upon both sides thereof in plain and legible figures and letters not less than three (3) inches in height, which lettering shall be

kept in sufficient condition to permit the same to be readily distinguished and read at a distance of at least sixty feet. It shall be unlawful for a licensee to operate any such vehicles or equipment upon streets, alleys or other public ways or places within the city without such identification being legibly displayed thereon and such conduct upon any part of any licensee may be grounds for revocation or suspension of the license granted pursuant to the terms of this chapter. (Ord. No. 763 (part); Ord. No. 811, § 1.)

Sec. 26D-9. Parking areas in commercial or industrial developments.

(a) The developer of every new commercial or industrial parking area, whether on or off-site, shall be required to obtain a parking area development permit from the building official.

(b) Existing parking areas are exempt, until they are improved with the construction of an impermeable surface. Maintenance of existing surfaces is not considered improvement. When parking areas are improved, they will be reviewed as to whether they meet existing regulations pertaining to the required number of parking spaces. If, after the required parking space is subtracted from the total parking area, and additional space is available, the parking area shall be developed according to the ten percent landscape requirement, or if less than ten percent is available, then the remaining space will be landscaped.

(c) Every commercial or industrial parking area shall be adequately screened from contiguous residential uses by a fence, wall, earth berm, or trees and shrubs in combination. These screening materials in land-

scaped areas shall be not less than three and one-half feet above grade level or placed in a strip less than four feet wide. They shall be maintained in good condition at all times.

(d) At least ten percent of the total parking area, including access, shall be devoted exclusively to landscaping with trees, shrubs, and ground cover designed to reduce the visual impact and assist in defining on-site traffic movement. This will be considered part of the total ten percent landscaping requirement.

(e) A landscaping lighting plan shall be submitted with the site/development plan or with the application for a parking area permit when landscape lighting is part of the improvement. Landscape lighting shall not be directed towards any adjacent residential uses or public streets. (Ord. No. 770, § 1.)

Sec. 26D-10. Enforcement.

The city forester shall have the power to enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the city. (Ord. No. 763 (part).)

Sec. 26D-11. Penalties.

Any person or persons guilty of violating any of the provisions contained in this chapter shall be deemed guilty of a misdemeanor for each day that a violation continues and is subject to the penalties of section 1-6 of the Cortez City Code. (Ord. No. 763 (part).)